



CITY COUNCIL AGENDA STATEMENT



September 11, 2018

File ID: 18-0350

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE CITY OF CHULA VISTA AND THE SAN DIEGO UNIFIED PORT DISTRICT CREATING THE CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY; APPOINTING THE MAYOR TO THE GOVERNING BOARD OF THE CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY; AND APPOINTING THE COUNCILMEMBER REPRESENTING CITY COUNCIL DISTRICT 2 TO THE GOVERNING BOARD OF THE CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY

RECOMMENDED ACTION

Council adopt the resolutions.

SUMMARY

On May 8, 2012, the City of Chula Vista (the "City") and the San Diego Unified Port District (the "District") approved and entered into a Financing Agreement for the Chula Vista Bayfront Master Plan (CVBMP), which identified rights and obligations of each agency, with respect to the financing, development, and construction of CVBMP public improvements, infrastructure, and a convention center. The Financing Agreement established that the City and the District would form a Joint Exercise of Powers Authority to provide for or facilitate the financing of the public improvements and the convention center.

On May 13, 2014, the City of Chula Vista adopted Resolution 2014-070 approving a Joint Exercise of Powers Agreement (the "JEPA Agreement") forming the Chula Vista Bayfront Facilities Financing Authority (the "Authority") to implement common objectives of the parties related to the development of the CVBMP. Minor clarifying amendments to the JEPA Agreement are now recommended, along with the appointment of the Mayor and Councilmember Aguilar to the Governing Board of the Authority.

ENVIRONMENTAL REVIEW

The Development Services Director has determined that amending a Joint Exercise of Powers Agreement and appointment of Governing Board Members are not projects as defined under Section 15378(b)(5) of the California Environmental Quality Act (CEQA) Guidelines because these actions involve only an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On May 8, 2012, the City and the District entered into a Bayfront Master Plan Financing Agreement (the “Financing Agreement”) for the CVBMP. The Financing Agreement identified the rights and obligations of each agency, with respect to the financing, development, and construction of public improvements, infrastructure, and a planned convention center in the CVBMP. The Financing Agreement was subsequently amended and restated to recognize additional rights and obligations of the respective agencies, effective June 20, 2017 (the “Amended and Restated Financing Agreement”). The Financing Agreement established that the City and the District would form a Joint Exercise of Powers Authority to provide for or facilitate the financing of the convention center and other public improvements.

Pursuant to authority granted by Article 1 (commencing with §6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “JPA Act”), the City entered into a JEP A Agreement with the District, effective May 1, 2014. The JEP A Agreement established the Authority.

The Authority was formed for the sole purpose of assisting in the financing and refinancing of capital improvement projects of the CVBMP, as contemplated by the Financing Agreement. The anticipated sources of funds to secure debt issued by the Authority are addressed in the Financing Agreement, and include, but are not limited to: District Ground Lease Revenues, lease payments payable from public funds, City sales taxes, and City Transient Occupancy Taxes (TOT). Pursuant to California law and the JEP A Agreement, the Authority will be a public entity separate and apart from the City and District. The debts, liabilities, or obligations of the Authority will not be the debts, liabilities, or obligations of the City, the District, or any representative of the City or District serving on the Governing Board of the Authority.

Agreement Amendment

Modifications to the JEP A Agreement are recommended by City and District staff, as follows (see Attachment 1, Amended and Restated JEP A Agreement):

- Clarifying that the Authority’s jurisdiction is limited to the CVBMP Area; and
- Clarifying that the purpose of the Authority is the financing and refinancing of capital improvement projects of the CVBMP, as contemplated by the Amended and Restated Financing Agreement; and
- Providing for adoption of by-laws, if desired; and
- Allowing for meetings of the Board to be held by teleconference, in accordance with the Brown Act; and
- Adding the office of Auditor, as required by statute; and
- Providing that the method of disposition of assets between the City and the District following dissolution will be subject to future agreement between the agencies; and
- Adopting Chapter 2.56 of the Chula Vista Municipal Code as the Authority’s procurement policy, unless and until the Board adopts a new procurement policy; and
- Making minor edits to update definitions and document references and correcting typographical errors.

Governing Board

The Authority is a separate public entity, distinct from the City and the District, led by a Governing Board. The Governing Board will consist of five (5) members, to be appointed as follows:

- Two (2) members appointed by the City Council;
- Two (2) members appointed by the District Board of Commissioners; and
- One (1) member will be the Chula Vista appointed Port Commissioner.

All administrative functions of the Authority will be fulfilled by existing District staff (Executive Director, Treasurer, Auditor, and Secretary).

Pursuant to Section 4(B) of the JEP A Agreement, Board Members shall be designated by action of the City Council and the District Board of Commissioners, respectively. Board members must be members of the governing body or employees of the City or District, as applicable. The term of office as a Board Member shall terminate when such Board Member (i) shall be replaced by action of the City Council or the District Board of Commissioners, as applicable; or (ii) shall cease to hold his or her respective office or employment at the City or District, as the case may be. The successor to such officer or employee of the City or District may become a member of the Board upon assuming such office or employment and being designated by the appropriate authority.

The appointments of the Mayor and the City Councilmember representing District 2 (Councilmember Aguilar) as the two City members of the Board are recommended.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 500 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(11), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

LINK TO STRATEGIC GOALS

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. Amending the Joint Exercise of Powers Agreement and appointing Governing Board Members supports the Economic Vitality Goal, Strategy 2.1 (provide policies, planning, infrastructure and services that are fundamental to an economically strong, vibrant city) and Initiative 2.1.1 (implement the Bayfront Master Plan).

CURRENT-YEAR FISCAL IMPACT

Approving a resolution amending the JEP A Agreement and appointing Governing Board Members to the Authority has no net fiscal impact. All costs associated with preparing this report are included in the operating budget for the Development Services Department.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact as a result of this action.

ATTACHMENTS

1. Proposed Amended and Restated Joint Exercise of Powers Agreement

Staff Contact: Tiffany Allen, Assistant Director of Development Services