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Financing public infrastructure: utilizing special-district option

The installation of essential public infrastructure is a requirement of every development and redevelopment project. However, given the current strain on state, municipal and county governments, the ability to finance such infrastructure remains a great challenge.

Even before the Colorado General Assembly recognized special districts as local governments in 1947, varying forms of cooperative districts were utilized to provide improvements and municipal-type services to areas of the state where they were not otherwise available. Today, special districts remain a viable and indispensable financing option to address community infrastructure needs by providing a flexible, effective, efficient and accountable governance structure to finance installation and long-term operation and maintenance of public improvements. As Colorado continues to recover from this recessionary period, special districts will be a critical component of financing development to assure that infrastructure is available to support growth.

Special districts can be structured to address any development scenario. Where a gap in service or infrastructure exists for a particular community, or where a community is isolated from the infrastructure of an overlying jurisdiction due to its location, a district may be organized to address that limited purpose and the related costs are borne by the owners within the benefitted area instead of burdening the entire city or county. Alternatively, a district may be organized with broad powers to collaborate with other entities to finance regional infrastructure that cannot be supported by a single revenue source. Districts can cooperate with counties, municipalities,



Megan Becher
Shareholder,
McGeady Sisneros
PC, Denver

urban renewal authorities, other districts and private entities to facilitate public-public and public-private partnerships that can lead to financing solutions for long or short-term infrastructure needs and ensure that development occurs in a manner consistent with growth demands.

As governmental revenues have become more scarce, cities, counties, private developers, citizens and special interest groups alike have begun to realize that the special district structure offers potential for provision of more than just basic essential public improvements such as streets, water and sewer infrastructure, park and recreation improvements and fire and emergency services. In the past several years, legislation has been introduced and/or implemented to expand statutory authority to address changing community needs by the creation of health assurance and health service districts, forest improvement districts, transportation districts, and energy efficiency and renewable energy special improvement districts.

Special districts have the authority to impose taxes, rates, fees tolls and charges and to issue tax-exempt bonds to support the provision of infrastructure. Historically, there has been some skepticism and concern that special districts have uncontrolled authority with respect to tax imposition, debt issuance and land use planning matters. However, constitutional,



Mary Jo Dougherty
Shareholder,
McGeady Sisneros
PC, Denver

and statutory and other locally imposed limitations exist and restrict districts in these areas. Specifically, special districts are subject to the provisions of the Taxpayer's Bill of Rights, which is part of the Colorado Constitution and contains tax, spending, revenue and debt limitations that apply to the state and all local governments. Further, Colorado law specifically limits the property tax that may be imposed by a special district to pay its debt unless certain thresholds and criteria are met. At the local level, special districts are governed by a service plan that is approved by the jurisdiction in which the special district is located and often contains additional controls including mill levy caps and maximum debt issuance authorizations. Counties and cities retain control over land use and land planning matters irrespective of the existence of a special district in a community.

Special districts are not only authorized to finance the installation of public improvements at tax exempt rates, but also may provide a governance structure for long-term operation and maintenance, repair and replacement of public infrastructure. Where there may be no other viable alternative, the fact that special districts have this authority and can act as a perpetual provider is especially important as a result of the limited budgets of counties and cities that historically provide these

types of municipal services. There are many benefits to a special district's provision of public services. Specifically, a district's tax imposition and collection process is efficient and cost effective because it is handled by the county assessor in conjunction with the county's established annual tax collection process. Additionally, as a result of existing state laws governing public meetings, public records act requests, budgets, audits and elections, there is transparency and accountability in the district governance structure. To supplement this, information related to district operations and administration is required to be submitted to a central repository at the state Division of Local Government and/or the State Auditor's Office and is readily available to all constituents and citizens.

In summary, a special district can be a fundamental element in encouraging and implementing the development of property and can help stimulate the growth of any type of development. Special districts assist in making a project financially feasible for a developer, relieve cities and counties of additional burdens on already strained budgets, and result in a community with appropriate, and often better than typical, infrastructure and amenities for the ultimate owners, residents and users. The special district as a financing mechanism provides assurance that there is a governmental entity perpetually available to finance and install essential public infrastructure in an economic and efficient manner; cooperate with other government and private entities in assuring continued provision of improvements and services; and provide ongoing operation and maintenance of essential public infrastructure.▲