

POLICY TITLE ASSESSMENT DISTRICT FINANCING FOR PRIVATE DEVELOPMENT

POLICY STATEMENT:

1. City of Santa Cruz (hereinafter "City") encourages the development of residential, commercial or industrial property and where, in the City's opinion, the public facilities of a residential, commercial or industrial development (hereinafter "Development Project") represents a significant public benefit, the City Council will consider the use of special benefit assessment or Mello-Roos districts (hereinafter "Financing Districts"), as well as other financing methods, to assist these types of development.

While recognizing that public facilities proposed to be financed must meet a public need and must benefit properties within the proposed Development Project, public benefit implies that a significant benefit will also result to the community at large. An example of significant public benefit is a public facility having regional impact such as an all-weather bridge, a freeway overpass, a regional water or wastewater facility, the advance collection of City impact fees, traffic signals, parks, open space, recreational facilities, low and moderate income housing, bus stop shelters, creating a significant job market, substantial increase in assessed valuation of real property, etc.

If public financing is to be permitted for real property public improvements, the useful life of said improvements must be equal to or greater than the term of the bonds.

The City is not obligated to assist with infrastructure financing on behalf of a project proponent, and reserves the right at the City's sole discretion, to provide or not provide assistance.

2. The proposed Development Project must be consistent with the City's Comprehensive General Plan and have secured appropriate land use approvals from the City to allow for the implementation of the ultimate development of the area.
3. Facilities which are, upon completion, owned, operated or maintained by public agencies shall be considered public facilities. Limited exceptions will be made for certain facilities to be owned, operated or maintained by private utilities.

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4. An appraisal shall be required of the property securing any public financing. A minimum property value lien/debt ratio of at least 3:1 (after installation of the public facilities being financed and including any overlapping assessment or community facilities districts) must be determined pursuant to Premise 3 entitled "Bulk Land value" as set forth in Attachment A as determined by an M.A.I. appraisal. A lesser value to lien/debt ratio may be considered by the City on a case-by-case basis upon compelling justification and when recommended by the City's Financial Advisor or Bond Counsel.
5. Each bond issue shall be structured to adequately protect bondowners and to not negatively impact the bonding capacity or credit rating of the City. The City may request some combination of credit enhancement, foreclosure covenant, special reserve fund or deposits and/or a contractual commitment by the proponents and successors to pay the assessments during at least the first years of the bonds. Specifically:
 - A. The City may require credit enhancements (e.g. a direct pay irrevocable letter of credit) if the value-to-lien ratio is substantially below 3:1 and the letter of credit is used to bring the value-to-lien ratio up to an acceptable level. The need for credit enhancements will be determined in conjunction with City's consultants.
 - B. If a Letter of Credit is required, it must be provided on or before the delivery date of the bonds, and must be an irrevocable credit commitment. Commitment letters or in-lieu letter of credit guarantees will not be accepted.
 - C. A foreclosure covenant may be required.
 - D. The City may require that capitalized interest on the initial series of bonds be funded from the proceeds of the bonds. Capitalized interest shall not exceed twenty-four (24) months, or a shorter period if further restricted by statute. Interest earnings may, at the City's discretion be applied to extend the initial term of capitalized interest but in no event beyond the term statutorily authorized. The inclusion of capitalized interest in subsequent series of bonds will be at the City's discretion and will only be permitted if direct benefit inures to the ultimate property owner.
 - E. A reserve fund equal to the lesser of ten percent (10%) of the original principal amount of the bonds, maximum annual debt service or one hundred twenty-five percent (125%) of average annual debt service (the "Reserve Requirement") shall be funded from the proceeds of each series of bonds. A lesser amount may be authorized by the City at its discretion.

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6. The City shall require bond issues to be structured with either approximately level debt service or increasing debt service, not to exceed 2% annually. To the extent that bonds are issued in series, individual series of bonds may have uneven debt service if the intention is to create level debt service at such time as all series of bonds are issued and to minimize the potential of fluctuating annual assessment. Deviations from the foregoing policy will only be permitted under limited circumstances.
7. Full disclosure of the 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 to be made aware of the lien obligation.
8. The City will exercise control over the selection of all third party consultants for conduit financing, including but not limited to the following: a) Bond Counsel; b) Financial Advisors; c) Trustee; d) Paying Agent; e) Special Tax Consultants; f) Financing District Engineers; g) Appraisers; etc. The cost of all third party consultants will be borne by the project proponent, and any necessary advance payments will be made via deposits with the City.
9. All district formations and financings shall proceed in accordance with the provisions of the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915, or the Mello-Roos Community Facilities District Act of 1982.
10. Unless otherwise authorized by the City, the acquisition provisions of either the Municipal Improvement Act of 1913 or the Mello-Roos Community Facilities District Act of 1982 shall be utilized. The City and project proponent shall mutually agree on the facilities to be acquired and the method of determining reasonable acquisitions costs. An Acquisition Agreement shall be required and approved by the City Council prior to the issuance of bonds.
11. If the project proponent, in the initial petition, requests the City to be the construction agent, the project proponent must submit a proposed construction schedule and estimated construction costs. The City will review the proposed construction information provided by the project proponent and, in addition to revisions to construction data as may be necessary, will determine other staffing requirements.
12. For uninhabited or new development, the project proponent or developer must demonstrate to the satisfaction of the City the project proponents/developers financial plan and ability to pay all assessments.

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13. All statements and materials related to the sale of Financing District improvement bonds shall emphasize and state that neither the full faith, credit nor the taxing power of the City is pledged to the repayment of the bonds, nor is there an obligation of the City to replenish the reserve fund from revenue sources other than annual assessments or proceeds from foreclosure proceedings.
14. All contracts for public improvements to be owned, operated, or maintained by the City shall be solicited, let and administered in compliance with public practices and consistent with the opinion of the Attorney General with respect to prevailing wages.
15. The proponents will covenant that bond proceeds will be used and dispersed at times and in the manner as specified in the resolutions forming the Financing Districts and other related agreements entered into with the City.
16. The City Council has the right to waive or modify any of the policies included herein if, in the Council's judgment, benefit inures to the ultimate property owners, the Financing District or to the City.
17. Further, City may require as a condition of providing said financing that the development owners execute a recordable agreement with City to allow prospective purchasers the option to pay down or pay off, as the case may be, the Financing District liens at the time of close of escrow upon sale of any lots or parcels to such prospective purchasers.

Attachment A

CRITERIA FOR APPRAISALS

- (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.

- (B) Standards of Appraisal: The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A described appraisal shall be prepared for complex appraisal problems. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following items.
 - (1) 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.
 - (2) An adequate description of the physical characteristics of the property being appraised, location, zoning, present use, an analysis of highest and best use.
 - (3) 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.
 - (4) A description of comparable sales, including a description of all relevant physical, legal and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
 - (5) A statement of the value of the real property.
 - (6) The effective date of valuation, date of appraisal, signature and certification of the appraiser.

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- (C) Conflict of Interest: No appraiser or review appraiser shall have any interest direct or indirect in the real property being appraised for the Agency 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.
- (D) Special Assessment district Appraisal Premises: The valuation of proposed special assessment districts should be based on three premises:

(1) Raw Land Value (Premise #1). The total land within the project is valued "as is":

- (a) With any existing infrastructure.
- (b) Without proposed infrastructure being financed.
- (c) With existing parcel configuration.
- (d) Considering planned densities allowed by the specific plan of the project.

This is a typical type of land valuation.

(2) Project Buildout Value (Premise #2). The total land within the project is valued under projected conditions:

- (a) With proposed infrastructure being financed completed.
- (b) At the planned densities allowed by the specific plan.
- (c) Land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed.

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

(3) Bulk Land Value (Premise #3). The total land within the project is valued under projected conditions:

- (a) With proposed infrastructure being financed completed.
- (b) With existing parcel configurations.
- (c) 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.