



CITY COUNCIL STAFF REPORT



December 6, 2022

ITEM TITLE

Community Facilities District Formation: Consider Authorizing the California Municipal Financing Authority to Form CFD No. 2022-27 (Sunbow) Through the Bond Opportunities for Land Development Program, and Related Actions

Report Number: 22-0295

Location: Sunbow, located south of Olympic Parkway and east of Brandywine Avenue

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 Community Facilities District (CFD) No. 2022-27 (City of Chula Vista - Sunbow) through the Bond Opportunities for Land Development (BOLD) Program pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, approving a Joint Community Facilities Agreement, 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 is a program offered by the CMFA to provide its members a means to accommodate formation of CFDs and bonding within their jurisdiction. By participating in the program, CFD formation, administration and bonding is handled by CMFA and the City of Chula Vista's (City) involvement can be minimized. The City is already 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 closed in early August, 2022. CMFA also recently formed CFD No. 2022-12 (City of Chula Vista – Otay Ranch Village 3, Phase II).

ACI Sunbow, LLC, a California limited liability company (Developer), the developer of the Sunbow development project (Sunbow) requested that the City allow CMFA to form CFD No. 2022-27 (City of Chula Vista - Sunbow) (the “Sunbow CFD”). The Sunbow CFD will be authorized to finance City public improvements and related costs to be constructed by or on behalf of the Developer, and satisfaction of certain City development impact fees. A proposed Joint Community Facilities Agreement (“JCFA”) by and between CMFA and the City (Sunbow JCFA) setting forth the administration of the Sunbow CFD is provided as Attachment 1.

Tonight’s action includes conducting the 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 Sunbow CFD through the BOLD Program and approving the Sunbow 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 Sunbow CFD, and the Developer (the “Acquisition Financing Agreement”), relating to the acceptance and acquisition by the City of the public improvements through financing provided by the Sunbow 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 consists of the creation of a governmental fiscal/funding mechanism which 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 to generate funds for the payment of public facilities, including development 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 of California.

Sunbow

Sunbow, located south of Olympic Parkway and east of Brandywine Avenue in Chula Vista, is a 136.15 gross acre site. Approximately 67.5 acres are proposed for development, including approximately 44.2 acres of residential development, a 0.9-acre community purpose facility site, 5.9 acres of public streets, and 16.5 acres of manufactured slopes, basins, wetland resources, and associated buffer areas. The remainder is proposed

for open space. The project consists of 718 units, including 184 high density multi-family units, and 534 medium-high density single-family units. Sunbow's approved tentative map allows 718 residential units.

The project is currently being graded, and Lennar, the builder, has bid all improvement work. The final map is moving towards approval/recordation by the end of 2022, and Lennar expects to pull first building permits in February 2023. First home closing is anticipated October 2023.

The City Council has previously approved Council Policy No. 505-04 "Statement of Goals and Policies Regarding Establishment of Community Facilities Districts." The Sunbow CFD will be formed in accordance with the Council Policy No. 505-04, with the following exceptions:

- (1) the prohibition on financing development impact fees;
- (2) the prohibition on the escalation of the maximum special tax to pay for public facilities;
- (3) the payment to the City of compensation equal to one percent (1%) of the total authorized bonded indebtedness;
- (4) the 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 Council Policy No. 505-04 for the following reasons:

- (1) While Council Policy No. 505-04 prohibits 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. Additionally, to the extent any portion of bonds are proposed to finance development impact fee obligations, the City may require that such bonds be issued on a taxable basis.
- (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 would authorize CMFA to initiate proceedings to form the Sunbow CFD and approve the form of the Sunbow 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 Sunbow 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

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