



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: May 4, 2012 REPORT NO: 12-058

ATTENTION: Council President and City Council

SUBJECT: Community Facilities District No. 1 (Miramar Ranch North) Special Tax Refunding Bonds, Series 2012

REFERENCE: Bond Refundings Report to Budget & Finance Committee (Report No: 12-020), dated February 12, 2012

REQUESTED ACTION(S):

Authorize the issuance of the Community Facilities District No. 1 (Miramar Ranch North) Special Tax Refunding Bonds, Series 2012 (“Refunding Bonds”) in a principal amount not to exceed \$28.5 million and the execution of related financing documents to refund the Community Facilities District No. 1 (Miramar Ranch North) Special Tax Refunding Bonds, Series 1998. The related financing documents include a Bond Indenture, an Escrow Agreement, a Bond Purchase Agreement, the Preliminary Official Statement, and a Continuing Disclosure Certificate.

Authorize the City Attorney to enter into an agreement with Stradling, Yocca, Carlson and Rauth to provide Bond and Disclosure Counsel services in connection with the issuance of the Refunding Bonds.

STAFF RECOMMENDATION:

Approve the requested actions.

SUMMARY:

I. BACKGROUND

The Mello-Roos Community Facilities Act of 1982 (the “Mello-Roos” Act) was enacted by the State to help growing areas finance essential public infrastructure that typically accompanies major development projects. The Mello-Roos Act provides for the establishment of a Community Facilities District (“CFD”) for the purpose of financing certain public improvements and/or services. The City’s Council Policy 800-03, which was in effect at the time Community Facilities District No. 1 (Miramar Ranch North) (the “District”) was formed, allows for

utilization of CFDs to finance public facilities required in connection with development.¹ In accordance with the Mello-Roos Act and the Council Policy, and following public hearings and a special election conducted pursuant to the Mello-Roos Act, the City Council adopted the necessary resolutions and ordinances to form the District in January 1991. Subsequently, the District issued CFD No. 1 (Miramar Ranch North) Special Tax Bonds 1991 Series A in the amount of \$35.3 million in 1991 and CFD No. 1 (Miramar Ranch North) Special Tax Bonds 1995 Series B in the amount of \$20.9 million in 1995. The bonds were conduit issuances, executed to fund certain public infrastructure facilities within or serving the District. The facilities include major street improvements, water and sewer facilities, community park improvements, a library contribution, and a portion of Fire Station No. 37. The facilities were substantially completed in the late 1990's, and all facilities have been acquired by the City. The 1991 Series A and 1995 Series B bonds were subsequently refunded by the \$59,465,000 City of San Diego Community Facilities District No. 1 (Miramar Ranch North) Special Tax Refunding Bonds, Series 1998 issued in July 1998 (the "1998 Bonds"). The 1998 Bonds are secured solely by special taxes levied upon approximately 3,149 parcels of property located within the District. The special taxes are levied and collected annually via property tax bills. The proposed issuance contemplates the full refunding of the 1998 Bonds.

II. DISCUSSION

A summary of the key aspects of the financing plan for the Refunding Bonds and structure are provided below. Additional detail is provided following the summary:

- **Purpose:** Economic refunding to lower debt service; full refunding
- **Method of Sale:** Negotiated sale. Public offering
- **Issuance Size:** Principal not to exceed \$28,500,000
- **Repayment Source:** The Refunding Bonds are payable from Special Taxes levied on taxable property within the District. No funds of the General Fund are pledged to repayment of the Refunding Bonds.
- **Final Maturity:** Eight year term (through September 1, 2020). No extension of the final maturity.

A. Method of Sale - Negotiated Public Offering

Due to the nature of the security for CFD bonds (i.e., the bonds are secured solely by Special Tax revenues levied on property within the established district) such as the Refunding Bonds, most CFD bond sales in the State of California utilize a negotiated sale method. With a negotiated

¹ On November 6, 2007, the City Council passed a resolution to repeal Council Policy 800-03 and to approve a new Special Districts Formation and Financing Policy ("the Policy"), which is included in the City's Debt Policy. The resolution stated that the new Policy would apply only to CFDs and Assessment Districts formed after the effective date of the resolution. Therefore, in connection with the issuance of the Refunding Bonds, Council Policy 800-03 is still considered operative.

sale, the underwriter is selected early in the financing process. This gives the underwriter adequate time to pre-market the Refunding Bonds to appropriate investors.

B. Issuance Size

Under current market conditions, the proposed Refunding Bonds issuance is anticipated to total approximately \$25.8 million to execute a full refunding of the 1998 Bonds. The not to exceed authorization of \$28.5 million will provide sufficient cushion to facilitate the refunding should interest rates rise or market preferences for coupon structures change. The Financing Resolution includes the authorization until December 31, 2012 to issue the Refunding Bonds in the event the market fluctuates to a level that would prevent the execution of an economic refunding between now and the anticipated pricing date (June 2012) of the Refunding Bonds.

The table below specifies the estimated sources and uses of proceeds to defease the 1998 Bonds:

Sources and Uses of Funds*

<u>Estimated Sources</u>	
Bond Issue ¹	\$ 27,155,693
Release of 1998 Debt Service Reserve Fund	4,422,847
Additional Available District Funds ²	<u>3,854,904</u>
Total Proceeds	\$ 35,433,444
<u>Estimated Uses</u>	
Deposit to Defeasance 1998 Bonds ³	\$ 32,508,419
Refunding Bonds Debt Service Reserve Fund	2,582,500
Costs of Issuance ⁴	338,498
Rounding	<u>4,027</u>
Total Uses of Funds	\$ 35,433,444

* Preliminary; subject to change. Based on interest rates as of April 2012.

¹ Includes par amount of bonds (\$25,825,000) and Original Issue Premium ("OIP") (\$1,330,693).

² Additional Available District Funds includes Special Taxes collected in Tax Year 2011-2012 to pay the September 1, 2012 debt service payment due on the 1998 Bonds.

³ Reflects deposit into escrow to defease the 1998 Bonds, including sufficient funds to provide for debt service due on the September 1, 2012 maturity of the 1998 Bonds (\$2,963,763), and the remaining outstanding principal to be refunded (\$28,850,000) plus associated accrued interest to the defeasance date of September 1, 2012 (\$694,656).

⁴ Costs of Issuance include legal fees, special tax consultant fees, financial advisor fees, underwriter's discount, City staff costs, and other expenses related to the issuance of the bonds.

C. Repayment Source – Special Taxes

Debt service on the Refunding Bonds would be payable from Special Taxes levied on taxable property within the District over the term of the Refunding Bonds, in accordance with the Rate and Method of Apportionment of Special Taxes approved by the City Council and through a landowner election process. The Refunding Bonds are not general or special obligations of the City. The Refunding Bonds are special limited obligations of the District payable solely from Special Taxes collected from owners of taxable property within the District.

If there is a shortfall in the amount of Special Taxes available to make a debt service payment, monies would be withdrawn by the Trustee from the Debt Service Reserve Fund (“DSRF”). The DSRF is established when the bonds are issued, and will be sized in an amount approximately equivalent to 10% of the par amount of the Refunding Bonds, in accordance with tax requirements concerning the maximum amount of reserves for the transaction. In addition, the District has provided a covenant in the Bond Indenture wherein it will pursue foreclosure on property delinquent in the payment of Special Taxes if certain delinquency thresholds are reached as required under the indenture. This covenant exists for the outstanding bonds, and is a market expectation for these types of land secured transactions.

D. Interest Rate and Projected Debt Service

Under market conditions as of April 2012, the estimated True Interest Cost (“TIC”) for the Refunding Bonds is approximately 3.02%. The estimated annual debt service payments due on the Refunding Bonds would be \$3.8 million over an eight year period, compared to \$4.4 million for the existing bonds being refunded. The difference in the average annual debt service for the outstanding bonds compared to the Refunding Bonds is approximately \$580,000 through 2020 starting with tax year 2012-2013. The net present value (“NPV”) savings level for the refunding, including costs incurred for the refunding, is \$2.1 million, or 7.2% expressed as a percentage of the bonds refunded. As set forth in the Financing Resolution, refunding bonds would only be issued if a NPV savings level of at least 3.00% is achieved.

E. The Financing Team

The Financing Team for the Refunding Bonds includes staff of the Department of Finance, including Debt Management, the City Treasurer’s Office, and the City Comptroller’s Office, the City Attorney’s Office, and outside consultants, including the financial advisor (Public Financial Management, Inc.), a special tax consultant (David Taussig & Associates), bond and disclosure counsel (Stradling, Yocca, Carlson, & Rauth), the Book Running Senior Manager (De La Rosa & Co.), the Co Manager (Bank of America Merrill Lynch), the underwriter’s counsel (Nossaman, Guthner, Knox & Elliot LLP), and the trustee (U.S. Bank National Association).

Public Financial Management, Inc. (“PFM”) was selected to provide financial advisory services for this transaction from the City’s As-needed Financial Advisors List based on the firm’s experience in land secured financings and the fee estimate. The fee to PFM for this issuance is for an amount not to exceed \$29,500, plus out of pocket expenses not to exceed \$1,500.

David Taussig & Associates was selected to provide special tax consulting services for this transaction from the City’s As-needed Special Tax Consultant/Assessment Engineer List based

on the firm's experience in land secured financings and the fee estimate. The fee to David Taussig & Associates for this issuance is for an amount not to exceed \$15,000, plus out of pocket expenses not to exceed \$500.

De La Rosa & Co. was identified as the Book Running Senior Manager for the Refunding Bonds through a competitive process. A Request for Proposals for the Refunding Bonds was issued in March 2012. In total, eight underwriting proposals were received of which five firms proposed to serve as a Senior Manager and three firms proposed solely as a Co-Manager. Bank of America Merrill Lynch was selected to serve as Co-Manager. The syndicate members were identified based on the investment banking and underwriting experience of the firms on similar transactions, financial capacity to underwrite the bonds, and marketing outreach capabilities.

The City Attorney's Office has identified Stradling, Yocca, Carlson, & Rauth to serve as bond and disclosure counsel for the transaction through a Request for Proposals process. Stradling, Yocca, Carlson, & Rauth has proposed to provide such services for a fee in an amount not to exceed \$60,000. Expenses are not to exceed \$2,000.

U.S. Bank National Association is the existing trustee for the 1998 Bonds, and will serve as the trustee for the Refunding Bonds. Compensation for the trustee includes \$1,900 for the transaction and ongoing annual fees of \$600 including transactional expenses.

Payment of fees for the above referenced outside consultants are contingent on the successful closing of the Refunding Bonds, and will be paid from bond proceeds.

F. The Financing Documents

The financing documents that the City Council would approve through the proposed actions include the forms of a Bond Indenture, a Bond Purchase Agreement, an Escrow Agreement, a Continuing Disclosure Certificate, and a POS.

- a. Financing Resolution – The Financing Resolution authorizes the issuance of the Refunding Bonds, establishes the terms of the bond sale, and provides for the approval of the financing documents.
- b. Bond Indenture – The Bond Indenture is an agreement between the District and the Trustee for the District, U.S. Bank National Association, which outlines the District's and the Trustee's responsibilities and obligations and the rights of the bondholders with respect to the Refunding Bonds, and pledges Special Taxes levied within the District to repay the Refunding Bonds. The Indenture includes information regarding the amount of the Refunding Bonds, maturities and interest rates on the bonds, and the nature of the bonds (i.e., that the bonds are not obligations of the City, and are limited obligations of the District).
- c. Bond Purchase Agreement – The Bond Purchase Agreement (“BPA”) is an agreement between the District and the Underwriters for the transaction pursuant to which the District agrees to sell, and the Underwriters agree to buy, the Refunding Bonds. It specifies the purchase price of the Refunding Bonds, and certain terms of the bonds, such as interest rates and maturities. The agreement also specifies documents that the parties

must receive prior to bond closing, including the Bond Counsel opinion regarding the validity and tax exempt nature of the bonds as well as certain opinions and certificates of the City Attorney and other City and District officials. Such opinions and certificates would confirm, among other things, that all steps necessary to authorize the execution of the financing documents and the issuance of the bonds have been properly taken.

- d. The Escrow Agreement - The Escrow Agreement is an agreement between the District and U.S. Bank National Association. It provides for the establishment of an Escrow Fund into which sufficient funds are deposited from the proceeds of the issuance of the Refunding Bonds and other available District funds to defease the 1998 Bonds. The deposited funds will provide for the debt service due on the September 1, 2012 maturity of the 1998 Bonds and the remaining outstanding principal and associated accrued interest to the defeasance date of September 1, 2012.
- e. The Preliminary Official Statement (POS) – The POS describes the bond issue to the potential investors. It provides information that a reasonable investor in these types of securities would need to make an informed investment decision. Specifically, the POS for the Refunding Bonds includes information about the Refunding Bonds, sources of repayment of the Refunding Bonds, the District, and the development and property ownership.

The POS also includes information on risk factors. Land based securities are generally considered more risky than securities backed by a governmental entity such as the City. For example, a downturn in the economy or a natural disaster could result in a reduction in property values and could adversely affect the ability or willingness of property owners to pay the Special Taxes, which are the security for repayment of the Refunding Bonds.

Appendices to the proposed POS include: A copy of the current Rate and Method of Apportionment (Appendix A); supplemental economic information relating to the City (Appendix B); a summary of the Indenture (Appendix C); the Continuing Disclosure Certificate of the District (Appendix D); the form of Bond Counsel Opinion (Appendix E); and information concerning the Depository Trust Company's book entry only system (Appendix F).

- f. The Continuing Disclosure Certificate – The Continuing Disclosure Certificate (the "CDC") is included in the POS, and is a commitment by the District to file certain information related to the Refunding Bonds and the District annually with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System for the benefit of the bondholders. Such information includes the balance in each fund held by the trustee, including the DSRF, and an annual update of the special tax delinquency table provided in the POS. In addition, although a City CAFR is not required or expected for the initial offering and is therefore not included with the POS, SEC rules do require a City CAFR to be filed annually with the bond and District information. The first annual report for the District will be due April 1, 2013.

G. Schedule

The Disclosure Practices Working Group reviewed the POS and approved forwarding the document to City Council. Should the City Council approve the Financing Resolution and related financing documents for the Refunding Bonds, it is anticipated that the Refunding Bonds would be sold the week of June 4, 2012. The bond closing (receipt of bond proceeds) would occur the end of June or early July 2012.

III. FISCAL CONSIDERATIONS:

As described above, under "Interest Rate and Projected Debt Service" under current market conditions as of April 2012, the estimated True Interest Cost ("TIC") for the Refunding Bonds is approximately 3.02%. It is estimated the issuance of the Refunding Bonds will result in net savings to the District of approximately \$580,000 annually through 2020 starting tax year 2012-2013.

IV. PREVIOUS CITY COUNCIL ACTIONS:

The City Council previously approved actions relating to the formation of the District and the issuance of bonds. These actions include: the adoption of City Council resolutions on November 27, 1990 stating the City Council's intent to establish the District, to authorize the levy of Special Taxes, and to have the District incur bonded indebtedness; the January 8, 1991 adoption of City Council resolutions establishing the District, declaring the necessity to issue bonded indebtedness, and authorizing the levy of special taxes, following a noticed public hearing and election; the adoption of an ordinance authorizing the levy of a special tax adopted on January 22, 1991; the adoption of various resolutions and an ordinance on November 30, 1993 to effect change proceedings involving a public hearing and election process relating to the amendment of the list of eligible facilities to be financed by the District and the modification of the Rate and Method of Apportionment reducing the maximum special taxes under the RMA, and the reduction of the authorized amount of bonded indebtedness; the adoption of an ordinance on January 3, 1994 authorizing the levy of a special tax in the District; resolutions adopted on April 30, 1991 and November 27, 1995 to authorize the issuance of the 1991 Series A and 1995 Series B District bonds, respectively; the adoption of a resolution on June 8, 1998 to authorize the issuance of the 1998 Bonds; and various resolutions adopted annually to establish the levy for the subsequent tax year.

On February 29, 2012, the Debt Management Department presented a report to the Budget and Finance Committee on Bond Refundings and the committee took action to forward the Refunding Bonds transaction to City Council for consideration and approval.

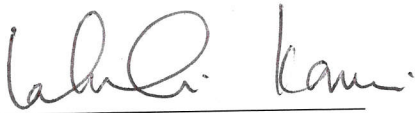
V. COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 25, 2011, the City Council adopted Resolution R-306929, approving the Fiscal Year 2012 Special Tax Levy for Community Facilities District No. 1 (Miramar Ranch North).

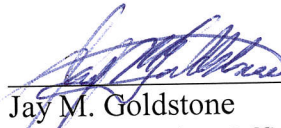
VI. KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the special taxpayers in CFD No. 1 (Miramar Ranch North) who would benefit from the refunding due to the lower debt service on the Refunding Bonds. Business entities involved in the transaction are: De La Rosa & Co. (Underwriter - Senior Manager); Bank of America Merrill Lynch (Underwriter – Co Manager); Nossaman, Guthner, Knox & Elliot LLP (Underwriter’s Counsel); Stradling, Yocca, Carlson and Rauth (Bond and Disclosure Counsel); Public Financial Management, Inc. (Financial Advisor); David Taussig & Associates (Special Tax Consultant); and U.S. Bank National Association (Trustee).

Respectfully submitted,



Lakshmi Kommi
Debt Management Director



Jay M. Goldstone
Chief Operating Officer