**LOS ANGELES COUNTY DEPARTMENT OF REGIONAL PLANNING**

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Administration

Deputy Director,
Land Use Regulation

July 9, 2023

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

37 July 9, 2024

Edward Yen
EDWARD YEN
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF COUNTY OF LOS ANGELES
COMMUNITY FACILITIES DISTRICT GOALS AND POLICIES
(ALL DISTRICTS) (3-VOTES)**

**SUBJECT**

Recommendation to approve the updated County of Los Angeles Community Facilities District Goals and Policies (the "CFD Policy") as Board Policy 4.047 to ensure that the development and financing of public infrastructure and services within the County of Los Angeles using community facilities districts ("CFDs") is managed in accordance with sound fiscal policy for the benefit of County residents.

**IT IS RECOMMENDED THAT THE BOARD,**

1. Adopt the Resolution approving the CFD Policy and approve its incorporation into the Board Policy Manual as Board Policy 4.047.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of the CFD Policy is to govern the formation of CFDs, the sale of CFD bonds to finance public infrastructure, and the subsequent administration of special taxes levied by CFDs on parcels within their respective jurisdictions. On September 3, 2019, the County of Los Angeles adopted local goals and policies (the "2019 CFD Policy") concerning the use and application of the Mello-Roos Community Facilities Act of 1982 (the "Mello-Roos Act") to comply with the requirements of Section 53312.7 of the California Government Code (the "Government Code"). Our departments are recommending that your Board approve an updated CFD Policy and incorporate the CFD Policy in the Board of Supervisors' Policy Manual. In the process of updating the 2019 CFD Policy, our departments sought input from the Mello-Roos Task Force consisting of staff from the Chief Executive Office, Los Angeles County Development Authority, County Counsel, Fire, Health Services, Library, Parks and Recreation, Public Works and Sheriff.

The updated CFD Policy includes a clarification and update to a key aspect of the 2019 CFD Policy as shown below:

**SECTION II: ELIGIBLE FACILITIES AND SERVICES**

If the applicant elects to design and construct a public facility, including but not limited to libraries, fire and sheriff stations, and parks, park facilities and sewer facilities, in lieu of payment of requisite development impact fees, the applicant may seek reimbursement from the CFD only for net costs exceeding the amount of the development impact fee that would have otherwise been paid. In no instance shall the applicant request reimbursement from the CFD for payment of impact fees in any amount, or for design and construction of a public facility whose cost is less than or equal to the amount of the impact fees.

Additionally, reimbursement for the cost of land or dedication of easements for public facilities, or for Quimby Fees (fees paid as a condition to approval of a tentative map or parcel map pursuant to the Quimby Act in lieu of dedicating land to the County for park and recreational purposes) will be prohibited.

**SECTION VI: APPROVED FACILITIES**

After review by the Task Force, an applicant must negotiate with the appropriate County department regarding financing and acquisition by the CFD of facilities that would normally be operated or maintained by that department. For example, a fire station that was partially or fully financed or reimbursed by the CFD would need the approval of the Fire Department.

The developer must negotiate a single Funding and Acquisition Agreement between the developer and the appropriate County departments for those eligible facilities to be partially or fully financed or reimbursed by a CFD. Such an agreement will require that the CFD acquires only facilities that are complete, or discrete portions or phases of facilities that are complete. The appropriate County department will make the determination as to when facilities, or discrete portions or phases of facilities, are complete. The Funding and Acquisition Agreement must comply with the terms of this policy, including allowable facilities and the prohibition of reimbursement for land value or dedication of easements.

**Implementation of Strategic Plan Goals**

The recommended action supports County Strategic Plan Focus Area 1.C—Housing and Homelessness: Support efforts to that prevent displacement, increase access to housing stability, develop more affordable housing, sustain homeownership opportunities, and enhance the effectiveness of the County's homeless rehousing system.

**FISCAL IMPACT/FINANCING**

All expenses for each CFD, including debt service payments on CFD bonds issued to finance public infrastructure, are the legal obligation of the property owners within the CFD, with no financial recourse to the County.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Mello-Roos Act was enacted by the State of California in 1982 to enable local governments to form CFDs to fund the construction, acquisition, operation, maintenance, or enhancement of certain public facilities and services. The Mello-Roos Act authorizes the issuance of bonds to finance public facilities, and the levying of special taxes to pay the debt service on CFD bonds and to provide funding for certain public services provided to property owners and residents within a CFD.

Pursuant to Section 53312.7 of the Government Code, the CFD Policy is a document that is required to be adopted by the Board prior to the initiation of CFD formation proceedings and which must include the following:

(1) A statement of the priority that various kinds of public facilities and services shall have for financing through the use of the Mello-Roos Act, including public facilities to be owned and operated by other public agencies, including school districts, and services to be provided by other public agencies.
(2) A statement concerning the credit quality to be required of bond issues, including criteria to be used in evaluating the credit quality.
(3) A statement concerning steps to be taken to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under the Mello-Roos Act.
(4) A statement concerning criteria for evaluating the equity of tax allocation formulas and concerning desirable and maximum amounts of special tax to be levied against any parcel pursuant to the Mello-Roos Act.
(5) A statement of definitions, standards, and assumptions to be used in appraisals required by Section 53345.8 of the Government Code.

The County adopted the 2019 CFD Policy on September 3, 2019 in compliance with Government Code Section 53312.7. The 2019 CFD Policy expired on September 3, 2023. The revised CFD Policy that is being recommended for adoption by your Board includes updated guidelines for the County's use of CFDs to finance various types of public facilities and services for the benefit of County residents. The new CFD Policy will sunset on September 3, 2027.

Subject to Board approval, the CFD Policy allows for any policy or goal stated therein to be supplemented or amended and for any provision set forth therein to be waived or changed for a specific project. The CFD Policy is subject to periodic review and update (with Board approval) by the Treasurer and Tax Collector (TTC) and Regional Planning, either as the result of material changes in market conditions, best practices, or if any legal and/or regulatory requirements warrant such an update. All updates to the CFD Policy will require approval by your Board.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There is no impact on current services or projects.

**CONCLUSION**

Upon approval, it is requested that the Executive Officer-Clerk of the Board of Supervisors return two originally executed copies of the adopted Resolution to the TTC and Regional Planning.

Respectfully submitted,

AJ Bodek

AMY J. BODEK, AICP
Director of Regional Planning

Elizabeth B Ginsberg

Elizabeth Buenrostro Ginsberg
Treasurer and Tax Collector

AJB:DLS:DD:ia

Attachments

c: Sheriff
Chief Executive Office
County Counsel
Community Development Commission
Fire
Health Services
Library
Parks & Recreation
Public Works

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, CALIFORNIA APPROVING THE COUNTY OF LOS ANGELES COMMUNITY FACILITIES DISTRICT GOALS AND POLICIES**

**WHEREAS,** the Board of Supervisors (the "Board") of the County of Los Angeles (the "County") recognizes the benefit of ensuring that the development and financing of public facilities and services within the County using community facilities districts ("CFDs") is managed in accordance with sound fiscal policy for the benefit of County residents; and

**WHEREAS,** the Mello-Roos Community Facilities Act of 1982, commencing with Section 53311 of the California Government Code (the "Act"), provides a mechanism to fund public improvements and services through the levy of special taxes within a CFD; and

**WHEREAS,** Section 53312.7(a) of the Act requires that the County adopt local goals and policies concerning the use of the Act as a prerequisite to initiating proceedings on or after January 1, 1994, to establish a new CFD under the Act; and

**WHEREAS**, on January 25, 1994, the County previously adopted local goals and policies concerning the use and application of the Act (the "1994 CFD Policy"); and

**WHEREAS,** on September 3, 2019, the Board of Supervisors adopted an update to the 1994 CFD Policy (the "2019 CFD Policy"); and

**WHEREAS,** the 2019 CFD Policy has been updated by the County departments which have responsibility for CFD formation and administration, and was reviewed by the Audit Committee and recommended to your Board for approval;

**WHEREAS**, the Board finds and determines that adoption of the attached updated Community Facilities District Goals and Policies (the "CFD Policy") for inclusion into the Board Policy Manual will help ensure that the formation of CFDs within the County, the levying of special taxes, and the issuance of CFD bonds continue to be managed prudently in accordance with sound fiscal policy, and in compliance with Board Policy No. 4.045 - Debt Management Policy;

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS**:

**Section 1. <u>Recitals</u>.** All of the above recitals are true and correct.

**Section 2. <u>Approval of the CFD Policy</u>.** The Board hereby adopts the attached CFD Policy as the County of Los Angeles Community Facilities District Goals and Policies and approves the inclusion of the CFD Policy into the Board Policy Manual.

**Section 3. <u>Authorization to Manage CFD Functions</u>.** The Treasurer and Tax Collector and Regional Planning are hereby authorized to manage the CFD financing functions and related administration processes for the County in accordance with the CFD Policy.

**Section 4. <u>Effective Date</u>.** This Resolution shall take effect from and after the date of its adoption.

The foregoing resolution was adopted on the 9th day of July, 2024, by the Board of Supervisors of the County of Los Angeles and *ex officio* the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

Edward Yen
Executive Officer-Clerk of the Board of
Supervisors of the County of Los Angeles

By: ______________________________
Deputy

APPROVED AS TO FORM:

Dawyn R. Harrison
County Counsel

By: Andriy Pazuniak
Deputy County Counsel

| Policy #: | Title: | Effective Date: |
|---|---|---|
| 4.047 | **Community Facilities District Goals and Policies** | 09/03/19 |

## PURPOSE

The purpose of this Community Facilities District Goals and Policies is to establish written policies and guidelines to govern the formation and financing of public infrastructure and services within the County of Los Angeles using community facilities districts ("CFDs") in accordance with sound fiscal policy for the benefit of County residents. While controls have been in place since 1987, the Board adopted the Mello-Roos Community Facilities Act Goals and Policies in January 1994, which have been updated in September 2019 for incorporation into the Board's Policy Manual.

## REFERENCE

January 10, 1994 Treasurer and Tax Collector and Regional Planning Board Letter
August 14, 1987 Department of Public Works Board Letter
August 20, 1985 Title 21 Los Angeles County Code, Ordinance No. 85-0136
September 3, 2019, Board Order No. 35

## POLICY

### SECTION I: INTRODUCTION

The County of Los Angeles Community Facilities District Goals and Policies (Policy) concerning the use of the Mello-Roos Community Facilities Act of 1982 (Act) has been adopted by the County of Los Angeles (County) pursuant to Section 53312.7 of the California Government Code (Government Code). Accordingly, the County is authorized to initiate proceedings to establish Community Facilities (Mello-Roos) Districts (CFDs) pursuant to the Act. The Policy includes guidelines to govern the formation of CFDs, the sale of CFD bonds and the subsequent administration of special taxes levied by CFDs on parcels within their respective jurisdictions.

The County will consider applications for the formation of CFDs initiated by owners or developers of vacant property proposed to be developed, owners of property within existing developed areas or registered voters residing in existing developed areas, or the County itself may provide for the establishment of CFDs to finance public improvements or to provide public services authorized under the Act and approved in accordance with the provisions hereof.

The determination to proceed with the formation of any CFD and/or provide for the issuance of CFD bonds is solely with the discretion of the County. Any policy or goal stated herein may be supplemented or amended and any provision set forth herein may be waived or changed for a specific project by an action of the County of Los Angeles Board of Supervisors (Board).

**SECTION II: ELIGIBLE FACILITIES AND SERVICES**

Pursuant to Government Code Section 53312.7(a)(1), the County will prioritize various kinds of public facilities and services for financing as described below.

Subject to the requirements of the Act, facilities eligible for CFD financing include public facilities required by residential, commercial and industrial subdivisions, when those facilities represent a significant regional benefit. For purposes of this Policy, public facilities are defined as those facilities which benefit the surrounding community. The County shall prioritize for CFD financing, public facilities for which the County, or a public agency as determined appropriate by the County, has normal operating and maintenance responsibility, that provide a significant regional benefit.

Subject to the requirements of the Act, the types of facilities which may be financed include any facility eligible to be financed under Section 53313.5 of the Government Code as it now exists or may be amended in the future. Eligible facilities which may be financed include, but are not limited to:

1. Streets
   a. Streets and roads
   b. Collector streets which significantly improve the level of service on adjacent or connecting highways

2. Utilities, sewer, water and drainage facilities as permitted by law, such as:
   a. Facilities located within an eligible road, as specified above
   b. Regional facilities required as a condition of approval of a tentative map
   c. Facilities for flood and storm protection services

3. Additional facilities which may be financed include, but are not limited to:
   a. Parks, recreational facilities, open-space facilities, and multi-use trails
   b. Libraries
   c. Senior centers
   d. Fire and sheriff stations
   e. Health care facilities
   f. School sites
   g. Other governmental facilities
   h. Childcare facilities

The County shall determine, in its sole discretion, whether a proposed facility shall be CFD financed.

It is the policy of the County to give priority to the provision of public facilities benefiting the County in any CFD established by the County. The Board shall have the final determination as to the prioritization of financing of any facilities. Subject to the requirements of the Act, the services eligible for CFD financing include services that are authorized under Section 53313 of the Government Code as it now exists or may be amended in the future. These services include, but are not limited to:

1. Police, fire protection and paramedic facilities and services
2. Operation and maintenance of parks, recreational facilities, open space, and multi-use trails
3. Biological mitigation measures involving land acquisition, dedication and revegetation
4. Street lighting and public rights of way landscaping
5. Road maintenance

In accordance with Section 53313, the County will not issue bonds to fund any of the services specified in Section 53313, although it may issue bonds to fund capital facilities to be used in providing these services.

Generally, a CFD formed by the County may not finance public services provided by any other public agency, but the County retains the right and sole discretion to consider applications to finance services on a case-by-case basis.

If the applicant elects to design and construct a public facility, including but not limited to libraries, fire and sheriff stations, and parks, park facilities and sewer facilities, in lieu of payment of requisite development impact fees, the applicant may seek reimbursement from the CFD only for net costs exceeding the amount of the development impact fee that would have otherwise been paid. In no instance shall the applicant request reimbursement from the CFD for payment of impact fees in any amount, or for design and construction of a public facility whose cost is less than or equal to the amount of the impact fees.

Additionally, reimbursement for the cost of land or dedication of easements for public facilities, or for Quimby Fees (fees paid as a condition to approval of a tentative map or parcel map pursuant to the Quimby Act in lieu of dedicating land to the County for park and recreational purposes) will be prohibited.

## SECTION III: ELIGIBLE SUBDIVISION PROJECTS

It is the strong preference of the County that subdivision project entitlements have progressed to the approved tentative map stage prior to formation of a CFD. In extraordinary circumstances, the County may consider formation of a CFD prior to tentative map approval when such a formation can be justified to the County's satisfaction. In no event will the County issue CFD bonds prior to the developer obtaining approved tentative maps for all land that will provide security for a bond issue.

## SECTION IV: APPLICATION AND DEPOSIT PROCESS

The Application to Consider Formation of County of Los Angeles Community Facilities (Mello-Roos) District for a proposed CFD can be obtained from the County Treasurer and Tax Collector (TTC) and completed applications should be returned to the TTC. The TTC will forward completed applications to each member of the County of Los Angeles Community Facilities (Mello-Roos) District Task Force (Task Force) for review (Attachment 1 is a listing of Task Force members). The Task Force will review the application for conformance with the Policy and make a recommendation to the Board regarding the application (Attachment 2 lists the steps to be taken by the Board relating to formation of a proposed CFD). The County reserves the right to request additional reports, information and/or studies reasonably necessary to evaluate an application. The failure of an applicant to provide complete and accurate information and/or the failure to notify the County of material changes may result in the County's cessation of CFD evaluation, formation and/or bond issuance.

The County will not incur any costs or make any advance payments in connection with its review of a proposed CFD. All costs incurred by the County prior to formation of a CFD, including but not limited to consultant costs, County staff and administrative costs and related expenses, costs of printing notices, printing and publication costs, and all expenses directly or indirectly relating to these items, shall be advanced by the applicant. The County shall require an initial deposit in an amount determined by the County to fund initial staff and consultant costs associated with CFD review and implementation. The deposit shall be replenished as needed to off-set costs and expenses incurred by the County. If the applicant fails to make a necessary deposit of additional funds within 10 business days of receiving notice that additional funds are needed, the County may suspend all work related to the CFD formation until receipt of such additional deposit.

Advances to the County for formation review costs shall be made pursuant to a Deposit and Reimbursement Agreement entered into between the applicant and the County. The County shall not accrue or pay any interest on any portion of the deposit refunded to any applicant or the costs and expenses it reimburses to an applicant.

After formation of a CFD and the sale of bonds, an applicant may be reimbursed from bond proceeds for certain expenses approved by the County, subject to the limitations of applicable State and federal law. Such reimbursement does not include applicant's counsel or their consultants. Neither the County nor the CFD shall be required to reimburse an applicant or property owner from any funds other than the proceeds of CFD bonds and monies remaining in any fund or account created pursuant to the Deposit and Reimbursement Agreement.

## SECTION V: USE OF CONSULTANTS

The County shall select and employ consultants necessary for the review of any application, the formation of the CFD and the sale of CFD bonds. Such consultants can include municipal advisors, bond counsel, disclosure counsel, market absorption analysts, special tax advisors, appraisers, engineering firms and other consultants as deemed necessary by the County. The County shall also select the underwriter(s) for the sale of CFD bonds. Prior consent of the applicant shall not be required in the County's determination of the consultant and underwriting teams.

An applicant may retain its own consultants for its own benefit and at its own expense.

## SECTION VI: APPROVED FACILITIES

After review by the Task Force, an applicant must negotiate with the appropriate County department regarding financing and acquisition by the CFD of facilities that would normally be operated or maintained by that department. For example, a fire station <u>that was partially or fully</u> financed <u>or reimbursed</u> by the CFD would need the approval of the Fire Department.

The developer must negotiate a single Funding and Acquisition Agreement between the developer and the appropriate County departments for those eligible facilities to be <u>partially or fully</u> financed <u>or reimbursed</u> by a CFD. Such an agreement will require that the CFD acquires only facilities that are complete, or discrete portions or phases of facilities that are complete. The appropriate County department will make the determination as to when facilities, or discrete portions or phases of facilities, are complete. <u>The Funding and Acquisition Agreement must comply with the terms of this policy, including allowable facilities and the prohibition of reimbursement for land value or dedication of easements</u>.

**SECTION VII: VALUE-TO-LIEN RATIO AND APPRAISAL**

The County may sell CFD bonds only if it determines that the value of the real property that would be subject to the special tax to pay debt service on the CFD bonds will be at least four times the principal amount of the CFD bonds to be sold plus the principal amount of all other bonds outstanding that are secured by a special tax levied on property within the CFD or a special assessment levied on property within the CFD. The County will consider overlapping CFDs in determining the minimum value-to-lien ratio, without exception. The County, in its sole discretion, may require a higher value-to-lien ratio based on market and economic conditions. The value-to-lien ratio for each parcel within the CFD may be less than 4:1, but not less than 2:1, as long as the overall valuation of the CFD is at least 4:1. The County retains sole discretion as to whether to sell CFD bonds when the 4:1 minimum value-to-lien ratio for the overall CFD as well as the 2:1 minimum value-to-lien ratio for each parcel in the CFD are met. The County may consider the use of escrow bonds to finance additional improvements. Proceeds may be released from escrow upon satisfaction of the County's required minimum value-to-lien ratio for the specific financing. Proceeds not released for improvements shall be used to redeem bonds.

The appraised value of the land within a proposed CFD will be determined by an independent appraiser selected by the County. The appraiser will consider the cost of improvements that have been financed by the CFD or that will be financed in the current bond issue by the CFD and only those existing developer financed improvements in place at the time of appraisal. The appraisal criteria and methodology will be specified by the County in its contract with the appraiser.

Attachment 3 Community Facilities District Appraisal Guidelines contains appraisal guidelines for CFDs.

**SECTION VIII: MARKET ABSORPTION STUDY**

The County may require an independent absorption study of any proposed residential development project within a proposed CFD, and in such other cases as may be appropriate, prior to the issuance of CFD bonds. The County retains the right and sole discretion to require an independent absorption study. The County shall use the independent absorption study (1) as a basis to verify the proposed base pricing of the finished properties (lots or completed buildings or dwelling units) subject to the levy of the special tax, (2) to determine the projected market absorption of such properties and (3) as a basis to verify that sufficient special tax revenues can be generated to fund the special tax requirement for the CFD. The County may require an independent absorption study of any proposed industrial or commercial development within a proposed CFD. Additionally, the County will provide the projected absorption rates to the appraiser for use in the appraisal.

**SECTION IX: SPECIAL TAX FORMULA AND RATE AND METHOD OF APPORTIONMENT**

Pursuant to Government Code Section 53312.7(a)(4), the County will consider the information described below when evaluating the equity of tax allocation formulas, as well as desirable and maximum amounts of special tax to be levied against any parcel pursuant to the Act.

The special tax formula will be developed in a manner which treats landowners in the CFD equitably. In a residential CFD, ultimately the County will seek to ensure that the property owner's interest is protected. Accordingly, the following components will be built into the special tax formula as appropriate:

Special Taxes for Facilities:

a. Interest earnings for funds established in the CFD financing will accrue to the benefit of each specific fund during the life of the fund. Excess interest earnings shall be used as an offset to the calculation of the annual special tax levy.
b. Debt service will be structured to be level.
c. Undeveloped land will bear a fair share of the annual special tax.
d. The special tax will be structured not to exceed 2% of the projected assessed value of each improved parcel within the CFD when added to the ad valorem property tax, voted indebtedness, overlapping CFDs and direct assessments.
e. A backup special tax or equivalent thereof will be required for every CFD to account for changing land uses after bonds are issued.
f. The special tax will be structured as a flat tax, with no annual escalation.
g. The term of the bonds secured by the special tax shall not exceed the maximum term permitted under the Act.
h. Capitalized interest may be limited to the time required to levy and collect the special tax on the tax roll so that it will be available for debt service payments.

Special Taxes for Services:

a. Annual special taxes for services will be identified and included in the formula.
b. Annual special taxes may include escalators taking into account the actual cost of services. In developing the initial special tax formula, a reasonable annual escalator should be included in the special tax for services.
c. If a special tax for services is levied, the special tax for services must be included when calculating the not-to-exceed 2% cap described above under "Special Taxes for Facilities."

The rate and method of apportionment for the special taxes must be structured so as to produce special tax revenues sufficient to pay:

   a. Debt service on the CFD bonds and
   b. Reasonable and necessary annual administrative expenses of the CFD and the CFD bonds.

Additionally, the rate and method of apportionment may be structured so as to produce amounts sufficient to fund:

   a. Any amounts required to establish or replenish a debt service reserve fund for the bonds,
   b. Amounts to pay directly costs of facilities authorized by the CFD,
   c. Amounts equal to delinquencies, and
   d. Any other costs or payments permitted by law.

The special tax rate and method of apportionment must be structured such that the projected maximum special tax that could be levied in any fiscal year would produce special tax revenues at least equal to (a) 110% of projected annual debt service on the bonds for the current fiscal year plus (b) projected administrative expenses of the CFD for the current fiscal year. Generally, the special tax rate and method of apportionment will be structured to allow prepayment of special taxes by property owners.

The CFD may designate one or more improvement areas, and a separate rate and method of apportionment may be applicable to each improvement area.

The CFD may also designate future improvement areas, which may be annexed to the CFD into an improvement area as prescribed in the Act.

## SECTION X: APPLICANT CREDIT EVALUATION

The applicant must demonstrate the financial ability to make all special tax payments during the time that the project being financed by the CFD is being constructed. Among other things, the applicant must make available all necessary audited financial statements, as determined by the County and its consultants. In certain cases, the County may require that the applicant post a letter of credit or cash as security for the payment of special taxes during the construction period.

## SECTION XI: JUDICIAL VALIDATION

The County retains the right and sole discretion to require a judicial validation of CFD formation proceedings and special taxes prior to the sale of any CFD bonds.

## SECTION XII: TERMS AND CONDITIONS OF BOND SALES

Pursuant to Government Code Section 53312.7(a)(2), the County will evaluate the credit quality of CFD bonds and will establish all terms and conditions of any CFD bond sales. The terms and conditions include, but are not limited to:

1. Determination of the amount of capitalized interest required, if any.
   a. Capitalized interest may be limited to the time required to levy and collect the special tax on the tax roll so that it will be available for debt service payments.
   b. The capitalized interest period shall not exceed the statutory limit of 24 months.

2. Determination of the term and interest rate on the bonds.
   a. The maximum term of CFD bonds issued should not exceed the maximum term permitted under the Act.
   b. Debt will typically be structured for the shortest reasonable period possible.
   c. The County may issue fixed or variable rate bonds based on its financing needs and market conditions existing at the time of issuance.

3. Determination of the debt service reserve fund amount and its funding source.
   a. The County shall allocate a portion of the proceeds from CFD bonds to a debt service reserve fund in order to achieve the lowest possible cost of financing.
   b. The County reserves the right to waive establishment of a debt service reserve fund.
   c. Per federal tax rules at the time this Policy was formed, the size of the reserve fund on a tax-exempt bond issue shall be the lesser of:
      i. 10% of the initial principal amount of the debt;
      ii. 125% of average annual debt service; or
      iii. 100% of maximum annual debt service.

4. In lieu of holding a cash funded reserve, the County may substitute a reserve surety bond or other credit instrument in its place, if such alternative reserve instrument provides a more cost-effective solution.

5. Sale of the bonds.
   a. Except as otherwise approved by the County, the County will require all major land use approvals and governmental permits necessary for development of land in the CFD to be substantially in place before bonds may be issued.
   b. The property tax delinquency rate on properties within a CFD shall be no greater than 5% at the time of any sale of CFD bonds, with an exception for the issuance of refunding bonds.
   c. It is the ultimate decision of the County to sell bonds.
   d. Determination of the need for credit enhancement.

6. Credit enhancement may be used to improve or establish a credit rating on the bonds. Types of credit enhancement include letters of credit (LOC), bond insurance and surety policies. LOCs shall be issued by an institution, in a form and upon terms and conditions satisfactory to the County. The County may require the use of credit enhancement if it reduces the overall cost of the proposed financing or if the use of such credit enhancement furthers the overall financial objectives.

## SECTION XIII: DISCLOSURE REQUIREMENTS

Pursuant to Government Code Section 53312.7(a)(3), the County will take steps to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under the Act. In addition to any disclosure provided by the developer, the developer will be contractually obligated through the Funding and Acquisition Agreement and under State law, to give to each prospective property purchaser, prior to or at the time a purchase contract is entered into, the disclosure regarding the special tax on the property and the facilities and/or services financed by the CFD. The County reserves the right to require additional disclosure procedures in any particular case. The County may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by the CFD.

Additionally, State law requires that the governing body of the CFD provide to any person who requests it, a disclosure notice as detailed in the Government Code.

Each owner of a property within the CFD that has not reached its planned development stage and who will be responsible for a substantial portion (as determined by the County) of the payment of special taxes, will be required to provide for inclusion in the official statement or other offering materials distributed in connection with the offering and sale of the CFD bonds, such information as may be required for the County to satisfy requirements of, or avoid liability under, any applicable federal or State securities laws.

Each owner of a property within the CFD that has not reached its planned development stage, and each subsequent owner therein, that will be responsible for a substantial portion (as determined by the County) of the payment of special taxes will be required to provide such information, on an ongoing basis, as may be required for the underwriter of the CFD bonds to satisfy the requirements imposed on it pursuant to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

**SECTION XIV: SPECIAL ASSESSMENT FINANCING POLICY**

This Policy is intended as a supplement to the Board’s existing policy for Special Assessment Financing for Subdivision Improvements. In the event of any material conflict between the terms of this Policy and the Board’s existing policy for Special Assessment Financing for Subdivision Improvements, the terms of this Policy shall control.

## RESPONSIBLE DEPARTMENT

Treasurer and Tax Collector
Regional Planning

## DATE ISSUED/SUNSET DATE

**Issue Date: September 3, 2019** **Sunset Date: September 3, 2023**
**Review Date: June 21, 2023** **Sunset Date: September 3, 2027**