RESOLUTION NO. 10-7706

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ADOPTING GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, this City Council is intending to consider the conduct of proceedings under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311 of Part 1, Division 2, Title 5 of the California Government Code) (the "Act"); and

WHEREAS, the City Council may initiate proceedings to establish a community facilities district under the Act (a "CFD") only if it has first considered and adopted local goals and policies (the "Goals and Policies"), and a form of such Goals and Policies are on file with the City Clerk.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the Goals and Policies described in Exhibit A attached hereto are hereby found to meet the requirements of the Act and are hereby adopted by this Council for purposes of compliance with the Act, subject to further amendment by this City Council as may be required from time to time.

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2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

3. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 30th DAY OF MARCH, 2010, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Caserta, Kornder, Matthews, and Moore and Mayor Mahan
NOES:	COUNCILORS:	Kennedy
ABSENT:	COUNCILORS:	McLeod
ABSTAINED:	COUNCILORS:	None

ATTEST:

ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
1. Exhibit A: Local Goals and Policies for Community Facilities Districts

EXHIBIT A

CITY OF SANTA CLARA

LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS

I. GENERAL.

Section 53312.7(a) of the California Government Code requires that the City of Santa Clara (the "City") consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982, Section 53311 et seq. of the California Government Code (the "Act"), prior to the initiation of proceedings to establish a new community facilities district under the Act.

These Local Goals and Policies for Community Facilities Districts (these "Policies") provide guidance and conditions for the conduct by the City of proceedings for, and the issuance of bonds secured by special taxes levied in, a community facilities district (a "CFD") established under the Act. These Policies are intended to be general in nature; specific details will depend on the nature of each particular financing. These Policies are applicable to financings under the Act and are intended to comply with Section 53312.7 (a) of the Act. These Policies shall not apply to any assessment financing or any certificate of participation or similar financings involving leases of or security in public property. These Policies are subject to amendment by the City Council at any time.

II. FINANCING PRIORITIES.

Eligible Public Facilities. Except as provided below, the public improvements eligible to be financed by a CFD must be owned by a public agency and must have a useful life of at least five years Any development proposed within a CFD must be consistent with the City's general plan and must receive any required legislative approvals, such as zoning or specific plan approvals, prior to the issuance of bonds by the CFD to finance the acquisition or construction of public facilities. The formation of or issuance of bonds by a CFD shall not vest any rights to future land use on any properties, including those responsible for paying special taxes.

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
- Flood control facilities
- Potable and reclaimed water facilities
- Utility improvements and relocations
- Elementary and secondary school sites and facilities

- Libraries
- Parks and recreational facilities
- Public utilities
- Cultural facilities
- Police and fire protection facilities
- Governmental facilities
- Parking lots and facilities
- sidewalks, pedestrian pathways and pedestrian bridges
- fencing

It is acknowledged that the Act permits the financing of fee obligations imposed by governmental agencies the proceeds of which fees are to be used to fund public capital improvements of the nature listed above. The City will consider an application to finance fee obligations on a case-by-case basis. The City will give priority to financing City fees because of the administrative burden associated with financing fees payable to other local agencies.

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 community facilities agreement or joint powers authority in order to finance these facilities.

A CFD 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.

Priority Facilities. Priority for CFD financing of public facilities 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 may 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.

Eligible Services; Priority Services. The services eligible to be funded by a CFD are those identified in the Act. Subject to the conditions set forth in the Act, if applicable, priority for public services to be funded by a CFD shall be given to services which are (a) necessary for the public health, safety and welfare and (b) would otherwise be paid from the City's general fund. The City may fund services to be provided by another local agency if it determines the public convenience and necessity require it to do so, although the City prioritizes financing services to be provided by the City. If appropriate, the City may prepare a public services financing plan as a part of the specific plan or other land use document that identifies the public services required to serve a project and the source of funding for each such service.

Eligible Private Facilities. Financed improvements may be privately owned in the specific circumstances, and subject to the conditions, set forth in the Act.

III. BOND FINANCINGS; CREDIT QUALITY.

Value-to-Public Lien Ratio. At the time that a CFD issues a series of bonds, the value of the taxable property within the CFD should be at least three times the sum of (i) the principal amount of the bonds to be sold plus (ii) the pro rata principal amount of other outstanding publicly issued bonds that are secured by a special tax or assessment lien on the taxable property within the CFD; provided, however, that this requirement may be modified or waived pursuant to specific findings 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 (as described in VI below), or on assessed values as indicated on the last equalized County assessor's tax roll.

Development Status. The City will require all major land use approvals and governmental permits necessary for development of land in the CFD to be substantially in place before bonds are issued. The City may delay or disallow the formation of a CFD or sale of CFD bonds where a development project is on hold or other factors cause the City to determine that the development project's economic viability is uncertain.

Property Tax Delinquencies. The City may delay or disallow the formation of a CFD or sale of CFD bonds where property tax delinquencies exist with respect to the taxable property within the CFD.

Reserve Fund. In most cases, a debt service reserve fund will be required for CFD bond issues, which will be funded in an amount equal to the lesser of (i) 10% of the original proceeds of the CFD bond issue, (ii) the maximum annual debt service on the CFD bonds, or (iii) 125% of the average annual debt service on the CFD bonds. The City may agree to a smaller debt service reserve fund for CFDs for which certain development thresholds identified by the City have been met.

Failure to Meet Credit Criteria; Credit Enhancement; Escrow of Bond Proceeds. The City may consider exceptions to the credit quality criteria contained in these Policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement or other reasons specified by the City, 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 credit enhancement (in the form of a letter of credit, surety 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 satisfaction of the applicable credit criteria specified by the City.

As an alternative to providing other security, and subject to federal tax law, 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 the financing will meet the applicable credit criteria, as determined by the City in its sole discretion. The escrowed proceeds shall be released at such times and in such amounts as may be necessary to assure the applicable credit criteria have been met.

Investor Suitability. The City will require that CFD bond financings be structured so that bonds are purchased and owned by suitable investors. In situations where the City determines that the credit quality of the CFD or the CFD bonds so warrant (for example, where there is an insufficient value-to-lien ratio, where a substantial amount of the property within a CFD is undeveloped, where tax delinquencies are present in parcels within the CFD, and in any other situation identified by the City), the City may require placement of bonds with a limited number of sophisticated investors, large bond denominations, or transfer restrictions.

IV. DISCLOSURES

Purchasers of Property. As a minimum, any disclosures mandated by applicable state law to inform prospective purchasers of their obligations under the CFD shall apply to each CFD. In addition, there may be additional requirements mandated by the City for particular kinds of financings on a case-by-case basis. The City may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD.

Disclosure Requirements for the Resale of Lots. The City 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 California 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.

Continuing Bond Disclosure. The City may require landowners in a CFD that are responsible for 10% or more of the annual special taxes to provide: (i) initial disclosure at the time of issuance of any bonds; and (ii) annual disclosure as required under Rule 15c2-12 of the Securities Exchange Commission until the special tax obligation of the property owned by such owner drops below 10%.

V. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Minimum Special Tax Levels. Special tax formulas shall provide for minimum special tax levels which satisfy the following payment obligations of a CFD: (a) 110 percent gross 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 related bonds of the CFD.

In addition, the special tax formula may provide for the following to be included in the special tax levels: (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 projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, rehabilitation, furnishing or equipping of authorized facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, (h) the costs of authorized services, and (i) any other costs or payments permitted by law.

Equity of Special Tax Allocation Formula. The special tax formula shall be reasonable in allocating the CFD's payment obligations to parcels within the CFD. Exemptions from the special tax may be given to parcels which are publicly owned, held by a property owners' association, used for a public purpose such as open space or wetlands, affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, have insufficient value to support bonded indebtedness, or under other reasonable criteria set forth in the special tax formula.

Aggregate Tax Burden. The total projected property tax levels for any CFD (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding property owners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) must be reasonable, and will be considered by the City on a case-by-case basis.

The annual increase, if any, in the maximum special tax for any parcel may not exceed any maximum specified in the Act. The increase in the special tax levied on any residential parcel as a consequence of delinquency or default by the owner of any other parcel may not exceed any maximum specified in the Act.

Levy on Entire Parcels. 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 fee owner of such parcel and the City shall have no responsibility therefor and has no interest therein. Failure of the owner of any County assessor's parcel to pay or cause to be paid any special taxes in full when due shall subject the entire parcel to foreclosure in accordance with the Act.

Feasibility Analysis. 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, privately-owned improvements, City administrative costs, public services (if applicable) and other related expenditures. Such analysis, if prepared, will 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.

VI. APPRAISALS

The definitions, standards and assumptions to be used for any appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants, and by reference to relevant materials and information promulgated by the State of California (including, but not limited to, the California Debt and Investment Advisory Commission). The appraiser shall be an independent appraiser selected and retained by the City, and the appraisal shall be coordinated by and under the direction of the City.

The date of value referenced in the appraisal must be no more than 90 days before the date the bonds are priced, unless the City Council determines a longer time is appropriate.

All costs associated with the preparation of the appraisal report shall be paid by the applicant requesting the establishment of the CFD, if applicable, through an advance deposit.

VII. FINANCING TERMS

All terms and conditions of any CFD bonds shall be established by the City in its sole discretion. The City will control, manage and invest all proceeds of CFD bonds. Each CFD bond issue shall be structured (through the special tax levy, credit enhancements, foreclosure covenants, debt service reserve funds, or other measures) to adequately protect bond owners and to avoid any negative impact on the bonding capacity or credit rating of the City.

Neither the faith and credit nor the taxing power of the City will be pledged to security or repayment of any CFD bonds. The sole source of revenues that will be available to pay debt service on CFD bonds are special taxes, reserve funds or other pledged amounts held under the bond issuance documents, the proceeds of foreclosure proceedings for the collection of delinquent special taxes, and the proceeds of any additional security instruments or credit enhancements available to pay debt service on the CFD bonds.

The City shall, in its sole discretion, select and retain all consultants necessary for the formation of the CFD and the issuance of bonds, including one or more underwriters, bond counsel, disclosure counsel, financial advisors, the special tax consultant, and as applicable, an appraiser and market absorption/pricing consultant.

VIII. EXCEPTIONS TO THESE POLICIES

To the extent permitted by the Act, the City Council may waive or modify these Policies in any respect upon a finding that such a waiver or modification is reasonable or desirable under circumstances specific to a given CFD.