

**TOWN OF TRUCKEE
California**

RESOLUTION ~~2018-33~~2023-54

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TRUCKEE
ADOPTING UPDATED LOCAL GOALS AND POLICIES FOR
COMMUNITY FACILITIES DISTRICTS AND ASSESSMENT DISTRICTS**

WHEREAS, the Town of Truckee is authorized to adopt goals and policies for the benefit of the Town;

WHEREAS, the Mello-Roos Community Facilities Act of 1982, set forth in California Government Code Sections 53311 through 53368.3 (the "Act"), establishes a financing mechanism for cities to support the provision of infrastructure and public services;

WHEREAS, Section 53312.7 of the Act requires that a city wishing to form a community facilities district must first adopt local goals and policies for the use of community facilities district financing;

~~**WHEREAS**, the Town Council has previously adopted local goals and policies pursuant to Resolution 2015-53, but desires to temporarily amend such local goals and policies;~~

WHEREAS, the Town wishes to have uniform policies related to both community facilities districts as well as assessment districts created pursuant to the Municipal Improvement Act of 1913 (Streets & Highways Code§ 10000 et seq) and the Improvement Bond Act of 1915 (Streets & Highways Code§ 8500 et seq);

~~**WHEREAS**, the Town Council has previously adopted local goals and policies pursuant to Resolution 2015-53, but desires to temporarily amend such local goals and policies;~~

~~**WHEREAS**, on November 13, 2018, the Town Council approved Resolution 2018-33 updating the Town's Local Goals and Policies for Community Facilities Districts (CFDs) and Assessment Districts (ADs) to include capital infrastructure financing;~~

~~**WHEREAS**, on November 13, 2021, the 2018 Local Goals and Policies adopted per Resolution 2018-33 expired and the 2015 policies that do not allow CFD infrastructure financing are in effect;~~

~~**WHEREAS**, the Town wishes to establish Local Goals and Policies that allow infrastructure financing to projects that meet certain criteria on a temporary basis to be re-evaluated in five years;~~

WHEREAS, the adoption of the goals and policies set forth in this resolution does not constitute a project for purposes of the California Environmental Quality Act; and

WHEREAS, the Town Council determines that adoption of this resolution is in the public interest, as it will allow for the consideration of the use of community facilities districts as a financing mechanism for public infrastructure required to serve private development projects;

NOW THEREFORE BE IT RESOLVED

1. The Town Council does hereby, find, determine, and resolve that all of the foregoing recitals are true and correct.
2. The Town Council hereby adopts the Town of Truckee Local Goals and Policies for Community Facilities Districts and Assessment Districts attached hereto as Exhibit "A".
3. The Town Council adopts these Local Goals and Policies for a period of five years, expiring on ~~November 12, 2021~~August 22, 2028. During that period, the local goals and policies adopted by Resolution 2015-53 shall be suspended. As of ~~November 13, 2021~~August 22, 2028, unless the Town Council has taken action to achieve a different outcome, the policies adopted by this resolution shall expire and be of no further effect, and the policies adopted by Resolution 2015-33 shall take effect.

The foregoing resolution was introduced by ~~Council Member Goodwin,~~ seconded by ~~Council Member Abrams,~~ at a regular meeting of the Truckee Town Council, held on the ~~November 13, 2018~~22nd day of August, 2023 and adopted by the following vote:

~~AYES: Council Member Goodwin, Council Member Abrams, Council Member Flora, and Mayor Wallace Dee.~~

AYES:

NOES: **none.**

ABSENT: ~~Vice Mayor Tirman~~

~~Carolyn Wallace-Dee~~**Lindsay Romack**, Mayor

ATTEST:

Judy Price, MMC, Town Clerk

EXHIBIT "A"

LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS AND ASSESSMENT DISTRICTS **~~COMMUNITY FACILITIES DISTRICTS AND ASSESSMENT DISTRICTS~~**

1. GENERAL

Section 53312.7(a) of the California Government Code requires that the Town of Truckee (the "Town") consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act") prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act. The Town is also authorized to create assessment districts ("AD") pursuant to the Municipal Improvement Act of 1913 (Streets & Highways Code § 10000 et seq) and the Improvement Bond Act of 1915 (Streets & Highways Code § 8500 et seq) (the "1913 and 1915 Acts").

These Local Goals and Policies for Community Facilities Districts and Assessment Districts (the "Policies") provide guidance and conditions for the conduct by the Town of proceedings for, and the issuance of bonds secured by special taxes levied in, a CFD established under the Act, and AD's established under the 1913 and/or 1915 Acts. The Policies are intended to be general in nature; specific details will depend on the nature of each particular financing. The Policies are applicable to special tax financings and are intended to comply with Section 53312.7 (a) of the Government Code. These Policies are also intended to provide policies and guidelines for any financing enabled by the 1913 and/or 1915 Acts. These Policies are subject to amendment by the Town at any time. The silence of these goals and policies with respect to any matter shall not be interpreted as creating any policy with regard to that matter, and any inconsistency between these goals and policies and the Act or the 1913 and 1915 Acts shall be resolved in favor of the Act or the 1913 or 1915 Acts, as applicable.

The Town favors using an outside entity such as a Joint Powers Authority or similar organization to administer public financing districts to reduce administrative costs and burden on Town resources.

2. FINANCING PRIORITIES

2.1 Facilities and Services Eligible for Financing. The services eligible to be financed by a CFD or AD (the "Services") are those identified in the applicable law, including without limitation Section 53313 of the Act. To the extent required by the applicable law, the CFD or AD may only finance the Services to the extent they are in addition to those provided in the territory of the CFD or AD before the CFD or AD was created, and the additional Services may not supplant services already available within the territory of the CFD or AD when the CFD or AD was created.

The real property or facilities eligible to be financed by a CFD/AD must be owned by the Town and must have a useful life of at least five (5) years. The Town will not participate in any financing that will be used to pay fees or other charges imposed by other public agencies or privately-owned public utilities.

2.2 Development Projects Eligible for Financing. Development projects must exceed \$20 million in total estimated assessed value at completion to be eligible for infrastructure financing.

In addition, no property or facilities will be eligible for financing unless the development project provides "extraordinary public benefit" as set forth below. No development projects comprising only single-family residential land uses will be eligible. Any new development project proposed within a CFD or AD must be consistent with the Town's general plan and must have received any required legislative approvals such as zoning or specific plan approvals. A CFD or AD shall not vest any rights to future land use on any properties, including those which are responsible for paying special taxes. The Council will be the sole determining body as to the type of financing employed, and the method of apportionment of taxes or assessments used, subject to property owner rights to vote against a proposed financing mechanism.

A project provides "extraordinary public benefit" by implementing or furthering current Town Council priorities at the time of development project application. Quantification of the value of extraordinary public benefit is at the sole discretion of the Town Council. As of ~~fall 2018~~August 2023, the Council priorities are defined by the adopted ~~2018~~2023 Council goals, but these goals and methods of expressing priorities are likely to change over time. Benefits must be beyond what is required by the Town's development standards, including the General Plan, development code, nexus-based development impact fees and exactions, and other requirements. Examples of possible extraordinary public benefit projects could include:

- Public infrastructure constructed in connection with the provision of desired affordable or workforce housing. This infrastructure is in addition to that required for the development project and benefits the Town or the community, as determined by the Town Council.
- Off-site improvements for extending or adding capacity for storm drainage, road widening, intersection improvements, trails and bikeways, or other regional types of improvements, which are in addition to those required for the development project for which financing is sought and which benefit the Town or the community, as determined by the Town Council.
- Provision of significant locals or affordable housing, beyond that required as part of the required inclusionary and workforce housing for a development project.
- Enhancement of regional public transportation, again, beyond what is required by Town standards.
- Dedication of land (in excess of the dedication required in connection with the development project for which financing is sought) for a public purpose, as determined by the Town Council.
- Environmentally beneficial activities over and above those required for development project approval. Examples of such environmental benefits are: the acquisition, restoration or preservation of wetlands (or other significant ecological habitats); the provision of recreational trails or bikeways, significant open space features.
- A project that brings in significant State or Federal (or NGO) grant funding to support any or all of the above infrastructure, housing, or other community benefits. Significant shall mean at least 50% of the requested public financing.

Items not considered to provide "extraordinary public benefit" are those that are otherwise required under the Town's development standards, including, but not limited to:

- Paying the Town's standard impact fees.
- Building infrastructure to serve or provide access to development projects (including on-site trails, sidewalks, roadways, roundabouts, and intersection improvements).
- Constructing parking required by the Town's parking standards.
- Complying with other development code requirements including but not limited to: construction of frontage improvements, complying with workforce or inclusionary housing requirements, complying with design or landscaping requirements.

- Implementing mitigation measures to avoid significant impacts under CEQA.
- Implementing development project conditions of approval.
- Providing for maintenance of infrastructure.

The value of the extraordinary public benefit to be provided by a development project for which financing is sought shall be 20% or more of the overall financing requested if the project is within the former Town of Truckee Redevelopment Agency boundaries. If the development project is outside of the boundaries of the former Town of Truckee Redevelopment Agency, the value of the extraordinary benefit must be 40% or more of the requested financing.

Any project applicant that is currently in violation of any local, state, or federal laws, statutes, ordinances, rules or regulations pertaining to the development, construction, or operation of a project will be deemed ineligible under these policies until such time that the violation is corrected.

2.2.1 Maximum Financing Amount. The amount of financing available to various projects will be limited to the amount identified in applications received and approved by Council prior to August 1, 2023.

3. USE OF FUNDS

Any facilities special tax or assessment revenues may be used only for the repayment of debt service, annual administration costs and various charges related to bonds (i.e. reserve fund replenishment, or delinquency coverage). Unless utilized as a means to maintain tax rates on developed property before all bonds in a given CFD or assessment district are issued, special tax revenues may not be utilized to fund capital projects by levying tax rates that generate funds in excess of what is required for debt service and related administrative costs. This will allow the Town, or another conduit issuer, to potentially lower annual tax levies on future property owners in the event that refunding savings are achieved and/or if less than the maximum annual special tax is needed to meet the bond obligations of the subject CFD or assessment district. Public financing shall be used to pay for no more than 50% of the total infrastructure costs of the overall project. Other funds must be provided through developer or private sources.

4. CREDIT QUALITY OF BOND ISSUES

For all CFD or AD bond issues, the value of the taxable property included in the CFD or assessment shall be at least 3 times the principal amount of the bonds to be issued plus the outstanding principal amount of any outstanding bonds secured by a special tax or assessment lien on the property, unless otherwise specifically approved by the Town Council as provided in Section 53345.8(b) or (c) of the Act. Property value may be based on either an appraisal (as described in VI below) or on assessed values as indicated on the county assessor's tax roll.

In most cases, a reserve fund will be required for all bond issues where less than 50% of the buildable acreage has been developed, which shall be funded in an amount determined by the Town. The Town may disallow the sale of bonds or require additional credit enhancement for the bonds in its sole discretion. If the Town requires credit enhancement it shall be in a form and upon terms and conditions satisfactory to the Town.

5. DISCLOSURES

Purchasers of Property. As a minimum, any disclosures mandated by applicable state law shall apply to each CFD to inform prospective purchasers of property within the CFD or AD of the

existence of the special tax lien and their obligations with respect to the special taxes and the CFD or AD. In addition, there may be additional requirements mandated by the Town for particular kinds of financings on a case-by-case basis. The Town may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD or AD.

Disclosure Requirements for the Resale of Lots. The Town shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Civil Code. This notice shall be provided by the Town after receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

Continuing Bond Disclosure. Landowners in a CFD that are responsible for 10% or more of the annual special taxes must agree to provide: (i) initial disclosure at the time of issuance of any bonds; and (ii) annual disclosure as required under Rule 15c2-12 of the Securities and Exchange Commission, as it may be amended, until the special tax obligation of the property owned by such owner drops below 10%.

6. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Minimum Special Tax and Assessment Levels. The special tax or assessment formula shall be reasonable in allocating the CFD or AD's payment obligations to parcels within the CFD or AD. Special tax and assessment formulas shall provide for minimum special tax or assessment levels which at minimum satisfy the administrative expenses of the CFD or AD. In addition, the special tax or assessment formula may provide for the following to be included in the special tax or assessment levies:

- a) the costs of Services,
- b) a minimum 110% gross debt service coverage for all CFD or AD bonded indebtedness,
- c) the administrative expenses of the CFD or AD, and
- d) amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on related bonds of the CFD or AD.

In addition, the special tax or assessment formula may provide for the following to be included in the special tax or assessment levies:

- a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD or AD,
- b) the accumulation of funds reasonably required for future debt service,
- c) amounts equal to projected delinquencies of special tax or assessment payments,
- d) the costs of remarketing, credit enhancement and liquidity facility fees,
- e) the cost of acquisition, construction, furnishing or equipping of authorized facilities,
- f) lease payments for existing or future facilities,

- g) costs associated with the release of funds from an escrow account,
- h) the costs of Services, and
- i) any other costs or payments permitted by law.

Equity of Special Tax or Assessment Allocation Formula. The special tax or assessment formula shall be reasonable in allocating payment obligations to parcels within the CFD or AD. Exemptions from the special tax or assessment may be given on a case-by-case basis at the discretion of the Town, provided that the special benefit requirements are complied with in the case of an assessment district, and may include without limitation parcels that are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

No affordable housing development projects, even if they are components of larger development projects, shall be subject to the levy of special taxes or assessments.

Aggregate Tax Burden. At the time a CFD or AD is formed, the Town shall reasonably determine that the total projected annual property tax rate on each residential parcel in the CFD or AD (including the special taxes or assessments, ad valorem taxes, and any maintenance, landscaping or other assessments, and other similar annual government charges, but excluding homeowners' association annual levies) will not exceed the lesser of (i) 1.8% of the estimated initial sales prices or assessed values of the respective homes to be constructed in the CFD or AD (with such prices to be determined by reference to an absorption study or appraisal prepared for the CFD or AD, or such other information as the Town may determine), or (ii) any maximum specified in the Act or other applicable law; provided, however, that the Town may waive this requirement with respect to any CFD whose qualified electors are registered voters.

The annual increase, if any, in the maximum special tax or assessment for any parcel may not exceed any maximum specified in the Act or other applicable law. The increase in the special tax or assessment levied on any parcel as a consequence of delinquency or default by the owner of any other parcel may not exceed any maximum specified in the Act.

Overlapping Debt Burden. The total of direct and overlapping debt outstanding will be calculated at the time public financing is requested and will be included in the Town Council's deliberations regarding any request for public financing. At the time a CFD or AD is formed, the total of direct and overlapping debt outstanding will be calculated. 50% of the difference between that amount and 3% of that year's assessed valuation is the maximum amount available for CFD or assessment district bond issuance at time of formation.

Levy on Entire Parcel. Special taxes or assessments will only be levied on an entire assessor's parcel, and any allocation of special tax or assessment liability of an assessor's parcel to leasehold or possessory interest in the fee ownership of such assessor's parcel shall be the responsibility of the fee owner of such parcel and the Town shall have no responsibility therefor and has no interest therein. Failure of the owner of any parcel to pay or cause to be paid any special taxes or assessments in full when due shall subject the entire assessor's parcel to foreclosure in accordance with the Act.

Feasibility Analysis. The Town may retain a consultant to prepare a report which: (a) recommends a special tax for the proposed CFD or assessment for the AD, and (b) evaluates the special tax

or assessment proposed to determine its ability to adequately fund administrative costs, services (if applicable) and other related expenditures. Such analysis may also address the resulting aggregate tax and assessment burden of all proposed special taxes or assessments plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD or AD.

7. APPRAISALS

The definitions, standards and assumptions to be used for appraisals shall be determined by Town staff on a case-by-case basis, with input from Town consultants, and by reference to relevant materials and information promulgated by the State of California, including without limitation the Appraisal Standards for Land-Secured Financings prepared by the California Debt and Investment Advisory Commission. The appraiser shall be selected by or otherwise acceptable to the Town, and the appraisal shall be coordinated by and under the direction of, or otherwise as acceptable to, the Town.

The date of value of the appraisal must generally be no more than approximately three months before the date the bonds are sold, unless the Town Council determines that a longer time is appropriate. All costs associated with the preparation of the appraisal report shall be paid by the property owners requesting the establishment of the CFD or AD, if applicable.

8. FORMATION PROCEEDINGS

Petition. For new development projects, a petition or request meeting the requirements of the applicable authorizing law will be required. The applicant is urged to obtain unanimous waivers of any election waiting period that would otherwise be required, if waivers are permitted by law. In applying to the Town for formation of a CFD or AD, the applicant must specify any reasonably expected impediments to obtaining petitions, including from co-owners and/or lenders of record (where required). Waiver of the petition shall be made only upon showing of extraordinary hardship. For existing development, petitions are preferred, but may be waived, depending on the nature of the project and degree of public importance.

Deposits and Reimbursements. All Town staff and consultant costs incurred in the evaluation of CFD or AD applications and the establishment of the CFD or AD will be paid by the entity, if any, requesting the establishment of the CFD or AD by advance deposit increments. The Town shall not incur any expenses for processing and administering a CFD or AD that are not paid by the applicant or from bond proceeds or special taxes and assessments. In general, expenses not chargeable to the CFD or AD shall be directly borne by the proponents of the CFD or AD.

Any petition or request for formation of a CFD or AD shall be accompanied by an initial deposit in the amount determined by the Town to fund initial staff and consultant costs associated with CFD or AD review and implementation. If additional funds are needed to offset costs and expenses incurred by the Town, the Town shall make written demand upon the applicant for such funds. If the applicant fails to make any deposit of additional funds for the proceedings, the Town may suspend all proceedings until receipt of such additional deposit. The Town shall not accrue or pay any interest on any portion of the deposit refunded to any applicant or the costs and expenses reimbursed to an applicant. Neither the Town nor the CFD or AD shall be required to reimburse any applicant or property owner from any funds other than the proceeds of bonds issued by the CFD or AD or special taxes and assessments levied in the CFD or AD.

Schedule. The final schedule of events for any proceeding shall be determined by the Town, in consultation with its financing team and the applicant. Any changes will require approval by the

appropriate Town official. Time schedules will (unless specific exceptions are allowed) observe established Town Council meeting schedules and agenda deadlines. To the extent possible, financings will be scheduled to allow debt service to be placed on the tax rolls with a minimum of capitalized interest. Decisions to capitalize interest will be made on a case-by-case basis, with the intent that if allowed, it should improve the credit quality of the bonds and reduce borrowing costs, benefiting both current and future property owners.

9. EXCEPTIONS TO THESE POLICIES

The Town may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special benefits to be derived from such waiver. Such waivers only will be granted by action of the Town Council.

10. CASE BY CASE REVIEW OF PUBLIC FINANCING REQUESTS

To be considered for public financing, the development team sponsoring an eligible development project shall submit a package to Town staff which includes relevant project information including project location, overall investment, extraordinary benefits provided along with the cost of those benefits, amount of financing requested and other details required by the Local Goals and Policies. The Town will review those proposals with a staff team, led by the Administrative Services Director, with technical support and advice from the Town's financial advisor and the financing JPA chosen by the Town ~~would~~. Staff will then present a package to the Council for consideration at a regular Council meeting.

Nothing in these Policies shall be deemed to obligate the Town to grant any requests for public financing made pursuant to these Policies. The Town Council may grant or deny any such request in the Town Council's sole discretion even if a request is fully consistent with these Polices.