

**SUBMITTAL TO THE BOARD OF SUPERVISORS,
COMMUNITY FACILITIES DISTRICT'S LEGISLATIVE BODY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

214



FROM: Executive Office

SUBMITTAL DATE:
September 28, 2004

SUBJECT: Community Facilities District No. 89-4 of the County of Riverside – Initiating Change Proceedings

RECOMMENDED MOTION: That the Legislative Body approve and adopt: (i) Resolution No. CFD 2004-16 Determining that the Public Convenience and Necessity Require that the Rate and Method of Apportionment of Special Tax for the District be changed, that a new Special Tax be proposed and that the Types of Public Facilities and Purposes for which Bonds may be Issued be changed; (ii) Resolution No. 2004-17 Declaring the Necessity for the District to Incur Bonded Indebtedness in an Increased Amount; and (iii) authorize the Chairman to execute the Second Supplement Agreement to the Joint Financing and Acquisition Agreement among Community Facilities District No. 89-4 (Walsh Medical Arts Center) of the County of Riverside, Eastern Municipal Water District, City of Murrieta, and Kevin P Walsh and Regina M. Walsh.

BACKGROUND: On April 22, 2003, the Legislative Body entered into an Amended and Restated Settlement Agreement (the "Settlement Agreement") with Pony Express Land, Property & Investment, LLC (the "Developer") as part of an escrow by which the Developer acquired 12 delinquent parcels within Community Facilities District No. 89-4 (the "CFD"). As part of the terms of the Settlement Agreement, the Developer agreed to bring current the delinquent ad valorem and special taxes for which foreclosure judgments had been entered. The outstanding bonds of the CFD had been delinquent since September 1, 2000. The CFD agreed to accept a petition from the Developer to initiate change proceedings with regard to the CFD. (Continued on page 2)

Jerry Norris
Jerry Norris, Senior Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2005

SOURCE OF FUNDS: Community Facilities District 89-4	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

[Signature]

Policy Policy
 Consent Consent
 Dep't Recomm.:
 Per Exec. Ofc.:

**ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD**

8.1

**Community Facilities District No. 89-4 of the County of
Riverside – Initiating Change Proceedings**

A petition (the "Petition") has been received from the Developers, as the majority property owner in the CFD, which requests a change in the rate and method of apportionment (the "RMA") of special taxes for the CFD. The principal reason necessitating this change is that the Developer has entered into escrow with an entity that will cause 144 apartments to be constructed on the rear 8 acres of the CFD. The current rate and method does not provide for a residential use within the CFD. The proposed new RMA allows for this type of land use and adjusts the rate for commercially used property proportionately.

The petition also requests that the CFD be allowed to incur additional bonded indebtedness to participate in the construction of a gravity sewer line off site that will allow the abandonment of an existing pump station that prevents the completion of Jackson Street within the CFD, which is an approved facility under the original District facilities list. The additional capital that the Developer is requesting is \$275,000.

Upon the receipt of the Petition, the Legislative Body is statutorily required to adopt the resolutions of consideration and to set a public hearing at which all testimony, both oral and written, regarding the change proceedings can be considered by the Legislative Body before it elects whether or not to proceed further. Adoption of the resolutions would set the public hearing for 9:30 am on November 9th 2004.

The Second Supplement Agreement to the Joint Financing and Acquisition Agreement among Community Facilities District No. 89-4 (Walsh Medical Arts Center) of the County of Riverside, Eastern Municipal Water District, City of Murrieta and Kevin P Walsh and Regina M. Walsh (the "Agreement") is necessitated to allow for the Developer to assume the position of Kevin P. and Regina M. Walsh under the original agreement and to allow for the additional sewer facility to be funded by bond proceeds. The Agreement must be approved by all parties prior to the date of the public hearing. All parties have agreed to its terms and Eastern Municipal Water District will consider the Agreement on September 22, 2004. The Murrieta City Council is anticipated to have considered the Agreement no later than its first meeting date in October.

The proposed restructuring has been discussed with the Debt Advisory Committee. The matter will be returned to the Debt Advisory Committee and the Legislative body before any additional debt is incurred on behalf of the CFD.

The resolutions and agreement have been reviewed and approved as to form by Special Counsel for Community Facilities District No. 89-4.