

ADMINISTRATIVE POLICIES AND PROCEDURES

SUBJECT: LAND SECURED FINANCING

Effective: October 22, 2008 (Replaces Policy dated 09/16/02)

PURPOSE:

To establish a uniform and consistent approach and process for implementing City Council adopted "Land Secured Financing Policies".

POLICY:

The "Land Secured Financing Policies" adopted by the Merced City Council on September 16, 2002 will consider developer or property owner initiated applications requesting the formation of community facilities or assessment districts and the issuance of bonds to finance eligible public facilities necessary to serve newly developing commercial, industrial or residential projects.

PROCEDURES:

The following are the procedures and responsibilities for implementing City Council adopted "Land Secured Financing Policies".

<u>Responsible</u>	<u>Action</u>
Developer/Property Owner	Obtains copy of "Land Secured Financing Policies" from Development Services. Completes Application form and submits to Development Services along with a deposit.
Development Services Director	Convenes a meeting with City Manager, City Attorney, Finance Officer, City Engineer and other appropriate parties so as to review the application and prepare a recommendation for the City Council.
Development Services Director/Finance Officer	If above meeting results in a consensus not to proceed with financing, Development Services Director advises applicant. If meeting results in a consensus to proceed, Development Services Director advises applicant and Finance Officer prepares administrative report to City Council

recommending hiring appropriate professionals in order for due diligence to be carried out on the request.

Outside Finance Professionals

Prepare financing plan and provide City staff with recommendation.

Finance Officer

Prepare administrative report for City Council and make recommendation to proceed or go no further.

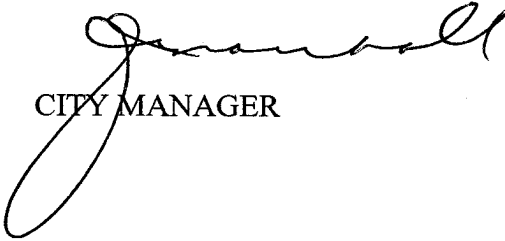
City Attorney/Finance Officer

Upon City Council approval to proceed, City of Merced Attorney and Finance Officer will assemble a financing team.

City Attorney/Finance Officer/
Development Services Director/
City Engineer

City staff and financing team will carry out steps required in order for financing to be obtained.

APPROVED:



CITY MANAGER

JGM:dw

CITY OF MERCED

LAND SECURED FINANCING POLICIES

CITY OF MERCED
LAND SECURED FINANCING POLICIES

TABLE OF CONTENTS

	<u>Page</u>
Definitions.....	1
Introductory Statement.....	2
Eligible Public Facilities.....	3
Value-To- Lien.....	4
Security.....	4
Special Tax Formula.....	4-5
Terms and Conditions of Bonds.....	6
District Cost Deposits and Reimbursements.....	7
Agreements.....	8
Use of Consultants.....	8
Acquisition Provisions.....	9
Disclosure to Purchasers.....	9
Property Owner Support.....	9
Land Use Approvals.....	9
Exceptions to These Policies.....	10

Attachment: Application for Land-Secured Financing

City of Merced
Land Secured Financing Policies
New Development Projects

Definitions

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

"Assessment Acts" means the Improvement Bond Act of 1911 and/or the Municipal Improvement Act of 1913 and/or the Improvement Bond Act of 1915; the Landscaping and Lighting Act of 1972; the Benefit Assessment Act of 1982;.

"Bonds" means bonds authorized and issued under the Mello-Roos Act or Improvement Bond Act of 1915.

"Bulk Sale Value" means the most probable price, in a sale of all parcels within a tract or development project, to a single purchaser or purchasers, over a reasonable absorption period, discounted to a present value, as of a specified date, in cash or in terms equivalent to cash, for which the property rights should sell after reasonable exposure, in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably and for self-interest, and assuming that neither is under undue stress.

"City" means the City of Merced.

"Discounted Cash Flow" means the measurement of the cash flows associated with the development and sale of real estate parcels, based on an independent judgment of the prices and times at which individual parcels or properties would be sold, after applying a discount rate to such cash flows to reflect the risk-adjusted rate of return necessary to attract the debt and equity investment necessary to undertake and complete the acquisition, entitlement, development and sale of the parcels or properties.

"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.

"Lien" means, in the case of public debt imposed on a parcel or parcels, the aggregate amount of public debt attributable to such parcel, as measured by an assessment engineer; or, in the case of Mello-Roos Community Facilities District debt, the amount of debt attributable to a parcel or parcels, based on an apportionment of the debt to such parcel or parcels in relation to the probable debt service to be borne by such parcel or parcels.

"Public Facilities" means improvements authorized to be constructed or acquired under the Mello-Roos and Assessment 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 amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the

other and both have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon uses and purposes.

"Value-to-lien ratio" means the ratio of the Value, Fair Market Value or current assessed value applied by the County of Merced's Assessor's Office of a parcel or parcels in relation to the lien or liens imposed by an issue of bonds.

Introductory Statement

The City of Merced will consider developer or property owner initiated applications requesting the formation of community facilities or assessment districts and the issuance of bonds to finance eligible Public Facilities necessary to serve newly developing commercial and/or industrial projects under the conditions set forth herein. Projects primarily comprised of residential property may make application to the City only in the following instances:

1. The tax-exempt financing of project Public Facilities will result in a significant public benefit, as such public benefit is determined by the City; and
2. The City has negotiated and executed a development agreement (or similar agreement) addressing project implementation and providing for financing of all required public infrastructure.
3. Issuance of bonds for Financing of Public Facilities will not be less than \$5,000,000.

The above criteria will be applied by the City staff with final determination and findings to be made by the City Council.

Generally, only regional or community serving Public Facilities such as major collector and arterial streets and highways, state highways and bridges, freeways and freeway interchanges, railroad crossings, traffic signals, parks and open space acquisitions, public works facilities (including water, wastewater, storm drainage processing and distribution systems), community facilities (including youth facilities, sports complexes, bikeways and community/youth centers), public safety facilities (including police and fire facilities) and other appropriate public facilities will be eligible for this program. Facilities will be financed in accordance with the provisions of the Assessment Acts, or the Mello-Roos Community Facilities Act of 1982.

Each time a community facilities or assessment district is formed for the benefit of a development project, the City will require annexation into a Community Facilities District - Services. The Community Facilities District may be established pursuant to the provisions of the Community Facilities Act of 1982, or such other provision of state law or appropriate local code or charter provisions, and will serve for the purpose of paying for any unfunded on-going City maintenance costs associated with the development project.

The City shall make the determination as to whether a proposed district shall proceed under the provisions of the Assessment Acts or the Mello-Roos Community Facilities Act. The City may confer with other district consultants and the applicant to learn of any unique district requirements such as regional serving

facilities 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 must be paid by the applicant(s) by advance deposit increments. The City will not incur any non-reimbursable expense for processing assessment or community facilities districts. Expenses not prepaid and chargeable to the district shall be solely for the account of the applicant.

Eligible Public Facilities

Facilities to be financed must be public facilities for which the City, or a public agency as determined appropriate by the City, will be the owner or will have normal operating and maintenance responsibility. The types of facilities eligible to be financed are:

- A. Streets, roads and highways
 - 1. Arterial roads and state highways
 - 2. Collector streets, as determined by the City (ie., no residential frontage allowed)
 - 3. Bridges and freeway interchanges
 - 4. Traffic signals and railroad crossings, including grade separations.
- B. Parks, open space and community facilities
 - 1. Youth facilities, youth centers, community facilities
 - 2. Sports facilities and complexes
 - 3. Bikeways
 - 4. Parks and recreational facilities.
- C. Public safety facilities
 - 1. Police stations, sub-stations, and other facilities
 - 2. Fire stations and facilities.
- D. Public works facilities
 - 1. Water and wastewater treatment, storage and distribution facilities
 - 2. Storm drainage facilities

The City will retain final determination as to any facility's eligibility for financing, as well as the prioritization of facilities to be included within a

district financing. 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. Generally, "in-tract" improvements will not be considered eligible, unless specific circumstances and credit conditions warrant such inclusion.

Value-To-Lien

The district (or improvement area) property value-to-lien ratio should be at least 4.0:1 after calculating the value of the financed public improvements to be installed and considering any prior or pending special taxes or improvement liens. A slightly lesser value-to-lien ratio may be considered when recommended for approval, upon compelling justification, by both bond counsel and the City's financial advisor. In no event shall a lien of less than 3.5:1 be allowed.

The value-to-lien ratio shall be determined based upon an appraisal of the proposed district. The appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the applicant through the advance deposit mechanism. The appraisal shall be conducted in accordance with criteria established by the City, based upon the recommendations received by the City from its Bond Counsel and/or Financial Advisor. In every case, the appraisal shall employ either a discounted cash flow or utilize bulk sale comparables and shall fully conform to published guidelines of the California Debt and Investment Advisory Commission.

The time-frame from the date of value of the appraisal and the bond closing date should be no more than ninety days. This time frame may be decreased due to then-current underwriting criteria as determined by the City, its financial advisor, and the underwriter.

The City shall have discretion to retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties, which may be subject to the maximum special tax or assessments in the district. Such a report may be used by appraisers in determining the value of property to be assessed or taxed.

Security

For new development, the applicant or property owner must demonstrate its financial plan and ability to pay all assessments and/or special taxes during the build-out period. The City in certain instances may require additional security such as credit enhancement.

The Developer/Land Owner(s) will be required to post a Letter of Credit in the amount of up to two years of maximum annual debt service as long as they have a 20% or greater share of the special tax payments.

If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution in a form and upon terms and conditions satisfactory to the City. All fees payable on the letter of credit or other security shall be the sole responsibility of the district applicant or developer, not the City or district.

Special Tax Formula

For Mello-Roos Community Facilities Districts ("CFDs"), the maximum special tax

submitted to the qualified electors of the CFD shall not exceed three-quarters of one percent (0.75%) of the anticipated base sales price of all housing units as estimated by City market absorption consultant. Furthermore, the total of the following burdens, when taken in the aggregate, may not exceed at time of bond sale one and eight-tenths percent (1.8%) of the appraised Fair Market Value of the subject properties:

- A. Ad valorem property taxes levied by the County.
- B. Voter approved ad valorem taxes levied by the County in excess of one percent (1%) of the Fair Market Value.
- C. The Special Tax formulas for CFD's financing capital improvements shall not include escalating special tax rates for residential property. Community Facilities Districts-Services may provide for an escalating special tax.
- D. Assessments levied for any assessment district or maintenance district for the payment of bonded indebtedness or services and, the maximum special tax for the proposed CFD.

The maximum special tax formula shall adhere to the following requirements:

- A. The maximum special tax shall include the annual administrative costs of the City to administer the district (A portion of these costs may be established as superior in lien position to the debt service).
- B. The special tax formula shall not include escalator rates allowing annual tax increases above the maximum special tax established upon district formation.
- C. The maximum special tax shall establish for undeveloped land, tax rates corresponding to the adopted land use designations on each parcel. Undeveloped land may be taxed up to the maximum amount allowed for developed parcels, but debt service will first be paid by taxing developed parcels the maximum rate and to the extent that additional special tax is required to pay debt service and pay administrative costs, an amount up to the maximum special tax may be levied on undeveloped land.
- D. The City shall have discretion to allow a special tax in excess of the established limits for any lands within the CFD which are designated as commercial or industrial.
- E. For residential districts, once property sale actively commences, the City will not take any actions to modify the established special tax formula.

The City shall retain a special tax consultant to prepare a report which:

- A. Recommends a special tax method for the proposed CFD, 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. Such analysis shall also address the resulting aggregate tax burden

of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.

Terms and Conditions of Bonds

All terms and conditions of the bonds shall be established by the City. The City will control, manage and invest all district issued bond proceeds. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- A. A reserve fund equal to the lesser of three tests described in applicable federal tax regulations.
- B. The special taxes shall be levied for the first fiscal year following sale of the bonds for which they may be levied. Interest may not be funded (capitalized) beyond the earliest interest payment date for which sufficient special tax or assessment revenues will be available for payment of interest.
- C. The repayment of principal shall begin on the earliest principal payment date for which sufficient special tax or assessment revenues can be made available.
- D. Beginning with the commencement of the repayment of principal, annual debt service shall be level. The City will consider an increasing annual debt service for commercial and/or industrial districts only, but such increases shall not exceed one percent (1%) per year.
- 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 110% of the average annual debt service.
- F. Prior to sale of bonds the City shall have received from it's financial advisor a letter that states to the best of it's knowledge to date, these policies have been met, or if not, why a waiver was in the City's best interest.
- G. In instances where multiple series of bonds are to be issued, the first series shall include public facilities of highest priority to the City, as determined by the City.
- H. The timing for bond sales is solely at the discretion of the City. Guidelines to assist in determining the appropriate timing of a Bond sale include (but is not limited to): appropriate land-use entitlements being in place and finalized; appropriate environmental clearances completed and certified; in-tract improvements related to parcels securing bonds significantly complete and certified; for residential projects, completion of model home complex(es), initiation of construction of production homes, and having at least 10% of saleable residential units in escrow or sold and closed.

In general, advance refundings of outstanding bonds for economic savings will be undertaken only when net present value savings of at least five percent (5%) of

the refunded debt can be achieved. Current refundings that produce net present value savings of less than five percent will be considered on a case-by-case basis, provided that the present value savings are at least three percent (3%) of the refunded debt. Refundings with savings of less than three percent (3%), or with negative savings, will not be considered unless there is a compelling public policy objective, as determined by the City. The measurement of the 3% or 5% savings may, but is not required to, consider other benefits to the City, other than the proposed bond transaction, if deemed appropriate by the City.

District Cost Deposits and Reimbursements

All City and consultant costs incurred in the evaluation of district applications and the establishment of districts will be paid by the applicant by advance deposit increments. The City shall not incur any non-reimbursable expenses for processing and administering developer initiated assessment districts or CFD's. Expenses not chargeable to the district shall be directly borne by the applicant.

Each application for formation of an assessment district or CFD shall be accompanied by an initial deposit in the amount determined by the City to fund initial staff and consultant costs associated with district review and implementation. If additional funds are needed to off-set costs and expenses incurred by the district, the City shall make written demand upon the applicant for such funds and the applicant shall comply with each demand within seven (7) calendar days of receipt of such notice. If the applicant fails to make any deposit of additional funds for the proceedings the City may suspend all proceedings until receipt of such additional deposit.

The deposits shall be used by the City to pay for costs and expenses incurred by the City incident to the proceedings, including but not limited to, legal, engineering, appraisal, special tax consultant and financial advisory expenses; administrative costs and expenses; required notifications; and printing and publication of legal matters.

The District shall refund any unexpended portion of the deposits upon the following conditions:

- A. The District is not formed;
- B. Bonds are not issued and sold by the District;
- C. The proceedings for formation of the District or issuance of bonds is disapproved by the City; or
- D. The proceedings for formation of the District or issuance of bonds is abandoned in writing by the applicant.

Except as otherwise provided herein, the applicant shall be entitled to reimbursement for all reasonable costs and expenses incident to the proceedings and construction of the public facilities as provided under the Mello-Roos Community Facilities Act of 1982 or the Municipal Improvement Act of 1911 or 1913 and the Improvement Bond Act of 1915, provided that all such costs and expenses shall be verified by the City as a condition of reimbursement.

The applicant or property owner shall not be entitled to reimbursement from bond proceeds for any of the following:

- A. In-house administrative and overhead expenses incurred by the applicant, or expenses of applicant's counsel or consultants;
- B. Interest expense incurred by the applicant on moneys advanced or expended during the proceedings and construction of public facilities; and
- C. Any other costs and expenses incurred by the applicant which are not otherwise authorized for reimbursement under the Mello-Roos or Assessment Acts.
- D. Any fees for public facilities, school, roads, or any other fee or any permits for engineering, construction, planning or inspections.

The City shall not accrue or pay any interest on any portion of the deposit refunded to the applicant or the costs and expenses reimbursed to the applicant. Neither the City nor the district shall be required to reimburse the applicant or property owner from any funds other than the proceeds of bonds issued by the district. Excess funds on deposit after the formation of the proposed district will be refunded to the depositor.

Agreements

The applicant shall provide all necessary agreements incident to district proceedings in a form satisfactory to the City and consistent with these policies. These agreements shall include, but not be limited to:

- A. Reimbursement Agreement
- B. 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.

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

Use of Consultants

The City shall select all consultants necessary for the formation of the district and the issuance of bonds, including the underwriters, bond counsel, financial advisor, assessment engineer, appraiser, market study 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.

No firm may serve as both design engineer and engineer of work and assessment engineer or special tax consultant on the same district. No law firm may serve as bond counsel if any project proponent has engaged such firm at any time during the three-year period immediately preceding the formation of the proposed district.

No law firm may serve as both bond counsel and disclosure counsel.

Acquisition Provisions

The City is generally opposed to construction districts. The City shall have final determination as to whether it will allow the financing of public facilities through construction as opposed to acquisition, and will grant exceptions only where an overriding justification exists concerning public benefit, safety or health. Such waiver shall be subject to City council approval.

The City and the applicant or property owner shall mutually agree upon facilities to be acquired and the method of determining reasonable acquisition costs. A funding and acquisition agreement shall be required and approved by the city council on or prior to the adoption of the Resolution of Intention to form the district.

Disclosure to Purchasers

The applicant or property owner will be required to demonstrate to the satisfaction of the City that there will be full disclosure of this and any other special tax, assessment or other liens on individual parcels to existing and future property owners. In addition to all requirements of law, the City shall require the applicant to provide disclosure of such information as the City deems appropriate to the purchasers of property within the district, with respect to the existence of the district, amounts of special taxes to be levied within the district and the terms and conditions of bonds issued on behalf of the district. Such disclosure may include homebuyer notifications requiring signature prior to home purchasers, as well as methods to notify subsequent home purchasers.

Property Owner Support

In the instance of multiple property owners, the district applicant shall be required to produce letters evidencing other property owner support for the scope and establishment of the district as an attachment to the district application. The City will require that developer initiated districts have concurrence of not less than two-thirds of the 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 on the non-participating property(s). The City reserves the right to require demonstration of a greater or lesser degree of public support for the formation of the proposed district.

Land Use Approvals

Proposed district properties must possess a land use determination such that proposed development land uses and specific facility requirements can be adequately assessed. The city will accept applications for assessment and/or Mello-Roos financing only when properties to be included within a proposed district have City approved zoning or site plan approval.

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 and based upon specific public purpose and/or health and safety findings.

CITY OF MERCED
MELLO-ROOS AND ASSESSMENT FINANCING PROGRAM

APPLICATION FORM

(Please submit 3 copies of this application and any attachments.)
(Use separate sheets if necessary.)

I. APPLICANT INFORMATION

1. Applicant Information

Project: _____

Previous name(s) under which project has been known or processed by the City:

Applicant: _____

Relationship to Property Owners: _____

Mailing Address: _____

Contact: _____

Phone: _____

Fax: _____

Major Property Owner(s) _____

Mailing Address: _____

Contact: _____

Title: _____

Phone: _____

Fax: _____

Developer: _____

Mailing Address: _____

Contact: _____

Title: _____

Phone: _____

Fax: _____

Please complete all above items as applicable. If any item is not applicable, please so state. Be sure to include:

Name(s) of owner(s) of record.

If applicant is not the current owner of record, describe the nature of developer's current interest in the property and expected date that escrow will close.

State when the applicant purchased the property and whether the purchase has been completely consummated.

State whether the purchase of the property or the purchase price is contingent in any way on the future development of the property.

II. DISTRICT INFORMATION

2. **Financing Method.** (Check all that apply)

- ☐ Special Assessments
- ☐ Mello-Roos Community Facilities Act
- ☐ Other or Undecided

3. **District Boundaries.**

Define the boundaries of the proposed Assessment/Mello-Roos district, or attach a map of the proposed district.

4. **Public Improvement Proposed.**

Describe the improvements to be financed through an Assessment/Mello-Roos district. Include a cost breakdown, construction timetable and the operating cost impact on the City. Do not include financing costs, interest income assumptions or other financial factors. Do include detail of construction costs that identifies soft costs, land, and/or right-of-way acquisitions, construction costs, engineering costs, and contingencies separately.

5. **Public Benefit.**

Describe the public benefit provided. Public benefits include, without limitation: (i) regional improvements which benefit a population beyond the immediate impact area of your project (e.g., libraries, fire stations, and freeway on-ramps); (ii) low and very low income housing; (iii) environmental benefits such as preservation of wetlands or the construction of storm water treatment facilities; and (iv) additional public improvements (e.g., improvements beyond those required by the City's Development Services Department as a condition of your project's approval). NOTE: You may list as public benefits any environmental mitigation measures or other exactions to be provided pursuant to a development agreement, if any, you have negotiated with the City concerning this project.

6. **District Financing Plan.**

State the estimated dollar amount of the proposed Assessment/Mello-Roos bond(s) and your assumptions, including interest rates, maturity and capitalized interest, if available. As a guideline, use a maximum 20-year maturity and a maximum one-year of capitalized interest.

Interest cost assumptions will be provided by the City based on the most recently available information on outstanding comparable Assessment/Mello-Roos transactions.

7. **Other Public Infrastructure Needs.**

List all other required public infrastructure not financed with the requested Assessment/Mello-Roos district. Provide cost estimates and funding methods.

8. Taxes, Assessment and Liens.

List all existing and proposed taxes, assessments, and liens on properties in the proposed district. Provide a recent preliminary title report and recent property tax bill.

9. Other District on the Property.

Have you, or anyone else, filed a petition with another public agency (e.g., school or water district) to form an Assessment/Mello-Roos district on the property or portion of?

10. Other Property Owners.

Identify other property owners who may be included in the proposed district but who were not indicated in #1, above, and attach a map identifying their properties.

11. Additional Information.

Do you foresee any unusual requirements, problems or opportunities associated with establishing this district or financing the improvements?

III. PROJECT INFORMATION

12. Project Description.

Provide a map identifying your project. Attach a full description of the project, including number of units/acres by land use, development schedule and utility and transportation requirements. Break down development by commercial, industrial and residential uses. For residential development, please furnish the following:

	Total Of Units	# Size in sq. ft.	Estimated Price Range	#of Units Completed	# of Units Under Constr.	#of Escrows Closed
S.F. Attached						
S.F. Detached						
Townhouses						
Condominiums						
Apartments						
Retail/Industrial						
Commercial						
Totals						

13. Governmental Approvals.

List status of City planning approvals required for your project, including processing numbers, projected approval dates, and any development agreements. Describe status of zoning changes required, tentative tract map filings, building permits, "will serve" letters for water and sewer facilities, etc.

14. **Civil Engineer.**

Provide name, address, contact, and telephone number of the project's civil engineer.

15. **Market Absorption Study.**

Attach a copy of any market absorption study already undertaken, specifying date and contact person. An Absorption Study will be required for any project to be secured by new development. The City will select market absorption consultants.

16. **Appraisal(s).**

List the date and amount of most recent appraisal(s) and name of appraiser, if any. Attach a copy of the appraisal(s). The City will rely on an independent MAI appraiser, selected by the City to determine appraised value of the property for purposes of complying with City policy.

17. **Environmental Impacts.**

Please attach copies of complete EIR(s) or indicate status. What efforts are planned to mitigate traffic congestion or other impacts, and will such efforts be financed by Assessment/Mello-Roos financing? Please also include copies of any soils or hazardous material survey prepared in connection with such EIR(s). Is the property securing the Assessment or Mello-Roos financing located in a flood plain?

18. **Environmental Audit.**

Please attach a Phase I environment audit for the subject real property or properties (prepared by a reputable environmental consulting firm).

Note: The City may designate a representative to receive and review confidential materials described in Question 19 and Question 20, below.

19. **Project Pro Formas.**

Provide project pro formas (a) assuming conventional financing for the infrastructure improvements and (b) assuming tax-exempt public financing.

20. **Project Guarantees.**

Identify proposed mechanism for guaranteeing special tax or assessment payments prior to positive project cash flow.

IV. APPLICANT EXPERIENCE/REFERENCES

The City may designate a representative to receive and review confidential materials required below:

21. **Financial Statements and References.**

(a) List up to three banking references, one of which should be the current project lender, if applicable. Include name, address, contact person and telephone number.

(b) Provide recent financial statement of developer (or other relevant entity), or provide other information demonstrating past financial performance and current financial condition.

(c) If construction financing has been obtained, describe source and terms. Otherwise, indicate status of construction financing.

22. Prior Development Experience.

List previous experience on similar developments and any other development ventures in California. Include location, project mix, size (number of units/square footage), year built and role of your development firm. Also, provide the name of a city official that you worked with on the project.

23. Prior Assessment/Mello-Roos Experience.

List all Assessment/Mello-Roos financings in which you have participated.

Have you ever failed to file an annual report required under the provisions of Rule 15c2-12 of the Securities and Exchange Commission?

Has an application for such financing on this property been previously denied or have you ever been party to an abandoned, defaulted or court challenged Assessment/Mello-Roos district? If so, please explain.

24. Bankruptcy.

Have any of the developers of the project(s) described in No. 1 above ever filed for bankruptcy or been declared a bankrupt? If so, specify date and location of court where bankruptcy action took place.

25. Creditor Compromises.

Have any of the developers of the project(s) described in Section I above, within the past ten years, offered a "deed in lieu of foreclosure" or made a compromise with secured lenders which resulted in such lenders receiving repayment of less than 100% of outstanding principal? If so, specify circumstances, amounts, and names of lenders.

26. Other Indebtedness.

Are there currently any outstanding loans for which the property is pledged as security? If so, state the name of the lending institution and the approximate loan amount. If so, are principal and interest payments current?

27. Litigation.

Has any claim or suit been made, or is any claim or suit now pending or threatened against the owner(s) or the property? If so, please attach a copy of the complaint or, if unavailable, please list the court in which the action is pending, the case number, and the amount involved.

28. **Property Taxes.**

Have any of the property taxes or assessments on the property been delinquent any time in the past 5 years? If so, please explain and state the current status.

V. CONCLUDING MATTERS

29. **Application Fee.**

Please include a non-refundable [amount of deposit] initial application deposit payable to the City of Merced. A Deposit and Reimbursement Agreement between the applicant and the City will be required prior to the City beginning its comprehensive project review.

Submitted By:

Firm: _____

Name: _____

Title: _____

Date: _____

Signature: _____

30. **Contact Person.**

Please provide the names and telephone numbers of persons the City should contact for further information about the following: Overall development; environmental clearances, mapping, permitting and entitlements; appraisals; absorption; engineering; financial projections; and, legal matters.
