

RESOLUTION NO. 2024-040

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT WITH RIDA CHULA VISTA, LLC TO INCLUDE THE G STREET SEWER PUMP STATION OVERFLOW TANK AND H STREET SEWER IMPROVEMENTS AND APPROPRIATE FUNDS TO CIP PROJECT, SWR0321 “RIDA BAYFRONT SEWER IMPROVEMENTS” THERFOR

WHEREAS, the City of Chula Vista (the “City”) and RIDA Chula Vista, LLC (“the Developer”) previously entered into that certain Reimbursement Agreement to Construct Specified Bayfront Sewer Improvements (the “Original Agreement”) on September 15, 2020; and

WHEREAS, the City and the Developer desire to amend the Original Agreement to expand the scope of the Project Improvements (defined therein) to include the construction of in-road sewer facilities in H Street (the “H Street Sewer Improvements”) and an overflow tank for the G Street sewer pump station (the “Pump Station Overflow Tank”); and together with the H Street Sewer Improvements, the “Project”); and

WHEREAS, pursuant to Chula Vista Municipal Code (“CVMC”) Section 13.14.090 (Sewer Capacity Charge), any owner or person making an application for a permit to develop or modify the use of any residential, commercial, industrial, or other property shall pay a sewer capacity charge; all revenue derived from such fees shall be deposited in the “Trunk Sewer Capital Reserve” fund; and

WHEREAS, pursuant to CVMC Chapter 3.14 (Trunk Sewer Capital Reserve Fund), all revenues collected under CVMC Section 13.14.090 shall be deposited into the “Trunk Sewer Capital Reserve Fund” and may be used, in the discretion of the City Council, for the planning, design, or construction of sewage collection or treatment or water reclamation purposes or purposes incidental to paying all or any part of the cost and expense to enlarge sewer facilities of the City so as to enhance efficiency of utilization and/or adequacy of capacity in order to effectively serve the needs of the City or paying all or any part of the cost and expense to plan and/or evaluate any future proposals for area-wide sewage treatment and/or water reclamation systems or facilities; and

WHEREAS, the Scope of Development attached to the Disposition and Development Agreement for the Resort Hotel Convention Center Project (Chula Vista Bayfront Master Plan Parcel H-3), effective May 7, 2018 (the “DDA”) provided that the G Street Sewer Pump Station would be constructed by or on behalf of the City and financed by the City, which financing may be through any financing mechanism in City’s sole and absolute discretion; and

WHEREAS, the G Street sewer pump station requires the construction of the Pump Station Overflow Tank, which is most efficiently placed within Developer’s leasehold interest; and

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WHEREAS, the City has completed the preliminary design of the Project; and

WHEREAS, in order to achieve certain financial, construction management, and schedule efficiencies, the City and the Developer desire for the Developer to construct the Project under its construction contract with Mortenson McCarthy Joint Venture (“MMJV”) relating to the Developer’s Sewer Improvements (defined in the Original Agreement); and

WHEREAS, the estimated cost of constructing the Project is \$5,555,000; and

WHEREAS, the construction of the Project is eligible for reimbursement from the Trunk Sewer Capital Reserve Fund and the Sewer Income Fund; and

WHEREAS, costs for the in-road sewer improvements required at H Street, not part of the Original Agreement, are also eligible for reimbursement; and

WHEREAS, the City has sufficient funds in the Trunk Sewer Capital Reserve to reimburse the Developer for the final design and construction of the Pump Station Overflow Tank and H Street Sewer Improvements; and

WHEREAS, the City has sufficient funds in the Sewer Income Fund and Trunk Sewer Capital Reserve to increase the total amount of the amended value to \$9,238,639; and

WHEREAS, the City and the Developer have negotiated the terms of the First Amendment to Reimbursement Agreement to Construct Specified Bayfront Sewer Improvements Between the City and RIDA Chula Vista, LLC, in substantially the form submitted herewith (the “First Amendment”) to provide for the City to reimburse the Developer for eligible costs incurred by Developer in the final design and construction of the Project; and

WHEREAS, the final design and construction of the Project shall be self-performed by MMJV on a lump sum basis, with additional second-tier subcontracts to be awarded ancillary scopes; and

WHEREAS, pursuant to authority granted by City Council Resolution No. 2019-170, the City Manager’s designee has found such procurement to be in the best interest of the public and that appropriate safeguards are in place to protect the public interest and, accordingly, the City Manager’s designee has approved such procurement for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, that after consideration of CVMC Chapter 3.14 and CVMC Section 13.14.090 and the facts stated in the Recitals above, the City Council hereby finds and determines that the construction of the Project will provide a public benefit to other properties within the Chula Vista Bayfront Master Plan area.

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista that it approves the First Amendment to Reimbursement Agreement to Construct Specified Bayfront Sewer Improvements between the City and RIDA Chula Vista, LLC, in substantially the form presented, with such modifications as may be required or approved by the City Attorney, and generally consistent with the item as presented, a copy of which shall be kept on file in the Office of the City Clerk and authorizes and directs the City Manager to execute and implement such First Amendment.

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista, that it does hereby amend the Fiscal Year 2023-24 Capital Improvement Projects Program budget appropriating \$900,000 in Sewer Income Funds and \$9,467,055 in Trunk Sewer Reserve Funds to CIP project, SWR0321 RIDA Bayfront Sewer Improvements to reimburse Developer for eligible costs to complete the design and construction of the Project, pursuant to the Reimbursement Agreement between the City and RIDA Chula Vista, LLC to Construct Specified Sewer Improvements, as amended by the First Amendment.

[SIGNATURES ON THE FOLLOW PAGE]

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Presented by

Approved as to form by

DocuSigned by:
Tiffany Allen
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Tiffany Allen
Assistant City Manager

DocuSigned by:
Jill D. S. Maland
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Jill D.S. Maland
Lounsbery Ferguson Altona & Peak LLP
Acting City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 26th day of February 2024 by the following vote:

AYES: Councilmembers: Chavez, Gonzalez, Preciado, and McCann

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

DocuSigned by:
John McCann
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John McCann, Mayor

ATTEST:

DocuSigned by:
Kerry K. Bigelow
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For
Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2024-040 was duly passed, approved, and adopted by the City Council at a special meeting of the Chula Vista City Council held on the 26th day of February 2024.

Executed this 26th day of February 2024.

DocuSigned by:
Kerry K. Bigelow
9805BE9D2D684B0...
For
Kerry K. Bigelow, MMC, City Clerk