

DATE ISSUED: December 3, 2003

REPORT NO. 03-251

ATTENTION: Natural Resources and Culture Committee
Agenda of December 10, 2003

SUBJECT: Council Policy on Funding for Maintenance Assessment District
Formation

SUMMARY

Issue - Should the Natural Resources and Culture Committee adopt the proposed Council Policy on Funding for Maintenance Assessment District Formations?

Manager's Recommendation – Adopt the proposed Council Policy.

Fiscal Impact – None with this action. The \$150,000 for the Maintenance Assessment District (MAD) Formation Fund has already been set aside by the City Council during the FY 2003 Budget process within the Environmental Growth Fund, and will be refunded as new districts are successfully formed.

BACKGROUND

Maintenance Assessment Districts (MADs) are established by the City of San Diego as a means of providing property owners with the opportunity to assess themselves to pay for enhanced improvements, maintenance, services and activities, known as Special Benefits, in their neighborhood or community beyond those generally provided by the City, known as General Benefits. MADs are authorized by the State of California in the Landscape and Lighting Act of 1972 , Article XIID of the California Constitution (Proposition 218), and by the City of San Diego Municipal Code. Although MADs generally maintain various improvements within public rights-of-way and other publicly-owned land, and provide other enhanced services, MADs

can also on a more limited basis fund acquisition of parkland or open space and construct and install public improvements.

MAD formation is often initiated by a developer during the development of a new community, or by property owners within an already-developed community who desire special benefits. There are currently approximately five MADs in developing communities in various stages of the formation process, and several being considered in already-developed communities.

DISCUSSION

The formation process requires that the initiating party pay for formation costs, including the independent Assessment Engineer's Report (to determine the boundaries, improvement and maintenance costs, and parcel assessments); balloting costs; and City Park and Recreation Department MAD staff administrative costs for the formation. The total cost for MAD formation will vary significantly depending upon the size and complexity of the MAD and proposed services, and the iterative process with the community needed for district formation. In developing communities, this cost may be funded by a developer or other private contribution. However, because this cost may be prohibitive for property owners in some already-developed communities, the San Diego City Council created a MAD Formation Fund of \$150,000 as part of the Fiscal Year 2003 Budget to assist in financing these start-up costs.

The proposed Council Policy on Funding for Maintenance Assessment Districts Formations addresses these financial issues and the use of this MAD Formation Fund, as described below.

Developed Communities

Through the \$150,000 MAD Formation Fund created by resolution of the City Council, the City may pay all or a portion of the costs necessary for initial district formation. The proposed Council Policy sets a limit of \$50,000 that may be used by the City from this Formation Fund for the formation of any one MAD. If the MAD is successfully formed, the total amount of the Formation Fund used by the City for MAD formation must be repaid in full by the community through the first year's assessments.

Since the Formation Fund was established by the City Council with the anticipation that revenues would be replenished through assessment collections, it is important that any communities receiving these funds have a strong chance of completing district formation, otherwise, the funding may be lost. Under the proposed Council Policy, a number of specific criteria must be met before monies from the Formation Fund may be used to form a MAD in a developed community. These include:

1. Development of a project description of the proposed MAD boundaries and new improvements to be installed, maintained and funded by the MAD, and a preliminary estimate (developed in conjunction with MAD staff) of anticipated assessments to be levied on property owners.

2. Determination of the up-front funding needed from the Formation Fund to pay for the costs (may not exceed \$50,000).
3. Where the proposed MAD boundaries are substantially similar to those of the recognized planning group, documentation showing that the planning group supports the proposed MAD concept, is aware of the estimated formation costs and requirement to repay the Formation Fund, and has formed a MAD advisory subcommittee;

Where the proposed MAD boundaries are not substantially similar to the planning area boundaries, documentation showing that a self-designated MAD advisory committee has been formed, and that this committee supports the proposed MAD concept, and is aware of the estimated formation costs and the requirement to repay the Formation Fund.

4. Submittal of a community-initiated petition describing the MAD proposal and costs, and containing valid signatures of at least 30% of the property owners within the proposed MAD boundaries.

MAD staff will assist any developed community requesting funds in developing the necessary information, which must be submitted to the Deputy Director by September 1 in order to form the district for the following fiscal year.

In the event that the total amount of money in the Formation Fund is less than the total amount needed to accommodate all formation funding requests received on September 1 of each year, funding requests will be ranked based on the following criteria:

1. Amount of matching funds the community is able to provide to partially offset formation costs, thus either lowering the amount needed from the Formation Fund, or providing additional funding to complete the formation process if the maximum Formation Fund amount of \$50,000 is insufficient.
2. Percentage of additional valid property owner petition signatures the developed community is able to provide over and above the minimum required 30%.
3. Location of the community relative to Council District boundaries. In order to permit equal MAD formation opportunities throughout the City, only one MAD per Council District will be considered for use of Formation Fund monies in any one year, unless there are no other eligible proposals in other Council Districts.

Developing Communities

To establish a new MAD in a developing community, interested developers may deposit funds with the City to pay for the costs of formation, including the independent Assessment Engineer's Report, balloting costs, and City Park and Recreation Department MAD staff administrative costs. Any efforts to advocate the MAD formation are not considered part of the formation cost. Developers must submit a project description as described above, and work closely with MAD

staff in providing necessary information.

In general, the total cost of formation will vary depending on size, complexity, and scope. The developer would submit funds prior to the initiation of a new MAD formation study, with an expectation of full cost recovery for the City. The City Auditor and Comptroller, upon direction of the City Manager, would be authorized to create special interest-bearing funds for the purpose of forming a new MAD. These funds would be identified in the annual Appropriation Ordinance.

If a surplus exists in the developer deposit fund for MAD formation at the completion of the ballot process, the funds would be returned to the developer. If additional funds are required to complete the formation process, staff would calculate the cost of the remaining services and provide a bill to the developer.

Similarly to developed communities, upon a successful formation effort, the first year's assessments may be used to pay back the developer for formation costs associated with the Assessment Engineer's Report, balloting process, and City oversight costs. Any formation advocacy costs, including fliers and handouts, would not be part of the reimbursable costs.

ALTERNATIVES

Do not adopt the proposed Council Policy.

Respectfully submitted,

Ellen Oppenheim, Director
Park and Recreation Department

Approved: Bruce A. Herring
Deputy City Manager

OPPENHEIM/AH/AF

Attachment: [Draft Council Policy on Funding for New Maintenance Assessment District Formation](#)