

**CITY OF GOODYEAR, ARIZONA
POLICY GUIDELINES AND APPLICATION PROCEDURES
FOR THE ESTABLISHMENT OF
COMMUNITY FACILITIES DISTRICTS**

In order to secure for the City of Goodyear, Arizona (the “City”) the benefits of the Community Facilities Act (the “Act”) enacted by the Arizona Legislature in 1988, as amended, the following Policy Guidelines and Application Procedures have been adopted by the City Council.

A community facilities district (a “CFD”) provides a funding mechanism to finance construction, acquisition, operation, and maintenance of public infrastructure within the boundaries of the CFD that benefits the real property comprising the CFD and its ultimate users, and to better enable the City to provide municipal services within the boundaries of the CFD.

Recognizing a CFD is a statutory special taxing district with municipal taxing, borrowing and, as applicable, foreclosure powers within the boundaries of the City, the City Council believes that the formation of a CFD should be conducted carefully and with reasoned consideration in order to protect the CFD's property owners and taxpayers, and to enable the CFD's long-term success.

In order to permit the City Council to make a reasonable judgment as to whether or not to establish a CFD and upon what terms, the City Council has established these Policy Guidelines and Application Procedures.

**ARTICLE 1
General Policies**

1.1 CFDs should be utilized primarily in connection with the financing of major public infrastructure for development of master planned communities, substantial residential development or substantial commercial development. CFDs may also be utilized to provide an enhanced level of public infrastructure amenities and/or municipal services. Public infrastructure improvements financed by a CFD should be in conformance with the City’s General Plan. A CFD is not intended to fund or subsidize developer-requested enhancements.

1.2 Each CFD is different, and each application for formation shall be evaluated at the sole and absolute discretion of the City Council. The formation of a CFD, and any subsequent CFD financing, will not be considered solely based upon a request for equivalency or similarity between separate development projects or other CFDs within the City, or even between separate financings within a CFD.

1.3 The City will encourage an area to be governed by as few CFDs as possible, and a preference will be given to one master CFD for all property within an entire development project. This policy is adopted to avoid creating communities or projects where only a portion of the development is ultimately within the boundaries of the CFD, to facilitate ease of

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

1.4 Unless otherwise agreed to by the City, the CFD will be governed by a Board of Directors (the "CFD Board") comprised of the members of the City Council, ex officio, with two additional members who are initially designated by the owner who owns the largest amount of privately owned acreage in the proposed CFD and who are appointed by the City Council. If the CFD Board is comprised of the City Council, ex officio, plus two additional members, the applicant/developer must provide insurance acceptable to the City for the two additional members. In addition, the City may require the premiums for such insurance to be pre-paid by the applicant/developer for a period of five years or as otherwise agreed upon. Additional requirements may apply in connection with the two additional members as described herein and in Arizona law. The day-to-day responsibilities of the CFD will be performed, pursuant to an agreement, by outside personnel or the City staff. Advisory committees may, at the sole option of the CFD Board, be utilized. If the City permits formation of a CFD with a five member appointed board in accordance with the Act, the City shall seek appropriate ongoing indemnification from the applicant/developer and shall prefer that City staff have no responsibility for day-to-day responsibilities of the CFD.

1.5 Unless otherwise agreed to by the City, the CFD must be self-supporting from the standpoints of financing, operations and maintenance and no City 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 City shall be pledged to the payment of any CFD obligation or indebtedness.

1.6 The CFD Board will determine, in its sole and absolute discretion, the amount, timing and form of financing to be used by a CFD during its review process of the project feasibility report.

1.7 Unless otherwise agreed to by the CFD Board in its sole and absolute discretion, all public infrastructure constructed or acquired by the CFD will utilize public procurement procedures in accordance with applicable laws, rules and regulations, as such laws, rules and regulations would be applied in the case of the City. From time to time, the CFD Board may elect to adopt policies and procedures regarding procurement, including such policies and procedures that are similar to the City.

1.8 The CFD will not use bond proceeds or other CFD funds to purchase from the person requesting CFD financing 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 City by the developer/landowner upon development of the developer's /landowner's property.

1.9 Unless otherwise agreed to by the City, 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 City and the CFD.

1.10 Where applicable, the landowner/developer will provide appropriate indemnification of the City and the CFD and their respective officials, directors, officers, employees and agents in connection with the CFD.

1.11 These Policy Guidelines and Application Procedures may be modified from time to time. Any applicant will be given the opportunity to propose alternative approaches to those provided herein, with the understanding that concerns of the City must be adequately addressed before the staff of the City will recommend approval of formation of a CFD to the City Council.

ARTICLE 2

Content of Completed Application

All applications for the formation of a CFD shall be submitted to the City. In accordance with Section 48-702 of the Act, formation of a CFD will not be considered until an applicant submits a completed application (a "Completed Application"). Each Completed Application shall, at a minimum, contain the following:

2.1 General Matters.

a. A description of the proposed CFD, including a legal description of its boundaries, identity and addresses of all persons or entities with any interest in the real property, and the 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 or persons with any interest in the real property and qualified electors. The description must contain an analysis of the appropriateness of the CFD boundaries.

b. A description of the applicant, including the corporate and organizational structure of the entity or individual making the application. This description should also include the names of all officers and/or corporate directors directly related or associated with the proposed development and the proposed CFD. If there is more than one property owner, the application shall designate a representative for the applicants.

c. The name, address, telephone number and other relevant information of the primary contact for the applicant. This information should also list the names (and other relevant information) of any legal representatives, engineers, architects, financial consultants and/or other consultants significantly involved in the preparation and submission of the Completed Application.

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, 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 impact the ultimate end users of the property, specifically projected property taxes and property tax rates, special assessments, fees, charges and 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 and charges in adjoining and similar areas outside of the proposed district.

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 City. 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 and sources of such equity contribution. A description of the applicant's professional experience and evidence demonstrating its financial capacity to undertake the development associated with the public infrastructure and private development.

2.7 A disclosure form ~~to~~ explaining 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 City a receipt, signed by the purchaser that acknowledges the purchaser's receipt of the disclosure form. ~~(L~~andowners/developers are required to describe in their promotional material the financial and other relative impacts on the development being included in a CFD. Copies of the disclosure form must be placed on file with the District Clerk.

2.8 An operating plan for the CFD, i.e., what functions the CFD will provide and how the operation and maintenance of the infrastructure and all other services in the CFD will be provided. The Completed Application will include how the CFD will comply with the website provisions in A.R.S. 48-727, including how the applicant will provide for payment of costs related to establishing and maintaining the website.

2.9 A description of how the proposed CFD meets the existing development objectives of the City, including the degree to which the district is consistent with the goals of

the City'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 City's General Plan Map for the area.

2.10 The Completed Application will:

a. Provide the names, addresses, telephone numbers, backgrounds and qualifications, and other relevant information of the two additional board members to be designated by the applicant

b. State the process for the designation of the two additional board members (i) during development upon the resignation of any additional board member and (ii) on completion of development of all property within the boundaries of the CFD. Designation procedures for residents or property owners within the CFD upon completion of development should be considered by the applicant.

c. Provide documentation evidencing such additional board members' obligation to comply with A.R.S. 38-511 and containing unqualified "hold harmless" guarantees for the City, the CFD and their respective officials, officers, directors, employees and agents.

2.11 The Completed Application shall include a petition in favor of creation of the CFD. The petition must include a list of all parcels in the proposed CFD along with the parcel number, owner names, situs address and lot size (parcel square footage or acreage) for each individual parcel. The petition must be signed by the owners of at least 25% of the land area proposed to be included in the CFD.

2.12 A District Development and Financing Participation Agreement between the City and the applicant in substantially final form, including all terms and provisions to be approved by the City if formation of a CFD is approved. The agreement must include matters required by A.R.S. 48-708(D) and must have been fully negotiated by the applicant and City staff.

2.13 The applicant is responsible for the cost of insurance to cover all actions and activities taken by the CFD Board and officers of the CFD relating to the CFD formation, financing, administrative actions or other related activities of the types, in amounts and with deductibles determined by the City's risk manager or other appropriate officer. The Completed Application will provide an explanation of how such insurance coverage shall be provided by the applicant and how assurances will be provided that the premiums and deductibles will be paid in the future. Insurance must include a "per occurrence coverage" including a "securities" rider if bonds are anticipated to be sold. If the City participates in any type of insurance pool with other municipalities, these insurance provisions may be negotiated and modified as appropriate.

2.14 The Completed Application must indicate how indemnification outlined in the District Development and Financing Participation Agreement will be provided for the City and the CFD and their respective agents, officers and employees for, from and against any and all liabilities, claims, costs and expenses, including attorneys' fees and expenses, 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, the entity providing indemnification (including financial statements and other supporting information for such entity, appropriate collateral arrangements, and other appropriate provisions and considerations.

ARTICLE 3 **Completed Application Procedures**

3.1 Ten (10) hard copies and one electronic copy of the Completed Application for the formation of a CFD shall be submitted to the Finance Director of the City who will coordinate an inter-departmental analysis of the Completed Application.

3.2 At the time of submission of the Completed Application, the applicant shall pay a non-refundable application fee of \$15,000 in connection with the submission and consideration of each Completed Application to request formation of a CFD. Such costs as they relate to, but exceed the cost of, formation shall be used for administrative costs of the CFD. Any resubmission of the Completed Application or a substantially similar Completed Application within one year of the initial submission shall not require an additional application fee as provided in A.R.S. 48-708(E).

3.3 Prior to submission of a Completed Application, and at the request of the applicant, the Finance Director and appropriate officers of the City may arrange a pre-submission meeting with the applicant, City staff, and outside professionals and consultants for the purpose of discussing the possible submission of a Completed Application and conformity with this Policy Guidelines and Application Procedures.

3.4 Following the pre-submission meeting, or at any other time prior to submission of the Completed Application, City staff may request additional information. The applicant shall provide any and all supplemental information requested prior to proceeding with a Completed Application.

3.5 The review, analysis and consideration of a Completed Application will include, without limitation, a comprehensive review of the Completed Application to determine whether the Completed Application is consistent with these Policy Guidelines and Application Procedures, identification of missing or incomplete information and identification and discussion of any concerns with the applicant. This will include, without limitation, examining the feasibility of the project, analysis of land ownership interests, analysis of the proposed financing structure, risk analysis and evaluation of community benefits. Under direction of the Finance Director, a report may be prepared including recommendations related to the proposed CFD and an analysis of the impact of the formation of the proposed CFD and its effects on the City. Additional requirements may be placed on any or all of the applicant, developer(s), landowner(s), builder(s) and/or the proposed CFD. This review will include the preliminary approval of the form, terms and provisions of the substantially final form of Development and Financing Participation Agreement necessary for formation of the CFD. A Completed

Application must be consistent with these Policy Guidelines and Application Procedures and must contain all the information required herein.

3.6 The City shall comply with all timelines pertaining to review of the Completed Application. Specifically, but without limitation, upon submission of a Completed Application the City Council will within sixty (60) days hold a public hearing to consider the Completed Application. A resolution declaring the intent to form the CFD may be considered by City Council immediately following the public hearing. If City Council does not adopt the resolution of intention to form the CFD, the City Council will provide a written basis for not adopting the resolution of intention and shall identify the specific changes for the Completed Application to be approved, if applicable.

3.7 If the City 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.

3.8 If the City Council approves formation of a CFD, the applying developer/landowner and the staff of the City shall coordinate a schedule of events for formation of the CFD and shall execute an appropriate agreement (i.e. the Development and Financing Participation Agreement) between the City 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 City staff relating to such CFD, the requirements of these policy guidelines and any other restrictions, provisions and agreements required by the City.

3.9 If a Completed Application includes a petition for formation that is signed by owners of all the real property in the proposed CFD, as well as meeting all the requirements described herein in form satisfactory to the City, the City may declare the CFD formed without posting, publication, mailing, notice and public hearings or landowner election. Otherwise the alternative provisions of the Act pertaining to formation must be followed.

ARTICLE 4

CFD Operations and Debt Financing

4.1 Upon approval of formation of a CFD the developer/landowner shall deposit with the CFD a nonrefundable administrative expense fee in the amount of \$60,000. In anticipation of formation of the CFD, or in the instance of formation by a petition of all landowners, the applicant may agree with the City to make this nonrefundable deposit prior to approval of formation of the CFD. 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. These deposits shall be applied to payments for services rendered by the City staff, CFD staff and services rendered by outside consultants who may be retained by the City and/or the CFD,

including, without limitation, bond counsel, financial advisors, engineers, appraisers and attorneys. 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 deposits to be applied to the purposes contemplated in this Section 4.1. The CFD and the developer/landowner may agree to a smaller amount of deposits to replenish the administrative expense fee, but in no event shall a replenishment deposit be less than \$5,000.

4.2 In order to provide for the CFD to be self-supporting for its administrative, operation and maintenance expenses the City and the CFD, unless otherwise agreed, will require the imposition, if approved at an appropriate election, of a \$0.30 per \$100 of assessed value ad valorem tax upon the CFD taxable property. Failure to impose such tax will relieve the City and the CFD from undertaking any obligations or operations.

4.3 The debt of a CFD may not have any substantial direct or indirect negative impacts on the debt or financing capabilities of the City. In addition, the debt of a CFD may not impose an unreasonably high financial burden on future CFD residents. The City Council may consider debt burdens, and corresponding tax rates and levies, in its decision on whether to approve the formation of a CFD. In connection with any request for debt financing, unless otherwise agreed by the City, the applicant must provide a current appraisal of the fair cash market value of the property within the proposed district which will 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 City, in its sole and absolute discretion. Generally, the appraisal shall be based on the wholesale, bulk sale of the real property in the CFD, but the CFD staff may require, in their sole and absolute discretion, additional appraisal requirements depending on current market conditions or the type of project to be financed.

4.4 General Obligation Bonds of the CFD will be secured by an unlimited ad valorem tax on all taxable property located within the CFD. In a Completed Application, and prior to the issuance of general obligation bonds by the CFD, in each project feasibility report the applicant shall describe, in addition to the statutory requirements, 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 expected 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 over the entire period of time that the proposed general obligation bonds are estimated to be outstanding or based on the phasing of the project to be financed, as applicable.

e. Estimated savings or economic advantage, if any, to residents in the form of reduced sales prices, enhanced public services and/or amenities, or additional community benefits that are projected to result from CFD financing.

f. The proposed total tax rate of the CFD, and any plan for subsidizing CFD tax rate.

(i) Any plan for subsidizing CFD tax rates and collections that utilizes a written agreement from a third party or parties (collectively, the “Obligated Party”), wherein the Obligated Party agrees to pay all or a portion of the debt service on any general obligation bonds of a CFD that is not paid by tax collections levied and received for such purpose (such as a standby contribution agreement) (the “Subsidy Payment Agreement”) shall comply with the following conditions, in addition to such other conditions established by the CFD Board:

A. The Subsidy Payment Agreement shall constitute a valid, enforceable agreement against the Obligated Party, and the obligation to pay the Subsidy Amount (as defined herein) shall not be subject to any set off, claim or encumbrance. Security for the Subsidy Amount due pursuant to Subsidy Payment Agreement shall be bankruptcy proof.

B. The secondary tax rate to be levied for the CFD with respect to any bonds, assuming payment of the Subsidy Amount (the “Target Tax Rate”) shall be approved by the CFD Board;

C. The maximum secondary tax rate, from time to time, for the CFD with respect to any bonds, assuming no payment of the Subsidiary Amount (the “Nonpayment Tax Rate”) shall not exceed the Target Tax Rate by more than \$1.00 per \$100 of secondary assessed valuation (such \$1.00 or less of additional tax rate in the even of nonpayment of the Subsidy Amount shall be referred to as the “Tax Rate Exposure”);

D. The Obligated Party shall be required to pay the amount necessary to cause the actual secondary tax rate levied to be not greater than the Target Tax Rate (the “Subsidy Amount”);

E. For the purposes of calculating the Target Tax Rate and the Nonpayment Tax Rate the assessed valuation of the CFD shall use, on the date of the applicable calculation, the actual values shown on the tax rolls of the County Assessor (“Assessor”) that are established each year or, if more current, the values shown on the Assessor’s special districts extract for the CFD (the “AV”);

F. The CFD subject to the Target and Nonpayment Tax Rates shall contain at least 500 completed single-family residential units as shown on the most recent tax rolls;

G. The Obligated party shall have an audited net worth at all times during the term of the Subsidy Payment Agreement of at least five (5) times the principal amount

of the bonds that are supported by the then applicable Subsidy Amount and in the event the net worth of the Obligated Party is less than the amount required by this subparagraph G, the Obligated party shall promptly pay, cause the redemption or defeasance of or post with the District other collateral (such as a surety bond, letter of credit or cash) satisfactory to the District in, the principal amount of bonds necessary to comply with the provisions of this subparagraph G;

H. The Subsidy Payment Agreement shall provide for the annual payment of the Subsidy Amount pertaining to the next succeeding fiscal year not later than March 30th of each year.

I. For purposes of calculating the Target and Nonpayment Tax rates, the AV shall exclude the secondary assessed value of any taxable property in the CFD owned by the Obligated Party or owned by any entity owned or controlled by any Obligated party (the “Controlled Parties”) (for purposes of this subparagraph “owned or controlled by” shall mean any entity, of which 50% or more of the ownership interests are owned or controlled by an Obligated Party) if the Obligated Party or Controlled Parties, in the aggregate, own parcels totaling twenty percent (20%) or more of the AV of the CFD;

J. In no event shall the aggregate of all Tax Rate Exposures of any CFD and any overlapping CFDs exceed \$1.25 per \$100 of secondary assessed valuation; and

K. The Subsidy Payment Agreement shall not adversely effect the tax-exempt status of any related bonds and shall be delivered with all certificates and opinions required by the CFD.

L. The security for the Subsidy Amount shall remain in full force and effect until such time as the CFD Board, exercising their sole discretion, determines the assessed value of real property in the CFD is sufficient to generate ad valorem taxes at the pre-established CFD tax rate sufficient to pay the actual CFD debt service. At that time, the CFD Board may determine, in their sole and absolute discretion, whether the developer/landowner's security will be released in whole or in part.

g. A description of the marketing plan for the issuance of the bonds, including 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 S&P Global Ratings, Moody’s Investors Services, Inc., or other nationally recognized bond rating services. Privately placed bonds need not be rated; however, the purchasers 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 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.

4.5 Revenue Bonds shall be payable from a specified CFD revenue source. An applicant for revenue bonds shall describe in each project feasibility report, in addition to the statutory requirements, the following:

- a. The current direct and overlapping tax and assessment burdens on the property to 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 City 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 issues(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 S&P Global Ratings, Moody's Investors Service, Inc., or other nationally recognized bond rating services. Privately placed 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.

4.6 Assessment Bonds shall be secured by first lien (subject only to the lien for general taxes and prior special assessments) on the property benefited. In a Completed Application and prior to the issuance of assessment bonds in each project feasibility report, the applicant will provide the following:

- a. The current direct and overlapping tax and assessment burdens on real property to comprise the district 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 district assessment bonds to be issued.
- c. The expected market absorption of development within the district.
- d. The assessment burden to be placed on the prospective assessed parcels.
- e. A description of the marketing plan for the assessment bonds, including whether the 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 S&P Global Ratings, Moody's Investor Service, Inc., or other nationally recognized bond rating services. 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 and absolute discretion shall indicate a land value (prior to 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 CFD Board, in its sole and absolute discretion, indicating a land value (prior to improvements being installed) to debt ratio of at least 4 to 1 as of a date prior to the issuance of debt. If a 4 to 1 ratio is not achieved, a scaling down of the proposed debt and phasing of the infrastructure construction is expected.

f. If assessed parcels of land are expected to be subdivided, the process by which the assessments will be allocated to the subdivided land. If the subdivision is expected to occur after the issuance of assessment bonds, the applicant shall describe a plan of prepayment of the next debt service payment due on the assessment bonds, plus a contingency amount to be determined in the sole and absolute discretion of the CFD Board, to ensure no draws on any reserve fund result from the assessment modification.

4.7 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 CFD Board, provide other means to address CFD Board 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 Board, in its sole and absolute discretion, prior infrastructure and community improvements constructed or acquired by the applicant or the developer/landowner 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 The applicant or the developer/landowner (or such other third party acceptable to the City and the CFD), shall indemnify the City and the CFD and their agents and employees and shall hold the City and the CFD and their agents, officers 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.

5.4 Unless otherwise provided to the City pursuant to other requirements prior to CFD financing and acquisition by the CFD or City, the CFD and City 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 City or the CFD and a proposed form or indemnity agreement with respect to all environmental law liability.

5.5 Developers shall be responsible for all costs and expenses incurred in any assessment modifications as described in City Code Chapter19.