# Mello-Roos CFD Financing

## FINANCING FOR COMMUNITY FACILITIES DISTRICTS ("CFDS")

### GENERAL DESCRIPTION

The Mello-Roos Community Facilities Act of 1982 allows for the creation of a special district called a Community Facilities District ("CFD") and issuance of bonds by the CFD to directly finance public facilities needed by a municipality. Debt service requirements are met through the imposition of a Special Tax (explicitly not ad valorem) solely on those properties located within the CFD. The ultimate security behind these bonds is the property located within the CFD and not the municipality's General Fund, its ability to tax property throughout its jurisdiction, or any other municipal revenue source. It is also non-recourse to the property owners in the CFD. As a result, the municipality issuing the CFD bonds essentially acts only as a conduit for the sale of these tax-exempt bonds to finance public improvements.

To facilitate the sale of these bonds in the municipal marketplace, the Special Tax lien placed on each parcel in the CFD is senior to all liens, including first trust deeds, except for property tax liens themselves, against which they are at parity. As a result, CFDs during good economic times can often be sold prior to any horizontal or vertical construction occurring. However, CFD bonds secured by vacant properties are generally non-rated and usually yield higher interest rates to bondholders than most rated municipal bond issues.

The only property owners responsible for paying CFD Special Taxes are those who own property located within a specially established district in which two-thirds of the qualified electors agreed to establish that district and tax themselves. This type of program is ideal for new development in which one or more property owners are responsible for funding new infrastructure improvements to facilitate that development. The maximum term of a CFD bond issue is 40 years.

### ADMINISTRATIVE REQUIREMENTS

The formation of a CFD is initiated by a written request submitted by two members of the Issuer's Legislative Body, motion of that Legislative Body, or petition signed by 10% of the prospective district's voters or landowners. After the adoption of a Resolution of Intention by the Legislative Body in a public hearing, the levy of the Special Tax must be put before the registered voters residing in the District at either the next general election or in a special election. As required by Proposition 13 ("Prop 13"), two-thirds of the voters casting ballots must support the tax if it is to be imposed. However, if there are fewer than 12 registered voters residing in the proposed district, a two-thirds vote of the landowners is all that is needed to approve the tax, with landowners getting one vote for every acre or portion of an acre in their ownership.

### ELIGIBLE FACILITIES AND SERVICES

All public facilities having a useful life of 5 years or longer are eligible for financing through a Mello-Roos CFD. In addition, Mello-Roos financing can be used to pay for certain types of public services, including police and fire operations, parks, roads, landscape, and flood control maintenance, library and recreational services, school facilities maintenance, sandstorm protection, and hazardous waste cleanup.

### CFDS ARE FLEXIBLE

The CFD Act was adopted by the State Legislature to promulgate a financing instrument with maximum flexibility in the funding of public infrastructure. For example:

- CFDs can finance a wide variety of public facilities and services.
- Improvements financed through a CFD may benefit property owners outside of the CFD and, in fact, can be located outside of the CFD.
- A CFD can include parcels that are not contiguous.
- CFDs provide landowners with off-balance sheet financing since a property's only lien under a CFD is the annual Special Tax, not the full amount of the bond principal that could be apportioned to the property.
- Allocation of the Special Tax to properties within the CFD must be based on reasonable criteria, but it does not specifically have to relate to the level of benefit received by each of the properties.
- CFDs only burden property owners within the CFD itself with Special Taxes, not property owners throughout the jurisdiction. The election conducted prior to formation only applies to residents or property owners within the CFD.
- The CFD Special Tax may be considerably lower on vacant property than on developed property.
- Capitalized interest can be included in a CFD bond issue to cover the debt service payments for up to 2 years and reduce the cost of carry for the owner of the undeveloped property.
- When structured properly, CFD bonds can be prepaid by a builder if a homeowner does not wish to pay a Special Tax.

For more information on CFDs, please contact David Taussig or Nathan Perez at (800) 969-4DTA or by e-mail at Support@FinanceDTA.com.