

Appendix C
Community Facilities District Guidelines and Procedures

CITY OF PEORIA, ARIZONA
POLICY GUIDELINES AND APPLICATION PROCEDURES
FOR THE ESTABLISHMENT OF
COMMUNITY FACILITIES DISTRICTS

In order to secure for the City of Peoria, Arizona (the “City”) the benefits of the Community Facilities Act (the “Act”) originally enacted by the Arizona Legislature in 1988 and revised, among other occasions, in 2017, and to promote the best interests of the City, the following Policy Guidelines and Application Procedures are adopted by the City Council.

A community facilities district (“CFD”) provides a funding mechanism to finance construction, acquisition, operation and maintenance of public infrastructure that benefits the real property comprising the CFD and its ultimate users, and to better enable the City to provide municipal services benefiting the users of the real property within the CFD.

Recognizing a CFD is a statutory special taxing district with municipal taxing and borrowing powers created within the boundaries of the City, the City Council believes that the formation of each CFD should be entered into carefully in order to ensure the financial protection of its property owners, taxpayers, and the CFD’s lasting success.

It is for these reasons that the City Council has established the following Policy Guidelines and Application Procedures.

ARTICLE 1.
General Policies

- 1.1 It is prudent that the City consider the possible use of a CFD where significant Council public policy objectives are facilitated by providing this financing mechanism.
- 1.2 CFDs should be considered primarily in connection with the financing of major public infrastructure for development of master planned communities or projects that involve substantial commercial development.
- 1.3 A key tenant of this policy is the financial protection of property owners within a CFD. As such, this policy includes provisions that attempt to protect homeowners from financial liability in excess of targeted tax rates and assessments. Similarly, this policy includes provisions designed to meet all financial obligations and/or legal exposures of the CFD.
- 1.4 Infrastructure financed by a CFD is intended for large, regional infrastructure associated with master planned communities or major, large development projects in order to help

growth pay for certain growth related costs and in order to preserve city bonding capacity for city-wide infrastructure.

- 1.5 CFD financing will not be provided for subdivision and local improvements normally expected or required as part of a development. A CFD is not intended to fund or subsidize developer requested enhancements. Special consideration may be given if the development is in conjunction with a major economic development project that is directly related to Council's economic development goals or the proposed development provides an enhanced level of infrastructure desired by the City.
- 1.6 A Completed Application (as such term is hereinafter defined) associated with a development project will be evaluated based on the particular project. CFD financing will not be considered solely based upon a request for "equivalency" or "equity" between separate development projects or other CFDs within the City.
- 1.7 As a secondary, lower level criteria, some consideration may possibly be given to CFDs that provide enhanced infrastructure and/or municipal services that are significantly beyond what is normally expected and/or required in a similar project. Any public infrastructure financed by a CFD should be in conformance with the City's General Plan in order to encourage orderly growth and development.
- 1.8 The City will encourage an area to be governed by as few CFDs as possible and a preference will be given to one master CFD for all property within an entire development project. This policy is adopted to avoid creating projects where only a portion of the development may end up being within the CFD area, to facilitate ease of administration, and to create the largest tax/revenue base possible. The decision to form a CFD shall be determined by the City Council exercising its sole and absolute discretion.
- 1.9 At least \$0.25 in infrastructure or community improvements for each \$1.00 of debt to be issued by a CFD to finance public infrastructure purposes will be provided. If agreed to by the CFD board of directors, in its sole and absolute discretion, prior infrastructure and community improvements constructed or acquired and benefiting the property within the CFD may be included in calculating the compliance.
- 1.10 Unless otherwise agreed to by the City Council, and pursuant to state statutes, the CFD will be governed by a board of directors comprised of the members of the City Council, ex officio, with two additional members designated by owners of the largest amount of privately owned acreage in the proposed district and who are appointed by the City Council. The day-to-day administrative responsibilities of the CFD will be performed pursuant to one or more contracts with outside personnel or by the City staff.
- 1.11 Unless otherwise agreed to by the City, the CFD must be self-supporting from the standpoint of financing, operations and maintenance and no City funds will be used for CFD purposes. (Notwithstanding anything contained herein, neither the property, the full faith and credit nor the taxing power of the City shall be pledged to the payment of any CFD obligation or indebtedness.) Unless otherwise agreed to by the City, all costs of

administration and operation of the CFD and the operation and maintenance of public infrastructure in the CFD, including replacement reserves if appropriate, shall be the responsibility of the CFD, the landowner/developer, applicable homeowners associations, or any combination of the foregoing, as may be acceptable to the City and the CFD board of directors.

- 1.12 After review of the project feasibility report, MAI property appraisals (utilizing the appropriate appraisal methodology) acceptable to the City/CFD, and other required pertinent information, the CFD board of directors will determine, in its sole and absolute discretion, the amount, timing, and form of financing to be used by a CFD.
- 1.13 All public infrastructure constructed or acquired by the CFD will utilize statutory public procurement procedures in accordance with applicable laws, rules and regulations, as applicable, and, if interpretation thereof is necessary, the procedures would be applied as they would be in the case of the City.
- 1.14 The CFD will not use bond proceeds or other CFD funds to purchase public rights-of-way or other real property to be used for public infrastructure improvements if such real property would be required to be dedicated and conveyed to the City by the Applicant upon development of the Applicant's property.
- 1.15 These Policy Guidelines and Application Procedures may be modified from time to time by the City and will be applicable to any applications under review. All concerns of the City must be adequately addressed before the staff of the City will consider a Completed Application to actually be complete and ready for submission for consideration for formation of a CFD by the City Council.

ARTICLE 2.

Content of Completed Application

A completed application for purposes of Section 48-702(B), ARS for the formation of a CFD (the "Completed Application") must be submitted prior to any determination that a CFD will be formed. The Completed Application shall be submitted to the City's Finance Department by the appropriate landowner/developer (the "Applicant"). The Completed Application shall, at a minimum, contain the following information and be organized in the manner described below.

Applicant Information

- 2.1 Applicant Information. A description of the Applicant, including the corporate and organizational structure of the entity or individual making the Completed Application. This description should also include the names of all officers and/or corporate directors directly related or associated with the proposed development and the proposed CFD.
- 2.2 Applicant Contact. The name, address, telephone number and other relevant information of the primary contact for the Applicant. This information should also list the names (and

other relevant information) of any legal representatives, engineers, architects, financial consultants and/or other consultants significantly involved in the preparation and submission of the Completed Application.

- 2.3 Experience. A general description of the Applicant's experience with similar types of projects.
- 2.4 Financial Capability. Evidence demonstrating the Applicant's ability and capacity (including financial statements and supporting information) to undertake the proposed development.

Board Member Information

- 2.5 Designation of Board Members. The Completed Application shall:

Provide the names, addresses, telephone numbers, backgrounds and qualifications, and other relevant information of the two additional board members to be designated by the Applicant.

State the process for the designation of the two additional board members on completion of the development of all property in the CFD.

Provide documentation evidencing each such member's obligation to comply with Title 38, Chapter 3, Articles 3.1 and 8, ARS and containing unqualified "hold harmless" guarantees for the City, the CFD and officers, agent and employees thereof.

Petition in Favor of CFD

- 2.6 Petition. The Completed Application shall include a petition in favor of creation of the CFD. The petition must include a list of all parcels in the proposed CFD along with the parcel number, owner names, situs address and lot size (parcel square footage or acreage) for each individual parcel. The petition must be signed by the owners of at least 25% of the land area proposed to be included in the CFD.

Proposed CFD and Project Description

- 2.7 General Description. The Completed Application shall provide a general description of the CFD, its purpose, proposed improvements and/or services to be provided and a statement describing the overall community benefit or enhanced public services to be derived from the CFD.
- 2.8 Key Policy Tenants. A clear and detailed explanation of how the proposed CFD meets the key tenants identified in Section 1 above, and how the proposed CFD facilitates significant Council policy goals. The Completed Application shall describe how the proposed CFD meets the existing development objectives of the City, including the degree to which the CFD is consistent with the goals of the City's General Plan for

promoting orderly development, consistent with growth management policies and zoning requirements and the degree to which the land use plan for the CFD is consistent with the City's General Plan.

- 2.9 Location. A description of the proposed CFD's general location within the City, an area site map illustrating the proposed boundaries, and a legal description of the proposed boundaries. This description must include an analysis of the appropriateness of the CFD boundaries and how those boundaries address Section 1 above including the adjacency of property owned by the State of Arizona and the likelihood of development of that State Land in the future.
- 2.10 Ownership Interests. The identity and address of all persons or entities with any interest in the property, including lien holders and purchasers under pending sales contracts, and the names and addresses of any qualified electors located within the proposed boundaries of the CFD. A current title report and certificate from the Maricopa County Elections Department shall be submitted as evidence of names or persons with any interest in the land and qualified electors, respectively.

Proposed Improvements

- 2.11 Description of Project. A detailed description and cost estimates of the specific public infrastructure to be financed and/or acquired by the CFD. This description should include a proposed project schedule for commencement and completion of (a) public infrastructure and (b) the private development.
- 2.12 Estimated Costs. An estimate of the construction and/or acquisition costs of the public infrastructure to be financed and/or acquired by the CFD. This information shall include a detailed list of the estimated cost of each component of the public improvements.
- 2.13 Development Timetable. A detailed timetable describing the scheduling, timing or phasing of the improvements shall be provided in the Completed Application. This schedule should include a timetable for constructing/acquiring both the public and private components of the overall development. Each phase of the development should be shown separately.

Financing Plan

- 2.14 Description of Financial Plan. A detailed description of the capital financing plan for the public infrastructure and the private development, including both public and private financing components of the development. This description should include the proposed types and amounts of tax-exempt/taxable bonds requested to be considered for the public improvements and how the requirements of 4.5 and 4.7 specifically will be met if general obligation bonds or assessment bonds respectively, are to be issued, as well as the financing plan of the Applicant for the private developments and the sources of the proposed financing of debt or equity.

- 2.15 Sources and Uses of Funds. A detailed sources and uses of funds for the public improvements. This schedule should include the detailed description of components of the public improvements that will be financed by the type of bonds requested to be issued.
- 2.16 Financial Feasibility. A 20-year financial feasibility study for the entire project including both the public infrastructure and the private development. This feasibility study should include, if possible, a preliminary market absorption study for the private development.
- 2.17 Fiscal Impact. An analysis of the taxes, assessments, impact fee and utilities fee impacts on the property owners/residents/users within the CFD, specifically, projected property tax rates and levies, special assessments, impact fees, and other fees and charges and any other costs to be borne by the property owners/residents/users in the CFD. A comparative analysis of such taxes, assessments, impact fees and other fees of similar or adjoining areas and/or CFDs should also be provided.
- 2.18 Value-to-Lien Ratio Analysis. Based on the requirements of this policy, the estimated value of the property within the development, including the acquisition and/or construction of the public improvements within the CFD, the Completed Application shall include an analysis of the value-to-lien ratios of the proposed public financing.
- 2.19 Operation and Maintenance Costs. A detailed description and a financial pro-forma of the estimated annual operation and maintenance cost of the public infrastructure along with the governmental approvals that will be required for both the public and private improvements to be constructed and operated. The Completed Application must clearly detail the specific entities such as CFD, Homeowners Associations, Applicant, City, etc. that will be responsible for funding the on-going operation and maintenance costs for all CFD improvements. This section should also provide a description of the revenue source of such operations.

Proposed Development and Financing Participation Agreement

- 2.20 District Development and Financing Participation Agreement. The District Development and Financing Participation Agreement between the City and the Applicant (the “Development Agreement”) in substantially final form, including all terms and provisions to be approved by the City if formation of a CFD is approved. The Development Agreement must include matters required by the Act such as Section 48-708(D), ARS and must have been fully negotiated by the Applicant and City staff, with agreement by both parties, and in a substantially final form.

Miscellaneous Other Information

- 2.21 Insurance and Indemnification. The Applicant is responsible for the cost of insurance to cover all actions and activities taken by the Board of Directors and officers of the CFD relating to the CFD formation, financing, administrative actions or other related activities of the types, in amounts and with deductibles determined by the Risk Manager of the

City. The Completed Application shall provide an explanation of how such insurance coverage shall be provided by the Applicant and how assurances will be provided that premiums and deductibles will be paid in the future. Insurance must include “per occurrence coverage” including a “securities” rider if bonds are to be sold.

Separately, the Completed Application must indicate how indemnification outlined in the Development Agreement will be provided for the City and the CFD and their agents, officers, and employees for, from and against any and all liabilities, claims, costs and expenses, including attorneys’ fees, incurred in any challenge or proceeding to the formation, operation, administration of the CFD, the offer and sale of CFD bonds, the levying by the CFD of any tax, assessment or charge and the operation and maintenance of public infrastructure financed or owned by the CFD, the entity providing the indemnification (including financial statements and other supporting information for such entity), appropriate collateral arrangements, etc.

- 2.22 Marketing Plan. A detailed description of the proposed marketing plan to be used by the Applicant to market the property within the CFD. This information may include comparisons of the proposed CFD to similar CFDs in the area.
- 2.23 Disclosure to Prospective Property Owners. Information regarding the proposed disclosure forms that will be used to describe to prospective buyers the potential tax, assessment and fee implications of the CFD. Such forms shall have provisions for the signed acknowledgement of receipt of such disclosure forms. The Applicant and any subsequent developer/builder are required to describe in their promotional materials the financial and other relative impacts of the development being in a CFD. The Applicant should also describe the process and record-keeping processes to be used for retaining all signed homeowner CFD acknowledgement disclosure statements.
- 2.24 Operating Plan. An operating plan for the CFD, describing the functions of the CFD and how the operation and maintenance of the infrastructure and any other services will be provided.
- 2.25 Development Agreements. (As an Appendix) any development agreements entered into between the City and the Applicant relating to this proposed development.

ARTICLE 3.

Completed Application Procedures

- 3.1 Ten copies of the Completed Application shall be submitted to the Chief Financial Officer of the City who will coordinate analysis of the Completed Application.
- 3.2 At the time of submission of the Completed Application, fifteen thousand dollars (\$15,000) will be assessed for costs incurred in connection with the submission and consideration of each Completed Application to request formation of a CFD. Such costs as they relate to, but exceed the cost of, formation shall be used for administrative costs.

3.3 Prior to submission of a Completed Application, and at the request of a potential Applicant, the Chief Financial Officer may arrange a pre-submission meeting with the potential Applicant, appropriate City staff, and outside professionals and consultants, for the purpose of discussing the possible submission of a Completed Application for conformity with these City Application policies and procedures.

3.4 Following the pre-submission meeting, or at any other time prior to submission of the Completed Application, City staff may request additional information. The Applicant shall provide any and all supplemental information requested prior to proceeding with a Completed Application.

3.5 The review, analysis and consideration of a Completed Application will include:

A comprehensive review of the Completed Application to determine whether the Completed Application is consistent with this Policy, identification of missing or incomplete information and identification and discussion of any concerns with the Applicant. This will include, but will not be limited to, examining the project feasibility, analysis of land ownership interests, financing analyses, risk analysis and evaluation of community benefits. Under the direction of the Chief Financial Officer, a report may be prepared including recommendations related to the proposed CFD and an analysis of the impact of the formation of the proposed CFD and its effects on the City. Additional requirements may be placed on the Applicant developer/landowner, builder and/or the proposed CFD. This review will include the preliminary approval of the form, terms and provisions of the “substantially complete” Development and Financing Participation Agreement necessary for formation of a district. A Completed Application must be consistent with this Policy and must contain all the information required in this Policy.

On presentation of a Completed Application, the City Council within sixty (60) days after submission shall hold a public hearing to consider the Completed Application. A resolution declaring the intent to form a CFD may be considered by City Council immediately following the public hearing. If the City Council does not adopt the resolution, it will provide a written basis for not adopting the resolution and shall identify the specific changes needed for the Completed Application to be approved.

3.6 If a Completed Application includes a petition for formation that is signed by owners of all of the land in the proposed CFD, as well as meeting all the requirements of Article 2 in form satisfactory to the City, the City may declare the district formed without posting, publication, mailing, notice and public hearings or landowner election. Otherwise, the alternative provisions of the Act must be followed.

3.7 If the City Council orders formation of a CFD, the Applicant and the staff of the City shall coordinate a schedule of events for formation of the CFD. Prior to formation of the CFD, the Applicant and the City shall finalize and enter into the Development Agreement.

- 3.8 If the City Council approves the formation of a CFD and there are existing agreements with the Applicant and/or any other developers/landowners for the provision of infrastructure proposed to be furnished by the CFD, then those agreements will be amended to reflect the agreements and conditions pertaining to the CFD. The amendments will reflect that such infrastructure improvements will be provided (including by acquisition) by either the Applicant, developer/landowner, or the CFD.

ARTICLE 4.

CFD Operations and Debt Financing

- 4.1 Upon approval of formation of a CFD, the Applicant shall deposit with the CFD a nonrefundable administrative expense fee in the amount of \$50,000. The administrative expense fee shall be applied by the CFD to the costs and expenses incurred in connection with the formation, review of any feasibility study, election costs, administration, operation and maintenance of the CFD or its public improvements. These deposits shall be applied to payments for services rendered by the City staff, CFD staff and services rendered by outside consultants who may be retained by the City and/or the CFD, including but not limited to bond counsel, financial advisors, engineers, appraisers and attorneys. From time to time, upon depletion of the administrative expense fee, the CFD may request, and the Applicant shall promptly deposit with the CFD, additional \$25,000 deposits to be applied to the purposes contemplated in this Section.
- 4.2 The City and CFD may require, if approved at an appropriate election, the imposition of an ad valorem tax per \$100.00 of assessed value upon the CFD taxable property in order to provide for the CFD to be self-supporting for its administrative, operation and maintenance expenses, and replacement reserve purposes if appropriate. Failure to agree to impose any necessary tax for the operation and maintenance of the CFD will relieve the City and the CFD from undertaking any obligations or operations.
- 4.3 In connection with any request for debt financing, unless otherwise agreed by the City, the Applicant will provide a current appraisal of the fair cash market value of the property within the proposed CFD that is to be taxed or assessed, prepared by a person who is designated as a Member Appraisal Institute ("MAI") and a certified general real estate appraiser (such person hereafter referred to as an "MAI Appraiser"), such appraisal to be in form and substance acceptable to the City, in its sole discretion. Generally, the appraisal shall be based on the wholesale, bulk sale of the property in the CFD.
- 4.4 The amount of debt of a CFD may not have any substantial direct or indirect negative impacts on the debt or financing capabilities of the City, and the debt imposed on the CFD may not impose an unreasonable financial burden on future CFD residents. The City Council may consider debt burdens in its decision whether to approve the formation of a CFD.
- 4.5 General obligation bonds will be secured by an unlimited ad valorem tax on all taxable property located within the CFD. In a Completed Application, and prior to the issuance

of general obligation bonds by the CFD, in the project feasibility report the applicant shall describe, in addition to the statutory requirements, the following information:

- a. The current direct and overlapping tax and assessment burden on the taxable property that is proposed to be taxed and the full cash value and assessed valuation of the taxable property as shown on the most recent assessment roll.
- b. The amount and timing of CFD general obligation bonds to be issued.
- c. The expected market absorption of development within the CFD.
- d. The effect of the CFD bond issuance on CFD property tax rates, calculated over the entire period of time that the proposed general obligation bonds are estimated to be outstanding or based on the phasing of the project to be financed, as applicable.
- e. The proposed total tax rate of the CFD. If the pre-established debt service tax rate is not sufficient to pay the entire debt service in respect of outstanding general obligation bonds when due, the Applicant will be required to contribute an amount annually sufficient to pay the difference between the revenues produced by the pre-established tax rate and the actual CFD debt service coming due in that fiscal year. Security for the Applicant's payment of this contribution may be in the form of a cash contribution, standby contribution agreement or other acceptable form of security, which shall be bankruptcy proof, as required by the CFD board of directors. All of the foregoing need to be described in detail. A cash flow schedule illustrating the security amount and the time period required to cover such shortfall will be required to be submitted by the Applicant prior to the issuance of general obligation bonds. The security shall remain in full force and effect until such time as the CFD board of directors, exercising their sole discretion, determines the assessed value of real property in the CFD is sufficient to generate ad valorem taxes at the pre-established CFD tax rate sufficient to pay the actual CFD debt service. At that time, the CFD board of directors, exercising their sole discretion, will determine whether the Applicant's security will be released in whole or in part.
- f. Any economic advantage or the estimated savings, if any, to residents in the form of reduced purchase prices, enhanced public services and/amenities, additional community benefits, etc. that are projected to result from CFD financing.
- g. The marketing plan for the issuance of bonds shall be described. The plan should include a statement of whether the bonds will be publicly offered or privately placed.

Publicly offered bonds must be rated in one of the four highest investment grade ratings from Standard & Poor's Corporation, Moody's Investors Services, Inc., or other nationally recognized bond rating services.

Privately placed bonds need not be rated. However, purchases of such general obligation bonds must be “qualified buyers” (similar to those acceptable pursuant to the Securities Exchange Commission) and must agree to hold the bonds for their own account and not to resell the bonds except to "qualified buyers" in a private placement.

4.6 Revenue bonds shall be payable from a specified revenue source. An Applicant for revenue bonds must describe in each project feasibility report, along with the statutory requirement, the following:

- a. The current direct and overlapping tax and assessment burdens on the taxable property within the CFD and the full cash value and assessed valuation of that taxable property as shown on the most recent assessment roll.
- b. The revenue source from which bonds will be payable. The City reserves the right to require the applicant to produce such independently prepared financial feasibility studies or reports as it deems necessary to confirm the amount and availability of revenues.
- c. The expected market absorption of development within the CFD.
- d. The amount and timing of CFD revenue bonds to be issued.
- e. The financial impact of the proposed issue(s) on prospective residents.
- f. Any plan for subsidizing revenues to meet obligations.
- g. Whether the bonds will be publicly offered or privately placed.

Publicly offered revenue bonds must be rated in one of the four-highest investment grade ratings from either Standard & Poor’s Corporation, Moody's Investors Service, Inc., or other nationally recognized bond rating services. Pursuant to state statutes, the CFD will not issue non-investment grade bonds in a public offering.

Privately placed bonds need not be rated. However, purchasers of such revenue bonds must be “qualified buyers” (similar to those acceptable pursuant to the Securities Exchange Commission) and must agree to hold the bonds for their own account and not to resell the bonds except to “qualified buyers” in a private placement.

4.7 Assessment bonds shall be secured by first lien (subject only to the lien for general taxes and prior special assessments) on the property benefited. In a Completed Application and prior to issuance of assessment bonds, in the project feasibility report, the Applicant shall provide the following:

- a. The current direct and overlapping tax and assessment burdens on real property to comprise the CFD and the full cash value and assessed valuation of that property as shown on the most recent assessment roll.
- b. The amount and timing of CFD assessment bonds to be issued.
- c. The expected market absorption of development within the CFD.
- d. The estimated assessment amount to be placed on prospective assessed parcels.
- e. Whether the assessments will be paid upon the sale of lots by the Applicant or will remain on the property after sale.
- f. If assessed parcels of land are expected to be subdivided, the process by which the assessments will be allocated to the subdivided land.
- g. Whether the assessment bonds will be publicly offered or privately placed.

Publicly offered assessment bonds must be rated in one of the four highest investment grade ratings from Standard & Poor's Corporation, Moody's Investors Service, Inc., or other nationally recognized bond rating services. Pursuant to state statutes, the CFD will not issue non-investment grade bonds in a public offering. In a public offering, an appraisal of the land to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the CFD board of directors, in its sole and absolute discretion, shall indicate a minimum land value to debt ratio of 4 to 1 prior to the issuance of debt.

Privately placed bonds need not be rated. However the purchasers of such assessment bonds must be "qualified buyers" (similar to those acceptable pursuant to the Securities Exchange Commission) and agree to hold the bonds for their own account and not to resell the bonds except to "qualified buyers" in a private placement. Further, in connection with the sale of unrated privately placed assessment bonds, the CFD board of directors must have received an appraisal of the land to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the City, in its sole discretion, indicating a minimum land value to debt ratio of 4 to 1 as of a date prior to the issuance of debt. If a 4 to 1 ratio is not achieved, a scaling down of the proposed debt and phasing of the infrastructure is expected.

- 4.8 Notwithstanding the restrictions pertaining to public sales and private placements of the bonds set forth in this Article 4, the restrictions may be modified if other financing structures are presented which, in the sole discretion of the CFD board of directors, provide other means to address the CFD board of director concerns.