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1 RESOLUTION NO. C-27626

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH ADOPTING LOCAL GOALS AND
5 POLICIES FOR COMMUNITY FACILITIES DISTRICTS
6 RELATED TO COMMERCIAL DEVELOPMENT

7
8 WHEREAS, this City Council is authorized to establish community
9 facilities districts (each, a "CFD") under the provisions of the Mello-Roos Community
10 Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of
11 Title 5, commencing at Section 53311, of the California Government Code; and

12 WHEREAS, Section 53312.7(a) of the Act requires that a local agency
13 consider and adopt local goals and policies concerning the use of the Act prior to the
14 initiation of any proceedings on or after January 1, 1994 to establish a CFD; and

15 WHEREAS, on July 2, 1996, this City Council adopted its Resolution No.
16 C-26030 entitled "A Resolution of the City Council of the City of Long Beach Adopting
17 Local Goals, Policies and Appraisal Standards for Purposes of the Mello-Roos
18 Community Facilities Act of 1982 (911 Emergency Response System – Community
19 Facilities District No. 4)" (the "Prior Resolution"), which Prior Resolution adopted local
20 goals and policies under the Act that provided, in part, that "The City of Long Beach ...
21 does not anticipate using the Act in the development context."; and

22 WHEREAS, this City Council now intends to consider the establishment of
23 a CFD which will include the development of property in the Queensway Bay area of
24 the City, and desires at this time to adopt new local goals and policies for CFDs related
25 to commercial development so that it may commence proceedings for establishing a
26 CFD for the Queensway Bay Project; and

27 WHEREAS, City staff has caused to be prepared a draft of goals and
28 policies for CFDs of the City related to commercial development (the "Goals and

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1 Policies”), the form of which is on file with the City Clerk, and this City Council has duly
2 considered said Goals and Policies;

3
4 NOW, THEREFORE, the City Council of the City of Long Beach resolves
5 that the Goals and Policies, in the form on file with the City Clerk, are hereby adopted
6 as the local goals and policies of the City for CFDs related to commercial development,
7 are hereby declared to supercede the goals and policies adopted under the Prior
8 Resolution with respect to any CFD related to commercial development, and are
9 intended to satisfy the requirements of Section 53312.7(a) of the Act.

10
11 I hereby certify that the foregoing resolution was adopted by the City
12 Council of the City of Long Beach at its meeting of December 21, 1999, by the following
13 vote:

14 Ayes: Councilmembers: Oropeza, Baker, Colonna, Roosevelt,
15 Kell, Kellogg, Shultz.

16
17
18 Noes: Councilmembers: Grabinski.

19
20 Absent: Councilmembers: Topsy-Elvord.

21
22
23 CERTIFIED AS A TRUE AND CORRECT COPY

Elaine M. Marsh

24 CITY CLERK OF THE CITY OF LONG BEACH

25 BY *Kathy Mason*

26 DATE: JUN 06 2002

Shelba Powell
City Clerk

27 HAM:tap
12/15/99
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28 #99-06571

CITY OF LONG BEACH

LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS RELATED TO COMMERCIAL DEVELOPMENT (Adopted December 21, 1999)

I. INTRODUCTION. Section 53312.7(a) of the California Government Code requires that the City consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act"), prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act. The following goals and policies are intended to apply solely to community facilities districts related to commercial development, and are intended to meet the minimum requirements of the Act. These local goals and policies may be amended or supplemented by resolution of the City Council at any time.

II. GOALS. The City will consider the use of the Act for financing of public facilities and services only in connection with development projects which are the subject of a written development agreement with the City, an owner participation agreement with the Redevelopment Agency of the City of Long Beach (the "Agency"), or are otherwise incident to development or redevelopment of a commercial area of the City. Any request for a CFD which is not integral to such a commercial development project will be considered on a case by case basis.

The City shall make the determination as to whether a proposed district shall proceed under the provisions of the California assessment laws or the Act. The City may confer with consultants and the applicant to learn of any unique CFD requirements such as facilities serving the regional area prior to making any final determination.

III. ELIGIBLE PUBLIC FACILITIES AND SERVICES. The improvements eligible to be financed by a CFD must be owned by a public agency or public utility, and must have a useful life of at least five (5) years, except that up to five percent of the proceeds of an issue may be used for facilities owned and operated by a privately-owned public utility. The development or redevelopment proposed within a CFD must be consistent with the City's general plan and must have received any required legislative and environmental approvals such as zoning, CEQA or specific plan approvals. A CFD shall not vest any rights to future land use on any properties, including those which are responsible for paying special taxes.

The list of eligible public facilities include, but are not limited to, the following:

- Streets
- Street lighting
- Traffic signals and safety lighting
- Landscaping on public property or in public easements
- Sanitary sewer facilities
- Storm drain facilities
- Public parking structures or surface lots
- Flood control facilities
- Potable and reclaimed water facilities
- Parks and recreational facilities
- Child care facilities
- Public utilities
- Cultural facilities
- Police and fire protection facilities
- Governmental facilities
- Fire Suppression

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 shall consider entering into a joint financing agreement or joint powers authority in order to finance these facilities. A joint agreement with the public agency that will own and operate any such facility must be entered into prior to the resolution of formation of any CFD.

CFDs 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.

The City will consider on a case-by-case basis CFDs established for the provisions of services eligible to be funded under the Act. Eligible services are as specified in the Act.

IV. PRIORITIES FOR CFD FINANCING. Priority for CFD financing shall be given to public facilities which: (a) are necessary for development to proceed in an orderly fashion, or (b) are otherwise coordinated to correspond to the phasing of the related private development project. If appropriate, the City shall prepare a public facilities financing plan as a part of the specific plan or other land use document that identifies the public facilities required to serve a project, and the type of financing to be utilized for each facility. The City will attempt to schedule construction of CFD financed facilities in a manner such that private development will not occur ahead of the installation of public infrastructure necessary to support that development.

V. CREDIT QUALITY REQUIREMENTS FOR CFD BOND ISSUES. All CFD bond issues should have at least a three to one property value to public lien ratio after calculating the value of the financed public improvements to be installed, unless otherwise specifically approved by the City Council as provided in Section 53345.8(b) or (c) of the Act. Property value may be based on either an appraisal or on assessed values as indicated on the county assessor's tax roll. The appraiser shall be selected by or otherwise acceptable to the City, and the appraisal shall be based on standards promulgated by the State of California and otherwise determined applicable by City staff and consultants. The appraisal must be dated within nine months of the date the bonds are issued. The public lien amount shall include the bond issue currently being sold plus any public indebtedness secured by a lien on real property currently existing against the properties to be taxed.

The City will require that all major land use approvals and governmental permits necessary for development be substantially in place relative to any such CFD, before bonds may be issued.

In most cases, a reserve fund equal to the lesser of (i) ten percent of the original proceeds of the bond issue, (ii) the maximum annual debt service on the bonds, or (iii) one hundred twenty-five percent of the average annual debt service on the bonds will be required for all bond issues for CFDs where less than fifty percent of the buildable acreage has been developed. A smaller reserve fund may be required by the City for bond issues in CFDs where over fifty percent of the buildable acreage has been developed, or where the bond issue is to refinance existing assessment or special tax liens.

Less than a three to one property value to public lien ratio, excessive tax delinquencies, or projects of poor economic viability may cause the City to disallow the sale of bonds or require credit enhancement prior to bond sale. The City may consider exceptions to the above policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement

or other reasons specified by the City, and/or which otherwise provide extraordinary public benefits, to the extent permitted by and subject to any applicable requirements of the Act.

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. Any security required to be provided by the applicant may be discharged by the City upon the opinion of a qualified appraiser, retained by the City, that a value-to-lien ratio of three to one has been attained or based upon other criteria (such as diversity in ownership or status of lease-up) specified by the City.

As an alternative to providing other security, the applicant may request that a portion of the bond proceeds be placed in escrow with a trustee or fiscal agent in an amount sufficient to assure a value-to-lien ratio of at least three to one on the outstanding proceeds. The proceeds shall be released at such times and in such amounts as may be necessary to assure a value-to-lien ratio of at least three to one on the aggregate outstanding bond proceeds and other indebtedness secured by real property liens as required, or upon the provision of other security for the Bonds (such as a letter of credit).

VI. DISCLOSURE REQUIREMENTS FOR PROSPECTIVE PROPERTY PURCHASERS.

A. Disclosure Requirements for Developers. Developers who are selling lots, parcels or leasehold interests therein that are within a CFD and subject to special tax levies of the CFD shall provide disclosure notice to prospective purchasers (or lessees, as applicable) that complies with all of the requirements of Section 53341.5 of the Government Code. The disclosure notice must be provided to prospective purchasers of property (or lessees, as applicable) at or prior to the time the contract or deposit receipt for the purchase (or lease) of property is executed. Developers shall keep an executed copy of each disclosure document as evidence that disclosure has been provided to all purchasers (or lessees, as applicable) of property within a CFD.

B. Disclosure Requirements for the Resale of Lots. The City Treasurer 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 within five working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

C. Compliance With Federal Securities Laws. The City shall use all reasonable means to ensure compliance with applicable federal securities laws in connection with the issuance of debt and the provision of annual information regarding any CFD established by the City with respect to which bonds have been issued, including requiring any developer in a CFD who is material to the bond issue to transmit appropriate information to the City or its designee for disclosure to bond investors.

VII. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES.

Special tax formulas for CFDs shall provide for minimum special tax levels which satisfy the following expenses of a CFD: (a) debt service coverage for all CFD bonded indebtedness, (b) the administrative expenses of the CFD, and (c) amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on bonds of the CFD. Additionally, the special tax formula may provide for the following: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts

equal to reasonably projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, and (h) any other costs or payments permitted by law.

The special tax formula shall be reasonable in allocating public facilities' costs to parcels within the CFD. Exemptions from the special tax may be given to parcels which 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 have insufficient value to support bonded indebtedness.

The total projected property tax levels for any CFD shall not exceed any maximum specified in the Act. The annual increase, if any, in the maximum special tax for any parcel shall 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 shall not exceed any maximum specified in the Act.

Special taxes will only be levied on an entire County Assessor's parcel, and any allocation of special tax liability of a County Assessor's parcel to leasehold or possessory interest in the fee ownership of such County Assessor's parcel shall be the responsibility of the lessee or owner of the possessory interest. Failure of the owner of any County Assessor's parcel (or an interest therein) to pay or cause to be paid any special taxes in full when due, shall subject the entire parcel (or such interest as to which the levy has been made) 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, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall 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.

VIII. APPRAISALS. The definitions, standards and assumptions to be used for appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California. In any event, the value-to-lien ratio shall be determined based upon an appraisal by an independent MAI or ASA appraiser of the proposed CFD. The appraisal shall be coordinated by and under the direction of, or otherwise as acceptable to, the City.

IX. TERMS AND CONDITIONS OF BONDS. All terms and conditions of the bonds shall be established by the City. The City will control, manage and invest all bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or credit rating of the City through the special taxes, credit enhancements, foreclosure covenant and reserve funds.

All statements and material related to the sale of bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City is pledged to security or repayment of the Bonds. The sole source of pledged revenues to repay CFD bonds are special taxes, bond proceeds and reserve funds held under the bond document, and the proceeds of foreclosure

proceedings and additional security instruments or pledges expressly provided at the time of bond issuance.

X. CFD COST DEPOSITS AND REIMBURSEMENTS. All City and consultant costs incurred in the evaluation of CFD applications and the establishment of CFDs will be paid by the entity, if any, requesting the establishment of the CFD by advance deposit increments, except in the case of a CFD required to be formed under a disposition and development agreement to which the City is a party.

XI. USE OF CONSULTANTS. The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, financial advisors, appraiser 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.

XII. EXCEPTIONS TO THESE POLICIES. The City may find that a waiver to any of the above stated policies is reasonable given identified benefits to be derived from such waiver. Such waivers only will be granted by action of the City Council.