



## Staff Report

**TO:** City Council  
**FROM:** Elizabeth Gibbs, City Manager  
**DATE:** July 18, 2023  
**SUBJECT:** Levy of Special Tax of CFD 2023-1 (Fairway Canyon)

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**Description** Second reading of ordinance authorizing the levy of special tax of CFD 2023-1 (Fairway Canyon).

### **Background and Analysis:**

The developer, Meritage Homes of California, Inc., a California corporation (the “Developer”) and D.R. Horton Los Angeles Holding Company, Inc., a California corporation, own property containing 419 proposed residential lots within the City. Such property is located in the northwestern part of the City, west of Tukwet Canyon Parkway, and north of Oak Valley Parkway. The Developer has requested that the City form a community facilities district (“CFD No. 2023-1”) with two improvement areas therein (“Improvement Area No. 1” and “Improvement Area No. 2” and together, the “Improvement Areas”) to encompass such property in accordance with the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”), to finance the costs of certain public improvements, public safety services, and maintenance services through the levy of a special tax. Improvement Area No. 1 is planned to include approximately 132 residential units and Improvement Area No. 2 is planned to include approximately 287 residential units.

In 2003, the City entered into a Development Agreement (the “Development Agreement”) with LB/L-SunCal Oak Valley, LLC (“SunCal Oak Valley”). The Development Agreement requires the City to, among other things, cooperate with the developer in taking all steps necessary to cause a community facilities district or other alternative financing mechanisms to provide public financing for the construction of public infrastructure improvements on the property subject to the SunCal Development Agreement. The project subject to the Development Agreement was originally called Oak Valley and is now known as Fairway Canyon.

SunCal Oak Valley was a subsidiary of a large land development company known as SunCal and was set up as a single-purpose entity to own and develop the Oak Valley project. Lehman Brothers provided financing to various SunCal subsidiaries for land

development projects throughout California. In particular, SunCal Oak Valley received a loan from an affiliated entity of Lehman Brothers which was secured by a deed of trust against the Oak Valley project. Lehman Brothers also owned a 50% share of SunCal Oak Valley's equity.

Following the Lehman Brother's bankruptcy filing in 2008, SunCal Oak Valley entered bankruptcy as an involuntary debtor in California bankruptcy court as Lehman Brothers attempted to recover their investments in various SunCal projects by foreclosing on the various loans. In October 2011, following several years of litigation, Lehman Brothers and SunCal reached a settlement of their litigation pursuant to which, among other things, (1) SunCal would not object to the bankruptcy plan proposed by the bankruptcy trustee and (2) SunCal would have the option to purchase two projects from Lehman Brothers (one of which was the Oak Valley project) at an agreed price.

On January 6, 2012, the California bankruptcy court confirmed the final bankruptcy plan for SunCal Oak Valley and the other SunCal companies. The bankruptcy court's order provides that each of the various SunCal projects (including the Oak Valley project) were to be conveyed to the applicable Lehman Brothers affiliate, including all "right, title and interest in, to and under any development agreements, plans engineering reports, permits and community facilities district bonds." The final order from the bankruptcy court also specifically provided for the assumption of the Development Agreement by SunCal Oak Valley in the bankruptcy case and provided that any precondition to assignment or conveyance of any such contracts was deemed satisfied by the bankruptcy court's order. In particular, on March 27, 2012, the bankruptcy court entered a sale order conveying the Oak Valley project to LV Oak Valley Champions LLC pursuant to the final bankruptcy plan.

Pursuant to the settlement agreement between SunCal and Lehman Brothers, it appears SDC Fairway Canyon LLC purchased the Oak Valley (now Fairway Canyon) project from LV Oak Valley Champions LLC. In July 2012, pursuant to Section 20.1 of the SunCal Development Agreement, the City consented to the assignment of the Development Agreement to SDC Fairway Canyon LLC.

**Analysis:**

In order to finance the CFD facilities and incidental expenses, the City intends to issue bonds secured by special taxes levied in each Improvement Area. The maximum amount of bonded indebtedness proposed for Improvement Area No. 1 is \$3.5 million and the maximum amount of bonded indebtedness proposed for Improvement Area No. 2 is \$11 million.

The Developer has requested that the boundaries of CFD No. 2023-1 include the area described in Attachment A of the Resolution of Intention to Establish CFD No. 2023-1

adopted by the City Council on April 4, 2023 (the “Resolution of Intention”), and that special taxes be levied within the boundaries of Improvement Area No. 1 and Improvement Area No. 2 in accordance with the applicable Rate and Method of Apportionment (each an “RMA”) described in Attachments C and D to the Resolution of Intention adopted at the Public Hearing on June 20, 2023.

The Resolution of Intention called for a public hearing to be held on May 16, 2023 and was continued to June 20, 2023. The purpose of the public hearing was for the City Council to formally consider the approval of the formation of CFD No. 2023-1 and the approval of the levy of the special taxes within CFD No. 2023-1. Notice of the public hearing was published in the Press Enterprise and mailed to the property owners in accordance with the Act.

In connection with the public hearing, Spicer Consulting Group prepared a CFD Public Hearing Report which describes and analyzes the facilities and services to be financed by CFD No. 2023-1 and the estimated costs of such facilities and services. Following the close of the public hearing, the City Council adopted the Resolution of Formation and the Resolution Determining the Necessity to Incur Debt which, together, approve the formation of CFD No. 2023-1 and the Improvement Areas, the levy of the special taxes in each Improvement Area in accordance with the applicable RMA and determines the necessity for CFD No. 2023-1 to issue bonds in an amount not to exceed \$3.5 million for Improvement Area No. 1 and \$11 million for Improvement Area No. 2. Such resolutions call for an election to submit to the qualified voters within CFD No. 2023-1 ballot measures on the approval of the special taxes, the issuance of the bonds and an appropriations limit for CFD No. 2023-1.

In addition, the Resolution of Formation approved the execution and delivery of the Acquisition, Construct and Funding Agreement with the Developer (the “Funding Agreement”) in the form presented and approved by this City Council on June 20, 2023. The Funding Agreement sets forth the terms, among others, pursuant to which CFD No. 2023-1 will finance improvements to be owned by the City.

On file with the City Clerk is a Certificate of the Registrar of Voters of Riverside County certifying that there are no registered voters residing within the boundaries of CFD No. 2023-1. Accordingly, under the Act, only property owners owning land in CFD No. 2023-1 are eligible to vote at the election for CFD No. 2023-1 with each owner having one vote for each acre (or portion thereof) that they own within an Improvement Area. The Property Owners have executed consents and waivers of certain election procedures with respect to the election, including certain timing requirements with respect to the election, in accordance with the Act. The City Council approved the Resolution of Formation and the Resolution Determining the Necessity to Incur Debt. Based on upon certification of at least 2/3rds of the votes cast were in favor of the propositions voted

upon in each Improvement Area, the Resolution Certified the Election Results and directed the City Clerk to record a notice of special tax lien on the property within each Improvement Area. The City Council then introduced the ordinance authorizing the levy of the special tax within each Improvement Area in accordance with the applicable RMA. The action this evening is to consider final approval of the ordinance at its second reading.

**Fiscal Impact:**

The Developer has made a deposit of \$50,000 to pay for the costs of the formation proceedings which may be reimbursed to the Developer in accordance with Funding Agreement. If established and subject to necessary City Council and voter approvals, CFD No. 2023-1 will annually levy special taxes on all of the taxable property within each of Improvement Area No. 1 and Improvement Area No. 2 in accordance with the RMA applicable to such Improvement Areas (as attached to the Resolution of Intention). Any bonds issued by CFD No. 2023-1 are not obligations of the City and will be secured solely by the Special Taxes levied in the applicable Improvement Area within CFD No. 2023-1. The inclusion of the Special Tax B is estimated to produce \$178,075 in annual revenues for public services at buildout (based on the initial rate of \$425/unit). The inclusion of the Special Tax D will produce an estimated \$213,271 in annual revenues for public safety at buildout (based on the initial rate of \$509/unit).

**Recommended Action:**

Waive the full second reading and adopt buy title only " An Ordinance of the City Council of the City of Beaumont, California, Acting in its Capacity as the Legislative Body of City of Beaumont Community Facilities District No. 2023-1 (Fairway Canyon) Authorizing the Levy of Special Taxes Within Improvement Area No. 1 and Improvement Area No. 2."

**Attachments:**

- A. Ordinance Authorizing the Levy of Special Tax