



City of Carson

CITY COUNCIL POLICY

Section: Finance

Date Adopted: April 17, 2012

Subject: **Land-Secured Financing**

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PURPOSE

This policy outlines parameters for the financing of public facilities through the establishment of assessment districts and community facilities districts. It establishes the standards and criteria for the review of these proposed projects in order to determine the feasibility of special district financing given the public policy direction of the City Council of the City of Carson. This Policy designed to comply with Section 53312.7 of the California Government Code. Any proceedings to change any district formed hereunder shall also comply with this policy.

POLICY

- A. The City supports the development of commercial, residential, hotel, or industrial property which results in reciprocal value to the City (i.e., increased jobs, property or sales tax revenues, major public improvements). The City Council will consider the use of community facilities districts (CFDs) or special benefit assessment districts (ADs), as well as other financing methods to assist these types of development. When, in the City's opinion, the public facilities of a residential development represent a significant public benefit, public financing may be considered. Significant public benefit may be defined as a public facility having regional impact and/or benefit to areas beyond the proposed development.
- B. Projects will comply with the requirements of the particular authorizing act, including but not limited to the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscape and Lighting Act of 1972, the Benefit Assessment Act of 1982 or the Mello-Roos Community Facilities Act of 1982.

- C. The assessment or community facilities district bonds shall be issued in accordance with the Improvement Act of 1911 or the Improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982. The applicant may propose a specific financing method, but the final determination of the financing method will be decided by the City.
- D. The proposed development project must be consistent with the City's General Plan and have secured appropriate land use entitlements from the City to allow for the implementation of the ultimate development of the area.
- E. A written request for special district financing should be initiated by the owners of the property subject to payment of the assessments or special tax, as defined per statutory requirements. The City may also initiate the formation of a special financing district.
- F. An advance reimbursement agreement shall be executed and a sum sufficient to pay all fees and costs for the district formation shall be deposited with the City by the proponents of the district prior to the beginning of the formation proceedings. The reimbursement agreement may provide a mechanism for ongoing contributions in lieu of all costs being deposited at the beginning.
- G. An appraisal of the property shall be required if the property is subject to any lien or tax required to secure any public financing. The City requires a District-wide value-to-lien ratio of at least 3:1 for the District. The District property value-to-lien ratio for each individual parcel within the District may be less than 3:1 as long as the overall valuation of the District is at least 3:1. Valuations shall be determined based upon an appraisal of the proposed District properties. Assessed valuation data from the County of Los Angeles may be used for valuation purposes in lieu of an appraisal report subject to review and approval of the City's financial advisor.

The appraiser shall be retained by and the appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the applicant through the advance deposit mechanism. The appraisal shall be conducted by an MAI appraiser in accordance with criteria established by the City, based upon the recommendations received by the City from its bond counsel and/or financial advisor. In every case, the appraisal shall employ either a discounted cash flow or utilize bulk sale comparables and shall fully conform to published guidelines set forth in the Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission ("CDIAC Guidelines"), originally dated May 1994 and modified July 2004, as such standards shall be further amended, or as otherwise described herein.

In those instances where the ratio is less than 3:1, credit enhancements must be provided to the satisfaction of the City. These enhancements may include, but are not limited to, letters of credit and/or appropriate insurance. Private placements

may be considered for under 3:1 ratios under some circumstances provided bond denominations are greater than \$100,000 and there are bond transfer restrictions. Any determinations related to appraisal value must comply with the applicable Assessment Act. This section is a statement of Appraisal Standards pursuant to Government Code Section 53312.7(a)(5).

- H. A market absorption study of the proposed development project may be required. The absorption study shall be used to determine if the financing of the public facilities is appropriate given the timing of development and if sufficient revenues will be generated by the project to retire the debt service. The City shall have discretion to retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties which may be subject to the maximum special tax or assessments in the District. Such a report may be used by appraisers in determining the value of property to be assessed or taxed.
- I. With regard to community facilities districts, the proposed rate and method of apportionment of the special tax shall comply with the following criteria:
1. The special tax formula shall be formulated to ensure taxes are equitable for future property owners and are not disproportionately burdensome to anyone class of property owner.
 2. The projected annual special tax revenues shall include annual administrative expenses and other direct operational costs to the community facilities districts as a result of district formation.
 3. All property not otherwise statutorily exempted, owned, or to be owned by a public entity shall bear its appropriate share of the special tax liability. Non-profits and not-for-profit entities may receive special consideration, if appropriate.
 4. It is recommend that the projected ad valorem property tax and other direct and overlapping debt for the proposed development project, including the proposed maximum special tax, not exceed two percent (2%) of the anticipated assessed value of each improved parcel upon completion of the improvements subject to limited exceptions for non residentially owned properties including apartment buildings, as determined by the City Council. At the time the District is formed, based upon reasonable assumptions reviewed by the City and the Special Tax Consultant, the Special Tax Consultant or other consultant employed by the City shall confirm the assessed value assumptions and special tax calculations on a proposed parcel by parcel basis. For Mello-Roos Districts, the maximum special tax shall be established to ensure that the annual revenue produced by levy of the maximum special tax shall be equal to at least 110% of the average annual debt service.
 5. Each bond issue shall be structured to protect bond owners from default of the issue and to ensure the bonding capacity and credit rating of the City.

[This section is a statement of the Equity of Tax Allocation Formulas pursuant to Government Code Section 53312.7(a)(4)]

- J. With respect to community facilities districts and other land-secured financing districts, full disclosure of the special tax or assessment lien shall be in compliance with applicable statutory authority. The City, in its sole judgment, may require additional property owner notification if it deems such disclosure will assist subsequent property owners awareness of the lien obligation. A Notice of Assessment Lien or Notice of Special Tax Lien shall be recorded against all property within the applicable district. [This section is a statement of steps to be taken to inform property owners of the taxpaying obligation pursuant to Government Code Section 53312.7(a)(3)]
- K. The assessment engineer, appraiser, bond counsel, financial advisor, special tax consultant, underwriter, and other necessary professional and technical advisors shall be selected by and be accountable to the City. The City Manager, in conjunction with these advisors, shall determine whether the aggregate cost of public improvements and permitted indirect costs, allowable under statute, shall equal an amount which renders formation of a district, both economically cost-effective and efficient prior to the City approving the formation of the District. The par amount of bonds shall be recommended by the City Manager for approval by the City Council. The issue shall be sized by the City Manager, in conjunction with City financial advisors, and shall meet industry standards with respect to marketability. Minimum district bond size shall approximate \$3 million.

All statements and materials related to the sale of special tax bonds (community facilities districts) and improvement bonds (assessment districts) shall emphasize and state that neither the faith, credit, nor the taxing power of the City of Carson is pledged to the repayment of the bonds, nor that there is an obligation of the City to replenish the reserve fund from revenue sources other than special taxes, annual assessments or proceeds from foreclosure proceedings. The City has no contingent liability for the debt service. Property Owners of greater than 10% of debt service may be required to provide disclosure information in connection with the bond issue and ongoing disclosure in connection with a Continuing Disclosure Agreement to be entered into in connection with the issuance of bonds.

PROJECT CRITERIA

Special district financing shall be considered for development projects which facilitate commercial and industrial development within the community thereby improving the jobs-housing balance. Formation of districts will also be considered for major development projects whose mix of residential, commercial and industrial land use maintain or improve this jobs housing ratio and whose public improvements contribute to the regional development of the area through:

- Major streets and arterial thoroughfares.

- Master planned storm drain facilities.
- Regional sewer and/or water facilities.
- Reclaimed water distribution systems.
- Other major public infrastructure or community facility improvements required as a result of the development or its impact on the community.
- Improvements related to Environmental Remediation Systems, when appropriate.
- Capital Facilities Fees imposed by the City and other Governmental Agencies related to the above Projects.

Infrastructure and facility improvements, conditioned as a result of standard City requirements to the site, shall not be considered regional public improvements. Indirect ("soft") costs for engineering, design, formation and other costs approved by the City associated with public improvement construction may be included within the district to the extent they can be attributed directly to the public improvements. No other indirect "soft" costs shall be financed through the district, other than that which is allowed by statutory regulations for assessment districts and community facilities districts.

Other project elements which may determine the viability and desirability of special district financing may include factors such as: location of the proposed project within a former redevelopment project area; as a specific plan or subset of a specific plan; ownership composition; geographical isolation or other pertinent economic or demographic factors which would enhance community development, in accordance with established City goals and objectives.

Any such funding of Facilities to be owned, operated, or maintained by public agencies or public utilities other than the City shall be pursuant to a joint community facilities agreement or joint exercise of powers agreement if required by the Act.

[This section is a part of the statement of priority of financing for public facilities pursuant to Government Code Section 53312.7(a) (1)]

SECURITY

For new development, the applicant or property owner must demonstrate its financial plan for the property within the District and ability to pay all assessments and/or special taxes during the build-out period. Up to two years of funded interest may be considered by the City. The City may also establish a reasonably required reserve fund in order to increase the credit quality of any CFD bond issue. Additional security such as credit enhancement may be required by the City in certain instances. If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution in a form and upon terms and conditions satisfactory to the City. All fees payable on the letter

of credit or other security shall be the sole responsibility of the District applicant or developer, not the City or District. [This section is a part of the statement of credit quality required of bond issues pursuant to Government Code Section 53312.7(a)(1)]

FINANCING FOR SERVICES

The Mello-Roos Community Facilities Act of 1982 allows for community facilities districts to finance certain public services and maintenance costs, as identified in that Act. [Various Assessment Acts also provide for such funding of services] The City will consider, on a case by case basis, any request for a community facilities district to provide financing for public services and maintenance costs. Priority shall be given to services that are (i) necessary for the public health, safety and welfare, and (ii) would otherwise be paid for from the general fund of the City. A community facilities district may finance public services to be provided by another local agency if the City determines that the public convenience and necessity require it to do so. In any event, a community facilities district will only be authorized to finance public services and maintenance costs if the City Council, in its discretion, determines that such financing is beneficial to the City and appropriate in the circumstance.

To the extent required by the Act, the CFD may only finance services authorized pursuant to a landowner vote to the extent they are in addition to those provided in the territory of the CFD before the CFD was created, and the additional services may not supplant services already available within the territory of the CFD when the CFD was created.

[This section is a part of the statement of priority of financing for services pursuant to Government Code Section 53312.7(a)(1)]

APPENDIX A

Definition of Appraisal

An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Standards of Appraisal

The format and level of documentation for an appraisal depend on the type of appraisal. A detailed appraisal shall be prepared for complex appraisals. A detailed appraisal shall reflect recognized appraisal standards, such as Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission ("CDIAC Guidelines"), originally dated May 1994 and modified July 2004, as such standards may be further amended, or as otherwise described herein. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the date to support his/her opinion of value. At a minimum, the appraisal shall contain the following items:

- A. The purpose and/or the function of the appraisal; a definition of the estate being appraised; and a statement of the assumptions and limiting conditions affecting the appraisal.
- B. An adequate description of the physical characteristics of the property being appraised, including location, zoning, present use, and analysis of highest and best use.
- C. All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method, such as a market approach using sales that are at the same stage of land development. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
- D. A description of comparable sales, including a description of all relevant physical, legal and economic factors, such as parties to the transaction.
- E. A statement of the value of the real property.
- F. The effective date of valuation, date of appraisal, signature and certification of the appraiser.

Conflict of Interest

No appraiser shall have any interest directly or indirectly in the real property being appraised for the City that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

Value-To-Lien

The City requires a District-wide value-to-lien ratio of at least 3:1 for the District. The District property value-to-lien ratio for each individual parcel within the District may be less than 3:1 as long as the overall valuation of the District is at least 3:1. Valuations shall be determined based upon an appraisal of the proposed District properties. Assessed valuation data from the County of Los Angeles may be used for valuation purposes in lieu of an appraisal report.

The appraiser shall be retained by and the appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the applicant through the advance reimbursement agreement. The appraisal shall be conducted by an MAI appraiser in accordance with criteria established by the City, based upon the recommendations received by the City from its bond counsel and/or financial advisor. In every case, the appraisal shall employ either a discounted cash flow or utilize bulk sale comparables and shall fully conform to published guidelines set forth in the Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission ("CDIAC Guidelines"), originally dated May 1994 and modified July 2004, as such standards may be further amended, or as otherwise described herein.

The City shall have discretion to retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties which may be subject to the maximum special tax or assessments in the District. Such a report may be used by appraisers in determining the value of property to be assessed or taxed

The appraisal for CFDs should also include the following two premises:

- A. Raw Land Value (Premise #1). The total land within the project is valued "as is."
 - 1. With any existing infrastructure.
 - 2. Without proposed infrastructure.
 - 3. With existing parcel configuration.
 - 4. Considering planned densities allowed by the specific plan of the project.

This is a typical type of land valuation.

This is a projected value based on project plans predicated on market conditions continuing as projected.

B. Bulk Land Value (Premise #2). The total land within the project is valued under projected conditions.

1. With proposed infrastructure being financed completely.
2. With existing parcel configuration.
3. Considering planned densities allowed by the [specific] plan of the project.

This premise should consider a discounted or "quick sale" valuation considering time, costs and the possibility of a per unit value based on the total size of the project.

Definitions

Unless the context otherwise requires, the terms employed in the following policies shall have the meanings specified below:

"Assessment Acts" means the Improvement Bond Act of 1911 and/or the Municipal Improvement Act of 1913 and/or the Improvement Bond Act of 1915 and/or the Landscaping and Lighting Act of 1972 and/or the Benefit Assessment Act of 1982, and/or the Mello-Roos Community Facilities Act of 1982.

"Assessment District" means an assessment district formed pursuant to the Assessment Acts.

"Bonds" means bonds authorized and issued under the Mello-Roos Act or the Assessment Acts.

"Bulk Sale Value" means the most probable price, in a sale of all parcels within a tract or development project, to a single purchaser or purchasers, over a reasonable absorption period, discounted to a present value, as of a specified date, in cash or in terms equivalent to cash, for which the property rights should sell after reasonable exposure, in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably and for self-interest, and assuming that neither is under undue stress.

"City" means the City of Carson.

"Discounted Cash Flow" means the measurement of the cash flows associated with the development and sale of real estate parcels, based on an independent judgment of the prices and times at which individual parcels or properties would be sold, after applying a discount rate to such cash flows to reflect the risk-adjusted rate of return necessary to attract the debt and equity investment necessary to undertake and complete the acquisition, entitlement, development and sale of the parcels or properties.

"District" means a Mello-Roos District formed under the Mello-Roos Act or an Assessment District formed under the Assessment Act. For purposes of Mello-Roos Districts, the term "District" shall also refer to a separate improvement area of the District.

"Lien" means, in the case of public debt imposed on a parcel or parcels, the aggregate amount of debt attributable to such parcel, as measured by an assessment engineer; or, in the case of Mello-Roos Community Facilities District debt, the amount of debt attributable to a parcel or parcels, based on an apportionment of the debt to such parcel or parcels in relation to the probable debt service to be borne by such parcel or parcels.

"Mello-Roos Act" means the Mello-Roos Community Facilities Act of 1982.

"Mello-Roos District" means a community facilities district formed pursuant to the Mello-Roos Act.

"Public Facilities" means improvements authorized to be constructed or acquired under the Mello-Roos Act and Assessment Acts including, but not limited to, fees for capital facilities.

"Public Services" means any service authorized by the Mello-Roos Act or the Assessment Acts.

"Value" or **"Fair Market Value"** means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other and both have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used, the gross retail value after improvements funded by the district, and of the enforceable restrictions upon uses and purposes.

"Value-to-lien ratio" means a calculation to measure the number of times the value of a property exceeds the sum of the Liens, including any proposed Liens.

Use of Consultants

The City shall select all consultants necessary for the formation of the district and the issuance of bonds, including the underwriter(s), bond counsel, financial advisor, assessment engineer, appraiser, market study consultant, and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

No firm may serve as both design engineer and engineer of work and assessment engineer or special tax consultant on the same District.

Exceptions to These Policies

The City reserves the right to amend or modify these policies at any time as well as to make exceptions or changes for specific financing projects, as facts or circumstances so warrant.

The City may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special City benefits to be derived from such waiver. Such waivers are granted only by action of the City Council.