



Goals and Policies  
Concerning Use of  
MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

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**Effective March 20, 2019**

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## INTRODUCTION

The purpose of these Goals and Policies is to establish for the City of Roseville (the “City”) a set of guidelines for the formation and administration of Community Facilities Districts (also referred to as “CFDs” or “Districts”). The underlying principles behind the proposed policies are public interest and benefit, fairness to current and future property owners and homeowners, avoidance of future failure of the project and/or property owner protest, protection of the City's financial position, and reimbursement to the City of its incurred expenses.

Community Facilities District laws are found in the Mello-Roos Community Facilities Act of 1982 in the California Government Code, beginning at Section 53311 (the “Mello-Roos Act”). These Goals and Policies are adopted by the City in compliance with Section 53312.7 of the Mello-Roos Act.

### **1. GOALS & POLICIES**

The City has developed the following Goals and Policies on financing facilities and/or services through the formation of Community Facilities Districts, including financing public facilities through the issuance of debt to be repaid from proceeds of special taxes levied within the districts. It is the City's goal to support projects which address a public need and provide a public benefit. Proposed projects requesting Community Facility District debt financing will be evaluated to determine if such financing is financially viable and in the best interest of the City and current and future City and project residents.

The City may consider facilities or services District formation on its own initiative and also will consider developer or property owner initiated applications requesting the formation of Community Facilities Districts and the issuance of bonds to finance eligible public facilities necessary to serve newly developing commercial, industrial and residential projects in the following instances:

- (1) When tax-exempt financing of project public facilities will result in a significant public benefit; and/or
- (2) When the City has negotiated and executed a Development Agreement addressing project implementation; and/or
- (3) When City-based needs and circumstances warrant financing Public Services or Public Facilities through a Special Tax to provide significant public benefit.

Generally, community serving public facilities will be eligible for this tax-exempt financing program. Facilities will be financed and Districts formed in accordance with the then current provisions of the Mello-Roos Act, or any other methodology legally available to the City to finance such improvements.

Each time public facilities are to be built or accepted by the City, or a Community Facilities District is formed for the benefit of a development project, and if maintenance requirements will exceed normal City standards and/or if City services will need to be expanded to facilitate the project, the City will require the creation of a maintenance/services District or Home/Property Owners Association suitable to provide such needs. The City may also annex projects into existing maintenance/services Districts. The maintenance or services District may be established pursuant to the provisions of the Mello-Roos Act, or any other methodology legally available to the City to finance such maintenance. The purpose of the services/maintenance District is to fund the ongoing costs of parks and open space, public landscaping, police and fire protection services and library services and maintenance not funded by other sources; and/or to pay for any unfunded ongoing City maintenance or service costs associated with a development project in the City, all in accordance with the Mello-Roos Act and the formation documents for each particular District.

Existing neighborhoods may petition the City for the use of financing to fund local or neighborhood serving Public Services and/or Public Facilities in accordance with the Mello-Roos Act.

The City shall make the determination as to whether a proposed District shall proceed under the provisions of the Mello-Roos Act, or any other methodology legally available to the City to finance improvements, services or maintenance. The City may confer with consultants and the Applicant to learn of any unique District requirements such as facilities or services serving the regional area or long-term development phasing prior to making any final determination.

All City and consultant costs incurred in the evaluation of new development, District applications, and the establishment of Districts will be paid by the Applicant(s)/petitioner(s) by advance deposit increments. The City shall not incur any non-reimbursable expense for processing Community Facilities Districts. Expenses not chargeable to the District shall be borne by the Applicant(s)/petitioner(s).

The City has established a Schedule of Maintenance Costs and Charges applicable to new development projects in the City, which provides a uniform set of City costs associated with the ongoing operations, maintenance, and administration of services provided within new development areas that can be financed by the levy of Special Taxes in maintenance/services Districts. The City will update this Schedule by Resolution from time to time to ensure new development projects continue to self-fund the prevailing costs incurred to provide annual and ongoing services in these new areas, as well as pay for the ongoing administration of Districts formed in such areas.

In addition to forming and administering its own Districts, the City may also permit the formation of Community Facilities Districts on land in the City and on its behalf by joint powers authorities of which the City is a member, such as through the California Municipal Finance Authority's Bond Opportunities for Land Development (BOLD) program.

## **2. DEFINITIONS**

Unless the context otherwise requires, the terms employed in these Goals and Policies shall have the meanings specified below:

“Applicant” means a developer or other person requesting formation of a District.

“City” means the City of Roseville.

“Community Facilities District” or “District” means a Community Facilities District formed under the Mello-Roos Act.

“Pay-As-You-Go Basis” means the use of annual and/or one-time special tax revenues to directly fund the acquisition, construction, or improvement of Public Facilities, or to fund other authorized costs of a District.

“Public Facilities” means improvements authorized to be constructed or acquired under the Mello-Roos Act including, but not limited to, costs for specified capital facilities imposed by public agencies as a condition to approval of the development encompassed by the District or as a condition to service the District, which may include, but is not limited to, infrastructure improvements such as major streets and arterials; highway improvements and freeways; freeway interchanges; right of way acquisitions; bridges, water, sewer and drainage improvements; landscape irrigation and drainage facilities; environmental mitigation and remediation; bicycle and pedestrian facilities; parks; wetlands; electrical conduits; transit improvements; and other improvements as which are defined as authorized improvements under the Community Facilities District(s) selected by the City or any ordinance adopted by the City.

“Public Services” means services eligible for District financing provided for in the Mello-Roos Act, and for new development will particularly include those which benefit properties within a proposed development or area of the City subject to the special tax or the City at large and may include reserves for replacement of equipment facilitating maintenance and operation of the included City services, all as further specified in the Mello-Roos Act.

“Special Tax” means tax(es) authorized to be levied by the City on behalf of a District on property within the boundary of the District.

“Value” or “Fair Market Value” means the amount of cash or its equivalent which a property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of a difficulty of the other, both having knowledge of all of the uses and purposes to which the property is adapted, and for which it is capable of being used and of the enforceable restrictions upon its uses and purposes.

### **3. ELIGIBLE PUBLIC FACILITIES AND SERVICES**

Public Facilities eligible for District financing are those improvements which benefit properties within a proposed development, and/or will mitigate impacts of that development upon areas of the City outside the proposed development and/or are otherwise determined by the City to be authorized improvements for a District, and which will be owned, operated and maintained by the City or another public agency as approved by the City.

The City has final determination as to any facility's eligibility for financing as well as the prioritization of facilities to be included within a financing District. Generally, "in-tract" (i.e., local streets) improvements will not be considered eligible.

If a school is financed, the school district's goals and policies, if any, including its priority access policy will be coordinated with the formation of a District.

Public Services eligible for District financing are those types of services and maintenance activities which benefit properties within a proposed development or area of the City subject to the Special Tax as determined by the City, subject to the limitations and other requirements specified in the Mello-Roos Act.

### **4. VALUE-TO-LIEN RATIO**

The City may sell bonds for the District only if it determines that the value of the real property that would be subject to the special tax to pay debt service will be at least three (3) times the principal amount of the bonds to be sold and the principal amount of all other bonds outstanding that are secured by a special tax or bonded special assessment. Such determination will be based upon the full cash value as shown on the ad valorem assessment roll or upon an appraisal of the subject property made in a manner consistent with policies of the City. Requirements of a higher value to lien ratio may be imposed by the City and will be determined by City staff with recommendations from bond counsel, financial advisor, and the underwriter, with consideration of the facts pertaining to each particular project, including diversification of land ownership. Each project will be considered on its own merits. Additionally, the aggregate value to lien ratio of no more than five percent (5%) of the parcels expected to be subject to special taxes to pay debt service shall be below 3:1 or such higher ratio as determined by the City. The City may allow exceptions to its value to lien ratio requirements in accordance with the Mello Roos Act if it finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements or for other reasons determined by the City.

The appraisal shall be coordinated by, under the direction of, and addressed to the City. All costs associated with the preparation of the appraisal report shall be paid by the Applicant through the advance deposit mechanism. The appraisal shall be conducted in accordance with criteria, standards and assumptions established by the City, based upon the recommendations for each specific project received from the underwriter and financial advisor designated by the City. In every case, the appraisal shall reflect recognized appraisal standards for land-secured bond

financing. The City prefers that the appraisal be prepared in accordance with the recommendations of the California Debt and Investment Advisory Commission as contained in the Appraisal Standards for Land-Based Secured Financings, and deviations therefrom will only be considered upon recommendation from bond counsel, financial advisor, the underwriter and/or the appraiser, with consideration of the facts pertaining to each particular project. The appraised land value should include the value attributable to the Public Facilities to be financed by the bonds being issued for the District assuming they have been completed.

## **5. MARKET ABSORPTION STUDY**

The City may require a market absorption study, and may retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties subject to the special taxes in the District. The study, if required, shall include an estimate of the total number of units, land uses and rate of absorption, and will be used as a basis for verification that sufficient revenues can be generated, and to determine if the financing of the infrastructure and public facilities is appropriate given the projected level and pace of development. All City and consultant costs incurred for this study will be paid by the Applicant by advance deposit or out of special taxes or bond proceeds.

The study will also be provided to the appraiser for use in the appraisal process. The market absorption study should be completed prior to completion of the appraisal, and the appraisal shall take into consideration and reasonably reconcile to the conclusions of the market absorption study or include reasons for significant alternate conclusions.

## **6. SECURITY**

For new development, the Applicant or property owner must demonstrate its financial plan and ability to pay all special taxes before full build-out has taken place to the satisfaction of the City. Additional security such as credit enhancement may be required by the City in its sole discretion in certain instances.

If the City requires letters of credit or other credit enhancement, the credit enhancement shall be issued by an institution in a form and upon terms and conditions satisfactory to the City. All fees payable on the letter of credit or other security shall be the sole responsibility of the District Applicant or developer, not the City or District. Any security required to be provided by the Applicant shall be discharged by the City upon the opinion of a qualified appraiser retained by the City that the value-to-lien ratio has reached an acceptable level as determined by the City or upon meeting other credit criteria established by the City.

As an alternative to providing security, depending on circumstances:

- A. A portion of the bond proceeds may be placed in escrow with a corporate agent in an amount sufficient to assure an acceptable value-to-lien ratio is reached on the

escrowed proceeds. The escrowed proceeds shall be released at such times and in such amounts as will assure an acceptable value-to-lien ratio with regard to the aggregate outstanding bonds and other covenants; or

- B. The bonds may be issued in series with each series in an amount sufficient to assure an acceptable value-to-lien ratio with regard to the aggregate outstanding bonds and other covenants.

## **7. SPECIAL TAX FORMULA**

The special tax formula for each District shall adhere to the following requirements:

- A. The maximum special tax shall include the annual costs incurred by the City to administer the District, including debt service, City and County administrative expenses, and delinquency coverage in an amount determined appropriate by City staff.
- B. The special tax formula shall establish tax rates which correspond to the expected land use designation of each parcel.
- C. The special tax formula shall be structured to ensure sufficient funds to pay for annual debt service and administrative expenses of the District.
- D. A backup special tax or other mechanism to protect against changes in densities resulting in insufficient annual special tax revenues to pay annual debt service and administrative expenses shall be required.
- E. The City may, at its sole discretion, provide for an annual escalation factor, not to exceed two percent (2%) of the Maximum Special Tax for Facilities Districts with residential parcels (bonded) in effect for the prior fiscal year. For Services Districts (non-bonded) or non-residential Districts, the City may provide for an annual escalation factor, not to exceed four percent (4%) of the Maximum Special Tax in effect for the prior fiscal year.

The maximum annual special tax submitted to the qualified electors of the CFD, when added together with all the annual payment requirements of overlapping debt and bonded assessments, and ad-valorem property taxes, shall not exceed one and three-fourths percent (1.75%) of the anticipated (as developed) Fair Market Value of the subject properties, based on projected home prices at time of bond sale, however City staff may allow for a limit of more than one and three-fourths percent (1.75%) at the Chief Financial Officer's (CFO) discretion.

The City shall retain a special tax consultant to prepare a report which:

- A. Recommends a special tax formula for the proposed CFD.



- B. Evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes, and assessments on the properties within the CFD. The rates and method of apportionment of special taxes shall be designed to ensure sufficient revenues are produced in case of final development at lower densities than anticipated.
- C. Consultants of the City for the District shall comply with the existing policies of the Fair Political Practices Commission and the California Government Code.

For bonded Districts the City may retain a Financial Advisor who will review the special tax formula and other financial documents to determine that the documents have been prepared in a manner that does not adversely impact the City's financial position, District bonding capacity or credit rating. The Financial Advisor will confirm the findings of the Special Tax Consultant that the proposed Special Taxes are sufficient to fund all the future costs of the District. Costs incurred for these consultants will be paid by the Applicant(s) by advance deposit increments and may be reimbursed from bond proceeds or Special Tax collections.

## **8. TERMS AND CONDITIONS OF BONDS**

All terms and conditions of the bonds shall be established by the City, and included in the Fiscal Agent Agreement. The City or a designated fiscal agent will control, manage and invest all District-issued bond proceeds designated for use on improvements. Each bond issue shall be structured to adequately protect bond owners and to not adversely impact the bonding capacity or credit rating of the City through the special taxes or assessments, credit enhancements, foreclosure covenant and reserve fund. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- A. If required, a reserve fund amount equal to the lesser of ten percent (10%) of the initial bond principal, or maximum annual debt service on the bonds, or one hundred twenty-five percent (125%) of average annual debt service, or as otherwise provided by Federal tax law. If agreed by the City and the Underwriter, a Surety may be purchased in lieu of a funded reserve.
- B. The Special Taxes shall be levied for the first fiscal year following the sale of the bonds or at the end of capitalized interest period. Interest may be funded (capitalized) during a period not to exceed twenty-four (24) months, as determined by the CFO.
- C. The repayment of principal shall begin on the earliest principal payment date for which sufficient special tax revenues can be made available after the end of the capitalized interest period, or otherwise as determined by the CFO to be appropriate.

- D. The City may consider an increasing annual debt service by two percent (2%) per year for the term of the bonds. Determination of this shall be made by the CFO.
- E. The maximum Special Tax shall be established to ensure that the annual revenue produced by levy of the maximum special tax shall be equal to at least one hundred ten percent (110%) of the corresponding annual debt service.
- F. Prior to the issuance of the bonds, the City may authorize its bond counsel to commence and process to final judgment an action establishing the validity of the proceedings, Special Tax and issuance of bonds, as determined appropriate by the City and such bond counsel.
- G. In instances where multiple series of bonds are to be issued, the first series shall include Public Facilities of highest priority as determined by the City to be appropriate for initial development.
- H. All statements and materials related to the sale of bonds shall emphasize and state that neither the good faith, nor the taxing power of the City, is pledged to security or repayment of the bonds. The sole source of revenues to secure bonds are Special Taxes.

## **9. DISTRICT COSTS, DEPOSITS AND REIMBURSEMENTS**

All City and consultant costs incurred in the formation, evaluation and administration of District applications and the establishment of Districts will be paid by the Applicant by advance deposit increments. The City shall not incur any non-reimbursable expenses for processing and administering Districts. Expenses not chargeable to the District shall be directly borne by the Applicant.

Funds to reimburse costs and expenses incurred by the City shall be billed to the Applicant and the Applicant shall pay each invoice within sixty (60) calendar days of receipt of such notice. If the Applicant fails to make any payment of funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

For Districts financing facilities, except as otherwise provided herein, the Applicant shall be entitled to reimbursement for reasonable costs and expenses incident to the construction of the Public Facilities as provided under the Mello-Roos Act, provided that all such costs and expenses are determined by the City to be necessary and reasonable.

The Applicant or property owner shall not be entitled to reimbursement from bond proceeds for any of the expenses specified as follows:

- A. In-house administrative and overhead expenses incurred by the Applicant not authorized by the City;

- B. Interest expenses incurred by the Applicant on moneys advanced or expended during the proceedings and construction of Public Facilities; and
- C. Any other costs and expenses incurred by the Applicant which are not otherwise authorized for reimbursement under the Mello-Roos Act.

Neither the City nor the District shall be required to reimburse the Applicant or property owner from any funds other than the proceeds of bonds issued by the City for a District and pay-as-you-go Special Taxes. The use and terms of any pay-as-you-go reimbursement shall be at the discretion of the City's CFO or such other person or persons as may be designated.

## **10. AGREEMENTS**

Agreements will be prepared incidental to District formation proceedings in a form satisfactory to the City and consistent with these policies. These agreements may include, but not be limited to:

- A. Funding, Construction and Acquisition and Shortfall Agreement;
- B. Joint Community Facilities Agreements with any other public agency entitled to receive any portion of the bond proceeds or entitled to own and operate any of the public facilities financed by bond proceeds; and
- C. Deposit and Reimbursement Agreement.

As a condition to the issuance and sale of bonds, all of the agreements specified shall be duly approved and executed by the parties thereto. Prior to execution of any agreements, such agreements shall be reviewed and approved by bond counsel and the City Attorney, who shall determine if each agreement shall also be approved by the City Council. Agreement approval by the City Attorney shall be indicated thereon when appropriate.

## **11. USE OF CONSULTANTS**

The City shall have the sole discretion as to selection of consultants and determination of fees and expenses of all consultants necessary for the formation of the District and the issuance of bonds, including the underwriter(s), bond counsel, financial advisor, appraiser, trustee, paying agent, market absorption study consultant, and the special tax consultant after reasonable consultation with the Applicant. Prior consent of the Applicant shall not be required in the determination by the City of the consulting and financing team. The City shall also be responsible for determining the structure of the bonds to be issued, including the method of sale (negotiated or competitive), the need for bond ratings, investment of bond proceeds, and all other

terms and conditions incidental to structuring and closing a bond issuance and distribution of proceeds, including pay-as-you-go funding, if any, in the form of reimbursement to developer from excess (after debt service and District administration) special tax collections, or otherwise as determined by the CFO or such other person or persons as may be designated.

## **12. ACQUISITION PROVISIONS**

The City, at its sole discretion, will determine the facilities to be acquired and the method of determining reasonable acquisition costs, which shall be set forth in the Funding, Construction and Acquisition and Shortfall Agreement. Applicable bidding and prevailing wage requirements are extensive and will be addressed during the preparation of the Funding, Construction and Acquisition Agreement.

## **13. DISCLOSURE TO PURCHASERS**

The Applicant or property owner will be required to demonstrate to the satisfaction of the City that, to the best of their abilities, there will be full disclosure of the Special Taxes to prospective purchasers of property including interim purchasers and sales to merchant builders. In addition to all requirements of law, the City may require the Applicant to provide additional disclosure of such information as the City deems appropriate to the purchasers of property within the District, with respect to the existence of the District, maximum and/or backup special taxes to be levied within the District, facilities to be constructed, the foreclosure process and the terms and conditions of bonds issued on behalf of the District. Such disclosure shall include home buyer notifications requiring signature prior to home purchases, as well as methods to notify subsequent home purchasers.

Upon request, the Finance Department will provide a “Notice of Special Tax” to sellers of real property subject to the levy of special taxes as required by Government Code Section 53340.2.

## **14. PROPERTY OWNER SUPPORT**

In the instance of multiple property owners, the Applicant shall be required to produce letters evidencing other property owners' support for the scope and establishment of the District as an attachment to the application. The Applicant must have concurrence of 2/3 vote of the property owners to be included in a Community Facilities District, unless the City accepts moving forward based on special circumstances.

## **15. LAND USE APPROVALS**

Properties proposed for inclusion in a District must possess a land use determination such that proposed development land use and specific facility requirements can support the proposed

special tax. The City will accept applications for Mello-Roos Act financing for residential properties primarily when they are included in an approved specific plan or City planning area.

## **16. APPLICATION PROCESS**

Early communication with the City is encouraged to assist Applicants in evaluating the feasibility of available financing programs and to discuss program procedures.

1. **PREAPPLICATION CONFERENCE:** Applicant meets with City to discuss the proposed project and application procedures.
2. **PROJECT REVIEW:** Applicant and City staff meet to discuss initial application, including any issues raised and further information that might be required. If necessary, Applicant submits revised application.
3. **PROJECT INITIATION:** Applicant, staff and consultants meet to determine preliminary project schedule and begin work necessary to initiate District formation.
4. **PROJECT IMPLEMENTATION:** The resolution of intention is approved by Council action in order to move forward to the formation hearing. Once the District is formed, bonds can be issued (if forming a District for Public Facilities).

## **17. APPLICATION OF GOALS AND POLICIES**

The City may find that a waiver of any of the above stated policies is reasonable given identified City benefits to be derived from such waiver. Such waivers may be granted with or without action of the City Council, as determined appropriate by the CFO. Approval by the City Council of formation of a District and/or issuance of bonds for a District constitutes a determination that a District conforms to the provisions of these Goals and Policies and, if applicable, that a waiver of any provision hereof is appropriate, and shall be conclusive evidence of such conformity.

These Goals and Policies may be reviewed and may be amended from time to time, as determined by the City to be appropriate in the light of changing conditions affecting the City and its real estate market and changes in practices among other communities in the region.

# ATTACHMENT 1

**GOVERNING LAW:** California Government Code, beginning at Section 53311, Mello-Roos Community Facilities District Act of 1982, available online.

## **INFORMATIONAL SUMMARY OF MELLO-ROOS COMMUNITY FACILITIES DISTRICT FORMATION PROCESS**

A Community Facilities District (CFD) is a legally constituted governmental entity created for the purpose of financing public facilities and services. It is similar in effect to an Assessment District except that the resulting security for debt in an Assessment District is a fixed lien assessment, while under a CFD it is an annual special tax. A CFD may finance a broad range of facilities and/or services, including facilities and/or services which benefit an area in a general way, whereas assessment district financing is more limited in scope and requires a benefit analysis to match the fixed assessment amount to the benefit received. Recent legal cases have challenged benefit determinations. Given those flexibility features of a CFD, it has emerged as the preferred special district financing methodology for most municipalities.

The formation proceedings are subject to, and contingent upon satisfaction of all environmental, zoning and land use regulations. All documents of formation are to be prepared by the Applicant or designated party.

1. **Initiation of Proceedings.** Proceedings can be initiated by the City on its own initiative, or must be considered within ninety (90) days from the time a request is made by a petition signed by ten percent (10%) of the registered voters (or ten percent (10%) of the landowners by area if less than twelve (12) registered voters) within the proposed CFD. The petition shall be accompanied by payment of a fee determined by the Finance Department to be sufficient to pay for costs incurred in conducting the proceedings.
2. **Resolution of Intention.** Adoption of a Resolution of Intention to establish a CFD begins the formation process, stating the name of the proposed CFD, the types of facilities and/or services to be financed and that, a special tax to pay for such facilities and/or services will be annually levied. The Resolution of Intention shall also fix a time and place for a public hearing between thirty (30) and sixty (60) days after the adoption of the Resolution of Intention, describe the method of levy and apportionment of the special tax and describe the proposed voting procedure. In addition, the resolution may specify conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied. The City Council directs its responsible officers to study the proposed District and to file a report at or before the public hearing describing the proposed Public Facilities and Public Services and an estimate of costs.
3. **Public Hearing.** Protests against the establishment of the CFD, the extent of the CFD or the furnishing of specified types of Public Facilities and Public Services may be made

orally or in writing by interested persons or taxpayers. If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the proposed CFD or the owners of one-half (1/2) or more of the area of land in the proposed CFD file written protests against the establishment of the CFD, the proceedings are abandoned. If the protests are directed toward certain types of facilities or services, or against a specified special tax, those specific items may be eliminated from the resolution forming the CFD. The hearing may be continued for up to thirty (30) days without special findings and up to six (6) months if the City Council makes specified findings.

4. **Resolution of Formation.** If the City Council decides to establish the CFD, it will adopt a Resolution of Formation containing similar information as contained in the Resolution of Intention.
5. **Election.** If the City Council determines to form the CFD, it submits the question of whether special taxes should be levied to an election of the voters (or land owners if less than twelve (12) registered voters) of the proposed CFD. Combined with the tax proposition, there may be a proposition on the question of incurring bonded indebtedness. The tax, in order to be levied, must be approved by two-thirds (2/3) of the votes cast and thereafter levied by adoption of an ordinance of the City Council. The Mello-Roos Act provides that the election shall be at the next general election or at a special election to be held between ninety (90) and one hundred and eighty (180) days following the close of the protest hearing. The election time limits may be shortened by the unanimous consent of the qualified electors within the proposed District and the concurrence of the election official conducting the election.
6. **Special Tax Bonds.** A CFD may be created solely to provide the services permitted by statute. However, most CFD's have been created specifically for the purpose of levying special taxes to service bonded indebtedness incurred by the CFD in order to finance the construction of Public Facilities. The proceedings to authorize and incur bonded indebtedness usually parallel the proceedings for formation of the CFD and the authorization to levy the special tax, although the bond proceedings could be conducted separately and at a later date. The proceeding to authorize bonded indebtedness involves a Resolution of Intention, public hearing and election, all conducted in a manner very similar to proceedings to form the CFD and levy the tax. Government Code Sections 53341 and 53359 establish a limited period of time in which special taxes levied under the Mello-Roos Act may be challenged by a third party. For this reason, the City may choose to wait (60) days (a 'validation period') after the authorization to incur bonded indebtedness is approved before CFD bonds are sold. CFD bonds may be sold competitively or through negotiated sale and may bear fixed or variable interest rates. In some cases, specified facilities may be provided by a CFD for only a portion of the land within the CFD. In that event, the Mello-Roos Act provides for the formation of improvement areas for which separate elections are conducted and to which a specified special tax applies.