

# MELLO-ROOS COMMUNITY FACILITIES DISTRICTS FUNDAMENTALS



## SESSION 1: THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982 AND THE CFD FORMATION PROCESS

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# HOUSEKEEPING

## SLIDES

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Ask throughout the webinar, answers provided during Q&A at end and during optional extended Q&A after the program

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# SPEAKERS



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# TERMINOLOGY

COMMUNITY FACILITIES DISTRICT (CFD)

SPECIAL TAX

TAX EXEMPT BONDS

LAND-SECURED

VALUE-TO-LIEN RATIO

2/3-VOTE (SUPER MAJORITY)

RATE AND METHOD OF APPORTIONMENT (“RMA”)

# WHAT IS MELLO-ROOS?

## MECHANISM TO FUND PUBLIC INFRASTRUCTURE

- ▶ Approved by legislature in 1982 to fill Prop. 13 funding gaps
- ▶ Sponsored by Senator Henry Mello and Assemblyman Mike Roos
- ▶ Thousands of CFDs formed in California to fund billions in public infrastructure

## MECHANISM TO AMORTIZE COSTS TO REDUCE UPFRONT BURDENS

## MECHANISM TO FUND PUBLIC SERVICES THAT PUBLIC AGENCY BUDGETS CAN NO LONGER SUSTAIN

# WHY USE MELLO-ROOS?

**VIRTUALLY NO FEDERAL, STATE OR LOCAL FUNDING AVAILABLE FOR PUBLIC INFRASTRUCTURE**

**AGENCIES CAN SECURE FUNDING FOR IMPROVEMENTS IN A MORE TIMELY MANNER THAN “PAY-AS-YOU-GO” FUNDING**

**MORE FLEXIBLE THAN TRADITIONAL ASSESSMENT DISTRICTS**

- ▶ More authorized improvements and services
- ▶ No benefit finding required
- ▶ Boundaries and tax formula can accommodate varied objectives

# WHY USE MELLO-ROOS?

## CONTINUED

### **TAX-EXEMPT INTEREST RATES RESULT IN LOWER INFRASTRUCTURE FINANCING COSTS**

- ▶ Interest rates driven by: mix of development; status of development; value-to-lien ratio; total tax rate; developer experience and delinquency status

### **REPAYMENT IS SECURED BY SPECIAL TAX ON PROPERTY TAX BILL**

### **COST OF FINANCING IS TAKEN INTO ACCOUNT IN HOME-BUYING DECISION**

# AUTHORIZED FACILITIES & SERVICES

## FACILITIES

### PUBLIC IMPROVEMENTS WITH A USEFUL LIFE OF FIVE YEARS OR LONGER

- Includes vehicles, equipment, land acquisition
- Some private improvements but bonds will not be tax-exempt

## SERVICES

### TO THE EXTENT THE SERVICE FUNDED IS PROVIDED AT A LEVEL GREATER THAN PROVIDED BEFORE CFD:

- Police and fire, including ambulance and paramedic
- Flood and storm drainage services
- Maintenance and operation of parks, open space, roads, street lighting, and any real property or other tangible property with an estimated useful life of five years or longer
- Rec programs and library services with a registered-voter vote



# PRE-FORMATION ITEMS

## ADOPTION OF LOCAL GOALS AND POLICIES

**REQUIRED BY THE MELLO-ROOS ACT (GOV'T CODE §53312.7)**

**PROVIDES GUIDELINES AND CONSISTENCY**

**POLICIES MUST ADDRESS ALL OF THE FOLLOWING:**

- Priority And Eligibility Of Facilities And Services
- Disclosure To:
  - Homebuyers
  - Bond Investors
  - Financial Markets
- Appraisal Criteria
- Application Process
- Credit quality requirements and criteria

# **PRE-FORMATION ITEMS, CONTINUED**

## **SELECTING THE FINANCING TEAM**

**PUBLIC AGENCY SHOULD CHOOSE TEAM**

**FINANCIAL ADVISOR CAN ASSIST**

**RFP PROCESS / CONSULTANT POOL**

**MELLO-ROOS EXPERIENCE IS KEY**

# ROLE OF FINANCING TEAM MEMBERS

## **BOND COUNSEL**

Legal guidance and opinion; formation documents

## **FINANCIAL ADVISOR**

Guidance and market knowledge; fiduciary obligation to public agency

## **SPECIAL TAX CONSULTANT**

Cash flow analysis, tax formula, boundary map, CFD report

## **UNDERWRITER**

Although not needed until bond issuance, often part of formation team

# **PRE-FORMATION ITEMS, CONTINUED**

## **COORDINATION WITH OTHER PUBLIC AGENCIES**



**JURISDICTIONAL OVERLAP**



**OWNERSHIP OF FACILITIES FUNDED BY CFD**



**JOINT COMMUNITY FACILITIES AGREEMENTS**



**CONSENT OF LEGISLATIVE BODIES**

# **PRE-FORMATION ITEMS, CONTINUED**

## **KEY DOCUMENTS FOR FORMATION**



**CFD BOUNDARY MAP**



**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX (RMA)**



**LIST OF AUTHORIZED FACILITIES AND SERVICES**



**ACQUISITION AGREEMENT**

# THE CFD BOUNDARY

## MELLO-ROOS LAW IS VERY FLEXIBLE

- Boundaries need not be contiguous
- Small parcels may be carved out
- Funded improvements do not have to be located within CFD boundaries

## INITIAL BOUNDARIES MAY BE EXPANDED

- Property may annex into CFD
- Two options available for annexations

# THE CFD BOUNDARY, CONTINUED

## DESIGNATION OF FUTURE ANNEXATION AREA

**INITIAL CFD BOUNDARY INCLUDES ONE PARCEL, ONE SUBDIVISION, OR ONE PROJECT**

### **ADDITIONAL PROPERTY DESIGNATED AS “FUTURE ANNEXATION AREA”**

- No tax lien recorded on parcels in Future Annexation Area
- Property may or may not ultimately be annexed
- No vote needed from owners in Future Annexation Area to form CFD and designate Future Annexation Area

### **FOR INFRASTRUCTURE CFDs**

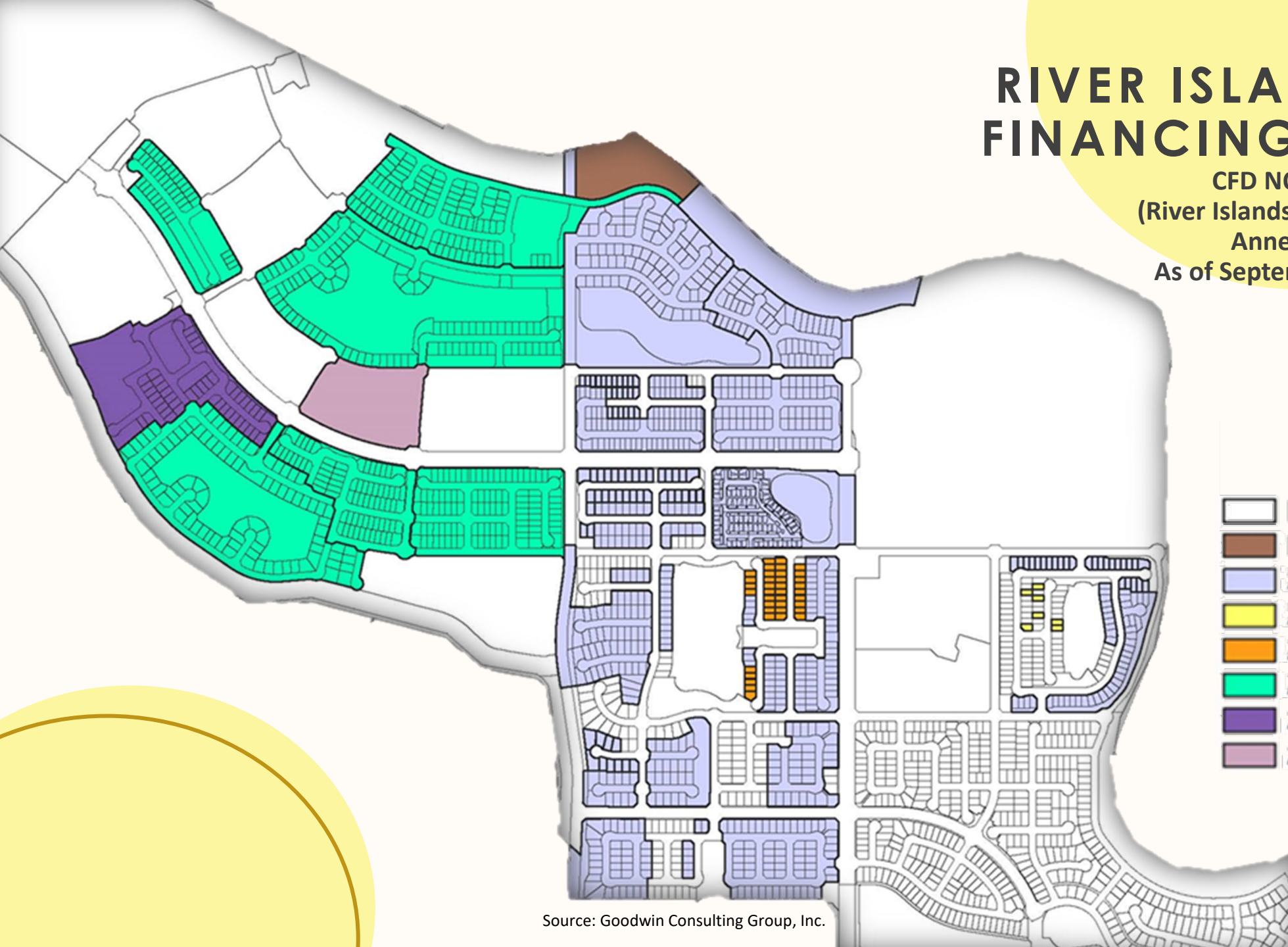
Property can annex in as separate improvement area and have separate bond issue

### **FOR SERVICES CFDs**

Property can annex in as separate tax zone with a different maximum tax rate if services costs are different for area being annexed

# RIVER ISLANDS PUBLIC FINANCING AUTHORITY

CFD NO. 2016-1  
(River Islands Supplemental)  
Annexations  
As of September 16, 2020



## Legend

- Future Annexation Area
- Formation Boundary
- Annexation #1
- Annexation #2
- Annexation #3
- Annexation #4
- Annexation #5
- Annexation #6



# RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX (RMA)

**SPECIAL TAX CANNOT BE *AD VALOREM***

**NOT REQUIRED TO ALLOCATE TAXES BASED ON BENEFIT**

**TAX FORMULA MUST GENERATE SUFFICIENT REVENUES TO PAY “SPECIAL TAX REQUIREMENT” REGARDLESS OF CHANGES IN LAND USE, UNIT COUNT, OR HOME SIZES**

**SPECIAL TAX REQUIREMENT INCLUDES:**

- Debt service on bonds
- Pay-as-you-go facilities costs
- Service costs to be funded in upcoming fiscal year
- CFD administration costs

**USUALLY “DEVELOPED” AND “UNDEVELOPED” SPECIAL TAX CATEGORIES**

# RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX (RMA)

## DEVELOPED PROPERTY SPECIAL TAX

- Bond market expects 110% debt service coverage at buildout
- “Developed” trigger can be final map, building permit, certificate of occupancy, or other defined event as of a specified date
- Categories can be based on land use, home size, parcel lot size, other “reasonable” categories
- Public agency policy relative to maximum tax rate
- Avoid variability in special taxes levied on Developed Property

# RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX (RMA), CONTINUED

## UNDEVELOPED PROPERTY SPECIAL TAX

- Typically charged on a per-acre basis
- Provides 110% coverage prior to buildout
- Should absorb all variability in special tax levy prior to buildout

# ACQUISITION AGREEMENT

**IDENTIFIES FACILITIES AND SERVICES TO BE FINANCED BY THE CFD**

**SETS FORTH TERMS AND CONDITIONS FOR FACILITY FINANCING AND DEVELOPER REIMBURSEMENT**

- Payment for discrete components vs. completed facility
- Payment of actual cost of programmed cost
- Reimbursement for facility oversizing or only fair-share of facility based on fee obligation

**MAY INCLUDE MINIMUM CREDIT CRITERIA**

- Minimum value-to-lien in order to issue bonds
- Maximum effective tax rate at the time of bond sale
- Provision of a letter of credit by the developer until project is substantially built out

**OTHER SPECIFICATIONS AND REQUIREMENTS**

- Competitive bidding
- Prevailing wage
- Inspection/review of plans and specs
- Insurance

# CFD FORMATION PROCESS

## (LANDOWNER ELECTION)

### ▼ LANDOWNER PETITIONS FOR CFD FORMATION

### ▼ FIRST SET OF ACTIONS BY LEGISLATIVE BODY:

- ▶ Approve Resolutions of Intention (ROI) to form CFD and incur bonded indebtedness
- ▶ ROI includes final RMA, CFD boundary map, and list of authorized facilities and services
- ▶ Sets date for public hearing

### ▼ CFD BOUNDARY MAP RECORDED WITHIN 15 DAYS OF ROI

### ▼ SECOND SET OF ACTIONS BY LEGISLATIVE BODY:

- ▶ File CFD report with clerk or secretary of legislative body
- ▶ Conduct public hearing
- ▶ Approve Resolution of Formation and Resolution of Necessity to Incur Bonded Indebtedness
- ▶ Approve Acquisition & Funding Agreement (if applicable)

# CFD FORMATION PROCESS

## (LANDOWNER ELECTION), CONTINUED

### ELECTION – REQUIRES 2/3 APPROVAL OF “QUALIFIED ELECTORS”

- ▶ If 12 or more registered voters in CFD, registered voter election
- ▶ If less than 12 registered voters, landowner election (one vote per acre or portion of acre)

### SPECIAL TAX ORDINANCE

Introduce at 2nd meeting → Adopt at subsequent meeting → Effective 30 days later

### LOCAL AGENCY RECORDS NOTICE OF SPECIAL TAX LIEN

(Within 15 days of election)

# Q&A



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Use the **Question Box** to submit questions for the panelists.



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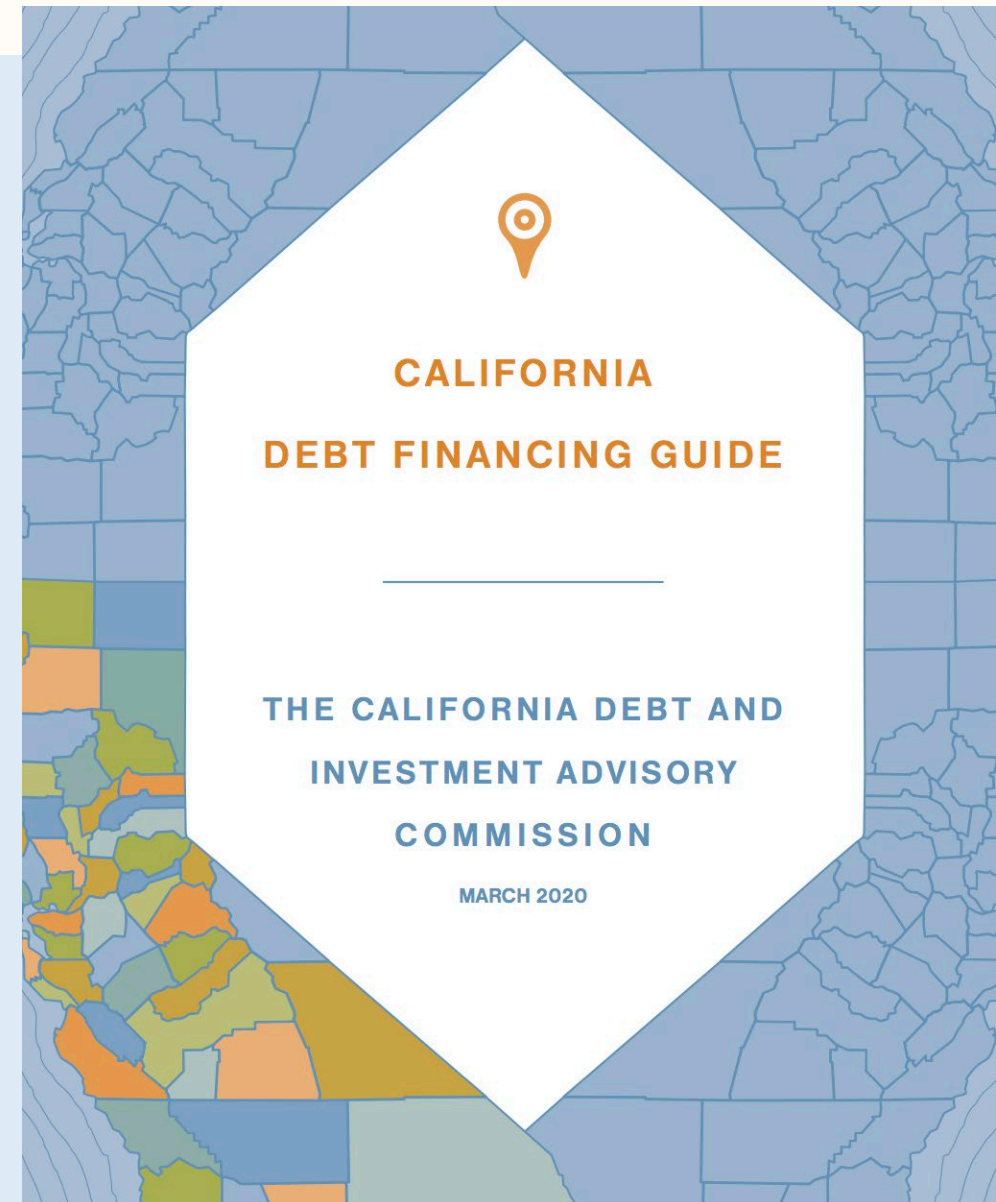
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# CDIAC RESOURCES

To learn more about Mello-Roos Bonds (Community Facilities Districts), see **Section 3.3.7.2** of the **California Debt Financing Guide**.  
<https://www.treasurer.ca.gov/cdiac/debtproducts/financing-guide.pdf>



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Registration is Separate for Session 2:  
*Community Facilities District Bond  
Issuance and CFD Administration*  
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