



<b>POLICIES, RULES AND REGULATIONS</b>		<b>ITEM NO. 3</b>
Title: <b>COMMUNITY FACILITY DISTRICT (CFD) FINANCING POLICY</b>		
Approval Date: December 2019	Effective Date: December 2019	
Approved By: Board of Directors	DMS #19530	

## **COMMUNITY FACILITY DISTRICT (CFD) FINANCING POLICY**

### **1.0 INTRODUCTION**

This policy has been developed to formally establish requirements that must be met for the Santa Clarita Valley Water Agency (Agency; SCV Water) to participate in financing infrastructure costs through a Community Facility District (CFD). Community Facility Districts are often created for establishing a method of financing public improvements, fees, or services by imposing a “special tax” on real property in a defined geographic area. CFDs issue bonds, repaid by homeowners through an annual levy of the CFD special tax. The special tax is commonly referred to as a “Mello-Roos” tax. SCV Water has not utilized CFDs in the past, whether the CFD was created by the Agency or another public agency. Some public agencies, such as school districts, utilize CFDs to accelerate funding of fees or new development. The Agency’s primary benefit of participating in CFDs is that CFDs are a source of financing critical infrastructure that would not impact its existing debt coverage ratios. A secondary benefit of CFD financing is that it ensures that the new development property owners pay their share of the cost of growth in the Agency’s capacity to serve its customers.

This policy describes the conditions that will determine if the Agency will participate in a CFD financing, how risk to the Agency is managed, and the CFD structures that SCV Water may elect to participate in.

### **2.0 STATEMENT OF PURPOSE**

The purpose of SCV Water’s Community Facilities District Financing Policy is to ensure the Agency’s: prudent management of risk; financial stability; access to an additional financing tool during a period of significant infrastructure investment, while managing the equitable allocation of costs to its customers.

### **3.0 LIMITS AND CONSTRAINTS FOR CFD PARTICIPATION**

For the Agency to consider participating in a CFD, the following conditions must be met:

- Facility Capacity Fees will not be financed.
- There must be a benefit to the Agency’s customers.
- Staff time must be available to carry out the Agency’s responsibilities in establishing and administration of the CFD.
- A Deposit and Reimbursement Agreement between the Agency and the Developer must be agreed upon.
- Prior to the formation of the CFD or the issuance or sale of special tax bonds, the Agency and Developer will have a completed an Acquisition Agreement, setting forth the terms upon which the Agency will acquire the specific infrastructure that was agreed.



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- All Agreements shall be governed by, construed and enforced under the Constitution and laws of the State of California. Venue for any legal actions involving this Agreement shall rest with the Superior Court, County of Sacramento.
- Another public agency such as a school district or the California Statewide Communities Development Authority (CSCDA) must be the primary administrators.

4.0 PRUDENT MANAGEMENT OF RISK

The risks and issues that the Agency has discussed regarding participation in CFD Financings are:

- What project development costs will the Agency not allow for inclusion in a CFD Financing?
  - The Agency will not allow its Facility Capacity Fees (FCFs) to be included in CFD Financing. FCFs must be paid by the developer when building permits are issued.
- Risk of developer default: What if the bonds are issued and the work is not undertaken? What if the water infrastructure is built but the homes are not built?
  - In either case, the Developer would have title to the property. If the Developer does not make timely debt service payments, the State will foreclose on the property and use the sale of property to pay off the related debt. There is no recourse to Agency for payment of the bonds.
- Risk of developer default: What steps are taken to ensure the creditworthiness of the bond issue?
  - The CSCDA works with advisors, consultants, and an underwriter to determine the credit quality and economic viability.
  - Specific credit quality requirements are mandated and documented in Section 53345.8 of Mello-Roos Community Facilities Act of 1982. (Bonding requirements).
  - The value of the real property subject to the special tax to pay debt service on the bonds would be at least four times the principal amount of the bonds to be sold, plus the principal amount of all other bonds outstanding that are secured by a special tax.
  - In order to enhance the credit quality of bond issues, the Authority will require that each bond issue be secured by a reserve fund, funded in an amount no less than the least of: (a) 10% of the original proceeds of the bond issue, (b) maximum annual debt service on the bonds of such issue, and (c) 125% of the average annual debt service on the bonds of such issue.



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- Risk of Developer default: How does the CSCDA manage the risk of environmental approval to construct?
  - Prior to the issuance of any CFD bonds, all environmental and/or land-use planning approvals, special permits (e.g. permits required by the Army Corps of Engineers, California Fish and Game, and other agencies), and approval by the city or county in whose jurisdiction the development lies of a tentative map must be obtained.
  
- Risk of ultimate property owner (residential/commercial) default on payment: What happens if the purchasers of the developed properties default on their special assessment tax?
  - Every CFD bond shall provide for the judicial foreclosure of delinquent payments of special taxes. The ability to commence foreclosure shall be without further Commission action, and subsequent to notification to the property owner of a delinquency in form prescribed by law. Any costs advanced by the Authority to collect special taxes, including any actions taken related to foreclosure, shall be reimbursed by the proceeds of the foreclosure sale or other legally available funds from the CFD.
  
- Credit rating risk: How would financing through a CFD impact SCV Water credit rating and borrowing capacity?
  - There would be no impact. CFD bonds are secured by real property owned by the Developer and ultimately by the purchaser of the developed property. This is an important point as the Agency is planning significant capital infrastructure expenditure over the next ten years, and CFDs are a potential tool for funding some projects without driving up all customer rates.
  
- Cost recovery: How will the Agency ensure that all costs incurred in establishing the CFD and its role in administration of the CFD process are recovered?
  - The Agency will enter into a “Deposit and Reimbursement Agreement” with the Developer requiring the Developer to deposit an initial amount of funds into an account for the Agency to use to pay preliminary incidental costs and expenses incurred in connection with proceedings to implement a CFD. Should the account be drawn down to a determined amount, the Agency will notify the Developer to provide an additional deposit to enable continuing payments of preliminary expenses.



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- Cost of service impact on new customers: What is the dollar limit that SCV Water should set for financing water infrastructure projects in a CFD?
  - The total tax burden (that is, the maximum annual CFD special tax, together with ad valorem property taxes, special assessments, special taxes for any overlapping CFD , and any other taxes, fees and charges payable from and secured by the property) on any residential owner-occupied parcel in a CFD, shall not exceed 2% (the basic property tax levy of 1%, plus 1%) of the expected assessed value of such parcel upon completion of the public and private improvements relating thereto.

*(Originally adopted December 2019)*

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