



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

CONSENT
September 8, 2009

**Honorable Mayor and
Members of the City Council**

Title: Appropriation of Mello-Roos Tax Revenue: Natomas Central Community
Facilities District (CFD) 2006-02

Location/Council District: North Natomas/District 1

Recommendation: Adopt a **Resolution** appropriating \$1,031,000 from collected
Mello-Roos taxes for CFD 2006-02 to allow for the reimbursement of eligible developer
costs.

Contact: Mark Griffin, Fiscal Manager, (916) 808-8788

Presenters: Not Applicable

Department: Planning

Division: Public Improvement Financing

Organization No: 22001411

Description/Analysis

Issue: K. Hovnanian Forecast Homes has incurred expenses that are eligible
for reimbursement under City Agreements 2008-0683 and 2008-0683-1 from
special taxes collected within Community Facilities District (CFD) 2006-02.
Eligible improvements have been constructed, verified and accepted by the City
at a cost to the developer in excess of the funds currently collected in the CFD.
This Council item will appropriate current collected taxes to allow reimbursement
of available funds. These taxes are collected solely for the purpose of financing
public improvements within the CFD. As taxes are generated, Council will be
asked for additional appropriation authority until the developer is fully
reimbursed.

Policy Considerations: Pursuant to the City Charter, City Council appropriation
authority is required to reimburse developers under relevant agreements.

**Environmental Considerations: California Environmental Quality Act
(CEQA):** Under the California Environmental Quality Act (CEQA) guidelines,
continuing administrative activities do not constitute a project and are therefore

exempt from review

Sustainability Considerations: There are no sustainability considerations applicable to administrative activities.

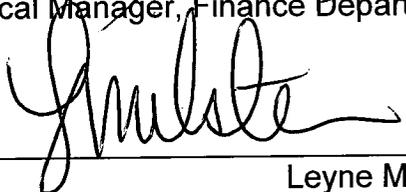
Commission/Committee Action: None

Rationale for Recommendation: Appropriation of funds from CFD 2006-02 will allow the landowner to be reimbursed for a portion of actual improvement costs incurred per City Agreement 2008-0683 as amended by 2008-0683-1.

Financial Considerations: Mello-Roos special taxes are collected within CFD 2006-02 solely for the purpose of constructing public facilities and financing fees within the CFD. To date, \$4,446,602 has been collected. By Resolution 2008-814, \$2,244,930 was disbursed representing collections prior to July 1, 2008. By Resolution 2009-250, \$1,170,672 was disbursed representing the December 2008 tax disbursement. The balance of \$1,031,000 has been collected from the April disbursement and is now recommended to be appropriated. Verified eligible expenses to date are \$18,479,844 as shown on Attachments 2 and 3. Approval will release the available funds to the developer.

Emerging Small Business Development (ESBD): Not Applicable

Respectfully Submitted by: 
Mark Griffin
Fiscal Manager, Finance Department

Approved by: 
Leyne Milstein
Director, Finance Department

Recommendation Approved:


for Ray Kerridge
City Manager

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BACKGROUND

In 2006, the City formed a Community Facilities District (CFD) under Mello-Roos law (Government Code 66000 et. seq.) for the purpose of financing fees and public improvements within the CFD. The CFD is Natomas Central CFD 2006-02 ("CFD 2006-02). On July 10, 2008, the City and K. Hovnanian Forecast Homes entered Acquisition and Shortfall Agreement 2008-0683 ("Agreement") as amended by 2008-0683-1 providing reimbursement to K. Hovnanian Forecast Homes for eligible expenses within the CFD.

Total verified and reimbursable costs under the Agreement are \$18,479,844 to date. The City's engineering consultant, Harris and Associates, has verified costs and compliance with the agreement in the amounts of \$4,300,000 and \$1,600,000 for El Centro and Del Paso Road respectively. Both roadways were widened to four lanes and include medians, curbs, gutters and sidewalks. In addition, the Department of Transportation has verified costs and compliance with the agreement in the amounts of \$8,668,715 and \$3,911,129 for the detention basin and collectors roads respectively. The detention basin is the lake on the development. The collector roadways are Natomas Central Drive, Hovnanian Drive and Manera Rica Drive.

Funds are available from special taxes levied for the purposes of the CFD. As funds are received, Council appropriation authority is needed to allow reimbursements.

Funds available are \$1,031,000 and will be appropriated to Project Number J22003600 to permit payment to K. Hovnanian Forecast Homes. Prior payments of \$2,244,930 and \$1,170,672 were made for the same purpose under Resolutions 2008-814 and 2009-250 respectively.

CFD 2006-02, unlike any other construction CFD in the City at this time is "pay-as-you-go". All others have issued bonds, in which the developer is fully reimbursed from bonds and the levy is used automatically for debt service. CFD 2006-02 is authorized to issue bonds but has been unable to do so due to the FEMA restrictions and the general economic downturn. City Agreements 2008-0683 and 2008-0683-1 (collectively the "Acquisition and Shortfall Agreement") permit reimbursement from bonds or collected special taxes. In no event, however, can the total reimbursement exceed \$35,000,000 less the cost of issuing bonds.

**Harris & Associates**

March 3, 2009

Mr. Mark Griffin
Fiscal Manager
City of Sacramento
Development Services Dept.
915 I Street, Suite 3000
Sacramento, CA 95814

**SUBJECT: Natomas Central Acquisition-and-Shortfall Agreement CFD 2006-02
REVISED**

Dear Mark,

On December 10, 2008, you forwarded us a copy of the Acquisition-and-Shortfall Agreement (A&S Agreement) between the City and K. Hovnanian Homes. Our task was to verify if the submittal for credit verification for Natomas Central improvements was also compliant with the provisions of Exhibit D of the A&S Agreement. On February 3, 2009, we submitted a recommendation letter regarding the developer's compliance with Exhibit D of the A&S Agreement, this letter replaces those recommendations.

On February 18, 2009, Exhibit A of the A&S Agreement was amended to revise the budgeted amounts available. The agreement covers Segment 3 and Segment 12 and not the signals reviewed with the PFFP credit submittal. The request for reimbursement under the A&S Agreement is for \$5,900,000 (\$1,600,000 for Del Paso Road Segment 3 and \$4,300,000 for El Centro Road Segment 12) as summarized in Table 1.1. Based on our review, we recommend release of \$5,900,000.00 for these segments under the A&S Agreement. The request for credits under the PFFP program is \$6,879,230.00 and is being reviewed separately.

Exhibit D of the Acquisition-and-Shortfall agreement outlines requirements that are to be followed in order for the developer to be reimbursed. Our review focused on the requirements set forth in Section 6.0 of Exhibit D. Harris & Associates has a department experienced with labor compliance. Per discussion with this department, we were able to determine what documentation is required for compliance with California prevailing wage statutes. See item #4 below for a discussion of the prevailing wage issues.

On December 17, 2008, we emailed you a list of items required in the agreement that were not submitted with the PFFP reimbursement request. Since that time, more information has been submitted for this review.



DEPARTMENT OF
TRANSPORTATION

ENGINEERING SERVICES DIVISION

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DEVELOPMENT ENGINEERING
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July 23, 2009

Mark Griffin
Program Manager
Planning Department, Public Improvement Financing Division
915 I Street, 3rd Floor
Sacramento, Ca 95814

SUBJECT: Natomas Central CFD No. 2006-02
Acquisition and Shortfall Agreement 2008-0683 and 2008-0683-1

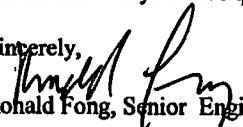
Dear Mark,

Request for reimbursement/credit for the construction of Natomas Central Detention Basin and collector streets Natomas Central Drive, Hovnanian Drive and Manera Rica Drive has been submitted by K. Hovnanian Homes, Inc. Supporting documents as required per A & S Agreement 2008-0683 and 2008-0683-1 between City and K Hovnanian Homes has been reviewed and validated.

The total budgeted amount per A & S Agreement 2008-0683-1 for the detention basin and collector streets is \$16,692,406.00. Amount requested by K. Hovnanian is \$12,292,697.30.

Based on our review, K. Hovnanian is eligible for reimbursement/credit in the amount of **TWELVE MILLION FIVE HUNDRED SEVENTY NINE THOUSAND - EIGHT HUNDRED FORTY FOUR AND 62/100 DOLLARS (\$12,579,844.62).**

Detailed cost summary table and Notices of Completion are hereby enclosed for your reference. Let me know if you have questions. Thank you.

Sincerely,

Rohald Fong, Senior Engineer

Department of
TRANSPORTATION
City of Sacramento

RESOLUTION NO.

Adopted by the Sacramento City Council

**APPROPRIATION OF MELLO ROOS TAX REVENUE, COMMUNITY FACILITIES
DISTRICT 2006-02**

BACKGROUND

- A. Pursuant to City Agreement No. 2008-0683 as amended by 2008-0683-1, K. Hovnanian Forecast Homes is entitled to reimbursement for eligible expenses incurred within Community Facilities District 2006-02.
- B. To date, the City has received \$4,446,602 in Mello-Roos special taxes levied for the purpose of financing eligible expenses within Community Facilities District 2006-02 with \$2,244,930 and \$1,170,672 previously disbursed under Resolutions 2008-814 and 2009-250 respectively, leaving \$1,031,000 in available balance.
- C. The City has verified eligible expenses of K. Hovnanian Forecast Homes in the amount of \$18,479,844 to date.
- D. The appropriation of available funds of \$1,031,000 will permit partial reimbursement to K. Hovnanian Forecast Homes.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. The City Manager's designee is authorized to appropriate \$1,031,000 in Mello-Roos special taxes to Project J22003600.