

City of Apache Junction – November 16, 2020

Community Facilities Districts

Purpose, Structure and Governance Overview

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What is a Community Facilities District?

- “On its formation, the district is a special purpose district for purposes of Article IX, Section 19, Constitution of Arizona, and a municipal corporation for all purposes of Title 35, Chapter 3, Articles 3, 3.1, 3.2, 4 and 5. A district that distributes or sells groundwater is a private water company only for purposes of Title 45, Chapters 2 and 3.1. Except as otherwise provided in this section, a district is considered to be a municipal corporation and political subdivision of this state, separate and apart from the municipality or county.” (A.R.S. § 48-708(B); underline added)

What is a Community Facilities District?

- Separate political subdivision with broad powers to tax, lien, issue debt and foreclose.
- Although City staff may function as CFD staff, the CFD is not a department or division of the City.

Eligible Public Infrastructure for CFD Financing

- Highways, streets, roadways and public parking facilities
- Landscaping; lighting systems
- Water Systems (statute includes “production”, but not “water rights”)
- Sewer and drainage; Flood control
- Street lights and signals
- Pedestrian malls, parks, recreation facilities (other than stadiums) and related open space areas for assembly or entertainment use
- Civic buildings

CFD Financing Options

- General Obligation Bonds
- Special Assessment Revenue Bonds
- Revenue Bonds
- *Ad Valorem* Tax for CFD Operations and Maintenance

CFD Financing Options

- What is the CFD financing?
- Construction transaction vs. acquisition transaction?
- When was construction completed?

CFD Financing Options

- General Obligation Bonds
 - Repaid with secondary property taxes.
 - Requires waiting for development to occur and be reflected in assessed valuation.
- Special Assessment Revenue Bonds
 - Repaid from installment payments on assessments on specific real property.
 - Allows for financing earlier in the development process.
- Revenue Bonds
 - Repaid from revenues of a system or enterprise.
 - Used on a more limited basis in AZ to date, although Apache Junction is familiar with Superstition Mountains CFD No. 1.

CFD Board of Directors

- 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.
 - Appointed directors may not be elected officials or employees of the City, and may not own more than 40 acres in the CFD or be an employee or agent of the landowner. (A.R.S. § 48-711)
 - Directors are subject to conflict of interest laws. (A.R.S. §38-511)
- Statute also permits a 5 member board appointed by City Council.

CFD Operations

- Budget Law Compliance
 - Annual meetings to review preliminary and final budgets.
 - Review estimated assessed value for upcoming fiscal year and modify secondary tax levy accordingly.
- Assessment Management and Collection
 - Invoicing and collection (County Treasurer collection agreement).
 - Assessment prepayments; early bond redemptions.
 - Assessment modifications upon revised plats or changes to real property.

CFD Operations

- Bond Debt Service
 - Work with trustees, bond registrars and paying agents.
 - Manage debt service reserve fund balances.
 - Coordinate any timing issues between property tax due dates and bond payment dates.
 - Work with financial advisors and investment bankers to determine potential interest expense savings by refinancing existing CFD bonds.

CFD Formation

- Policy Guidelines and Application Procedures.
- Upon receipt of a Completed Application, per statute City Council has 60 days to hold a public hearing to consider the application.
- After the hearing, City Council may adopt a resolution to form the CFD.
- After formation, the CFD will conduct, as applicable, elections pertaining to General Obligation Bond authorization and Operations and Maintenance taxes.

CFD Formation

- CFD Completed Application will include:
 - Landowner petition for CFD formation (statute requires 25% of owners, but able to skip certain procedures with 100% landowner petition).
 - Board composition.
 - General Plan for infrastructure to be financed.
 - Additional requirements of Policy Guidelines and Application Procedures to enable Apache Junction to have a better understanding of the applicant, project and nature of CFD.

Questions and Further Discussion

SHERMAN & HOWARD
