



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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File #: 16-0154, Version: 1

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### REPORT TO COUNCIL

#### **SUBJECT**

Hold Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing and Adopt Resolution Related to Proposed Issuance of Tax Exempt Revenue Bonds for Preservation of "Life's Garden" Affordable Senior Apartments at 450 Old San Francisco Road in Sunnyvale

#### **BACKGROUND**

Life's Garden is a senior housing project developed in 1974 by a non-profit affiliate of the Sunnyvale Presbyterian Church (Sunnyvale Life, Inc.) with partial financing from the federal government. The property consists of 209 affordable and market-rate apartments for seniors aged 62 and older, including a mix of studios and one-bedroom units. The federal Section 8 contract subsidizes 150 of the units for very low income seniors. Although the project was developed by a church affiliate, the project is open to all applicants regardless of religious affiliation, and complies with all state and federal fair housing laws.

The City has not provided any funding to Life's Garden in the past. However, the property is listed on the At-Risk Housing Inventory in the City's Housing Element because its current term of affordability expires in 2017. As the only subsidized housing project on that list with an affordability term expiring in the current Housing Element period (2015-2023), the Housing Element includes a City objective to assist the property owner in its efforts to rehabilitate and preserve the property as an affordable housing project for the long term.

In early 2015, Sunnyvale Life, Inc. issued a request for proposals to select an experienced affordable housing developer to help it rehabilitate and preserve Life's Garden. After reviewing several proposals, in July 2015, Sunnyvale Life, Inc. selected Beacon Communities, Inc. (Beacon) for this purpose, and formed a limited liability corporation (LLC) with Beacon to carry out the project (Sunnyvale Life, LLC). Beacon Communities is a subsidiary of ABHOW, a nonprofit housing and health care provider focused on providing safe and affordable senior housing and services.

#### **EXISTING POLICY**

##### **General Plan: Housing Element**

*Policy B.4:* Work with property owners, tenants, and non-profit purchasers to facilitate the preservation of publicly-assisted rental housing to maintain affordability to lower income households.

*Implementation Plan, Program 9: Preservation of Assisted Rental Housing.* Preserve existing assisted housing at risk of conversion to market rents. Maintain contact with owner of Life's Garden and offer financial and other assistance to maintain the affordability of the at-risk units. Complete by 2017.

## **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

## **DISCUSSION**

Life’s Garden is on the City’s at-risk housing inventory, and the City established a policy objective to assist in its preservation when it adopted the 2015-2023 Housing Element. The property has not undergone any major rehabilitation work since the housing was completed in 1976. Staff has been in contact with representatives of Sunnyvale Life, Inc., the church affiliate, as well as its selected development partner, Beacon, for more than a year to discuss the proposed rehabilitation project and potential city assistance in order to extend its affordability for an additional term. After initial discussions about possible City financing for the rehabilitation project, Sunnyvale Life, Inc. decided not to apply for City housing funds for the project, as adequate financing is available from other sources. However, logistical support from the City is needed to allow Sunnyvale Life to secure tax-exempt bond financing for the rehabilitation project.

The financing plan developed by Sunnyvale Life, LLC includes seeking an allocation of up to \$45 million in “four percent” tax-exempt bonds (the Bonds) on behalf of the eventual Borrower, Sunnyvale Life, L.P., for the Project from the State of California Tax Credit Allocation Committee (TCAC). Sunnyvale Life, L.P. (the Borrower) is a limited partnership to be formed by the tax credit investor and Sunnyvale Life, LLC, to purchase Life’s Garden and complete the rehabilitation work. An organizational chart depicting the various entities involved is provided in Attachment 3. Sunnyvale Life, LLC has selected the California Municipal Finance Authority (CMFA), a joint powers authority (JPA) and public entity of the State of California, as the bond issuer.

In order for the bonds to qualify for federal and state tax exemptions, the federal Tax and Equity Fiscal Responsibility Act (TEFRA) requires the governing body of the jurisdiction where the project is located (e.g., the City of Sunnyvale City Council) to hold a public hearing on the proposed bond issuance to allow public comment and discussion of the matter, and to approve a resolution authorizing the proposed issuance of revenue bonds for the project by CMFA following that hearing. The proceeds of the Bonds will be used for the purpose of making a loan to the Borrower to finance or refinance the costs of the project, which include acquisition, rehabilitation and preservation of Life’s Garden.

The proposed acquisition, rehabilitation and preservation of Life’s Garden meets the objectives listed in the Housing Element as it would: extend the affordability of the property for an additional term; improve the quality and condition of the existing 209 housing units without displacing current tenants; and in addition, the 58 existing market-rate units will be converted to affordable units through the proposed refinancing. The project work plan tries to minimize the need for relocation as much as possible through phasing and timing the work to occur during the day, and clean up during the evening. There may be a need for some short-term relocation (such as a few nights in a motel, etc.) for a few of the units. A draft resolution authorizing the proposed bond issuance for the Project by CMFA is provided in Attachment 1.

## **California Municipal Finance Authority**

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to

promote economic, cultural and community development through the financing of economic development and charitable activities throughout California. To date, over 200 municipalities have become members of CMFA. The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. CMFA representatives and its Board of Directors have considerable experience in bond financings. In order for CMFA to issue the bonds for the Project, the City must become a member of CMFA by entering into the Joint Exercise of Powers Agreement ("Agreement") provided in Attachment 2. The Resolution provided in Attachment 1 also authorizes the City Manager or designee to execute the Agreement, which will give the CMFA authority to issue the Bonds for the Project.

### **Execution of the Joint Exercise of Powers Agreement**

The Agreement must be executed by the city official designated in the Resolution. The Agreement provides that the CMFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities and obligations of the CMFA do not constitute debts, liabilities or obligations of the members executing such agreement, including the City, if it joins the CMFA.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California, but are to be paid for solely from funds provided by the Borrower.

There are no costs associated with membership in the CMFA and the City will in no way become exposed to any financial liability by reason of its membership in the CMFA. In addition, participation by the City in the CMFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA hearing, adopting the required Resolution and executing the Agreement, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required.

The Agreement expressly provides that any member may withdraw from such agreement upon written notice to the Board of Directors of the CMFA. In the case of the proposed bond financing for the Borrower, the City following its execution of the Joint Exercise of Powers Agreement, could, at any time following the issuance of the Bonds, withdraw from the CMFA by providing written notice to the Board of Directors of the CMFA.

### **FISCAL IMPACT**

The recommended action will not impact the City's General Fund or any other City funds. The debt to be issued by the CMFA will be the sole responsibility of Sunnyvale Life, L.P., and the City will have no financial or legal obligations or responsibilities with respect to the Bonds. All financing documents will carry disclaimers that the loan is not an obligation of the City. The City will also bear no costs in the issuance of the proposed debt. This is a private loan with the Borrower and their bank. CMFA debts, liabilities and obligations do not constitute debts, liabilities or obligations of any party to the Agreement.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its

member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City of Sunnyvale, it is expected that that a portion of the issuance fee attributable to the City will be granted by the CMFA to the City. Such grant may be used for any lawful purpose of the City. The Borrower will be the beneficiary of the CMFA's charitable donation through a 25 percent reduction in issuance fees.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

The TEFRA required public notice was published in the Sunnyvale *Sun* newspaper on February 26, 2016.

### **ALTERNATIVES**

1. Conduct a public hearing pursuant to the Tax and Equity Fiscal Responsibility Act and the Internal Revenue Code of 1986, as amended.
2. Adopt a Resolution (Attachment 1) approving the issuance of up to \$45,000,000 in tax-exempt revenue bonds by the California Municipal Finance Authority for the Life's Garden Senior Housing Project and authorizing the City Manager or her designee to execute the CMFA Joint Exercise of Powers Agreement (Attachment 2) on the City's behalf.

### **STAFF RECOMMENDATION**

Alternatives 1 and 2: 1) Conduct a public hearing pursuant to the Tax and Equity Fiscal Responsibility Act and the Internal Revenue Code of 1986, as amended; and 2) Adopt a Resolution approving the issuance of up to \$45,000,000 in tax-exempt revenue bonds by the California Municipal Finance Authority for the Life's Garden Senior Housing Project and authorizing the City Manager or her designee to execute the CMFA Joint Exercise of Powers Agreement (Attachment 2 in the report) on the City's behalf.

The adoption of the Resolution is solely for the purpose of satisfying the requirements of TEFRA and the Internal Revenue Code. The Resolution will also authorize the City Manager or designee to execute the Joint Exercise of Powers Agreement with the CMFA.

The issuance of the Bonds will substantially enhance the viability of the Project that will improve and preserve the affordable senior housing at Life's Garden. Staff did not include an alternative to "do nothing" as the approval of the bonds addresses goals of the City's General Plan and Housing Element, however the City Council always has that option. The Project addresses the goals of the City's General Plan and Housing Element by improving the condition of the existing housing units and extending the term of affordability.

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**ATTACHMENTS**

1. Resolution Approving, Authorizing the City Manager to Execute a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority and Approving the Issuance of Revenue Bonds
2. Joint Exercise of Powers Agreement
3. Organizational Chart