

## **7212 Mello-Roos/Community Facilities Districts**

The Governing Board desires to provide adequate facilities in order to enhance student learning and to help the district achieve its vision for educating district students. Toward that end, the Board may order the formation of a community facilities district (CFD) (Mello-Roos district) for the acquisition or improvement of school facilities when, in the Board's judgment, it is in the best interest of district students and the community. The issuance of debt through the CFD shall be consistent with law and the district's debt management policy.

Proceedings to establish a CFD may be instituted at the Board's discretion. In addition, such proceedings shall be instituted when a written request to establish a CFD has been filed by any two Board members, or a petition has been submitted by at least 10 percent of registered voters residing within the territory of the proposed CFD or by the owners of at least 10 percent of the area of land to be included within the proposed CFD. (Government Code 53318)

Prior to initiating proceedings to form a CFD, the Board shall consider and adopt local goals and policies that include the following elements: (Government Code 53312.7)

1. The priority that various facilities shall have for financing through the community facilities district, including public facilities to be owned and operated by other public agencies and services to be provided by other public agencies.
2. The credit quality to be required of bond issues and criteria to be used in evaluating the credit quality.
3. Steps by which prospective property purchasers shall be fully informed about their related taxpaying obligations.
4. Criteria for evaluating the equity of tax allocation formulas.
5. Maximum tax burdens to be levied against any parcel.
6. Definitions, standards and assumptions to be used in appraisals required by Government Code 53345.8.
7. To the extent authorized by law, priority for students residing within the CFD to attend schools financed in whole or in part by the CFD, in a manner that reflects the proportion of each school's financing provided through the CFD.
8. The Board shall establish a Community Facilities or Joint Community Facilities District Financing Plan.

As provided in S.B. 1029, codified as part of Government Code Section 8855, the Board has adopted a Debt Issue and Management Policy (the "Debt Management Policy"). The Debt Management Policy provides written guidelines for the issuance of indebtedness by the District.

Within 45 days of receiving a written request or petition to establish a CFD, the Board shall determine a fee to be paid by the requesters or petitioners which shall be sufficient to compensate the district for the costs incurred in conducting proceedings to create the CFD. Proceedings for establishing the CFD shall only be initiated after payment of the fee. (Government Code 53318)

Upon Board action to form a community facilities district or receipt of a petition or request, the Board shall adopt a resolution of intention and conduct a hearing in accordance with law. The resolution shall fix the

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time and place for holding a public hearing on the establishment of the community facilities district which shall be within 30-60 days after the adoption of the resolution. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation pursuant to Government Code 6061, starting at least seven days before the hearing, and shall include the requirements specified in Government Code 53322 and 53322.4.

If, after the hearing, the Board determines to establish a community facilities district, the Board shall adopt a resolution of formation in accordance with law.

Upon approval by two-thirds of the voters in the proposed community facilities district, the tax may be levied.

The proceeds of any bonds, notes or other securities issued pursuant to the Mello-Roos Community Facilities Act shall be deposited or invested in accordance with Government Code 53356.03.

### **Community Facilities District Financing Joint Community Facilities District Financing**

1. In establishing or maintaining a Joint Community Facilities District Financing Plan, the Board of Trustees shall be guided by certain factors. These factors shall include, but shall not be limited to:

- a. **Priorities.** The district will cooperate with city and county agencies to prioritize the various kinds of public facilities shall have for financing through the use of the Mello-Roos Community Facilities Act. It shall include school building, structures or additions thereto, as well as other public facilities to be owned and operated by other public agencies. The district will work in the planning stages in cooperation with other county and municipal bodies such as planning and zoning commissions and other relevant bodies.
- b. **Credit quality to be required of bond issues.** If community facilities district bonds are issued, the bonds are to be payable from the proceeds of Ad Valorem property taxes levied upon taxable property in the district, but maybe additionally secured by or paid from other sources of funding, such as general obligation bonds, redevelopment tax increment or developer fees. A bond reserve fund may be required.

Because bonds, notes or other securities issued pursuant to the Mello-Roos Community Facilities Act are payable as provided herein, such bonds, notes or other securities are not required to consider obtaining a credit rating as otherwise provided in the Debt Management Policy.

The district may agree with bondholders that it will commence foreclosure proceedings by a specified time if an installment of a special tax is delinquent.

The district may require additional security for the bonds in the form of a letter of credit or a guaranty where the land in the district is largely undeveloped and is owned by a few persons. If such a requirement is imposed, the additional security may only be required until the CFD. is fully developed and the property is sold to the general public.

- c. **Taxpayer Information.** The superintendent or designee shall establish procedures for the timely dissemination of information in accordance with the requirements of law. He/she shall cooperate with local governmental agencies in disseminating such information.

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- d. Equity of Tax Allocation. Before levying special taxes, the Governing Board shall make any findings required by law. Such findings may be governed by criteria for evaluating the equity of tax allocation formulas and concern desirable and maximum amounts of special taxes to be levied against any parcel. The criteria may include:
  - i. The need for the school facilities for which the special tax is levied;
  - ii. The amount of the special tax and the cost of the school construction;
  - iii. The required findings made in the CFD. report.

In taking into account the equity of the tax allocation formulas and the desirable maximum amount of the special tax, other available funds, the estimated costs of planning, land acquisition, school construction and CFD. administration shall be taken into consideration. The formula for levying special taxes may be based upon a variety of factors, including current land use or zoning.

- e. Appraisals. The definitions, standards and assumptions to be used in appraisals are as follows: 7212
  - i. An appraisal of the property within the community facilities district shall be done by a state certified real estate appraiser, as defined in Business and Professions Code section 11340(c).
  - ii. The appraisal report will be prepared considering the requirements of the Office of the Comptroller of the Currency (OCC) and Uniform Standards of Professional Appraisal Practice (USPAP) as provided by the Appraisal Foundation.
  - iii. The Board of Trustees may determine that the value of the real property in the community facilities district subject to the special tax levied to pay debt service on bonds exceeds by at least three (3) times the principal amount of the bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Mello-Roos Community Facilities Act or a special assessment levied on property within the community facilities district.
  - iv. If the finding in “c” cannot be made, the Board may find and determine that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancement or other reasons specified by the Board of Trustees.
  - v. The property in the community facilities district will be appraised on an “as-is” basis assuming the densities as agreed to by the Board.

- 2. Use of community facilities district without bonds. The policy of the Etiwanda School District is to allow a developer to mitigate the impact of a development by the formation of a Community Facilities District (CFD) without the issuance of bonds, if limited to projects of thirty (30) residential units or less. In such manner, the annual taxes levied on the project will be used to mitigate the impact. Projects in excess of thirty (30) units shall make other arrangements to pay the district fees, which can include a CFD. in which bonds are issued, or in the alternative, enter into another school facilities mitigation agreement satisfactory to the district. The procedures to be used by the district to establish a CFD. for projects of thirty (30) residential units or less shall be established by administrative regulators.

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3. Administration of Community Facilities Districts shall include the preparation of Civil Code Section 1102.6b, the Board of Trustees shall cause a Notice of Special Tax (Disclosure Statement) to be furnished to any individual requesting said notice within five (5) working days of receiving the request. A reasonable fee, not to exceed \$10.00, may be charged.

The Superintendent or designee shall, within seven months after the last day of each fiscal year, prominently display the following reports on the district's web site: (Government Code 53343.2)

1. A copy of an annual report for that fiscal year, if requested pursuant to Government Code 53343.1.
2. A copy of the report provided to the California Debt and Investment Advisory Commission pursuant to Government Code 53359.5.
3. A copy of the report provided to the State Controller's Office pursuant to Government Code 12463.2.

(cf. 3460 - Financial Reports and Accountability)

**Board Approved:**

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