



CITY COUNCIL STAFF REPORT



July 13, 2021

ITEM TITLE

Bayfront Project Special Tax Financing District: Declaring the Results of the Special Mail Ballot Election of the District; Considering the Lawfulness of Proposed Changes to the District; and Considering an Ordinance Authorizing the Levy of a Special Tax

Report Number: 21-0100

Location: Bayfront Project Special Tax Financing District

Department: Development Services

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Acting as the legislative body of the Bayfront Project Special Tax Financing District: A) Adopt a resolution reciting the fact of the special mail ballot election held on July 13, 2021 in such district, declaring the results thereof, and other matters as provided by law; and, if Proposition A of the special mail ballot election is approved by the voters, then B) Adopt a resolution determining that the changes to the rate and method of apportionment of special taxes authorized to be levied therein and the expansion of territory wherein improvements may be located and services may be provided are lawfully authorized; and C) Place an ordinance on first reading amending Ordinance No. 3481 and authorizing the levy of a special tax in such district pursuant to an amended and restated rate and method of apportionment **(First Reading)**.

SUMMARY

Formation proceedings for the Bayfront Project Special Tax Financing District (the "Bayfront Financing District") were initiated on September 10, 2019. Following a special mail ballot election, an ordinance authorizing the levy of special taxes at rates not to exceed 5% of rent annually charged on hotel property and campsite property within the Bayfront Financing District was adopted, with a maximum term of forty (40) years. The City Council has declared its intention to consider: (1) changes to the rate and method of apportionment (the "Existing RMA") for the Bayfront Financing District to: (a) increase the maximum special tax levy rate to 5.5% until June 30, 2060, with downward adjustments thereafter, raising an estimated \$33,000,000 annually; (b) extend the term of the authorization to levy the special tax until June 30, 2086;

and (c) make minor procedural changes (with such changes, the “Amended RMA”); and (2) expanding the territory wherein improvements may be located and services provided.

Change proceedings were initiated on February 16, 2021 and on April 13, 2021, a public hearing was held to consider the changes and a resolution was adopted calling a special mail ballot election to be held on July 13, 2021 for the purpose of submitting to the qualified electors of the Bayfront Financing District a proposition (“Proposition A”) to authorize the changes to the Existing RMA and the expansion of territory wherein the improvements may be located and the services may be provided. A special mail ballot election to consider these changes to the Bayfront Financing District was held, with all ballots due to the City Clerk no later than noon today, July 13, 2021. Tonight’s action will continue the formal change proceedings by certifying the election results. If Proposition A is approved by two-thirds of votes cast by the qualified electors, a resolution of change may be adopted determining that the modifications to the Existing RMA and the expansion of territory wherein the improvements may be located and the services may be provided are lawfully authorized (the “Resolution of Change”) and an ordinance amending Ordinance No. 3481 and authorizing the levy of special taxes within the Bayfront Financing District in accordance with the Amended RMA (the “Ordinance”) will be placed on first reading.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because the proposed activity consists of the creation of a governmental fiscal/funding mechanism which does not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

Notwithstanding the foregoing, the project was adequately covered in previously certified Final Environmental Impact Report UPD#83356-EIR-658/SCH#2005081077 for the Chula Vista Bayfront Master Plan. Thus, no further environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On September 10, 2019, the City Council initiated proceedings to form the Bayfront Financing District with the adoption of City Council Resolution Nos. 2019-167, 2019-168, and 2019-169, adopting a boundary map of the Bayfront Financing District, declaring the intention of the City Council to establish the Bayfront Financing District and to authorize the levy of a special tax therein, and declaring the necessity of the Bayfront Financing District to incur a bonded indebtedness, respectively. Resolution No. 2019-169 was subsequently amended by the City Council on November 12, 2019 to increase the maximum bonded indebtedness for the Bayfront Financing District from \$125,000,000 to \$175,000,000.

On November 19, 2019, the City Council held a public hearing and took additional formation actions, approving Resolution Nos. 2019-218, 2019-219, 2019-220, 2019-221 and 2019-222. These resolutions approved an Amended and Restated Revenue Sharing Agreement by and between the City and the Port

District, approved a Joint Community Facilities Agreement (the “Original JCFA”), approved forming and establishing the Bayfront Financing District and submitting the levy of special tax to the qualified electors, deemed it necessary to incur a bonded indebtedness of the Bayfront Financing District, and called a special mail ballot election to submitting propositions to the qualified electors to:

1. authorize the levy of special taxes in the Bayfront Financing District;
2. authorize the Bayfront Financing District to incur a bonded indebtedness; and
3. establish an appropriations limit for the Bayfront Financing District.

The November 19, 2019 public hearing was held pursuant to the provisions of Chula Vista Municipal Code Chapter 3.61 (the “Bayfront Project Special Tax Financing District Procedural Ordinance”).

At 12:00 pm on February 18, 2020, the City Clerk, acting as the election official, conducted a special election of the qualified electors of the Bayfront Financing District (i.e. the landowners within the Bayfront Financing District). The City Clerk presided over the proceedings, verified the eligible voters, verified signatures, and presented the election ballots. The City Clerk then prepared and distributed certification of the election results on February 18, 2020. On that same date, the City Council adopted Resolution 2020-042, reciting the fact of the special mail ballot election and declaring the results of the election. With a majority of the electors voting yes on each of the three propositions, the Council then placed an ordinance authorizing the levy of a special tax in the Bayfront Financing District on first reading (Ordinance No. 3481, second reading on February 25, 2020).

Bayfront Financing District Change Proceedings

Negotiations between the City, the Port District, and RIDA Chula Vista, LLC (RIDA) related to the planned Bayfront resort hotel and Convention Center project (the “RHCC Project”) progressed significantly following the February 2020 action levying the Bayfront Financing District special tax. The City and Port District have agreed to contribute an additional \$10 million toward the construction of the Convention Center. In return, RIDA will accept primary responsibility for funding the 1,600-space parking garage (the “Parking Garage”) that will serve the RHCC Project. Total costs for the Parking Garage are currently estimated between \$35 million and \$40 million.

On February 16, 2021, staff brought forward an action to the City Council recommending modifying the special tax rate and term of the Bayfront Financing District in order to provide the additional \$10 million to be contributed to the Convention Center and to address likely future capital and operating costs throughout the Bayfront Financing District Area. Additional changes to expand the area in which the improvements and services funded by the Bayfront Financing District may be provided were also recommended, along with a Third Amended and Restated Revenue Sharing Agreement (the “Third Amended RSA”) and an Amended and Restated Joint Community Facilities Agreement (the “Amended and Restated JCFA”).

At the February 16, 2021 meeting, the City Council adopted Resolutions 2021-028, 2021-029, and 2021-030, approving the Third Amended and Restated RSA, approving the Amended and Restated JCFA, and declaring the intention of the City Council to consider the modification of the Existing RMA for the Bayfront Financing District and the expansion of territory wherein improvements may be located and services provided; requesting the applicable officer of the City prepare an Amended Bayfront Project Special Tax Financing District Report; and setting a public hearing related to the modification of the Bayfront Financing District

Existing RMA and the expansion of territory wherein improvements may be located and services provided for April 13, 2021.

On April 13, 2021, the City Council held a public hearing and approved Resolution No. 2021-056 making certain determinations and calling a special mail ballot election to submit the following proposition to the qualified electors:

PROPOSITION A

Shall the measure to amend the Bayfront Project Special Tax Financing District to: (a) increase the maximum special tax levy rate to 5.5% until June 30, 2060, with downward adjustments thereafter, raising an estimated \$33,000,000 annually; (b) extend the term of the authorization to levy the special tax until June 30, 2086; (c) expand the territory wherein improvements may be located and services provided; and (d) make minor procedural changes, all as set forth in Resolution No. 2021-056 accompanying this ballot, be approved?

Yes _____

No _____

The April 13, 2021 public hearing was held pursuant to the provisions of Chula Vista Municipal Code Chapter 3.61 (the “Bayfront Project Special Tax Financing District Procedural Ordinance”).

At 12:00 pm on July 13, 2021, in the City Clerk’s office, the City Clerk, acting as the election official, will conduct a special election and the qualified electors of the Bayfront Financing District (i.e. the landowners within the district) will consider Proposition A, making changes to the Bayfront Financing District. The City Clerk will preside over the proceedings, verify the eligible voters, verify signatures, and canvass the election ballots.

The City Clerk will prepare and distribute certification of the election shortly after 12:00 pm on July 13, 2021.

Next Steps

If Proposition A is approved by two-thirds of the votes cast by the qualified electors, the Resolution of Change may be adopted, and a second reading of the Ordinance will be presented to the City Council for consideration on July 27, 2021. Within fifteen (15) days after its adoption, the City Clerk will cause the publication of a public notice of the Ordinance, specifying the levy of the special tax in accordance with the Amended RMA. Additionally, if Proposition A is approved, within fifteen (15) days after the election, an amendment of notice of special tax lien will be recorded with the County of San Diego.

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

All expenses incurred by the City in undertaking the proceedings to consider the change proceedings of the Bayfront Financing District and subsequently incurring indebtedness of the Bayfront Financing District to finance the acquisition and construction of eligible public or private facilities will be reimbursed from future Bayfront Financing District debt proceeds or special tax revenues, resulting in no net impact to the General Fund or the Development Services Fund.

ONGOING FISCAL IMPACT

The cost to administer the Bayfront Financing District and the incurrence of debt by the Bayfront Financing District shall be paid from the proceeds of special taxes to be levied within the Bayfront Financing District or the proceeds of debt incurred by the Bayfront Financing District. There is, therefore, no ongoing fiscal impact to the City's General Fund or Development Services Fund as a result of this action.

ATTACHMENTS

None.

Staff Contact: Tiffany Allen, Director of Development Services