



CITY COUNCIL STAFF REPORT



April 23, 2024

ITEM TITLE

Agreements: Approve Agreements With Best, Best & Krieger for Legal Services and Bond and Disclosure Counsel Services for Two New Community Facilities Districts

Report Number: 24-0077

Locations: 565 Broadway (prior Sears property at Chula Vista Center) and 676 Moss Street

Department: Development Services

G.C. § 84308: Yes

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

Recommended Action

Adopt resolutions approving legal services agreements for legal services, bond, and disclosure counsel services between the City and Best, Best & Krieger (“BB&K”) for two separate Community Facilities Districts: A) BBK Agreement CFD 2024-1 (Citrus Bay) and, B) BBK Agreement CFD 2024-2 (676 Moss Street).

SUMMARY

Two developers have each requested the formation of Community Facilities Districts (“CFDs”) to finance public facilities and Development Impact Fees (“DIFs”) which are required of their development projects, known as Citrus Bay located at 565 Broadway and 676 Moss Street (the “Projects”). It is necessary for the City to use outside legal counsel to facilitate the formation of these two new CFDs and the sale of the bonds. The City Attorney’s Office in consultation with the Purchasing Agent has determined that pursuant to Chula Vista Municipal Code Section 2.56.110(F), the award of the contract to Best, Best & Krieger is appropriate based on their unique qualifications and historical performance providing legal services for CFD formation, bond, and disclosure counsel services.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with 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 a governmental fiscal/administrative activity 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.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The Mello-Roos Community Facilities Act of 1982 (“Mello-Roos Act”) and the City’s Ordinance No. 2730, as amended and codified in Chapter 3.60 of the Chula Vista Municipal Code, allows for the creation of Community Facilities Districts (“CFDs”) to finance certain public capital facilities, services, and Development Impact Fees (“DIFs”). Each local jurisdiction must first adopt local goals and policies as a prerequisite to forming CFDs pursuant to the Mello-Roos Act. In January 1998, the City adopted the City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts (“Goals and Policies”), which was most recently amended in October 2023. The Goals and Policies allow the City to consider applications initiated by owners or developers of property proposed to be developed to finance public facilities, services, or DIFs that are obligations of or serve the proposed project. The City has received applications from the developers of each of the Projects described within this staff report. Staff has determined that the proposals are consistent with the City’s Goals and Policies and confirm that the City may proceed with the proposed formation of these CFDs.

Formation of CFDs requires special legal counsel in order to comply with the Mello-Roos Act and Internal Revenue Service (IRS) regulations for the issuance of bonds. The City Attorney’s Office in consultation with the Purchasing Agent has determined that, pursuant to CVMC Section 2.56.110(F), the award of the contract to Best, Best & Krieger is appropriate based on their unique qualifications and performance capabilities, including their experience providing legal services for CFD formation, bond, and disclosure counsel services for the City of Chula Vista. If these resolutions are approved, BB&K will provide legal services, bond, and disclosure services for the following proposed CFDs:

CFD 2024-1 (Citrus Bay)

The Citrus Bay project includes 244-units of market-rate, for sale, attached residential housing units (townhomes) within 29 buildings and a 0.5-acre public park (“Project”). The Project is replacing the vacant Sears building located at the Chula Vista Shopping Center. The property is owned by WC Broadway CV 256, LLC, which is an entity related to California West Communities, LLC (“Developer”). Tentative Map No. TM22-0001 and Design Review Permit No. DR22-0003 were approved by the Planning Commission on January 25, 2023. The Final Map was recorded on March 19, 2024 (Map No. 16606; File No. 2024-7000120) creating the legal lots for the 0.5 acre public park and the residential development. The previous Sears building has been demolished, grading activities have commenced, and home construction is anticipated to start 3rd quarter 2024. It is anticipated that CFD 2024-1 (Citrus Bay) will finance construction of the public park and various DIFs. The amount of the BB&K legal services agreement for this matter is based on a time and materials structure, with a not to exceed amount of \$100,000.

CFD 2024-2 (676 Moss Street)

The project located at 676 Moss Street includes 141 for sale, multi-family residential units within three buildings on 6.94-acres. A Rezone (PCZ18-0001), amendment to the General Plan (MPA18-0015), Tentative Map (PCS18-0006) and Design Review (DR18-0028) were approved by City Council in December 2020. A demolition permit for removal of the existing vacant buildings was issued on March 14, 2024. It is anticipated that CFD 2024-2 (676 Moss Street) will finance various DIFs. Home construction is anticipated to start in 4th quarter 2024. The amount of the legal services agreement for this matter is based on a time and materials structure, with a not to exceed amount of \$100,000.

The City Council will hear a Resolution of Intention to form each of these CFDs at a future meeting. Subsequently, the Council will vote on the formation of each CFD at a public hearing to be scheduled not less than 30 days and not more than 60 days after the adoption of the Resolution of Intention.

City staff recommends that the City Council approve the two legal services agreements for the necessary work to create the two new Community Facilities Districts.

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 to the General Fund or the Development Services Fund. The legal fees for formation of the CFDs are paid by the Developers. The bond counsel and bond disclosure fees are paid from the proceeds of the bond sale.

ONGOING FISCAL IMPACT

There is no on-going fiscal impact to the General Fund or the Development Services Fund. The legal fees for formation of the CFDs are paid by the Developers. The bond counsel and bond disclosure fees are paid from the proceeds of the bond sale.

ATTACHMENTS

1. Legal Services Agreement – BBK for CFD 2024-1 (Citrus Bay)
2. Legal Services Agreement – BBK for CFD 2024-2 (676 Moss Street)

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