



CITY COUNCIL AGENDA STATEMENT



December 10, 2019

File ID: 19-0563

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AUTHORIZING APPLICATION FOR THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT – SENATE BILL 2 PLANNING GRANTS PROGRAM TO DEVELOP AN ALTERNATIVE COMPLIANCE PROGRAM IN THE OTAY RIVER VALLEY WHICH WILL PROVIDE STORMWATER POLLUTANT CONTROL AND/OR HYDROMODIFICATION MANAGEMENT COMPLIANCE OPTIONS CONSISTENT WITH THE 2013 MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT, AND CONTINGENT UPON GRANT AWARD, ACCEPTING THE GRANT FUNDS, ENTERING INTO AN AGREEMENT WITH ICF INTERNATIONAL FOR CONSULTING SERVICES, AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

In 2017, the Legislature passed Senate Bill 2 Planning Grants Program (SB 2), which established a permanent source of funding intended to increase the affordable housing stock in California. The program is funded by fees levied on certain real estate transactions and is expected to generate between \$250 and \$300 million annually. The California Department of Housing and Community Development (HCD) is administering the program. The revenues generated from this first year of funding will be split between homelessness programs and planning grants.

Local governments are eligible to apply for planning grants that can be used on a range of qualifying activities related to streamlining and accelerating housing production. The City prepared a grant proposal requesting the maximum eligible amount of \$625,000 to finance consultant fees and costs associated with the development of an Alternative Compliance Program in the Otay River Valley, including environmental analysis which will provide stormwater pollutant control and/or hydromodification management compliance options consistent with the 2013 Municipal Separate Storm Sewer System permit (the "MS4 Permit"). An alternative compliance program will provide flexibility by allowing new development and redevelopment projects (both public and private projects) to use offsite wetland/water quality mitigation bank credits to supplement or entirely replace onsite structural BMPs required to comply with pollutant control and/or hydromodification management requirements. This will allow applicants to maximize the use of a project site potentially increasing the amount of proposed housing units for the site while also expediting

the approval process by the San Diego Regional Board who is required to review alternative compliance programs during the development process and approve the same prior to use by project applicants.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 6 Categorical Exemption pursuant to Section 15306 (Information Collection) of the State CEQA Guidelines. Consistent with Section 15306, the proposed project involves basic data collection, research, resource evaluation activities consulting with other public agencies, public input, and the input of the Stakeholder Technical Advisory Committee. None of these activities involve a disturbance of any sort to environmental resources and the information obtained will be used to inform potential future planning actions by the City Council.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not Applicable

DISCUSSION

In 2017, the Legislature passed SB 2, which established a permanent source of funding intended to increase the affordable housing stock in California. The program is funded by fees levied on certain real estate transactions and is expected to generate between \$250 and \$300 million annually. HCD is administering the program. The revenues generated from this first year of funding will be split between homelessness programs and planning grants.

Local governments are eligible to apply for planning grants that can be used on a range of qualifying activities related to streamlining and accelerating housing production. Eligible activities include updates to general and specific plans, updates to zoning ordinances, and process improvements that expedite planning approval for housing development. The City prepared a grant proposal to fund the development of an Alternative Compliance Program in the Otay River Valley to provide stormwater/water quality mitigation options in compliance with the 2013 MS4 Permit. As no such current program exists in the City, projects must demonstrate MS4 compliance by including onsite structural best management practice (BMP) performance requirements. Onsite BMPs often require the use of large areas to treat stormwater taking up land that has the potential to be used for additional housing units. Additionally, many of the infill projects located in western Chula Vista are smaller lots that have a difficult time designing a project that must also include retention and/or biofiltration BMPs onsite. The MS4 Permit allows for an Alternative Compliance Program to Onsite Structural BMP Implementation. This program recognizes that improvements to water quality may perform more effectively if analyzed and executed on a watershed scale. Alternative compliance projects include regional BMPs, retrofit BMPs, groundwater recharge and water supply augmentation projects, land preservation, land restoration, and stream or riparian area rehabilitation. The San Diego Water Board's Guidance Document includes a process of calculating water quality debits accrued from not implementing structural BMPs onsite, and water quality credits earned from implementation of an offsite alternative compliance project, which are then used to offset and exceed the debits. This approach is expected to improve overall watershed functions by incentivizing projects that retrofit, rehabilitate, or preserve watershed functions to produce greater water quality benefits than onsite compliance alone. This will provide local

jurisdictions the ability to better address stormwater pollution from areas of existing development and will encourage applicants to propose projects that optimize the critical balance between cost and performance.

The proposed Alternative Compliance Program focuses on the Otay River Valley as City Council has already adopted Resolution No. 2016-084 (RESOLUTION NO. 2016-084 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ADOPTING MITIGATED NEGATIVE DECLARATION (IS-15-006) AND APPROVING A WETLAND RESTORATION AGREEMENT BETWEEN HOMEFED CORPORATION AND THE CITY OF CHULA VISTA, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT, see Attachment 1). The Wetland Restoration Agreement details the terms of the agreement that includes the setup of a wetland mitigation bank that intends to cover wetland mitigation for Homefed Corporation's remaining villages within Otay Ranch, the City's University and Innovation District and other projects within the City. The initial restoration site is approximately 100-acres in size and is located within the eastern Otay River Valley, approximately 1 mile below Savage Dam (See Attachment 2 - Location Map). An amended and subsequent Wetland Restoration Agreement will be presented to the City Council at a future date to propose expansion of the restoration site by an additional approximately 50-acres adjacent and downstream to the initial site. The wetland restoration project qualifies as an alternative compliance project as it involves land preservation, land restoration, and stream or riparian area rehabilitation. The program development includes establishing an in-lieu fee structure and a credit system. An in-lieu fee system would allow direct payments by project proponents to purchase water quality credits in addition to wetland credits within the Otay River Restoration Project boundaries.

In accordance with the Wetland Restoration Agreement, Homefed Corporation has funded the development of all planning documents and upfront costs to implement the Otay River Restoration Project. Homefed has contracted with ICF International to develop the planning documents including the wetland mitigation banking tools required to set up a mitigation bank with the Resource Agencies including US Army Corps of Engineers, Regional Water Quality Control Board and the California Department of Fish and Wildlife. Homefed has also contracted with ICF to implement and construct the restoration, enhancement and creation of wetland habitat. Because the proposed Alternative Compliance Program would be located within the same boundaries of the Otay River Restoration Project and the development of wetland and water quality credits are integrally tied together and must be thoroughly coordinated with stakeholders and regulatory agencies, the City, in accordance with Chula Vista Municipal Code (CVMC) 2.56.070, is solely selecting ICF International to develop the Otay River Valley Alternative Compliance Program, including environmental analysis, based upon their experience and unique understanding of the existing Otay River Restoration Project and development of a wetland mitigation bank because they have consistently demonstrated that they possesses the unique qualifications required to develop a water quality alternative compliance program.

Development of the Otay River Valley Alternative Compliance Program requires coordination with the MS4 Regional Co-permittees and the Stakeholder Technical Advisory Committee. The San Diego Water Board must also approve the program. Once approved, the Otay River Valley Alternative Compliance Program will provide flexibility by allowing new development and redevelopment projects (both public and private projects) to use the offsite wetland/water quality mitigation bank credits to supplement or entirely replace onsite structural BMPs required to comply with pollutant control and/or hydromodification management requirements. This will allow applicants to increase housing units onsite while also expediting the approval

process by the San Diego Regional Board who would have already reviewed and approved the use of the Otay River Valley Alternative Compliance Program.

SB 2 planning grants are non-competitive and a jurisdiction's maximum award is based on population size, as determined by the California Department of Finance. The City is eligible to receive up to \$625,000.

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.

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. An Alternative Compliance Program supports the Economic Vitality goal as it seeks to allow the use of offsite wetland/water quality mitigation bank credits to supplement or entirely replace onsite structural BMPs required to comply with pollutant control and/or hydromodification management thus allowing for potential additional housing units onsite. Additionally, an Alternative Compliance Program supports the Healthy Community goal as profits from the sale of wetland/water quality mitigation bank credits will allow additional protection and restoration of wetland and upland habitat downstream of the Otay River Valley Restoration Project.

CURRENT-YEAR FISCAL IMPACT

There is no current year fiscal impact cost. A maximum 5% of the grant amount may be used for administrative costs. The City is seeking the maximum eligible grant amount of \$625,000. Of that \$31,250 may be used for administrative costs. Additionally, if awarded, costs may begin incurring after the release of the Notice of Funding Availability (March 28, 2019).

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the General Fund or Development Services Fund, as a result of this action.

ATTACHMENTS

1. Resolution No. 2016-084
2. Location Map
3. Notice of Funding Availability - SB 2 Planning Grants Program
4. Notice of Application Due Date Extension – SB 2 Planning Grants Program

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