



## Legislation Text

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**File #:** 19-380, **Version:** 1

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**SUBJECT:** Public Hearing and Consideration of the Adoption of Resolution to Authorize the Inclusion in the California Municipal Finance Authority Bond Opportunities for Land Development (BOLD) Program; Authorizes the California Municipal Finance Authority to Accept Applications from Property Owners, Conduct Proceedings and Levy Special Taxes Within the City of Merced Pursuant to the Mello-Roos Community Facilities Act of 1982, As Amended; and Other Related Actions

### REPORT IN BRIEF

Following a Public Hearing, considers the adoption of a Resolution allowing properties within the territory of the City of Merced to participate in the California Municipal Finance Authority (CMFA) Bond Opportunities for Land Development (BOLD) program which provides long-term financing for certain development-related fees and infrastructure improvements.

### RECOMMENDATION:

**City Council** - Adopt a Motion:

A. Approving **Resolution 2019-41**, a Resolution of the City Council of the City of Merced, authorizing use and inclusion in the California Municipal Financing Authorities Bond Opportunities for Land Development (BOLD) Program; Authorizing the California Municipal Finance Authority to accept applications from property owners, conduct proceedings and levy special taxes within the City of Merced pursuant to the Mello-Roos Community Facilities Act of 1982, as amended; and authorizing related actions; and,

B. Authorizing the City Manager or the Assistant City Manager to execute the necessary documents and take any and all actions necessary to carry out the intent of the resolution.

### ALTERNATIVES

1. Approve as recommended by staff; or
2. Approve, subject to conditions as specified by the City Council; or
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items as requested by the Council; or
5. Defer action until a specified date

### AUTHORITY

Charter of the City of Merced, Section 200

### CITY COUNCIL PRIORITIES

City of Merced Adopted Budget Fiscal Year 2019-2020, Section 7 - Economic Development - Mission - Keep Merced as the Center: Implement strategic actions that will have the most direct impact on improving the City of Merced's economic growth and which continues to build Merced's role as the region's center for education, medical services, industry, and professional/commercial services.

## DISCUSSION

The City of Merced desires to participate in the Bond Opportunities for Land Development (BOLD) Program, which is sponsored by the California Municipal Finance Authority (CMFA.) In order to join the Bond Opportunities for Land Development (BOLD), the City Council is required to hold a public hearing to take public testimony on CMFA and bonds to be issued by CMFA, and consideration of a resolution making certain findings and authorizing certain matters necessary to participate in BOLD (ATTACHMENT 1.)

### Background

The City of Merced is a member of CMFA, a State-wide joint powers authority ("JPA") whose members are numerous public entities throughout California. The CMFA has the authority to issue bonds to meet its mission of supporting economic development, job creation and social programs throughout the State of California, while giving back to California communities.

**BOLD Program Introductions:** CMFA recognizes that new development often challenges the mission of municipalities to provide infrastructure and schools, since new development triggers the need to construct, acquire, or otherwise provide additional public facilities to accommodate that growth. The BOLD Program offers a means to finance new or continuing construction of infrastructure and public facilities through bonds the CMFA issues as an alternative to issuance of land-secured bonds directly by a public entity. The BOLD Program is designed to help local government municipalities, schools and land developers throughout the State work together to cost effectively finance public infrastructure projects and development fees.

Under the BOLD Program, bonds are issued by a community facilities district ("CFD") formed by the CMFA under the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 et seq.) (the "Act"). The Act offers great financing flexibility and is commonly used by cities, schools and other local agencies throughout the State to generate funds for the payment of public facilities, including development fees for facilities.

**The Financing Team:** The BOLD Program is handled by a team of bond industry professionals with significant experience in CFDs in the State. All have specialized expertise in CFD bond issuance and sales. In addition, if the City of Merced desires to use a municipal advisor of its own choosing to review the BOLD Program application and/or other program documents may do so, with all related costs payable from bond proceeds. Specifically, the BOLD Program utilizes Jones Hall for bond counsel, Goodwin Consulting Group for special tax consulting services, and Piper Jaffray for underwriting services.

**Benefits of BOLD Program to Local Governments:** Although the CFD would be formed within the City of Merced's jurisdiction, little involvement is required. The City Council is only required to take a single action to approve participation in the BOLD Program and CMFA thereafter works with City staff to ensure the program is meeting any goals the City of Merced sets. The CMFA and its consultant

team will form and approve each CFD, the CMFA will issue bonds on behalf of the CFD and use the services of a special tax consultant and administrator to create the special tax formula and administer, levy, collect the special taxes. By working directly with developers, the BOLD Program facilitates financing for infrastructure and fee obligations of developers, covering a broad range of development cost obligations necessary for new development imposed by municipalities, including both facilities and/or impact fees. Using the BOLD Program alleviates staff time constraints and allows staff to focus on other aspects of processing land development projects.

Bond proceeds are immediately available and may accomplish payment of impact fees in advance of the due date. According to the CMFA, The City of Merced will have the opportunity to access those revenues quickly and eliminate the risk of nonpayment by the developer. The BOLD Program also has the ability to include a municipal services component in the special tax, which the City of Merced may wish to consider at a future time.

**Determining Special Tax Rate:** Formation of the CFD requires the establishment of the annual special tax rates. The formula for computing special tax rates will be included in the resolutions to be adopted as part of the CFD formation proceedings. Typically, the formula will include a basic, undeveloped land tax with an increase in rate and shifting of the tax to developed lands at building permit stage. The total amount of taxes on developed land generally will not exceed 2% of its market value in its completed state, per industry standards.

**Bond Issuance:** Bonds are issued through the CMFA, with little involvement from local agencies needed for the issuance process. The City of Merced will need to approve the use of a CFD to acquire public facilities and the financing thereof, and enter into an acquisition or similar agreement to receive the bond proceeds, and to meet the general requirements to maintain the tax exemption of interest on the bonds. The CMFA adopts the resolutions needed to authorize and issue the special tax bonds and awards the sale to the bond underwriter.

**Use of Bond Proceeds:** Once the bond issuance occurs, bond proceeds are available to be disbursed. The proceeds are held by a bond trustee and are not directly paid to the developer but are available as directed by the developer and approved by the local agency, to be used to meet obligations to the City of Merced according to the structure and timing required for development approvals. Pursuant to an acquisition agreement or similar document, the City of Merced will determine and agree to its role in inspecting and accepting infrastructure and/or payment of financed impact fees.

**Underwriting for Bond Issuance:** The CFD may be formed early in the development process, with issuance of bonds at a later time or in multiple series. The following are the typical criteria for bond issuance.

- Minimum 4:1 value-to-debt ratio overlapping (assessed or appraised)
- No discretionary approvals required for build-out of the portion of the CFD directly relating to the bond security
- Entitlements received that are necessary for phase to be bonded
- Financing plan for backbone infrastructure complete or imminent and/or performance bond in place

Credit criteria will be reviewed by the underwriting team on a case-by-case basis to assure reasonable interest rates at the time of issuance. Additionally, similar credits can be pooled together into a single bond issue with pooling flexibility assuring the most cost-effective bond issuance for each project.

**Administration of the Bonds and the CFD:** Administration of all aspects of the BOLD Program is handled by the CMFA, without cost to or burden on the City of Merced. Federal regulations require annual disclosures to bond investors of information related to the bonds and the development project. BOLD Program administrators will handle this continuing disclosure reporting in consultation with developers.

**Lower Fees than other Programs and Financings:** The CMFA strives to maintain a fee structure that is lower than other JPA conduit issuers. The CMFA has indicated that its underwriting fees will range between 0.95% and 1.25%, although such estimates are subject to change.

**Giving Back to Local Communities:** The CMFA shares a portion of its issuance fees directly with its member communities. In addition, a grant from a portion of the issuance fee is made to the California Foundation for Stronger Communities ("CFSC") to fund charities designated by the member communities. A portion of the annual fees received by the CMFA are in turn directed to charitable activities within California communities, particularly those of members and participating local government agencies. This unique commitment to give back directly to the communities in which they operate sets CMFA apart from other JPA conduit issuers.

**Information for Bond Marketing:** Tax-exempt municipal bonds are sold through an offering document known as an Official Statement, which describes to potential purchasers of the bonds the terms, security and repayment of the bonds and details about the property securing the bonds. Since, prior to home sales, the land is owned by the developer entity(ies), relevant information for the Official Statement needs to describe the developer and the development plan. The financing team will work with the developer to provide the required information and approve the final language to be provided to prospective bond buyers.

**Disclosure of Special Tax to Home Buyers:** California law requires developers to disclose to home buyers the lien of any CFD special tax which will be present on the purchased property. The form of disclosure is simple and becomes part of the various sale documents presented to buyers for signature prior to a home sale.

### Other Considerations

The BOLD program is a cost-effective and relevant form of land secured financing, and the more cost effective a bond financing is, the greater overall public benefit there is, as more bond proceeds are available for the acquisition of public infrastructure, and the end property owner is able to take advantage of the benefit of long term financing of certain elements.

The development community has expressed a desire for the City of Merced to adopt and implement the BOLD Program and it is an offering of CMFA that the City, as a member of CMFA is entitled to use.

It is recommended that the City Council hold a public hearing on the BOLD Program and adopt a

resolution authorizing the BOLD Program within the Merced City Limits.

### **IMPACT ON CITY RESOURCES**

Participating in the in the BOLD program does not require an appropriation of funds from the City. All of the costs and expenses related to the formation, issuance of bonds and ongoing administration for any CFD formed by the BOLD program is the responsibility of CMFA and there is no liability or fiscal impact on the local agency.

### **ATTACHMENTS**

1. BOLD Program Resolution
2. BOLD Program Information