



# REPORT TO COUNCIL

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
www.CityofSacramento.org

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**PUBLIC HEARING**  
**September 7, 2010**

**Honorable Mayor and  
Members of the City Council**

**Title: Issuance by California Statewide Communities Development Authority of  
Recovery Zone Facility Bonds for SunEdison (Kohl's)**

**Location/Council District:** 4700 Natomas Blvd/Council District 1

**Recommendation:** Conduct a public hearing and upon conclusion adopt a **Resolution** regarding the issuance of revenue bonds by the California Statewide Communities Development Authority (CSCDA) to benefit SunEdison.

**Contact:** Kimberlie Gladden, Senior Debt Analyst, 808-2675; Janelle Gray, Debt Manager, 808-8296

**Presenters:** Janelle Gray, Debt Manager

**Department:** City Treasurer's Office

**Division:** Debt

**Organization No:** 05001011

### **Description/Analysis**

**Issue:** SunEdison Corp. LLC is seeking bond financing through CSCDA to finance a variety of solar projects they are engaged in around the state, with a statewide aggregate of approximate \$45 million. One of the proposed projects is the installation of solar-electricity equipment at the Kohl's Department Store located at Park Place II, 4700 Natomas Boulevard. The estimated cost is \$1.2 million. SunEdison will sell the electricity to Kohl's under a long-term power-sale agreement.

In compliance with federal law, representatives of CSCDA have requested that the City hold a public hearing as required by section 147(f) of the Internal Revenue Code of 1986. Section 147(f) requires that the proposed financing be approved by a governmental unit having jurisdiction over the area in which the facility to be financed is located. CSCDA asks that the City Council approve only the issuance of \$1.2 million in bonds associated with Kohl's Department Store located at Park Place II, 4700 Natomas Boulevard. As CSCDA will be issuing these bonds, the City will have no financial obligation.

Note that the financing is contingent upon SunEdison receiving an allocation of Recovery Zone Facility Bonds (RZFB) from California Debt Limit Allocation Committee (CDLAC). RZFBs were created as part of the federal stimulus package that provides the opportunity for private entity to have access to the tax-exempt market. SunEdison is seeking a letter of support from each jurisdiction in which projects are located.

**Policy Considerations:** CSCDA represents that it is legally authorized and empowered to undertake this financing. The City Attorney's Office reviewed the hearing notice and the attached resolution and concluded that the City Council has the legal authority to take the recommended action.

**Environmental Considerations:**

**California Environmental Quality Act:** The City Council's action in conducting a public hearing and adopting the proposed resolution is not a project for purposes of the California Environmental Quality Act.

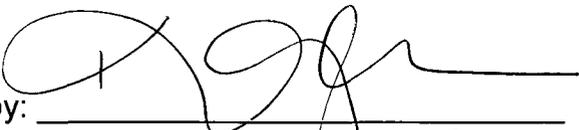
**Sustainability:** The nature of the solar project is consistent with the City's policies and priorities.

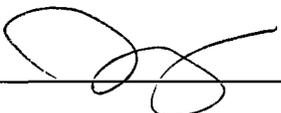
**Rationale for Recommendation:** Under section 147(f), CSCDA may not issue these tax-exempt obligations unless the City approves the issuance after holding a public hearing for which reasonable public notice is given. Accordingly, it is requested that the City Council hold the required public hearing regarding the issuance of these bonds and approve the issuance of the bonds by CSCDA.

**Financial Considerations:** This project and associated financing will have no fiscal impact to the City. The bonds will be paid entirely from repayments by SunEdison under a loan agreement with CSCDA.

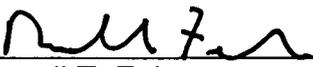
CSDA considers the projects under consideration here to be creditworthy, with a good probability of proceeding shortly after, and contingent upon, the receipt of the RZFB allocation from the California Debt Limit Allocation Committee.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased as a result of these actions.

Respectfully Submitted by:   
Kimberlie Gladden  
Senior Debt Analyst

Approved by:   
Janelle Gray  
Public Finance Manager

Recommendation Approved:

  
Russell T. Fehr  
City Treasurer

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## Attachment 1

### Background

RZFB's are a new category of tax-exempt facility bonds created by the American Recovery and Reinvestment Act (ARRA) to stimulate economic development. RZFB's were established to spur economic growth in communities impacted by economic distress, foreclosures, high unemployment, and the closure of military bases. New rules governing RZFB's significantly broaden the definition of an eligible private entity, traditionally reserved for affordable housing, manufacturing, and pollution control. Eligible expenditures under the RZFB rules include depreciable property located in a Recovery Zone (e.g., buildings and equipment). Property may be 100% privately owned and operated.

SunEdison has over 25 projects lined up with statewide aggregate of approximate \$45 million and has come to CSDA seeking a single issuer under which it can combine projects statewide to reduce issuance costs. The more efficient they are with financing, the more capacity they will have for additional solar implementations in the state.

The borrower, SunEdison, is North America's largest solar-energy services provider. It is a wholly-owned subsidiary of MEMC and a publicly traded company. CSDA considers the projects under consideration to be creditworthy, with a good probability of proceeding shortly after, and contingent upon, the receipt of the RZFB allocation from the California Debt Limit Allocation Committee.

## RESOLUTION NO 2010 - \_\_\_\_\_

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Adopted by the Sacramento City Council

September 7, 2010

### APPROVING THE ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OF RECOVERY ZONE FACILITY REVENUE BONDS FOR THE SUNEDISON PORTFOLIO #2

#### BACKGROUND:

- A. The California Statewide Communities Development Authority (the "Authority") is authorized by California Government Code section 6500 et seq. and an Amended and Restated Joint Exercise of Powers Agreement dated as of June 1, 1988 (the "Agreement") between certain local agencies throughout the State of California, including the City of Sacramento (the "City"), to issue revenue bonds for the purpose of promoting economic development in the State of California.
- B. SunEdison, LLC, or related entities, has requested that the Authority adopt a plan of financing providing for the issuance of Recovery Zone Facility Revenue Bonds (the "Bonds") in one or more series issued from time to time, including bonds issued to refund such revenue bonds in one or more series from time to time, and at no time to exceed \$1,200,000 in outstanding aggregate principal amount, to finance the following project, generally known as SunEdison Portfolio #2 (the "Project"): the installation of solar equipment located at Park Place II, 4700 Natomas Boulevard, Sacramento, California.
- C. The Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code").
- D. Under section 147(f) of the Code, prior to their issuance, private-activity bonds are required to be approved by the "applicable elected representative" of the governmental units on whose behalf such bonds are expected to be issued and by a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice.
- E. The members of this City Council are the applicable elected representatives of the City.
- F. There has been published in a newspaper of general circulation within the City, at least 14 days prior to the date hereof, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice.

- G.** The public hearing was conducted on the date specified in the notice, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds.
- H.** The Authority is also requesting that the City Council approve the issuance of any refunding bonds hereafter issued by the Authority at no time to exceed \$1,200,000 for the purpose of refinancing the Bonds that finance the Project (the "Refunding Bonds"), but only if federal tax laws do not require additional public hearings, consideration, or approval by the City Council.
- I.** By its Resolution No. 2009-0939 adopted on December 8, 2009, the Board of Supervisors of the County of Sacramento (the "County") has declared the County a "recovery zone" within the meaning of section 1400U-1 of the Code. The City is located entirely within the County.
- J.** It is intended that this resolution constitute the approval of the issuance of the Bonds required by section 147(f) of the Code and section 9 of the Agreement, and the ratification of the County's declaration of a recovery zone that includes the City.
- K.** In addition to the federal public-hearing requirements, the State of California has established an application process which requires a letter of support from the jurisdiction in which the project is located. The City of Sacramento supports the efforts of SunEdison to provide green energy and economic growth to our community through the issuance of Recovery Zone Facility Bonds by the California Statewide Communities Development Authority.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

**Section 1.** The statements in the Background are correct.

**Section 2.** The City Council hereby approves the issuance by the Authority of the Bonds and the Refunding Bonds. It is the intent of the City Council that this resolution constitute approval of the Bonds for the purposes of section 147(f) of the Code and section 9 of the Agreement.

**Section 3.** The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to, and comply with this resolution and the financing approved hereby.

**Section 4.** The officers of the City are hereby authorized and directed to take necessary action to support the application to CDLAC.

**Section 5.** The City Clerk is hereby directed to forward a certified copy of this resolution and a copy of the affidavit of publication of the hearing notice to—

Justin Cooper, Esq.  
Orrick, Herrington & Sutcliffe LLP  
405 Howard Street  
San Francisco, California 94105

**Section 6.** This resolution takes effect immediately upon its passage.