



Staff Report

TO: City Council
FROM: Brian Forbath, Bond Counsel
DATE: February 18, 2025
SUBJECT: Reimbursement Agreement with Meritage Homes of California, Inc. Re Proposed Community Facilities District No. 2025-1 (Fairway Canyon Phase 4C)

Description Approval of a Reimbursement Agreement with Meritage Homes

Background and Analysis:

The developer, Meritage Homes of California, Inc., a California corporation (the “Developer”) owns property containing 366 proposed residential lots within the City. Such property is located in the northwestern part of the City in Fairway Canyon. The Developer has requested that the City form a community facilities district (“CFD No. 2025-1”) 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. The Developer has posted a deposit with the City to pay the costs of forming CFD No. 2025-1. The City routinely enters into Reimbursement Agreements with Developers to reimburse CFD deposit costs from bond proceeds when and if issued.

As described in detail below, the City has obligations under the Development Agreement to cooperate with the Developer in forming CFD 2025-1.

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:

The City routinely enters into Reimbursement Agreements with Developers to reimburse CFD deposit costs from bond proceeds when and if issued. The Developer has deposited [\$50,000] with the City to pay the costs of forming the District. The Developer has also completed a sewer lift station that is ready for conveyance to the City. The Reimbursement Agreement would also allow for the Developer to convey such facility to

the City prior to the formation of CFD NO. 2025-1 and allow the Developer to be reimbursed for such facility from bond proceeds if and when issued.

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 Reimbursement Agreement.

The estimated cost to prepare this report is \$250.

Recommended Action:

Approve the Reimbursement Agreement with Meritage Homes.

Attachments:

A. Reimbursement Agreement