



Legislation Details (With Text)

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Title: A) ORDINANCE GRANTING A 66-YEAR LEASE BETWEEN THE DISTRICT AND SUN CHULA VISTA BAYFRONT RV LLC FOR A RECREATIONAL VEHICLE (RV) PARK WITH A COMBINATION OF 246 RV STALLS AND PARK MODEL STALLS LOCATED IN THE CITY OF CHULA VISTA;
B) And RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE OFFSITE IMPROVEMENTS TO BE LOCATED IN THE CITY OF CHULA VISTA

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Date	Ver.	Action By	Action	Result
8/13/2019	1	Board of Port Commissioners	adopted	Pass
8/13/2019	1	Board of Port Commissioners	adopted	Pass

DATE: August 13, 2019

SUBJECT:

- A) ORDINANCE GRANTING A 66-YEAR LEASE BETWEEN THE DISTRICT AND SUN CHULA VISTA BAYFRONT RV LLC FOR A RECREATIONAL VEHICLE (RV) PARK WITH A COMBINATION OF 246 RV STALLS AND PARK MODEL STALLS LOCATED IN THE CITY OF CHULA VISTA;
- B) And RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE OFFSITE IMPROVEMENTS TO BE LOCATED IN THE CITY OF CHULA VISTA

EXECUTIVE SUMMARY:

After a decade-long planning effort, in 2010 the Board of Port Commissioners (Board) certified a Final Environmental Impact Report (FEIR) (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562, and certified by Resolution No. 2010-78 on May 18, 2010) and approved a Port Master Plan Amendment (PMPA) for the Chula Vista Bayfront Master Plan (CVBMP). There is an existing recreational vehicle (RV) park (Existing RV Park) located within a portion of the Chula Vista Bayfront (CVB) that is the home to the resort hotel and convention center (RHCC) proposed by RIDA Chula Vista, LLC (RIDA) and the proposed E Street extension and Harbor District Park. The relocation and opening of the 237 RV stalls is a critical path item before the development of the RHCC can commence. The CVBMP identified the 19-acre site located at E Street and Bay Boulevard in the Sweetwater District of the CVB (Site) (Attachment A) as a possible replacement site for the 237 RV stalls.

At the April 11, 2017 Board meeting, the Board adopted a resolution selecting Sun Communities, Inc. & Northgate Resorts LLC (collectively, Sun Communities) as the successful proposer and directed staff to begin lease negotiations and environmental review. Since the RFP, Sun Communities, Inc. acquired Northgate Resorts LLC and Sun Communities, Inc. has formed a new subsidiary, Sun Chula Vista Bayfront RV LLC, a Michigan limited liability company (Sun), to be the tenant under the lease for the Site.

On April 24, 2018, the Board and City Council of the City authorized a Disposition and Development Agreement (DDA) between the District, the City, and RIDA that outlines the steps necessary to start construction of the RHCC and associated infrastructure identified as Phase 1A of the CVB in the DDA (Phase 1A Improvements). Sun has committed to accomplishing the critical path item of building the replacement RV Park required by the Chula Vista Bayfront Development Policies (District Clerk No. 59407) (Development Policies) to close the Existing RV Park and funding and constructing a significant portion of the Phase 1A Improvements that the City and the District would have needed to fund and construct under the DDA. The proposed development by Sun includes: (i) a combination of 246 spaces, consisting of a mix of up to 172 traditional RV stalls and 74 park model unit (Park Models) stalls as a low-scale, low profile, and lower-cost RV resort with associated improvements on Parcel S-1 of the CVBMP (Costa Vista RV Park) (Attachment A); and (ii) approximately \$15 million in offsite public infrastructure (collectively, the Offsite Improvements, and together with the Costa Vista RV Park, the Project). The total cost of the Project is estimated at approximately \$55 million, including approximately \$15 million for the Offsite Improvements, which will benefit the Costa Vista RV Park and the CVB.

Sun Communities, Inc. is one of the top RV developers and operators in the country with the financial capabilities to deliver this required and critical Project. They have proven to be the right partner and are committed to delivering the Project, while advancing the development of the CVB through financing and constructing a major portion of the Phase 1A Improvements that would have needed to have been constructed by the District and the City under the DDA. Their commitment toward the financing and constructing of a portion of the Phase 1A Improvements will help advance the District and the City's obligations under the DDA. After over two years of negotiations, staff is requesting that the Board grant Sun a 66-year ground lease (Ground Lease) for the Project, which includes a Development and Maintenance Agreement between the District and Sun for Sun to develop, maintain and monitor the Offsite Improvements (DM Agreement) and a Completion Guaranty from Sun's indirect equity owner, Sun Communities Operating Limited Partnership (Guarantor), for the benefit of the District to guaranty the completion of the Project (Guaranty). In addition, the Ground Lease requires the District to negotiate with Sun in good faith a non-binding exclusive negotiating agreement for Parcel S-3 of the CVBMP for the construction of additional RV stalls and related amenities. Staff is also requesting that the Board approve the plans and specifications for the Offsite Improvements attached as Attachment B (Plans). Sun will have up to 24 months to construct the Project, including the Offsite Improvements. The terms of the Ground Lease have been negotiated to provide the developer with a reasonable market return and the best chance of success in this new location, which is critical to the implementation of Phase 1A Improvements and the RHCC. If the Board grants the Ground Lease to Sun, construction on the Project could start this year.

RECOMMENDATION:

- A) Adopt Ordinance Granting a 66-year Lease between the District and Sun for a RV Park with a Combination of 246 RV Stalls and Park Model Stalls located in the City; and
- B) Adopt Resolution Approving the Plans for the Offsite Improvements to be located in the City

FISCAL IMPACT:

The proposed Board actions would result in a Ground Lease with Sun wherein the District would receive a percentage of the gross revenues from the rental of RV stalls and Park Model stalls, concessions and other percentage rent categories subject to the terms described in the Ground Lease. If the Board grants the Ground Lease, the District is expected to receive the following rents under the proposed rent structure further described below:

Projected Rents and Proposed Ramp-Up Structure through Year 20										
Lease Year	1	2	3	4	5	6	7	8	9	10
Anticipated Ground Rent Payment	\$0	\$0	\$0	\$0	\$309k	\$326k	\$342k	\$360K	\$378k	\$397k
Lease Year	11	12	13	14	15	16	17	18	19	20
Anticipated Ground Rent Payment	\$412k	\$429k	\$446k	\$456k	\$466k	\$477k	\$488k	\$499k	\$510k	\$521k

Sun's construction and funding of the Offsite Improvements will reduce the obligations of the District and the City under the DDA for the RHCC by approximately \$15 million.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.
- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:**Background**

Chula Vista Marina/RV Park, Ltd. had a lease with the District for approximately 578,929 square feet of land located at 460 Sandpiper Way in the City, which the District terminated on March 4, 2019. After the termination of the lease for the Existing RV Park, the District entered into a Tideland Use and Occupancy Permit with Sun Chula Vista Existing Park RV LLC (Existing RV Operator) (TUOP) to operate the Existing RV Park until such time as a replacement RV Park could be constructed and open. The Existing RV Park is improved with 237 RV spaces, a delicatessen-convenience store and laundry, game room, and meeting facilities.

The Existing RV Park is located on the site of the future Harbor District Park and RHCC in the CVB and will need to be closed permanently to make way for the construction of these elements of the CVB. Through the entitlement process, it was envisioned that the Existing RV Park would be relocated to another part of the CVB to promote low-scale, low-intensity uses consisting of a RV park

and/or campground with retail, restaurant, or meeting space associated with these uses within the Sweetwater District of the CVB, while allowing for greater density in the Harbor District of the CVB. Section 21.5 of the Development Policies, which is incorporated by reference into the Port Master Plan (PMP), requires all existing 237 RV stalls to be replaced prior to the Existing RV Park closing. At the October 13, 2016 Board meeting, the Board directed staff to issue an RFP for the development and operation of a 19-acre RV Park to be located at the Site. On October 24, 2016, staff issued the “Destination RV Park” RFP (RFP 16-36RH)¹ for the development of an RV park with a minimum of 237-stalls and associated infrastructure improvements. At the April 11, 2017 Board meeting, the Board adopted a resolution selecting Sun Communities as the successful proposer and directed staff to begin lease negotiations and environmental review.

On April 24, 2018, the Board and City Council of the City authorized the DDA that outlines the steps necessary to start construction of the RHCC and associated infrastructure identified as the Phase 1A Improvements. The total cost of the Phase 1A Improvements required under the DDA is equal to \$63 million. The RFP issued for the Site solicited proposals for the development of an RV Park and contributions toward the Phase 1A Improvements that would be located adjacent to the Site. At that time, the District and City did not have a feasible option to build the Offsite Improvements since they had to be constructed prior to obtaining the financing contemplated in the DDA. Sun Communities responded with a proposal that included the funding and construction of all of the Offsite Improvements.

Sun Communities, Inc.

Sun Communities, Inc. is one of the largest operators of RV resorts in North America, currently owning and operating 100 RV resorts across 29 states and two countries. Sun Communities, Inc. has extensive development experience with over 2,000 units currently under construction, and they have a proven track record of success in financing, developing, and operating quality RV resorts. Sun Communities, Inc. is a publicly-traded real estate investment trust (REIT) with a total value exceeding \$9 billion, and the company has a \$450 million line of credit set aside for project acquisitions. Sun Communities, Inc.’s proprietary marketing database contains over 1 million RV resort travelers.

Sun Communities, Inc. has been committed to the Project since they were selected by the Board as the successful proposer. They have been working collaboratively with staff since 2017 on developing a project description and plans, obtaining a Coastal Development Permit (CDP), and negotiating with staff on the Ground Lease. The Project description includes an RV Park consisting of two hundred and forty-six (246) stalls, with a combination of RV stalls and up to seventy-four (74) Park Model stalls. Project amenities include a snack bar, delicatessen; convenience store; meeting room; game room; laundry room; recreational equipment rentals; pool; and spa/fitness facility. The total Project cost is estimated at \$55 million, which includes both on-site construction and Offsite Improvements. The Offsite Improvements include grading on Parcels S-2 and S-3 of the CVBMP; the extension of E Street; construction of a 400-foot-wide landscape buffer within a portion of Parcel SP-1 of the CVBMP; and the realignment of Gunpowder Point Drive within Parcels SP-1 and SP-3 of the CVBMP to allow continued access to the Living Coast Discovery Center (LCDC). Sun’s contribution toward the Phase 1A Improvements will help both the District and the City solve for the project financing timing contemplated under the DDA. This is a significant contribution that will greatly enhance the delivery of the Phase 1A Improvements and deliver a critical path item required by the CVBMP. The term of the Ground Lease is 66 years, and Sun will have up to two years to complete both the on and off-site components of the Project. The below chart summarizes how the Project has evolved from

the selection date of the RFP proposal to the Project description included in the Ground Lease:

	Original Proposal (2017)	Current Proposal (2019)
Total Project Cost (minimum investment)	\$26 Million	\$55 Million
Number of RVs	177	172
Number of Park Models	87	74
Total Stalls	264	246
Offsite Improvements	All - \$13 Million	All - \$15 Million
RV % Rent	15%	Years 1-4: 0%; Years 5-20: 5% Years 21-66: 15%+ 0.25% escalation
Park Model % Rent	7%	Years 1-4: 0% Years 5-20: 5% Years 21-66: 7%+ 0.25% escalation
Ground Lease Term	66 years	66 years

Changes were made to the Project description since the RFP proposal in response to comments from the California Coastal Commission (CCC) on the use of Park Models within the Project and overall Project cost increases.

Project costs have more than doubled since the initial RFP proposal, which can be attributed to due diligence performed by Sun for the Project and updated project construction costs. Sun has been working with their local engineers and contractors to understand the cost overruns, and ultimately went out to bid for the Project (both on and offsite) in June of 2019. The bid results confirm that the Project costs are estimated at \$55 million, which includes the Offsite Improvements equal to approximately \$15 million.

Ground Lease

The Ground Lease with Sun contains the District's most current lease provisions and is included as Attachment C. The chart below presents a summary of all key Ground Lease terms. Further explanation is provided on certain terms that are unique to this Project.

Term Category	Term
Ground Lease Term	66-year term. No extensions.
Construction Period	24-months; No rent is due during construction
Minimum Investment Amount	For construction of the Premises and Offsite Improvements \$55 Million TOTAL \$40 Million On-Site \$15 Million OffSite
Tenant Art Investment	1% of the Minimum Construction Cost
Percentage Rent(Gross Income) from RVstall rental	Years 1-4: 0% Years 5-20: 5% Years 21-66: 15% + 0.25% increase in year 25 and every 5 years thereafter in years 30, 35, 40, 45, 50, 55, 60 and 65
Percentage Rent(Gross Income) from Park Modelstall rental	Years 1-4: 0% Years 5-20: 5% Years 21-66: 7% + 0.25% increase in year 25 and every 5 years thereafter in years 30, 35, 40, 45, 50, 55, 60 and 65
Percentage Rent(Gross Income) from meeting room rental and sale of related merchandise and services provided to meeting room users	Years 1-4: 0% Years 5-20: 2% Years 21-66: 7%
Percentage Rent(Gross Income) from sale of food from restaurants, snack bars, and delicatessens	Years 1-4: 0% Years 5-20: 2% Years 21-66: 3%
Percentage Rent(Gross Income) from sale of alcoholic and nonalcoholic beverages for consumption on and off the Premises	Years 1-4: 0% Years 5-20: 2% Years 21-66: 5%
Minimum Annual Rent (MAR)	Years 1-4: \$0 Years 5-7: \$300,000/yr Years 8-9: \$350,000/yr Year 10-66: Adjusted every 5 years. Set at 75% of the average annual Greater of Rent payable by Tenant for the three (3) Lease Years immediately preceding
Force Majeure	A Force Majeure Event cannot exceed a total of eighteen months in the aggregate
Title to Improvements at Expiration/Early Termination	Title vested to the District

Ground Rent

Sun is funding and constructing a significant amount of the Phase 1A Improvements, helping to improve the overall feasibility of both the District and the City delivering the Phase 1A Improvements by constructing the improvements prior to the public financing, and delivering a critical path project.

In order for Sun to develop the Costa Vista RV Park and \$15 million in Offsite Improvements, a ramped-up rent structure is required. Because the rent is calculated as a percentage of the gross revenue generated by the Costa Vista RV Park, if Sun outperforms their projections, rental payments to the District will be greater than anticipated.

Term

While the Existing RV Park's original lease term was for 40 years, there is not a specified economic life expectancy guideline for RV Parks included in Board of Port Commissioners Policy No. 355 on Real Estate Leasing. Staff has determined that a 66-year term is appropriate in this instance due to Sun's significant investment of \$15 million in the Offsite Improvements.

Park Models

Park Models are temporary cabin-like units that are licensed by the Department of Motor Vehicles (DMV) and will be placed at the Project for recreational use by visitors of the Costa Vista RV Park. The cost of the Park Models is not included in the total Project cost of \$55 million and will be considered personal property of Sun. Sun will spend approximately \$5.2 million to acquire 74 Park Models. Park Models have a typical useful life span ranging from 10 to 12 years, and Sun anticipates replacing the Park Model units approximately every ten years. The District will approve in writing the conceptual renderings of each new set of Park Models prior to Sun placing them on the Site. This process will ensure collaboration on Park Model design and aesthetics throughout the life of the Project.

Early Termination

(A) Hazardous Materials

Sun has inspected and reviewed the physical condition of the Site, including the presence of any Pre-Existing Hazardous Materials (as defined in the Ground Lease) and any other contamination of the Site, including any improvements, soils, groundwater and adjacent to San Diego Bay water and sediment. Sun has negotiated the right to terminate the Lease and the DM Agreement if Sun reasonably determines and demonstrates to the District that the additional cost to Sun of developing a combination of two hundred and thirty seven (237) RV stalls and Park Model stalls as a result of Pre-Existing Hazardous Material (as defined in the Ground Lease) exceeds \$500,000, excluding costs deriving from any Pre-Existing Hazardous Material to the extent materially exacerbated by Sun.

(B) City Reimbursement Agreement

In the event Sun and the City do not enter into a Reimbursement Agreement regarding the Project prior to the Commencement Date of the Ground Lease, the District and Sun each have the right to terminate the Ground Lease, the DM Agreement and the Guaranty, by delivering written notice to the other party within thirty (30) days of the Commencement Date of the Ground Lease. As of the date of publication of this agenda sheet, the City Council of the City was scheduled to consider the Reimbursement Agreement on August 13, 2019.

Parcel S-3

Within 90 days from the execution of the Ground Lease, the District will negotiate with Sun in good faith the terms of a non-binding Exclusive Negotiating Agreement (ENA) to develop additional RV stalls and associated amenities on Parcel S-3 of the CVBMP, located directly to the south of the Site. Terms of the non-binding ENA will include Sun paying for the cost of any entitlements needed to

permit Sun to use the Parcel S-3 for an RV park and any other uses.

Development and Maintenance Agreement

Attached as an exhibit to the Ground Lease is the DM Agreement which covers the construction of the Offsite Improvements and maintenance and monitoring of a portion of the Offsite Improvements. The Ground Lease requires Sun and the District to enter into the DM Agreement concurrently with the execution of the Lease. The term of the DM Agreement is approximately seven years - two years of proposed construction and five years of maintenance and monitoring. Sun's obligation to maintain and monitor the Offsite Improvements will commence once the Project is completed and will be pursuant to that certain Habitat Mitigation Plan for the Costa Vista RV Park dated February 2018 that is attached as Exhibit D to the DM Agreement. Staff requests that the Board approve the Plans for the Offsite Improvements that are attached as Attachment B. Once constructed, ownership of the Offsite Improvements will be conveyed to the District or another third party designated by the District, which may include another public agency.

Of the approximately \$55 million Project cost, approximately \$15 million is attributable to the Offsite Improvements.

Guaranty

Attached as an exhibit to the Ground Lease is the Guaranty from the Guarantor for the benefit of the District. Under the Guaranty the Guarantor agrees to guaranty the completion of the Project, pay for the costs required to perform the obligations to complete the Project, and all cost and expenses incurred by the District in enforcing these obligations. The Ground Lease requires the Guarantor to execute and deliver the Guaranty to the District concurrently with Sun's execution and delivery of the Ground Lease.

Recommendation

Staff recommends that the Board grant Sun the Ground Lease for the Project and approve the Plans for the Offsite Improvements. Sun is the right partner to deliver a very important and required project for the redevelopment of the CVB. Their \$15 Million contribution toward the Phase 1A Improvements will greatly improve the feasibility of the RHCC project outlined under the DDA for both the District and the City. Sun has seized the opportunity to create a destination RV Park and to contribute more than their fair share of the infrastructure surrounding the Site. Sun's committed contribution toward the Project will help the District continue to move forward the development of the CVB.

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet and the Ground Lease attached as Attachment C as presented to it and approves them as to form and legality.

Environmental Review:

The proposed Board actions, including without limitation, an ordinance granting a lease between the District and Sun Chula Vista Bayfront RV LLC for a RV Park and a resolution approving plans and specifications for offsite improvements serving the RV Park was adequately covered in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (CVBMP) (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562), certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, which was adopted by the Board on

August 13, 2013 (Resolution No. 2013-138), and the Second Addendum to the FEIR, which was adopted by the Board on April 10, 2018 (Resolution No. 2018-0069). The proposed Board actions are not a separate “project” for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR and Addendums, the District finds and recommends that the proposed Board actions do not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the FEIR and Addendum due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the FEIR and Addendum, (b) identifies significant impacts would not be more severe than those analyzed in the FEIR and Addendum, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and (d) no changes to mitigation measures or alternatives have been identified or are required. Pursuant to CEQA Guidelines §15162(b), the District finds and recommends that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board actions are merely a step-in furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

Additionally, the proposed Board actions complies with Sections 21, 35, and 87 of the Port Act which allow for the Board to pass resolutions and ordinances and to do all acts necessary and convenient for the exercise of its powers, and for the use of tidelands for visitor serving commercial uses; the construction, reconstruction, repair, and maintenance of commercial buildings; the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in Section 87; and the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed actions are consistent with the Public Trust Doctrine.

The proposed Board actions were covered in the CDP for the Costa Vista RV Resort approved by the District on September 12, 2018. The proposed Board actions are consistent with the project in that CDP. No additional action under the California Coastal Act is required at this time.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

Stephanie Shook

Department Manager, Real Estate

Attachment(s):

Attachment A: Location Map

Attachment B: Plans for Offsite Improvements

Attachment C: Form of Ground Lease