

SESSION SIX

Ongoing CFD Administration–Part II

Ongoing CFD Administration Part II

- Use of bond proceeds in project fund
- Applicable agreements
- Overview of financing of impact fees and procedures
- Overview of financing of facilities and procedures
- Consultants or public agency staff?

Use of Bond Proceeds in Project Fund

- Initially discussed during AD or CFD formation process
 - List of impact fees and facilities included in engineer's report and proposition 218 notice and ballot for ads
 - List of impact fees and facilities included in resolutions for CFDs
- Eligible list of impact fees and facilities reaffirmed during bond issuance process based on projected net bond proceeds
- Expenses associated with district formation and bond issuance also eligible for reimbursement after bond issuance

Use of Bond Proceeds in Project Fund (cont.)

- Net bond proceeds deposited into “project fund” or “improvement fund” at bond closing and made available to finance eligible list of impact fees and facilities
- Funds can be disbursed upon public agency approval
- For expenditures made prior to district formation, 60-day “look-back” provision applies for tax-exempt bonds
- Additional amounts may be deposited into project fund later from CFD pay-go revenues or escrow bonds if applicable

Applicable Agreements

- Joint Community Facilities Agreement (JCFA) needed if financing Impact Fees or Facilities for public agencies other than the public agency forming CFD
- School districts may require Mitigation Agreement specifying amounts to be financed with CFD bond proceeds
- Acquisition Agreement needed if facilities are to be constructed by Developer and acquired by public agency
- If financing includes facilities included in impact fee programs, Credit/Reimbursement Agreements may limit what can be financed
- Agreements ideally finalized during district formation process but required to be finalized prior to bond closing

Overview of Financing of Impact Fees

- Impact Fees must fund capital facilities for bond financing
- Fees collected for maintenance, services, and building inspections are not eligible for bond financing
- Reasonable expectation to spend 85% of impact fees collected on capital facilities within 3 years of bond issuance for Tax-Exempt Bonds
- If 3-year expenditure timeline cannot be confirmed, impact fees can be financed with taxable bonds
- Bond proceeds can be used to reimburse developers for impact fees paid or to prepay impact fees due directly to public agency

Procedures for Financing of Impact Fees

- Creating a standard Payment request form for developers to complete and submit for review is recommended for proper record keeping
- Payment request form should convey the requirement to provide proof of payment and a summary table of fees to be financed by fee type and lot description

Example of Payment Request Form Table

Public Agency	Credit or Reimbursement?	Description of Impact Fees	Description of Lots or Parcels	Total Amount
Sacramento County	Reimbursement	Transportation	Lots 1 through 30	\$150,000
SacSewer District	Reimbursement	Sanitation	Lots 1 through 30	\$200,000

Total for Payment Request: \$350,000

- Tracking fees financed with bond proceeds by lot and fee type is important to avoid duplicate payments for projects with multiple payment requests

Procedures for Financing of Impact Fees (cont. 2 of 3)

Example of Supporting Documentation for Impact Fees

building.saccounty.gov

Sacramento County Building Inspection

Inspections
(916) 875-5296

9700 Goethe Rd, Ste. A
Sacramento, CA 95827
Fax (916) 854-9228

827 7th St. Rm. 102
Sacramento, CA 95814
Fax (916) 854-9229

All permits that have no activity for 180 days (field inspections and/or plan check response by applicant) shall expire. All permits expired for 1 year or more shall be closed. All permits shall expire 2 years after the initial permit issuance date. (Project must be completed within two years of permit issuance date) Upon permit expiration or closure, standardized re-activation fees shall apply.

Fee Summary

Application Type:

Building/Misc Sewer Water and Drainage/NA/SWD

Application:

SWDX2024-00825

Application Name:

SOUZA DAIRY UNIT 7 - LOT 1013

Application Status:

Open

Address:

8299 ARTEMIS DR, ELK GROVE, CA 95757

Applicant Name:

RANDI MCDANIEL

Invoice #	Invoice Date	Fee Item	Line No	Fee Due	Fee Paid	Date Paid
1661924	5/1/2024	WCA Initially Paid Fees Credit	4600	(\$2,930.00)	(\$2,930.00)	05/03/2024
1661924	5/1/2024	Zone41 New Srv Connection	14400	\$376.00	\$376.00	05/03/2024
1661924	5/1/2024	IT Recovery Fee	75060	\$350.00	\$350.00	05/03/2024
1661932	5/1/2024	Zone40 1.5" Fire Sprinkler at 1" rate	14600	\$19,078.00	\$19,078.00	05/03/2024
				\$16,874.00	\$16,874.00	

Current Balance Due:

\$0.00

FEEES SUBJECT TO CHANGE UPON
PLAN REVIEW

Procedures for Financing of Impact Fees (cont. 3 of 3)

- Ensure impact fees are eligible per district formation documents and other applicable agreements (JCFA, mitigation agreement)
- Disbursement of impact fees for other public agencies should be approved by each respective public agency
- Coordination with finance and building departments to establish credits if bond proceeds are disbursed directly to the public agency to prepay fee obligations
 - Prepaying fee obligations with bond proceeds may be beneficial to a public agency if funding is needed for imminent capital projects
- Obtain written authorization from home builders paying impact fees if the master developer is entitled to bond proceeds
- Documenting expenditure of impact fees financed can be done with annual and five-year reporting required by the mitigation fee act

Overview of Financing of Facilities

- Facilities financed with ADs are based on special benefit to property
- CFDs may finance “purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer”
- CFD law allows financing of certain privately owned facilities (e.g., flood and storm protection) with Taxable Bonds
- Facilities do not need to be physically located within the boundaries of the AD or CFD

Upfront Considerations for Financing of Facilities

- Construction of facilities before or after CFD formation?
 - Bidding requirements typically are less stringent if construction is before CFD formation
 - If after CFD formation, construction should be performed “as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility”
- Prevailing wages paid for construction of facilities?
- Facilities complete or substantially complete?
 - “Discrete portions” or phases of facilities can be financed through CFD if value of completed facility exceeds \$1 million

Acquisition vs. Issuer Construction

Acquisition of Facilities:

- Developer constructs facilities upfront and issuer “acquires” facilities with bond proceeds
- Bonds often sold after infrastructure is complete so there is higher value backing bonds
- Significantly less involvement from public agency staff
- Design and construction issues and cost overruns are borne by developer

Issuer Construction of Facilities:

- Issuer constructs public facilities and bond proceeds pay costs as needed
- Extensive involvement from public agency staff from design through project completion
- Design and construction issues and cost overruns are typically borne by issuer

Acquisition Agreement

- Required for acquisition of facilities
- Can be customized for each project as appropriate
- Acquisition agreements specify the following:
 - Purchase process and eligible facilities
 - Bidding and prevailing wage requirements
 - Review and payment timelines
 - Substantial completion and retainage requirements for “discrete portions”
 - Change order approval process
 - Limitations on eligibility of “soft costs”

Acquisition Audit Procedures

- Preparing a checklist of the essential items based on acquisition agreement is recommended to streamline review process
- Coordinate with developer on submittal of payment requests using guidelines in acquisition agreement and prepared checklist
- List of essential items for review generally include:
 - Bid documents
 - Construction contracts, change orders, invoices, and proof of payment
 - Confirmation of prevailing wages
 - Lien releases
 - Improvement plans
 - Evidence of acceptance or satisfaction with construction for discrete portions
 - Cost allocation between public and private improvements (e.g., grading costs)
 - Applicable credit/reimbursement agreements

Acquisition Audit Procedures (cont. 2 of 4)

Review and approval of payment requests involves the following:

- Confirm all essential items have been submitted for review
- Compliance with formation documents and acquisition agreement
- Analysis of public vs. private improvements and expenditures
- Confirm costs incurred not attributed to maintenance, defective materials, or contractor negligence
- Evaluate quantities and costs across documents (contracts, invoices, proof of payment, improvement plans). If discrepancies identified, approve lesser value.
- Prepare comprehensive audit report for payment request detailing items submitted for review, findings, and amount approved for financing
- Coordinate with authorized public agency representative to approve payment request and trustee to disburse bond proceeds

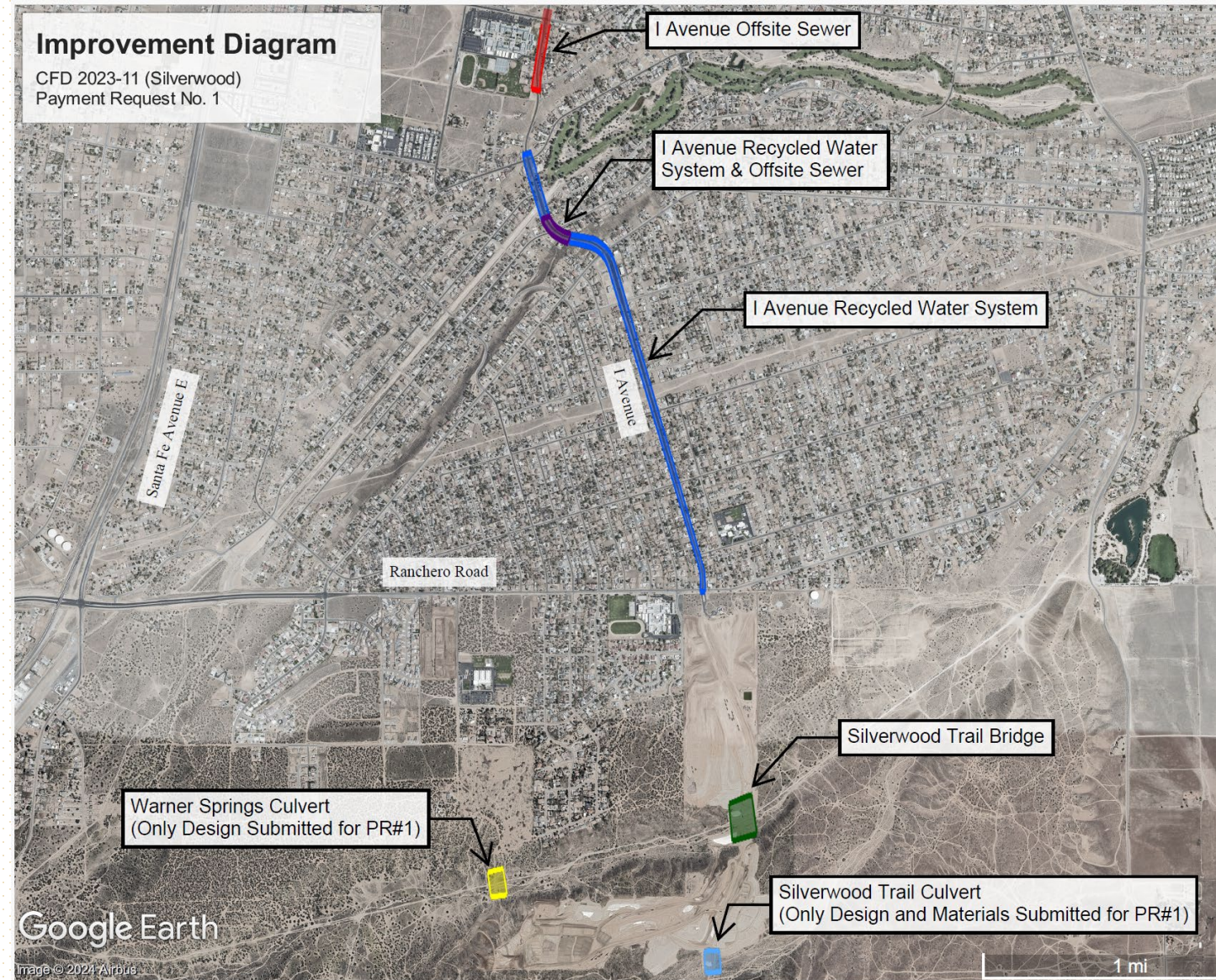
Acquisition Audit Procedures (cont. 3 of 4)

If payment requests include improvements under impact fee programs:

- Developer may be eligible for impact fee credits pursuant to applicable nexus study and credit agreements
- Impact fee credit value can be established concurrently with approval of the amount for CFD bond financing
- If actual costs incurred exceed impact fee obligation for the project, developers will typically look to do the following to maximize financing dollars for the project:
 - Seek CFD bond financing for construction costs up to impact fee obligation
 - Construction costs above impact fee obligation reimbursed from applicable impact fee program subject to potential caps in nexus study and credit agreements
- As part of review process, ensure developer does not receive payment from both CFD project fund and impact fee programs for the same improvement(s)

Acquisition Audit Procedures (cont. 4 of 4)

preparation of diagram of improvements relevant to payment request is recommended to assist with the review and approval process.



Consultants or Public Agency Staff?

- Experience of public agency staff. Review of payment requests for facilities recommended to be overseen by engineer.
- Existing workload
- Complexity of AD or CFD
- Experience of developer