



# CITY COUNCIL STAFF REPORT



July 16, 2024

## ITEM TITLE

Formation of Community Facilities District: Legal Proceedings to Form Community Facilities District 2024-1 (Citrus Bay)

**Report Number:** 24-0172

**Location:** 565 Broadway, Southeast corner of “H” Street and 5th Avenue, immediately adjacent to the Chula Vista Center mall (former Sears site)

**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

Conduct the public hearing, adopt the following resolutions, and place the ordinance on first reading:

- A) resolution establishing Community Facilities District 2024-1 (Citrus Bay);
- B) resolution determining necessity to incur bonded indebtedness;
- C) resolution calling an election relating to the levy of a special tax, and then conduct an election;
- D) resolution declaring the results of said election;
- E) ordinance relating to the levy of a special tax within Community Facilities District No. 2024-1 (Citrus Bay) **(First Reading)**; and
- F) resolution approving acquisition-financing agreement

## SUMMARY

On June 11, 2024 the City Council approved a resolution declaring its intention to form Community Facilities District 2024-1 (Citrus Bay) (“CFD 2024-1”) and, a resolution declaring its intention to incur bonded indebtedness, and set a public hearing on the formation of CFD 2024-1 for July 16, 2024.

The owner of the Citrus Bay project, CWC BROADWAY CV 256, LLC, (“Developer”) is in the process of constructing 244 for-sale, market rate townhomes on the former Sears site at Chula Vista Center. In connection with this development, the Developer is required to construct a half-acre public park and pay certain Development Impact Fees (“DIFs”) and other fees associated with the project. The formation of CFD 2024-1 and subsequent issuance of bonds, will generate funding to construct the public park and build other public facilities with DIF funds.

Tonight’s action will continue the formal proceedings leading to the establishment of CFD 2024-1 and the levy of special taxes therein.

### **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**

#### **Previous Actions**

In accordance with the Mello-Roos Community Facilities Act of 1982 (the “Act”), and the City of Chula Vista Community Facilities District Ordinance, the Developer submitted a petition requesting that the City conduct proceedings to consider the approval of the formation of CFD 2024-1 and the subsequent issuance of bonds in order to fund the construction of a public park and pay for DIFs and other fees associated with the project which will fund the construction of other public facilities necessary to mitigate the project’s impacts.

To facilitate the Developer’s petition, the City Council previously declared its intention to establish CFD 2024-1, set the public hearing date on the formation of CFD 2024-1 to be July 16, 2024, and approved the boundaries of CFD 2024-1 at its Council Meeting on June 11, 2024 by adopting Resolution No. 2024-114. Additionally, the Council adopted Resolution No. 2024-115 declaring its necessity to incur bonded indebtedness in CFD No. 2024-1.

Prior to tonight’s meeting, Harris and Associates, the City’s special tax consultant, prepared a report on CFD 2024-1 in accordance with Government Code section 53321.5 (Attachment 1). The report contains a description of the public facilities and their estimated cost to be financed by the CFD. The report is attached hereto, and by such action is deemed filed with the City Council.

#### **Description of the Project**

The Citrus Bay project consists of 244 for-sale, market rate townhomes within 29 buildings on 12.6-acres. The project is located within the Chula Vista Center on the site of the former Sears building, located at 565 Broadway. Tentative Map No. TM22-0001 was approved January 25, 2023 to subdivide the site and the final map was recorded February 2024. The Sears building has since been demolished and construction of infrastructure has begun. The Developer is currently processing building permits.

Vertical construction of the townhomes is anticipated to start in August 2024 with first home closings in the second quarter of 2025.

**Description of the Proposed CFD and Proposed Special Taxes**

The CFD will finance the cost of the public park up to an amount equal to Park DIFs for 192 of the 244 units pursuant to Park Construction Agreement, Document # 2024-0041189, recorded February 16, 2024, (Attachment 6), and payment of DIFs and other fees associated with the project by issuing bonds that will be repaid by special taxes collected on the annual property tax bill.

The proposed boundaries of CFD No. 2024-1 encompasses the majority of a single parcel comprising the Citrus Bay project (Attachment 2). The Developer owns 100% of the property within the proposed CFD.

The Rate and Method of Apportionment (“RMA”) sets forth how the special taxes will be levied and in what amount (Attachment 3). Each year the Annual Special Tax Requirement, as defined in the RMA, is determined, and then apportioned to each parcel within CFD No. 2024-1. The Annual Special Tax Requirement generally includes the amount necessary to pay the principal and interest on the outstanding bonds and administrative expenses. The special tax is levied first on residential property for which a building permit issued prior to March 1 of the preceding fiscal year, in an amount up to the Assigned Special Tax for such land use class shown on Table One below. If additional monies are needed to satisfy the Annual Special Tax Requirement after the first step has been completed, an amount will be levied on each parcel of undeveloped property. In no event shall the tax be levied in an amount higher than the Maximum Special Tax. See Table 1, Fiscal Year 2024-25 Assigned Special Tax Rates below:

**Table 1  
Fiscal Year 2024-25  
Assigned Special Tax Rates for Developed Property**

Land Use Class	Land Use Class	Building Sq. Footage	Assigned Special Tax
1	Residential Property	<1,201	\$2,702 per Residential Unit
2	Residential Property	1,201 to 1,400	\$2,752 per Residential Unit
3	Residential Property	1,401 to 1,600	\$2,802 per Residential Unit
4	Residential Property	>1,600	\$2,812 per Residential Unit

On each July 1, commencing July 1, 2025, and ending July 1, 2035, the Assigned Special Tax for Developed Property shall be increased by two percent (2.0%) of the amount in effect in the prior fiscal year for a period of eleven years.

**Acquisition-Financing Agreement**

The Acquisition-Financing Agreement describes the facilities and DIFs that may be financed with the bonds and establishes the terms and conditions for acquiring and financing the public improvements (Attachment 4). The expectation is that bonds will be issued in the future to pay for the improvement of a park and to satisfy the obligation of the developer for several of the City’s DIFs. The Acquisition-Financing Agreement provides the terms for the City to use the bond proceeds to reimburse Developer for the cost of the park (as limited by the amount of the Park DIF for 192 units pursuant to the Park Construction Agreement, Document # 2024-0041189, recorded February 16, 2024) and the satisfaction of the DIFs. It is expected that the bonds will be issued in two series, tax-exempt and taxable. The tax-exempt bonds will finance the cost of the park improvements and the taxable bonds will finance the facilities associated with the DIFs and will provide the

City with flexibility in the manner of spending the funds associated with the DIFs. Issuance of the bonds will not occur until additional development has occurred on the site, and approval of such bonds will be brought to the City Council for consideration at a future meeting.

### **Formation Proceedings**

Public Hearing Regarding CFD No. 2024-1 Formation – The City Council is required to hold a public hearing regarding the proposed CFD No. 2024-1. The resolution of intention to form CFD No. 2024-1 adopted by the City on June 11, 2024 called for such public hearing to be held on July 16, 2024. The public hearing allows all interested persons desiring to be heard on all matters pertaining to the formation of CFD No. 2024-1, and the Facilities eligible to be financed by CFD No. 2024-1, the issuance of bonds by the City for CFD No. 2024-1, and the levy of the special tax, to be heard. The notice of the public hearing was published in the Star News.

As noted above, a report (“Report”) as to the costs of the Facilities to be financed by the CFD No. 2024-1 is presented (Attachment 1) at this meeting.

After the public hearing, if less than a majority of owners of the land proposed to be included in CFD No. 2024-1 have filed written protests against the establishment of CFD No. 2024-1, the City Council may proceed with the actions to form CFD No. 2024-1 and authorize the levy of the special tax. If the owners of one-half or more of the area of the land in the territory proposed to be included in CFD No. 2024-1, and not exempt from the special tax, file written protests against the establishment of CFD No. 2024-1, and protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create CFD No. 2024-1 will be conducted at this meeting. CWC BROADWAY CV 256, LLC is the only owner of land in CFD No. 2024-1, and there are no persons registered to vote residing in CFD No. 2024-1.

Resolution of Formation – The first action required if the City Council determines to proceed with the formation is the adoption of a resolution establishing CFD No. 2024-1 (“Resolution of Formation”). The Resolution of Formation:

- determines that all prior actions taken in connection with the formation of CFD No. 2024-1 and the levy of the special tax on property within CFD No. 2024-1 have been duly considered and determined to be valid and in conformity with the Act;
- establishes CFD No. 2024-1;
- approves the boundaries of CFD No. 2024-1 (Attachment 2);
- confirms the types of Facilities to be financed by CFD No. 2024-1;
- provides for the levy of the special taxes in accordance with the RMA;
- provides for an initial annual appropriations limit for CFD No. 2024-1; and
- requires the proposition of the levy of special tax and the proposition of the establishment of the appropriations limit to be submitted to the qualified electors of CFD No. 2024-1.

Resolution of Necessity - The City will next consider adoption of a resolution determining the necessity to incur bonded indebtedness for CFD No. 2024-1 (“Resolution of Necessity”). The Resolution of Necessity provides \$10,000,000 as the maximum principal amount of bonded indebtedness to be incurred for CFD No. 2024-1. The Resolution of Necessity requires the proposition of incurring the bonded indebtedness authorized by the resolution to be submitted to the qualified electors of CFD No. 2024-1 and consolidated with the election on the propositions required by the Resolution of Formation.

Special Election – Following the adoption of the Resolution of Formation and Resolution of Necessity, the City Council will consider the adoption of a resolution calling for a special election. A written waiver executed by the sole owner of the property to be included in CFD No. 2024-1 allowing for a shortening of time for the special election to expedite the CFD No. 2024-1 formation process and waiving any requirement for notice, analyses and arguments in connection with the special election is on file with the City Clerk. As a result, the special election for CFD No. 2024-1 is being held at this meeting.

Once the special election has been held and the City Clerk has canvassed the election, the City Clerk will execute a Canvass and Statement of Result of Special Election, attached to the resolution declaring the results of special election, as Exhibit A. Following the adoption of this resolution, the City Clerk will cause a notice of special tax lien (Attachment 5) to be recorded in the San Diego County Recorder’s Office.

Special Tax Levy; First Reading of Ordinance– Following the public hearing on the formation, election and adoption of the foregoing resolutions, the City Council will be asked to introduce an Ordinance Levying Special Taxes within CFD No. 2024-1.

Resolution Approving Acquisition-Financing Agreement – Lastly, the City Council will consider adoption of a resolution approving the Acquisition-Financing Agreement (Attachment 4) between the City and the Developer relating to the Facilities and DIFs that will be financed by CFD No. 2024-1.

#### **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 of, nor 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. All Community Facilities District formation costs are paid by the applicant.

#### **ONGOING FISCAL IMPACT**

There is no on-going fiscal impact as a result of this action. Once the Community Facilities District is formed, the special taxes levied will pay the annual administrative costs incurred by the City.

#### **ATTACHMENTS**

1. Community Facilities District (CFD) Report
2. Boundary Map
3. Rate and Method of Apportionment of Special Taxes
4. Acquisition-Financing Agreement
5. Notice of Special Tax Lien
6. Park Construction Agreement

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