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Title: CONSIDER CONTRACT AMENDMENT NO. 2 WITH NBS GOVERNMENT FINANCE GROUP TO PROVIDE COMMUNITY FACILITIES DISTRICT(S) CONSULTING SERVICES (CITY COUNCIL)

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Attachments: 1. Original NBS Contract Agreement, 2. NBS Contract Agreement No. 1, 3. Proposed NBS Contract Amendment No. 2

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, July 05, 2022

Consent

SUBJECT:

CONSIDER CONTRACT AMENDMENT NO. 2 WITH NBS GOVERNMENT FINANCE GROUP TO PROVIDE COMMUNITY FACILITIES DISTRICT(S) CONSULTING SERVICES (CITY COUNCIL)

I. SUMMARY

On August 7, 2018, the City and NBS Government Finance Group (“NBS”) entered into an agreement for Community Facilities District (“CFD”) formation services (Exhibit No. 1). NBS’s scope of services consists of four components: (1) initial CFD formation for the City-wide future annexation area; (2) fiscal impact analysis to establish the tax rates for new residential and industrial projects; (3) future CFD annexation services for new projects/developments; and (4) ongoing administration of CFD. The term of the Original Agreement was August 7, 2018 to June 30, 2019 with a total contract sum of not-to-exceed \$78,500. On June 16, 2019, the Agreement was amended to extend the term for three years and increase the maximum contract amount by \$273,000 to cover the additional three-year term (Exhibit No. 2).

Staff is now requesting an approval of the proposed Amendment No. 2 (Exhibit No. 3) to make minor adjustments to the schedule of compensation, make changes to the designated personnel Consultant will use to perform the Services, and extend the Term of

the Agreement by an additional two years in lieu of the two one-year extensions originally provided for in the Agreement. If approved as recommended, the maximum contract amount would remain at \$351,500 from the original approval date to June 30, 2024. Most of the costs are paid for by planning deposits for new development projects and from CFD proceeds. This amendment is necessary to continue adding new annexations to the Citywide CFD and to administer the Citywide CFD going forward.

II. RECOMMENDATION

TAKE the following actions:

1. **APPROVE** Amendment No. 2 to the contract with NBS extending the term through June 30, 2024 in the current not-to-exceed amount of \$351,500; **AND**
2. **AUTHORIZE** the Mayor to execute the agreement, following approval as to form by the City Attorney.

III. ALTERNATIVES

TAKE any other action the City Council deems appropriate.

IV. BACKGROUND

The City retained NBS via an RFP process in 2018. Staff issued a Request for Proposals (“RFP”) on March 1, 2018 to identify, select, and recommend a qualified firm to assist the City in the formation and implementation of the CFD. The RFP was advertised in “Our Weekly” and on the Planet Bids website. On March 22, 2018, the City received five proposals from experienced firms. A selection committee reviewed the proposals and evaluated each firm on the criteria set forth in the RFP, including proposal completeness, qualification and experience, understanding of City issues, and costs. After an extensive review, NBS was recommended by the selection committee.

FY 18-19 Scope of Services

To date, NBS assisted the City to accomplish the following:

- (1) **Formation of CFD No. 2018-01 and the voluntary City-wide future annexation area.** This task was completed in November 2018. The initial CFD comprised of the JJ.ER (CalPak) property. A City-wide future annexation area was also established to allow new projects to annex into the City-wide CFD No. 2018-01.
- (2) **Fiscal Impact Analysis and City-wide CFD rates.** This task was completed in April 2019. New projects are able to administratively annex into CFD No. 2018-01 if they choose to accept the adopted city-wide uniform rates. The completed the City-wide Fiscal Impact Analysis (“City FIA”) report provided the basis for the adopted City-wide uniform rates.
- (3) **CFD Annexation(s).** Subsequent to JJ.ER’s (CalPak) petition to form the CFD, several projects have annexed into CFD No. 2018-01.
- (4) **CFD Administration.** NBS continues to support the City as the City’s “expert resource”

as it pertains to CFDs. NBS also assists the City navigate through regulatory reporting requirements and other essential consultation services.

Updated FY19-FY22 Scope of Services (Amendment No. 1)

In 2019, NBS's updated scope of services was updated to consist of four components: (1) CFD formation for property owners wishing to form their own CFD(s), subject to City Council approval, (2) Fiscal Impact Analysis to establish the special tax rates for projects wishing to utilizing their own rates based on their specific fiscal impacts, (3) future CFD annexation services for new projects/developments, and (4) ongoing CFD Administration. The following provides a more detailed description of these scope of services:

(1) CFD Formation (Upon Request of Developer): CFD No. 2018-01 allows all new development projects within the City's boundary to annex into said CFD. A separate CFD will only be considered if requested by a property owner and is subject to the approval by the City Council. This CFD formation component consists of establishing the goals and policies of the proposed CFD future annexation area, as required by the Mello-Roos Community Facilities Act of 1982 (the "Act"), and the development of the rate and method of apportionment of the special tax that will govern the amount of special tax levied within the CFD. NBS will collect data to establish CFD boundaries, create maps, and prepare notices, ballots and a CFD report as required by the Act.

(2) Fiscal Impact Analysis (Upon Request of Developer): The City prepared a City-wide Fiscal Impact analysis ("City FIA") with uniform rates in April 2019. The actual adopted rates were less than the rates established by the City FIA with annual adjustment. If new developers believe that the adopted rates do not reflect their true project fiscal impacts, the applicant can request a "project specific" fiscal impact analysis be conducted by NBS, with the cost of this study paid by the developer. Elements such as "enhanced level services" found in the City FIA would be carried over to the project specific FIA to ensure the same standards are applied equally across all projects. The project specific FIA will document baseline costs of providing services and establish new desired levels of services, including enhanced levels of services. It is important to note that if the project specific FIA rate shows a higher cost of providing services than the City FIA, the Developer must pay the higher project specific FIA.

(3) Future CFD annexation services: It is anticipated that most new projects will annex into the CFD No. 2018-01 utilizing the adopted standardized rates. Therefore, this option is expected to be utilized the most. This option is also the most time- and cost-efficient approach as rates and processes are already established. As part of its CFD annexation scope, NBS will perform the following as it pertains to the annexation of property: (1) review local goals and policies; (2) collect tax and property data and prepare cost estimates; (3) review the CFD Rate and Method of Appropriation specific to the new development, and (4) prepare the unanimous approval consent letter and special tax lien forms.

(4) Ongoing Administration: NBS will act as the City's expert resource on issues relating to the CFD during the term of the agreement. Regulatory requirements such as the annual special tax levy report, tax disclosure, and other administrative duties, such as delinquency monitoring, is covered under this scope.

Updated FY23-24 Scope of Services (Amendment No. 2)

For the most part, the services contemplated under the proposed Amendment No. 2 will be nearly identical to services currently included under the Amendment No. 1. The updates to the proposed Amendment No. 2 include minor adjustments to the schedule of compensation, minor changes to the designated personnel Consultant will use to perform the Services, and an extension for the Term of the Agreement by an additional two years in lieu of the two one-year extensions originally provided for in the Agreement. The adjustments to the schedule of compensation include an increase in Consulting Fees for the Fiscal Impact Analysis and Annexation tasks, but a decrease in Expense Fees for Formation Services, Fiscal Impact Analysis, and Annexation. There is no need for additional funding at this point so the total contract amount will remain at \$351,500.

V. FISCAL IMPACT

The total cost of this Agreement (\$351,500) is to be paid primarily by future development projects through Planning Application deposits and CFD Administration Fee collected from a portion of the property tax bill of annexed properties.

Future developments will pay for annexation, formation, and/or fiscal impact analysis costs through the deposits provided in their Development Application to the City. In addition, the ongoing CFD administration is paid by owners of properties annexed within the CFD through the levy of special taxes via property tax bill CFD administration fee allocation.

Since CFD services are based on the number of development projects, the actual cost of the contract may be more or less if the number of projects in the City is different than anticipated. If there are more annexations or project specific FIAs than anticipated during the life of the contract, Staff will bring an amendment back to Council for approval.

VI. EXHIBITS

1. Contract Services Agreement with NBS Government Finance Group (pgs. 5-40)
2. Amendment No. 1 to Contract with NBS Government Finance Group (pgs. 41-73)
3. Proposed Amendment No. 2 to Contract with NBS Government Finance Group (pgs. 74-81)

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