1. **STATEMENT**

The purpose of this procedure is to provide the minimum requirements to be used in determining the feasibility for the establishment of a proposed County Community Facilities District.

2. **BACKGROUND**

County Community Facilities Districts are separate political subdivisions that may be formed by the Board of Supervisors (Board) and governed for the purpose of financing public improvements that benefit the real property comprising the district with the issuance of public debt or the levy of property taxes. Districts should be economically feasible and financially sound for Pima County to consider the proposed district. A developer’s compliance with this procedure does not guarantee that the Board will establish a Community Facilities District or authorize it to issue bonds or take any other action. The Board has sole legislative discretion to determine whether public convenience and necessity requires formation of a proposed Community Facilities District, and with what terms and conditions. County Community Facilities Districts subject to this procedure are created under Arizona Revised Statutes, Title 48, Chapter 4, Article 6 and are subject to the requirements set forth in those Statutes.

3. **DEFINITIONS (ARS §48-701 thru §48-729)**

*Community Facilities Districts:* Community Facilities Districts (CFD) are separate political subdivisions that may be formed and governed by the Board of Supervisors. These districts have the authority to acquire, operate and maintain public roads and other infrastructure that benefits the real property comprising the CFD. The acquisition of public infrastructure may
be financed by general obligation debt issued by the CFD, and the general obligation debt may be repaid by a general obligation tax levy on property owners within the district. Additionally, maintenance of the CFD’s public roads and other infrastructure may be financed by a general obligation tax levy on property owners. CFDs are formed when landowners and electors within a proposed district petition a County and file a general plan for the district. Along with the general plan, a completed application that includes a petition to form, a description of the applicant and a preliminary financing plan should be provided to the County.

**General Plan:** A general plan shall provide a general description of the public infrastructure for which the district is proposed to be formed, the general areas to be improved and the estimated costs of construction or acquisition of the public infrastructure to be financed, constructed or acquired by the district.

**Petition:** A petition to form a CFD must be signed by at least twenty-five percent of the owners of the land area proposed to be included in the district.

**Description of Applicant:** A description of the applicant shall include the corporate and organizational structure of the entity or individual making the application, the names of all officers and corporate directors directly related to or associated with the proposed district, the name, address and telephone number of the primary contact for the applicant, the names of any legal representatives, engineers, architects, financial consultants or other consultants significantly involved in the application, and a general description of the applicant's experience with similar types of developments.

**Preliminary Financing Plan:** A preliminary financing plan shall include the sources and uses of monies for the public improvements.

### 4. PROCEDURE

A. General Policies

1. Unless otherwise approved by the governing board, CFDs may only finance the design and construction of public infrastructure as defined within A.R.S. 48-701. Generally, no enhanced landscaping, land or right-of-way acquisition will be considered. However, a CFD may be utilized to provide an enhanced level of public infrastructure amenities and/or maintenance if authorized by the Board.
2. The CFD will issue bonds to acquire from the developer public infrastructure originally financed by the developer. Bonds will be issued only after the infrastructure has been completed by the developer and accepted by the County.

3. Public infrastructure financed by the CFD must conform to the County's Comprehensive Plan, Pima Prospers.

4. A Developer must pay all costs incurred by the County in connection with the application and formation of the CFD. This includes paying for the cost of County staff time, and for all outside consultants utilized by the County, including but not limited to engineers, appraisers and attorneys. If authorized by the Board and allowed by law, all or part of such costs may be reimbursed to the developer from bond proceeds. All bond-issuance costs will be paid from bond proceeds, including the cost of financial advisors, bond counsel, and County finance staff.

5. The CFD must be at least 600 acres. An area should be governed by as few CFDs as possible, and a preference will be given to one master CFD.

6. Unless otherwise agreed by the County, and pursuant to state statutes, the CFD will be governed by a board of directors comprised of the five members of the Board of Supervisors and will be stated as such in the application. The day-to-day administrative responsibilities of the CFD will be performed, pursuant to an intergovernmental agreement between the CFD and the County, by County staff. The CFD will pay for all services provided by the County.

7. The County will select all consultants it deems necessary in order to evaluate the application, conduct the formation proceedings, and issue bonds, including, but not limited to, special tax consultants, bond counsel, underwriter, appraiser, and engineer. All costs will be paid from bond proceeds, including the cost of financial advisors, bond counsel, and County finance staff.
8. The CFD should be self-supporting both for construction and operations and maintenance. All administrative costs of the CFD, and the operation and maintenance of public infrastructure in the CFD, must be paid by the CFD, the developer, applicable homeowners’ associations, or any combination of the foregoing, as may be acceptable to the Board.

9. The Board will determine, in its sole and absolute discretion, the amount, timing and form of financing to be used by a CFD after reviewing the project feasibility report as required in the Act. Neither the property, the full faith and credit, nor the taxing power of the County, will be pledged to the payment of any CFD obligations.

10. All public infrastructure will be acquired or constructed by the CFD using public procurement procedures in accordance with applicable laws, rules, regulations, and County policies.

11. The CFD will not use bond proceeds or other CFD funds to purchase real property or right-of-way for public infrastructure if, under normal County policies or applicable law, the developer would be required to dedicate and convey that property to the County as a condition of development.

12. The construction of public infrastructure to be reimbursed by CFD debt must be completed within 25 years of the date of formation of the District. Any debt issued for reimbursement of such public infrastructure must be issued within 15 years of the date construction was completed. CFD bonds and any other debt obligations will have a maximum term of 15 years.

13. CFD debt may be refinanced to take advantage of improved financial markets, but the length of the repayment period will not be extended beyond the original term. The County will determine if any proposed refunding meets acceptable levels of savings to warrant proceeding.

14. To help protect the CFD from possible declines in property values, the CFD board may consider limiting the percentage of taxable net assessed value that may be used to determine the amount of debt that can be supported based on the Target Tax Rate. Additionally, a Tax Subsidy Agreement may also be required as described in the CFD Operations and Debt Financing section below.
15. These Procedures may be modified from time to time by the County. Any Applicant will be given the opportunity to propose alternative approaches to those provided herein, with the understanding that concerns of the County must be adequately addressed before County staff will recommend approval of a CFD to the County Board of Supervisors.

B. Contents of Application

All applications for the formation of a CFD must be submitted to the Pima County Development Services Department in an electronic format acceptable to the County. Each application must, at a minimum, contain the following:

1. Applicant Information
   a. General Description - A general description of the Applicant, including its organizational structure. Include the names of all officers and corporate directors and principal owners/stockholders.
   b. Contact(s) - The name, address, phone number and other contact information of the primary contact for the Applicant, and of any legal representatives, engineers, architects, financial consultants and/or other consultants significantly involved with the application.
   c. Experience - A general description of the Applicant's experience with similar types of projects.
   d. Financial Capability - Evidence (including financial statements if necessary) demonstrating the Applicant's ability and capacity to undertake the proposed development.

2. Proposed CFD
   a. Description and Purpose - A general description of the proposed CFD, its purpose, and a statement of how the proposed CFD is consistent with the County's objective of promoting development consistent with healthy community principles, enhancement of the local economy, and conservation values. Describe the degree to which the CFD is consistent with the
County’s Comprehensive Plan, Pima Prospers Land Use Map for the area.

b. Location - A description of the proposed CFD’s general location within the County, an area site map illustrating the proposed boundaries, and a legal description. Include an analysis of the appropriateness of the CFD boundaries.

c. Ownership Interests - The identity and address of all persons or entities with any interest in property within the proposed CFD boundaries, including lienholders and purchasers under pending sales contracts, and the names and addresses of any qualified electors located within the proposed CFD boundaries. Obtain a Certificate of Beneficial Owner from the applicant certifying the lienholders, or a certificate from the Pima County Assessor or, if not accurate, a current title report together with a certificate from the Pima County Elections Department, as supporting evidence. The application must be signed by all owners of the land within the proposed CFD boundaries, as well as all qualified electors residing on the property.

3. Proposed Improvements

a. Estimated Costs - An estimate of the cost of each component of the infrastructure to be completed by the CFD.

b. Timetable - A timetable describing the scheduling, timing or phasing of the various components of the planned development. Each phase of the development should be shown separately.

4. Financing Plan and Feasibility Study

a. Source of Funds - A description of the sources and uses of funds for the public infrastructure and private development. This description should include the amount and type of any proposed bonds, as well as the sources of the financing for the private development, including any debt or equity.
b. Financial Feasibility Study - A financial feasibility study for the entire project broken into five-year phases. The study should include both public and private infrastructure costs.

c. User Impact - An analysis of how the proposed debt financing, operation and maintenance costs, user charges and other CFD costs will impact the ultimate end users of the development, calculated as of the beginning, midway through, and at the end of the market absorption period or based on the phasing of the project to be financed, as applicable. Describe, specifically, the projected property taxes and property tax rates, fees, charges and other costs that would be borne by property owners in the CFD. 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 and charges in adjoining and similar areas outside of the proposed CFD.

d. Market Analysis - A market absorption study for the private development in the CFD acceptable to the County. Include estimates of the revenue to be generated by the development and a market absorption calendar for the private development.

e. Operation and Maintenance Costs - List the specific entities, such as the CFD, Homeowners Associations, the developer, County, etc., that will be responsible for funding those on-going operation and maintenance costs.

5. Disclosure to Prospective Property Owners

At the time of formation, the Developer must provide the County a copy of their draft disclosure form that will be provided to prospective CFD landowners at the time of purchase. It should include the legal description of the CFD and the expected and possible tax and other financial burdens of the CFD. It is the responsibility of the Developer to ensure
that their promotional material describe the financial and other relative impacts of the CFD on the property owners.

6. Development Agreements

Describe any agreements entered into between the County and the Applicant relating to the proposed development, and explain the impact of those agreements and whether they must be amended in any way if the CFD is formed. Attach copies of the agreements as an appendix.

7. Application Procedures

a. Administrative Fee - At the time of submission of the application, the applicant must pay a non-refundable application fee of $15,000, per A.R.S. § 48-708.E to offset the costs incurred by the County in connection with the processing and review of the application and the formation of the CFD.

b. Conference - After the application fee and deposit are submitted, the Development Services Director will arrange an initial meeting with the appropriate County staff for the purpose of reviewing the application for conformity with County policies.

c. Supplemental Information - If County staff, at any time during the application process, request additional information, the applicant must provide any and all supplemental information requested.

d. Report - After reviewing the application, County staff, under the direction of the Finance Director and the Development Services Director, may prepare a report including recommendations relating to the CFD, an analysis of the impact of the formation of the CFD and its effects on the County. The report may provide a recommended disposition of the application and any additional requirements that will be placed on the developer and the CFD.

e. Submission to the Board - When the application meets the requirements in this Policy, the application, along with any report and recommendations by County staff, and a proposed resolution declaring an intention to form a CFD, will be forwarded to the Board.
f. Formation - If the Board approves an application for formation of a CFD and adopts a resolution declaring an intent to form a district, the developer and County staff will develop a list of tasks for formation of the CFD and will negotiate appropriate agreements among the County, the developer, and the CFD.

1) All appropriate agreements and a resolution forming the CFD will be completed and submitted to the Board for approval within 180 days of the Board’s resolution of intent.

2) The resolution will contain all statutorily-required information. The appropriate agreements will authorize the issuance of bonds, if appropriate, and set a Target Tax Rate for the operating support of the CFD and payment of debt service. In no event shall the Target Tax Rate cause the CFD-related tax rate for both operating support and debt service, including any overlapping CFD’s rates for both operating support and debt service, to exceed $3.00 per $100 of taxable net assessed value. The appropriate agreements will also call for an election for bond authorization and vote of the resident electors (if any).

3) Extensions of one 180 day period may be granted by the Development Services Director in conjunction with the Finance Director if conditions have not materially changed. Formations not completed within the required timeframe will be closed and the Applicant will be required to resubmit a new application for the CFD, as well as pay all application fees.

8. CFD Operations and Debt Financing

a. Initial Expenses - The administrative fee paid by the Applicant will continue to be used to support operation of the CFD after its formation until such time as other revenues become available for such purposes, and the applicant will continue to supplement the fee from time to time as necessary. These fees will include actual expenses for the administration of the CFD, the
issuance and sale of bonds, financial and legal consultant services, and staff and support facilities supplied by the County.

b. Debt - Pima County will only authorize general obligation debt for CFD financing. The Board will not authorize the issuance of debt obligations in an amount that might have a substantial direct or indirect negative impact on the debt or financing capabilities of the County, or that imposes an unreasonably high financial burden on future CFD residents and property owners, as determined by the Board in its sole legislative discretion.

c. Debt Service Guaranty - A portion of the proceeds of each bond issue may, to the extent allowed by applicable law, be applied to fund a debt service reserve fund or used to pay for an acceptable reserve fund surety bond, insurance policy or other guarantee. If applicable law does not permit the funding of such a reserve fund, the Applicant or third parties may be required to provide amounts for such purpose under circumstances acceptable to the Board.

d. Tax Subsidy Agreements - Any written agreement from the Applicant or from a third party or parties on behalf of the Applicant (collectively, the “Obligated Party”) to pay all or a portion of the debt service on any CFD general obligation bonds that is not paid by tax collections levied and received for such purpose (such as a letter of credit, standby contribution agreement, etc.) (the “Subsidy Payment Agreement”) must comply with the following conditions, in addition to any other conditions required by the Board.

1) The Subsidy Payment Agreement must constitute a valid, enforceable obligation of the Obligated Party, and the obligation to pay the Subsidy Amount (as defined below) cannot be subject to any set off, claim or encumbrance;

2) The Obligated Party must be required to pay the portion of the debt service on the bonds sufficient to cause the actual tax rate per $100 of taxable net assessed value levied for
payment of the bonds plus the operating support tax rate to be no greater than the Target Tax Rate established by the Board. Such amount paid by the Obligated Party is the "Subsidy Amount";

3) In the event of a shortfall, the Obligated Party must promptly provide the CFD with other collateral (such as a surety bond, letter of credit or cash) satisfactory to the CFD;

4) The Subsidy Payment Agreement must provide for the annual payment of the Subsidy Amount pertaining to the next succeeding fiscal year not later than March 30th of each year; and

5) The Subsidy Payment Agreement may not adversely affect the tax-exempt status of any related bonds and shall be delivered with all certificates and opinions required by the CFD.

9. Indemnity

The applicant (or another party acceptable to the County and the CFD) must agree to indemnify the County and CFD and their agents and employees, and hold them harmless for, from, and against any and all liabilities, claims, costs and expenses including attorney’s fees, 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 County.