

<p><b>CITY OF BEAUMONT</b> Finance Policy</p>	<p>Policy Number:  Date : _____</p>
<p><b>Subject</b></p> <p style="text-align: center;">Amended and Restated Special Assessment and Community Facilities District Goals and Policies</p>	

**1.0 PURPOSE**

Pursuant to Section 53312.7 of the California Government Code, the City Council of the City of Beaumont (hereafter the “City Council”) hereby states its goals and policies concerning the use of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (hereafter the “Mello Roos Act”) in providing adequate public capital infrastructure, facilities, equipment and public services for the residents of the City of Beaumont (the “City”). The following goals and policies shall apply to all community facilities districts (each a “Community Facilities District) and to all assessment districts (each an “Assessment District” and together with any Community Facilities District, the “Districts”) under the improvement acts of 1911, 1913, 1915 and 1972 (the “Improvement Acts”) hereafter formed by the City.

**2.1 POLICY**

The City has developed the following Policies and Procedures on financing facilities and/or services through the formation of community facilities districts as guidelines to assist concerned parties in following the City’s approach to special assessment and community facilities district financing. It is the City’s goal to support projects that address a public need and provide a public benefit. Proposed projects requesting special assessment or community facility district debt financing will be evaluated to determine if such financing is financially viable, provide a public benefit and are in the best interest of the City, and current and future City and project residents. These Policies and Procedures are designed to comply with Section 53312.7 of the Government Code.

The City will consider developer or property owner-initiated applications requesting the formation of community facilities or special assessment districts and the issuance of bonds to finance eligible public facilities and/or public services necessary to serve newly developing projects. The following criteria will be applied to all districts by the City staff with final determination and findings to be made by the City Council:

- 1) When public financing of project public facilities will result in a significant public benefit or address City identified needs.
- 2) When a Specific Plan has been adopted on the property, or the City has negotiated and executed a Development Agreement addressing project implementation either of which includes requirements to form a District to finance public improvements or services.

- 3) Each time a District is formed to finance public facilities for the benefit of a development project, the City will require in those situations where maintenance requirements will exceed normal City standards or where such development requires the provision of additional services, the creation of an alternative financing mechanism to pay for such maintenance requirement or such additional services.
- 4) Existing neighborhoods may apply to the City for the use of a District to finance local or neighborhood-serving facilities. The City will apply applicable provisions of these policies to those financing programs for existing neighborhoods.

The City may initiate Districts by itself at any time to assist in mitigating service impacts or for any other reason.

The City shall make the determination as to whether a proposed District shall proceed under the provisions of the Improvement Acts or the Mello-Roos Act. The City may confer with consultants and the applicant to learn of any unique district requirements such as facilities serving the regional area or long-term development phasing prior to making any final determination.

All City and consultant costs incurred in the evaluation of new development district applications and the establishment of districts will be paid by the applicant(s) by advance deposit increments. The City shall not incur any non-reimbursable expense for processing assessments or community facilities districts. Expenses not chargeable to the district shall be borne by the applicant.

## **2.2 FINANCE STAFF REVIEW**

All proposed Districts shall be reviewed by the City Finance staff for adherence to the policy prior to being presented to the City Council. Any variances from policy as well as any other material information will be noted by the Finance staff and reported to the City Council with recommendation for action.

## **2.3 RESOURCE CONSULTANTS**

Bond Counsel  
Financial/ Municipal Advisor  
Assessment Engineer or Special Tax Consultant  
Appraiser  
Economist/Market Absorption Specialist  
Bond Underwriter  
Disclosure Counsel  
Trustee/Fiscal Agent

The City shall have the sole discretion as to selection of consultants and determination of fees and expenses of all consultants necessary for the formation of a Special District and the issuance of bonds. Prior consent of the applicant(s) shall not be required in the determination by the City of the consulting and financing team. Costs of the applicant(s) and any costs of consultants working on behalf of the applicant(s) are not eligible for reimbursement from a future issuance of bonds.

No firm may serve as both design engineer and engineer of work and assessment engineer or special tax consultant on the same project, pursuant to Section 87100 of the Government Code.

**3.1 ELIGIBLE PUBLIC FACILITIES, SERVICES AND PRIORITY**

Priority for CFD financing shall be given to public facilities and services directly benefiting the City as well as those improvements identified by the City as the most necessary to serve the specific needs of the portion of the City in which the CFD will be located. The financing of public facilities to be owned and operated by public agencies other than the City shall be considered on a case-by-case basis. The list of eligible public facilities includes but are not limited to the following and include facilities included as part of the City’s or another public agencies development impact fee programs to the extent permitted by the Mello Roos Act or Improvement Acts:

- |  |  |
|--|--|
| Streets, highways and bridges          | Flood control facilities   |
| Street lighting                        | Libraries  |
| Traffic signals and safety lighting    | Public utilities   |
| Parks                                  | Police and fire protection facilities  |
| Governmental facilities                | Recreation facilities  |
| Sanitary sewer facilities              | Biological mitigation measures involving land acquisition, dedication and revegetation |
| Storm drain facilities                 | Landscaping  |
| Potable and reclaimed water facilities |  |

In general, none of the foregoing types of facilities will have priority over the others; however, the City has the final determination as to any facility’s eligibility for financing, as well as the prioritization of facilities to be included within a financing district. The use of bond proceeds for grading and right-of-way acquisition will be reviewed by the City and bond counsel on a case-by-case basis.

It is acknowledged the Act permits the financing of fee obligations imposed by governmental agencies, the proceeds of which fees are to be used to fund public capital improvements. The City will consider applications to finance fee obligations on a case-by-case basis. The City may condition the financing of facilities included as part of the City’s or another public agency’s development impact fee programs on the applicant’s agreement to participate in the financing of City services for public safety and may require applicant’s to pay a premium on any City fees financed with such premium to be used by the City to pay for other eligible facilities authorized by the Act.

It is secondarily the policy of the City to assist in the provision of other public facilities when to do so is necessary, in the sole discretion of the City Council acting as the legislative body of the affected CFD, to serve taxpayers residing within or owning property within the City boundaries.

Additionally, the City may finance any one or more of the types of services specified in Section 53313 of the Act. Priority for CFD financing shall be given to services provided by or directly benefiting the City and, if multiple services are to be financed, with no service having priority over another service; provided, however, the City has the final determination as to any service’s eligibility for financing. The City shall not finance services on behalf of other public agencies.

**3.2 CREDIT QUALITY – VALUE-TO-LIEN RATIO**

Credit quality will be determined in part by the District (or improvement area) property value-to-lien ratio which will be at a minimum 4:1, including the value of the financed public improvements

to be installed, and considering all prior or pending special taxes or improvement liens and debt. Value-to-lien ratios of individual parcels will be reviewed to analyze credit quality. The value of the property utilized in the calculation of the value-to-lien ratio will be determined by using the assessed value of the property as reflected on the most recent tax roll or by an independent MAI-certified appraiser engaged by the City as discussed in more detail below. Acceptance by the City of the value-to-lien ratio will be determined by an appraisal with recommendations from bond counsel, any municipal advisor, and the underwriter with consideration of the project and diversification of land ownership.

The appraisal shall be coordinated by, under the direction of, and addressed to the City. The applicant shall pay all costs associated with the preparation of the appraisal report through an advance deposit of funds with the City. The appraiser should be credentialed by the State of California Office of Real Estate Appraisers and be a Member of the Appraisal Institute (MAI). The appraiser should have demonstrated prior experience in appraising property subject to special assessments or taxes in conjunction with a bond offering.

The appraisal shall be conducted in accordance with criteria, standards and assumptions in accordance with the California Debt and Investment Advisory Commission Appraisal Standards for Land-Secured Financings, and based upon the recommendations from the City's financing team. In every case, the appraisal shall reflect nationally Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation and employ all, or a combination of: discounted cash flow, bulk sale comparable, raw land value as is, and project build-out values.

Upon receiving an appraisal, determining the value-to-lien ratio, and evaluating the project and current underwriting criteria, the City may require letters of credit or other security to secure payment of the special taxes to be levied annually on properties within the District. Letters of credit or other security may also be required for individual parcels of specific property ownership within a District. (See Section 3.3, Security).

For projects with a significant amount of development or the refunding of outstanding special assessment and community facilities district debt, the assessed value of property or other mass appraisal techniques may be options for the establishment of credit quality.

Depending on the circumstances of the development, a market absorption study may be required by the City. The City will retain the consultant to prepare a report to verify market absorption assumptions and projected base sales prices of the properties subject to the special taxes or assessments in the District. The market absorption and/or price point study shall be completed prior to completion of the appraisal, and the appraisal shall take into consideration the conclusions of the market absorption study. All City and consultant costs incurred for this study will be paid by the Applicant by advance deposit or out of special taxes or bond proceeds.

### **3.3 SECURITY**

Prior to the issuance of bonds in connection with a District program, each person who, together with any affiliate thereof, owns land within the Special District the maximum special tax or assessment applicable to which equals or exceeds 20% of the aggregate maximum special tax or assessments authorized to be levied in the District (such person and affiliates collectively, a "20% Owner") shall deliver to the City or as directed by the City either (i) a renewable, irrevocable instrument of credit from a financial institution rated "A" or better or otherwise acceptable to the City or (ii) cash in-lieu thereof (a "Security"). The Security shall be in an amount equal to 200% of the product of the maximum annual debt service on the bonds proposed to be issued (without

taking into consideration any capitalized interest) times a fraction the numerator of which is the projected annual special taxes or assessments applicable to the land within the Special District owned by the 20% Owner and the denominator of which is the total maximum special taxes or assessments applicable to all land in the District (the “Stated Amount”). The Security shall be maintained in full force and effect by the 20% Owner until the property owned by the 20% Owner is responsible for less than 20% of the projected special taxes or assessments to be levied in the District (without taking into consideration any capitalized interest); provided that the Stated Amount may be reduced to an amount equal to 200% of the product of the projected annual debt service on the bonds proposed to times a fraction the numerator of which is the projected annual special taxes or assessments applicable to the land within the Special District owned by the 20% Owner (without taking into consideration any capitalized interest) and the denominator of which is the total projected special taxes or assessments applicable to all land in the Special District as of June 1 of the applicable year (subject to the City’s receipt of a replacement security from any person to whom a 20% Owner conveys property and who becomes a 20% owner as a result of such conveyance). The Security shall name the City, or its designee, as a beneficiary and shall provide that the City, or its designee, may draw an amount equal to any delinquencies in payment of semiannual installments of the special taxes or assessments levied on property owned by the 20% Owner. The total amount to be drawn under the Security shall not exceed an amount equal to the special taxes or assessments owed with respect to property within the Special District owned by the 20% Owner that is delinquent at the time the draw is made, or in the event the Security is to expire by its terms and has not been renewed as required by the City, the Stated Amount. The amount drawn of the Security shall be applied in the same manner and for the same purposes as the delinquent special taxes would have been applied; provided that the payment of a draw under the Security will not be deemed to cure the delinquency in payment of the special taxes. The form and substance of the Security, including the provisions thereof with respect to remedies upon non-renewal thereof shall be set forth in the acquisition agreement for the District.

#### **4.1 EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES**

Special tax formulas for Community Facilities Districts shall provide for minimum special tax levels which satisfy the following expenses of all Community Facilities Districts: (a) at least 110 percent of debt service on all Community Facilities District bonds due each year, and (b) the reasonable and necessary administrative expenses 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 costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, and (h) any other costs or payments permitted by law, including, but not limited to, financing public capital facilities or any one or more of the types of services specified in Section 53313 of the Mello Roos Act.

The special tax formula shall be reasonable and equitable in allocating public facilities’ costs to parcels within the Community Facilities District. Unless the City determines that special circumstances warrant a change, the special tax formula originally accepted for the Community Facilities District shall remain the same in order to ensure equity as originally envisioned at the time of Community Facilities District formation. At the time of formation of the Community Facilities District, exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owner’s association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other

than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

It is the goal of the City that maximum special taxes or assessments on residential owner-occupied property, when taken together with *ad valorem* taxes, any other special taxes levied pursuant to the Act and assessments applicable to such property (the “Effective Tax Rate”), do not exceed in any year two percent (2%) of the greater of the assessed value or appraised value of such property. Nevertheless, special taxes on residential owner-occupied property, when taken together with *ad valorem* taxes, any other special taxes levied pursuant to the Act and assessments applicable to such property, may exceed in any year two percent (2%) of the greater of the assessed value or appraised value of such property if the City determines at the time of formation of a Community Facilities District that over the term of the bonds, the special taxes, *ad valorem* taxes and assessments are expected to average two percent (2%) or less per year of the greater of the assessed value or appraised value of such property. The City may permit the escalation of any facilities tax in any amount not to exceed 2% annually for those projects that also participate in a community facilities district for services. Special taxes for services may escalate in any manner determined by the City as necessary to cover annual estimated increases in the costs of providing such services or as otherwise permitted under the Act. If the City determines based on the advice of the special tax consultant that the Effective Tax Rate will exceed 2% of the actual or expected sales prices in the Community Facilities District the City may in its discretion require the developer to prepay a portion of such taxes prior to the issuance of bonds in order to reduce the Effective Tax Rate to 2% or less.

Special taxes will only be levied on an entire County Assessor’s parcel, and any allocation of special tax liability of a County Assessor’s parcel to leasehold or possessory interest in the fee ownership of such County Assessor’s parcel shall be the responsibility of the fee owner of such parcel (except where the City is the fee owner of the parcel and has, subsequent to the date of adoption of these goals and policies, leased the parcel pursuant to a lease with a term of at least 5 years, in which case the lessee shall have the responsibility for the special tax liability) and the City shall have no responsibility therefor and has no interest therein. Failure to pay or cause to be paid any special taxes in full when due shall subject the entire parcel to foreclosure in accordance with the Act.

The City shall have a report prepared which: (a) recommends special tax rates and methods of allocation among parcels in the proposed Community Facilities District, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures.

The City shall retain a special tax consultant to prepare a Rate and Method of Apportionment and the report described above which:

- A. Recommends a special tax formula for the proposed community facilities district.
- B. Evaluates the special tax proposed to determine its ability to adequately fund identified public facilities and proposed services, City administrative costs, services (if applicable) and other related expenditures. The Rate and Method of Apportionment of special taxes shall be designed to ensure sufficient revenues are produced in case of final development at lower densities than anticipated.

- C. The special tax consultant shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes levies and assessments on the properties within the community facilities district.

#### **4.2 TERMS AND CONDITIONS OF BONDS**

The City shall establish all terms and conditions of the bonds. All bonds issued shall comply with the terms of the City's then current debt policy. The City will control, manage and invest all District issued bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not adversely impact the bonding capacity or credit rating of the City. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- A. A reserve fund equal to the lesser of (i) ten percent (10%) of the issue price of the bonds, (ii) maximum annual debt service, or (iii) one hundred twenty-five percent (125%) of average annual debt service, or as otherwise deemed appropriate by the City.
- B. The term of the bonds will generally not exceed 30 years and shall not include capital appreciation bonds.
- C. For Districts containing residential property, the timing of bond sales(s) and/or Rate and Method of Special Tax Apportionment shall be such that special taxes or special assessments are levied no later than the first fiscal year following the occupancy of residential units. For all Districts, interest shall not be funded (capitalized) beyond what is permitted in the Mello Roos Act or the Improvement Acts.
- D. The repayment of the principal shall begin on the earliest principal payment date for which sufficient special tax revenues can be made available.
- E. The maximum special tax shall be established to assure that the annual revenue produced by levy of the maximum special tax shall be equal to at least one hundred ten percent (110%) of annual debt service plus administration expenses..
- F. In instances where multiple series of bonds are to be issued, the first series shall include public facilities of the highest priority acceptable to the City.
- G. All statements and materials related to the sale of special assessment or community facilities district bonds shall emphasize and state that neither the good faith, nor the taxing power of the City is pledged to the security or repayment of the bonds. The sole sources of revenues to secure bond owners are special taxes, annual assessments or foreclosure proceeds.

#### **4.3 AGREEMENTS**

Agreements will be prepared incidental to District formation proceedings in a form satisfactory to the City and consistent with these policies. These agreements may include, but not be limited to:

- A. Deposit and Reimbursement Agreement.
- B. Funding and Acquisition Agreement.

- C. Joint Community Facilities Agreements with any other public agency entitled to receive any portion of the bond proceeds or entitled to own and operate any of the public facilities financed by bond proceeds.

Prior to the issuance of bonds by a District, all of the agreements specified shall be duly approved and executed by the relevant parties. Prior to the execution of any agreements, such agreements shall be reviewed and approved by bond counsel and the City Attorney and approved by the City Council.

#### **4.4 USE OF CONSULTANTS**

The City shall have the sole discretion as to the selection of consultants and determination of fees and expenses of all consultants necessary for the formation of the District and the issuance of bonds, including the underwriter(s), bond counsel, municipal financial advisor, disclosure counsel, assessment engineer, appraiser, trustee, paying agent, market absorption and/or price point consultant, and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team

The City shall also be responsible for determining the structure of the bonds to be issued, including the method of sale (negotiated, competitive or direct placement), the need for bond ratings, the need for escrow provisions, investment of bond proceeds, and all other terms and conditions incidental to structuring and closing a bond issuance.

#### **4.5 ACQUISITION PROVISIONS**

The City shall have the final determination as to whether it will allow the financing of public facilities through acquisition or if the improvements will be constructed by the City.

In the event the acquisition provisions of the Municipal Improvement Act of 1913 or the Mello-Roos Act are utilized, the City, at its sole discretion, will determine the facilities to be acquired, the priority of acquisition of completed facilities and the method of determining reasonable acquisition costs. Applicable bidding and prevailing wage requirements are extensive and will be addressed during the preparation of the funding and acquisition agreement.

The City has determined (pursuant to Section 53329.5(c) of the Government Code) that the public interest will not be served by allowing property owners to elect to enter into agreements with the City to perform construction work after competitive construction bids have been received. The City Council will make such a determination in the resolution of intention regarding the formation of a community facilities district.

#### **4.6 DISCLOSURE TO PURCHASERS**

Developers who are selling lots or parcels that are within a Community Facilities District shall provide the disclosure notice to prospective purchasers that comply with all of the requirements set forth in Section 53341.5 of the Government Code. The disclosure notice must be provided to prospective purchasers of property at or prior to the time the contract or deposit receipt for the purchase of property is executed. Developers shall keep an executed copy of each disclosure document as evidence that disclosure has been provided to all purchasers of property within a Community Facilities District.

Owners of land securing 20% or more of the debt service on bonds will be required to provide financial information, as deemed appropriate by the City, for inclusion in the continuing disclosure document the City must provide annually and will also be required to provide written undertakings to provide financial and operating data as required by the SEC's Rule 15c2-12 and by the underwriter of the bonds.

#### **4.7 PROPERTY OWNER SUPPORT**

In the instance of multiple property owners, the applicant shall be required to produce letters evidencing other property owners' support for the scope and establishment of the District as an attachment to the application. The applicant must have concurrence of at least [60%] of the other property owners to be included in the proposed District, unless there is an overriding need for the public facilities, or the applicant is willing to separately fund the facilities for non-participating property.

#### **4.8 LAND USE APPROVALS**

Properties proposed for inclusion in a District must possess a land use determination such that proposed development land uses and specific facility requirements can be adequately assessed.

#### **4.9 EXCEPTIONS TO THESE POLICIES**

The City may find in limited and exceptional instances that a waiver to any of the above-stated policies is reasonable given identified special City benefits to be derived from such waiver. Such waivers are granted only by action of the City Council based upon specific public purpose and/or health and safety findings. Any policy or goal stated herein shall be deemed amended or supplemented in the event, and as of the date, if ever, that such amendment or supplement is required to ensure compliance with the Act or any other laws of the State of California or federal laws of the United States of America.

A waiver of certain provisions of these policies may also be relevant for the refunding of outstanding special assessment and community facilities district debt.

#### **4.10 APPLICATION PROCESS**

Early communication with the City is encouraged to assist applicants in evaluating the feasibility of available financing programs and to discuss program procedures.

1. *PREAPPLICATION CONFERENCE:* Applicant meets with City to discuss the proposed project and application procedures.
2. *APPLICATION SUBMISSION:* Applicant/developer shall submit an application to the City with a deposit and reimbursement agreement in the initial amount of \$50,000 to \$70,000 (as deemed necessary by staff, based on the size of the proposed District). The deposit will be handled as set forth in the Deposit and Reimbursement Agreement as established by the City and approved by the applicant/developer. This deposit is for the purpose of application processing, preliminary costs, retention of appropriate consultants, and the compensation of staff time devoted to the formation of the District. The City will conduct an initial evaluation of the application to determine if it is complete and whether additional information is required.

3. *PROJECT REVIEW:* Applicant and City staff meet to discuss the initial application, including any issues raised and further information that might be required. If necessary, the applicant submits a revised application. City staff may deny any applicant that does not comply with these goals and policies or is determined not to be in the best interest of the City and its residents.
4. *PROJECT INITIATION:* Staff submits consultant contracts, reimbursement agreements and other similar items for City Council consideration.
5. *PROJECT IMPLEMENTATION:* Applicant, staff and consultants meet to determine preliminary project schedule and begin work necessary to initiate district formation. This document outlines district formation procedures.

#### **4.11 SPECIAL ASSESSMENT DISTRICT FORMATION PROCEEDINGS FORMAT**

Assessment district proceedings under the Municipal Improvement Act of 1913 normally provide for the construction of improvements by the City and the financing of such improvements with improvement bonds, which are secured by a fixed lien assessment on the benefited property. In certain instances, if authorized by the City, the developer may construct the improvements (or portion thereof), which would be acquired by the City as provided in the proceedings.

The formation proceedings are subject to and contingent upon satisfaction of all environmental zoning and land use regulations. The following is a summary of the proceedings under the Municipal Improvement Act of 1913 for the formation of an Assessment District. All such proceedings are subject to the requirements of the Improvement Acts, as applicable.

1. **Initiation of Proceedings.** An applicant or landowner petition for City Council action initiates the District. Upon initiation, the design engineer prepares plans, specifications and cost estimates of the proposed public improvements. The assessment engineer begins preparing the Engineer's Report, including the assessment diagram, assessment roll, description of improvements and preliminary cost spread. If required, the Environmental Impact Report "EIR" consultant begins processing the appropriate environmental documentation for the public improvements.
2. **Presentation of Report.** Upon completion of the preliminary engineering work, the City Council adopts a resolution of intention to form the assessment district, approves the Engineer's Report, calls for construction bids, authorizes the future sale of bonds, sets the date, time and place for the public hearing and directs assessment notices to be mailed.
3. **Bid Process.** Finance Department receives construction bids. Assessment engineer modifies the assessment roll and Engineer's Report and notifies property owners of revised assessments.
4. **Public Hearing.** City Council holds public hearing at which written protests are presented and public testimony is taken. If a majority protest has not been received, City Council approves district formation, awards bids, orders construction work, confirms the assessments, directs Finance Director/Treasurer to mail assessment notices and approves the bond sale.

5. **Cash Collection Period.** Treasurer may receive cash payments during the 30 days following confirmation if property owners elect to pay off the assessment or portion thereof prior to the issuance of bonds.
6. **Authorize Issuance of Bonds.** City Council determines the balance of unpaid assessments and provides for the issuance of bonds to be secured thereby.
7. **Sale of Bonds.** Bonds are issued in exchange for the cash proceeds of the sale, which are held by the City or its fiscal agent (or paying agent/registrar) and utilized for the construction of public improvements described in the Engineer's Report.

#### 4.12 MELLO-ROOS COMMUNITY FACILITIES DISTRICT FORMATION PROCEEDINGS

A Community Facilities District is a legally constituted governmental entity created for the purpose of financing public facilities and services.

The formation proceedings are subject to and contingent upon satisfaction of all environmental, zoning and land use regulations. The following is a summary of the proceedings for the formation of a Community Facilities District under the Mello Roos Act. All such proceedings are subject to the requirements of the Mello Roos Act.

1. **Initiation of Proceedings.** Proceedings must be instituted when a written request is made by a petition signed by 10% of the registered voters or 10% of the landowners by area. The petition shall be accompanied by payment of a fee determined by the City Council to be sufficient to pay for costs incurred in conducting the proceedings.
2. **Resolution of Intention.** Within 90 days of the receipt of a written request or petition, the City Council will adopt a resolution of intention to establish a community facilities district ("CFD"). The resolution will state the name of the proposed CFD, the types of facilities or services to be financed, and that, except where funds are otherwise available, a special tax to pay for such facilities and services will be annually levied. The resolution of intention shall also fix a time and place for a public hearing between 30 and 60 days after the adoption of the resolution of intention, describe the method of levy and apportionment of the special tax, and describe the proposed voting procedure. In addition, the resolution may specify conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied. The City Council directs its responsible officers to study the proposed district and to file a report at or before the public hearing describing the proposed public facilities and services and an estimate of costs.
3. **Public Hearing.** Protests against the establishment of the community facilities district, the extent of the community facilities district or the furnishing of specified types of public facilities or services may be made orally or in writing by interested persons or taxpayers. If 50% or more of the registered voters, 6 registered voters, whichever is more, residing within the proposed community facilities district or the owners of 1/2 or more of the area of land in the proposed community facilities district file written protests against the establishment of the community facilities district, the proceedings are abandoned. If the protests are directed toward certain types of facilities or services, or against a specified special tax, those specific items may be eliminated from the resolution forming the community facilities district. The hearing may be continued for up to 30 days without special findings and up to 6 months if the City Council makes specified findings.

4. **Resolution of Formation.** If the City Council decides to establish the community facilities district, it will adopt a resolution of formation containing similar information as contained in the resolution of intention.
5. **Election.** If the City Council determines to form the community facilities district, it submits the question of whether special taxes should be levied to an election of the voters (or land owners if less than 12 registered voters reside within the boundaries of the proposed Community Facilities District for each of the 90 days prior to the date of the public hearing) of the proposed community facilities district. Combined with the tax proposition, there may be a proposition on the question of incurring bonded indebtedness. The tax, in order to be levied, must be approved by two-thirds of the votes cast and thereafter levied by adoption of an ordinance of the City Council. The Mello-Roos Act provides that the election shall be at the next general election or at a special election to be held between 90 and 180 days following the close of the protest hearing. The unanimous consent of the qualified electors within the proposed district and the concurrence of the election official conducting the election may shorten the election time limits.
6. **Special Tax Bonds.** A community facilities district may be created solely to provide the services permitted by statute. However, most community facilities districts have been created specifically for the purpose of levying special taxes to service bonded indebtedness incurred by the community facilities district in order to finance the construction of facilities. Public services and maintenance Districts may also be created. The proceedings to authorize and incur bonded indebtedness usually parallel the proceedings for the formation of the community facilities district and the authorization to levy the special tax, although the bond proceedings could be conducted separately and at a later date. The proceedings to authorize bonded indebtedness involve a resolution of intention, public hearing and election; all conducted in a manner very similar to proceedings to form the community facilities district and levy the tax. Community facilities district bonds may be sold competitively or through negotiated sales and may bear fixed or variable interest rates.

In some cases, a community facilities district may provide specified facilities for only a portion of the land within the community facilities district. In that event, the Act provides for the formation of improvement areas for which separate elections are conducted and to which a specified special tax applies.

## **5.0 ROLES AND RESPONSIBILITIES**

- The Finance Director is responsible for administering this policy and procedure.
- All employees are responsible for compliance with this policy and procedure.

## **6.0 DEFINITIONS**

Unless the context otherwise requires, the terms employed in the following policies shall have the meanings specified below:

“Bonds” means bonds authorized and issued under the Mello-Roos Community Facilities Act of 1982 or the Municipal Improvement Act of 1911 and the Improvement Bond Act of 1915.

“City” means the City of Beaumont.

“District” means a community facilities district formed under the Mello-Roos Community Facilities Act of 1982 or an assessment district formed under the Improvement Act of 1911 or the Municipal Improvement Act of 1913, as amended.

“Improvement Acts” means the current enabling legislative Acts of 1911, 1913 and 1915

“Mello-Roos Act” means the Mello-Roos Community Facilities Act of 1982

“Public Facilities” means improvements authorized to be constructed or acquired under the Mello-Roos and Improvement Acts including, but not limited to, fees for capital facilities imposed by public agencies as a condition to approval of the development encompassed by the district or as a condition to service the district.

“Value” or “Fair Market Value” means the value established by using the assessed value or the appraisal undertaken to establish value-to-lien ratios for a land-secured financing.

**DISTRICT APPLICATION**

### SPECIAL FUNDING DISTRICT APPLICATION FORM

Proposed Special District: **CFD for Facilities**

Proposed Name of Project: \_\_\_\_\_

<b>SPICER CONSULTING GROUP USE ONLY</b>	
Date Received: _____	Amount: _____
Proposed Special District Number: _____	

### DEPOSIT REQUIREMENTS

*Total Deposit of \$70,000 required at time application is submitted.  
\$65,000 will be eligible for reimbursement at time bond proceeds are available. \$5,000 is non-refundable.  
An additional \$70,000 will be required for each zone or improvement area.*

#### 1. IDENTIFICATION OF SUBJECT PROPERTY

Description of Property (include N, S, E &/or W, borders, acreage & tract number)

A. APN(s) and/or Master Parcel Number Include all Assessor Parcel Numbers to be included in the Special District  
Attach Backup (if needed) **in their entirety (XXX-XXX-XXX-X)**


B. Tract/Tentative Tract Map Number \_\_\_\_\_  
Enclose copy of map

C. Recorded Lot Line Adjustments \_\_\_\_\_  
Enclose copy of document(s)

D. Mapping Status  Approved  Tentative

E. Environmental Permits Required  Yes  No

F. Status of Permits  Application in Process

G. Conditions of Approval Required  Yes  No

By Whom \_\_\_\_\_

H. Status of Conditions  In Process  Completed

**2. PROPERTY OWNER INFORMATION (Attach Grant Deed)**

- A. Landowner Name(s)  
Attach Backup (if needed) \_\_\_\_\_
- B. Contact Name \_\_\_\_\_
- C. Title \_\_\_\_\_
- D. Mailing Information \_\_\_\_\_
- E. Phone \_\_\_\_\_
- F. Fax \_\_\_\_\_
- G. E-Mail \_\_\_\_\_

**3. CONSULTANT/APPLICANT INFORMATION**

- A. Company Name \_\_\_\_\_
- B. Contact Name \_\_\_\_\_
- C. Title \_\_\_\_\_
- D. Mailing Information \_\_\_\_\_
- E. Phone \_\_\_\_\_
- F. Fax \_\_\_\_\_
- G. E-Mail \_\_\_\_\_

**4. ENGINEERING INFORMATION**

- A. Company Name \_\_\_\_\_
- B. Contact Name \_\_\_\_\_
- C. Title \_\_\_\_\_
- D. Mailing Information \_\_\_\_\_
- E. Phone \_\_\_\_\_
- F. Fax \_\_\_\_\_
- G. E-Mail \_\_\_\_\_

**5. PROJECT LAND USE (Per Improvement Area or Zone, When Applicable)**

- A. Number of Taxable Units \_\_\_\_\_
- B. Proposed Product Mix See below
- C. Base Sale Price Information See below
- D. Number of Taxable Acres  
Attach Backup \_\_\_\_\_
- E. Number of Exempt Acres  
Attach Backup \_\_\_\_\_
- F. Desired Tax Rate Burden \_\_\_\_\_ %
- G. Anticipated Absorption \_\_\_\_\_ *per month*

**2. COMPOSITION OF DEVELOPABLE ACREAGE**

Attach Additional Backup (if needed)

	Acreage	Commence Occupancy (Quarter & Year)
Residential		
Commercial-Retail		
Business Park		
School Site		

**PROPOSED RESIDENTIAL PRODUCT MIX**

Plan Number	1	2	3	4
Apartment, Attached, or Detached				
Number of Units				
Average Lot Size	<i>sq. ft.</i>			
Prices				
Square Footage of Living Area				

Occupancies (See Table Below)

Quarter & Year	Plan 1	Plan 2	Plan 3	Plan 4

**3. FINANCING STRUCTURES OFFERED TO HOMEBUYERS**

- FHA       VA       VARIABLE  
 OTHER      \_\_\_\_\_

**4. FINANCING MECHANICS**

- A. Preparation of Boundary Map  
Attach if possible  
 B. Preparation of RMA  
Attach if possible  
 C. Proposed JCFAs

Agency Name

\_\_\_\_\_

Funding Purpose (i.e. fees, facilities)

\_\_\_\_\_

Name

Contact Name

Mailing Address

Phone

Fax

Email

Agency Name

Funding Purpose (i.e. fees, facilities)

Name

Contact Name

Mailing Address

Phone

Fax

Email

D. Additional Land Secured Financings Proposed

Agency Name & Backup

E. Overlapping Land Secured Financings

List all existing special taxes, assessments, & liens as well as agency name(s)<sup>\*</sup>

F. Improvement Area(s)/Zone(s)

Yes  No

G. Basis for Either

H. Initial Levy Fiscal Year

I. Final Levy Fiscal Year (Anticipated)

J. Proposed Capitalized Interest

\_\_\_\_\_ Months

K. Proposed Facilities Costs

Breakout Between Improvement Area(s)/Zone(s) & Type of Facility/Agency

L. Summary of Proposed Methodology

Proposed Land Use Categories & Method of Apportionment

**Questions? Contact our Special Tax Consultant, Spicer Consulting Group at 866-504-2067. Thank you.**

<sup>\*</sup> Attach backup as needed

**Additional Project Information**

1. City planning approvals (subdivision approval received to date including processing numbers, dates of approval, current processing status and development agreement reference, if any).

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2. Previous names under which this project has been known or processed by the City (list names and dates).

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3. Improvements or facilities proposed for assessment district or community facilities district financing. (Provide a cost breakdown, map and construction timetable for each facilities or improvement proposed.)

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4. All existing and proposed taxes, assessments, liens or other secured interests on all property within the proposed district. (Provide a copy of recent property tax bill and proof there are no delinquent property taxes outstanding.)

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5. Estimated property value-to-lien ratio including the value of public improvements to be financed (to be documented by letter from MAI appraiser or other qualified party).

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6. Prior experience developer/landowner has had with assessment and/or community facilities district financing.

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7. Other land development ventures by landowner and/or developer in the City of Beaumont and in California within the last five years (include location, land use summary, period of construction, etc.)

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8. Future plans with sale/development of property (i.e. are you selling it to homebuilders, who? Developing it yourself, etc.)

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**Other District Formation/Financing Information**

1. Project's need for assessment and/or community facilities district financing.

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2. Public entities anticipated to own, operate or maintain facilities or improvements proposed.

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3. Surrounding property owners which may be affected by or be included in the proposed district financing and percentage of total acreage owned by applicant. (Attach a map identifying their

property locations, affected facilities, and evidence indicating support for the proposed district financing.)

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**Miscellaneous**

1. Indicate whether an application for assessment and/or community facilities district financing has ever been previously denied by the City Council for this property. If so, explain the circumstances and reasons.
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2. Indicate whether the landowner/developer and/or joint venture participant have ever been party to an abandoned, defaulted and/or court challenged assessment or community facilities district financing. If so, state when, where, issue size, circumstances and reasons.
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3. Do you foresee any unusual requirements, problems, unique opportunities, etc., that may exist in the requested financing of the project?
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4. Provide recent financial statements of landowner, developer, joint venture, etc., or provide lead banker/lender references or other information demonstrating past financial performance.
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Submitted By:

Firm \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_