

ASSESSMENT DISTRICT POLICY

Amendment 1 dated October 27, 1987 as further amended March 13, 1990

Subject

Use of Assessment Districts to Finance Public Facilities in Connection with Commercial and Industrial Development.

I. Purpose of Policy

- a. To facilitate the acquisition and construction of public facilities in those portions of the County designated on the Napa County General Plan as suitable for commercial or industrial uses if needed to promote any of the following:
 1. The health and welfare of the developed areas;
 2. The promotion of the orderly development of the County;
 3. The development of needed commercial or industrial property.
- b. Residential improvements shall not be eligible for assessment financing.

II. Policy considerations regarding the need for an assessment district

Factors to be considered in reviewing a request that a special assessment district be formed shall include but not be limited to the following:

- a. Is there a need for the development of additional commercial and industrial zoned lots in the County?
- b. Is the inventory of existing improved parcels that are in the community adequate?
- c. Will the proposed assessment, when added to the existing public indebtedness in the area to be assessed, result in an unusually high tax rate or collection charge being assessed which will tend to make the sale or use of the property uneconomic?
- d. Does the County anticipate debt issuance during the applicable calendar year for purposes of general County operations which, in the absence of any assessment district debt authorization, would make total County debt issuance eligible for the applicable small issuer arbitrage exemption rule?

III. Facilities eligible for funding through assessment financing

Facilities financed through assessments are limited to public facilities located within dedicated rights-of-way or easements which the County or other local agency will be required to maintain and operate. The types of facilities to be financed are:

- a. Streets;
- b. Drainage facilities;
- c. Public utilities, whether privately or publicly owned, which are appurtenant and incidental to streets or which otherwise provide significant public benefit if not appurtenant or incidental to streets; and
- d. Landscaping when used in conjunction with other public improvements listed above.

IV. Pre-Application Procedure

- a. An application requesting the approval of an assessment district is commenced by filing a feasibility report of the proposed project with the Director of Public Works. The application must include \$5,000 application fee to cover any financial feasibility studies conducted by the County. This fee is eligible for inclusion in the District financing if the District is approved by the Board of Supervisors. The fee shall be considered non-refundable if the District is not created. The content of the feasibility report is Exhibit 1 to this Board policy.
- b. When a completed feasibility report is filed with the Director of Public Works, he shall distribute same to the Assessment District Advisory Committee. The Assessment District Advisory Committee consists of the Director of Public Works, County Counsel, County Auditor-Controller, County Administrator, County Planning Director and the proponent of the project.
- c. The Director of Public Works, at the time he distributes the feasibility report, shall schedule a pre-project conference. This conference will normally be held within thirty (30) calendar days of filing. The purpose of this conference will be to have a thorough understanding of all facets of the proposed project. At this conference, any agreements necessary regarding the specific details of the project should be arrived at and appropriate steps taken to formalize any such agreements.

- d. The Assessment District Advisory Committee must be notified at least two (2) weeks in advance of the pre-project conference of any individuals or firm who will be recommended for the purpose of serving as District Legal Counsel, Consultant to the Engineer of the Work, or Financial Consultant.
- e. The time schedule for filing of the various legal documents will be set in the pre-project conference. This schedule shall ensure that there will be adequate time for review and recommendation by the staff prior to the presentation to the Board of Supervisors for their action.
- f. Costs incurred by the applicant for services of Bond Counsel, Appraiser, and private Engineer for purposes directly related to preparation of the Assessment District application may be included in the District financing if the District is created. In order to qualify, such individuals/firms and costs must be approved in writing by the County in advance of contract execution. To obtain approval from the County, proposed professional service agreements must meet the following standards:

Bond Counsel

- Bond Counsel firm acceptable to Napa County Counsel
- Reasonable costs/fees
- Scope of work directly related to proposed assessment district.

Appraiser

- MAI Appraiser acceptable to County Administrator's Office
- Reasonable costs/fees
- Scope of work directly related to proposed assessment district.

Private Engineer

- Engineering firm acceptable to County Public Works Director
- Reasonable costs/fees
- Scope of work directly related to proposed assessment district.

- g. The County will select the Underwriter and any financing services deemed necessary.
- h. Any cost incurred by the proponent in preparing the application, other than for an acceptable Appraiser, Bond Counsel or Engineer, will not be eligible for inclusion in the District financing.
- i. The staff shall prepare a report within forty-five (45) days of the completion of the pre-project conference. The report shall recommend approval or denial of the application and shall be filed with the Clerk of the Board.

V. Consideration of Application by the Board of Supervisors

The Clerk of the Board upon receipt of the recommendation of the Assessment District Advisory Committee and a draft Resolution declaring the intent of the Board to create an assessment district for the purpose of acquiring or constructing specified public improvements shall place the matter on the Board's agenda. The Board at the hearing will consider formation of the assessment district and will approve or disapprove such proposal for formation.

VI. Conditions which must be included in any assessment district proposal

- a. A reserve account must be established in the amount of either ten percent (10%) or such other rate as the Board may set based upon a recommendation of the Assessment District Advisory Committee.
- b. Each issue must contain a provision within the indenture that judicial foreclosure is initiated within 150 days of taxes being delinquent.
- c. The County will not guarantee payment of the bonds in the event of default of payment.

VII. Miscellaneous Provisions Applicable to All Assessment Applications

- a. The Public Works Director will act as the Engineer of the Work, but may recommend the selection of a private engineering firm to assist him. If a private firm is hired, a formal written agreement shall spell out in detail any responsibilities involved and his relationship to the County Public Works Director.
- b. At the point the Board of Supervisors adopts the Resolution of Intent for the proposed Assessment District, final selection of the private Engineer (if any), MAI Appraiser and Bond Counsel will be made at the sole discretion of the Board of Supervisors.

The Board may consider those firms pre-approved by the County for purposes of application preparation as outlined in Section IV(f). If different Bond Counsel, Appraiser or private Engineer than those pre-approved per Section IV(f) is selected by the Board, a determination of application preparation costs allowable for financing through the District financing will be made at the point of Resolution of Intent.

- c. The Engineer of Work will be required to furnish in the cost estimate of the project, a tabulation of all costs and a breakdown in sufficient detail that it can be satisfactorily determined that all costs have been provided for adequately.

- d. The proponent may be required to furnish security in a form satisfactory to the County, the purpose of which will be to assure completion of the project in accordance with plans and specifications without cost to the County in the event assessment district funds are insufficient to meet the total cost of the project.
- e. There shall be no advance payment by, or net cost to the County for processing an assessment district. Expenses not chargeable to the assessment district must be borne by the proponent and security acceptable to the County to guarantee same must be posted prior to consideration of an application by the Board. A County administration fee of 1.5% of the total assessment amount shall be included in each assessment district for purposes of paying the cost of County staff time involved in processing the assessment district application through bond issuance. Ongoing County administrative costs over the term of the assessment district shall be paid annually as an administrative fee collectable along with annual assessment payments from assessed properties as permitted by law.
- f. All taxes and assessment currently due shall be paid prior to authorization of bond sale.
- g. The total amount of the lien created by the assessments when added to any pre-existing fixed lien assessments shall not exceed one-third (1/3) of the fair market value of the land. "Fair Market Value" in this context shall be the value of the land once the public improvements in the proposed assessment district are in place. The determination of such values will be based upon a report prepared by an independent MAI Appraiser acceptable to the County and shall meet this minimum lien to value ratio for each individual parcel of land within the proposed district. Higher lien to value ratios and/or additional evidence of security for assessment district bond issuance may be required in applications for assessment districts involving vacant land under limited ownership, at the discretion of the Assessment District Advisory Committee.
- h. Facilities shall be funded in accordance with the provisions of the Municipal Improvements Acts of 1911, 1913 and 1915 and the Mello Roos Act. In the event the acquisition provisions of the Municipal Improvements Act of 1913 are utilized, the County and the project proponent shall mutually agree upon the facilities to be acquired and the method of determining the construction costs to ensure that future owners of the property will be assessed only for reasonable costs incurred. Furthermore, the project proponent shall be required to provide evidence satisfactory to the Public Works Director of (1) solicitation of competitive bids for the

construction contract or contracts and (2) payment of prevailing wages with respect to such construction contract or contracts.

- i. The assessment district bonds shall be issued in accordance with the 1911, 1915 or Mello Roos Bond Acts as determined jointly by proponent and County. In the absence of agreement, no bonds shall be issued. If 1913 Act acquisition proceedings are utilized, the bonds shall in no event be issued prior to completion of the work and improvements to be acquired, as determined by the Public Works Director.
- j. Additional feasibility studies may be required by the Assessment District Advisory Committee or the Board demonstrating that the development will find market acceptance.
- k. An assessment district will be implemented only when it can be demonstrated that a suitable reserves fund can be established.
- l. The proponent shall provide the Director of Planning with such documentation as the Director requires to ensure compliance with the California Environmental Quality Act (commencing with Section 21000 et seq. of the Public Resources Code) and the State Environmental Guidelines (commencing with Section 15000 of Title 14 of the California Administrative Code).
- m. There shall be no overlapping bond assessments or liens on the proposed special assessment district at the time the assessments are to be affirmed by the County.

EXHIBIT I

Application For Assessment District

Five copies of all documents constituting the feasibility report shall accompany the original unless this policy expressly provides otherwise or the Director of Public Works requires a greater number. The feasibility report should contain the following:

1. A statement from the applicant describing the project and showing that the development or improvement is consistent with the goals and policies identified in Paragraph I of the Board Policy, "Use of Assessment Districts to Finance Public Facilities in Connection With Commercial and Industrial Development."
2. A map at a scale suitable for public display at any required public hearings, setting forth the boundaries of the area proposed to be assessed and identifying each parcel located within said assessment district.
3. A map depicting all properties within and contiguous to the perimeter of the assessment district. The General Plan, zoning designation and lot size of each parcel shall be identified.
4. A detailed description of the improvements to be financed by the assessment district, supported by a preliminary Engineer's estimate of cost, including administrative costs.
5. A statement indicating whether the improvements to be financed are to be constructed by Public Works contract of the County or by private contract followed by acquisition.
6. A statement of the proposed source, location and availability of necessary utility services, including gas, electricity, telephone, sewer, water and garbage services.
7. Whether 1911 or 1915 Act Bonds are proposed to be utilized.
8. For each parcel of land in the proposed district:
 - Assessor's parcel number
 - Name of owner(s)
 - Size of parcel
 - Appraised value (MAI appraisal)
 - Proposed assessment cost

9. A summary of the background of persons or entities proposing the formation of the assessment district, including three years of financial statements.
10. The relationship of the project to other projects existing or proposed.
11. Documentation that all required project approvals that will be necessary for the development to occur have progressed to the point that public benefit can be adequately assessed.
12. Documentation that the owners of not less than sixty percent (60%) of the area of land to be assessed for the improvements have consented to the proposed assessment district.
13. A statement regarding whether the property is presently subject to escrow proceedings, an option to purchase or the like. If the property is so subject, a listing of all such prospective purchasers, a copy of the notice that has been given to said purchasers and proof of service. Any such notice must notify the prospective purchaser of the pendency of the assessment proceedings and that any applicable assessment lien will be paid prior to the close of escrow unless the purchaser has, in writing, opted for a pass through.
14. Any other information requested by the Director of Public Works or the Assessment District Advisory Committee.
15. A \$5,000 cashier's check for non-refundable fee.
16. County letter(s) of approval for application preparation cost for bonds counsel, appraiser and private engineer.