



Legislation Text

File #: 14-0160, **Version:** 1

Auditor-Controller recommending the Board consider the following:

- 1) Authorize the Auditor-Controller and CAO to negotiate contracts with Jones Hall (Bond and Disclosure Counsel), Stifel, Nicolaus & Company (Underwriter), Bender Rosenthal (Appraiser), and NBS Government Finance Group (NBS/GFG) (Special Tax Consultant);
- 2) Authorize the CAO to execute all necessary contracts related to the proposed community facilities district formation and financing requested by Lennar Homes of California, Inc. (the Developer) for a subdivision herein called Carson Creek after each agreement has been reviewed by County Counsel and Risk Management;
- 3) Authorize the CAO to execute the Deposit and Reimbursement Agreement between El Dorado County and Lennar Homes of California, Inc. upon final approval by County Counsel and Risk Management; and
- 4) Authorize the CAO and Auditor-Controller to work with the Assessment and Community Facilities District Screening Committee members and contracted consultants to consider Lennar's request to begin the proceedings of forming and financing a new Mello Roos District.

Fiscal Impact/Change to Net County Cost

This item will have no impact on the County General Fund. The contracts with underwriter and bond counsel will be contingent fee agreements. There will be no cost to the County unless the bonds are refunded, in which case the costs will be paid out of the proceeds from the bond sale. The cost of the pricing consultant and special tax consultant will be advanced by the Developer who would then be reimbursed with proceeds from the bond sale.

Reason for Recommendation

The County has received an application to consider the formation of Carson Creek Community Facilities District (CFD), and possible issuance of Mello Roos Bonds. In accordance with the County's Development Agreement for the Carson Creek Specific Plan Public Facilities Financing Plan, the County is required to assist the Developer in obtaining community facilities district or assessment district financing for infrastructure needed for the Carson Creek subdivision.

In the event that bonds are eventually sold by the County, the debt service payments will be exclusively the responsibility of the property owners in the proposed CFD. The only foreseeable circumstance that would make the County partially responsible for debt service payments or damages to bond investors would be if an error or omission is made by the County in the formation of the district, in the preparation of the offering statement, in the ongoing SEC required disclosures, or in the administration of the CFD.

In order to form a district and issue bonds an offering statement, in addition to many other legal documents, will have to be prepared. The actual amount of bonds sold would depend on the lien to value ratio calculated by the consultants and approved by the County. In order to proceed with these tasks, the County must contract with a bond and disclosure counsel, a bond underwriter, and a special tax consultant. The County has used and are using the consultants identified in the recommendation above in current and prior CFD formations and financing. These consultants have

the experience needed to perform these specialized services. Additional consultants, including an Appraiser and Pricing Adviser, will be recommended to the Board in the near future.

These firms will provide "special services" as described in section 3.12.230 of the County's Purchasing Ordinance and section 31000 of the Government Code, and accordingly, are exempt from any formal competitive procurement requirements.

In addition to contracting with the consultants, the first step in processing this Developer's request is to contract with the consultants identified above and authorize the Deposit and Reimbursement Agreement between the County and the Developer. A \$15,000 deposit was received from Lennar to pay third party invoices from consultants retained by the County to assist in the issuance of bonds and to reimburse the County for the cost of staff time dedicated to said proceedings. The Deposit and Reimbursement Agreement authorizes the County to require additional funds from Lennar to cover costs through these proceedings, as needed.

Action

- (1) Authorize and execute Deposit and Reimbursement Agreement between El Dorado County and Developer in regards to the formation and possible financing of Carson Creek CFD 2014-1 upon final approval by County Counsel and Risk Management;
- (2) Authorize CAO to execute agreements with Jones Hall (Bond and Disclosure Counsel), Stifel (Underwriter), Bender Rosenthal (Appraiser), and NBS Government Finance Group (NBS/GFG) (Special Tax Consultant).
- (3) Authorize the CAO and Auditor-Controller to work with the Assessment & Community Facilities District Screening Committee members and contracted consultants to consider all requests by Developer and take all necessary steps to prepare all documents required to form and finance the CFD as soon as practical.

Contact

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Concurrences

Terri Daly, CAO
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