

CITY OF ONTARIO

MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

LOCAL GOALS AND POLICIES

INTRODUCTION

Section 53312.7(a) of the California Government Code provides that a local agency may initiate proceedings to establish a communities facilities district (a "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act") only if it has first considered and adopted local goals and policies concerning the use of the Act. The following goals and policies have been considered and adopted by the City of Ontario (the "City") and are intended to meet the requirements of the Act.

In each and every circumstance, the decision as to whether or not the City will make use of the Act is a decision that will be made solely by the City. Nothing contained herein shall be construed as obligating the City to make use of the Act in any circumstance or as granting to any person any right to have the City make use of the Act in any circumstance.

GENERAL POLICY STATEMENT

When establishing a Community Facilities District for the purpose of issuing bonds, the City will exercise a fiscally conservative approach to minimize any financing risks to bondholders and maintain the City's good financial reputation. The individual and cumulative financial impact of the City's use of the Act will be carefully evaluated.

It is the City's intention to act as lead agency whenever use is made of the Act to finance facilities to be owned or operated by the City.

ELIGIBILITY

An application for Community Facilities District financing will not be considered unless the City and the landowner applicant have entered into a development agreement, community facilities district financing agreement or other agreement that sets forth the conditions that must be satisfied in order for the City to provide Community Facilities District financing assistance to such landowner or with respect to such landowner's property.

Generally, an application for Community Facilities District financing for facilities will not be considered unless (a) if the property within the Community Facilities District is being developed by a single landowner, such property is proposed to be developed with at least 250 residential units, (b) if the property within the Community Facilities District is being developed by multiple landowners, such property is proposed to be developed with at least 400 residential units within the same specific plan, and (c) the special tax revenues to be derived from the industrial or commercial buildings, including multi-family rental units, proposed to be developed

within the Community Facilities District are expected to provide no greater than 10% of projected debt service on the Community Facilities District bonds. The City may, however, consider on a case by case basis an application for Community Facilities District financing for facilities that does not satisfy such criteria.

PRIORITIES FOR FINANCING

The priority that various kinds of public facilities and services will have for financing through the City's use of the Act is as follows:

- (a) services authorized to be financed pursuant to the Act;
- (b) backbone infrastructure to be owned and/or operated by the City that is required to serve proposed development and that is identified in an infrastructure master plan, specific plan or other appropriate document approved by the City as a major backbone infrastructure element; and
- (c) other public facilities (excluding in-tract infrastructure) to be owned and/or operated by the City for which there is a clearly demonstrated public benefit.

In-tract infrastructure will not be financed through the City's use of the Act. Public facilities to be owned and/or operated by a public agency other than the City, including such public facilities financed *in lieu* of the payment of development fees imposed by such public agency, will, generally, not be financed through the City's use of the Act; provided, however, that the City may consider the financing of such facilities on a case by case basis. Privately owned facilities (that is, facilities not owned by a local agency) will not be financed through the City's use of the Act.

BOND ISSUE CREDIT QUALITY REQUIREMENTS

Project Viability. The viability of the development project within a Community Facilities District is a critical component of the credit quality of a Community Facilities District bond issue. Accordingly, the viability of each such development project will be reviewed and evaluated by the City. Under most circumstances, the viability of a development project is enhanced as the project moves further through the development process. Therefore, generally, a Community Facilities District will be established only if (a) the proposed development within the Community Facilities District is permitted by the zoning or a specific, community or site plan applicable thereto, and (b) tract or parcel maps for the proposed development within the Community Facilities District have been approved by the City Council. Furthermore, bonds of a Community Facilities District will generally not be issued unless final tract maps have been recorded with respect to at least the first phase of the property proposed to be developed within the Community Facilities District.

Value-to-Lien Ratios. The City will require that the credit quality of any Community Facilities District bond issue be such that the requirements of Section 53345.8 of the California Government Code will be met.

If final tract maps have not been recorded with respect to a substantial portion of the property proposed to be developed within the Community Facilities District, the City will generally require that the value of each parcel with respect to which a final tract map has not been recorded be at least three times the sum of (a) the principal amount of the Community Facilities District bonds allocable, on such reasonable basis as the City may determine, to such parcel, plus (b) the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District allocable, on such reasonable basis as the City may determine, to such parcel, plus (c) the principal amount of all other bonds outstanding that are secured by a special assessment levied on property within the Community Facilities District allocable, on such reasonable basis as the City may determine, to such parcel. Any determination of value of such parcel shall be based upon the full cash value as shown on the *ad valorem* assessment roll or upon an appraisal of such parcel made in a manner consistent with these goals and policies.

If the property within the boundaries of the Community Facilities District includes parcels to be developed with industrial or commercial buildings, including multi-family rental units, the City generally will require that the value of each such parcel be at least four times the sum of (a) the principal amount of the Community Facilities District bonds allocable, on such reasonable basis as the City may determine, to such parcel, plus (b) the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District allocable, on such reasonable basis as the City may determine, to such parcel, plus (c) the principal amount of all other bonds outstanding that are secured by a special assessment levied on property within the Community Facilities District allocable, on such reasonable basis as the City may determine, to such parcel. Any determination of value of such parcel shall be based upon the full cash value as shown on the *ad valorem* assessment roll or upon an appraisal of such parcel made in a manner consistent with these goals and policies.

Reserve Fund. In order to enhance the credit quality of Community Facilities District bond issues, the City generally will require that each such bond issue be secured by a reserve fund. Generally, each such reserve fund will be required to be funded (with cash or an acceptable reserve surety or other credit facility) in an amount no less than the least of (a) 10% of the initial principal amount of the bonds of such issue, (b) maximum annual debt service on the bonds of such issue, or (c) 125% of the average annual debt service on the bonds of such issue.

Credit Enhancement. Generally, the City will require that each developer of property within a Community Facilities District provide credit enhancement to increase the credit quality of bonds issued by such Community Facilities District; provided, however, that such credit enhancement generally will not be required if a third-party independent absorption consultant estimates that all of the units within such Community Facilities District will be purchased, leased or rented by end users no later than three years after the date such bonds are issued. Such credit enhancement will usually be in the form of an irrevocable letter of credit, will be required to be in an amount not less than two times the amount of annual special taxes levied on property owned by such developer for which a certificate of occupancy has not been issued by the City and will be required to remain in effect until no more than 7% of the annual special tax levy is levied on property owned by such developer for which a certificate of occupancy has not been issued by the City. Such letter of credit will generally be required to be issued or guaranteed by

an entity, the long term unsecured obligations of which are rated at least "A" by Moody's Investors Service or Standard & Poor's Ratings Service.

Capitalized Interest. Generally, the amount of capitalized interest funded for a Community Facilities District bond issue will be limited to the amount necessary to pay debt service on the bonds for 12 months; provided, however, that the amount of such capitalized interest funded may be increased if required to provide the amount necessary to pay debt service on the bonds until the first interest payment date occurring after the levy of the special taxes may be included in the real property tax roll.

Bond Structure. The term to maturity of any Community Facilities District bonds will not exceed 30 years. The interest payment dates for any Community Facilities District bonds (other than variable rate bonds) will be March 1 and September 1 and the principal payment date for any Community Facilities District bonds will be September 1. Generally, Community Facilities District bonds will be structured such that, once principal amortization thereof has commenced, debt service thereon will be substantially level.

An escrow bond structure for Community Facilities District bonds will not be employed unless such a structure advances an extraordinary City development objective. Generally, Community Facilities District bonds will be issued as fixed rate bonds; provided, however, that, if a Community Facilities District includes only property to be developed with industrial or commercial buildings, including multi-family rental units, bonds for such a Community Facilities District may be issued as variable rate bonds if the landowner causes to be provided appropriate credit enhancement and liquidity for such bonds and causes to be met such other conditions as must be met in order for such bonds to be viably and effectively marketed and remarketed as variable rate bonds.

DISCLOSURE TO PROSPECTIVE PROPERTY PURCHASERS

In order to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under the Act, the City will require that the requirements of disclosure to prospective 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 of the California Government Code, be met.

EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Reasonable Basis of Apportionment. Special taxes must be allocated and apportioned on a reasonable basis to all categories and classes of property (other than exempt property) within the Community Facilities District. Exemptions from the special tax may be given to parcels which are publicly-owned, are held by property owners associations, are dedicated for use for a public purpose or are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easement.

Total Tax and Fee Burden.

Tax Burden. The total tax burden (consisting of the anticipated annual Community Facilities District special tax, together with *ad valorem* property taxes, special assessments,

special taxes for any overlapping community facilities district, and any other governmental taxes, fees and charges payable from and secured by the property) (the "Total Tax Burden") on any parcel in a Community Facilities District on which a for-sale residential unit has been, is being or is to be constructed shall not exceed 1.95% of the estimated base sales price of such parcel upon completion of the public and private improvements relating thereto.

Detached Unit Tax and Fee Burden. The sum of (a) the Total Tax Burden, plus (b) the anticipated annual property owners' association fee or charge on or with respect to any parcel in a Community Facilities District on which a for-sale detached residential unit has been, is being or is to be constructed (the amount of which anticipated fee or charge shall be demonstrated to the reasonable satisfaction of the City) shall not exceed 2.15% of the estimated base sales price of such parcel upon completion of the public and private improvements relating thereto.

Attached Unit Tax and Fee Burden. The sum of (a) the Total Tax Burden, plus (b) the anticipated annual property owners' association fee or charge on or with respect to any parcel in a Community Facilities District on which a for-sale attached residential unit has been, is being or is to be constructed (the amount of which anticipated fee or charge shall be demonstrated to the reasonable satisfaction of the City) shall not exceed 2.55% of the estimated base sales price of such parcel upon completion of the public and private improvements relating thereto.

Rate and Method of Apportionment. The rate and method of apportionment for Community Facilities District special taxes must be structured so as to produce special tax revenues sufficient to pay (a) the costs of services authorized to be financed by the Community Facilities District, (b) reasonable and necessary annual administrative expenses of the Community Facilities District, and (c) debt service on all Community Facilities District bonds. Additionally, the rate and method of apportionment may be structured so as to produce amounts sufficient to fund (a) any amounts required to establish or replenish any reserve fund established for a Community Facilities District bond issue, (b) amounts to pay directly the costs of public facilities authorized to be financed by the Community Facilities District, (c) the accumulation of funds reasonably required for future debt service on Community Facilities District bonds, (d) amounts equal to projected delinquencies in special tax payments, (e) remarketing, credit enhancement or liquidity fees, and (f) any other costs or payments permitted by law.

In any case, the Community Facilities District special tax rate and method of apportionment must be structured such that the projected maximum special tax that could be levied in any fiscal year would produce special tax revenues at least equal to (a) the projected costs of services to be financed by the Community Facilities District in such fiscal year, plus (b) the projected administrative expenses of the Community Facilities District for the calendar year commencing in such fiscal year, plus (c) 110% of the projected annual debt service on all Community Facilities District bonds for the calendar year commencing in such fiscal year. Generally, the rate and method of apportionment for Community Facilities District special taxes will be required to include a back-up tax so that changes in development within the Community Facilities District would not result in the inability to levy special taxes that would produce special tax revenues in such amounts.

Increases in Special Tax. The annual increase, if any, in the maximum special tax for any parcel within a Community Facilities District may not exceed any maximum specified in the

Act. The increase in the special tax levied on any parcel within a Community Facilities District as a consequence of delinquency or default by the owner on any other parcel may not exceed any maximum specified in the Act.

Prepayment of Special Tax. Generally, the special tax rate and method of apportionment for a Community Facilities District will be structured so as to allow the prepayment by property owners of special taxes levied to finance facilities.

APPRAISALS

Except as provided below, the definitions, standards and assumptions to be used in appraisals required in connection with the City's use of the Act for Community Facilities Districts are as set forth in the Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission (the "CDIAC Guidelines"), with the following modifications:

- (a) the independent review appraiser is an option, and not a requirement;
- (b) the comparable sales method may be used whenever there is sufficient data available;
- (c) the appraiser should assume the presence of the public infrastructure to be financed with the bonds in connection with which the appraisal is being prepared; and
- (d) the special tax lien need not be computed as the present value of the future tax payments if there is a prepayment mechanism or other appropriate measure.

Notwithstanding the foregoing, if there is a conflict between the definitions, standards or assumptions in the CDIAC Guidelines and the corresponding definitions, standards or assumptions in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation ("USPAP"), USPAP shall govern.

ABSORPTION STUDY

Generally, for all new residential development, and in such other cases as may be appropriate, the City will select and employ an independent market absorption consultant to perform a market absorption study of the proposed development within the Community Facilities District. Such market absorption study shall provide the market absorption consultant's estimates, based on specified economic and demographic data, of the rates at which the finished products (lots or completed buildings or units) will be sold to final users and, generally, shall include an analysis of competitive prices for the product types proposed to be developed within the Community Facilities District.

ACQUISITION OF FACILITIES

Public facilities that are financed through a Community Facilities District will, generally, be constructed by or on behalf of the landowners and, upon completion, be acquired by the City with proceeds of the Community Facilities District bonds in accordance with the provisions of an

acquisition agreement by and among the Community Facilities District, the City and such landowners (or their designee) entered into at or prior to the time such bonds are issued. Such acquisition agreement will, generally, provide (a) that the acquisition price to be paid for an improvement shall not include costs for professional services related to the construction of such improvement, including, engineering, legal, accounting, inspection, construction staking, materials testing and similar professional services, in excess of 15% of the actual, reasonable cost of constructing such improvement, (b) that the acquisition price to be paid for an improvement shall not include costs for the contractor's construction management, bid administration and contract administration services in excess of 5% of the actual, reasonable cost of constructing such improvement, (c) that the acquisition price to be paid for an improvement shall not include an amount for the overhead of the landowners (or their designee), and (d) the acquisition price for any improvement will not be paid unless and until the construction of permanent water and sewer facilities to serve the property in the Community Facilities District has been completed; provided, however, that the acquisition price for water improvements may be paid upon completion of the construction of permanent water facilities to serve the property in the Community Facilities District and the acquisition price for sewer improvements may be paid upon completion of the construction of permanent sewer facilities to serve the property in the Community Facilities District.

DISCLOSURE FOR BOND ISSUES

Initial Disclosure. Each owner of property within a Community Facilities District that has not reached its planned development stage and that will be responsible for 10% or more of annual debt service on an issue of Community Facilities District bonds will be required to provide for inclusion in the official statement or other offering materials distributed in connection with the offering and sale of such bonds such information as may be required for the City to comply with, satisfy any requirements of, or avoid any liability under, any applicable federal or state securities laws.

Continuing Disclosure. Each owner of property within a Community Facilities District, and each subsequent owner of property therein, that has not reached its planned development stage and that will be responsible for 10% or more of annual debt service on an issue of Community Facilities District bonds will be required to provide such information, on an ongoing basis, as may be required for the underwriter of such bonds to satisfy the requirements imposed on it pursuant to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

APPLICATION AND DEPOSITS

The application form for a proposed Community Facilities District may be obtained from the Administrative Services/Finance Director. Completed applications shall be returned to the Administrative Services/Finance Director and must be accompanied by the required deposit described below. A Staff Review Committee, consisting of the City Manager (or designated representative), Community Development Director, Administrative Services/Finance Director, City Engineer, Planning Director and such other staff members or outside consultants as the City deems appropriate, will review the application for compliance with these goals and policies and will make a recommendation to the City Council as to whether or not to proceed with the proposed Community Facilities District.

The costs of the proceedings for a Community Facilities District financing initiated by petition of landowners will be borne by the petitioners. No action will be taken on any petition unless and until a deposit of funds is made by the petitioners with the City. The deposit must be sufficient to cover the expense of City staff time, the costs of non-contingent outside consultants retained for the financing and the costs of recordings, filings, duplication, mailings and deliveries. In general, the deposit will not be less than \$75,000, and may be more, as required by the City. The deposit must be increased upon demand of the City if at any time the City determines that the remaining amount is not sufficient to cover anticipated remaining expenses and costs. If the additional amount is not paid within ten business days of the mailing of a written demand by the City to the petitioners, the City will cease all activities with respect to the Community Facilities District financing until the additional amount is paid. The initial deposit and any additional amounts will be held by the City and used only for the expenses and costs incurred in connection with the Community Facilities District proceedings. Any balance of such deposit remaining upon completion of the Community Facilities District proceedings, or the abandonment thereof, and not needed to pay expenses and costs relating thereto will be returned to the petitioner. The use of the deposit shall in no way be construed as requiring the City to issue Community Facilities District bonds or to provide reimbursement from the proceeds thereof for portions of the deposit that are expended. If bonds are issued by a Community Facilities District, the petitioners will be reimbursed from bond proceeds for the portion of such deposit that has been expended or encumbered. In connection with the making of such deposit by the petitioner, the City and the petitioner will enter into a Deposit and Reimbursement Agreement providing for the use, application, expenditure and reimbursement of such deposit.

CONSULTANTS

The City will select all consultants to be retained by the City for a Community Facilities District financing, including, but not limited to, the financial advisor, special tax consultant, bond counsel, disclosure counsel, underwriter, market absorption consultant, appraiser and trustee. Providers of letters of credit, bond insurance policies, surety bonds or other credit enhancements are also subject to City approval. Consultants, including legal counsel, to the applicant or other property owner within the Community Facilities District will be selected, retained and paid by the applicant or such property owner; such consultants will not be paid from the proceeds of the financing.

MINIMUM STANDARDS; WAIVERS AND AMENDMENT

The policies set forth herein reflect the minimum standards under which the City will make use of the Act to finance public facilities. The City may, in its discretion, require additional measures and procedures, enhanced security and higher standards in particular cases.

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.