

## **CITY OF WILDOMAR**

### **LOCAL GOALS AND POLICIES AND APPRAISAL STANDARDS CONCERNING USE OF COMMUNITY FACILITIES ACT OF 1982**

The City Council (the "Council") of the City of Wildomar, California (the "City") hereby adopts the following in compliance with Section 53312.7 and 53345.8 of the Community Facilities Act of 1982 (the "Act").

#### **General Policy Respecting Use of the Act.**

As a matter of general policy, the City will utilize the Act for purposes of (1) acquiring and constructing and providing financing for all or a prescribed portion of the cost and expense of public capital improvements to be owned by the City or other public agencies or regulated public utility companies and which serve a public purpose for the City and its inhabitants, and (2) financing all or a prescribed portion of the estimated cost and expense of maintaining and operating such facilities and/or providing services as permitted by the Act.

#### **Public Purpose.**

There will be a clearly articulated public purpose in forming a community facilities district under the Act ("CFD" or "District") to finance public infrastructure improvements and/or services. Council approval must be obtained to use this form of financing.

#### **Active Role.**

Even though land-secured financing may be a limited obligation of the City, the City will play an active role in managing the District. This means that the City will select and retain the financing team, including the municipal advisor, bond counsel, trustee, appraiser, disclosure counsel, special tax consultant, assessment engineer and underwriter. Any costs incurred by the City in retaining these services will generally be the responsibility of the property owners or developer and will be advanced via a deposit when an application is filed; or will be paid from the proceeds of the bonds of the CFD (the "Bonds").

#### **Priorities for Use of the Act.**

The City shall have final determination as to the eligibility of any facility or service for financing, as well as the prioritization of facilities or service to be financed by a District. The City shall evaluate the priority of such items on a project-by-project basis. Reserving the right to make exceptions when circumstances warrant, the City establishes the following priority for use of the Act:

1. Services authorized to be financed pursuant to the Act.

2. Backbone infrastructure to be owned and/or operated by the City that is required to serve the proposed development and that is identified in an infrastructure master plan, specific plan or other appropriate document approved by the City as a major backbone infrastructure element. Privately-owned facilities (that is, facilities not owned by a local agency) ancillary to such backbone infrastructure shall be considered on a case-by-case basis, but subject to federal tax law limitations as advised by the City's bond counsel.
3. Other public facilities to be owned and/or operated by the City for which there is a clearly demonstrated public benefit.
4. Public facilities financed *in lieu* of the payment of development impact fees imposed by the City may be considered by the City on a case-by-case basis (subject to the City Fee Reimbursement Premium described below).
5. Public facilities or public facilities *in lieu* of the payment of development impact fees imposed by another public agency and to be owned and operated by such other public agencies, subject to approval of a joint community facilities agreement.

#### **Requirements for Special Tax Formulas.**

The proposed amount and apportionment of the special tax for each CFD (the "Special Tax") shall comply with the following criteria:

1. The Special Tax formula shall be structured to produce sufficient annual Special Tax revenue to pay:
  - (a) 110% of the projected annual debt service on the Bonds, after accounting for reasonably projected administrative expenses during such fiscal period in which taxes are collected;
  - (b) amounts needed to replenish any reserve funds for the Bonds;
  - (c) reasonable annual administrative expenses of the City in the administration of the Special Taxes and the Bonds, if any, of the CFD, including without limitation fees and expenses of trustees, fiscal agents, Special Tax consultants, arbitrage rebate compliance consultants, arbitrage rebate payments, and any incidental expenses related thereto;
  - (d) amounts required to cover projected delinquencies and the administration of such delinquencies, including costs to pursue foreclosure, as may be required;
  - (e) the cost of any maintenance, services and "pay as you go" programs funded by the Special Tax, and
  - (f) any other costs or payments permitted by law.

2. A backup Special Tax to protect against changes in land use which could negatively impact the expected annual amount of the Special Tax.
3. The annual increase, if any, in the maximum Special Tax for any parcel within a CFD, which may not exceed any maximum specified in the Act. The increase in the Special Tax levied on any parcel within a CFD due to delinquency or default by the owner on any other parcel may not exceed any maximum specified in the Act. The rate and method of apportionment may provide for an annual increase in the maximum Special Tax for all properties not to exceed the consumer price index (C.P.I.) annually as relates to a services special tax or 2% as it relates to a facilities special tax.
4. Generally, the rate and method of apportionment will be structured to allow the prepayment by property owners of Special Taxes levied to finance facilities.
5. All property within the CFD not otherwise statutorily exempted or owned (or to be owned) by a public entity and to be benefited shall bear its appropriate share of the Special Tax liability, as determined in the rate and method of apportionment of Special Taxes for the CFD.
6. The total amount of projected ad valorem property tax and other direct and overlapping debt for the proposed CFD (including estimated CFD charges, projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual property tax bill – the “effective tax rate”), including the proposed maximum Special Tax, shall not exceed two percent (2%) of the estimated market value for any single family home, condominium or town home at the time the CFD is formed. If the effective tax rate is estimated to be above two percent (2%) at the time of CFD formation, the Special Tax rates will be adjusted to bring the effective tax rate within compliance of the two percent (2%) effective tax rate policy requirement.

#### **City Fee Reimbursement Premium.**

Bond proceeds should be used to finance facilities and cannot be used to reimburse a Developer for City or other public agency fees. Instead, the Bond proceeds will be used to finance facilities in lieu of public agency fees. Through this process, the City or another public agency is required to reimburse the Developer out of the applicable fee revenue and track Bond proceeds to eligible capital projects. This process requires significant administrative resources and must be managed for the life of the Bonds and/or the public facilities financed. For this reason, the City requires a reimbursement percentage premium, determined by City staff on a case-by-case basis, of the total of the fees to be reimbursed to the Developer as calculated upon final Bond pricing. This premium will be paid first from the Bond proceeds and can be used for any capital project purpose identified by the City of reasonable benefit to the project subject to the levy of the Special Tax.

**Security Prior to the Sale of Bonds.**

Each landowner, who with any affiliate, owns land within the CFD which the City has determined in its sole discretion to use in the sizing of a series of Bonds (the “sizing property”), where the maximum Special Tax applicable to such sizing property equals or exceeds 20 percent of the aggregate maximum Special Taxes authorized to be levied in the CFD (or improvement area) on the sizing property (such person and affiliates collectively considered a “20 percent owner”) shall, deliver to the City Administrative Services Director a renewable, irrevocable instrument of credit from a financial institution rated “A” or better (a “security”). The security should be in an amount equal to two times the estimated Special Tax levy on the sizing property in the fiscal year following the fiscal year in which the Bonds are issued (the “stated amount”).

The security must be maintained in full force and effect by the 20 percent owner until the sizing property owned by the 20 percent owner is responsible for less than 20 percent of the maximum Special Taxes authorized to be levied on the sizing property, provided that the stated amount may be reduced to an amount equal two times the amount of the estimated Special Taxes to be levied on the sizing property owned by the 20 percent owner in the fiscal year following the fiscal year of calculation (subject to the City’s receipt of a replacement security from any person to whom a 20 percent owner conveys sizing property and who becomes a 20 percent owner as a result of such conveyance).

The security should name the City as a beneficiary and should allow the City to draw an amount equal to any delinquencies in payment of semiannual installments on the Special Taxes levied on the sizing property owned by the 20 percent owner. The total amount to be drawn under the security should not exceed an amount equal to the Special Taxes owed with respect to the sizing property owned by the 20 percent owner that is delinquent at the time the draw is made. The amount drawn on the security should be applied in the same manner and for the same purposes as the delinquent Special Taxes would have been applied, provided that the payment of a draw under the security will not be deemed to cure the delinquency in payment of the Special Taxes.

The requirement for such security may be waived by the City Administrative Services Director, if in their sole discretion, it is determined that such 20 percent ownership threshold would be exceeded for less than [18] months from the date of issuance of Bonds. Notwithstanding such provision, the City Administrative Services Director is not required to grant such waiver, if in their sole discretion, such requirement is considered in the best interest of the City or is advised by its municipal advisor or underwriter against such waiver.

The requirement for the security described above may also be satisfied by a cash

deposit.

### **Required Credit Quality.**

The following credit conditions are required for any CFD prior to the issuance of Bonds.

1. Value to Lien – the value to lien ratio for all CFDs (or improvement area) shall be, at a minimum, four to one (4:1) considering, in addition to the other aspects of value, the value of the improvements to be financed, and considering all Special Tax liens and Special Assessment liens applicable to the subject property. Value may be established by reference to the assessed value of the subject property, by an appraisal thereof or a combination of the foregoing. Appraisals shall be conducted in accordance with the standards described under “Appraisal Standards” below. In addition to an appraisal, a market absorption study may be required. The appraisal and/or absorption study will be coordinated by, under the direction of, and addressed to the City. All costs associated with the preparation of the appraisal report and/or market absorption study will be paid by the proponent(s).
2. Reserve Fund – All land-secured financings shall include a reserve fund with a reserve requirement equal to the least of ten percent (10%) of the initial principal amount of the Bond issue, or maximum annual debt service (MADS), 125 percent (125%) of average annual debt service, or such lower amount as determined on a case-by-case basis based upon the credit quality of the debt issuance. For smaller CFDs or improvement areas (generally, less than 100 units) or CFDs or improvement areas with delinquency or credit concerns, or low ownership diversity (generally less than 50% of the total units conveyed to individual owners at the time of Bond sale), an additional Special Tax reserve fund, in addition to the standard reserve fund, may be required. The level of the additional Special Tax reserve fund may be between 50-75% of MADS, as determined by the City of Wildomar, to the extent permitted by state and federal law.
3. Anticipated Tax Rate - The Special Tax applicable to any parcel in a CFD which is expected to be developed for for-sale residential purposes shall be limited to an amount which, at the time a Bond financing is proposed, is not expected to cause the effective tax rate on such parcel in the year following its initial sale to a homebuyer to exceed two percent (2%). In connection with the foregoing, the estimated sales price will be determined assuming that the subject home is complete and ready for occupancy. The effective tax rate will be evaluated no earlier than 90 days prior to the pricing of any proposed Bonds. If the effective tax rate is above two percent (2%) at the time of evaluation for a Bond issuance, the size of the proposed Bond issuance will be adjusted or a prepayment from the developer may be made to bring the effective tax rate within compliance of the two percent (2%) effective tax rate policy requirement. The City at its sole discretion, may limit the total tax burden to less than two percent (2%) for certain market

segments, such as seniors in age-restricted communities if homeowners in such segments have demonstrated market sensitivity to tax burdens of two percent (2%).

4. Special Tax Delinquency Level – The property tax delinquency rate on properties within a CFD should be no greater than five percent (5%) at the time of any sale of Bonds in connection with a CFD, with the exception of the issuance of refunding bonds.

#### **Disclosure to Property Purchasers.**

The property developer/seller shall provide a written notice of the Special Tax to the homebuyer prior to the close of escrow in accordance with the Act. The property developer shall provide documentation and certification of compliance with this Special Tax disclosure prior to the issuance of debt.

#### **Disclosure to Bondholders.**

In general, each property owner who accounts for more than 20% of the annual debt service or bonded indebtedness must provide ongoing disclosure information annually as described under SEC Rule 15c2-12.

#### **Special District Investor Protection Principle.**

The City will levy and collect Special Taxes from CFDs to fully fund debt service payments, to pay for acquisition of construction of facilities, and/or to pay for services each year.

1. Special Taxes may be levied in advance of the issuance of Bonds. In doing so, the CFD's credit will benefit by:
  - a. Establishing revenues
  - b. Demonstrating the taxpayers' willingness and ability to pay the Special Taxes
  - c. Providing funding to pay for the first-year debt service payment and minimizing the need for capitalized interest.
2. All publicly offered Bonds may be issued with a reserve fund.
3. The City will promptly initiate foreclosure proceedings in compliance with the foreclosure covenant once Bonds have been issued.

#### **Appraisal Standards.**

Determination of value of property in the CFD (or improvement area) will be based upon the full cash value as shown on the ad valorem assessment roll, upon an appraisal by an independent, impartial, and qualified appraiser or a combination of the foregoing. Appraisals, when used to establish property values, will be performed by a state certified real estate appraiser, as defined in subdivision (c) of Section 11340 of the California Business and Professions Code selected by the City, in accordance with the State of

California appraisal standards and the Uniform Standards of Professional Appraisal Practice. The definitions, standards, and assumptions to be used in such an appraisal shall be the definitions, standards and assumptions set forth in the California Debt and Investment Advisory Commission (CDIAC) "Appraisal Standards for Land-Secured Financings," with input from the City and the City's consultants.

### **Capitalized Interest During Construction.**

Decisions to capitalize interest will be made on a case-by-case basis, with the intent that if allowed, it should improve the credit quality of the Bonds and reduce borrowing costs, benefiting both current and future property owners.

### **Application and Deposits.**

The costs of the proceedings for a CFD financing initiated by petition of landowners will be borne by the petitioners. No action will be taken on any petition unless and until a deposit of funds is made by the petitioners with the City. The deposit must be sufficient to cover the expense of City staff time, the costs of non-contingent outside consultants retained for the financing and the costs of recordings, filings, duplication, mailings and deliveries. In general, the deposit will not be less than \$75,000, and may be more, as required by the City. The deposit must be increased upon demand of the City if at any time the City 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 mailing of a written demand by the City to the petitioners, the City 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 City 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 petitioner. The use of the deposit shall in no way be construed as requiring the City to issue Bonds or to provide reimbursement from the proceeds thereof for portions of the deposit that are expended. If Bonds are issued, the petitioners will be reimbursed from Bond proceeds for the portion of such deposit that has been expended or encumbered.

### **Consultants.**

The City will select all consultants to be retained by the City for a CFD financing, including, but not limited to, the municipal advisor, special tax consultant, bond counsel, disclosure counsel, underwriter, market absorption consultant, appraiser and trustee. Providers of letters of credit, bond insurance policies, surety bonds or other credit enhancements are also subject to City approval. Consultants, including legal counsel, to the applicant or other property owner within the Community Facilities District will be selected, retained and paid by the applicant or such property owner; such consultants will not be paid from the proceeds of the financing.

**Debt Issuance Guidelines.**

The timing of any debt issuance in connection with a CFD program and the conditions that must be satisfied prior to any such debt issuance will be determined by the City Council in its sole discretion; and, in connection therewith and in order to address the then prevailing conditions in the bond market, the City Council may elect not to issue any Bonds unless and until the property whose Special Taxes will secure such Bonds is all or substantially developed and all or substantially all of the for-sale properties located in the CFD (or improvement area) have been conveyed to end-users.

**Minimum Standards and Amendments/Waivers.**

The policies set forth herein reflect the minimum standards under which the City will make use of the Act to finance public facilities and services. The City may, in its discretion, require additional measures and procedures, enhanced security and higher standards in particular cases. The goals and policies set forth herein may be amended at any time and from time to time by the City. The City Council may waive, or delegate to City staff to waive, any requirement in this policy.