

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Hugh R. Riley, Assistant City Manager 

DATE: May 30, 2013 (CC Meeting of 6/5/13)

SUBJECT: Consider Resolution Authorizing and Approving a Change of Underwriter in Connection with the Issuance of Refunding Special Tax Bonds for Community Facilities District No. 2004-1 (Moorpark Highlands)

BACKGROUND:

At its meeting on March 20, 2013, the City Council authorized and approved the issuance of refunding bonds (the "2013 Bonds") for Community Facilities District No. 2004-1 (Moorpark Highlands) and authorized the execution of related documents, including a Bond Purchase Agreement with Piper Jaffray & Co. Subsequent to that meeting date, certain employees of Piper Jaffray & Co. who are familiar with the 2013 Moorpark refunding bonds left Piper Jaffray & Co., and are now employed by Jefferies LLC.

DISCUSSION:

Jefferies LLC provides investment banking, sales, trading, and research in the U.S., Europe and Asia. In California, Jefferies LLC has served as an underwriter on more than \$28 billion of General Obligation financings, \$1.5 billion of COP/Lease Revenue Bonds, and \$12 billion of Revenue Bonds, since 2009. Jefferies LLC is more than qualified to handle the underwriting of the 2013 Bonds for the City. Adoption of the attached Resolution will allow Jefferies LLC to be the underwriter for the 2013 Bonds. A letter of introduction from Daniel Gilman, Managing Director, Head of Municipal Debt Capital Markets is attached to this report. A full overview of the company has been previously provided to the City Council. Also attached is Engagement and Indemnity Agreement with Jefferies LLC wherein Jefferies LLC agrees to indemnify, hold harmless and defend the City against any and all reasonable costs, losses, claims, expenses, liabilities, damages, actions, causes of action and judgments including attorney's fees arising directly or indirectly from the City's agreement to retain Jefferies LLC as the underwriter for this financing.

FISCAL IMPACT:

No fiscal impact from this action. The issuance of the 2013 Bonds will reduce current bond debt service costs and generate annual savings on special tax amounts payable by property owners in CFD 2004-1.

STAFF RECOMMENDATION:

Adopt Resolution No. 2013-_____, Authorizing and Approving a Change of Underwriter in Connection with the Issuance of Refunding Special Tax Bonds for Community Facilities District No. 2004-1(Moorpark Highlands)

Attachment 1 – Letter of Introduction- Jeffries LLC

Attachment 2 - Engagement Letter and Indemnity Agreement- Jeffries LLC

Attachment 3 – Resolution No. 2013-_____

April 18, 2013

Mr. Hugh Riley
Assistant City Manager

Mr. Ron Ahlers
Finance Director

City of Moorpark
799 Moorpark Ave.
Moorpark, CA 93021

Dear Messrs. Riley & Ahlers:

It is a pleasure to work with the City of Moorpark on the proposed CFD refinancing for the Moorpark Highlands Project. We project that this refinancing will produce substantial savings for the homeowners and property owners within the District for the remaining 20+ year life of these bonds. Further, we expect that this refinancing will also result in an investment grade bond rating for over half of the Moorpark Highlands bonds, a definite plus for the credit standing of the CFD and the City of Moorpark.

Introducing Jefferies LLC

Following this letter is a brief overview of Jefferies LLC. Recently Michael Libera joined Jefferies and our firm very much looks forward to successfully underwriting the Moorpark CFD. Jefferies brings capital resources and a national sales network that will provide your community with the highest level of underwriting capabilities for this bond financing. I will be handling the management of this financing for Jefferies, along with Michael Libera.

Jefferies is not only committed to the municipal market, but we are strongly committed to a growing presence throughout the US. We could not be more pleased to have Michael Libera join our firm to assist with Jefferies municipal finance growth.

The Moorpark Highlands Refinancing

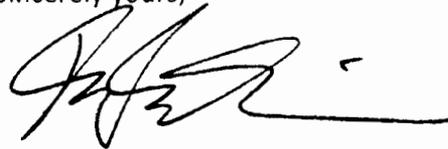
Jefferies strongly believes that the credit profile of this financing and the Moorpark location will result in a very successful financing. The Moorpark Highlands project presents both an excellent location and improving development profile that will be favorably viewed by the marketplace. Of course, the location in Moorpark is a primary asset for the financing.

ATTACHMENT I

Our team has prepared a thorough credit analysis of this financing and we look forward to presenting this to Standard and Poor's as a key step towards completing this financing. As you can see from the credit analysis (attached hereto), the dual series financing structure (rated senior bonds and unrated subordinate bonds) shows both strong debt service coverage and value to lien. Further, as noted above, while the real estate economies in many parts of California have experienced strong challenges, the increased level of development and home sales in the Highlands Project reflects the underlying favorable location in Moorpark.

Let me express our appreciation of this opportunity to work with the City of Moorpark on this refinancing. We fully appreciate the strong credit that this financing presents and we are committed to produce a superior financing result. Of course, should you have further questions about Jefferies, please call me or Mike Libera for additional information.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Daniel Gilman', written over a horizontal line.

Daniel Gilman
Managing Director
Head of Municipal Debt Capital Markets
Jefferies LLC

Jefferies LLC

Municipal Securities Group
One Montgomery Street
San Francisco, CA 94104
tel 415.229.1428
Jefferies.com

May 24, 2013

City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021

Attn: Hugh Riley, Assistant City Manager
Ron Ahlers, Finance Director

RE: Underwriting Services relating to City of Moorpark Community Facilities District No. 2004-1, 2013 Senior Series A Special Tax Refunding Bonds (“the Senior Bonds”) and City of Moorpark Community Facilities District No. 2004-1, 2013 Subordinate Series B Special Tax Refunding Bonds (“the Subordinate Bonds”)

Dear Messrs. Riley and Ahlers:

Jefferies LLC ("Jefferies") is pleased to be working with the City of Moorpark (“the City”) on the above referenced issue. Our team has very much valued the relationship that we have had with the City of Moorpark for the last decade and we certainly look forward to completing this refinancing.

The purpose of this letter agreement (the “Agreement”) is to confirm the verbal agreement between the City and Jefferies, pursuant to which the City will retain Jefferies and Jefferies will have the right to act as sole manager in connection with the structuring, issuance, sale of tax-exempt refunding bonds for the purpose of refinancing the outstanding Community Facilities No. 2004-1, Special Tax Bonds, Series 2006 (“the Prior Bonds”). The Bonds are intended to be arranged on terms comparable to the then prevailing market for similar transactions made in similar circumstances and shall be made pursuant to a purchase agreement and indenture, in such form, and containing such terms or conditions, as are customary for similar financings and acceptable to The City in its sole discretion.

By execution of this Agreement, The City agrees to retain Jefferies for the period May 24, 2013 through the closing of the Bonds. The City further agrees that for such period as this Agreement remains in force, it will not initiate any alternative form of financing nor respond to unsolicited proposals for the refinancing of the Prior Bonds except with the consent of Jefferies or as provided below. Jefferies agrees

to use its best efforts to assist The City in securing financing, consistent with Jefferies' reasonable business judgment and subject to market conditions. However, Jefferies will not provide any legal, tax or accounting advice. Further, Jefferies fully appreciates that this refinancing must meet reasonable savings thresholds, as determined by the City of Moorpark with input from your Financial Advisor. We appreciate that the financing will only be completed if these savings thresholds are met, as approved by City Staff and your Financial Advisor.

In consideration for the services rendered by Jefferies the City agrees to pay Jefferies, upon closing, a fee equal to the amount of 1.00% of the par amount of the Senior Bonds, and a fee equal to the amount of 1.25% of the par amount of the Subordinate Bonds.

Jefferies agrees to indemnify, hold harmless and defend the City, its officers, agents and employees from and against any and all reasonable costs, losses, claims, expenses, liabilities, damages, actions, causes of action and judgments, including attorneys' fees arising directly or indirectly from the City's agreement to retain Jefferies as the underwriter for this financing, rather than another underwriting firm. This indemnity does not pertain to any claims that may arise out of the offering of the bonds (other than those resulting from Jefferies' actions as underwriter) or to any claims resulting from the sole negligence of the City. Should any claims arise that, in the opinion of the City, are within the scope of this indemnity, the City shall notify Jefferies within a reasonable amount of time following knowledge of such claim and provide Jefferies the opportunity to defend against such claims.

Notwithstanding the foregoing, and as is industry standard, Jefferies and the City shall reserve the right not to participate in the proposed Bond Sale, and the foregoing is not an agreement by Jefferies to underwrite any of the Bonds. In connection with the sale of the Bonds in which Jefferies and the City elect to participate, the City shall enter into a bond purchase agreement (the "BPA") with Jefferies, which agreement shall be based on Jefferies' customary form for this transaction (a "Definitive Agreement") and contain terms reasonably acceptable to the City. Jefferies shall have no obligation thereunder to act as underwriter with respect to the sale of the Bonds unless and until Jefferies has executed the BPA.

The terms of this Agreement constitute the entire agreement between the parties concerning the matters addressed herein and may be amended, modified or waived only by a separate writing signed by each party expressly so amending, modifying or waiving such terms. It is understood and agreed that no failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. Each of the parties agrees and consents to personal jurisdiction and venue in any federal or state court within the State of California having subject

matter jurisdiction, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be fully performed in such state.

We appreciate the opportunity to work with the City and the financing team. Please call me (415) 470 1720 if you have any questions regarding this letter.

Please sign and return one copy of this letter which will constitute our agreement with respect to the matters set forth herein. This Agreement may be executed in separate counterparts, either of which, when so executed, shall be deemed to be an original and both of which, when taken together, shall constitute but one and the same agreement.

And let me again assure you that Jefferies is committed to working with the City of Moorpark on this financing. I look forward to seeing you on June 5th.

Sincerely,



Mark Curran
Managing Director

Agreed to and Accepted this ___ day of _____, 2013

THE CITY OF MOORPARK

By _____
Name: Hugh Riley
Title: Assistant City Manager

RESOLUTION NO. 2013- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA AUTHORIZING AND APPROVING A CHANGE OF UNDERWRITER IN CONNECTION WITH THE ISSUANCE OF REFUNDING SPECIAL TAX BONDS FOR COMMUNITY FACILITIES DISTRICT NO. 2004-1 (MOORPARK HIGHLANDS)

WHEREAS, this Council has conducted proceedings under and pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311 of the California Government Code to form Community Facilities District No. 2004-1 (Moorpark Highlands) (the "CFD"), and, for the CFD authorized the levy of special taxes upon the land within the CFD, and to issue bonds secured by such special taxes the proceeds of which were used to finance certain public facilities, all as described in those proceedings; and

WHEREAS, this Council heretofore in 2006 authorized, issued, sold and delivered its \$38,030,000 City of Moorpark, Community Facilities District No. 2004-1 (Moorpark Highlands) Special Tax Bonds (the "Prior Bonds") to finance facilities necessary for development of property within the CFD; and

WHEREAS, by resolution adopted March 20, 2013 (the "Prior Resolution"), this Council authorized and approved the issuance of special tax refunding bonds (the "Refunding Bonds") for the CFD to refund, in advance of their stated maturities, the Prior Bonds, and which refunding will result in a savings of interest costs levied on properties in the CFD as part of the special taxes, and approved the execution of certain documents providing for the issuance of the Refunding Bonds, including an agreement for the purchase of the Refunding Bonds (the "Bond Purchase Agreement") between the City and Piper Jaffray & Co. (the "Underwriter"); and

WHEREAS, certain employees of Piper Jaffray & Co. who are familiar with the bond matters of the City have left the employment of Piper Jaffray & Co. and now are employed by Jefferies & Company, Inc.; and

WHEREAS, this Council finds that it is in the best interest of the City to enter into the Bond Purchase Contract with Jefferies & Company, Inc.; and

WHEREAS, this Council finds it necessary to amend the authorities granted in Section 4 of the Prior Resolution to designate the Mayor, Mayor Pro Tem and the City Manager each as an authorized officer authorized to execute and deliver certain documents and instruments for the issuance, sale and delivery of the Refunding Bonds.

ATTACHMENT 3

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES RESOLVE AS FOLLOWS:

SECTION 1. Finding. This Council finds and determines that it would be prudent with regard to the issuance of the Refunding Bonds that the Bond Purchase Agreement approved in the Prior Resolution be entered into with Jefferies & Company, Inc. instead of Piper Jaffray & Co.

SECTION 2. Amendment to Section 4 of Prior Resolution. Section 4 of the Prior Resolution is hereby amended to read as follows: "The Mayor, Mayor Pro Tem and City Manager (each an "Authorized Officer") are hereby separately authorized and directed to execute and deliver the documents and instruments herein specified in substantially the forms on file with the City Clerk, with such additions thereto or changes therein as are approved by the Authorized Officer upon consultation with City's bond counsel, including such additions or changes as are necessary or advisable to permit the timely issuance, sale and delivery of the Refunding Bonds, provided, however, that no additions or changes shall: (a) authorize an aggregate principal amount of Refunding Bonds in excess of \$22,600,000; (b) result in a total interest cost not to exceed 4.95% per annum or such greater amount permitted by applicable law at the time of the sale of the Refunding Bonds; or (c) result in an underwriter's discount in excess of 1.25% of the aggregate principal amount of the Refunding Bonds; or (d) result in a maturity of the Refunding Bonds in excess of the remaining term of the Prior Bonds. The approval of such additions or changes shall be conclusively evidenced by the execution and delivery of the documents and instruments herein specified by the Authorized Officer."

SECTION 3. Sale of Bonds. Approval of the form of Bond Purchase Agreement substantially in the form on file with the City Clerk at the time of adoption of the Prior Resolution is hereby ratified with the change of the Underwriter from Piper Jaffray & Co. to Jefferies & Company, Inc. The Mayor, Mayor Pro Tem and City Manager (each an "Authorized Officer") are hereby separately authorized and directed to execute the Bond Purchase Agreement for the City in accordance with the approval granted in the Prior Resolution, as modified herein.

SECTION 4. Actions Authorized. An Authorized Officer is hereby authorized to execute and deliver on behalf of the City a fee agreement with Jefferies & Company, Inc., on terms which the Authorized Officer deems appropriate, which such Authorized Officer, or any of them, may deem necessary or advisable in order to consummate the providing of the services referred to herein in connection with the issuance and sale of the Refunding Bonds. All actions heretofore taken by the officers, employees and agents of the City with respect to the sale and issuance of the Refunding Bonds are hereby approved, confirmed and ratified, and any Authorized Officer is hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which any of them, may deem necessary or advisable in order to consummate the lawful issuance of the

Refunding Bonds and delivery of the Refunding Bonds to Jefferies & Company, Inc. in accordance with this resolution.

SECTION 5. Effectiveness. This resolution shall take effect from and after its adoption.

SECTION 6. Certification. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original Resolutions.

PASSED AND ADOPTED this 5th day of June, 2013

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk