

**TOWN OF MARANA, ARIZONA
POLICY GUIDELINES AND APPLICATION PROCEDURES
FOR THE ESTABLISHMENT OF
COMMUNITY FACILITIES DISTRICTS**

In order to secure for the Town of Marana, Arizona (the “Town”) the benefits of the Community Facilities Act (the “Act”) enacted by the Arizona Legislature in 1988 and to promote the best interests of the Town, the following Policy Guidelines and Application Procedures have been adopted by the Town Council.

Community facilities districts (the “CFD”) provide a funding mechanism to finance construction, operation, and maintenance of public infrastructure within the boundaries of the CFD, and to better enable the Town to provide municipal services within the boundaries of the CFD. The Town Council recognizes the ability of the CFD to permit the construction of infrastructure that might otherwise not be constructed. It is for these reasons that the Town Council has established these Policy Guidelines and Application Procedures.

Considering that the establishment of a CFD is the legal equivalent of the establishment of an entirely new municipal entity within the boundaries of the Town, the Town Council believes that the formation of the CFD should be entered into carefully, to ensure its lasting success.

ARTICLE 1.

General Policies

- 1.1. CFDs should be utilized primarily in connection with the financing of infrastructure for development of residential projects, master planned communities or projects which include resort hotels or substantial commercial development.
- 1.2. Priority should be given to CFDs that provide an enhanced level of public infrastructure amenities and/or municipal services. Public Improvements financed by a CFD should be in conformance with the Town’s General Plan in order to encourage orderly growth and development.
- 1.3. All costs incurred by the Town and the CFD in connection with the CFD application, formation and administration and operation expenses appurtenant thereto, will be paid by the applicant/landowner through advance payments as provided herein. Payment shall include payment for services rendered by Town and CFD staff as well as services rendered by outside consultants who may be retained by the Town or CFD, including but not limited to bond counsel, financial advisors, engineers and appraisers. If the Town or CFD uses outside consultants as “staff,” such as attorneys or engineers, those consultants will also be paid their customary rate for services. If authorized by the CFD board, exercising its sole discretion, all or part of such costs may be paid by a CFD tax levy or reimbursed to the developer/landowner from a CFD tax levy, CFD assessment, CFD revenues or CFD bond proceeds provided such reimbursement is in conformance with federal law, state law and these guidelines.
- 1.4. The Town will encourage an area to be governed by as few CFDs as possible, and a preference will be given to one master CFD. This policy is adopted to provide ease of

administration and the largest tax/revenue base possible. The decision to form a CFD shall be a decision of the Town Council exercised in its sole and absolute discretion.

- 1.5. Unless otherwise agreed to by the Town, the CFD will be governed by a board of directors comprised of the members of the Town Council. The day-to-day responsibilities of the CFD will be performed, pursuant to a contract by outside personnel or by the Town staff. For any CFD over 600 acres, the Town Council, in its sole discretion, may provide that the CFD board may be totally comprised of persons other than members of the Town Council, if adequate safeguards and controls are in place, as may be acceptable to the Town, to ensure the soundness of any CFD financing program, as well as the adequacy and legality of the legal proceedings and disclosure documents in connection with any financing. Advisory committees may, at the sole option of the CFD board, be utilized.
- 1.6. Unless otherwise agreed to by the Town, the CFD must be self-supporting from the standpoints of financing, operations and maintenance and no Town funds will be used for CFD purposes. Notwithstanding anything contained herein, neither the property, the full faith and credit, nor the taxing power of the Town shall be pledged to the payment of any CFD obligation or indebtedness.
- 1.7. The CFD board will determine, in its sole and absolute discretion, the amount, timing and form of financing to be used by a CFD after review of the project feasibility report.
- 1.8. The CFD will construct all improvements utilizing public bidding procedures.
- 1.9. The CFD will not use bond proceeds or other CFD funds to purchase public rights-of-way or other real property to be used for public infrastructure improvements, if such real property would be required to be dedicated and conveyed to the Town by the developer/landowner upon development of the developer's/landowner's property.
- 1.10. Unless otherwise agreed to by the Town, all costs of administration and operation of the CFD and the operation and maintenance of public infrastructure in the CFD shall be the responsibility of the CFD, the developer/landowner, applicable homeowners' associations, or any combination of the foregoing, as may be acceptable to the Town and the CFD.
- 1.11. These Policy Guidelines and Application Procedures may be modified by experience and special circumstances. Any applicant will be given the opportunity to propose alternative approaches to those provided herein, with the understanding that concerns of the Town must be adequately addressed before the staff of the Town will recommend approval of a CFD to the Town Council.

ARTICLE 2.

Content of Application

The application shall contain the following:

- 2.1. A description of the proposed CFD including a legal description of its boundaries and identity and addresses of all persons or entities with any interest in the property, and names and addresses of any qualified electors located within the proposed boundaries. A current title report and a certificate from the county elections department shall be submitted as evidence of the names of persons with any interest in the land and qualified electors

- respectively. The description must contain an analysis of the appropriateness of the CFD boundaries.
- 2.2. A detailed description of the types of public infrastructure to be financed by the CFD, including the estimated construction or acquisition costs of the public infrastructure and the annual operation and maintenance costs of the public infrastructure and the governmental approvals that will be required for both the public and private improvements to be constructed and operated.
 - 2.3. A proposed project schedule for commencement and completion of (a) the public infrastructure and (b) the private development.
 - 2.4. A financing plan for the public infrastructure, including both capital and operating/maintenance costs.
 - 2.5. A financial feasibility study for the entire project (or such phases of the project that are expected to be constructed within five (5) years of submission of the Application) covering both the public infrastructure and the private development. This should include:
 - a. An analysis of how the proposed debt financing, operation and maintenance costs, user charges and other CFD costs will be allocated and what will be the impact to the ultimate end users of the property, specifically projected property taxes and property tax rates, special assessments, fees, charges and any other costs that would be borne by property in the CFD. The analysis should also address the impact these costs will have on the marketability of the private development and a comparison of proposed tax rates or charges within the proposed CFD contrasted with the tax rates and charges within the proposed CFD contrasted to the tax rates and changes in adjoining and similar areas outside of the proposed CFD.
 - b. A financing plan for the private development in the CFD.
 - c. A market absorption study for the private development in the CFD, prepared by an independent consultant acceptable to the Town. Such study shall include estimates of the revenue to be generated by the development and an estimate of the ability of the market to absorb the development as well as a market absorption calendar for the private development.
 - 2.6. A description of the proposed equity contribution from the applicant/landowner and a calendar showing the timing of such equity contribution.
 - 2.7. A description of the applicant's professional experience and evidence demonstrating its financial capacity (including financial statements) to undertake the development associated with the public infrastructure and the private development.
 - 2.8. A disclosure form which will be used to explain the expected and possible tax, assessment and other financial burdens of the CFD to prospective CFD landowners. Upon each sale of property in the CFD, the developer/landowner shall file with the Town a receipt that acknowledges the purchaser's receipt of the disclosure form. (Landowners/developers are required to describe in their promotional material the financial and other relative impacts on the development being included in a CFD.)

- 2.9. An operating plan for the CFD, i.e., what functions the CFD would provide and how the operation and maintenance of the infrastructure and all other services in the CFD would be provided.
- 2.10. A description of how the proposed CFD meets the existing development objectives of the Town, including the degree to which the CFD is consistent with the goals of the Town's General Plan for promoting orderly development, consistent with growth management policies and zoning requirements and the degree to which the land use plan for the CFD is consistent with the Town's General Plan Map for the area.

ARTICLE 3.

Application Procedures

- 3.1. Ten (10) copies of the application for the formation of a CFD shall be submitted to the Finance Director of the Town who will coordinate an interdepartmental analysis of each application.
- 3.2. At the time of submission of the application, the applicant shall pay a non-refundable application fee of **\$75,000.00**, and shall deposit an additional **\$25,000.00** as a deposit on account to be applied by the Town in its sole discretion to the costs incurred in connection with the processing of the application, the formation or administration of the CFD. When **\$20,000.00** (and each subsequent **\$20,000.00** amount hereinafter described) is expended, an accounting will be made to the applicant for all costs incurred by the Town and an additional **\$20,000.00** will be requested and must be paid forthwith.
- 3.3. If the Town Council approves the formation of a CFD and there are existing agreements with developers/landowners for the provision of infrastructure proposed to be furnished by the CFD then those agreements will be deemed amended to reflect the agreements and conditions pertaining to the CFD. The amendments will reflect that such infrastructure improvements will be provided (including by acquisition) by either the developer/landowner or the CFD.
- 3.4. After the application fee and deposit are submitted, the Finance Director shall arrange a pre-application conference with the appropriate Town staff, for the purpose of reviewing the application for conformity with Town policies.
- 3.5. If, following the pre-application conference or any other time during the application process Town staff requests additional information, the applicant shall provide any and all supplemental information requested.
- 3.6. After analysis of an application as supplemented, Town staff, under the direction of the Finance Officer, may prepare a report including recommendations relating to the CFD and an analysis of the impact of the formation of the CFD and its effects on the Town. This report may provide a recommended disposition of the application and any additional requirements that will be placed on the developer/landowner and the CFD.
- 3.7. If all costs billed or available to the Town have been paid by the applicant by a date at least seven (7) days prior to the date of the meeting of the council at which the application is to be considered and if the application meets the qualifications provided herein, the application, along with any report and recommendations by Town staff, will be forwarded to the Town Council.

- 3.8. If the Town Council approves an application for formation of a CFD, the applying developer/landowner and the staff of the Town shall coordinate a schedule of events for formation of the CFD and shall negotiate an appropriate agreement between the Town and the developer/landowner which shall be entered into prior to formation of the CFD, which shall incorporate the requirements of any report, recommendations of the Town staff relating to such CFD, the requirements of these policy guidelines and any other restrictions, provisions and agreements required by the Town.

ARTICLE 4.

CFD Operations and Debt Financing

- 4.1. Upon formation of a CFD the developer/landowner shall deposit with the CFD a non-refundable administrative expense fee in the amount of **\$50,000.00**. The administrative expense fee shall be applied by the CFD to the costs and expenses incurred in connection with the formation, review of any feasibility study, election costs, administration, operation and maintenance of the CFD or its public improvements. From time to time, upon depletion of the administrative expense fee, the CFD may request, and the developer/landowner shall promptly deposit with the CFD, additional **\$25,000.00** deposits to be applied to the purposes contemplated in this Section 4.1.
- 4.2. In order to provide for the CFD to be self-supporting for its administrative, operation and maintenance expenses the Town and the CFD, unless otherwise agreed, will require the imposition of a \$.30 per 100 of assessed value ad valorem tax upon the CFD taxable property. Failure to impose such tax will relieve the Town and the CFD from undertaking any obligations or operations.
- 4.3. In connection with any request for debt financing, applicant shall provide a current appraisal of the fair cash market value of the property within the proposed CFD which is to be taxed or assessed, prepared by a person who is designated as a Member Appraisal Institute (“MAI”) and a certified general real estate appraiser (such person hereafter referred to as an “MAI Appraiser”), such appraisal to be in form and substance acceptable to the Town, in its sole discretion. Generally, the appraisal shall be based on the wholesale, bulk sale of the property in the CFD.
- 4.4. The amount of debt of a CFD may not have any substantial direct or indirect negative impacts on the debt or financing capabilities of the Town, and second, that the debt imposed on the CFD not impose an unreasonable financial burden on future CFD residents.
- 4.5. General obligation bonds of the CFD are secured by an ad valorem tax on all taxable property located within the CFD. An applicant for general obligation bonds should describe in each project feasibility report the following:
- a. The current direct and overlapping tax and assessment burden on the taxable property that is proposed to be taxed and the full cash value and assessed valuation of the taxable property as shown on the most recent assessment roll.
 - b. The amount and timing of CFD general obligation bonds to be issued.
 - c. The expected market absorption of development within the CFD.

- d. The effect of the CFD bond issuance on CFD tax rates, calculated as of the beginning, midway through and at the end of the market absorption period or based on the phasing of the project to be financed, as applicable.
 - e. Estimated savings, if any, to residents in the form of reduced sales prices which are projected to result from CFD financing.
 - f. Any plan for subsidizing CFD tax rates.
 - g. Whether the bonds will be publicly offered or privately placed. Publicly offered bonds must be rated in one of the four highest investment grade ratings from either Standard & Poor's Corporation, Moody's Investors Services, Inc., or other nationally recognized bond rating services. Privately placed bonds need not be rated; however, the purchases of such general obligation bonds must be "qualified institutional buyers" (as such term is defined in Rule 144A of the Securities Exchange Commission) and must agree not to resell the bonds except to "qualified institutional buyers" in a private placement, provided, however, that a purchaser of general obligation bonds in a private placement may sell the bonds in a public offering if the CFD board approves the public sale and the bonds have an investment grade rating.
- 4.6. Revenue bonds shall be payable from a CFD revenue source. An applicant for revenue bonds must describe in each project feasibility report, the following:
- a. The current direct and overlapping tax and assessment burdens on the taxable property within the CFD and the full cash value and assessed valuation of that taxable property as shown on the most recent assessment roll.
 - b. The revenue source from which bonds will be payable. The Town reserves the right to require the applicant to produce such independently prepared feasibility studies or reports as it deems necessary to confirm the amount and availability of revenues.
 - c. The expected market absorption of development within the CFD.
 - d. The amount and timing of CFD revenue bonds to be issued.
 - e. The financial impact of the proposed issue(s) on prospective residents.
 - f. Whether the bonds will be publicly offered or privately placed. Publicly offered revenue bonds must be rated in one of the four highest investment grade ratings from either Standard & Poor's Corporation, Moody's Investors Service, Inc., or other nationally recognized bond rating services. Privately place bonds need not be rated; however, the purchasers of such revenue bonds must be "qualified institutional buyers" and must agree not to sell the bonds except to "qualified institutional buyers" in a private placement, provided, however, that a purchaser of a revenue bond in a private placement may sell the bonds in a public offering if the CFD board approves the public sale and the bonds have an investment grade rating.
- 4.7. Assessment bonds shall be secured by first lien (subject only to the lien for general taxes and prior special assessments) on the property benefited. Applicants for assessment bonds should describe in the application and in each project feasibility report, the following:

- a. The current direct and overlapping tax and assessment burdens on real property to comprise the CFD and the full cash value and assessed valuation of that property as shown on the most recent assessment roll.
 - b. The amount and timing of CFD assessment bonds to be issued.
 - c. The expected market absorption of development within the CFD.
 - d. The assessment burden to be placed on prospective residents.
 - e. Whether the assessment bonds will be publicly offered or privately placed. Publicly offered assessment bonds must be rated in one of the four highest investment grade ratings from either Standard & Poor's Corporation, Moody's Investors Service, Inc., or other nationally recognized bond rating services or in an unrated public offering, an appraisal of the land to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the CFD board, in its sole discretion, shall indicate a land value (prior to any private or public improvements being installed) to debt ratio of at least 6 to 1 prior to the issuance of debt. Privately placed bonds need not be rated; however the purchasers of such assessment bonds must be "qualified institutional buyers" who must agree to hold the bonds for their own account or agree not to sell the bonds except to "qualified institutional buyers." Further, in connection with the sale of unrated privately placed assessment bonds, the CFD board must have received an appraisal of the land to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the Town, in its sole discretion, indicating a land value (prior to any improvements being installed) to debt ratio of at least 4 to 1 as of a date prior to the issuance of debt.
- 4.8. Notwithstanding the restrictions pertaining to public sales and private placements of the bonds set forth in this Article 4, the restrictions may be modified if other financing structures are presented which, in the sole discretion of the CFD board, provide other means to address CFD concerns.

ARTICLE 5.

Financing Considerations

- 5.1. The applicant or developer/landowner shall provide at least \$0.25 in infrastructure or community improvements for each \$1.00 of debt to be issued by a CFD to finance public infrastructure purposes. If agreed to by the CFD, prior infrastructure and community improvements constructed or acquired by the applicant or the developer/landowner and benefiting the property within the CFD may be included in calculating the applicant's or developer/landowner's compliance with this Section 5.1.
- 5.2. If allowed by law, all bond issues shall include a debt service reserve fund in an amount acceptable to the CFD board.
- 5.3. Privately placed bonds shall have minimum authorized denominations of \$100,000.
- 5.4. A general obligation bond authorization for a CFD shall expire no later than seven (7) years from the date of voter authorization.
- 5.5. The applicant, developer/landowner (or such other third party acceptable to the Town and CFD), for any CFD bonds, shall indemnify the Town and the CFD and their agents and

employees and shall hold the Town and the CFD and their agents and employees harmless for, from and against any and all liabilities, claims, costs and expenses, including attorneys' fees, incurred in any challenge or proceeding to the formation, operation, administration of the CFD, the offer and sale of CFD bonds, the levying by the CFD of any tax, assessment or charge and the operation and maintenance of public infrastructure financed or owned by the CFD.

- 5.6. Unless otherwise provided to the Town pursuant to other requirements, prior to CFD financing and acquisition by the CFD or Town, the CFD or Town will require an independent environmental report or assessment of any real property which will be dedicated to or otherwise owned, leased or operated by the Town or the CFD and a proposed form or indemnity agreement with respect to all environmental law liability.