



## Legislation Details (With Text)

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**Title:** DISCLOSURE TRAINING RELATING TO THE CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY REVENUE BONDS TO FUND THE PUBLIC INVESTMENT IN THE CONVENTION CENTER AND PHASE 1A IMPROVEMENTS  
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**DATE:** November 9, 2021

### **SUBJECT:**

**DISCLOSURE TRAINING RELATING TO THE CHULA VISTA BAYFRONT FACILITIES FINANCING AUTHORITY REVENUE BONDS TO FUND THE PUBLIC INVESTMENT IN THE CONVENTION CENTER AND PHASE 1A IMPROVEMENTS**

### **EXECUTIVE SUMMARY:**

Since 2014, the District and the City of Chula Vista (City) have been working to deliver the catalyst project for the Chula Vista Bayfront Master Plan (CVBMP), an approximately 275,000 net usable square foot convention center (Convention Center), a parking garage (Parking Improvements), and an up to 1,600 room resort hotel (Resort Hotel) to be located on Parcel H3 of the CVBMP; which also requires the construction of extensive public infrastructure (Phase 1A Improvements) within Parcel H3 and areas surrounding Parcel H3. RIDA Chula Vista, LLC (RIDA) was selected as the developer of the catalyst project through a Request for Qualifications. In light of an overall project cost in excess of \$1.1 billion, it was determined at the early stages, and that in order for the Convention Center and Phase 1A Improvements to be financially feasible, the City and the District would need to make a "Public Contribution" to fund a portion of the costs of construction of the Convention Center and Phase 1A Improvements.

The District and the City formed the Chula Vista Bayfront Facilities Financing Authority (Authority) to finance most of the Public Contribution through the issuance of revenue bonds (Authority Bonds). The Authority Bonds will be offered for sale to the public. In connection with the offering of the Authority Bonds to the public, a disclosure document, known as a preliminary official statement (sometimes referred to as a POS) will be prepared. The preliminary official statement will contain information regarding the finances and operations of the Authority, the City, the District, RIDA, and

the Bayfront Project Special Tax Financing District (Financing District). When municipal bonds are offered to investors in a public offering, the offering is governed by Securities and Exchange Commission rules, including Rule 10b(5), which makes it unlawful for any person to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. The District, as a member of the Authority, will be contributing funds to pay principal and interest on the Authority Bonds, will be providing financial and operating information concerning the operations of the District included in the preliminary official statement and official statement, and will be required to make periodic disclosures updating its financial and operating information as long as the Authority Bonds are outstanding.

The training is being provided in conjunction with the proposed issuance of the Authority Bonds and will provide the Board of Port Commissioners (Board) with training relating to the Securities Act of 1933 and the Securities Exchange Act of 1934 focusing on the preparation, review, and approval of the preliminary official statement, which is the draft disclosure document that will be finalized when interest rates and maturity dates for the Authority Bonds are established when the Authority Bonds are priced by J.P. Morgan Securities LLC (J.P. Morgan), the underwriter selected by the District and the City to offer the Authority Bonds to the public. The presentation will be conducted by Stradling, Yocca, Carlson & Rauth (Stradling), bond counsel and disclosure counsel to the Authority in connection with the issuance of the Authority Bonds.

Based on the current schedule for the catalyst project, staff expects to bring the preliminary official statement to the Board in December along with other actions necessary for the sale and issuance of the Authority Bonds. At that time, the Board will be asked to approve the preliminary official statement, the execution of a Rule 15c2-12 Certificate with respect to the preliminary official statement that deems the preliminary official statement final except for information of the type described above permitted to be omitted pursuant to Rule 15c2-12, and distribution of the preliminary official statement in connection with the public offering of the Authority Bonds.

### **RECOMMENDATION:**

Accept the presentation.

### **FISCAL IMPACT:**

There is no financial impact from this agenda as this is only a presentation/training.

### **COMPASS STRATEGIC GOALS:**

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

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.

- 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:**

The CVBMP is the result of a decade-long joint planning effort by the District, the City, and a broad coalition of stakeholders. The key project of the CVBMP is the Convention Center and Resort Hotel, which will be the catalyst project for the CVBMP and the region that is expected to bring economic growth, new jobs, and extensive public amenities.

In May of 2014, the City and the District entered into the Joint Exercise of Powers Agreement (Original Authority Agreement, District Clerk No. 61905) to form the Authority to assist in the financing of the Public Contribution and the Original Authority Agreement was amended and restated in 2019 through the Amended and Restated Joint Exercise of Powers Agreement (Authority Agreement, District Clerk No. 70245). RIDA was selected by the District on October 14, 2014 as the successful bidder to construct a resort hotel and convention center in response to a Request for Qualifications.

In order for the Convention Center and Phase 1A Improvements to be financially feasible, the City and the District need to contribute the Public Contribution for the construction of the Convention Center and Phase 1A Improvements. As discussed above, the Public Contribution is anticipated to be made through the issuance of the Authority Bonds, with the District and the City, as the sole members of the Authority, committing certain funds to repay the Authority Bonds. The chart below demonstrates the split of the Public Contribution between costs of construction of the Convention Center and the Phase 1A Improvements:

<b>Public Contribution</b>	
Convention Center	\$265 Million
Phase 1A Improvements	\$63 Million
<b>TOTAL</b>	<b>\$328 Million</b>

On June 8, 2020, the Authority officially retained the services of J.P. Morgan to act as underwriter in connection with the proposed sale of the Authority Bonds. As part of the issuance, the Board must approve and deem final a preliminary official statement that will be finalized as an official statement for purposes of the public offering of the Authority Bonds. In addition, each of the Authority, the City, the District, RIDA, and the Financing District will be required to make periodic disclosures updating its financial and operating information as long as the Authority Bonds are outstanding.

The preliminary official statement will contain information regarding the finances and operations of the Authority, the City, the District, RIDA, and the Financing District. When municipal bonds are offered to investors in a public offering, the offering is governed by Securities and Exchange Commission rules, including Rule 10b(5), which makes it unlawful for any person to make any untrue statement of a material fact or to omit to state a material fact, necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. Therefore, all “material” information must be disclosed in the preliminary official statement.

The training is being provided in conjunction with the proposed issuance of the Authority Bonds and

will provide the Board with federal securities law training in relation to the preparation and certification of the preliminary official statement, which is the draft statement that will be finalized into the official statement for use in marketing the proposed Authority Bonds. During preparation of the preliminary official statement input will be sought from key officials of the District including the Board. The presentation/training will include key information on this process including consequences of bad disclosure, and what can go wrong. The presentation will be conducted by Stradling in connection with the issuance of the Authority Bonds.

Based on the current schedule for the catalyst project, staff expects to bring the preliminary official statement to the Board in December along with other actions necessary for the sale and issuance of the Authority Bonds. At that time, the Board will be asked to approve the preliminary official statement, the execution of a Rule 15c2-12 Certificate with respect to the preliminary official statement that deems the preliminary official statement final except for information of the type described above permitted to be omitted pursuant to Rule 15c2-12, and distribution of the preliminary official statement in connection with the public offering of the Authority Bonds.

### **General Counsel's Comments:**

The Office of the General Counsel has reviewed this agenda sheet as presented to it and approves it as to form and legality.

### **Environmental Review:**

The presentation does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of the presentation that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The presentation in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

The presentation allows for the District to implement its obligations under Sections 35 of the Port Act, which authorize the Board to do acts necessary and convenient for the exercise of its power. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the presentation is consistent with the Public Trust Doctrine.

The presentation does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District's CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District's certified CDP Regulations,

PMP, and Chapters 3 and 8 of the Coastal Act. The presentation in no way limits the exercise of the District's discretion under the District's CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

**Diversity, Equity, and Inclusion (DEI) Program:**

This agenda sheet has no direct DEI impact.

**PREPARED BY:**

Robert DeAngelis  
Chief Financial Officer/Treasurer

**Attachment(s):**

Attachment A: Chula Vista Bayfront Bond Financing Presentation, "Disclosure Responsibilities Under the Federal Securities Laws", prepared by Stradling, Yocca, Carlson & Rauth