

A G E N D A



Recommendation for Council Action

Austin City Council	Item ID	6777	Agenda Number	23.
Meeting Date:	5/12/2011		Department:	Legal
Subject				
<p>Authorize negotiation and execution of a legal services agreement with Fulbright & Jaworski, L.L.P., for legal advice and representation relating to public improvement district (PID) bonds for the Whisper Valley and Indian Hills development projects, for a total contract amount not to exceed \$175,000.</p>				
Amount and Source of Funding				
<p>Funding in amount of \$175,000 will be provided by a combination of developer reimbursements and a percentage transaction fee paid from the bond proceeds. The developer for the Whisper Valley and Indian Hills PIDs, Club Deal 120 Whisper Valley, L.P. and Club Deal 116 Indian Hills TX, L.P., has agreed to reimburse the total amount of legal fees to the City for legal services rendered by Fulbright & Jaworski, L.L.P. in the unforeseen event that PID bonds are not issued for the projects.</p>				
Fiscal Note				
<p>There is no unanticipated fiscal impact. A fiscal note is not required.</p>				
Purchasing Language:				
Prior Council Action:	June 10, 2010 - Authorization in the amount of \$50,000 for legal services relating to establishment of public improvement districts, supplementing prior administrative authorization for an initial \$25,000.			
For More Information:	Sharon Smith, Assistant City Attorney / 974-4773			
Boards and Commission Action:				
MBE / WBE:				
Related Items:				
Additional Backup Information				

The Whisper Valley property (2,062 acres) was purchased by Taurus of Texas Holdings L.P. in June 2006 and is located east of SH 130. The site is planned to include approximately 7,500 single and multi-family homes, and more than 2 million square feet of retail and office space. In addition, 700 acres of open space is to be dedicated to the City for use as trails and parkland. The Indian Hills property (240 acres) was purchased by Taurus in December 2005 and is located west of SH 130. Plans for this site include approximately 1,200 medium-density apartment units and 1.5 million square feet of office, warehouse, distribution and neighborhood retail uses. The center portion of the site will be used for the extension of Decker Lake Road, the main thoroughfare.

In June 2009, the City Council voted to approve related development agreements, and in August 2010, voted to approve zoning changes and limited purpose annexation. The properties were originally zoned as agricultural land, with Whisper Valley now zoned as a planned unit development and Indian Hills approved for the straight zoning needed for planned development. The City Council also approved the creation of a separate public improvement district (PID) for each of the two planned developments, in response to a petition by the property owners, a State law prerequisite to creation of a PID. The PID will provide a financing mechanism through the apportionment, levying and collection of assessments to help pay for the basic infrastructure that will support the planned communities (water, wastewater and roads).

This legal services agreement will provide for legal advice and representation for processing the public improvement district (PID) bond transcript documents through the Attorney General's office, rendering the tax opinion, and related items. There will be no cost to the City. The fees will be a combination of an hourly rate and a transaction fee. The total amount of the hourly fees will be reimbursed to the City as agreed by the developer for Whisper Valley and Indian Hills, Club Deal 120 Whisper Valley, L.P. and Club Deal 116 Indian Hills TX, L.P. The transaction fee will be paid from the PID bond proceeds, contingent upon the issuance of the PID bonds.

Fulbright & Jaworski has already provided legal advice and representation in the related matter of establishment of the PIDs, and has met with the Attorney General's representatives to identify and address structuring issues related to the developer's anticipated plan of finance.

Upon approval by the City Council, the developer will execute a Reimbursement Agreement with the City, by which the developer will agree to advance the moneys to be used by the City to pay for the legal services until such time that the necessary due diligence has been completed to reasonably assure the future issuance of the PID bonds. These costs may be reimbursable to the developer as issuance costs associated with this transaction.