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A Resolution Approving the Issuance of Debt by Colorado Crossing Metropolitan District Nos. 1, 2 and 3 in the Form of a Series 2017 Limited Property Tax Supported Revenue Bond issued by Colorado Crossing Metropolitan District No. 2 and a Capital Pledge Agreement Supporting the 2017 Bonds entered into among Colorado Crossing Metropolitan District Nos. 1, 2 and 3

(Legislative)

Presenter:

Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Summary:

This is a request to approve issuance of formal debt in an aggregate amount not to exceed $15,000,000 (final amount to be determined upon public sale of the bonds) by Colorado Crossing Metropolitan District No. 2 ("District") in the form of (1) a 2017 Limited Property Tax Supported Revenue Bond ("the Bonds"), to be repaid from property tax, public improvement fee (PIF) revenues and other allowable District revenues, and (2) a Capital Pledge Agreement among the District, Colorado Crossing Metropolitan District No. 1 ("District No. 1") and Colorado Crossing District No. 3 ("District No. 3" and collectively with the District and District No. 1, the "Districts") pursuant to which the aforementioned revenues of the Districts are pledged to repayment of the Bonds. The City's Special District Policy and the Districts' service plan require that City Council's approval be obtained prior to issuing any debt.

Authorization of this debt issuance will require a 2/3rds majority of the entire City Council (at least six affirmative votes) pursuant to City Charter section 7-100.

Previous Council Action:

Mixed use PUD zoning and concept plan were approved for the Colorado Crossing development in 2005. In 2006 City Council approved a consolidated service plan for the Districts (Resolution 126-06). On October 25, 2016, by Resolution 111-16, Council approved a service plan amendment allowing for an increase in the Maximum Operating Mill Levy for District No. 3 from the usual 10.0 mills to 20.0 mills. This change was associated with public parking garage operation. Together these documents constitute "the Service Plan" for the Districts.

This item was introduced at a Council work session on April 24, 2017. At that meeting there were questions pertaining particularly to the topic of public improvement fees (PIFs). Updates are provided below.

Background:

This would be the first debt formally issued by the Districts.

Metropolitan districts are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements, primarily utilizing a property tax mill levy as the revenue source. These districts are separate legal entities from the City, but their service plans require City Council approval of all formal debt. The standard of review of the debt instruments is consistency with the service plan and all applicable laws.

Colorado Crossing has a multiple district structure with District No. 1 being the management district, District No. 2 being the residential district and District No. 3 being the commercial district. Consistent with City Council's Special District Policy and the service plan as amended, the debt service mill levy for residential districts is limited to now more than 30.0 mills (Gallagher- adjusted) with the cap for commercial districts set similarly at no more than 50.0 mills (Gallagher-adjusted).

The proposed debt is anticipated to be in the form of a tax-exempt bond issue with an assumed interest rate of about 7.00% (exact rate to be set at closing) supported by a pledge of the other Districts under the Capital Pledge Agreement. The term of the Bonds will be 30 years. Although issued by District No. 2, revenues to service the Bonds will be provided by all of the Districts, pursuant to the terms of a Capital Pledge Agreement, which is also considered a "Debt" of the Districts under the Service Plan. The Bonds will be repaid from the debt service mill levies of all three Districts along with applicable specific ownership taxes, and PIF (public improvement fee) revenues.

PIFs are established by private covenant on the property within the Districts, with the revenues to be used for qualifying public purposes, one of which can be the servicing of debt issued for these purposes. The anticipated PIFs in this case will be a PIF of 1% on applicable retail sale transactions within the Districts and a PIF of 2% on lodging transactions within the Districts. The retail sales PIF is in addition to any City sales tax, and the lodging PIF is in addition to the City's LART (Lodging and Automobile Rental Tax). Because PIFs are established by private covenant, the City ordinarily would have no role and authority in their imposition or use. However, in the case of district financing, there is at least and indirect role. These metropolitan districts are authorized under Council's Model Service Plans, which do not specifically address use of PIF revenues, and, (with the exception of one unrelated limitation) do no place any limits on metropolitan districts' imposition and use of "fees, rates, tolls and charges".

At the April 24, 2017 City Council work session, Council asked for additional detail on the existence and use of PIFs by other hotels or motels, particularly associated with districts. A summary has been provided by separate e-mail communication to Council on or about May 1, 2017, and is also attached as an exhibit to this agenda.

Additionally, Council also asked for input from Doug Price, President and CEO of the Convention and Visitors Bureau as to the potential impact of additional hotel and motel-related PIFs on a possible future request for a LART increase. Mr. Price's response is as follows:

"Hotels generally support greater tourism promotion of the region. Greater tourism promotion requires greater funding so hotels might support an increased LART if they perceived it would be used specifically for tourism promotion. The existence of a PIF impact is a question best answered by specific properties not the CVB."

The Bond proceeds are expected to be used to pay for and/or reimburse costs for a variety of public facilities including water, wastewater stormwater, major roads, local streets and entry features, along with cost for completing the public parking structure associated with this project as well as the costs of issuance. These costs and expenses are summarized in an attached budget.

In most cases these costs are accrued and managed in the form of developer advances/ reimbursement agreements. Although interest accrues on these balances, the reimbursement agreements do not constitute formally issued debt.

Attached as part of this agenda item are the following documents:

- Draft City Council resolution
- Cover/transmittal letter
- District authorizing resolution
- Draft indenture
- Draft capital pledge agreement
- Term sheet
- Budget
- Financing projections
- Service plan compliance letter

This item could support the following Strategic Plan objective:

“Facilitate intergovernmental cooperation and regionalization to support efforts that provide efficiencies and improve services.”

Staff further notes that there is an economic development strategy nexus associated with encouraging the development of this project and site, given the recent challenges it has had with legal/bankruptcy-associated delays that have stalled this project at mid-construction phase.

Financial Implications:

Liability for repayment of these Bonds will be limited to the properties within the Districts and will not extend to the general City or its taxpayers. Additionally, repayment obligations the property owners are limited to the currently capped mill levy of 30.0 mills for District No. 2/residential property and 50.0 mills for District No. 3/commercial property (both Gallagher adjusted) pursuant to the limitations in the service plan.

See the paragraphs above for a discussion of the PIF-related topics.

City Charter section 7-100 requires that the total debt of any district shall not exceed ten percent (10%) of the total assessed valuation of the taxable property within the district unless approved by at least a two-thirds vote of the entire Council.

Board/Commission Recommendation:

The City’s staff-level Special District Committee has been provided copies of these materials. No comments or concerns have been stated.

Stakeholder Process:

N/A. The boards of the Districts are currently controlled by developer representatives.

Alternatives:
City Council could choose to approve, deny or modify the proposed resolution.

Proposed Motion:
Move adoption of the resolution approving the issuance of Debt by District No. 2 in the form of a 2017 Limited Property Tax Supported Revenue Bond in an amount not to exceed $15,000,000 and by District Nos. 1 and 3 in the form of the Capital Pledge Agreement supporting repayment of the Bonds among the Districts.

N/A