THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED:	May 20, 2013	REPORT NO: 13-039
ATTENTION:	Council President and City Council	
FROM:	Debt Management Department	
SUBJECT:	City of San Diego Assessment District No. 4096 (Piper Ranch) Limited Obligation Refunding Bonds	

REQUESTED ACTION(S):

Adopt the Reassessment Report for and confirm and order reassessments within the City's Assessment District No. 4096 (Piper Ranch), and authorize the issuance of City of San Diego Assessment District No. 4096 (Piper Ranch) Limited Obligation Refunding Bonds (the "Refunding Bonds") in a principal amount not to exceed $3.83 million, and the execution of related financing documents. The related financing documents include: a Bond Indenture between the City and Union Bank, N.A.; a Bond Purchase Agreement between the City and E. J. De La Rosa & Co., Inc. and Stifel, Nicolaus & Co., Inc.; a Continuing Disclosure Certificate, and a Preliminary Official Statement.

Authorize the City Attorney to execute an agreement with Stradling Yocca Carlson & 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 City of San Diego Assessment District No. 4096 (Piper Ranch) (the "District") was formed by the City in 2003 pursuant to Division 12 of the California Streets and Highways Code (the "Municipal Improvement Act of 1913") to assist in providing certain street, sewer, and storm drain improvements (the "Improvements") of special benefit to the parcels within the District. The District is located in the Otay Mesa community of the City, approximately one-half mile east of Brown Field airport in an area known as Piper Ranch Business Park. City Council also previously authorized the issuance of the City's Assessment District No. 4096 (Piper Ranch) Limited Obligation Improvement Bonds (the "2004 Bonds") pursuant to Division 10 of the Code (the

"Improvement Bond Act of 1915") and the City Council's Policy 800-03, which was in effect at the time the District was formed. Council Policy 800-03 allowed for utilization of Assessment Districts to finance public facilities required in connection with development, and particularly cited projects in Otay Mesa for special consideration when they could facilitate the development of employment opportunities.[1] The 2004 Bonds were issued in January 2004 in the amount of $5.4 million. The Improvements were subsequently completed by the developer, Otay Investors LLC, and acquired by the City.

The 2004 Bonds are secured solely by special assessments levied upon approximately 21 parcels of property within the District. If there is a shortfall in special assessment revenues (e.g., due to delinquencies), the City is not obligated to advance any general City funds to cure the deficiency. The annual special assessment installments are calculated by the City and collected annually via the property tax bills mailed by the County. Currently, $3.94 million of 2004 Bonds are outstanding.

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 existing debt service; full refunding.
- **Features**: Negotiated sale. Public offering. Not rated.
- **Issuance Size**: Principal not to exceed $3,830,000 authorization.
- **Repayment Source**: The Refunding Bonds are payable solely from the reassessments levied on property within the District. No funds of the General Fund are pledged to repayment of the Refunding Bonds.
- **Debt Service Reserve Fund:** Sized at approximately maximum annual debt service.
- **Final Maturity**: Remains September 2, 2033 with serial and term bonds. No extension of the final maturity.

A. Method of Sale -Negotiated Public Offering

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

[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 Community Facilities Districts 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.

B. Issuance Size

Under current market conditions, the proposed Refunding Bonds issuance is anticipated to total approximately $3.83 million to execute a full refunding of the 2004 Bonds. The table below specifies the estimated sources and uses of proceeds to defease the 2004 Bonds:

Sources and Uses of Funds*

Estimated Sources		
Bond Issue[1]	$	3,979,194
Release of 2004 Debt Service Reserve Fund		341,243
Additional Available District Funds[2]		279,464
Total Proceeds	**$**	**4,599,901**
Estimated Uses		
Deposit to Defease 2004 Bonds[3]	$	4,058,041
Refunding Bonds Debt Service Reserve Fund		302,925
Costs of Issuance[4]		238,533
Rounding		402
Total Uses of Funds	**$**	**4,599,901**

* Preliminary; subject to change. Based on interest rates as of May 2013.

1 Includes par amount of bonds ($3,830,000) and Original Issue Premium ($149,194), based on current market and structuring considerations.

2 Additional Available District Funds includes assessments collected in Tax Year 2012-2013 to pay debt service payments due on the 2004 Bonds, and other District funds on hand.

3 Reflects deposit into redemption fund to defease the 2004 Bonds, including sufficient funds to provide for the principal being refunded ($3,835,000), and principal and interest due September 2, 2013 on the 2004 Bonds ($223,041).

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

C. Repayment Source – Special Reassessments

Debt service on the Refunding Bonds is payable solely from reassessments (see below for information concerning the reassessments) levied on property within the District over the term of the Refunding Bonds. The bonds are special limited obligations of the City and the City is not obligated to step in if there is a shortfall in reassessments (e.g., due to delinquencies). If there is a shortfall in the amount of reassessment installments available to make a debt service payment, monies would be withdrawn by the Trustee from the Debt Service Reserve Fund ("DSRF"). The DSRF, which the market would expect for this type of land secured credit, will be sized in an amount approximately equivalent to the maximum annual debt service on the Refunding Bonds, in accordance with tax requirements concerning the maximum amount of reserves for the transaction. In addition, the District will covenant in the Bond Indenture to pursue judicial foreclosure on property delinquent in the payment of reassessments if certain delinquency thresholds are reached as set forth in the Indenture. This covenant exists for the 2004 Bonds, and is a market expectation for these types of land secured transactions.

Reassessments

The requested actions would facilitate the reassessments (essentially, reductions in the assessment amounts currently recorded against the property in the District in connection with the 2004 Bonds) by confirming and ordering the reassessments established in a Reassessment Report prepared for the District in accordance with Division 11.5 of the Streets and Highways Code (the "Refunding Act") by NBS, the District reassessment engineer.The report, which has been docketed with this item, includes a schedule setting forth the total unpaid principal and interest for the 2004 Bonds, the total unpaid assessments for the District, the total estimated principal and interest for the Refunding Bonds, the total estimated reassessments for the District, a record for each parcel showing the parcel's share of the unpaid principal and interest on the 2004 Bonds compared to the estimated principal and interest on the Refunding Bonds, and a reassessment diagram.

The reassessments have been estimated based on the minimum net present value ("NPV") savings level of 3.00% established in the City's Debt Policy. As described in the Reassessment Report, the apportionment of the total reassessments to each parcel has been computed as a proration of the existing individual assessments to the total existing assessments. If the actions are approved, the reassessment diagram and a notice of reassessment will be recorded with the County. Following the pricing of the Refunding Bonds, the Reassessment Report will be amended to reflect final pricing of the Refunding Bonds, and an amended notice of reassessment will be recorded with the County. Based on current market conditions, as described more fully below, it is anticipated that the final reassessments will be lower than those in the report.

D. Interest Rate and Projected Debt Service

Under market conditions as of May 2013, the estimated True Interest Cost ("TIC") for the Refunding Bonds is approximately 4.78%. The estimated annual debt service payments due on the Refunding Bonds would be approximately $297,000 over the remaining term, compared to approximately $337,000 for the 2004 Bonds. The savings in the average annual debt service for the outstanding bonds compared to the Refunding Bonds is approximately $40,000 through 2033 starting with tax year 2013-2014. The net present value ("NPV") savings level for the refunding is $450,000 in aggregate, or approximately 11.43% expressed as a percentage of the bonds refunded, taking into account the costs of issuance incurred to refund the bonds, including City staff costs. Based on current market conditions, the average annual debt service savings per parcel (total annual debt service savings of $40,000 divided by 21 parcels) is estimated to be $1,900. (*The annual savings for each specific parcel will vary significantly, depending on the size of the parcel.)* The Refunding Bonds will only be issued if a NPV savings level of at least 3.00% is achieved, in accordance with the City's Debt Policy and the docketed Financing Resolution for the Refunding Bonds.

E. The Financing Team

The Financing Team for the proposed Refunding includes the Chief Financial Officer, Debt Management, the City Treasurer's Office, the Comptroller's Office, the City Attorney's Office, and outside financial and legal consultants, including Stradling Yocca Carlson & Rauth as Bond and Disclosure Counsel, Fieldman, Rolapp & Associates as independent Financial Advisor, NBS as Reassessment Engineer, and Union Bank as Trustee. The Underwriting team consists of E. J. De La Rosa & Co., Inc. ("De La Rosa") as Senior Manager, and Stifel, Nicolaus & Co., Inc. ("Stifel") as Co-Manager. All external team members were identified through various competitive selection processes.

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.

Fieldman Rolapp & Associates ("Fieldman") 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 Fieldman for this issuance is for an amount not to exceed $24,500, plus out of pocket expenses not to exceed $250.

NBS was selected to provide assessment engineering 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 particularly its experience as the existing special tax consultant to the District, and the fee estimate. The fee to NBS for this issuance is for an amount not to exceed $19,500, plus out of pocket expenses not to exceed $500.

Union Bank, N.A. is the existing trustee for the 2004 Bonds, and will serve as the trustee for the Refunding Bonds. Compensation for the trustee includes $1,500 for the transaction and ongoing annual fees of $2,010 including transactional expenses.

De La Rosa 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 October 2012. In total, seven underwriting proposals were received of which four firms proposed to serve as a Senior Manager and three firms proposed as Co-Manager. Stifel 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.

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. <u>The Financing Documents</u>

The resolutions and documents that the City Council would approve through the requested actions are listed below. The documents include a Bond Indenture, a Reassessment Report, a Bond Purchase Agreement, a Continuing Disclosure Certificate, and a Preliminary Official Statement.

a. <u>The Resolutions</u> – There are three resolutions associated with the item, which must be considered and acted upon in the sequence listed below:

   <u>i.) Resolution of Intention</u> – Pursuant to the Resolution of Intention to Levy Reassessments and Issue Refunding Bonds, the City Council declares its intention to levy the reassessments and issue the Refunding Bonds to benefit the taxpayers in the District and orders the preparation of the Reassessment Report by NBS, the District reassessment engineer.

   <u>ii.) Resolution Confirming Reassessments</u>– Under the Resolution Adopting the Reassessment Report and Confirming and Ordering the Reassessments by Summary Proceedings, the City Council approves the reassessments set forth in the Reassessment Report presented with the

item, and finds that the conditions for a refunding by summary proceedings[2] have been met, including that the annual installments of principal and interest for the reassessments will be less than the existing assessment installments and the term of the Refunding Bonds will not exceed the existing term of the 2004 Bonds.

iii.) 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. Reassessment Report– The Reassessment Report has been prepared for the District in accordance with the Refunding Act by NBS, the District reassessment engineer. As described more fully under "Reassessments" above, the report includes schedules and information concerning the unpaid assessments and principal and interest for the 2004 Bonds and the estimated reassessments and principal and interest for the Refunding Bonds. The Reassessment Report will be updated by NBS following the pricing of the Refunding Bonds to reflect final, actual debt service and reassessment amounts, which cannot exceed the amounts set forth in the Reassessment Report presented with this item.The Reassessment Report is also included as Appendix A in the Preliminary Official Statement.

c. Bond Indenture – The Bond Indenture is an agreement between the City and the Trustee for the District, Union Bank, N.A., which outlines the City's and the Trustee's responsibilities and obligations and the rights of the bondholders with respect to the Refunding Bonds, and pledges reassessments 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 specifies that the bonds are special limited obligations of the City. Among the provisions included in the Indenture are: the authorization and issuance of bonds; the redemption of bonds; the creation of funds and accounts; the application of bond proceeds and assessments; bond covenants; and events of default.

d. Bond Purchase Agreement– The Bond Purchase Agreement ("BPA") is an agreement between the City and the Underwriters for the transaction pursuant to which the City 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 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.

e. Preliminary Official Statement ("POS") – The POS describes the bond issue to 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,

[2] The Refunding Act allows for summary proceedings only when (i) the principal amount of the reassessment on each parcel is less than the unpaid principal of the original assessment, (ii) the annual reassessment installments will be lower in each year as compared to the original assessment installments, and (iii) there will be no increase in the term of the bonds. It is a more efficient and less costly process because all legislative actions can be taken at one City Council Meeting and there is no protest hearing and election process. Since the sole intent of the refunding is to produce annual economic savings for assessment payers over the existing term of the bonds, and the refunding has been structured accordingly, the summary proceedings process is being used.

the District, District development, and property valuation and ownership. The POS also states that the bonds involve risks, that they are not suitable investments for some types of investors, and are not rated. If events occur that interrupt the timely payment of the property assessments, there are no other revenues from which to pay the bonds. A variety of factors, which are described in the POS, could result in payment defaults by the owners of property within the District. The risk factors described in the POS include a downturn in the economy and the potential of natural disasters, which could result in a reduction in property values and could adversely affect the ability or willingness of property owners to pay the reassessments.

Appendices to the proposed POS include: Reassessment Report (Appendix A); supplemental economic information relating to the City (Appendix B); a summary of the Indenture (Appendix C); the form of Bond Counsel Opinion (Appendix D); the Continuing Disclosure Certificate (Appendix E); and information concerning the Depository Trust Company's book entry only system (Appendix F). A City CAFR is not included in the POS because the bonds are limited obligations secured only by the reassessment installments. As the City's General Fund is in no way a source of payment on the bonds, the information in the CAFR is not material information for investors and is not included in the POS.

f. Continuing Disclosure Certificate – The Continuing Disclosure Certificate (the "CDC") is a commitment by the City to file certain information regarding the District and Refunding Bonds 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, an annual update of District parcel valuation and ownership information, and an update of the assessment delinquency table provided in the POS. Notwithstanding the fact that the bonds are limited obligations and not secured by City general revenues, SEC Rule 15c2-12 requires that the annual continuing disclosure reports include the audited financial statements of the issuer of the bonds. As the City is issuer of the bonds, the City's CAFR must be included in the annual filing. The first annual report for the District will be due on April 1, 2014.

G. Schedule

The Disclosure Practices Working Group reviewed the POS and approved forwarding the document to City Council. Should the City Council approve the resolutions, including the financing resolution and the related financing documents for the Refunding Bonds, it is anticipated that the Refunding Bonds will be sold the week of June 17, 2013. The bond closing (receipt of bond proceeds) is anticipated to occur the week of July 1, 2013. The 2004 Bonds would be redeemed on September 2, 2013, the next possible call date.

III. FISCAL CONSIDERATIONS:

As described above, under "Interest Rate and Projected Debt Service," based on market conditions as of May 2013, the estimated True Interest Cost ("TIC") for the Refunding Bonds is approximately 4.78%. It is estimated the issuance of the Refunding Bonds will result in debt service savings to the District of approximately $40,000 annually through 2033 starting tax year 2013-2014.

IV. PREVIOUS COUNCIL and/or COMMITTEE ACTION:

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 March 24, 2003 stating the City Council's intent to order improvements in the proposed assessment district, accepting the petition of property owners, approving a proposed boundary map, and appointing the engineer of work; preliminarily approving the Engineer's Report, setting the date for the public hearing of protests and providing for property owner ballots; the May 13, 2003 adoption of the City Council resolution approving the engineer's report, levying assessments, ordering acquisition of improvements and determining the remaining unpaid assessment in the District; following a noticed public hearing and assessment ballots, the adoption of the City Council resolution on December 8, 2003 authorizing the issuance of bonds, approving the financing documents and preparation of an official statement.

On April 17, 2013, Debt Management presented information on the proposed Refunding Bonds to the Budget and Finance Committee, and the committee took action to forward the refunding to City Council for consideration and approval.

V. COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The annual reassessments are included in the annual County property tax bills received by the special assessment payers.

VI. KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include property owners in Assessment District No. 4096 (Piper Ranch) who would benefit from the refunding due to reduced annual reassessment installments resulting from the lower debt service on the Refunding Bonds. Financing Team members include: Stradling Yocca Carlson and Rauth (Bond and Disclosure Counsel); Fieldman Rolapp & Associates (Financial Advisor); NBS (Reassessment Engineer); Union Bank, N.A. (Trustee); De La Rosa & Co., Inc. (Underwriter - Senior Manager); Stifel, Nicolaus & Co., Inc. (Underwriter – Co Manager); Nossaman LLP (Underwriter's Counsel); and Elabra (Electronic Posting of POS and OS).

Respectfully submitted,

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