Meeting Date: **8/12/2014**

Report Type: Consent

Report ID: 2014-00565

City of SACRAMENTO 08

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: Reimbursement of Eligible Expenses: Natomas Central Community Facilities District No. 2006-02

Location: District 1

Recommendation: Pass a Resolution appropriating $1.1 million from special taxes collected for Natomas Central Community Facilities District No. 2006-02 (CFD 2006-02) to allow for the reimbursement of eligible developer costs.

Contact: Mark Griffin, Program Manager, (916) 808-8788, Department of Finance

Presenter: None

Department: Finance

Division: Public Improvement Finance

Dept ID: 06001321

Attachments:

1-Description/Analysis

2-Background

3-Resolution

City Attorney Review

Approved as to Form
Michael W. Voss
7/29/2014 2:15:35 PM

Approvals/Acknowledgements

Department Director or Designee: Leyne Milstein - 7/24/2014 1:58:02 PM

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Description/Analysis

Issue: K. Hovnanian Forecast Homes Northern, Inc. (Developer) has incurred $19,528,893 in expenses in its Natomas Central project that are eligible for reimbursement under City Agreement Nos. 2008-0683 and 2008-0683-1 (collectively, the Agreement) from special taxes collected within Natomas Central Community Facilities District No. 2006-02 (CFD).

Eligible public improvements have been constructed, verified, and accepted by the City at a cost to the Developer in excess of collected special taxes. As new collections occur, the available revenue can be appropriated to reimburse remaining eligible expenses.

Policy Considerations: Pursuant to the City Charter, City Council appropriation authority is required to reimburse the Developer under the Agreement. The appropriation request is consistent with available resources and the Agreement terms to reimburse for eligible public improvements.

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.

Rationale for Recommendation: Appropriation of funds in the CFD will allow the Developer to be reimbursed for actual improvement costs incurred under the Agreement.

Financial Considerations: Special taxes are collected within the CFD solely for the purpose of constructing public facilities, financing development fees, and reimbursing City administrative expenses within the CFD. As of July 15, 2014, $15,971,667 has been collected in taxes and interest and $14,781,534 has been disbursed, with $14,657,991 reimbursed under the Agreement, and $123,543 reimbursed for collection, disbursement, and accounting expenses.

The difference between collections and disbursements to date is $1,190,133. Of this amount, $1.1 million is recommended for disbursement to the Developer. The balance is recommended to be held in reserve for miscellaneous expenses including tax refunds, if any, and associated costs.

Verified eligible expenses to date are $19,528,893 as detailed in the Background section of this report. With the recommended reimbursement, the total reimbursed pursuant to the Agreement will be $15,757,991.

Approval of the attached resolution will release the $1.1 million as reimbursement to the Developer for eligible, verified expenses.

Local Business Enterprise (LBE): Not applicable.

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BACKGROUND

In 2006, in accordance with the Mello-Roos Community Facilities Act (Government Code Section 53311 et seq.), the City formed the CFD for the purpose of financing fees and public improvements that benefit properties within the CFD. On July 10, 2008, the City and the Developer entered into an Acquisition and Shortfall Agreement that was designated as City Agreement No. 2008-0683 and was subsequently amended by City Agreement No. 2008-0683-1 (collectively, the Agreement). The Agreement obligates the City to reimburse the Developer for eligible expenses incurred within the CFD subject to the availability of funds from special taxes and interest of the CFD.

Total verified and reimbursable costs under the Agreement are $19,528,893 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 Road and Del Paso Road respectively. Both roads were widened to four lanes and include medians, curbs, gutters, and sidewalks. In addition, the Department of Public Works has verified costs and compliance with the Agreement in the amount of $3,911,129 for three interior, non-subdivision collector roads: Natomas Central Drive, Hovnanian Drive, and Manera Rica Drive. The Department of Utilities has verified $8,351,725 for construction and acquisition of the detention basin, i.e., the lake within the CFD, drainage facilities, and sewer trunk and collector lines. Finally, the Air Quality Management District (District) verifies that $1,366,039 was paid in fees that were used for the capital purposes of the District as required by the Joint Community Facilities Agreement between the City and the District (City Agreement 2006-1433). All related verifications are provided below as Attachments A, B, C, and D respectively.

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 $1,190,133. Of this amount, $1.1 million will be appropriated to Project Number J22003600 to permit payment to the Developer. The history of Council action on disbursements from the CFD is as follows:

- By Resolution No. 2008-814, $2,244,930 was disbursed representing collections prior to July 1, 2008.
- By Resolution No. 2009-250, $1,170,672 was disbursed representing the December 2008 tax disbursement.
- By Resolution No. 2009-571, $1,031,000 was disbursed representing the April 2009 tax allocation.
- By Resolution No. 2010-150, $1,311,428 was disbursed representing the December 2009 tax allocation of $1,113,323 plus $198,105 from interest and penalties through June 30, 2009.
- By Resolution No. 2010-677, $1,179,104 was disbursed representing April 2010 collections, plus interest and penalties, less refunds and administrative expenses through June 30, 2009, plus a portion ($206,951) of the December 2010 collection of $1,114,256.
- By Resolution No. 2011-233, $897,305 was disbursed representing the balance

of the December 2010 collection, plus interest and penalties, less refunds and administrative expenses.

- By Resolution No. 2011-551, $1,100,000 was disbursed representing the balance of April 2011 collection, plus Teeter, interest and penalties, less refunds and administrative expenses.
- By Resolution No. 2012-090, $1,100,000 was disbursed representing collections through April 2012, less prior disbursements, refunds and administrative expenses.
- By Resolution No. 2013-0215, $2,823,552 was disbursed representing the balance of eligible expenses pending approval of the suspension of competitive bidding on $6,670,902 in additional projects. City Council approved this suspension of competitive bidding on July 16, 2013(Resolution 2013-0183).
- By Resolution No. 2014-0144, $1,800,000 was disbursed representing collections through February 2014, less prior disbursements, refunds and administrative expenses.

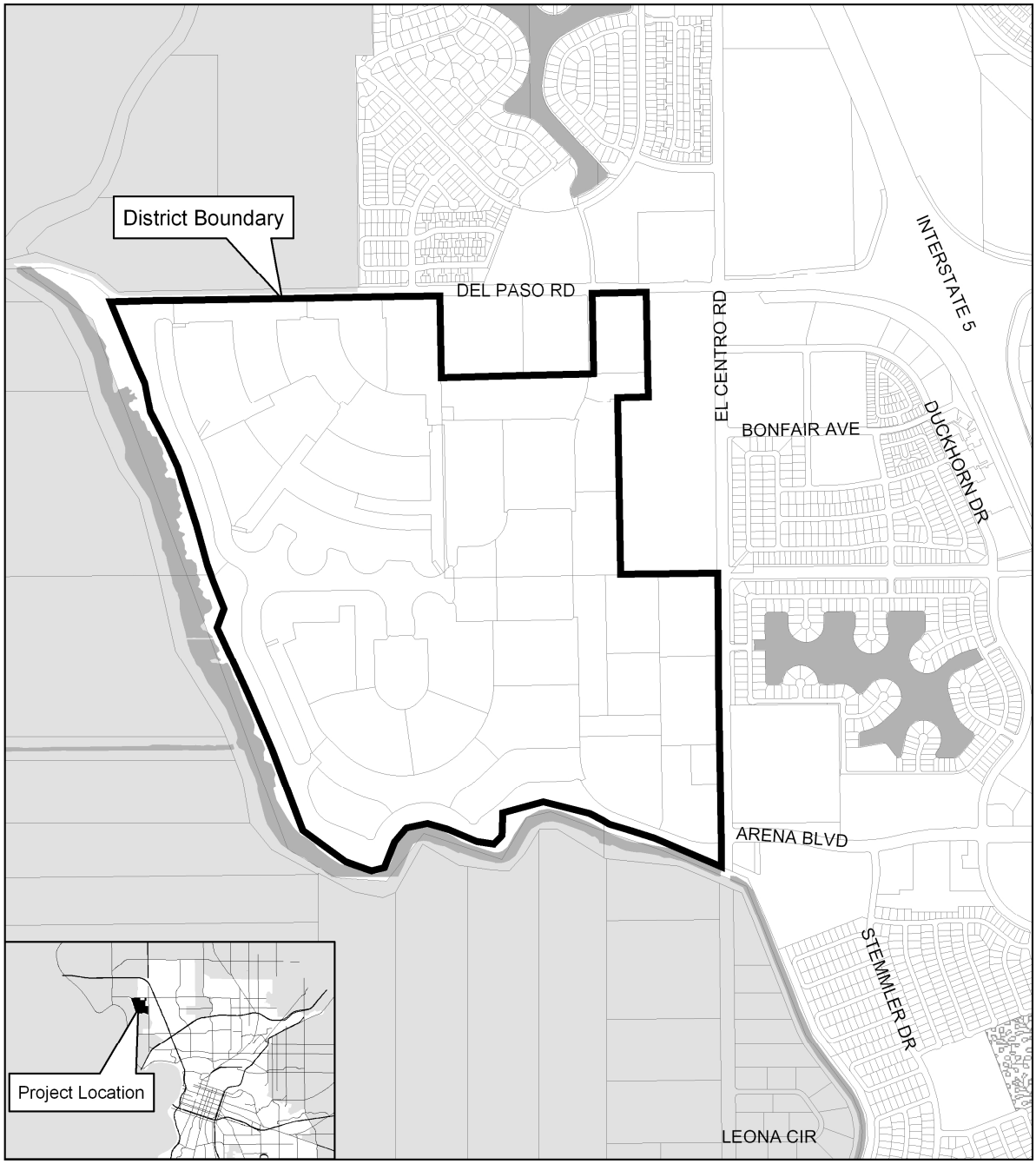
A total of $14,657,991 has been reimbursed to date. Total, eligible expenditures, including those for which the competitive bidding requirement has been waived, total $19,528,893.

The CFD, unlike all but one other construction district in the City at this time, is a “pay-as-you-go” district. All others have issued bonds to reimburse the developers, and, in these instances, the special-tax levies are used for debt service. No periodic Council action is required in districts with bonds.

The CFD is authorized to issue bonds, but has been unable to do so because of the Federal Emergency Management Agency building restrictions and the general economic downturn. The Agreement permits reimbursement from bonds or collected special taxes so long as the total reimbursement does not exceed $35,000,000 less the cost of issuing bonds and administering the CFD.

The location of the CFD is shown in the map below.

North Natomas CFD No. 2006-02 Location Map



Development Services
We Help Build A Great City

BMueller, 08/15/06

0 750 1,500 3,000 Feet

N W E S

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.

2850 Tracy Boulevard, Suite 200 Tracy, California 95376 (209) 833-3310 FAX (209) 833-1624

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 Fong, Senior Engineer

Department of TRANSPORTATION City of Sacramento

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

Department of TRANSPORTATION City of Sacramento

In the letter below, the total of potential reimbursements on page 2 of $8,351,725 includes $6,670,902 that met all requirements except that for competitive bidding. City Council approved the suspension of competitive bidding for these projects by Resolution 2013-0183.

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

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

SACRAMENTO METROPOLITAN
AIR QUALITY
MANAGEMENT DISTRICT

Larry Greene
AIR POLLUTION CONTROL OFFICER

July 23, 2012

Mark Griffin
City of Sacramento
Mail Code 22001
New City Hall, 3rd Floor
915 "I" Street
Sacramento, CA 95814

Re: CFD 2006-2
Verification of SMAQMD Payment and JCFA
Natomas Central Project
City of Sacramento, CA

Dear Mark,

The purpose of this letter is to verify that the Sacramento Metropolitan Air Quality Management District (the District) received a payment in the amount of $1,366,039.00 representing Air Quality Mitigation Fee(s) with a check from Forecast Homes-Northern California, drawn from the Bank of America, Check No. 00100140, dated November 6, 2006. This payment was for the Natomas Central Project in the City of Sacramento.

This letter also serves to address the Joint Community Facilities Agreement (JCFA), City of Sacramento Agreement 2006-1433 (attached). The District hereby acknowledges that we have complied with the terms of the JCFA.

This letter is signed below by an authorized representative for District. Should you have any questions please contact Joseph Hurley at the District at 916-874-2694.

Sincerely,

Joseph James Hurley
Associate Land Use Planner/Analyst
Sacramento Metropolitan Air Quality Management District

CC: Larry Robinson, SMAQMD

777 12th Street, 3rd Floor ▪ Sacramento, CA 95814-1908
916/874-4800 ▪ 916/874-4899 fax
www.airquality.org

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RESOLUTION NO.

Adopted by the Sacramento City Council

APPROPRIATION OF SPECIAL-TAX REVENUE
NATOMAS CENTRAL COMMUNITY FACILITIES DISTRICT NO. 2006-02

BACKGROUND

A. Under City Agreement No. 2008-0683 as amended by City Agreement No. 2008-0683-1, K. Hovnanian Forecast Homes Northern, Inc. (Developer) is entitled to reimbursement for eligible expenses incurred within Natomas Central Community Facilities District No. 2006-02 (CFD), subject to the availability of funds.

B. To date, the City has received $15,971,667 in interest and Mello-Roos special taxes levied for the purpose of financing eligible expenses within the CFD, with $14,657,991 disbursed as follows:

	Amount	Resolution
	$2,244,930	2008-814
	$1,170,672	2009-250
	$1,031,000	2009-571
	$1,311,428	2010-150
	$1,179,104	2010-677
	$897,305	2011-233
	$1,100,000	2011-551
	$1,100,000	2012-090
	$2,823,552	2013-0215
	$1,800,000	2014-0144
Total:	$14,657,991	

An additional $123,543 has been used for collection, disbursement, and accounting expenses, leaving a balance of $1,190,133.

C. The appropriation of $1,100,000 will permit reimbursement to the Developer from available funds. The balance of available funds will be held in reserve pending additional developer submittals, for tax refunds, if any, and for miscellaneous expenses.

D. The City has verified eligible expenses of the Developer in the amount of $19,528,893, leaving a balance to be reimbursed of $3,770,902 after the current disbursement.

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

Section 1. The City Manager is authorized to appropriate $1,100,000 from CFD revenues to Project J22003600 to reimburse the Developer for eligible expenses.