



**MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION**
County of Placer

TO: Honorable Board of Supervisors
FROM: David Boesch, County Executive Officer
By: Michele Kingsbury, Principal Management Analyst
DATE: July 26, 2016
SUBJECT: Local Goals and Policies for Mello-Roos Community Facilities Districts

ACTION REQUESTED

Adopt a resolution approving Local Goals and Polices for Mello-Roos community facilities districts.

BACKGROUND

After January 1, 1994, the Mello-Roos Facilities Act of 1982, as amended (the Act) requires local jurisdictions adopt local goals and policies concerning the use of the Act prior to the initiation of proceedings to establish a new Community Facilities District (CFD). The local goals and policies are intended to be general in nature. Their purpose is to guide the formation of CFDs and ensure that the CFDs remain fiscally sustainable throughout their life.

Staff and Bond Counsel have reviewed the County's Bond Screening Committee Rules and Procedures for compliance with current requirements under the Act and related provisions of the California Government Code. Based on this review, staff is recommending your Board adopt the attached proposed Local Goals and Polices. Adoption of Local Goals and Polices is prerequisite to initiating proceedings for the formation of Community Facilities Districts. With the uptick in development activity, staff anticipates at least one CFD formation proceeding will be initiated this year. Adopting these goals and policies will position the County to expeditiously process and consider CFD financing requests.

The Local Goals and Polices are supplemental to the adopted Rules and Procedures of the Bond Screening Committee and address the following criteria:

- (1) A statement of the priority that various kinds of public facilities and services shall have for financing through the use of this chapter, 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 this chapter.

(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 this chapter.

(5) A statement of definitions, standards, and assumptions to be used in appraisals required by Section 53345.8.

To the extent of any inconsistency between these Local Goals and Policies and the Committee Rules and Procedures, the provisions of Committee Rules and Procedure shall govern as long as those provisions are not inconsistent with the Act or other applicable law.

The Placer County Bond Screening Committee reviewed the Local Goals and Policies on May 16, 2016 and unanimously recommended that the Board of Supervisors adopt the polices subject to two changes as noted below.

- (1) Allow for a Surety Bond to Section III, Bond Financings: Credit Quality, Reserve Fund to allow the Bond Screening Committee to consider surety bonds as a feasible substitute to a reserve fund, and
- (2) Clarify that the calculation of the "Aggregate Tax Burden" level exclude fees paid for municipal services for both non-residential and residential property.

These recommended changes to the Local Goals and Polices are reflected and bold, underlined and italicized for highlight in the attached document for your Board's consideration.

ENVIRONMENTAL IMPACT

The adoption of the Local Goals and Policies for Mello-Roos Community Facilities Districts are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15306.

FISCAL IMPACT

There is no fiscal impact associated with this action.

ATTACHMENT

Resolution with Exhibit A - Local Goals and Policies

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

A RESOLUTION ADOPTING LOCAL GOALS AND
POLICES FOR MELLO-ROOS COMMUNITY
FACILITIES DISTRICTS

Resolution No.: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, on December 6, 2011, by Resolution No. 2011-32, the Board of Supervisors adopted the Rules and Procedures of the Bond Screening Committee; and

WHEREAS, Section 53312.7(a) of the California Government Code requires that the County of Placer adopt local goals and polices concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act") as a pre-requisite to initiating of proceedings

on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Placer, State of California, that the hereby finds that the Local Goals and Policies included as Exhibit A, meet the requirements of the Act and are hereby adopted by the Board of purposes of compliance with the Act.

BE IT FURTHER RESOLVED, that this Resolution and the Local Goals and Policies shall be effect immediately after the date of adopt of this Resolution.

Exhibit A

COUNTY OF PLACER

LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS

I. GENERAL.

Section 53312.7(a) of the California Government Code requires that the County of Placer (the "County") 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 Local Goals and Policies for Community Facilities Districts (the "Policies") are applicable to financings under the Act and are intended to comply with Section 53312.7 (a) of the Government Code. These Policies are supplemental to the Rules and Procedures of the Bond Screening Committee adopted by the Board of Supervisors on December 6, 2011 by Resolution No. 2011-32 as they may be amended from time to time (as amended from time to time, the "Committee Rules and Procedures"). The Committee Rules and Procedures are incorporated herein as if set forth in their entirety herein. To the extent of any inconsistency between these Policies and the Committee Rules and Procedures, the provisions of Committee Rules and Procedure shall govern as long as those provisions are not inconsistent with the Act or other applicable law.

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. The Policies are subject to amendment by the County Board of Supervisors at any time.

II. FINANCING PRIORITIES.

Eligible Facilities. As described in greater detail in the Committee Rules and Procedures, the County will prioritize financing for facilities that may be financed under the Act and that provide substantial or regional direct and/or indirect public benefit. It is acknowledged that the Act permits the financing of fee obligations imposed by governmental agencies the proceeds of which fees are to be used to fund public capital improvements of the nature listed above. The County will consider an application to finance fee obligations on a case-by-case basis. The County will prioritize financing fees to be paid to the County because of the administrative burden associated with financing fees payable to other local agencies.

The funding of public facilities to be owned and operated by public agencies other than the County shall be considered on a case-by-case basis. The County shall consider entering into a joint financing agreement or joint powers authority 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 at the time specified in the Act.

A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act, as applicable.

Eligible Services; Priority Services. The services eligible to be financed by a CFD (the "Services") are those identified in the Act. Subject to the conditions set forth in the Act, priority for public services to be financed by a CFD shall be given to services that are (a) necessary for the public health, safety and welfare and (b) would otherwise be paid from the County's general fund. The County may finance services to be provided by another local agency if it determines the public convenience and necessity require it to do so, although the County prioritizes financing services to be provided by the County. If appropriate, the County shall prepare a public services financing plan as a part of the specific plan or other land use document that identifies the public services required to serve a project and the source of funding for each such service.

Eligible Private Facilities. Financed improvements may be privately-owned in the specific circumstances, and subject to the conditions, set forth in the Act.

III. BOND FINANCINGS; CREDIT QUALITY.

Value-to-Public Lien Ratio. All CFD bond issues should have the property value-to-lien ratio that is required by the Committee Rules and Procedures and the Act. Property value may be based on either an appraisal (as described in Section VI below) or on assessed values as indicated on the County assessor's tax roll. The public lien amount shall include the bond issue currently being sold plus any public indebtedness secured by a lien on the properties to be taxed.

Entitlement and Development Status. The County will require all projects for which bonds may be issued under the Act to meet the requirements specified in Chapter IV of the Committee Rules and Procedures.

Reserve Fund or **Surety Bond**. In most cases, a debt service 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 will be required. A smaller debt service reserve fund may be approved by the Board of Supervisors. **Surety Bonds may be considered, as determined by the Bond Screening Committee, as a feasible substitute to a reserve fund.**

Failure to Meet Credit Criteria. If a project is unable to meet the credit criteria specified in this Section, then the County may consider exceptions to the above policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement or other reasons specified by the County, and/or which otherwise provide extraordinary public benefits, to the extent permitted by and subject to any applicable requirements of the Act.

As an alternative to providing other security, and subject to federal tax law, the applicant may request that a portion of the bond proceeds be placed in escrow with a trustee or fiscal agent in an amount sufficient to assure the financing will meet the applicable credit criteria, including, but not limited to, meeting a value-to-lien ratio of at least three to one on the outstanding proceeds. The escrowed proceeds shall be released at such times and in such amounts as may be necessary to assure the applicable credit criteria has been met.

The County will require that bond financings be structured so that bonds are purchased and owned by suitable investors.

IV. DISCLOSURES

Purchasers of Property. As a minimum, any disclosures mandated by applicable state law to inform prospective purchasers of their obligations under the CFD shall apply to each CFD. In addition, there may be additional requirements mandated by the County for particular kinds of financings on a case-by-case basis. The County may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD.

Disclosure Requirements for the Resale of Lots. The County shall provide a notice of special taxes to sellers of property (other than developers) that will enable them to comply with their notice requirements under Section 1102.6 of the Civil Act. This notice shall be provided by the County within five working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

Continuing Bond Disclosure. To the extent it is determined to be necessary in order for an underwriter of bonds to comply with Rule 15c2-12 of the Securities and Exchange Commission or as otherwise determined to be appropriate by the County, after consultation with the County's bond counsel and its municipal advisor, the County will require landowners in a CFD to provide (i) initial disclosure at the time of issuance of any bonds and (ii) annual disclosure. Further requirements may be set forth in the Committee Rules and Procedures.

V. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Minimum Special Tax Levels. Special tax formulas shall provide for minimum special tax levels which satisfy the following payment obligations of a CFD: (a) 110 percent gross debt service coverage for all CFD bonded indebtedness, (b) the reasonable administrative expenses of the CFD, and (c) "pay as you go" costs to be paid from CFD special taxes.

In addition, the special tax formula may provide for the following to be included in the special tax levels: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts equal to projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of authorized Facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, (h) the costs of Services, and (i) any other costs or payments permitted by law.

Equity of Special Tax Allocation Formula. The special tax formula shall be reasonable in allocating the CFD's payment obligations to parcels within the CFD. 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.

Aggregate Tax Burden. The total projected non-residential property tax levels for any CFD (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but

excluding property owners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) must be reasonable, and will be considered by the County Board of Supervisors on a case-by-case basis.

The total projected residential property tax levels (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding homeowners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) for any CFD (or, if a CFD has multiple improvement areas, for each improvement area and not the entire CFD) shall not exceed the lesser of (i) 2.0% of the estimated sales prices of the respective homes to be constructed in the CFD (with such prices to be determined by reference to an absorption study or appraisal prepared for the CFD or such other information as the County shall determine), or (ii) 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 residential parcel as a consequence of delinquency or default by the owner of any other parcel shall not exceed any maximum specified in the Act.

For both non-residential and residential property tax levels, fees for municipal services are excluded from the aggregate tax burden calculation.

VI. APPRAISALS

The definitions, standards and assumptions to be used for appraisals shall be those identified in the Committee Rules and Procedures. If the Committee Rules and Procedures do not identify such definitions, standards and assumptions, they shall be determined by County staff on a case-by-case basis, with input from County consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California (including, but not limited to, the California Debt Investment and Advisory Commission).

VII. EXCEPTIONS TO THESE POLICIES

The County may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable and appropriate. Such waivers only will be granted by action of the County Board of Supervisors.