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DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. 85664 C.M.S.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND APPROVING AMENDED AND RESTATED LOCAL GOALS AND POLICIES FOR SPECIAL ASSESSMENT AND MELLO-ROOS COMMUNITY FACILITIES DISTRICT FINANCING

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, (California Government Code Section 553311 *et seq.*) (the “**Act**”), and prior to the institution of any proceedings thereunder, the City Council of the City of Oakland (the “**City Council**”) must adopt goals and policies as provided in the Act; and

WHEREAS, on 6/17/15, this City Council approved “Local Goals and Policies and Appraisal Standards for Community Facilities Districts City of Oakland” (the “**Existing Goals and Policies**”); and

WHEREAS, this City Council desires to update and amend the existing Local Goals and Policies; now therefore be it

RESOLVED, that the “Amended and Restated Local Goals and Policies for Assessment and Mello-Roos Community Facilities District Financing” (the “**Amended Goals and Policies**”) attached hereto as Exhibit A are hereby found to meet the requirements of the Act and are hereby adopted by this City Council for purposes of compliance with the Act, subject to further amendment by this City Council as may be required from time to time; and be it

FURTHER RESOLVED, that this resolution and the Amended Goals and Policies shall be effective from and after the date of the adoption of this resolution by this City Council.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 17 2015, 2015

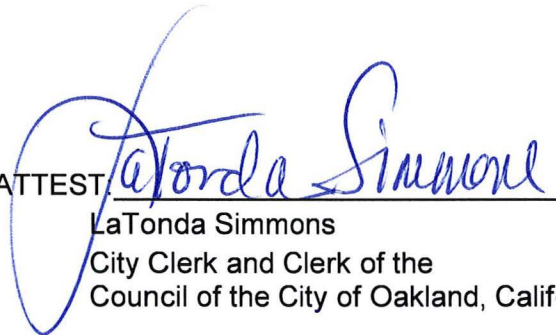
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GUILLEN, KALB, ~~KAPLAN, REID~~, CAMPBELL, WASHINGTON,
PRESIDENT GIBSON MCELHANEY - 6

NOES- 0

ABSENT- 2

ABSTENTION- 0

ATTEST 
LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland, California

**AMENDED AND RESTATED
LOCAL GOALS AND POLICIES AND APPRAISAL
STANDARDS FOR COMMUNITY FACILITIES DISTRICTS
CITY OF OAKLAND**

The City of Oakland (“**City**”) hereby sets forth the following local goals and policies and appraisal standards (“**Local Goals and Policies**”) in compliance with Section 53312.7 of the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) (“**Act**”).

General Policy

The Local Goals and Policies delineated below have been prepared to provide guidelines for the use of Community Facilities Districts (“**CFD**”) in the City. Proceedings to establish a CFD may be initiated by a petition of one or more property owners or by the City through a resolution adopted by the City Council of the City of Oakland (“**City Council**”).

The City shall consider the use of CFDs for (1) acquiring, constructing or providing financing for all or a prescribed portion of the cost and expense of public capital improvements (“**Public Improvements**”) to be owned by the City or by such other public agencies or regulated public utility companies that serve a public purpose for the City and its inhabitants, (2) financing all or a prescribed portion of the estimated administrative cost and expense of maintaining and operating such Public Improvements, and (3) providing services permitted by the Act.

Priorities

The City hereby establishes the following priority for the implementation of CFDs:

1. Public Improvements which provide a community-wide benefit to all inhabitants of the City;
2. Public Improvements needed to serve a community plan or specific plan area that is currently deficient in off-site infrastructure needed to develop the area as planned;
3. Other Public Improvements for which there is a clearly demonstrated public benefit but which benefit is likely to be greater to specific sub-areas of the City rather than *community-wide*;
4. The administrative cost and expense of maintaining and operating any of the foregoing Public Improvements; and
5. Other improvements as permitted under the Act;
6. The cost of services permitted to be paid with special taxes under Section 53313 of the Act. To the extent required by the Act, the CFD may finance

only services that supplement and are in addition to those provided in the territory of the CFD before creation of the CFD. Such additional services may not supplant services already available within the territory of the CFD when the CFD was created.

The funding of public facilities to be owned and operated by public agencies other than the City shall be considered on a case-by-case basis. If the proposed financing is consistent with a public facilities financing plan approved by the City or the proposed facilities are otherwise consistent with approved land use plans for the property, the City may consider entering into a joint community facilities agreement or joint powers authority agreement to finance these facilities. A joint agreement with the public agency that will own and operate any such facility must be entered at the time or times required by the Act.

A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act.

Required Credit Quality

The City Council adopts the requirements of Section 53345.8 of the Act (a copy of which is set forth in Exhibit 1, attached hereto) as sufficient minimum standards for the credit quality of any bonds issued pursuant to the Act.

Disclosure to Property Purchasers

1. At a minimum, any disclosures mandated by applicable state law shall apply to each CFD to inform prospective purchasers of property within the CFD of the existence of the special tax lien and their obligations with respect to the special taxes and the CFD. On a case-by-case basis, additional requirements may be mandated by the City for particular kinds of financings. The City may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD.

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

Requirement for Special Tax Formulas

The proposed amount and apportionment of the special tax for each CFD shall comply with the following criteria:

1. The special tax formula shall be structured to produce sufficient annual special tax revenue to pay:
 - (a) costs of Public Improvements designated for funding with the CFD special tax;

- (b) at a minimum, an amount equal to 110% gross annual debt service on special tax bonds which have been issued to finance the cost of Public Improvements, if any;
 - (c) amounts needed to replenish any reserve funds for bonds issued to finance the cost of Public Improvements, if any;
 - (d) amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on related bonds of a CFD;
 - (e) annual administrative expenses of the CFD, including, but not limited to, the issue and administration of special tax bonds, if any; and
 - (f) funds reasonably required for future debt service on CFD bonds;
 - (g) the cost of services designated for funding with the CFD special tax;
 - (h) the costs of remarketing, credit enhancement and liquidity facility fees;
 - (i) the cost of acquisition, construction, furnishing or equipping of authorized facilities;
 - (j) lease payments for existing or future facilities;
 - (k) costs associated with the release of funds from an escrow account;
 - (l) the costs of services; and
 - (m) any other costs or payments permitted by law.
2. The CFD may levy sufficient special taxes to protect against unforeseen contingencies, including but not limited to, projected delinquencies in the payment of the special tax.
 3. The rate and method of apportionment may provide for an annual increase in the maximum special tax for residential properties and shall provide for prepayment and discharge of that portion of the special tax obligation on any residential properties pertaining to debt service on special tax bonds, if any.
 4. The total projected annual special tax revenues, less estimated annual administrative expenses and services and pay-as-you-go program costs shall be at minimum equal to the projected annual gross debt service on outstanding special tax bonds, if any.
 5. All property within the CFD not otherwise statutorily exempted or owned (or to be owned) by a public entity and to be benefited shall bear its

appropriate share of the special tax liability, as determined in the rate and method of apportionment of special taxes for the CFD.

6. The special tax shall be allocated and apportioned on the basis of reasonableness to all categories and classes of property within the CFD, as determined by the City Council.
7. The total amount of projected *ad valorem* property tax and other direct and overlapping debt for the proposed CFD (including estimated CFD charges, projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual property tax bill), including the proposed maximum special tax, shall not exceed two and one-half percent (2.5%) of the estimated market value for any single family home, condominium or town home. Any deviations from the foregoing must be specifically approved by the City Council.

Exemptions from the special tax may be given on a case-by-case basis at the discretion of the City, and may include without limitation parcels that are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or that have insufficient value to support bonded indebtedness.

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

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

The City may retain a special tax consultant to prepare a report which: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, administrative costs, services and other related expenditures. Such analysis may also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, *ad valorem* taxes and assessments on the properties within the CFD.

Appraisal Standards

The Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission dated May 1994, as revised in July 2004, are adopted as the appraisal standards for the City with the following modifications:

1. The independent review appraiser is an option, and not a requirement.
2. The comparable sales method may be used whenever there is sufficient data available in the opinion of the appraiser.
3. The appraiser should assess value based on the assumption that the Public Improvements to be financed with the proposed special tax bonds are already completed.
4. The special tax lien need not be computed as the present value of the future tax payments if there is a pre-payment mechanism or other more appropriate measure.
5. Except where necessary to make a meaningful comparable sale comparison, the appraiser should not discount the value of property for the amount of the special tax lien.

Minimum Standards Waivers and Amendments

The policies set forth herein reflect the minimum standards under which the City will make use of CFDs to fund certain Public Improvements or public services. The City may, in its discretion and to the extent permitted by law, waive any of the policies set forth herein in particular cases.

The goals and policies set forth herein may be amended at any time and from time to time by the City.

EXHIBIT 1

TEXT OF SECTION 53345.8 OF THE ACT

Section 53345.8. (a) The legislative body may sell bonds pursuant to this chapter only if it determines prior to the award of sale of bonds that the value of the real property that would be subject to the special tax to pay debt service on the bonds will be at least three times the principal amount of the sum of the following:

(1) The principal amount of the bonds to be sold.

(2) The principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to this chapter on property within the community facilities district or a special assessment levied on property within the community facilities district. The legislative body shall estimate the principal amount of these other bonds that are secured by property within the district by assuming that the maximum allowable tax or assessment applicable to each parcel of property within the district will be levied until the date of maximum maturity of the bonds. Any determination made pursuant to this subdivision shall be based upon the full cash value as shown on the ad valorem assessment roll or upon an appraisal of the subject property made in a manner consistent with the policies adopted pursuant to paragraph (5) of subdivision (a) of Section 53312.7 by a state certified real estate appraiser, as defined in subdivision (c) of Section 11340 of the Business and Professions Code. The Treasurer may recommend definitions, standards, and assumptions to be used for these appraisals. These definitions, standards, and assumptions are advisory only, and the definitions, standards, and assumptions to be applied to appraisals will be those adopted by the local agency pursuant to paragraph (5) of subdivision (a) of Section 53312.7.

(b) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements, or because a sufficient portion of the principal amount of a bond issue has been deposited in a self-financing and self-liquidating escrow account under conditions such that it cannot be withdrawn until the value of real property subject to special taxes has increased sufficiently so that the requirements of subdivision (a) will be met or for other reasons specified by the legislative body, the provisions of subdivision (a) may be disregarded.

(c) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines by a vote of not less than four-fifths of all of its members that the proposed bond issue should proceed for specified public policy reasons, the provisions of subdivision (a) may be disregarded.

A finding and determination by the legislative body pursuant to this subdivision shall be final and conclusive upon all persons in the absence of actual fraud, and neither the legislative body nor the district shall have any liability of any kind whatsoever out of, or in connection with, any finding and determination.