SPECIAL DISTRICTS FINANCING CITY POLICY

Department of Finance
Department of Public Works

MORENO VALLEY
WHERE DREAMS SOAR

I. PURPOSE

This policy outlines parameters for the public financing of major public facilities through the establishment of Assessment Districts and Community Facilities Districts. It establishes the standards and criteria for the review of these proposed projects in order to determine the feasibility of special district financing given the public policy direction of the legislative body.

II. POLICY

A. The City encourages the development of commercial or industrial property which results in reciprocal value to the City (i.e., increased jobs, property or sales tax revenues, major public improvements). The City Council will consider the use of community facilities districts (CFDs) as well as other financing methods to assist these types of development in the financing of public facilities necessary to serve such projects.

B. Where, in the City's opinion, the public facilities of a residential development represent a significant public benefit, public financing may be considered. Significant public benefit may be defined as a public facility having a proposed project that will enhance the economic, social or cultural quality of life for the residents of the City; or, that the proposed project will stimulate employment within the City; and, that such enhancement or employment gain can be measured in a manner which permits the City to evaluate the risks and rewards of acting as the conduit issuer. Significant public benefit will be based on the City's evaluation of the availability of public access to the widest possible number of residents of the City, depending on the context.

Acceleration or addition of public infrastructure in excess of that required by law or the City's land use policies could also produce significant public benefit. Such benefits arise either from the installation or completion of public infrastructure assets prior to the time they might otherwise be

installed or from the additional assets which might be realized as a result of being able to finance the project more efficiently.

Finally, the finding of significant public benefit can arise from the installation or acquisition of a community asset which produces additional employment opportunities or which produces environmental benefits either as a direct or secondary result of its completion. In circumstances where the financed improvements generate regional benefits, the finding of significant public benefit will be easier than in those where the financed facilities serve only a small number of residents. (Debt Management Policy adopted February 22, 2000.)

C. Facilities will be financed in accordance with the procedures of the Improvement Act of 1911 ("1911 Act"), the Municipal Improvement Act of 1913 ("1913 Act"), the Improvement Bond Act of 1915 ("1915 Act") or the Mello-Roos Community Facilities Act of 1982 (the "Mello-Roos Act").

D. In compliance with Proposition 218, the 1996 California Constitutional Amendment known as the "Right to Vote on Taxes Act," voter approval is required to implement new or increased taxes, assessments, fees and charges. Ballots are weighted by the proportional special benefit received by each parcel. A simple majority is required for general taxes, assessments, charges and fees. Special taxes require a two-thirds majority approval.

E. The City Council shall authorize the issuance and sale of bonds for an assessment district or a community facilities district only if the City Council has previously determined that:

1. The aggregate value of the real property within the District that will be subject to the assessment or special tax to pay debt service on the bonds will be at least three (3) times the applicable Public Lien Amount (defined below).

2. For each common ownership of undeveloped property that will be subject to the assessment or special tax to pay debt service on the bonds, the aggregate value of all such undeveloped property under such common ownership will be at least three (3) times the Public Lien Amount apportioned to such properties.
3. The value of each parcel of undeveloped property that will be subject to the special tax to pay debt service on the bonds will be at least two (2) times the Public Lien Amount apportioned to such parcel.

The "Public Lien Amount" shall mean the principal amount of the bond issue proposed to be issued for the assessment district or community facilities district, plus the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Mello-Roos Act or a fixed lien assessment levied on property with the assessment district or community facilities district for which the bonds are proposed to be issued.

An exception to one or more of the above determinations may be approved if the City Council finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements or for other reasons specified by the City Council, or as indicated by a four-fifths vote of the City Council that the proposed bond issue should proceed for specified public policy reasons.

F. Assessment District bonds shall be issued in accordance with the 1911 Act or 1915 Bond Act or the Mello-Roos Act of 1982 as determined to be appropriate for the proposed financing by the City.

G. The proposed development project must be consistent with the City's General Plan and have secured appropriate land use entitlements from the City to allow for the implementation of the ultimate development of the area.

H. A written request for special district financing should be initiated by the owners of the property subject to payment of the assessments or special tax, as defined per statutory requirements.

I. All costs incurred by the City in the evaluation of applications for special district financing and the proceedings to form either an assessment district or a community facilities district and to issue bonds therefor will be paid by the applicant by advance deposit with the City in an amount or amounts deemed sufficient by the City to pay all such costs. Each application for the formation of an assessment district or a community facilities district shall be accompanied by an initial deposit in an amount to be determined by the City to be adequate to fund the evaluation of the application and undertake the proceedings to consider the formation of the assessment district or the community facilities district. The City may, in their discretion, permit an applicant to make periodic deposits to cover such expenses rather than a single lump sum deposit; provided, however, no preformation costs shall be incurred by the City in excess of the amount then on deposit for such purposes. If additional funds are required to pay required preformation costs, the City may make written demand upon the applicant for such additional funds and the applicant shall deposit such additional funds with the City within five (5) working days of the date of receipt of such demand. Upon the depletion of the funds deposited by applicant for preformation costs, all proceedings shall be suspended until receipt by the City of such additional funds as the City may require.

The obligation of the applicant pursuant to this section shall be memorialized in an agreement between the applicant and the City in a form and substance satisfactory to the City.

J. Project property "value-to-lien" ratios shall be based upon current bond market conditions as proposed by City Treasurer under the advice of selected financial advisor or underwriter. The property value shall be

determined by an MAI (Member of the Appraisal Institute) appraiser selected by the City.

K. A market absorption study of the proposed development project may be required. The absorption study shall be used to determine if the financing of the public facilities is appropriate, given the timing of development and whether sufficient revenues will be generated by the project to retire the debt service.

L. With regard to community facilities districts, the proposed rate and method of apportionment of the special tax shall comply with the following criteria:

1. The primary emphasis of the special tax formula shall be equitable for the future property owner.
2. Special tax formulas shall provide for minimum special tax levels which satisfy the following expenses of a community facilities district:
   a. 110 percent gross debt service coverage for all bonded indebtedness;
   b. The projected administrative expenses of the community facilities district; and
   c. An amount equal to the differences between expected earnings on any escrow fund and the interest payments due on bonds of the community facilities district.

   Additionally, the special tax formula may provide for the following:
   a. Any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the community facilities district;
   b. The accumulation of funds reasonably required for future debt service;
   c. Amounts equal to projected delinquencies of special tax payments;

d. The cost of remarketing, credit enhancement, and liquidity facility fees;

e. The cost of acquisition, construction, furnishing, or equipping of eligible public facilities;

f. Lease payments for existing or future public facilities;

g. Costs associated with the release of funds from an escrow account; and

h. Any other costs or payments permitted by the Mello- Roos

3. All property, not otherwise statutorily exempted, shall bear its appropriate share of the special tax liability. The sole source of revenues pledged to repay bonds issued for an assessment district or a community facilities district shall be the assessments or special taxes, as applicable, levied or authorized to be levied within such assessment district or community facilities district, proceeds of such bonds and reserve funds held under the applicable bond documents, the proceeds of foreclosure proceedings and additional security instruments provided at the time of issuance of such bonds. Neither the faith, credit or taxing power of the City shall be pledged to the payment of debt service on bonds issued for an assessment district or a community facilities district nor shall the City have any obligation to replenish any reserve fund established for any such bonds.

4. The projected ad valorem property tax and other direct and overlapping debt for the proposed development project, including the proposed maximum special tax, should not exceed two percent (2%) of the appraised value of each improved parcel upon completion of the improvements.

M. Any applicant shall be required to provide all information regarding the development of the property within the assessment district or community facilities district, including without limitation the financing plan for such development, which is necessary to ensure that the official statement for

any bond issue complies with the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and all other applicable federal and state securities laws. Additionally, any applicant may, as determined by disclosure counsel, underwriter or underwriter's counsel be required to enter into a continuing disclosure agreement to provide such continuing disclosure, pertaining to the assessment district or community facilities district, the development thereof and the applicant, as necessary, to ensure ongoing compliance with the continuing disclosure requirements of the Rule.

N. With respect to community facilities districts and assessment districts, full disclosure to prospective property owners of the special tax or assessment lien shall be in compliance with applicable statutory authority. The City, in its sole judgment, may require additional property owner notification if it deems such disclosure will assist subsequent property owners' awareness of the lien obligation.

The funding of public facilities to be owned and operated by public agencies other than the City shall be considered on a case-by-case basis. If the proposed facilities are appropriate for financing by an assessment district or community facilities district and are consistent with approved land use plans for the property, the City shall consider entering into a joint community facilities agreement or other applicable agreement with such other public agency in order to finance these facilities. Such an agreement with the public agency that will own and operate any such facility must be entered into prior to the adoption of the resolution of formation for any assessment district or community facilities district.

In general, the financing of public facilities that are owned and operated by the City will have priority over public facilities to be owned by another public agency; however, the City has the final determination as to the eligibility of any public facility for financing, as well as the prioritization of the financing of such facilities.

O. The assessment engineer, appraiser, bond counsel, financial advisor, special tax consultant, underwriter, and other necessary professional and technical advisors shall be selected and retained by and shall be accountable to the City. The City Treasurer, in conjunction with these advisors, shall determine whether the aggregate cost of public improvements and permitted indirect costs, allowable under statute, shall equal an amount which renders formation of a district, both economically cost-effective and efficient. The par amount of bonds shall be determined by the City Treasurer. The issue shall be sized by the City Treasurer, in conjunction with City financial advisors, and shall meet industry standards with respect to marketability. Minimum bond issue size shall approximate $3.0 - $3.5M.

P. All statements and materials related to the sale of special tax bonds (community facilities district) and improvement bonds (assessment district) shall emphasize and state that neither the faith, credit, nor the taxing power of the City of Moreno Valley is pledged to the repayment of the bonds, nor that there is an obligation of the City to replenish the reserve fund from revenue sources other than special taxes, annual assessments or proceeds from foreclosure proceedings. The City has no contingent liability for the debt service.

Q. All terms and conditions of any bonds issued for any assessment district or community facilities district, including, without limitation, the sizing, timing, term, interest rates, discount redemption features, flow of funds, investment provisions and foreclosure covenants, shall be established by the City. Each bond issue shall be structured to adequately protect bond owners and to avoid negatively impacting the bonding capacity or credit worthiness of the City. Unless otherwise approved by the City Council, the following shall serve as minimum bond requirements:

1. A reserve fund shall be established for each bond issue to be funded out of the bond proceeds in an amount equal to 10% of the

original proceeds of the bonds or such lessor amount as may be required by federal tax law.

2. Interest shall be capitalized for a bond issue only so long as necessary to place the assessments or special tax installments on the assessment roll; provided, however, interest may be capitalized for a term to be established at the discretion of the City Council on a case-by-case basis, not to exceed an aggregate of 18 months, taking into consideration the value-to-debt ratio, the expected timing of initial occupancies, expected absorption and buildout of the project, the expected construction and completion schedule for the public improvements to be funded from the proceeds of the bond issue in question, the size of the bond issue, the development pro forma and the equity position of the applicant, and such other factors as the City Council my deem relevant.

3. In instances where multiple series of bonds are to be issued, the City shall determine what improvements shall be financed from the proceeds of each series of bonds.

R. The Debt Management Team, as defined in Section IV of the Debt Management Policy, shall review all special district financing applications prior to the presentation of a district formation petition to the City Council.

S. The definitions, standards, and assumptions to be used for appraisals shall be determined by the City staff on a case-by-case basis, with input from City consultants and applicants, and by reference to relevant materials and information promulgated by the State of California. In any event, the value-to-lien ratio shall be determined based upon an appraisal by an independent MAI appraiser of the property within the proposed assessment district or community facilities district which will be subject to the levy of special taxes. The appraisal shall be coordinated by and under the direction of the City.

1. **Definition of Appraisal.** An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

2. **Standards of Appraisal.** The format and level of documentation for an appraisal depends on the complexity of the appraisal. A detailed appraisal shall be prepared for complex appraisals. A detailed appraisal shall reflect nationally recognized appraisal standards, including to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the data, to support the appraiser's opinion of value. At a minimum, the appraisal shall contain the following items:

    a. The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumption and limiting conditions affecting the appraisal.

    b. An adequate description of the physical characteristics of the property being appraised, i.e., localization, zoning, present use, and an analysis of the highest and best use.

    c. All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method such as a market approach using sales that are at the same stage of land development, if available. If more than one approach is used, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

    d. A description of comparable sale, including a description of all relevant physical, legal, and economic factors such as

parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

e. A statement of the value of the real property.

f. The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

g. No appraiser or review appraiser shall have any interest direct or indirect in the real property being appraised for the City that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

h. The valuation of property within a proposed assessment district or community facilities district should be based on three (3) premises:

PREMISE NO. 1 – AS IS VALUE. The total land within the proposed district is valued "as is" with any existing infrastructure, without proposed infrastructure being financed, with existing assessor parcel configuration, and with planned densities for residential land uses or with other planned development for non-residential land uses authorized by the City's general plan or specific plan, if any or, other approved land use entitlements applicable to such property.

PREMISE NO. 2 – PROJECT BUILD OUT VALUE. The total land within the proposed district is valued under projected conditions with proposed infrastructure being financed completely, with the planned densities for residential land uses and other planned development for non-residential land uses authorized by the City's general plan or specific plan, if any, and any other approved land use entitlements applicable to such property, and land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed, as

applicable. This is a projected value based on development plans predicated on market conditions continuing as projected.

PREMISE NO 3 – BULK LAND VALUE. The total land within the proposed district is valued under projected conditions with proposed infrastructure being financed completely, with existing parcel configuration, and consideration planned densities allowed by the specific plan of the project. This premise should consider a discounted or "quick sale" valuation considering time, costs, and the possibility of a per unit value based on the total size of the project.

Nothing contained in the foregoing premises shall prevent the appraiser from basing an appraisal of property proposed to be included in an assessment district or a community facilities district on any other premise or premises which are deemed, in the professional judgment of the appraiser, to be more appropriate to a special use to which property is or is proposed to be made.

III. PROJECT CRITERIA

Special district financing shall be considered for development projects, which facilitate commercial and industrial development within the community, thereby improving the jobs-housing balance. Formation of districts will also be considered for major development projects whose mix of residential, commercial and industrial land use maintain or improve the jobs-housing ratio and whose financed public improvements contribute to the regional development of the area through:

1. Major streets and arterial thoroughfares.
2. Master planned storm drain facilities.
3. Regional sewer and/or water facilities.
4. Reclaim water distribution system.

5. Parks or open space construction/dedication beyond that which is required to meet existing City standards.
6. Fire station construction.
7. Other major public infrastructure or community facility improvements required as a result of the development or its impact on the community.

If the improvements provide benefit beyond the immediate area of the proposed development, then infrastructure and facility improvements may be prioritized and considered for inclusion into special districts. Indirect ("soft") costs for engineering and design associated with public improvement construction may be included within the district to the extent they can be attributed directly to the public improvements. No other "soft" costs shall be financed through the district, other than that which is allowed by statutory regulations for assessment districts and community facilities districts.

The City Council shall authorize the issuance and sale of bonds for an assessment district or a community facilities district only if the City Council has previously determined that:

1. The aggregate value of the real property within the District that will be subject to the assessment or special tax to pay debt service on the bonds will be at least three (3) times the applicable Public Lien Amount (defined below).
2. For each common ownership of undeveloped property that will be subject to the assessment or special tax to pay debt service on the bonds, the aggregate value of all such undeveloped property under such common ownership will be at least three (3) times the Public Lien Amount apportioned to such properties.
3. The value of each parcel of undeveloped property that will be subject to the special tax to pay debt service on the bonds will be at least two (2) times the Public Lien Amount apportioned to such parcel.

The "Public Lien Amount" shall mean the principal amount of the bond issue proposed to be issued for the assessment district or community facilities district, plus the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Mello-Roos Act or a fixed lien assessment levied on property with the assessment district or community facilities district for which the bonds are proposed to be issued.

An exception to one or more of the above determinations may be approved if the City Council finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements or for other reasons specified by the City Council, or as indicated by a four-fifths vote of the City Council that the proposed bond issue should proceed for specified public policy reasons.

Other project elements which may determine the viability and desirability of special district financing may include factors such as: location of the proposed project within a redevelopment project area, as a specific plan or subset of a specific plan; ownership composition, geographical isolation or other pertinent economic or demographic factors which would enhance community development in accordance with established City goals and objectives. A land use project, exclusively residential, without public improvement contributions which meet the intent and philosophy of this policy, shall not warrant consideration for special districts financing.

GENERAL PROCEDURES

Subject to administrative amendment as necessary by City Manager.

1. **Pre-Application Conference:**

   Applicant should contact the Public Works, Special Districts Administration at (951) 413-3480. Applicant will meet with Special Districts Administration staff to discuss the proposed project and application procedures.

2. **Application Submission:**

   Applicant submits an initial application, a $5,000 non-refundable processing fee, and 1% of the bond issue cost.

3. **Application Review:**

   Special Districts Administration staff prepares and submits an application analysis packet to the Debt Management Team for review and discussion.

4. **Application Process Funding:**

   Upon application approval by the Debt Management Team, Special Districts Administration staff will process and secure an Advance Funding Reimbursement Agreement and funds from the applicant. Based upon the complexities of the proposed financing and district administration, the amount of funds from each applicant will be individually determined by the City Treasurer and Enterprise Services Administration staff. Formation proceedings will not progress until the applicant's funds are on deposit with the City.

5. **Formation Proceedings:**

   Special Districts Administration/Finance staff will:

   A. Process consultant agreements for special services as selected and determined by the Debt Management Team, and coordinate City Council review/approval of consultant agreements.

   B. Coordinate receipt of project information from applicant and applicant's consultants/engineers.

C. Coordinate consultant services for the City.

D. Coordinate City Council review/approval of the financing district.

6. **Formation Approval:**

City Council grants or denies district formation.

7. **Bond Sale:**

City Treasurer coordinates bond sale and all underwriter activities, financial management, structuring, and trustee activity.

8. **Construction Management/Acquisition:**

Special Districts Administration staff coordinates and administers all public infrastructure construction and acquisition of improvements.