



City Council Agenda Item Report

February 19th, 2013

Agenda Item

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SUBJECT: DELIBERATION AND POSSIBLE ACTION REGARDING CONSIDERATION OF A RESOLUTION GIVING CONSENT TO THE ISSUANCE OF UNLIMITED TAX ROAD BONDS BY SUNFIELD MUNICIPAL UTILITY DISTRICT NO.1, A CONSERVATION AND RECLAMATION DISTRICT LOCATED WITHIN THE EXTRATERRITORIAL JURISTITION OF THE CITY

1. BACKGROUND/HISTORY

As Council may recall, at the 5/17/11 Council meeting, Sunfield MUD #1 (Sunfield) requested consent to issue \$2.8 million in road bonds to reimburse the developer in road improvements to FM 2001 realignment. At the 11/1/11 Council meeting, Sunfield requested an amount of \$2.7 million in road bonds for improvements to Phase 1, Sections 1 and 2. A site map is attached herein showing road improvements performed by all bond issues.

Sunfield is requesting issuance #3 in the amount of \$4.755 million for the repayment to the developer on previous construction of Fire Station Road Phase 3, Section 1 and Fire Cracker Road Phase 1, Section 3. In receipt of such documents, staff along with the City Attorney review all documents and check on any outstanding obligations Sunfield is required to fulfill.

To provide a little background, in review of the original Development Agreement, Addendums 1, 2 and 3, Strategic Partnership Agreement between the City and Sunfield, and the City's resolution on May 6, 2003, only utility bonds are mentioned needing consent from the City prior to issuance. However, at the 80th State Legislature Regular Session, special legislation was passed allowing for Sunfield to issue bonds for road projects wherein, prior to the 80th Session, a resolution was passed by the City of Buda on February 20th, 2007 supporting such proposed legislation. Sunfield has an aggregate of \$21,660,000 of unlimited tax bonds authorized by the District's voters for the purpose of purchasing, constructing, acquiring, and maintaining a road system inside the District. However, before such issuance can be approved by the Attorney General of Texas, in accordance with the Development Agreements between the City and Sunfield and with the special legislation passed, Sunfield must receive consent from the City prior to submittal to the Attorney General.

2. FINDINGS/CURRENT ACTIVITY

Staff along with the City Attorney have reviewed the Preliminary Official Statement and resolution for consent along with any outstanding obligations set forth in any of the development agreement with Sunfield. The following tasks were looked into with Sunfield:

Preliminary Official Statement and Resolution:

- On page 39 under *Description of the System –Roads-*, denote the Buda Master Transportation Plan and the Traffic Impact Analysis (TIA).
 - Staff has researched the TIA to see if Sunfield has initiated any triggers within the TIA. Staff concludes not triggers have been reached to warrant any improvements set forth in the TIA. Staff will provide some data regarding development activity in Sunfield in relation to the TIA triggers at the Council meeting.
- Page 9 under *Risk Factors* subsection *General*, The City is not obligated or liable for any of the debt issued.
- Resolution provides language specifying the bonds do not obligate the City.

Development Agreement obligations:

- Section E (3) of the Amendment No. 1 to Agreement Concerning Creation and Operation of Winfield Municipal Utility District No.1 states the landowner will cause the HOA to pay the City a fee of \$100 for each sale or resale of each new residential home in District # 1. Since the first issuance, staff has worked with Sunfield to make whole any outstanding payments with regards to the sale and resale of homes. Since then, the City receives on-going payments along with the address of the home making such payment throughout the year. Furthermore, staff researched if any penalty could be imposed by not making prompt payments on the closing of homes. Nowhere in the development agreement does it provide a penalty clause. Staff does not have the authority to arbitrarily impose such penalty on late payments unless prescribed in the development agreement.
 - To date, staff has received payment for 170 homes totaling \$17,000. In researching the 206 completed homes as set forth in the Preliminary Official Statement and the payment for the 170 homes, a residual of 36 homes still need to be accounted for. What has been ascertained is the majority have not been closed on with the exception of 2 whereupon Sunfield sent a check on 2/14/13.

Ryan Burkhardt, Controller for the developer for Sunfield, will be in attendance to provide a brief presentation to Council on the status of Sunfield.

3. FINANCIAL IMPACT

4. ACTION OPTIONS/RECOMMENDATION

Sunfield has addressed all comments and fulfilled all outstanding obligations to date.

5. ENCLOSURES

- Resolution
- Exhibit A Preliminary Official Statement for bond issuance.
- Cover letter requesting consent to issuance #3.

- Memo from Sunfield attorney on consent to issue road bonds.
- Area map showing road projects performed from road bond issuances.
- Map detailing major road projects to be performed by Sunfield as indicated in Economic Development Agreement between City and Sunfield.
- Presentation regarding status of Sunfield.