



# CITY COUNCIL AGENDA STATEMENT



October 8, 2019

File ID: 19-0477

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE CHULA VISTA BAYFRONT PROJECT FUNDING AGREEMENT BY AND AMONG THE COUNTY OF SAN DIEGO, THE CITY OF CHULA VISTA, THE SAN DIEGO UNIFIED PORT DISTRICT, AND THE CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY WHEREIN THE COUNTY WILL PROVIDE A \$25,000,000 LOAN TO THE CHULA VISTA BAYFRONT PROJECT

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

On May 8, 2012, the City Council approved the Chula Vista Bayfront Master Plan Financing Agreement with the San Diego Unified Port District (the "2012 Financing Agreement"), addressing the financing, development, and construction of public improvements, infrastructure, and a conference center pursuant to the Chula Vista Bayfront Master Plan (CVBMP). The 2012 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"), including a commitment to jointly pursue formation of an Enhanced Infrastructure Financing District (EIFD) with the County of San Diego (the "County"). The proposed funding agreement commits the County to participate in the development of the CVBMP by making a \$25 million loan to the project, in place of the previously contemplated EIFD.

## **ENVIRONMENTAL REVIEW**

The Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity was covered in previously adopted Environmental Impact Report UPD#83356-EIR-65B/SCH#2005081077. The Development Services Director has also reviewed the proposed activity for additional compliance with CEQA and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable.

## DISCUSSION

In 2002, the City of Chula Vista and the Unified Port District of San Diego (the “Port”) began a collaborative planning process to create a master plan for the approximately 535-acre Chula Vista Bayfront area. The CVBMP was designed to transform Chula Vista’s underutilized industrial Bayfront landscape into a thriving residential and world-class waterfront resort destination. The CVBMP represents the last significant waterfront development opportunity in Southern California and is the result of a decade-long joint planning effort by a broad coalition of stakeholders, the Port, the City, and Pacifica Companies.

The CVBMP will create thousands of new jobs, create new public parks, protect natural coastal resources, provide conference and visitor-serving amenities and build an important asset for the San Diego region, the South Bay, Chula Vista residents, and coastal visitors. At buildout, more than 40% of the CVBMP project area will be dedicated to parks, open space, and habitat restoration/preservation. Anticipated economic benefits include the creation of more than 2,200 permanent jobs, nearly 7,000 temporary construction jobs, and numerous indirect jobs in the regional economy.

### CVBMP Financing Agreement

Approved by City Council in May of 2012 via Resolution 2012-078, the 2012 Financing Agreement establishes a fiscal foundation for creating a world-class Bayfront that reflects strong planning and design principles, environmental protection, economic feasibility, and community benefits. The capital projects and activities to be funded will promote public access to and engagement with the waterfront, while enhancing the quality and protection of key habitat areas.

The 2012 Financing Agreement identified the revenue sources necessary to construct and maintain public improvements, infrastructure, and other facilities necessary to implement the CVBMP in accordance with the Final Environmental Impact Report (FEIR) approved by the City and the Port on May 16, 2010.

Anticipated sources of funds per the 2012 Financing Agreement include the following:

1. Ground lease revenues generated by a planned Resort Hotel and Conference Center project (RHCC). *(Port)*
2. Other new, long-term ground leases in the CVBMP project area. *(Port)*
3. Transient Occupancy Taxes (TOT) generated within the CVBMP project area. *(City)*
4. Tourism Marketing District Assessments. *(City)*
5. Park Fees. *(City/Developer)*
6. Pacifica Unit Contribution per the Chula Vista Bayfront Master Plan Settlement Agreement. *(Developer)*
7. Development Impact Fees. *(City/Developer)*

While the City and Port worked to implement the provisions of the 2012 Financing Agreement, the vision for the RHCC project and the necessary public investment continued to evolve. As a result, modifications to the 2012 Financing Agreement to recognize additional rights and obligations of the respective agencies were negotiated. The City Council and the Port Board of Commissioners approved the Amended and Restated Financing Agreement on November 10, 2016 and June 20, 2017, respectively. A key change incorporated in the Amended and Restated Financing Agreement was an agreement between the agencies to pursue the formation of an EIFD with the County of San Diego. If an EIFD were formed, the incremental

Property Tax and Property Tax In-Lieu of Motor Vehicle License Fee revenues generated as a result of increased property valuations (the “Property Tax Increment”) in the CVBMP and received by the County would be dedicated to CVBMP infrastructure. The City’s Property Tax Increment would also be committed through the EIFD. The intent was to use these funds to replace the tax increment that would have been generated under the City’s now defunct Redevelopment Agency, as contemplated in the 2012 Financing Agreement.

Following approval of the Amended and Restated Financing Agreement, the Port and City began discussions with the County relating to the proposed EIFD. At this time, the County is proposing an alternative method to participate in the success of the CVBMP project. The proposed Chula Vista Bayfront Project Funding Agreement (the “Funding Agreement”) between the County, the City, the Port, and the Chula Vista Bayfront Facilities Financing Authority (the “Authority”) commits the County to contributing \$25 million toward the construction of certain CVBMP infrastructure (the “Phase 1A Improvements”) (see Attachment 1). The proposed participation by the County is critical to the success of the RHCC development and the CVBMP as a whole. With County participation through the Funding Agreement, formation of an EIFD is no longer necessary or required. The City has committed to directly contribute its Property Tax Increment revenues generated by the RHCC to the project.

The Phase 1A Improvements include the public facilities and infrastructure necessary to support the first phase of development of the CVBMP, consisting of the RHCC and a new RV park. Construction costs are anticipated to total \$63.2 million, as summarized in the table below.

**Table 1 – Phase 1A Improvements**

<b>Improvement Description</b>	<b>Cost Estimate<sup>1</sup></b>	<b>Developer BFDIF Credit Eligible<sup>2</sup></b>	<b>City Sewer Funding Eligible<sup>3</sup></b>	<b>Other Funding<sup>4</sup></b>
<i>Developer's Phase 1A Infrastructure Improvements</i>				
E Street (G Street to H Street)	\$ 6,680,000	\$ 4,050,000	\$ 580,000	\$ 2,050,000
G Street Connection	950,000	430,000	110,000	410,000
H Street (Bay Blvd to Street A)	430,000	270,000	-	160,000
H Street (Marina Pkwy to E Street)	5,380,000	3,350,000	-	2,030,000
Harbor Park (Initial)	19,500,000	310,000	-	19,190,000
H-3 Site Prep <sup>5</sup>	6,000,000		-	6,000,000
H-3 Utility Corridor <sup>6</sup>	1,530,000		310,000	1,220,000
<i>Subtotal</i>	<i>40,470,000</i>	<i>8,410,000</i>	<i>1,000,000</i>	<i>31,060,000</i>

<sup>1</sup> Cost Estimates are in 2016 dollars. Estimates include hard costs, soft costs, and contingencies.

<sup>2</sup> Developer BFDIF Credit Eligible column reflects the estimated value of planned improvements that will be eligible for credit against Developer's Bayfront Development Impact Fee ("BFDIF") obligation. Actual BFDIF credit amount may vary. Developer will be responsible for payment of BFDIF fees in excess of credits earned.

<sup>3</sup> City Sewer Funding Eligible column reflects the estimated value of sewer improvements associated with each project that will be eligible for funding by the City through its sewer facility contribution. Actual sewer funds contributed may vary.

<sup>4</sup> Other Funding column reflects the estimated amount to be funded through the issuance of debt, the application of funds on hand, or such other funding mechanisms as may be most appropriate.

<sup>5</sup> H-3 Site Prep budget of \$6 million represents the maximum funds that will be provided by District and City for this purpose, assuming District provides at least 130,000 cubic yards of imported soil. If District does not deliver sufficient soil, funding will be increased to \$10 million. Actual costs may vary. See Section 4.8 of the Disposition and Development Agreement.

<sup>6</sup> H-3 Utility Corridor budget of \$1.53 million represents the maximum funds that will be provided by District and City for this purpose. Actual costs may vary.

<b>Improvement Description</b>	<b>Cost Estimate<sup>1</sup></b>	<b>Developer BFDIF Credit Eligible<sup>2</sup></b>	<b>City Sewer Funding Eligible<sup>3</sup></b>	<b>Other Funding<sup>4</sup></b>
<i>Remaining Phase 1A Infrastructure Improvements</i>				
E Street (Bay Blvd to F Street)	3,970,000	-	60,000	3,910,000
E Street (Lagoon Drive to G Street)	290,000	-	-	290,000
F Street (Bay Blvd to E Street)	1,530,000	-	280,000	1,250,000
F Street (E Street to Gunpowder Pt Dr)	630,000	-	50,000	580,000
Gunpowder Point Drive Relocation	1,360,000	-	-	1,360,000
S-2 Sweetwater Signature Park	7,600,000	-	-	7,600,000
SP-1 Sweetwater Buffer (for S-1)	2,570,000	-	-	2,570,000
SP-1 Sweetwater Buffer (for S-2)	1,160,000	-	-	1,160,000
SP-2 Seasonal Wetlands	950,000	-	-	950,000
SP-4 SDG&E	60,000	-	-	60,000
<i>Subtotal</i>	<i>20,120,000</i>	<i>-</i>	<i>390,000</i>	<i>19,730,000</i>
<i>City Sewer Improvements</i>				
G Street Sewer Pump Station	2,640,000	-	2,640,000	-
<b>Total</b>	<b>63,230,000</b>	<b>8,410,000</b>	<b>4,030,000</b>	<b>50,790,000</b>

### Funding Agreement

The proposed Funding Agreement commits the County to making three (3) equal payments of \$8,333,333 toward the Phase 1A Improvements. The first payment will be made within 30 days of the start of construction on the RHCC project, or July 1, 2020, whichever comes later. The second payment will be made on July 1, 2021, with the third payment to be made on July 1, 2022.

As a result of the development of the CVBMP, the County will receive additional property tax revenues as property valuations increase. Assuming a 15.88% share of the 1% total property tax rate, and the application of a 3% interest rate on the principal amount, the parties anticipate that the County will recover the full \$25 million contribution, including interest, through CVBMP Property Tax Increment within 15 years. Actual Property Tax Increment generated by the CVBMP will vary based actual property valuations and timing of development. The current projection of Property Tax Increment has been adopted as a repayment schedule for purposes of the Funding Agreement and is provided in Attachment 2.

If the Property Tax Increment generated in a given year falls short of the repayment schedule, the Funding Agreement commits the Port to offsetting such shortfall by making a payment directly to the County. If the Property Tax Increment generated in a given year exceeds the loan repayment schedule, the amount in excess will be carried forward to offset future annual obligations (until such time as no additional repayment obligation exists).

Should the development of the RHCC not proceed as planned, the City and Port retain the right to return the funds in full to the County, repaying the contribution.

In addition to the payment guarantee being made by the Port, the County is proposing an additional potential General Fund contribution by the City. The City, along with several other cities in the county, is

party to litigation with the County (*City of Chula Vista et al., v. Sandoval*, Sacramento Superior Court Case No. 34-2014-80001723-CU-WM-GDS and Third District Court of Appeal No. C080711). The case relates to the methodology used by the San Diego County Auditor-Controller in calculating each taxing entity's share of Redevelopment Property Tax Trust Fund (RPTTF) funds (the "Disputed Funds Case"). The distribution of RPTTF (formerly known as tax increment) was mandated following the dissolution of California redevelopment agencies. The City contends that the County's methodology under allocated funds to the City (the "Disputed Funds"). The City, including the other cities in the litigation, prevailed in Superior Court and that decision has been appealed by the County to the Third District Court of Appeal.

Should the City prevail in this case, the County proposes that the value of the Disputed Funds as of the Court decision be contributed by the City to the County as a partial repayment of the \$25 million contribution. Should the County prevail in the case, the proposed Funding Agreement would not result in any additional contribution on the part of the City. Any Disputed Funds contributed by the City pursuant to this agreement would be considered as payment against principal.

The value of the Disputed Funds as of June 30, 2019 is estimated to total \$1.4 million. This amount is projected to increase annually by approximately \$300,000.

#### Revenue Sharing Agreement

In April of 2018, the City and Port entered into Disposition and Development Agreement with RIDA Chula Vista, LLC, for development of the RHCC project and a Revenue Sharing Agreement between the two agencies. The Revenue Sharing Agreement identified specific revenues to be contributed by the two agencies and established an order of priority for the use of any contributed funds remaining after payment of the project's annual debt service obligation (the "Residual Revenues").

City and Port staff have agreed to negotiate and bring forward an amended Revenue Sharing Agreement for consideration by the respective boards. The amended agreement will prioritize (1) repaying the City for any Disputed Funds contributed to the project and (2) repaying the Port for any annual payments made to the County due to a Property Tax Increment shortfall.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 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)(7) or (8), 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.

#### **CURRENT-YEAR FISCAL IMPACT**

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

## ONGOING FISCAL IMPACT

Entering into the proposed Funding Agreement secures a County contribution of \$25 million toward the CVBMP Phase 1A Improvements. This participation is critical to the successful development of the Chula Vista Bayfront.

In addition to the Property Tax Increment dollars that will be received by the County as a result of the successful development of the CVBMP, the County is asking the City to contribute funds which it may be awarded as a result of pending litigation between the City and County. If the City were to prevail in the Disputed Funds Case, any awarded funds would be discretionary General Fund monies available to fund City operations. The value of the Disputed Funds as of June 30, 2019 is estimated to total \$1.4 million, increasing by approximately \$300,000 annually. Assuming an additional five years of litigation, and the City's success in the courts, the City would be contributing an additional \$2.9 million to the Bayfront project. If the City does not prevail in the Disputed Funds case, the Funding Agreement would have no fiscal impact to the City.

With the proposed amendment to the Revenue Sharing Agreement, repaying the City for any new General Fund contribution resulting from this agreement would be a priority expense. While this ensures that the General Fund is repaid sooner, the repayment will be made using Bayfront generated revenues which would have eventually flowed to the two agencies on a 50/50 basis.

## ATTACHMENTS

1. Chula Vista Bayfront Project Funding Agreement by and Among the County of San Diego, the City of Chula Vista, the San Diego Unified Port District, and the Chula Vista Bayfront Facilities Financing Authority
2. Repayment Schedule

*Staff Contact: Tiffany Allen, Development Services Department*