



CITY COUNCIL STAFF REPORT



August 23, 2022

ITEM TITLE

Community Facilities District Formation: Consider Authorizing the California Municipal Financing Authority to Form Community Facility District No. 2022-12 Through the Bond Opportunities for Land Development Program and Related Actions

Report Number: 22-0213

Location: Otay Ranch Village 3, Phase II - located at the terminus of Main Street, east of Heritage Road

Department: Development Services

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act (CEQA) State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

A) Conduct a public hearing pursuant to California Government Code section 6586.5; then B) Adopt a resolution authorizing the California Municipal Financing Authority (CMFA) to initiate proceedings to form CFD No. 2022-12 (City of Chula Vista - Otay Ranch Village 3, Phase II) through the Bond Opportunities for Land Development Program ("BOLD Program") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, approving a Joint Community Facilities Agreement (JCFA), and authorizing related actions; and C) Adopt a resolution approving an Acquisition Financing Agreement with CMFA relating to the above-referenced CFD.

SUMMARY

The BOLD Program offered by CMFA provides its members a means to accommodate formation of CFDs and bonding within their jurisdiction. By participating in the BOLD Program, CFD formation, administration and bonding is handled by CMFA and the City of Chula Vista's (the "City") involvement can be minimized. The City is a member of CMFA, having utilized CMFA for other types of bond financings in the past, including a bond financing with respect to Otay Ranch Village 8 West which is anticipated to close early August 2022.

HomeFed Village III, LLC (HomeFed), the master developer of the Otay Ranch Village 3 Phase II development project (Village 3 Phase II) requested that the City allow CMFA to form CFD No. 2022-12 (City of Chula Vista - Otay Ranch Village 3 Phase II) (the "Village 3 Phase II CFD"). The Village 3 Phase II CFD will be authorized

to finance the cost of constructing certain public improvements and payment of certain City development impact fees. A JCFA by and between CMFA and the City (the “Village 3 Phase II JCFA”) setting forth the administration of the Village 3 Phase II CFD is provided as Attachment 1.

Tonight’s action includes conducting a public hearing, as required under California Government Code Section 6586.5 to allow bonds to be issued by CMFA to finance capital improvements within the boundaries of the City. Upon conclusion of the public hearing, a resolution authorizing the formation of the Village 3 Phase II CFD through the BOLD Program and approving the Village 3 Phase II JCFA may be adopted, as reflected within Resolution A. If approved, a resolution approving the form of the Acquisition Financing Agreement by and among the City, CMFA for and on behalf of the Village 3 Phase II CFD, and HomeFed (the “Acquisition Financing Agreement”), relating to the acceptance and acquisition by the City of the public improvements through financing provided by the Village 3 Phase II CFD may be adopted, as reflected within Resolution B. The Acquisition Financing Agreement is provided as Attachment 2.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with CEQA and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because the proposed activity does not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The BOLD Program

The Mello-Roos Community Facilities Act of 1982, as amended (the “Act”) offers financing flexibility commonly used by cities, schools and other local agencies throughout the State of California (the “State”) to generate funds for the payment of public facilities, including development impact fees for facilities. The BOLD Program offers developers the opportunity to finance public infrastructure, as well as impact fees associated with new development through tax-exempt and/or taxable bonds payable from special taxes levied by a CFD on property within such CFD, a typical financing method for new home developments in the State.

CMFA is a statewide joint powers authority whose members are numerous public entities throughout the State. CMFA has the same powers as its members and can issue municipal bonds on behalf of a member after the member jurisdiction, such as the City, holds a public hearing on the proposed issuance of bonds and makes a finding of significant public benefit. Participation is at no cost to members and typically lowers administration costs; provides an alternate means for bond issuances; and allows for efficient delivery of local agency services to residential and commercial development.

The City’s participation in the BOLD Program supports the efficient delivery of local agency services to residential and commercial development due to the following: (1) CMFA, not the City, will form the CFD and administer the CFD, although input from City staff is sought on key provisions in the CFD documents, CMFA approves all formation documents, reducing administrative time for City staff; (2) CMFA meets every 3 weeks

and can hold special meetings in order to expedite the CFD formation process and bond issuance process; (3) CMFA consultants will field questions from residents within the CFD regarding the amount of special tax and use of special tax; (4) CMFA consultants will coordinate the annual special tax levy with the County of San Diego, and track and assist in the collection of any delinquencies; and (5) if requested by the City, CMFA utilizes a program administrator for the BOLD Program to review invoices and other documentation related to disbursement of bond proceeds.

The BOLD Program is facilitated through bond professionals chosen by CMFA with specialized expertise in CFD formation, bond issuance and sales – bond counsel, underwriter, special tax consultant and other advisors as needed. The City does not designate the financing team and is not involved in the bond issuance process except for a closing certificate to be delivered at closing of each bond issue relating to the facilities being financed with bond proceeds. However, should the City desire to use its own municipal advisor and/or legal counsel to review the BOLD Program application and/or other program documents, it may do so, with all related costs payable from bond proceeds.

Village 3 Phase II

Otay Ranch Village 3 Phase II, located at the terminus of Main St, east of Heritage Rd, is an approximately 24-acre site with residential and open space land use areas. The project’s approved tentative map allows for the development of 412 residential units. Anticipated housing types include multifamily apartments, rowhomes, and triplexes.

The project is currently in the pre-construction phase with near term key milestones including approval and recordation of a Final Map and approval of both a grading plan and public improvement plan. HomeFed is currently bidding out the grading, storm drain and wet utility scopes, with contract execution pending final approval of the aforementioned plans by the City and Otay Water District. Immediately thereafter, construction is planned to commence, starting with grading, storm drain, retaining walls and wet utilities. The estimated grading start date is late August 2022. The multifamily zoned site (Parcel R-19) is in the Design Review process with the City and estimated to start construction in the second quarter of 2023.

The City Council has previously approved Council Policy Number 505-04 “Statement of Goals and Policies Regarding Establishment of Community Facilities Districts,” (the “City’s Goals and Policies”). The Village 3 Phase II CFD will be formed in accordance with the City’s Goals and Policies, with the following exceptions:

- (1) prohibition on financing development impact fees;
- (2) prohibition on the escalation of the maximum special tax to pay for public facilities;
- (3) payment to the City of compensation equal to one percent (1%) of the total authorized bonded indebtedness;
- (4) requirement that an appraisal be coordinated by, done under the direction of, and addressed to the City; and
- (5) the requirement that all consultants including the appraiser, be selected and retained by the City.

Staff supports the proposed exceptions to the City’s Goals and Policies for the following reasons:

- (1) While the City’s Goals and Policies prohibit financing of development impact fees, the financing of development impact fees is allowed under the Act. Allowing this exception provides a path for developers to finance their development impact fee obligation and allows the City to receive a

substantial amount of development impact fees upon bond issuance, instead of deferring collection to individual building permits.

- (2) The escalation of the maximum special tax allows for the issuance of more debt than a non-escalating tax and is becoming more common in CFDs.
- (3) The City is not responsible for forming the district or issuing the bonds, as it would be in a traditionally formed CFD. It is therefore appropriate for the City to receive less financial consideration than it would have received if it were the issuer. CMFA will receive a one percent (1%) issuer fee and the City will receive a quarter of CMFA's issuer fee (0.25%).
- (4) The appraisal is coordinated by and under the direction of CMFA instead of the City. There is sufficient City review of the appraisal and all other documents related to the formation and bond sale under this structure. Having CMFA take on this role is part of the efficiency of the BOLD program.
- (5) CMFA selects and retains all consultants, including the appraiser. Having CMFA take on this role is part of the efficiency of the BOLD program.

Next Steps

Approval of Resolution A authorizes CMFA to initiate proceedings to form the Village 3 Phase II CFD and approve the form of the Village 3 Phase II JCFA. Resolution B approves the form of the Acquisition Financing Agreement relating to the acceptance of the facilities and disbursement of moneys.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*). Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There are no current year fiscal impacts to the General Fund or the Development Services Fund as a result of this action. All expenses incurred by the City in the formation of the Village 3 CFD are borne by the developer.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the General Fund or the Development Services Fund as a result of this action. The City is not liable to repay the bonds issued by CMFA or the special taxes imposed on the participating properties within any CFD formed through the BOLD Program, and the City has no contractual relationship with bond owners or the bond trustee.

ATTACHMENTS

1. Joint Community Facilities Agreement
2. Acquisition Financing Agreement

*Staff Contact: Kimberly Elliott, Facilities Financing Manager
Laura C. Black, AICP, Interim Director of Development Services*