



REPORT TO COUNCIL

City of Sacramento

7

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

CONSENT
March 23, 2010

**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 \$1,311,428 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 \$11,491,952 in expenses that are eligible for reimbursement under City Agreements 2008-0683 and 2008-0683-1 from special taxes collected within 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 eligible expenses from available funds. These taxes are collected solely for the purpose of financing public improvements within the CFD. As taxes are generated, Council will be requested to approve 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.

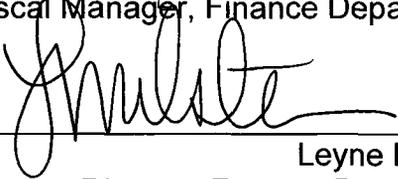
Commission/Committee Action: None

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, \$5,758,030 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. By Resolution 2009-571, \$1,031,000 was disbursed representing the April 2009 tax allocation. The balance of \$1,311,428 represents the December 2009 tax allocation of \$1,113,323 plus \$198,105 from interest and penalties through June 30, 2009 and is now recommended to be appropriated for distribution. Verified eligible expenses to date are \$11,491,952 as shown on Attachments 2, 3 and 4. Approval will release the \$1,311,428 in available funds as reimbursement 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:

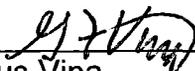

Gus Vina
Interim City Manager

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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 \$11,491,952 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 amount of \$3,911,129 for the interior, non-subdivision, collector roads. The collector roadways are Natomas Central Drive, Hovnanian Drive and Manera Rica Drive. Finally, the Department of Utilities has verified \$1,680,823 for construction and acquisition of the detention basin. The detention basin is the lake on the development.

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 \$1,311,428 and will be appropriated to Project Number J22003600 to permit payment to K. Hovnanian Forecast Homes. Prior payments of \$2,244,930, \$1,170,672 and \$1,031,000 were made for the same purpose under Resolutions 2008-814, 2009-250, and 2009-571 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 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.

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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.

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DEPARTMENT OF
TRANSPORTATION

ENGINEERING SERVICES DIVISION

CITY OF SACRAMENTO
CALIFORNIA

DEVELOPMENT ENGINEERING
300 RICHARDS BLVD., 2nd FL.
SACRAMENTO, CA 95811-0218

PH (916) 808-8300
FAX (916) 808-1984

Revision No.1

February 25, 2010

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 Submittal # 2
Acquisition and Shortfall Agreement 2008-0683 and 2008-0683-1

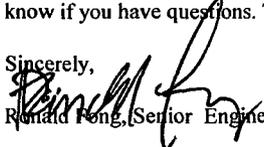
Dear Mark,

This letter is a **revision** to my previous recommendation letter dated July 23, 2009. Costs related to utility improvements have been excluded from this cost validation.

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.

Based on our review, K. Hovnanian is eligible for reimbursement/credit in the amount of **THREE MILLION NINE HUNDRED ELEVEN THOUSAND - ONE HUNDRED TWENTY NINE & 37/100 DOLLARS (\$3,911,129.37).**

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

Sincerely,

Ronald Feng, Senior Engineer

**TABLE 1.0
COST SUMMARY
COLLECTOR ROAD FACILITIES
NATOMAS CENTRAL DRIVE, HOVNANIAN DRIVE, MANERA RICA DRIVE**

Acquisition and Shortfall Agreement 2008-0683-1 (Budgeted Amount)	\$5,200,000.00
Construction Cost Submitted	3,940,927.57
Verified Construction Cost	3,911,129.37
Reimbursement Requested	3,940,972.57
Eligible for Reimbursement/Credit Amount	\$3,911,129.37

**TABLE 1.1
DETAILED COST TABLE
NATOMAS CENTRAL COLLECTOR ROAD FACILITIES
(NATOMAS CENTRAL DRIVE, HOVNANIAN DRIVE, MANERA RICA DRIVE)**

INVOICE NUMBER	AMOUNT REQUESTED	AMOUNT INVOICED	RETENTION	DISALLOWED AMOUNT	VERIFIED AMOUNT
1376907	\$ 222,811.26	\$247,568.07	\$24,756.81		\$222,811.26
1415784	2,961,909.87	3,291,010.97	329,101.10		2,961,909.87
1454476	235,833.58	262,037.31	26,203.73		235,833.58
1454476®	304,049.31	304,049.31	(304,049.31)		304,049.31
1497854	62,073.20	63,340.00	1,266.80		62,073.20
1534362	41,031.00	45,950.00	4,559.00		41,031.00
1586361	13,032.04	13,298.00	265.96		13,032.04
1608737	9,723.78	9,922.22	198.44		9,723.78
1354404	8,041.88	8,206.00	164.12		8,041.88
1654404®	78,819.45	78,819.45	(78,819.45)		78,819.45
CO#5 P#1169295				\$10,500.00	
CO#11 P#1169213				7,490.00	
CO# 7 P#1169407				8,206.00	
TOTAL	\$3,937,325.37	\$4,323,841.33	\$386,515.96	\$26,196.00	\$3,911,129.37

Contract # 201169125 A-C	
Contract Amount	\$ 3,933,351.35
Change Orders	36,968.22
Total Project Cost	\$ 3,970,319.57

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Department of Utilities
Office of the Director

CITY OF SACRAMENTO
CALIFORNIA

1395 35th Avenue
Sacramento, CA 95822-2911
phone (916) 808-1400
fax (916) 808-1497/1498

January 7, 2010
092577

Rich Alexander
c/o K. Hovnanian Homes
1375 Exposition Blvd., Ste. 300
Sacramento, CA 95815

SUBJECT: Reimbursement Submittals #2 and #3 for Natomas Central CFD No. 2006-02

Dear Mr. Alexander;

This letter summarizes Department of Utilities' (DOU's) review of the sewer and drainage facilities included in the subject submittals. DOU has not reviewed the Collector Roads portion of the submittals. DOU reviewed the sewer facilities at your request, even though they are Sacramento Area Sewer District (SASD) facilities.

Submittal #2 requested reimbursement for construction of the Detention Basin and the Common Drainage (pipeline) facilities. As indicated in separate correspondence, only \$1,680,823 is presently eligible for construction of these drainage facilities. This is the amount exempted from competitive bidding per City Agreement #2008-0683-1 (the amended Acquisition & Shortfall Agreement, a.k.a. the 'Agreement'). The pipelines were not competitively bid.

Submittal #3 requested reimbursement for construction of two facilities (the Trunk and Collector Sewer, and the Sewer Lift Station), plus 10-percent for approved facility design expenses. 'Agreement' article 3(b) allows separate reimbursement for engineering costs as a percentage of the construction, and your requested 10% amount is reasonable. DOU presupposes, however, that design costs are eligible for reimbursement only if the facility designed is also eligible. The Trunk Sewer is a budgeted facility in the 'Agreement', and thus should be eligible, but it appears that it was not competitively bid and Council did not exempt it. The Sewer Lift Station was not a listed facility. Thus neither of the Submittal #3 facilities is considered eligible at this time. Therefore, only \$168,082 of the design expense amount requested in Submittal #3 (10% of the Detention Basin costs) is currently eligible for reimbursement.



CITY OF SACRAMENTO
DEPARTMENT
OF UTILITIES

Making a Difference in Your Neighborhood

Rich Alexander Letter
Reimbursement Submittals #2 and #3 for Natomas Central CFD No. 2006-02
January 7, 2010
Page 2

As indicated in the July 21, 2008 letter to you from Mark Griffin, City staff may request Council to amend the 'Agreement' thereby permitting additional facilities not competitively bid to be reimbursed. If Council were to waive all competitive bidding requirements, then submittal #2 and #3 contain sufficient documentation to approve reimbursements up to \$8,351,724.28 for constructed and accepted drainage facilities; \$835,172 for design of the drainage facilities; and up to \$4,058,619.40 for design and construction of the Trunk and Collector Sewer. Prior to approving full Trunk Sewer reimbursement, however, additional documentation for the two change orders and certification from SASD that they've approved and accepted construction of the sewer is required.

Please let me know if you require additional clarification of the items discussed herein.

Sincerely,



Marty Hanneman
Director of Utilities

cc: Dave Brent, Engineering Services Manager
Mark Griffin, Program Manager
~~Stu Williams~~, Senior Engineer
File

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 \$5,758,030 in Mello-Roos special taxes levied for the purpose of financing eligible expenses within Community Facilities District 2006-02 with \$2,244,930, \$1,170,672, and \$1,031,000 previously disbursed under Resolutions 2008-814, 2009-250 and 2009-571 respectively, leaving \$1,311,428 in available balance.
- C. The City has verified eligible expenses of K. Hovnanian Forecast Homes in the amount of \$11,491,952 to date.
- D. The appropriation of available funds of \$1,311,428 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 \$1,311,428 in Mello-Roos special taxes to Project J22003600 to reimburse the developer for eligible expenses.