



City Council Agenda Item

City Council Meeting Date: December 19, 2017

TO: Patrick Wiemiller, City Manager

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SUBJECT: Adoption of Resolution No. 6150(17) approving the Local Goals and Policies for Community Facility Districts

Recommendation:

Staff recommends the City Council adopt Resolution No. 6150(17) (attached) approving the City of Lompoc's (City) Local Goals and Policies for Community Facility Districts (CFD) (Policy) as required by the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 to 53368.3), as amended (Act).

Background:

In 1982, the State of California enacted the Act as an alternate method of financing needed improvements and services. The Act allows any county, city, special district, school district, or joint powers authority to establish a CFD. Once formed, a CFD provides a mechanism to finance public improvements and services. The improvements and services may include streets, sewer (wastewater) collection and treatment systems, other basic infrastructure, police protection, fire protection, ambulance services, schools, parks, libraries, museums, and other cultural facilities. In addition, a CFD can recover expenses of formation and the annual administrative costs of providing for the special taxes and, if issued, bonded debt.

A CFD may be created to provide financing for public improvements and services when no other source of funding is obtainable. A CFD is created by the sponsoring local government agency. The proposed CFD would include all properties that benefit from the improvements to be constructed or the services to be provided. In order to be created, a CFD must receive a 2/3 majority vote of residents residing within the proposed boundaries unless there are fewer than 12 residents within the proposed boundaries. In

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the case where there are fewer than 12 residents, the 2/3 vote is, instead, conducted of current landowners. In many cases, the property owner or developer may be the only participant.

However, as prescribed by the Act, prior to the process to create a CFD, the sponsoring local governmental agency must first adopt policies. Section 53312.7 of the Act requires the agency to identify five criteria in the policies. Section 53312.7 spells out the criteria as follows:

- 1) A statement of the priority that various kinds of public facilities and services shall have for financing, 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 prospective property purchasers are fully informed about their taxpaying obligations imposed under the CFD.
- 4) A statement concerning criteria for evaluating the equity of tax allocation formulas, and concerning desirable and maximum amounts of special taxes to be levied against any parcel.
- 5) A statement of definitions, standards, and assumptions to be used in required appraisals.

Since 1982, the use of CFDs has provided for the generation of countless development projects. While there is not an easily obtainable listing of all active CFDs in the State of California, the California Debt and Investment Advisory Commission's (CDIAC) Yearly Fiscal Status Reports 2014-2015 includes 1,473 CFDs with reportable debt as of June 30, 2015.

The Policies are intended to be general in nature and may be supplemented, amended or waived by resolution or motion adopted by the City Council at any time. Their purpose is to guide the formation of CFDs and ensure that CFDs, once formed, remain fiscally sustainable throughout their life.

Discussion:

On January 19, 2016, the City Council was provided a presentation on the benefits and attributes of a CFD by representatives of the developers within the Burton Ranch Specific Plan. Following negotiations, a Deposit and Reimbursement Agreement was approved by the City Council at the January 17, 2017, City Council meeting. That agreement outlines the process for reimbursement of costs related to the creation of a CFD.

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As part of the recent annexation of the property and project known as Summit View, the Summit View developer also requested the creation of a CFD to provide for services related to the development of its project.

In addition to the request to implement CFDs in the Burton Ranch and Summit View development projects, the Planning Commission also conditioned the Mosaic Walk and River Terrace projects for creation of CFDs to provide for services related to those projects.

Each project requires separate formation processes requiring 2/3 of the electors within the CFD area to vote to form the CFD. However, according to the Act, the City must have policies in place prior to the creation of the first CFD. The policies are general in nature to provide flexibility for the creation of each CFD as each will likely have unique circumstances and needs regarding the provision of services and the financing of improvements. As each created CFD will be unique in makeup, the resulting total tax allocation for one CFD can be different than for another CFD.

Policy Makeup

The Policy has a number of components. As mentioned above, the mandatory component addresses the five criteria required by the Act. In addition to the mandatory component, the Policy also includes introductory language regarding the Act, as well as a voluntary section related to the process of formation of a CFD to assist the reader with the overall process of formation and administration of a CFD.

As a financing tool, a CFD has many financial impacts. The provision for services by the CFD allows the residents of the CFD to provide for necessary services without the fiscal impact on the remaining residents of the City that would otherwise subsidize those services. The Policy provides a framework regarding the size and makeup of the special tax to be paid by the residents within the CFD.

The Policy also provides guidelines related to the issuance of bond financing such as the following:

- Provision of a bond reserve fund in the amount of 10% of the original proceeds of the bond;
- Capitalization of interest criteria;
- Requires repayment of bond from the special taxes and protects the City's General Fund or other available funds from paying for the CFD's bond payments;
- The Value to Debt ratio of the CFD must be at least 4:1.

The Policy also provides guidelines regarding the disclosure requirements for the CFD such as the following:

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- Minimum disclosures for prospective purchasers;
- Disclosure requirements for the resale of lots within the CFD;
- If issued, continuing bond disclosures to comply with the Securities and Exchange Commission.

Regarding the amount of the special taxes, the Policy provides guidelines such as the following:

- At a minimum, the formula for the special tax will provide for annual costs of the CFD, 110% of the gross debt service coverage for all CFD bonded indebtedness, and the reasonable administrative expenses of the CFD;
- The formula shall be reasonable in the allocation of CFD payment obligations to the parcels within the CFD;
- The projected residential property tax level shall not exceed the lesser of 2.00% of the estimated sales prices of the respective homes to be constructed in the CFD or the maximum specified in the Act;
- Annual cost of living increases of the maximum special tax shall not exceed the maximum specified in the Act;
- If included in the CFD, the projected non-residential property tax levels must be reasonable.

Finally, the Policy provides for consistent use of property values in the application of the Policy by defining the following appraisal standards:

The definitions, standards, and assumptions to be used in appraisals required in connection with the City's use of the Act for CFDs are as set forth in the Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission and originally dated May 1994 and modified July 2004 (CDIAC Guidelines).

Notwithstanding the foregoing, if there is a conflict between the definitions, standards or assumptions in the CDIAC Guidelines and the corresponding definitions, standards or assumptions in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation (USPAP), USPAP shall govern.

While the Policy addresses significant issues, each criteria is relatively general in nature to provide flexibility in the implementation of the Policy as various CFDs are proposed and implemented.

Fiscal Impact:

As mentioned in the Discussion Section above, several aspects of the formation of a CFD involve fiscal impacts to a project developer, the initial owners of homes or property within the boundaries of the CFD, subsequent owners of parcels within the CFD, and if issued, investors of bonds issued by the CFD. Additional fiscal impacts of the creation and administration of a CFD will affect the City as additional funding mechanisms are utilized

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to foster growth in the City that require implementation and annual processes to continue the collection of the special taxes to provide for the services, improvements, and administration of the CFD.

However, beyond the staff and consultant time required to provide the draft Policy to the City Council, the approval of the Policy does not have a fiscal impact to the City.

Conclusion:

Adoption of Policies is a prerequisite to initiating proceedings for the formation of proposed CFDs by the City, including the CFDs proposed for the Burton Ranch Specific Plan, Summit View, Mosaic Walk, and River Terrace projects.

Respectfully submitted,

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Brad Wilkie, Management Services Director

Brian Halvorson, Planning Manager

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Patrick Wiemiller, City Manager

Attachment: [Resolution No. 6150\(17\)](#)