

CITY OF BUCKEYE
City Council Regular Meeting
COUNCIL ACTION REPORT

MEETING DATE: 5/21/2019	AGENDA ITEM: *6I. Revitalization District Guidelines and Application Procedures
DATE PREPARED: 5/6/2019	DISTRICT NO.: ALL
STAFF LIAISON: Larry D. Price, Special Districts Manager, (623) 349-6164, lprice@buckeyeaz.gov	
DEPARTMENT: Finance	AGENDA ITEM TYPE: Consent Item

ACTION / MOTION: (This language identifies the formal motion to be made by the Council)

Council to take action on approval of the City of Buckeye Revitalization District Guidelines and Application Procedures for the establishment and operation of Revitalization Districts.

RELEVANT GOALS:

GOAL 4: Adequate, Well-Maintained and Well-Planned Public Infrastructure

GOAL 5: Responsive and Accountable Government and Effective Public Services

SUMMARY

PROJECT DESCRIPTION:

A revitalization district (an "RD") provides a funding mechanism to finance construction, acquisition, operation, and maintenance of certain infrastructure within the boundaries of the RD that benefits the real property comprising the RD and its ultimate users, and to better enable the City to provide municipal services within the boundaries of the RD. In order to secure for the City the benefits of Title 48, Chapter 39 of the Arizona Revised Statutes, as amended, and to promote the best interests of the City, the City of Buckeye Revitalization District Policy Guidelines and Application Procedures are to be considered for adoption by the City Council.

The attached Revitalization District ("RD") Guidelines and Application Procedures are recommended by staff for Council adoption.

Recognizing an RD is a statutory special taxing district with municipal taxing, borrowing and, as applicable, foreclosure powers within the boundaries of the City, formation of an RD should be conducted carefully and with reasoned consideration in order to protect the RD's property owners and taxpayers, and to facilitate the RD's long-term success.

In most situations where creation of a special taxing district is appropriate, the creation of a community facilities district or an improvement district should be preferred. An RD will be created only in unique situations, such as in connection with certain commercial and/or industrial projects, and upon a showing that it is preferable to other options. The RD Guidelines would allow the formation of an RD as a "pilot" program, with the proviso that the City may unilaterally decide to cease RD formation at any time.

The initial "pilot" RD should be utilized primarily in connection with the financing of major infrastructure with regional benefits related to the furnishing of water service by a private water company that is regulated by the Arizona Corporation Commission and that provides water service within its certificated area that is within the City. The RD may also be utilized to provide major public infrastructure in connection with the project.

All improvements within the boundaries of an RD, including public infrastructure improvements financed by an RD, shall be in conformance with the City's General Plan in order to encourage orderly growth and development. An RD is not intended to fund or subsidize developer-requested enhancements.

BENEFITS:

A revitalization district (an "RD") provides a funding mechanism to finance construction, acquisition, operation, and maintenance of certain infrastructure within the boundaries of the RD that benefits the real property comprising the RD and its ultimate users, and to better enable the City to provide municipal services within the boundaries of the RD.

FUTURE ACTION: Council and staff; does this need to be communicated internally/externally?

None.

FINANCIAL IMPACT STATEMENT: Must be completed before submission

This action does not create a financial impact to the City.

FISCAL YEAR:

FY19-20

Items related to a project or facility location must include an attached vicinity map for Council review.

ATTACHMENTS:

Description

- ▢ **Revitalization District Policy Guidelines**

**CITY OF BUCKEYE, ARIZONA
POLICY GUIDELINES AND APPLICATION PROCEDURES
FOR THE ESTABLISHMENT AND OPERATION OF
REVITALIZATION DISTRICTS**

In order to secure for the City of Buckeye, Arizona (the "City") the benefits of Title 48, Chapter 39 of the Arizona Revised Statutes, as amended, (the "Act"), and to promote the best interests of the City, the following Policy Guidelines and Application Procedures have been adopted by the City Council.

A revitalization district (an "RD") provides a funding mechanism to finance construction, acquisition, operation, and maintenance of certain infrastructure within the boundaries of the RD that benefits the real property comprising the RD and its ultimate users, and to better enable the City to provide municipal services within the boundaries of the RD. The City, when considering formation of an RD, will give preference to commercial or industrial projects with regional benefits to areas outside the RD.

Recognizing an RD is a statutory special taxing district with municipal taxing, borrowing and, as applicable, foreclosure powers within the boundaries of the City, the City Council believes that formation of an RD should be conducted carefully and with reasoned consideration in order to protect the RD's property owners and taxpayers, and to facilitate the RD's long-term success.

In most situations where creation of a special taxing district is appropriate, the City will prefer the creation of a community facilities district or an improvement district. An RD will be created only in unique situations, such as in connection with certain commercial and/or industrial projects, and upon a showing that it is preferable to other options. The City will initially permit the formation of an RD as a "pilot" program, and may unilaterally decide to cease RD formation at any time.

**ARTICLE 1.
General Policies**

1.1 The initial "pilot" RD should be utilized primarily in connection with the financing of major infrastructure with regional benefits related to the furnishing of water service by a private water company that is regulated by the Arizona Corporation Commission and that provides water service within its certificated area that is within the City. The RD may also be utilized to provide major public infrastructure in connection with the project.

1.2 All improvements within the boundaries of an RD, including public infrastructure improvements financed by an RD, shall be in conformance with the City's General Plan in order to encourage orderly growth and development. An RD is not intended to fund or subsidize developer-requested enhancements.

1.3 Each RD is different, and each application for formation shall be evaluated at the sole and absolute discretion of the City Council. The formation of an RD, and any

subsequent RD financing, will not be considered solely based upon a request for equivalency or similarity between separate development projects or other RDs within the City, or even between separate financings within an RD.

1.4 The City will encourage an area to be governed by as few RDs as possible, and a preference will be given to one master RD for all property within an entire development project. This policy is adopted to avoid creating communities or projects where only a portion of the development is ultimately within the boundaries of the RD, to facilitate ease of administration and to create the largest tax/assessment base possible. The decision to form an RD shall be a decision of the City Council exercised in its sole and absolute discretion. The City prefers all real property within the boundaries of a proposed RD to be contiguous.

1.5 The RD will be governed by a Board of Directors (the "RD Board") comprised of three members, each of whom must own real property within the RD. If the land area of the proposed RD is entirely contained within the City, all three initial members of the RD Board will be appointed by the City Council. If the land area of the proposed RD is within the City and one other municipality, one initial member of the RD Board will be appointed by the City Council, one initial member will be appointed by the other municipality, and these two initial members shall appoint a third member. If the land area of the proposed RD is within the City and two or more other municipalities, the City shall confer with the other municipalities to determine how to appoint the initial members of the RD Board. All initial members of the RD Board shall serve one-year terms. The real property owners in the RD who are qualified to vote shall elect subsequent members of the RD Board at-large for four-year terms. City employees and elected officials shall not serve as members of the RD Board. Additional requirements may apply as described herein and in Arizona law.

1.6 The RD Board will be responsible for developing bylaws for the operation of the RD. The City shall prefer that City staff have no obligation for day-to-day responsibilities of the RD, except that the City Clerk and the City's Chief Financial Officer shall have the respective responsibilities as District Clerk and District Treasurer as allowed in Arizona law. The City, as needed, shall seek appropriate ongoing indemnification from the applicant/developer for any RD duties performed by City staff.

1.7 Unless otherwise agreed to by the City, the RD must be self-supporting and no City funds will be used for RD purposes, including the RD's financing transactions and the operation and maintenance of the RD. Notwithstanding anything contained herein, none of the property, the full faith and credit or the taxing power of the City shall be pledged to the payment of any RD obligation or indebtedness.

1.8 The RD Board will determine the amount, timing and form of financing to be used by the RD.

1.9 All public infrastructure constructed or acquired by the RD will utilize public procurement procedures in accordance with applicable laws, rules and regulations, as such laws, rules and regulations would be applied in the case of the City. From time to time, the RD

Board may elect to adopt policies and procedures regarding procurement, including such policies and procedures that are similar to those of the City.

1.10 The RD will not use bond proceeds or other RD funds to purchase from the person requesting RD financing 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 developer/landowner upon development of the developer's/landowner's property.

1.11 Unless otherwise agreed to by the City, all costs of administration and operation of the RD and the operation and maintenance of the proposed infrastructure in the RD shall be the responsibility of the RD, the developer/landowner, applicable homeowners' associations, or any combination of the foregoing, as may be acceptable to the City and the RD.

1.12 Where applicable, the developer/landowner will provide appropriate indemnification of the City and the RD and their respective officials, directors, officers, employees and agents in connection with the RD.

1.13 Unless otherwise agreed to by the City and the RD, all bond financings described herein shall be "acquisition" or "reimbursement" financings whereby the applicant/developer pays for the substantially completed infrastructure and is subsequently reimbursed from RD bond proceeds and not "construction" financings in which bond proceeds are drawn upon to make progress payments for on-going construction.

1.14 These Policy Guidelines and Application Procedures may be modified from time to time at the sole and absolute discretion of the City. Any applicant will be given the opportunity to propose alternative approaches to those provided herein, with the understanding that concerns of the City must be adequately addressed before the staff of the City will recommend approval of formation of an RD to the City Council.

ARTICLE 2.

Content of Completed Application

All applications for the formation of an RD shall be submitted to the City. Formation of an RD will not be considered until an applicant submits a completed application (a "Completed Application"). Each Completed Application shall, at a minimum, contain the following:

2.1 General Matters.

a. A description of the proposed RD, including a legal description of its boundaries, identity and addresses of all persons or entities with any interest in the real property (including any liens and encumbrances on the real property), a condition of title report and the names and addresses of any qualified electors located within the proposed RD boundaries. A current title report and a certificate from the county elections department shall be submitted as evidence of the names of persons with any interest in the real property and qualified

electors, respectively. The description must contain an analysis of the appropriateness of the RD boundaries.

b. A description of the applicant, including the corporate and organizational structure of the entity or individual submitting the application. This description should also include the names of all officers and/or corporate directors directly related to or associated with the proposed development and the proposed RD. If there is more than one property owner, the application shall designate a representative for the applicants.

c. 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.

2.2 A detailed description of all infrastructure to be constructed, acquired or improved within the boundaries of the RD, including a detailed description of the types of public infrastructure to be financed by the RD, including the estimated construction or acquisition costs of the infrastructure, the annual operation and maintenance costs of the infrastructure and the governmental approvals that will be required for both the public and private improvements to be constructed and operated. The description should include a comparison (in table format) of (i) the total costs of infrastructure to be constructed, acquired or improved within the boundaries of the RD, (ii) the amount of such total costs to be privately financed by the applicant/developer and (iii) the potential amount of such total costs to be reimbursed or financed with RD financing.

2.3 A proposed project schedule for commencement and completion of (a) the public infrastructure and (b) the private development.

2.4 A financing plan for the infrastructure, including both capital costs and operation and maintenance costs.

2.5 A financial feasibility report for the entire project (or such phases of the project that are expected to be constructed within five (5) years of submission of the Completed Application) covering both the proposed infrastructure and the private development. This should include:

a. An analysis of how the proposed debt financing, operation and maintenance costs, user charges and other RD costs will impact the ultimate end users of the property, specifically projected property taxes and property tax rates, special assessments, fees, charges and other costs that would be borne by property in the RD. The analysis should include the impact on a single family detached residence with the expected average assessed valuation within the proposed boundaries of the RD. The City may request additional analyses based on commercial, industrial or other types of residential properties subject to the proposed RD property taxes, special assessments, fees, charges and other costs. The analysis should also address the impact these costs will have on the marketability of the private development and a

comparison of proposed tax rates or charges within the proposed RD contrasted to the tax rates and charges in adjoining and similar areas outside of the proposed RD.

b. A financing plan for the private development in the RD.

c. At the City's sole and absolute discretion, market absorption study for the private development in the RD prepared by an independent consultant acceptable to the City. Such study, if required, shall include estimates of the revenue to be generated by the development and an estimate of the ability of the market to absorb the development as well as a market absorption calendar for the private development.

2.6 A description of the proposed equity contribution from the applicant/landowner and a calendar showing the timing and sources of such equity contribution.

2.7 A description of the applicant's professional experience and evidence demonstrating its financial capacity (including financial statements) to undertake the development associated with the proposed infrastructure and the private development.

2.8 A disclosure form explaining the expected and possible tax, assessment and other financial burdens of the RD to prospective owners of property within the RD. Upon each sale of property in the RD, the developer/landowner shall file with the City a receipt, signed by the purchaser, that acknowledges the purchaser's receipt of the disclosure form. Landowners/developers are required to describe in their promotional material the financial and other relative impacts on the development being included in an RD. Copies of the disclosure form must be placed on file with the District Clerk. The applicant/developer shall present a plan, including, as applicable, proposed language in any homeowners' association covenants, conditions and restrictions pertaining to the development, whereby all future prospective owners of taxable property within the boundaries of the RD shall receive disclosure of the RD and the expected and possible tax, assessment and other financial burdens of the RD.

2.9 An operating plan for the RD, i.e., what functions the RD will provide and how the operation and maintenance of the proposed infrastructure and all other services in the RD will be provided.

2.10 A description of how the proposed RD meets the existing development objectives of the City, including the degree to which the RD 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 RD is consistent with the City's General Plan Map for the area.

2.11 The Completed Application will:

a. Provide the names, addresses, telephone numbers, email addresses, backgrounds and qualifications, and other relevant information of the proposed initial RD Board members and acknowledgement that the City Clerk will serve as District Clerk and the City's Chief Financial Officer will serve as District Treasurer.

b. Provide documentation evidencing such proposed initial RD Board members' obligation to comply with A.R.S. § 38-511 and containing unqualified "hold harmless" guarantees for the City and its officials, officers, directors, employees and agents.

2.12 The Completed Application shall include a petition in favor of creation of the RD. The petition must include a list of all parcels in the proposed RD 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 (a) the owners of at least 51% of the property proposed to be included in the RD and (b) the owners of at least 51% of the net assessed value of the property proposed to be included in the RD.

2.13 A District Development, Financing Participation, Waiver and Intergovernmental Agreement, or similar agreement, between the City and the applicant, in substantially final form, including all terms and provisions to be approved by the City if formation of an RD is approved. The agreement must have been fully negotiated by the applicant and City staff.

2.14 The applicant is responsible for the cost of insurance to cover all actions and activities taken by the RD Board and officers, employees, or agents of the RD relating to the RD formation, financing, administrative actions or other related activities of the types, in amounts and with deductibles determined by the City's risk manager or other appropriate officer. The Completed Application will provide an explanation of how such insurance coverage shall be provided by the applicant and how assurances will be provided that the premiums and deductibles will be paid in the future. The City may require the premiums for insurance of the RD Board members to be pre-paid by the applicant/developer for a period of five years or as otherwise agreed upon. Insurance must include a "per occurrence coverage" including a "securities" rider if bonds are anticipated to be sold.

2.15 The Completed Application must indicate how indemnification outlined in the District Development, Financing Participation, Waiver and Intergovernmental Agreement, or similar agreement, will be provided for the City and the RD and their respective agents, officers and employees for, from and against any and all liabilities, claims, costs and expenses, including attorneys' fees and expenses, incurred in any challenge or proceeding to the formation, operation and administration of the RD, the offer and sale of RD bonds, the levying by the RD of any tax, assessment or charge and the operation and maintenance of infrastructure financed or owned by the RD, by the entity providing indemnification (including financial statements and other supporting information for such entity, appropriate collateral arrangements, and other appropriate provisions and considerations).

ARTICLE 3. **Completed Application Procedures**

3.1 Ten (10) paper copies and one (1) electronic copy of the Completed Application for the formation of an RD shall be submitted to the City Manager of the City who will coordinate an inter-departmental analysis of the Completed Application.

3.2 At the time of submission of the Completed Application, the applicant shall pay a non-refundable application fee of \$50,000.00 in connection with the submission and consideration of each Completed Application to request formation of an RD.

3.3 Prior to submission of a Completed Application, and at the request of the applicant, the City Manager and appropriate officers of the City may arrange a pre-submission meeting with the applicant, City staff, and outside professionals and consultants for the purpose of discussing the possible submission of a Completed Application and conformity with these Policy Guidelines and Application 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. Following the submission of the Completed Application, City staff may request additional information and the applicant shall promptly provide any and all supplemental information requested. If such post-submission City staff request for additional information occurs prior to the City Council's consideration of formation of the RD, then such additional information must be provided by the applicant prior to the City Council's consideration of formation of the RD.

3.5 The review, analysis and consideration of a Completed Application will include, without limitation, a comprehensive review of the Completed Application to determine whether the Completed Application is consistent with these Policy Guidelines and Application Procedures, identification of missing or incomplete information and identification and discussion of any concerns with the applicant. This will include, without limitation, examining the feasibility of the development, analysis of land ownership interests, analysis of the proposed financing structure, risk analysis and evaluation of community benefits. Under direction of the City Manager, or his or her designee, a report may be prepared including recommendations related to the proposed RD and an analysis of the impact of the formation of the proposed RD and its effects on the City. Additional requirements may be placed on any or all of the applicant, developer(s), landowner(s), builder(s) and/or the proposed RD. This review will include the preliminary approval of the form, terms and provisions of the substantially final form of the Development, Financing Participation, Waiver and Intergovernmental Agreement, or similar agreement, necessary for formation of the RD. A Completed Application must be consistent with these Policy Guidelines and Application Procedures and must contain all the information required herein.

3.6 Upon submission of a Completed Application, the City Council shall hold a public hearing to consider the Completed Application. A resolution declaring the intent to form the RD may be considered by City Council immediately following the public hearing.

3.7 If the City Council approves the formation of an RD and there are existing agreements with developers/landowners for the provision of infrastructure proposed to be furnished by the RD, then those agreements will be deemed amended to reflect the agreements and conditions pertaining to the RD. The amendments will reflect that such infrastructure

improvements will be provided (including by acquisition) by either the developer/landowner or the RD.

3.8 If the City Council approves formation of an RD, the applying developer/landowner and the staff of the City shall coordinate a schedule of events for formation of the RD and shall execute an appropriate agreement (i.e. the Development, Financing Participation, Waiver and Intergovernmental Agreement, or similar agreement) between the City and the developer/landowner which shall be entered into prior to formation of the RD, which shall incorporate the requirements of any report, recommendations of the City staff relating to such RD, the requirements of these Policy Guidelines and Application Procedures, and any other restrictions, provisions and agreements required by the City.

ARTICLE 4. **RD Operations and Debt Financing**

4.1 Upon approval of formation of an RD the developer/landowner shall deposit with the RD a nonrefundable administrative expense fee in the amount of \$60,000. In anticipation of formation of the RD, the applicant may agree with the City to make this nonrefundable deposit prior to approval of formation of the RD. The administrative expense fee shall be applied by the RD to the costs and expenses incurred in connection with the formation, administration, elections, operation and maintenance of the RD or its proposed infrastructure. This fee shall be applied to payments for services rendered by the City staff or RD staff and services rendered by outside consultants who may be retained by the City and/or the RD, including, without limitation, bond counsel, financial advisors, engineers, appraisers and attorneys. From time to time, upon depletion of the administrative expense fee, the RD may request, and the developer/landowner shall promptly deposit with the RD, additional \$25,000 deposits to be applied to the purposes contemplated in this Section 4.1. The RD and the developer/landowner may agree to a smaller amount of deposits to replenish the administrative expense fee, but in no event shall a replenishment deposit be less than \$5,000. The deposits described herein shall be deposited in the RD's accounts. If the deposits are made prior to formation of the RD, City staff may deposit such monies in other operating accounts of the City on a temporary basis pending formation of the RD.

4.2 In order to provide for the RD to be self-supporting for its administrative, operation and maintenance expenses, the City and the RD, unless otherwise agreed, will require the imposition, if approved at an appropriate election, of a \$0.30 per \$100 of assessed value ad valorem tax upon the taxable property within the RD. This tax rate may be increased only upon a petition signed by (a) the owners of at least 51% of the property in the RD and (b) the owners of at least 51% of the net assessed value of the property in the RD. Failure to impose such tax will relieve the City and the RD from undertaking any obligations or operations.

4.3 The debt of an RD may not have any substantial direct or indirect negative impacts on the debt financing capabilities of the City. In addition, the debt of an RD may not impose an unreasonably high financial burden on future RD property owners. The City Council may consider debt burdens, and corresponding tax rates and levies, in its decision whether to

approve the formation of an RD. In connection with any request for debt financing, unless otherwise agreed by the City, the applicant must provide a current appraisal of the fair cash market value of the property within the proposed RD which will 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 and absolute discretion. Generally, the appraisal shall be based on the wholesale, bulk sale of the real property in the RD, but the RD staff may require in their sole and absolute discretion, additional appraisal requirements depending on current market conditions or the type of project to be financed.

4.4 If approved at an appropriate election, assessment bonds may be issued by the RD. 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 the issuance of assessment bonds by the RD, the developer/applicant shall describe, in addition to the statutory requirements, the following:

a. The current direct and overlapping tax and assessment burdens on real property to comprise the RD 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 RD assessment bonds to be issued.

c. The expected market absorption of development within the RD.

d. The assessment burden to be placed on the prospective assessed parcels.

e. A description of the marketing plan for the RD bonds, including 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 S&P Global Ratings, Moody's Investors Service, Inc., or another nationally recognized bond rating agency or in an unrated public offering, an appraisal of the land to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the RD Board, shall indicate a land value (prior to improvements being installed) to debt ratio of at least 6 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 institutional buyers", an "accredited investor" (as such term is defined in Rule 501 of Regulation D of the Securities and Exchange Commission) or a sophisticated municipal market participant ("SMMP"), who must agree to hold the bonds for their own account or agree not to sell the bonds except to "qualified institutional buyers", "accredited investor" or a "SMMP". Further, in connection with the sale of unrated privately placed assessment bonds, the RD Board 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 land value to debt ratio of at least 4 to 1 prior to the issuance of debt. If a 4 to 1 ratio is not achieved, a scaling down of the proposed assessment bonds and/or a phasing of the infrastructure construction is expected. The RD Board may authorize a marketing plan for the issuance of RD bonds that differs from the provisions of this subsection. The RD Board may

require alternative and additional appraisal requirements or land value to debt ratios that differ from the provisions of this subsection.

f. If assessed parcels of land are expected to be subdivided, the process by which the assessments will be allocated to the subdivided land. If the subdivision is expected to occur after the issuance of RD assessment bonds, the developer/applicant shall describe a plan of prepayment of the next debt service payment due on the assessment bonds, plus a contingency amount to be determined by the RD Board, to ensure no draws on any reserve fund result from the subdivision and corresponding assessment modification.

4.6 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 discretion of the RD Board, provide other means to address RD Board concerns.

4.7 Costs of issuance related to the issuance of bonds and obligations described in this Article 4 shall be paid for solely by the developer/landowner, unless otherwise approved by the RD Board.

4.8 RDs shall enter into collection agreements with the County Treasurer for the collection of ad valorem property taxes, special assessments and, as applicable, other fees and charges. The developer/landowner shall consent, as applicable, to the modification of any RD financing structure as necessary to comply with such the terms of such collection agreement, including, without limitation, the application of bond proceeds to capitalized interest.

ARTICLE 5.

Financing Considerations

5.1 The applicant or developer/landowner shall provide at least \$0.25 in infrastructure or community improvements for each \$1.00 of debt to be issued by an RD to finance infrastructure purposes. If agreed to by the RD Board prior infrastructure and community improvements constructed or acquired by the applicant or the developer/landowner may be included in calculating the applicant's or developer/landowner's compliance with this Section 5.1.

5.2 If permitted by law, all bond issues shall include a debt service reserve fund in an amount acceptable to the RD Board. The RD Board may, in its discretion, authorize the issuance of RD bonds without a debt service reserve fund.

5.3 Privately placed bonds should have minimum authorized denominations of \$100,000 or such other amount as established by the RD Board.

5.4 The applicant or the developer/landowner (or such other third party acceptable to the City and RD) shall indemnify the City and the RD and their agents, officers, employees and counsel and shall hold the City and the RD and their agents, officers, employees, and counsel harmless 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, or administration of the RD, the offer and sale of RD bonds, the assessment levy election, if applicable, the levying by the RD of any tax, assessment or charge and the operation and maintenance of infrastructure financed or owned by the RD.

5.5 Unless otherwise provided to the City pursuant to other requirements, prior to RD financing and acquisition by the RD or the City, the RD or the City will require an independent environmental report or assessment of any real property which will be dedicated to or otherwise owned, leased or operated by the City or the RD and a proposed form or indemnity agreement with respect to all environmental law liability.

5.6 Developers/landowners shall be responsible for all costs and expenses incurred in any assessment modifications related to RD assessment bonds.

ARTICLE 6.
Dissolution

6.1 The RD shall be dissolved if no bonds or other obligations are outstanding and City Council determines that the RD has been inactive for at least five consecutive years and has no future purpose and the RD Board adopts a dissolution resolution.