

2007 MAY 01 PM 3:17

Approved as to Form and Legality

F. Faiz
Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. 80641 C.M.S.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND
APPROVING LOCAL GOALS AND POLICIES AND APPRAISAL
STANDARDS FOR COMMUNITY FACILITIES DISTRICTS**

WHEREAS, the City of Oakland ("City") intends to consider the formation of a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) ("**Act**"); and

WHEREAS, Section 53312.7 of the Act requires that prior to establishment of a community facilities district ("**CFD**") the City must adopt local goals and policies and appraisal standards ("**Local Goals and Policies**") for CFDs; and

WHEREAS, City staff have caused to be prepared a proposed set of Local Goals and Policies for CFDs which have been submitted to the City Clerk for consideration by the City Council; and

WHEREAS, this City Council desires to adopt the proposed Local Goals and Policies; now, therefore be it

RESOLVED: That the Local Goals and Policies in substantially the form attached to this Resolution as Exhibit A are hereby approved; and be it

FURTHER RESOLVED: That the City finds that the Local Goals and Policies comply with Section 53312.7 of the Act and that adoption of the Local Goals and Policies enables the City to initiate proceedings to establish a CFD pursuant to the Act; and be it

FURTHER RESOLVED: That this resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 19 2007, 2007

PASSED BY THE FOLLOWING VOTE:

AYES--- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID and PRESIDENT DE LA FUENTE — 8

NOES--- 0

ABSENT--- 0

ABSTENTION--- 0

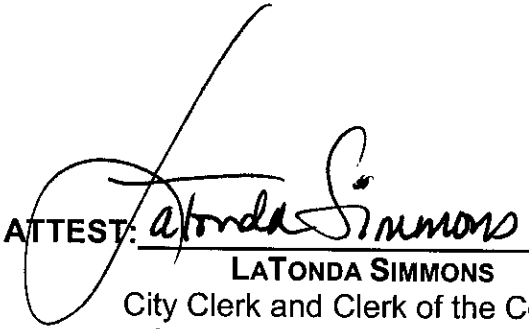
ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A

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 City Council for the use of Community Facilities Districts (“**CFD**”). 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.

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 the 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.

Required Credit Quality

The 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

In order to ensure that prospective property purchasers are fully informed about their taxpaying or assessment paying obligations imposed by the Act, the City will require that the statutory requirements of disclosure to property purchasers contained in the Act, including, but not limited to, Sections 53328.3, 53328.5 (including the referenced sections of the California Streets and Highways Code), 53340.2 and 53341.5, be met.

Requirements for Special Tax Formulas

The proposed amount and apportionment of the special tax for each community facilities district ("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) 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) reasonable and necessary annual administrative expenses of the CFD, including, but not limited to, the issue and administration of special tax bonds, if any; and
 - (e) the cost of services designated for funding with the CFD special tax.
2. The CFD may levy sufficient special taxes to protect against unforeseen contingencies, including but not limited to, unusual levels of delinquency 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 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 Council.

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.