



Board Policy No. 510

Local Goals and Policies for Community Facilities Districts

SUBJECT CATEGORY: SECTION 500
Revenue

510: Local Goals and Policies for Community Facilities Districts

510.1 Purpose: Section 53312.7(a) of the California Government Code requires that a district's Board of Directors consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act"), prior to the initiation of proceedings on or after January 1, 1994, to establish a new community facilities district (CFD) under the Act. These goals and policies may be amended or supplemented by resolution of the Board of Directors of the East Contra Costa Fire Protection District (the "District") at any time.

510.2 Goals:

- a) Services. It is the goal of the District that new development generate sufficient additional revenues to fund the District's costs of providing the public services required by that development. The Board of Directors will consider the use of the Act to provide a portion of the required revenues;
- b) Facilities. The Board of Directors will consider the use of the Act for financing public facilities and refinancing existing liens levied or bonds issued to finance public facilities, only in connection with the prospective development of land in the District or as otherwise referenced in a development agreement to which the District is a party. Any request for a CFD which is not integral to the development of land will require amendment of these goals and policies and will be considered on a case-by-case basis; and
- c) Costs. All District and non-contingent consultant costs incurred in the evaluation and establishment of new CFDs and annexations to existing CFDs will be paid by the proponents of the formation/annexation. With respect to CFDs that finance facilities, the District shall use all reasonable efforts to reimburse all CFD formation/annexation costs from CFD bond proceeds if and when CFD bonds are issued. Expenses incurred by the District that are not chargeable to the CFD shall be borne by the proponent of the CFD.

510.3 Eligible Public Services and Facilities:

- a) Services. The specific services to be funded shall include all services authorized under both Section 53341.5 of the Government Code and Section 13862 of the Health and Safety Code including, but not limited to, fire protection and suppression services, and ambulance and paramedic services and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the District or by another local agency pursuant to agreement; and
- b) Facilities. The improvements eligible to be financed by a CFD must be owned by a public agency or public utility and must have a useful life of at least five (5) years, except that up to five percent of the proceeds of a debt issue may be used for facilities owned

and operated by a privately-owned public utility. The improvements must be consistent with any relevant specific plan approvals. A CFD shall not vest any rights to future land use on any properties, including those which are responsible for paying special taxes.

The list of public facilities eligible to be financed by a CFD include, but are not limited to, the following:

- Fire stations
- Training facilities
- Firefighting apparatuses
- Administrative facilities
- Emergency response equipment

The funding of public facilities to be owned and operated by public agencies other than the District shall be considered on a case-by-case basis. If the proposed facilities are appropriate for financing by a CFD and are consistent with approved land use plans or other governmental approvals for the property, the District may consider entering into a joint community facilities agreement in order to finance these facilities. A joint agreement with the public agency that will own and operate any such facility must be entered into prior to the adoption of the resolution of formation, a resolution of change altering the CFD, or a resolution authorizing the issuance of bonds, except as otherwise permitted under the Act.

510.4 Priorities for CFD Financing: Priority for CFD financing shall be given to public facilities and services which are necessary for development, or otherwise required to satisfy any conditions of development.

510.5 Credit Quality Requirements for CFD Bond Issues: All CFD bond issues should have at least a three-to-one property value-to-public lien ratio after calculating the value of the financed public improvements to be installed and any private improvements for which financing is reasonably assured, unless the Board of Directors finds and determines that the proposed bonds do not present any unusual credit risk or, by a four-fifths vote, that the proposed bond issue should proceed for specified public policy reasons. Property value may be based on either an appraisal or assessed values as indicated on the county assessor's tax roll. Any appraiser shall be selected by the District, and the appraisal shall be based on the definitions, standards and assumptions as described in "Appraisal Standards for Land Secured Financings," published by the California Debt and Investment Advisory Commission, dated May 1994, as revised and as may be amended from time to time. The appraisal must be dated within three months of the date the bonds are issued. The public lien amount shall include the bond issue currently being sold plus any public indebtedness secured by a fixed lien on real property currently existing against the properties to be taxed.

A reserve fund equal to the lesser of (i) ten percent of the original proceeds of the bond issue, (ii) the maximum annual debt service on the bonds, or (iii) one hundred twenty-five percent of the average annual debt service on the bonds is considered as appropriate for any bond issue where less than seventy-five percent of the buildable acreage has been developed. A smaller reserve fund may be appropriate for bond issues in CFDs where over a significant percentage of the buildable acreage has been developed. The reserve fund may be maintained by or on behalf of a public financing authority, if such an authority purchases the CFD bonds, and need not be held under the fiscal agent agreement pursuant to which the CFD bonds are issued. Less than a three-to-one property value-to-public lien ratio, excessive tax delinquencies, or projects of poor economic viability may cause the District to disallow the sale of bonds or require credit enhancement prior to bond sale.

If the District requires letters of credit or other security in connection with the issuance of bonds for a CFD, the credit enhancement shall be issued by an institution, in a form and upon terms and conditions satisfactory to the District. Any security required to be provided may be discharged by the District upon the opinion of a qualified appraiser, retained by the District (at the expense of the CFD or the applicable landowner), that a value-to-lien ratio of three to one has been attained. As an alternative to providing other security, a portion of the bond proceeds may be placed in escrow with a corporate agent in an amount sufficient to assure a value-to-lien ratio of at least three to one on the outstanding proceeds, or other appropriate release requirements.

510.6 Disclosure Requirements for Prospective Property Purchasers:

- a) Disclosure Requirements for Developers. Developers who are selling lots or parcels that are within a CFD shall provide disclosure notice to prospective purchasers that complies with all of the requirements of Section 53341.5 of the Government Code. The disclosure notice must be provided to prospective purchasers of property at or prior to the time the contract or deposit receipt for the purchase of property is executed. Developers shall keep an executed copy of each disclosure document as evidence that disclosure has been provided to all purchasers of property within a CFD, and shall provide the District with a copy of each such disclosure document; and
- b) Disclosure Requirements for the Resale of Lots. The District's Business Services Manager or designee shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Civil Code et seq. This notice shall be provided by the Business Services Manager or designee within five working days of receiving a written request for the notice, unless otherwise permitted under the Act. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

510.7 Equity of Special Tax Formulas and Maximum Special Taxes:

- a) Special tax formulas for CFDs shall provide for minimum special tax levels which satisfy the following expenses of a CFD:
 1. 10 percent gross debt service coverage for all CFD bonded indebtedness.
 2. The cost of providing the authorized service.
 3. The projected administrative expenses of the CFD.
 4. Amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on bonds of the CFD.
- b) Additionally, the special tax formula may provide for the following:
 1. Any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD.
 2. The accumulation of funds reasonably required for future debt service.
 3. Amounts equal to projected delinquencies of special tax payments.
 4. The costs of remarketing, credit enhancement and liquidity facility fees.

5. The cost of acquisition, construction, furnishing or equipping of facilities.
 6. Lease payments for existing or future facilities.
 7. Costs associated with the release of funds from an escrow account.
 8. Any other costs or payments permitted by the Act and applicable law.
- c) The special tax formula shall be reasonable and equitable in allocating the costs of the services and the public facilities financed by the CFD to parcels within the CFD, unless otherwise agreed to by at least the owners of two-thirds of the property to be subject to the special tax.
- d) Exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.
- e) The total projected property tax levels for any CFD shall not exceed any maximum specified in the Act. The annual increase, if any, in the maximum special tax for any parcel shall 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 of any other parcel shall not exceed any maximum specified in the Act.
- f) The District shall retain a special tax consultant to prepare a report which:
1. Recommends a special tax for the proposed CFD.
 2. Evaluates the special tax proposed to determine its ability to adequately fund the identified services and /or public facilities, CFD administrative costs, and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.

510.8 Appraisals: The definitions, standards and assumptions to be used for appraisals shall be determined by District staff on a case-by-case basis, with input from District consultants and CFD proponents, and by reference to relevant materials and information promulgated by the State of California. In any event, the value-to-lien ratio shall be determined based upon an appraisal by an independent MAI appraiser of the proposed CFD. The appraisal shall be coordinated by and under the direction of the District. All costs associated with the preparation of the appraisal report shall be paid by the proponents of the CFD through an advance deposit mechanism. The District shall have discretion to retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties which may be subject to the maximum special tax in the CFD.

510.9 Terms and Conditions of Bonds: All terms and conditions of any CFD bonded indebtedness shall be established by the District, after consultation with the District's consultants, District staff and the proponents of the CFD. The District will control, manage and invest, or cause to be controlled, managed and invested, all CFD bond proceeds. Each bond issue shall be structured so as to eliminate any adverse impact on the bonding capacity or credit

rating of the District. The Board of Directors shall at all times retain the discretion as to if and when any bonds shall be issued for a CFD.

All statements and material related to the sale of bonds shall emphasize and state that neither the faith, nor general credit of the District is pledged to security or repayment of the bonds. The sole source of pledged revenues to repay CFD bonds shall be the special taxes, bond proceeds and reserve funds held under the bond document, and the proceeds of foreclosure proceedings and additional security instruments provided at the time of bond issuance, unless otherwise specifically agreed to in writing by the District.

510.10 CFD Initial Costs: All District and consultant costs incurred in the evaluation of CFD applications and the establishment of CFDs or annexation into an existing CFD will be paid by the proponents of the CFD by advance deposit increments. The District shall use reasonable efforts not to incur any non-reimbursable expenses for processing and administering CFDs. In general, expenses not chargeable to the CFD shall be directly borne by the proponents of the CFD.

510.11 Use of Consultants: The District shall select all consultants necessary for the formation of (or annexation to) and administration of a CFD and the issuance of bonds, including the underwriter(s), bond counsel, financial advisors, appraiser, any market absorption consultant and the special tax consultant. Prior consent of any proponent of a CFD shall not be required in the determination by the District of the consulting and financing team.

510.12 Continuing Disclosure: By being allowed to participate in a Mello-Roos proceeding, each owner of land therein must be willing to provide information deemed by the District and its financing team to be needed in order for the District and the underwriter to comply with applicable Federal and state securities laws, including continuing disclosure requirements imposed by SEC Rule 15c2-12.

510.13 Exceptions to These Policies: The District may find that a waiver of any of the above stated policies is reasonable given identified District benefits to be derived from such waiver. Such waivers only will be granted by action of the Board of Directors.

Adopted: May 13, 2020

Clerk of the Board

Board President