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SUBJECT: Authorization to Issue Community Facilities District No. 2006-1 (Moraga of Merced) of the City of Merced, 2019 Special Tax Refunding Bonds, in the Aggregate Principal Amount not to Exceed $4,500,000, Authorizing the Sale of Such Bonds Upon Certain Terms and Conditions, Approving an Official Statement, Approving the Execution and Delivery of a Fiscal Agent Agreement, an Escrow Agreement, a Bond Purchase Agreement and a Continuing Disclosure Agreement, and Authorizing the Execution of Necessary Documents and Certificates and Related Actions

REPORT IN BRIEF

Considers refunding bonds for Moraga of Merced.

RECOMMENDATION

City Council - Acting as the Legislative Body of Community Facilities District No. 2006-1 (Moraga of Merced) of the City of Merced, adopt a motion:

A. Adopting **Resolution 2019-76**, a Resolution of the City Council of the City of Merced, California, acting as the legislative body of Community Facilities District No. 2006-1 (Moraga of Merced) of the City of Merced authorizing the issuance of Community Facilities District No. 2006-1 (Moraga of Merced) of the City of Merced, 2019 special tax refunding bonds, in the aggregate principal amount not to exceed $4,500,000, authorizing the sale of such bonds upon certain terms and conditions, approving an official statement, approving the execution and delivery of a fiscal agent agreement, an escrow agreement, a bond purchase agreement and a continuing disclosure agreement, and authorizing the execution of necessary documents and certificates and related actions; and,

B. Authorizing the City Manager or the Assistant City Manager or the City Attorney or the Finance Officer or the Mayor to execute necessary documents, certificates and related actions; and,

C. Authorizing the Finance Officer to make necessary budget adjustments.

ALTERNATIVES

1. Approve the action as recommended.
2. Request modification or amendment to the documents and provide direction to City staff regarding the same.
3. Decline to authorize action as recommended.

AUTHORITY

Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code (the "Act"), commonly known as the "Mello-Roos Community Facilities Act of 1982," the City's CFD Goals and Policies and Sections 405 and 1105 of the City of Merced Charter.

CITY COUNCIL PRIORITIES
Economic Development

DISCUSSION
Pursuant to the Act and the City's CFD Goals and Policies, in July 2006 the City formed a community facilities district (CFD) under the Act in response to a petition by the original developer, Lakemont LWH, LLC. In July 2006, following a successful landowner election, the CFD authorized the levy of a special tax pursuant to a rate and method of apportionment and authorized the issuance of not to exceed $6,500,000 in special tax bonds for the District. In December 2006 $5,840,000 principal amount of special tax bonds were sold, of which $3,905,000 are currently outstanding (the "2006 Bonds"). The undeveloped land is currently held by Lennar Homes of California, Inc.

Staff is currently proposing to refund the 2006 Bonds to lower interest cost and annual debt service through the sale of Refunding Bonds by the CFD (the "Refunding Bonds"). Current bond market interest rates will allow the CFD to pay lower debt service and to permanently lock in the lower interest rates.

Based on current bond market conditions, a refunding could result in estimated overall savings of approximately $499,175 (or $411,838 in net present value dollars). Estimated annual savings would be approximately $29,363 annually during the 17-year remaining life of the bonds. Initially, savings in Special Taxes will be allocated to undeveloped parcels only. As home sales occur savings will be reallocated and the saving shift to the developed property. The Refunding Bonds will refund the 2006 Bonds and the 2006 Bonds will be redeemed on the earliest call date, March 1, 2020. The Refunding Bonds will have the same final maturity date as the 2006 Bonds (September 1, 2036). Current Net Present Value savings exceed 10% for the bonds to be refunded. The cities debt policy has a minimum net present value savings target of 3%.

The public disclosures required under SB 450, effective January 1, 2018, are incorporated herein. The estimates have been determined as of September 25, 2019. Specifically:

1) *The true interest cost of the bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of bonds is estimated to be 2.99%.*

2) *The finance charge of the bonds, which means the sum of all fees and charges paid to third parties is estimated to be $264,736. Bond insurance premiums, which lower interest cost in excess of the fees charged, are estimated to be $0. Such insurance is not expected to be cost effective.*

3) *The amount of proceeds received by the public body for sale of the bonds less the finance charge of the bonds described and any reserves or capitalized interest paid or funded with proceeds of the bonds is estimated to be $3,619,254 to be used to decease the 2006*

Bonds.

4) *The total payment amount, which means the sum total of all payments the borrower will make to pay debt service on the bonds plus any finance charge of the bonds not paid with the proceeds of the bonds. The total payment amount calculated to the final maturity of the bonds is estimated to be $5,527,420.*

The current development of the property within the CFD for 249 single family homes by Lennar is part of a community called “Moraga,” which is being marketed in three product lines known as “Chateau,” “Skye,” and “Summer.” Lennar is also currently processing a subdivision for the remaining 40 acre site of undeveloped land that will create approximately 233 additional single family home sites.

The Refunding Bonds will be designated as “Qualified Tax Exempt Obligations” (or “Bank-Qualified Bonds”) in accordance with the provisions of section 265(b)(3) of the Internal Revenue Code. This designation makes the Refunding Bonds more attractive to certain financial institutions. The designation means that the District or the City has not incurred or issued, and does not reasonably expect to incur or issue, tax-exempt obligations (bonds, notes, lease agreements, etc., other than certain private activity bonds) during calendar year 2019 in an aggregate amount in excess of $10,000,000.

It is appropriate at this meeting to consider for adoption the resolution of the City authorizing the issuance of the Refunding Bonds in an amount not to exceed $4,500,000. Through the adoption of the subject Resolution certain bond documents will be approved.

<u>General Summary of Security</u>

These special tax bonds are secured by annual special taxes on the properties in the CFD and, ultimately, by the properties themselves. In addition, a reserve fund for the CFD is established from bond proceeds. The reserve fund can be used to pay debt service in the event that a property owner does not pay its special tax on time. Once the reserve fund is depleted, the City has NO obligation to advance funds to pay the bonds. Each year special taxes will be levied against the properties in the CFD as part of the County property tax bill. In the event a property owner becomes delinquent on its property tax payment, the City covenants to initiate foreclosure proceedings provided the delinquency for such parcel is $5,000 or more or if the overall CFD has a delinquency rate of equal to or greater than 5%. This covenant is very important to bond owners, as the property itself is the ultimate security for the bonds. The five-year delinquency history is very low at less than 1%. Additionally, the CFD is under the County’s Teeter Plan and the CFD currently receives 100% of the taxes it levies.

Potential investors will look closely at the value of the property underlying the bonds relative to the special tax lien. Most industry professionals (as well as your CFD Policies) consider a 3.5:1 value to lien as an acceptable minimum for property securing a special tax bond issue. Based on a mix of the assessed value for developed property and the current appraised values of the undeveloped Lennar lots within the CFD, the aggregate average value to lien for these bonds is over 15:1. The appraised values for the undeveloped properties have an estimated value to lien of approximately 7.5:1.

Fiscal Agent Agreement

The key legal document that lays out the legal structure and terms of the financing. It specifies payment dates, maturity dates of the bonds; revenues and accounts specifically pledged to the repayment of the bonds; flow of funds, default and remedy provisions; defeasance provisions in the event the bonds are prepaid; and covenants of the City (including foreclosure covenants). It is drafted by Bond Counsel and executed by the CFD and Fiscal Agent.

Escrow Agreement

This Agreement provides that proceeds from the Refunding Bonds will be deposited with the 2006 Bonds fiscal agent and used to redeem and decease the 2006 Bonds. It is drafted by Bond Counsel and executed by the CFD and 2006 Bonds fiscal agent.

Official Statement

This document describes the security and discloses potential risks to prospective investors. It will generally describe the sources of payment for the bonds, the value of the land ultimately securing the bonds, economic and demographic characteristics of the CFD and City, and inherent known risk factors associated with the security. It's important that this document not contain any material misstatements or omissions. The Preliminary Official Statement (often referred to as the "POS") is distributed by the underwriter to prospective investors prior to the bond sale so that they can make informed purchase decisions. The POS should be as close to final as possible with the actual terms of the pricing (interest rates and principal amounts) left necessarily blank. The Final Official Statement will be prepared shortly after the bond sale and must be available in time for bond closing. The POS and FOS are drafted by Disclosure Counsel and the FOS is executed by the CFD.

Continuing Disclosure Agreement

This agreement outlines the updated information related to the security that the CFD will agree to provide to the bond markets. Disclosure is required annually, and on an exceptional basis for any major "material" event. This document is drafted by Disclosure Counsel and executed by CFD and Goodwin Consulting Group, Inc., as dissemination agent. Lennar Homes of California, Inc., as owner of property subject to 10% or more of the special tax will also be executing a continuing disclosure certificate.

Bond Purchase Agreement

This contract is executed on the day of the bond sale, and specifies the actual principal amounts, interest rates and prices of the Refunding Bonds. In it, Brandis Tallman LLC commits to purchase the bonds at closing at the agreed upon prices and amounts subject to certain closing conditions. Closing conditions generally relate to the execution and validity of all required documents and the absence of material changes in the nature of the security. It is drafted by Disclosure Counsel and reviewed by City Attorney and executed by the CFD and the underwriter.

IMPACT ON CITY RESOURCES

Other than staff time spent working with outside professional consultants there is no fiscal impact to the City of Merced.

ATTACHMENTS

1. Resolution Authorizing Issuance of Refunding Bonds
2. Fiscal Agent Agreement
3. Escrow Agreement
4. Continuing Disclosure Agreement (Issuer)
5. Continuing Disclosure Agreement (Landowner)
6. Bond Purchase Agreement
7. Preliminary Official Statement