

**CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY  
FURTHER AMENDED AND RESTATED GOALS AND POLICIES  
FOR  
MELLO-ROOS COMMUNITY FACILITIES DISTRICTS**

**I. INTRODUCTION**

Section 53312.7(a) of the California Government Code provides that, on and after January 1, 1994, a local agency may initiate proceedings to establish a community facilities district ("CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act") only if it has first considered and adopted local goals and policies concerning the use of the Act. The following goals and policies have been considered and adopted by the California Statewide Communities Development Authority (the "Authority") and are intended to meet the requirements of the Act.

These policies shall not apply to any assessment financing or any certificate of participation or similar financings involving leases of or security in public property. These policies are subject to amendment by the Commission of the Authority at any time.

**II. GOALS AND POLICIES GENERALLY**

The Authority was established to promote economic development within the State of California, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, and the increase of the tax base within the boundaries of each of the Authority's members (the "Program Participants"). Therefore, it is the policy of the Authority to use the Act to finance public facilities that will encourage the development of property for the development of residential, commercial and industrial projects. The Authority may use the Act in situations where the CFD special tax is expected to be levied on property used for residential, commercial or industrial purposes, including multi-family apartment and office buildings. The Authority will use the Act only in situations where the Program Participant in whose jurisdictional boundaries the project lies has consented to the use of the Act by the Authority.

**III. APPLICATIONS; CONDITIONS; DEPOSITS**

The owner or owners of the property (the "Applicant") the development of which is to be assisted through the Authority's proposed use of the Act, will be required to complete an application in such form as the Authority may prescribe. Any information provided in the application must be considered public information by California law. Developers of land who are not the owner may complete an application only if such developer holds an option to purchase.

The Applicant must have the approval of the city or the county in which the project is located. Such approval may be in the form of a resolution of the city council or board of supervisors a letter delivered by mail or by electronic means from an appropriate city or county official supporting the project or in such other form as the Authority may approve.

All Authority and consultant costs incurred in the evaluation of any CFD application, or in the formation of a CFD or the issuance of CFD bonds, will be paid by the Applicant, which payment will be secured by an advance deposit with the Authority. The Authority will not incur any nonreimbursable expenses for processing a CFD, and expenses not chargeable to the CFD will be borne by the Applicant and such Applicant may be required to provide a deposit of funds with the Authority. In general, the deposit will not be less than \$25,000, and may be more, as required by the Authority. The deposit may be increased upon demand of the Authority if at any time the Authority determines that the remaining amount is not sufficient to cover anticipated remaining expenses and costs. If the additional amount is not paid within ten business days of the written demand by the Authority to the Applicant, the Authority will cease all activities with respect to the CFD financing until the additional amount is paid. The initial deposit and any additional amounts will be held by the Authority and used only for the expenses and costs incurred in connection with the CFD proceedings. Any balance of such deposit remaining upon completion of the CFD proceedings, or the abandonment thereof, and not needed to pay expenses and costs relating thereto will be returned to the Applicant. The use of the deposit shall in no way be construed as requiring the Authority to issue CFD bonds or to provide reimbursement from the proceeds thereof for portions of the deposit that are expended.

Each Applicant will be required to provide an indemnity to the Authority, its members, officers, agents and employees for all costs, expenses and attorney fees, as well as any judgment or settlement costs arising out of or involved in the CFD financing, or in any of the documentation related thereto.

#### **IV. PRIORITIES FOR FINANCING**

The priority that various kinds of public facilities and services will have for financing through the Authority's use of the Act is as follows:

- (a) facilities needed to serve approved development which is deficient in infrastructure needed to accommodate the development of the area as planned;
- (b) other facilities for which there is a clearly demonstrated public benefit;
- (c) other facilities to be owned and operated by public agencies;
- (d) development impact fees, connection charges and other local government levies applicable to the new development that are to be used to fund public capital improvements by the local agency that levies such fee;
- (e) other facilities and improvements that are permitted by the Act; and
- (f) at the request of public agencies, services (including, but not limited to, maintenance services) to be provided by such public agencies.

The above listed priorities are not in order of preference and are instead a representative list of prioritized public facilities and services. At the request of a Program Participant, the Authority

may consider financing any other improvement authorized to be financed through the use of the Act if the Authority determines it will serve the public interest to do so.

## V. CREDIT QUALITY REQUIREMENTS FOR CFD BOND ISSUES

**General.** The Authority will work with its advisors, consultants and underwriter to review each proposed project for financing through the Authority's use of the Act to determine its credit quality and economic viability.

**Statutory Requirements.** The Authority will require that the credit quality of any CFD bond issue be such that the requirements of Section 53345.8 of the Act will be met; provided, however, that the Authority will require that the value of the real property that would be subject to the special tax to pay debt service on the bonds be at least four times the principal amount of the bonds to be sold and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the CFD or a special assessment levied on property within the CFD.

**Entitlement and Development Status.** The Authority will require that the Applicant to have obtained all environmental approvals, land use planning approvals, special permits (e.g. permits required by the Army Corps of Engineers, California Fish and Game, and other agencies), and approval by the city or county in whose jurisdiction the development lies of a tentative map prior to the issuance of any CFD bonds. The Applicant will be required to provide the Authority with information regarding all discretionary approvals that remain necessary for development of the Applicant's project to proceed to the Applicant's planned development stage.

**Reserve Fund.** In order to enhance the credit quality of bond issues, the Authority will require that each bond issue be secured by a reserve fund funded in an amount no less than the least of (a) 10% of the original proceeds of the bond issue, (b) maximum annual debt service on the bonds of such issue, and (c) 125% of the average annual debt service on the bonds of such issue.

**Credit Enhancement.** If an Applicant fails to meet the credit criteria otherwise specified herein, the Authority may require credit enhancement to increase the credit quality of a CFD bond issue, particularly where the value-to-lien ratio of a significant portion of the property in such CFD is less than three-to-one. Such credit enhancement will usually be the form of an irrevocable letter of credit, will be required to be in an amount not less than two times the amount of annual special taxes levied on such undeveloped property and will be required to remain in effect until such property is developed or the value thereof has otherwise been sufficiently increased. Such letter of credit will generally be required to be issued or guaranteed by an entity, the long term unsecured obligations of which are rated at least "A" by Moody's Investors Service or Standard & Poor's Ratings Service.

**Capitalized Interest.** The amount of capitalized interest funded for an issue of CFD bonds may not exceed any maximum specified in the Act.

**Additional Measures.** The Authority may require additional measures to increase the credit quality of a bond issue, or may require credit enhancement with respect thereto, in any particular case.

## VI. DISCLOSURE TO PROSPECTIVE PROPERTY PURCHASERS

In order to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under the Act, the Authority will require that the requirements of disclosure to prospective property purchasers contained in the Act, including, but not limited to, Sections 53328.3, 53328.5 (including the referenced sections of the California Streets and Highways Code), 53340.2 and 53341.5, be met. The Authority reserves the right to require additional disclosure procedures in any particular case.

## VII. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

The Authority's criteria for evaluating the equity of tax allocation formulas, and the desirable and maximum amounts of special taxes to be levied against any parcel pursuant to the Act, are set forth in this section.

***Reasonable Basis of Apportionment.*** Special taxes must be allocated and apportioned on a reasonable basis to all categories and classes of property (other than exempt property) within the CFD receiving general or special benefit from the public facilities financed through the CFD. Exemptions from the special tax may be given to parcels which are publicly-owned, are held by property owners associations, are used for a public purpose such as open space or wetlands, or are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easement.

***Total Tax Burden.*** The total tax burden (that is, the maximum annual CFD special tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities district, and any other taxes, fees and charges payable from and secured by the property) on any residential owner-occupied parcel in a CFD shall not exceed 2% (the basic property tax levy of 1%, plus 1%) of the expected assessed value of such parcel upon completion of the public and private improvements relating thereto.

***Rate and Method of Apportionment.*** The rate and method of apportionment for CFD special taxes must be structured so as to annually produce special tax revenues sufficient to pay (a) annual debt service on all CFD bonds, and (b) reasonable and necessary annual administrative expenses of the CFD. 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 any reserve fund established for a CFD bond issue, (b) the accumulation of funds reasonably required for future debt service on a CFD bond issue, (c) amounts equal to projected delinquencies in special tax payments, (d) remarketing, credit enhancement or liquidity fees, and (e) any other costs or payments permitted by law. The rate and method of apportionment must be structured such that the projected maximum special tax that could be levied in any year would produce special tax revenues at least equal to (a) 110% of projected annual debt service on all CFD bonds for such year, plus (b) projected reasonable and necessary administrative expenses of the CFD for such year. Generally, the rate and method of apportionment for CFD special taxes will be required to include a back-up tax so that changes in development within the CFD would not result in the inability to levy special taxes that would produce special tax revenues in such amounts.

***Increases in Special Tax.*** The annual increase, if any, in the maximum special tax for any parcel may not exceed any maximum specified in the Act. The increase in the special tax levied on any parcel as a consequence of delinquency or default by the owner on any other parcel may not exceed any maximum specified in the Act.

***Prepayment of Special Tax.*** Generally, the special tax rate and method of apportionment for a CFD will be structured so as to allow the prepayment of special taxes by property owners.

***Foreclosure Covenants.*** Every CFD bond shall provide for the judicial foreclosure of delinquent payments of special taxes. The ability to commence foreclosure shall be without further Commission action and subsequent to notification to the property owner of a delinquency in form prescribed by law. Any costs advanced by the Authority to collect special taxes, including any actions taken related to foreclosure, shall be reimbursed by the proceeds of the foreclosure sale or other legally available funds from the CFD.

## VIII. APPRAISALS

The definitions, standards and assumptions to be used in appraisals required in connection with the Authority's use of the Act are as set forth in the Appraisal Standards for Land Secured Financings published by the California Debt Advisory Commission and dated May 1994, as revised July 2004, with the following modifications:

- (a) the independent review appraiser is an option, and not a requirement;
- (b) the comparable sales method may be used whenever there is sufficient data available;
- (c) the appraiser should assume the presence of the public infrastructure to be financed with the bonds;
- (d) the special tax lien need not be computed as the present value of the future tax payments if there is a pre-payment mechanism or other more appropriate measure;
- (e) except where necessary to make a meaningful comparable sale comparison, the appraiser is not to discount the value of property for the amount of the special tax or assessment liens, which also means that the special tax should be ignored in any discounted cash flow analysis; and
- (f) the definition of "Bulk Sale Value" on page 29 of the Standards states the requirement that *all* parcels within a tract or development be included; instead it may be *any* defined portion of the property

The date of the value estimate must be clearly identified in the appraisal report. The period between the date of value contained in the appraisal (or, if applicable, the date of value contained in any update to such appraisal) and the date of the issuance of CFD bonds shall be no greater than three months.

## IX. DISCLOSURE

**Initial Disclosure.** Each owner of property within a CFD that has not reached its planned development stage and that will be responsible for a substantial portion (as determined by the Authority) of annual debt service on an issue of CFD bonds will be required to provide for inclusion in the official statement or other offering materials distributed in connection with the offering and sale of such bonds such information as may be required for the Authority to comply with, satisfy any requirements of, or avoid any liability under, any applicable federal or state securities laws.

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

## X. CONSULTANTS

The selection of all consultants necessary for the formation of a CFD and the issuance of bonds, including the appraiser, market absorption study analyst, special tax consultant, bond counsel and underwriter, will be subject to final approval by the Authority.

## XI. PERFORMANCE OF WORK

**General.** Improvements, fees and services to be financed by the Authority's use of the Act will be owned, collected and processed by Program Participants and other local agencies who have entered into a joint community facilities or services agreement with the Authority. The Authority shall not be responsible for oversight, review, inspection or other work with respect to improvements (whether directly or through development impact fees) or services to be financed.

**Capital Improvements.** Capital improvements may be financed on an acquisition or construction basis, although the preference will be for financing improvements on an acquisition basis. Acquisition agreements for the acquisition of public capital improvements shall be in the form approved by the local agency that will own such improvements; provided that such agreement must provide that the improvement will be constructed as if under the supervision of the local agency. Local agencies will be required to provide certifications regarding the reasonable expectations of the use of capital improvements funded with tax-exempt bond proceeds as necessary to ensure that CFD bonds may be issued on a tax-exempt basis.

**Development Fees, Connection Charges and Similar Fees.** Fees and charges financed through the use of the Act should be treated by the local agency collecting such fee or charge as paid by the Applicant in the amount of CFD bond proceeds on the date of the bond issue and the Applicant (and successors in interest to the land within the CFD) should be treated by the local agency as receiving a credit in the amount of such proceeds. The Authority may consider alternative treatment of such fees by local agencies only if such different treatment would not adversely impact the tax-exempt status of CFD bonds issued for such project. Local agencies will be required to provide certifications regarding the reasonable expectations of the use of bond-funded

fees and charges and improvements funded thereby as necessary to ensure that CFD bonds may be issued on a tax-exempt basis.

**Services.** Services should be financed through a CFD only if the local agency providing services first certifies that the services comply with and are eligible under the provisions of the Act. The local agency providing services shall be responsible for all budgets, expenditure controls and reporting requirements for any such services.

## **XII. MINIMUM STANDARDS; WAIVERS AND AMENDMENT**

The policies set forth herein reflect the minimum standards under which the Authority will assist in the development of property through the use of the Act. The Authority may, in its discretion, require additional measures and procedures, enhanced security and higher standards in particular cases.

The Authority may, in limited and exceptional circumstances and to the extent permitted by law, in its discretion, waive any of the policies set forth herein in particular cases.

If so provided in a joint community facilities agreement entered into under the Act, the Authority may form a community facilities district based upon minimum standards set forth in the participating local agency's local goals and policies and need not comply with the policies set forth herein.

The goals and policies set forth herein may be amended at any time and from time to time by the Authority.