



COUNTY OF MAUI

PUBLIC INFRASTRUCTURE FINANCING WATER AND INFRASTRUCTURE COMMITTEE COMMUNITY FACILITIES DISTRICTS

NOVEMBER 18, 2019

Curt de Crinis, *Managing Director*
Columbia Capital Management LLC
cdecrinis@columbiacapital.com

WHAT IS A COMMUNITY FACILITIES DISTRICT?

- ◆ A Community Facilities District or CFD is a special taxing district formed to fund needed public improvements, often as the result of new development.
- ◆ Properties included in a CFD are those that benefit from the new public improvements.
- ◆ Special taxes are levied and collected annually on the general property tax roll to pay for the costs of the improvements. Special taxes usually are levied on a per benefit unit or area basis. In some States taxes can also be levied based on value.
- ◆ A CFD has some similarities to Special Improvement Districts (SID) and Benefit Assessment Districts (AD).
 - ◆ CFD special taxes are more flexible than benefit assessments.
 - ◆ CFD special taxes and AD assessments can be bonded.
- ◆ CFD special taxes and can provide lower cost tax exempt financing for public projects.

HISTORY OF CFD'S

- ◆ Section 46-80.1 authorizes any Hawaii County having a charter to enact an ordinance providing for the creation of CFDs. All four Hawaii Counties have adopted the enabling ordinances.
 - C&C of Honolulu (Ch. 34, Revised Ordinances of Honolulu)
 - County of Hawaii (Ch. 32, Hawaii County Code)
 - County of Kauai (Ch. 26, Kauai County Code)
 - County of Maui (Ch. 3.75, Maui County Code) – Approved December 2018

- ◆ The only CFD formed to date in Hawaii is for the Kukui Ula Project on Kauai. The CFD was formed in 2008. \$11.875 million in bonds were sold in 2012. Another issue is pending.

- ◆ Special Improvement Districts (SID) such as ones in Kailua Kona and Waikiki are used for improvement that promote businesses and are not bondable. Benefit Assessment Districts (AD) have been formed in the past for bond financed public infrastructure projects in Hawaii County and C&C of Honolulu. Since 1990, five ADs have been formed and \$44.8 million in bonds have been sold.

HOW ARE CFD'S USED IN OTHER STATES

- ◆ Twenty (20) states, including Hawaii, have a form of special taxing districts to fund public infrastructure. California, Texas and Florida are leading states and billions of dollars of bonds have been issued.
- ◆ In other states special taxing districts are also called Community Facilities Districts (CFD), Municipal Utility districts (MUD), Public Improvement Districts (PID), and Community Development Districts (CDD).
- ◆ Special taxing districts are often used to fund development-related public infrastructure, particularly water, wastewater, drainage and roads in large residential and commercial planned unit development projects. Bonds are issued and developer/landowners are initially responsible for the taxes and as property is sold the new properties take over the payments and pay off the tax lien.
- ◆ CFDs are also used for new public safety facilities, open space, and park improvements. In Hawaii CFDs can also be used to replace existing improvements.

WHY USE CFD FINANCING ON MAUI?

- ◆ CFDs can significantly lower the cost of upfront public infrastructure needed to support new development. Lower upfront public infrastructure cost may allow for the development of lower cost homes and/or additional communities amenities - a form of public/private partnership.
- ◆ CFDs may allow certain public improvements to be constructed earlier in the development process than they might otherwise be. An alternative to impact fees.
- ◆ CFD bonds are secured only by the property subject to the tax and not the General Fund of the County. CFD financing is non-recourse financing to the developer and eventual homeowner.
- ◆ CFD financing may allow the County to better prioritize the spending of General Fund monies in areas of need.

MAUI'S CFD ORDINANCE

- ◆ Ordinance 4947 effective December 24, 2018.
- ◆ Allows County to establish a CFD to finance the acquisition, planning, design, construction, installation, improvement or rehabilitation of any real property or structure with a useful life of five years or more.
- ◆ Improvements can be located inside or outside the District.
- ◆ Improvements can be funded by bonds or “pay as you go.”
- ◆ Authorized improvements include; streets, roads, highways, bikeways, parking, lighting, park & rec facilities, open space, cultural facilities, utility undergrounding, water and wastewater, police and fire facilities, solid waste, drainage, transit, telecommunications, shoreline restoration, and other public projects.

HOW CFD'S WORK

Formation Steps

- ◆ Identify public projects with regional or localized benefits (not general island-wide benefits).
- ◆ Identify benefiting properties and property owners; create map of district; District does not have to be contiguous.
- ◆ Meet and discuss with developers, property owners or property owner groups to assess support.
- ◆ CFD can be initiated by property owner petition (25%) or Council action.
- ◆ County CFD team develops proposed special tax rates working with property owners or developers. Council votes on a resolution of intention to form the district and sets a public hearing.

Tax Levy

- ◆ Public hearing is held to approve the special tax; 55% property owner protest at hearing stops CFD process.
- ◆ If CFD is approved by the County Council, special tax is levied on the regular property tax roll.
- ◆ Annual tax is levied for bond debt service if bonds are issued or for “pay as you go” funding. Annual administrative costs are included.

Funding Options

- ◆ Bonds are approved by the County Council and sold by the County to investors; bonds secured only by the CFD special taxes;
- ◆ Bond interest rates are lower than conventional financing and may be tax exempt.
- ◆ Bonds are secured by tax liens on property non-recourse to property owner; County obligation to collect the special taxes.
- ◆ Taxes can also be collected for “pay as you go” projects. No taxes for ongoing maintenance are allowed.
- ◆ Public improvements can be built by the County or acquired from a developer upon completion.

CASE STUDY – KUKUI ULA



- ◆ CFD formed in January 2008.
- ◆ Master planned resort community of 1,500 homes; special tax on single family lots and homes in addition to undeveloped acreage. Average tax under \$5/\$1000 of assessed valuation.
- ◆ Developer: Kukui’ula Development Company (JV of A&B Properties and DMB Associates).
- ◆ Bond Authorization is \$120 million; first bond issue of \$11.875 million include developer reimbursement for bypass road, reservoirs, community entry points, roundabout and shoreline improvements.

County Designated Improvements

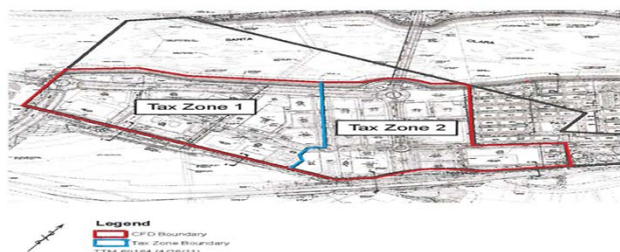
- ◆ Developer agreed to set-aside 15% of proceeds/special taxes for infrastructure providing regional benefits.
- ◆ Restoration of Kāneiolouma Heiau site in Poipu.
- ◆ Parking improvements for Poipu Beach, including drainage improvements to address flooding problems.
- ◆ Complete streets in Koloa/Poipu.

CASE STUDY – VISTA CANYON PROJECT SANTA CLARITA, CALIFORNIA

- ◆ CFD formed in 2016
- ◆ Developer is Jefferson Vista Canyon LLC

City Designated Improvements

- ◆ Two public parking garages.
- ◆ 15% of bond proceeds to be contributed to Metro Link Station.
- ◆ Special taxes levied on apartment and office buildings.
- ◆ Bond authorization is \$45 million; first issuance of bonds - \$20 million.
- ◆ CFD bonds are used to reimburse developer upon completion of parking garages.
- ◆ First bond sale in January 2020.



CHALLENGES AND COSTS

- ◆ County staff would have added administrative burden in overseeing CFD formation, issuing bonds, levying special taxes, providing ongoing bond disclosure and making bond payments.
- ◆ Although not General Fund debt, the County would have additional bond debt. CFD bonds are often not rated and interest rates are higher. The County would need to be cautious and conservative in their issuance to minimize the risk of bond default.
- ◆ Forming CFDs may be controversial. Other than developers, individual property owners may protest and/or may litigate CFD formation. Other local groups may object to the improvements or the idea of special tax districts.
- ◆ Using CFDs would be a departure from current financing practices.

BASIC COUNTY POLICY QUESTIONS

- ◆ Should the County assist Developers with financing public infrastructure costs?
 - ◆ A CFD might allow the County to “trade” CFD financing benefits for more extensive public infrastructure and/or support lower home prices.
 - ◆ Is the County willing to accept the risk, added responsibility of issuing and administering development related CFD bonds?

- ◆ Should the County provide existing communities on Maui with the ability to fund new public infrastructure through a CFD (or a benefit assessment district)?
 - ◆ Are there public projects on Maui, like beach restoration, that can not be funded privately? Does a CFD favor one group of homeowners over another in terms of local public infrastructure or does a CFD free up County funds for other needed priorities? Is there community support?
 - ◆ Is the County willing to accept the added responsibility of issuing and administering CFD bonds for non developers?
 - ◆ Should the County differentiate between special benefit (taxing properties who benefit directly) and general benefit (all property owners share in the cost) in its tax and budgetary policy? Are there exceptions?

QUESTIONS AND DISCUSSION