



Financial Policies - Debt Management

The Debt Management Policy provides operating guidelines for all major debt transactions of the City and South Tahoe Financing Authorities. Additional guidelines specifically applicable to land-secured financing, including Community Facilities Districts, Assessment Districts and conduit financings are also included in this policy. The Debt Management Policy addresses the following objectives:

1. To guide the City Council and management in debt issuance decisions having significant fiscal impact;
2. To maintain appropriate capital assets for present and future needs;
3. To promote sound financial management by providing accurate and timely information on financial condition;
4. To protect and enhance the city's credit rating;
5. To ensure the legal use of city bonding authority through an effective system of financial security and internal controls;
6. To promote cooperation and coordination with other governments and the private sector in the financing and delivery of services; and
7. To properly articulate the City's policies and make them available to interested parties.

A. Debt Management Approach

The City will manage its debt to ensure high credit quality, access to credit markets, and financial flexibility. This debt management program will lower the overall long-term cost of government for City residents and businesses.

1. Credit Quality

All City debt management activities will be conducted to receive the highest credit ratings possible and then, at a minimum, to maintain at least the current credit ratings assigned to the City's debt by the

major credit rating agencies. The City shall use the following ratios, standards and limits to guide its maintenance of credit quality:

- a. Non-self supporting annual debt service will not exceed 25 percent of total annual general fund expenditures
- b. The City shall not exceed the statutory debt limits
- c. Overlapping debt (including debt from all other jurisdictions which tax City taxpayers) will be taken into consideration in planning debt issuance.

2. Standards for Use of Debt Financing

Debt will be used only in those cases where public policy, equity, and economic efficiency favor debt over cash (pay-as-you-go) financing. Whenever possible, the debt shall be self supporting.

- a. *Long-Term Capital Projects:* Debt will be used primarily to finance long-term capital projects -- paying for the facilities or equipment over their useful lives and concurrent with the stream of benefits from these facilities.
- b. *Special Circumstances for Debt Issuance.* Debt may be used in special circumstances for other than long-term capital projects, only after careful policy evaluation by the City Council and management.
- c. *Cash Financing of Capital Outlays.* To demonstrate the City's commitment to a continued capital program, to ensure careful consideration of the level of capital expenditures, and to enhance the City's overall creditworthiness, the City will fund at least 2 to 5 percent of the overall capital program from current resources, depending upon the specific projects and annual budgetary constraints.

3. Record-Keeping

The Finance Department will maintain a central system for all debt-related records. At a minimum, this repository will include all official statements, bid documents, ordinances, indentures, leases, etc. for all City debt. To the extent that official transcripts incorporate these documents, possession of a transcript will suffice. The Finance Department will collect all available documentation for outstanding debt, and will develop a standard procedure for archiving transcripts for any new debt.

4. Rebate Policy and System

The City will accurately account for all interest earnings in debt-related funds. These records will be designed to ensure that the City is in compliance with all debt covenants, and with State and Federal laws. The Finance Department shall maintain a system of reporting interest earnings, which relate to Internal Revenue Code of 1986 as amended, rebate, yield limits, and arbitrage. The City's policy shall be to maximize the interest earning on all funds while minimizing rebates to the Federal Government.

5. Continuing Disclosure and Market Relationships

- a. *Continuing Disclosure:* The Finance Director shall maintain a system of continuing disclosure, which will ensure that investors, rating agencies and other interested parties are provided full and accurate disclosure of all matters relevant and material to each debt issue. All City official statements will be designed to meet or exceed industry standard disclosure guidelines.
- b. *Investment Community and Rating Agency Relationships:* Private decision makers and opinion-leaders in the investment community can have a significant effect on the City's borrowing cost. In order to ensure the lowest possible cost of capital, the City shall seek to maintain positive relationships with all members of the investment community.

The foundation of these positive relationships will be frequent, open, and effective communication of the City's financial status to these parties. The Finance Director will seek to inform the investment community through a yearly publication detailing the financial health and fiscal forecasts of the City. Such publication shall be made available to all credit market participants.

Except for all Mello-Roos and Assessment District Financings, the City will seek a credit rating, either directly or indirectly through the purchase of bond insurance. The City will also seek a credit rating when appropriate for Mello-Roos and Assessment District debt.

B. Financing Criteria

1. Types of Debt

- a. Long-Term Debt
Long-term debt shall be self-supporting, whenever possible, and as such will be revenue debt, or revenue-backed with a general fund pledge. Other long-term debt may be issued as best meets the City's needs.
- b. Short-Term Debt
 - i. *Bond Anticipation Notes (BANs)* may be issued instead of capitalizing interest to reduce the debt service during the construction period of a project or facility. The BANs shall not mature more than 3 years from the date of issuance. BANs shall mature within 6 months after substantial completion of the financed facility. No BANs shall be issued with out an identified and secured revenue source for re-payment.
 - ii. *Tax and Revenue Anticipation Notes (TRANs)* shall be issued only to meet actual cash flow needs and shall never exceed 10 percent of projected budget resources.
 - iii. *Lines of Credit* shall be considered as an alternative to other short-term borrowing options. The lines of credit shall be structured to limit concerns as to the Internal Revenue Code.

2. Lease Purchase Debt

Lease purchase debt, including certificates of participation, shall be considered as an alternative to long-term vendor leases. Such debt shall be subject to annual appropriation. In order to reduce the cost of lease borrowing and to improve control over leases, the City may adopt a master lease program.

Lease-purchase debt for equipment and furnishings will not be issued for items, singularly or when aggregated, that cost less than \$10,000 or that have a useful life of less than 3 years. Long-term non-self-supporting leases for buildings and facilities will be used when the cost of leasing such buildings is more than or equal to the debt service paid for the lease purchase of such facilities.

3. Variable Rate Debt

The City may consider variable rate debt only in the following circumstances:

- a. *High Interest rates:* Interest rates are above historic average trends;
- b. *Variable Revenue Stream:* The revenue stream for repayment is variable, and is anticipated to move in the same direction as market-generated variable interest rates, or the dedication of revenues allows capacity for variability;
- c. *Adequate Safeguards against Risk:* Financing structure and budgetary safeguards are in place to prevent adverse impacts from interest rate shifts; such structures could include, but are not limited to, interest rate caps;
- d. *Finance Department Analysis:* A report from the Finance Director shall be forwarded to the City Council evaluating and quantifying the risks and returns involved in the variable rate financing and recommending variable rate as the lowest cost option.

4. Swaps, Foreign Markets

The City will not issue any foreign denominated debt nor engage in any interest rate swaps, unless such transactions have been first thoroughly evaluated and the risk exposure from such transactions is quantified and presented to the City Council for review.

5. Terms and Conditions of Bonds

All terms and conditions of City debt shall be established by the City Council with recommendations from the City Manager and Finance Director. The Finance Director and City Treasurer will control, manage and invest all bond proceeds, including those from land-secured or conduit project issued bonds. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- a. *Term* - If a single series of bonds is contemplated, the bonds will mature within a period that is no greater than twenty-five (25) years unless extended to more closely relate the final maturity to the useful life of the facility being financed. If multiple series of bonds are contemplated, the term of each series will be appropriately determined to meet the City's objectives.
- b. *Capitalized Interest* - Unless otherwise agreed to by the City, interest shall not be funded (capitalized) beyond two years or a shorter period if further restricted by statute. The City may

require that capitalized interest on the initial series of bonds be funded from the proceeds of the bonds. Interest earnings may, at the City's discretion, be applied to extend the term of capitalized interest but in no event beyond the term statutorily authorized.

- c. *Debt Service Structure* - Debt issuance shall be planned to achieve relatively rapid repayment of debt while still matching debt service to the useful life of facilities. Beginning with the commencement of the repayment of principal, annual debt service of the City's General Obligation indebtedness shall be retired on a level debt service basis unless project circumstances require otherwise. In regard to Mello-Roos, CFD debt, annual debt service may be level or may escalate up to a maximum of 2% per year, subject to restrictions imposed by applicable laws and regulations. To the extent that bonds are issued in series, individual series of bonds may have uneven debt service if the intent is to create level debt service at such time as all series of bonds are issued and to minimize the potential of a fluctuating annual debt service.

- d. *Court Validation Proceedings* - Upon advice of bond counsel and prior to the issuance of bonds, the City shall authorize its bond counsel to commence and process to final judgment an action establishing the validity of the proceedings, special tax and issuance of bonds.

- e. *Underwriter's Discount* - The underwriter's discount shall be negotiated and determined solely by the City and shall be competitive with and comparable to such discounts on similar financings being issued by the City or other public entities. The City shall consider any other compensation the underwriter may be receiving in connection with the bond financing in determining the appropriate amount of the discount.

- f. *Original Issue Discount* - An original issue discount will be permitted only if the City determines that such discount results in lower total debt service payments, a lower true interest cost on the bonds and that, for land-secured financings, the use of an original issue discount will not adversely affect the ability of the financing district or conduit project to construct facilities identified by the bond documents.

- g. *Multiple Series* - In instances where multiple series of bonds are to be issued, the City shall make a final determination as to

which facilities are of the highest priority and those facilities which will be financed first, pursuant to funding availability and the proposed timing of facilities development, and will be subject to the earliest or most senior lien except, when concerning land-secured financing if the City and applicant/developer agree separately.

6. Credit Enhancements

The City will consider the use of credit enhancements on a case-by-case basis, evaluating the economic benefit versus cost for each case. Only when a clearly demonstrable savings can be shown shall an enhancement be considered. The City will consider each of the following enhancements as alternatives by evaluating the cost and benefit of such enhancements.

- a. *Bond Insurance* - The City shall have the authority to purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on the bonds insured versus uninsured.
- b. *Debt Service Reserves* - 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-and-twenty-five percent (125%) of average annual debt service (the "Reserve Requirement") shall be funded from the proceeds of each series of bonds, subject to federal tax regulations. The City shall have the authority to purchase reserve equivalents when such purchase is deemed prudent and advantageous. Such equivalents shall be evaluated in comparison to cash funding of reserves on a net present value basis (i.e., the use of a reserve fund surety).
- c. *Letters of Credit* - The City shall have the authority to enter into a letter-of-credit agreement when such an agreement is deemed prudent and advantageous.

7. Refunding

The Finance Director shall analyze all outstanding bond issues for refunding opportunities on a periodic basis. Such review shall consider the benefits and costs of the proposed refinancing. In addition, the City will accept refunding proposals from underwriting firms and financial advisors, which the Finance Director shall then

analyze and verify. The Finance Director shall consider the following issues/criteria in analyzing refunding possibilities:

- a. *Debt Service Savings* - The City shall consider refunding bonds if the refunding generates net present value savings of at least three (3) percent of the refunded bond principal amount or at least \$750,000 (including foregone interest earnings), or that the refunding will capture at least 75% of the option value of the outstanding debt. The present value savings will be net of all costs related to the refinancing.
- b. *Advance Refunding* - The advance refunding of outstanding indebtedness may be appropriate to meet City service and financial objectives. In giving its authorization for the advance refunding, the City will state the reasons and goals to be achieved by the refinancing, as well as acknowledging that each bond issue is allowed to be advance refunded only once. The City will retain a verification agent to independently determine that the advance refunding escrow is sufficient to pay all necessary principal and interest payments for the refunded bonds.
- c. *Restructuring* - The City will refund debt to achieve a restructuring of its debt when it is in the best financial interest of the City to do so. Such debt restructurings will be limited to meet unanticipated revenue expectations or to remove unduly restrictive bond covenants.
- d. *Term of Refunding Issues* - No refunding shall result in the extension of debt service payments beyond the term of the originally issued debt. The term may be shortened to realize greater savings, but such shortening should be guided by the remaining useful life of the financed facility and the concept of inter-generational equity.

8. Methods of Issuance

The City will generally strive to issue debt through competitive sale unless the Finance Director finds that the sale by negotiation would provide significant cost advantages to the City or would eliminate or reduce certain risks such as those related to the timing of certain sales. The Finance Department shall provide the City Council with a recommendation whenever a negotiated sale is contemplated.

- a. *Methods of Issuance*

- i. Competitive: Sale of securities by competitive bid of bond underwriters shall be the method of choice for general obligation debt and other types of debt on a case-by-case basis.
 - ii. Negotiated: The City recognizes that some securities are best sold through negotiation. The City shall elect to sell securities through this method if conditions exist that would otherwise limit the market access of the City for these securities. The criteria to be used when evaluating the negotiated sale of indebtedness may include:
 - 1) Structure: Whether the financial structure of the issue is simple and straightforward, or is complicated (i.e., a *story bond*);
 - 2) Capital Market Conditions: Whether the capital markets are calm and changing little on a week- to-week basis, or if they are volatile and changing frequently;
 - 3) Security Type: Whether the bond issue is Certificates of Participation of the City, Mello-Roos, Assessment District debt, or other types of debt on a case-by-case basis.
 - iii. Private Placement: From time to time the City may elect to privately place its debt. Such placement shall only be authorized if this method is demonstrated to result in a cost savings to the City relative to other methods of debt issuance.
- b. *Issuance Method Analysis:*
The City shall evaluate each method of issuance on a net present value basis, using the City's investment rate as the appropriate measure of the discount rate.
- c. *Feasibility Analysis:*
Issuance of self-supporting revenue bonds must be accompanied by a feasibility projection or report demonstrating the projected revenue stream's ability to meet future debt service payments.

9. Terms and Conditions of Sale

The City shall establish the terms and conditions of the sale of the bonds prior to the actual sale date. In competitive sales the terms shall be approved by the Finance Director prior to the publication of the notice of sale. In negotiated sales, the terms shall be set in an underwriting agreement at least five days prior to the pricing of the securities.

a. *General*

- i. **Call Provisions:** The Finance Director shall ensure that an analysis of the cost of all provisions for each financing is performed. Based upon this analysis, the City's securities shall provide for redemption at the option of the City as early as current market conditions allow, given the appropriate cost-benefit to the City. In general, the City's securities shall include an optional call feature no later than 10 years from the date of delivery of the bonds (and approximately 50% of the life of the last maturity for issues which are shorter than twenty years).
- ii. **Purchase Offer Analysis:** Offers to purchase the City's debt will be analyzed according to the true interest cost method. The interest calculation in this method determines the rate at which the present value of the debt service equals the par amount of the bonds less the discount (plus any premium) plus accrued interest.
- iii. **Bond Denominations:** In general, the City's securities will have denominations of \$5,000. The City will consider denominations of less than \$5,000 if targeting special markets or initiating mini-bond programs. When in the best interest of the City, Capital Appreciation Bonds (bonds which pay interest only at maturity and whose value at that time equals \$5,000 or multiples thereof) will be considered as an alternative to traditional current interest bearing municipal securities.

When undertaking a project the City believes is necessary for its general health and welfare, but has higher-than-normal risks associated with it, the City may require denominations of greater than \$5,000 to insure that only sophisticated buyers can purchase these bonds.

b. *Competitive Sale*

When conducting a competitive sale, the City will undertake to publish a Preliminary Official Statement ("POS"). Such POS shall be prepared by the Finance Department with the assistance

of an appointed disclosure counsel. The POS shall be in accordance to the standard heretofore mentioned. The POS and final Official Statement shall be published according to timelines established by the Municipal Securities Rulemaking Board (MSRB) and other rulemaking bodies.

- i. **Market:** The City shall inform the potential market for its securities on a timely basis prior to the sale date and make available sufficient POS's to assure the maximum number of bids for all of the City's sales. The market for municipal securities is increasingly a national market. In marketing the City's bond issues, trends, structures, and factors in the California regional markets as well as national credit markets should be considered. The City's marketing should be designed to take maximum advantage of the factors in both the national and regional markets, which will provide the lowest borrowing cost for City residents and businesses.
 - ii. **Official Bid Form:** The City shall make available an official bid form for all sales, which will be used by all bidders and provide a common structure for all bids.
 - iii. **Bid Constraints:** The City will list any constraints of the bid so desired. In general, the City shall not allow a discount to exceed two percent of the par amount of the securities. Prevailing state and federal law should guide discounts and other bid constraints.
 - iv. **Award of Bid:** All bids shall be evaluated by the True Interest Cost Method ("TIC"). Bids shall be awarded to the lowest TIC bidder.
- c. *Negotiated Sale*
When the City's interests may be best served by a negotiated sale.
- i. **Selection of Underwriter:** The City shall select the negotiated underwriter(s) through a request for proposal for underwriting services. The City may select more than one underwriter for a single issue. Underwriter selection will be based on the firm's demonstrated experience and ability to market the type and size issue being contemplated, assigned personnel's experience with similar credits and

structure, estimated costs and fees, and the proposed marketing plan.

- ii. **Negotiating Techniques:** The City shall separate the negotiation of the terms of the bonds, the management fees, the expenses chargeable and the underwriting fees from the takedown and rate discussion. The City shall receive a pre-pricing book, before the sale date, which will include comparable sales and a proposed rates and prices for the bonds. On the day of the pricing, only interest rates, final financing structure and takedown will be discussed unless takedown has been previously agreed upon. In cases where the bonds will be offered at an Original Issue Discount, this too may be discussed at the time of the sale.

d. *Private Placement*

From time to time the City may seek to privately place its securities. The City will send inquiries to several investors seeking interest in such a placement. The City will seek bids from such private placements for its securities.

e. *Lease Purchase*

The City shall consider coordinating its lease purchase financings through the development of a master lease program. The Finance Director shall submit the master lease purchase program to the City Manager and City Council for approval.

C. Process

1. Evaluation of Financing Options and Proposals

- a. *Submission and Review of Financing Proposals* (City and/or land-secured new money debt)

Early communication with the City is encouraged to assist applicants in evaluating the feasibility of available financing programs and to discuss program procedures. The submission of a proposal does not guarantee the feasibility of a project or the City's willingness to proceed with any project. A proposer's completion of all or part of the proposal submission and review process neither creates nor implies any vested right to reimbursement by the City or any other public agency of costs incurred or revenues foregone.

b. *Assessment of Alternatives*

The review of financing proposals will include a review of all alternatives, including cash financing, which could lower the net present value of acquiring the capital asset.

c. *Establishment of Financing Priorities*

In evaluating individual financing proposals, the Finance Director will consider all pending financing requirements of the City. This approach will allow the City to take a long-term strategic approach to each financing in order to ensure that each financing is completed efficiently, at the lowest cost, and will not negatively impact future City transactions.

d. *Adoption of Capital Financing Plan/Debt Calendar.*

The City will periodically adopt a Capital Financing Plan/Debt Calendar which will control all issuance of debt by the City. No debt will be issued unless it has been included on the Debt Calendar. The Finance Director should periodically update the Debt Calendar. Authorization for refunding of outstanding debt that is sensitive to market rate fluctuations shall have a special approval process, which gives maximum authorization to the Finance Director to carry out such financings after the City Council has approved the refinancing within parameters such as:

- i. Minimum present value savings;
- ii. Maximum principal amount;
- iii. Maximum true interest cost;
- iv. Maximum final maturity; and
- v. Date this authorization terminates (no longer than the end of the current fiscal year).

2. Use of Consultants

The City shall select, retain, employ, and be responsible for, in its sole discretion, any consultants necessary for the formation of a special district, review of a debt financing, and the issuance and administration of bonds, including but not limited to the underwriter(s) and underwriters' counsel; bond counsel; financial advisor; special tax consultant; engineers; appraiser; district administrator, market absorption study consultant; or any other consultant deemed

necessary by the City in its judgment to complete the legal proceedings; and financial analysis for issuance of bonds.

An applicant/developer may retain its own consultants for its own benefit, but will work through those consultants hired by the City. If the developer/applicant retains its own consultants, all costs associated therewith shall be borne by the developer/applicant.

No firm may serve in more than one capacity as design engineer or special tax consultant on the same District pursuant to California Government Code. Similarly, no firm may serve as a financial advisor or bond counsel during the planning stages for a district or conduit project and subsequently as underwriter or disclosure counsel for the bonds of the district or project.

3. Land Use Approvals

All proposed projects within the proposed district or project area, together with the infrastructure and public facilities, must be consistent with the City's adopted General Plan, zoning classifications, Tahoe Regional Planning Agency (TRPA) regulations and the California Environmental Quality Act (CEQA). All property within the proposed district must possess land use determinations or zoning classifications of sufficient certainty, and facility requirements of sufficient speciality that each parcel can be adequately assessed.

D. Additional Policies Regarding Land-Secured and Conduit Financing

1. The purpose of these Additional Policies Regarding Land-Secured and Conduit Financing is to facilitate the acquisition and construction of public facilities on commercial, industrial and residential properties in order to promote any of the following:
 - a. The health and welfare of developed areas;
 - b. The orderly development of the City; and
 - c. The development of needed commercial or industrial property.

2. Policy for Use of Public Financing for Public Facilities

Factors to be considered in reviewing a request that a Community Facilities District (CFD) or an Assessment District be formed shall include, but not be limited to the following:

- a. Whether there is a need for additional commercial, industrial or residential zoned lots in the City;
- b. Whether the inventory of existing improved parcels in the community is adequate for orderly development needs;
- c. If additional commercial, industrial or residential lots are desired in the City, and if the project's financial feasibility is dependent upon financing the public improvements with tax-exempt bonds;
- d. Whether the proposed assessment or special tax, when added to the existing public indebtedness in the area will result in an unusually high tax rate or collection charge, which tends to make the sale or use of property uneconomic. Total tax assessment including special taxes must be less than 2%; and
- e. Whether the City anticipates debt issuance during the applicable calendar year for the purpose of general City operations, which might be precluded or negatively impacted as a result of an assessment district or CFD financing.

3. Development of Commercial and Industrial Property

The City encourages the development of commercial or industrial property. The City Council will consider the use of community facility districts (CFDs) or special benefit assessment districts (ADs) as well as other financing methods to assist these types of development. Where, in the City's opinion, the public facilities of a residential development represents a significant public benefit, this type or other appropriate types of public financing will also be considered.

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 a bridge, a freeway overpass, a regional water or wastewater treatment plant, etc. Significant public benefit can also take the form of affordable housing through reduced housing costs, etc.

Public financing will be permitted for real property public improvements that will benefit the ultimate property owner and whose useful life will be equal to or greater than the term of the bonds.

The proposed development project must be consistent with the City's Comprehensive General Plan and Community Plan elements. Appropriate land use approvals must be secured from the City and/or other agencies to allow for the implementation of the ultimate development of the area.

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 parties.

An appraisal of the property subject to any lien required to secure any public financing shall be required. A minimum property value to lien/debt ratio of 3:1 (after inclusion of the public facilities being financed and including any overlapping assessment or community facilities districts) must be present pursuant to Premise 3 entitled, *Bulk Land Value*, as determined by an M.A.I. appraisal. Exceptions may be granted for commercial, industrial and mixed-use development projects. The appraisal shall be reviewed by the City and shall be prepared according to the requirements discussed in Section H, below.

4. Legal Environment

Numerous laws codify assessment proceedings and bond issuance in California, with the most relevant, for purposes of the Policies, being the Municipal Improvement Act of 1913 (setting forth procedures for forming an assessment lien on property), the Improvement Bond Act of 1915 (providing a method of issuing bonds secured by those assessment liens), and Proposition 218. The Improvement Act of 1911, routinely used by municipal issuers for small assessment projects, is rarely, if ever, used for developer-sponsored assessment financing

The bonds shall be issued in accordance with the 1913, 1915 or Mello-Roos Bond Acts as determined jointly by the City and project proponents. In the absence of a development agreement, no bonds shall be issued unless the City Council makes findings that a development agreement is not in the best interest of the City.

Facilities shall be funded in accordance with the provisions of the Municipal Improvement Acts of 1911, 1913, and 1915 and the Mello-Roos Community Facilities Act of 1982 as amended. In the event the acquisition provisions of the 1913 Act are utilized, the City and the project proponent shall mutually agree upon the facilities to be

acquired and the method of determining the construction costs incurred. Furthermore, the project proponent shall be required to provide evidence satisfactory to the City of (1) competitive bids for the construction contract and (2) payment of prevailing wage with respect to such construction contract(s).

5. Project Costs and Reimbursement Policies

- a. *Costs incurred by the City prior to approval of project:* All costs incurred by the City prior to formation of a district or approval of a land-secured or a conduit project, including but not limited to consultant costs (e.g., legal counsel, engineering firms, appraisers, special tax consultants, financial advisors), City staff and administrative costs and related expenses, cost of providing notices, printing and publication costs, and all expenses directly or indirectly relating to these items, shall be reimbursed to the City by the applicant/developer prior to formation of the district or approval of the conduit project.

Reimbursement shall be facilitated by advance deposit increments as required by the City. At the City's discretion, the City may consider as an alternative to a cash reimbursement by the applicant/developer, in-kind improvements which are dedicated to the City, and which have a value at least as great as the identified City costs. The City may also allow the reimbursement to be accommodated for in the development agreement, which would stipulate that the City's costs will be paid from bond proceeds.

- b. *Costs incurred prior to bond closing:* If a district is formed or a conduit project is finalized, and if bonds are issued, the City may direct that a portion or all of the City's costs be reimbursed and the consultant's costs be paid from bond proceeds.
- c. *Costs incurred by the City subsequent to formation of district:* In the case of a land-secured financing, all City administrative and consultant costs related to administration of the district and incurred after formation shall be included within the assessment or special tax formula in accordance with applicable provisions of law.
- d. *Reimbursement to applicant/developer*
- i. Where district is formed or conduit project is approved and bonds are issued:

If the district is formed or conduit project is approved and bonds are issued, the applicant/developer shall be entitled to reimbursement from bond proceeds for all reasonable costs and expenses incident to the proceedings and construction of the facilities, subject to approval of the City Council, and subject to any applicable restrictions contained in the Improvement Acts, the Mello-Roos Community Facilities Act of 1982, and other applicable laws and regulations as amended.

With regard to applicant/developer paid consultant costs, reimbursement shall be limited to those project-related consultants hired by the City or those hired by the developer/applicant and expressly approved by the City prior to expenses being incurred. The City reserves the right, in the City's sole discretion, to retain any independent consultant, which shall be at the applicant/developer's cost, to review or audit project related costs, including, but not limited to applicant/developer paid costs. Eligibility for reimbursement for any otherwise-eligible expense is conditioned upon the applicant/developer providing paid invoices therefore to the City, and City approval.

The applicant/developer shall not be entitled to reimbursement from bond proceeds for any of the following reasons: interest expense incurred by the applicant/developer during the planning or design or construction (subject to the exception for construction-related interest expense, set forth below) of the public improvements, any other costs and expenses incurred by the applicant/developer which are not legally authorized for reimbursement, or as to which bond counsel has declined approval for reimbursement, and any costs not expressly approved by the City.

- ii. Where district is not formed (or conduit project is not approved), or where district is formed (or conduit project is approved) and bonds are not issued:

In the event that the district is not formed (or the project does not proceed) due to City disapproval or abandonment, or due to applicant/developer abandonment, or the district is formed (or the project

is approved) and bonds are not issued for any reason, the City will refund to applicant/developer any remaining unexpended and unobligated portion of advance deposits posted with the City, subject to the City's prior and full reimbursement of all its direct and indirect costs.

If the applicant/developer's advance deposit to the City is not sufficient to reimburse the City for all of its direct and indirect costs, the City, at its sole discretion, will require an additional deposit by the applicant/developer for the difference. The City shall be entitled to pay any refund to the applicant/developer listed on the application form without interest, irrespective of any changes in the ownership or composition of the applicant/developer.

6. Jurisdictional Impact Study

At the City's discretion, a jurisdictional impact study may be required to determine the aggregate public service needs for the project. Upon receipt of an application for public financing, the City may notify the other public entities having responsibility to service the proposed project and request comment on the application. Periodic meetings, on a regional basis, with all affected public entities may be required by the City to address issues relative to overlapping debt and other considerations.

7. Agreements Required

The applicant will be required to enter into all agreements incident to district or conduit project proceedings as determined by the City in a form provided by the City and consistent with these policies. These agreements may include, but not be limited to:

- a. Development Agreement
- b. Disposition and Development Agreement
- c. Acquisition Agreement
- d. Funding and Reimbursement Agreement
- e. Advance Deposit Agreement
- f. Land Dedication Agreement

g. Other Agreements (as required)

As a condition to the issuance and sale of the bonds, all of the agreements required by the City shall be duly approved and executed by the parties thereto. Prior to execution of any agreements, the City Attorney, the Finance Director and the City's bond counsel shall review such agreements. Additional agreements and conditions are described below.

All contracts for public improvements to be owned, operated or maintained by the City shall be solicited, let and administered as required by City policy.

The proponents (developers) will covenant that bond proceeds will be used and dispersed at times and in the manner as specified on the resolutions forming the financing districts and other such agreements entered into with the City.

8. Information Regarding Feasibility of Project

- a. *Fiscal Feasibility Report* - Prior to the formation of a financing district or project, a fiscal feasibility report may be required. The report shall be prepared by or at the direction of the City. All costs for preparing this report shall be borne by the applicant/developer.
- b. *Property Owner Support* - Where the formation of a district is applicant/developer initiated and where multiple property owners are involved, the district applicant shall be required to produce letters of support from the other property owners who are in favor of the district as an attachment to the district application. The applicant/developer must demonstrate, to the satisfaction of the City, that the project has, or is likely to have, sufficient property owner support to meet all legal and statutory requirements, including but not limited to the Mello-Roos Act and Proposition 218.
- c. *Market Absorption Study* - An absorption study of the proposed development project may be required for land-secured financings. The absorption study shall be used as a basis for verification that sufficient revenues can be produced and to determine if the financing of public facilities is appropriate given the timing of the development. Additionally, the projected absorption rates will be provided to the appraiser for use in the appraisal.

9. Appraisal

A current appraisal will be required of the property that comprises the financing district against which a lien will be placed to secure the bonded indebtedness to be incurred. The City may also require a current appraisal of the proposed conduit financing project in such cases that the City considers appropriate which may include but not be limited to the case in which the proposed debt issue is neither to be rated nor insured. The appraisal will be made by an appraiser retained by the City and is to be made consistent with the following guidelines.

a. Introduction

The process of arriving at an appraised value outlined by the California Debt Advisory Commission's *Guidelines for Appraisal Services for Land-secured Financing* may be summarized as follows:

- i. Statement of appraisal problem.
- ii. Required data and sources of data.
- iii. Gathering, recording and verification of data.
- iv. Determination of "highest and best use."
- v. Estimation of land value.
- vi. Estimation of improvement value by relevant approach:
 1. sales comparison,
 2. cost (or replacement value), or
 3. income capitalization.
- vii. Reconciliation of results to concluded value.
- viii. Report of value with statement of limitations, conditions, and assumptions.

b. The Appraiser - General Requirements

Appraisals undertaken to establish value-to-lien ratios for land-secured financing can be complex, requiring the appraiser to interpret the significance of various financial and demographic

data. Because an appraisal essentially is an appraiser's *opinion* of value, the City requires that the appraiser be qualified to render this opinion.

- i. City Oversight: Appraisers must be selected from a "pre-qualified" list of appraisers determined by the City.
- ii. Credentials: The appraiser will be accredited by the State of California Office of Real Estate Appraisers and be a Member of the Appraisal Institute (MAI), or have similar training, experience and qualifications as determined in the City's sole discretion.
- iii. Independence: The appraiser will be a member of City staff or an independent contractor retained by the City, rather than a land owner/developer. No appraiser or review appraiser shall have any direct or indirect interest in the real property being appraised for the City that would in any way conflict with the preparation of or review of the appraisal. Compensation for making an appraisal shall be neither based on the amount of the valuation, nor subject to contingency fee arrangements, nor based on successful sale of the bonds.

c. *The Appraisal Problem*

The appraiser will begin each assignment by defining the *appraisal problem* - that is, succinctly stating the objective of the appraisal. The statement of the appraisal problem will identify (1) the property rights to be valued, (2) the operative definition of value, and (3) the specific date of the value estimate.

- i. Property Rights to be Valued: Appraisals undertaken to establish value-to-lien ratios in CFDs and ADs will value the fee simple estate within the established district and subject to the special tax or assessment lien.
- ii. Definition of Value: Appraisals undertaken to establish value-to-lien ratios in CFDs and ADs will estimate the market value of the subject property. The market value estimate will be the bulk sale value for all vacant properties - both unimproved properties and improved or partially improved but unoccupied properties.

The bulk land value will include the property within the district as it is currently entitled with all appropriate zoning and in its current state of development, the value of the improvements to be financed with the proposed bond issue, if any, and the value of other improvements to be financed with any other cash escrow or security whose cash value is entirely controlled by the City.

- iii. Date of the Value Estimate: The date of the value estimate should clearly be identified in the appraisal report. The period between the date of the appraisal and the financing should be no more than four months, to accurately represent land values to prospective investors.

d. Valuation Methods

The first three valuation methods discussed in this section - the Sales Comparison Approach to Value, the Cost Approach to Value, and the Income Capitalization Approach to Value - form the core of modern real estate appraisal practices. These valuation methods are appropriate for conventional appraisal assignments involving improved real property, but are less well suited to the valuation of unimproved land.

Appraisals of unimproved CFDs and ADs will additionally employ a Discounted Cash Flow (DCF) analysis based upon the bulk land value of the property appraised, the fourth valuation method discussed in this section. This section concludes with a brief discussion of Mass Appraisal techniques and an assessed value approach alternative. An appraisal may include more than one appraisal method, depending on the status of the project.

- i. Sales Comparison Approach to Value: The Sales Comparison Approach to Value offers the best indication of the market value of the subject property, because it is based on actual sales data. This methodology is appropriate for most improved properties, but the absence of comparable sales data usually constrains its application to appraisals of unimproved CFDs and ADs. The Sales Comparison approach, however, provides the analytical basis for estimating future retail value of presently unimproved properties, which may be incorporated into a Discounted Cash Flow analysis.

- ii. **Cost Approach to Value:** The Cost Approach to Value is not appropriate for appraisals undertaken to establish value-to-lien ratios in CFDs and ADs. Cost does not create value. The Cost Approach may be useful, however, for adjusting for physical differences between properties under the Sales Comparison Approach. Sales Comparison appraisals can be adjusted to reflect infrastructure differences between different projects.
- iii. **Income Capitalization Approach to Value:** The Income Capitalization Approach to Value is appropriate for retail value calculations of income-producing properties. It also may be appropriate for estimating the future retail values of income-producing properties for use in a Discounted Cash Flow analysis.
- iv. **Discounted Cash Flow Analysis:** Discounted Cash Flow Analysis is appropriate for bulk sale valuations of unimproved properties and improved or partially improved but unoccupied properties.

Discounted Cash Flow valuations should rely on an absorption study to estimate how quickly properties can be developed and sold or leased to end users. The expenses of converting raw land to finished product or improved lots must be deducted from gross cash flow to derive net cash flow prior to discounting. The value of the public facilities to be financed with the contemplated bond financing will be included in the appraisal. The discount rate should reflect the rates of return needed to attract debt and equity participation in the project

- v. **Mass Appraisal Techniques:** When an entire tract or project has been built and fully absorbed, the appraiser may employ mass appraisal techniques, utilizing conservative per dwelling unit estimates.
- vi. **Assessed Value:** If, based upon assessed value, the value-to-lien ratio of the project and 90% of the undeveloped parcels is greater than 5:1, a separate appraisal may not be required at the City's sole discretion. If the assessed value of 90% of the undeveloped parcels is not greater than five times the amount of the lien, the City can require an appraisal to

be completed on the undeveloped portion of the project while it uses the assessed value for the developed portion.

e. Form and Content of Appraisal

The appropriate format and level of appraisal documentation can vary according to its complexity. A detailed appraisal will reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards of Professional Appraisal Practice. Appraisal methodology and presentation of the results of the appraisal shall be presented in writing in either form report or narrative report, as required, by the Finance Director and City Manager.

Appraisals should conform to the following specific criteria:

- i. Appraisals must be in writing, using either a “form report” (Uniform Commercial and Industrial Appraisal Report - Existing Property) or a “narrative report.”
- ii. Each appraisal shall clearly state the purpose of the report; a definition of the real estate being appraised (i.e., fee, leasehold, etc.); and a description of the limiting conditions and assumptions underlying the appraisal.
- iii. Valuation dates shall be as determined by the City, but in no event more than 120 days prior to the sale of bonds. To the extent practical, valuation dates on all properties shall be synchronized to a specific date.
- iv. A physical description of the property being appraised, along with a discussion of its “highest and best use,” land use regulations, present use and location.
- v. An opinion of value which specifically considers the value of the property (including individual parcels) with the completed public facilities (bond proceeds and other financial guarantees).

- vi. A certificate of the appraiser stating the absence of any direct or indirect interests in the property, along with a brief description of the appraiser's qualifications.

- vii. Improvement description (to the extent information is practically available)
 - Land parcels which have been developed and subsequently sold should at minimum indicate land parcel size, number of lots, density, number of plans, square footage, year construction was initiated, year of completion, and when sales were initiated.
 - Land parcels with product under construction or with standing inventory should be described as in (a) above and include a summary of the stage of development including: number of residential units or buildings completed, number of buildings, status of buildings under construction, finished lots and mass-graded or raw lots. In addition, a comment on the marketability of the buildings (architecture, size, etc.) is appropriate.
 - Land parcels which have been developed with income-producing (or owner-occupied) commercial, industrial, offices, etc., should be described as follows:
 1. Commercial-Retail - Land parcel size; basic construction type; typical tenant improvements (and who is responsible for their construction); leasable area, when construction was initiated; and date of completion.
 2. Industrial - Land parcel size; basic construction type, whether single or multi-tenant; typical office build-out as percentage of total area, when construction was initiated; and date of completion.
 3. Office - Land parcel size; basic construction type; typical tenant improvements/allowance; net rentable area, when construction was initiated; and date of completion.

4. Residential - Land parcel size; basic construction type; whether single or multi-family; when construction was initiated; and date of completion.

10. Value-to-Lien Ratios

The following guidelines describe the City's general policy on value-to-lien ratios. However the requirements will be determined on a project by project basis and are subject to the City's sole discretion.

- a. The District (or improvement area) property value-to-lien ratio should be at least 3:1 after including in the appraisal the value of the financed public facilities to be installed and including as part of the lien any prior or pending special taxes or improvement liens. Individual properties within the boundaries of the proposed District must also meet the minimum value-to-lien ratio test of 3:1 on a parcel by parcel basis.
- b. If the value-to-lien ratio is 3:1 or greater for the entire district and if there is a value-to-lien ratio of 3:1 on at least 90% of vacant land in the district, the City may not require, at the City's sole discretion, letters of credit or other security to secure payment of the special taxes to be levied annually on properties within the district.
- c. If the value-to-lien ratio is less than 3:1 for the district as a whole or on at least 90% of approved parcels in the district, the City may require either letters of credit or other security (assigned deposits, deposits to escrow) to secure payment of the special taxes/special assessments on properties within the district or may elect to abandon the district.

11. Credit Enhancement

Each bond issue shall be structured to adequately protect bondholders and to not negatively impact the bonding capacity or credit rating of the City through 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 special taxes or assessments during at least the first four years of the bonds. Specifically:

- a. *Financial Plan:* Prior to City approval of the district or project, the applicant/developer may be required to submit a financial plan which demonstrates to the City's satisfaction the applicant/developer's ability to pay all assessments and/or special taxes through build out of the project.
- b. *Credit Enhancement Requirements:* In general, where credit enhancement is required for the bond issue as a whole, in the opinion of the City, the applicant/developer shall provide such enhancement in such form as is approved by the City and the underwriters. Such enhancement may, for example, be required in cases where the value-to-lien ratio for property within the district or project area is insufficient, and may take the form of letters of credit, policies of insurance, or other vehicles.
- c. *Letter of Credit Requirements:* With regard to the formation of either a Community Facilities District pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, or a Special Assessment District pursuant to the Municipal Improvement Act of 1913, as amended, if a person or persons owning property within the proposed boundaries of a District will be responsible for payment of thirty-three percent (33%) or more of the total annual special tax or special assessment to be levied, then said property owner or owners may be required to provide a Letter of Credit naming the City as beneficiary. In general, the following requirements apply to letters of credit:
 - i. The term shall be the longer of one year, the length of time anticipated for the completion of the improvements, or the length of time anticipated for the subject parcel(s) to reach a sufficient value-to-lien ratio, as determined by the City, an appraiser and market absorption consultant retained by the City, with automatic renewal unless canceled in writing by the City.

In addition, the letter of credit will terminate when the obligated party's property holding has an annual special tax or special assessment liability of below thirty-three percent (33%) of the total annual special tax or special assessment to be levied. New property owners responsible for thirty-three percent (33%) or more of the total annual special tax or special assessment may be required to provide a substitute Letter of Credit under the same terms and conditions described herein.
 - ii. The Letter of Credit is to be in an amount equivalent to the gross debt service on the bonds allocable to the

person's property for the current fiscal year and the succeeding fiscal year or in such other amount as is determined by the City. The amount of the Letter of Credit will be proportionately reduced as the property owner sells portions of his or her property.

- iii. The letter of credit must be posted with the City in final form, properly authorized and executed, prior to City authorization to issue bonds for the district or project. Irrevocable credit commitments, commitment letters, in-lieu letter of credit guarantee forms, or other similar instruments, will not be accepted.
- iv. The letter of credit shall be irrevocable, and issued for the benefit of the City on or before the date of the delivery of the bonds.
- v. The issuer of any Letter of Credit or other credit enhancement shall be a bank legally operating within the State of California, and which has a rating that is acceptable to the City Treasurer, including a Thompson Bank Watch rating of "B" or higher, or an equivalent rating by any other nationally recognized financial institution rating agency, and whose letters of credit are deemed marketable by the City for public financing purposes.
- vi. The City reserves the right to consider other forms of credit enhancement or bond guarantee which are determined by the City, in its sole discretion, to be a lawful and adequate substitute for a letter of credit. An irrevocable credit commitment, commitment letter or in-lieu Letter of Credit guarantee will not be accepted irrespective of whether capitalized interest is funded from bond proceeds.

12. Refunding of Prior Issues

The City may require that each new district or conduit project bond issue refund any prior issues, if they exist on properties included in the district or project area, in order to avoid subordinated liens. Instances where prior issues may not require refunding are:

- a. Where refunding of prior issues will result in higher interest costs;

- b. Where there can be assurance that prior liens may pose no marketing problems for the new district or project area bonds; or
- c. Where refunding of prior issues may present future administrative difficulties to the City or other affected public entities.

13. Security Supporting Financings

- a. *Conduit Financings* - Bonds issued through conduit financing mechanisms are to be supported by the flow of payments from the developer to whom the issuer of the bonds has loaned the bond proceeds. Frequently, the repayment of the loaned proceeds is guaranteed by a letter of credit or similar credit support (as described above). The requirement for a letter of credit on conduit financings shall be determined on a project by project basis and shall be at the sole discretion of the City.
- b. *Limited Obligations* - All statements and materials related to the sale of special tax bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City of South Lake Tahoe, County of El Dorado, the State of California, nor any other taxing entity, 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 special taxes, annual assessments or proceeds from foreclosure proceedings.
- c. *Technical Defaults* - Concerning each CFD with outstanding bonds, all City departments and agencies with administrative responsibilities will notify the Finance Director and file a written report of the circumstances if an event of technical default has occurred or is likely to occur.
- d. *Foreclosure Covenant* - A foreclosure covenant may be required as follows:

The City covenants for the benefit of the owners of the Bonds that it will commence appropriate foreclosure proceedings within one-hundred-and-eighty (180) days of notice of a delinquency from the Auditor-Controller of the County of El Dorado in the Special Tax or Assessment Collections Department identifying the parcel(s) with respect to which the Special Tax has not been paid, and once existing delinquencies amount to at least (5%) of annual debt service and the City determines that the benefits are greater than the

costs of pursuing foreclosure proceedings, the City will diligently pursue to completion such foreclosure proceedings.

As used herein "benefits" are defined as either monetary (more revenue is generated than costs incurred) or non-monetary (prevention of bonds issued in the City's name from going into default).

14. Special Taxes and Assessments

Land-secured bonds are termed "limited obligations" whose primary repayment is secured, in the case of community facilities districts, by a special tax, or in case of assessment districts, by a confirmed assessment lien.

The rate and method of apportionment of the special tax must be both reasonable and equitable in apportioning the costs of the public facilities to be financed to each of the parcels within the boundaries of the proposed district. For an assessment district, as State Law requires, the apportionment of the assessment lien among the parcels comprising the proposed assessment district shall be based upon the direct and special benefit each parcel receives from the public facilities to be financed. For community facilities districts, the City prefers that this apportionment of costs be based on the benefit that each parcel is to receive from the public facilities financed.

The projected special assessment and/or special tax, when added to the ad valorem property tax and other benefit assessments, special taxes levied for authorized but unissued debt, and any other anticipated special assessments, fees, taxes or charges which may be included on a property owner's annual property tax bill, should not exceed two percent (2%) of the projected assessed value of each improved parcel within the district. A backup special tax to protect against changes in densities resulting in insufficient annual special tax revenues to pay annual debt service and administrative expenses shall be required. A formula to reimburse the special tax payments may be permitted.

15. Special Tax Formula for Land-Secured Financing

a. Maximum Overall Tax Burden

The total of the following should not exceed two percent (2%) of the projected assessed value of the subject properties:

- i. Ad valorem property taxes levied by the City.

- ii. Voter approved ad valorem taxes levied by the City in excess of one percent (1%) of the assessed value.
- iii. Special taxes levied by any existing CFD for the payment of bonded indebtedness or on-going services.
- iv. Assessments levied for any assessment district or maintenance district for the payment of bonded indebtedness or services.
- v. The maximum special tax for the proposed CFD.
- vi. Any other fees or charges secured by the property.

b. *Maximum Special Tax*

The maximum special tax formula shall adhere to the following requirements:

- i. The maximum special tax submitted to the qualified voters of the district shall not exceed one percent (1%) of the projected assessed value of the developed properties at the time of full build-out of district formation.
- ii. In regard to CFDs, the total projected annual special tax revenues, less estimated annual administrative expenses, must exceed the projected annual gross debt service on the bonds by ten percent (10%). Projected annual interest earnings (at current treasury yields) on bond reserve funds may also be included as revenue for the purpose of structuring the special tax. Reserve fund interest earnings credit in excess of the foregoing will only be permitted if an investment agreement, satisfactory to the City, is secured at the time any bonds are sold and delivered.
- iii. The maximum special tax may be established when a developed parcel is first subject to the tax and shall include reasonable annual administrative expenses and other direct costs to the CFD.
- iv. Under limited circumstances, an increase in the maximum special tax will be permitted, not to exceed two percent (2%) annually for residential property.

- v. The City shall have discretion to allow a special tax in excess of the two percent (2%) maximum tax burden limits for any commercial or industrial lands within the district. The City may allow exceptions to the maximum tax burden in situations where the excess tax burden would not affect the marketability of the district lands, or the credit quality or flexibility of future City financing.
- vi. All property not otherwise statutorily exempted or owned (or to be owned) by a public entity shall bear its appropriate share of the special tax liability. The special tax may be apportioned on the basis of benefit to all categories and classes of property within the CFD. The apportionment should be based upon ultimate use of the property.

16. Special Tax Consultant Report

The City shall retain a special tax consultant to prepare a report which:

- a. Recommends a special tax for the proposed CFD, and
- b. Evaluates the proposed special tax in light of its ability to adequately fund identified public facilities, City administrative costs and 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.

17. Disclosure and Notification Requirements

a. *Proposal*

At the time of proposal submission and prior to the sale and issuance of any bonds, the applicant/developer must demonstrate the financial wherewithal to complete the project by meeting the City's requests for information which may include but not be limited to the following: a pro forma of the project, a Dun and Bradstreet Report, and disclosure of material events, including bankruptcy filings and outstanding liens.

In addition, the applicant for a land-secured or conduit debt issue and all property owners within the boundaries of the proposed financing district or project area that will be

responsible for twenty percent (20%) or more of the debt service on the bonded indebtedness to be incurred shall, at the request of the City, provide financial statements (preferably audited) for the current and prior two fiscal years if such financial statements are already done in the normal course of business (as covered in SEC rule 15(c)2-12). This requirement may be adjusted appropriately if the proposed debt issue is to be rated or insured or otherwise guaranteed by an appropriate credit enhancement.

The applicant shall also provide all other financial information related to the proposed project that may be requested by the City. The City reserves the right to reject a project based on failure to comply with the City's disclosure requirements if the City determines, in the City's sole discretion, that facts or circumstances relating to disclosure may have a material effect on the applicant/developer's ability to implement the project.

In order to obtain appropriate disclosure information on the developer/applicant, the City shall require the developer/applicant to complete an information questionnaire. Failure to fill out the questionnaire to the City's sole satisfaction will be the basis for the City's rejection of the application.

b. Notification of Intention to Form a District

When an assessment district or CFD is formed by petition of the property owners or by direct action of the City Council, all property owners and holders of first deeds of trust on property within the proposed district will be notified of the procedures undertaken to establish such a district and the public hearing to be held not less than thirty (30) days after the City adopts the Resolution of Intention.

c. Offering Statements

It is the intent of the City to comply with all applicable federal or state requirements regarding disclosure to insure that fair and accurate descriptions of debt issues are provided to the purchasers of the bonds. Decisions as to the adequacy of the disclosure will be determined by the Finance Director, the City Attorney, Bond Counsel, Financial Advisor and Underwriter or Disclosure Counsel. No preliminary or final offering statement for a particular land-secured financing will be released for circulation unless it is deemed final by the City.

The proponent(s) of a particular land-secured or conduit financing and all principal participants therein are expected to provide the information requested by the Finance Director, the City Attorney, Financial Advisor, the Underwriter, Disclosure Counsel or Bond Counsel that is deemed necessary for disclosure purposes. Failure on the part of the proponent and any principal participants to comply with such requests will jeopardize completion of the debt issue.

The proponent of a particular land-secured financing and all principal participants therein will be required to execute those certificates and provide those written opinions of their respective counsel that are required by the terms of the bond purchase agreement. Failure to do so will result in the bonds not being issued and sold.

d. Continuing Disclosure

The developer will comply with federal and state securities laws and SEC rule 15(c) 2-12 requirements concerning secondary market (continuing) disclosure as those requirements are interpreted by the City and its counsel.

e. Notice to Future Purchasers of District Properties

The following provisions apply to land-secured financings. The applicant/developer shall be responsible for compliance with all applicable federal and state statutory disclosure requirements, as well as any additional City requirements, in transactions with purchasers of properties within the district.

- i. *Community Facilities Districts*: The Mello-Roos Community Facilities Act requires that certain disclosure certificates regarding the existence of a community facilities district and the special tax obligation be provided to those individuals purchasing property within the district. The City will require that the statutorily prescribed disclosure be made to the initial purchaser of property within a community facilities district, and it will make available the information necessary to complete the disclosure certificate required for secondary transfers. In its sole discretion, the City may require additional disclosure if to do so will aid subsequent purchasers to be made aware of the existence of the community facilities district and the lien obligations created by the special tax.

- ii. *Assessment Districts*: Consistent with the applicable provisions of the Streets and Highways Code dealing with notice as to the existence of an assessment district, the City considers the recordation of the notice of assessment lien with regard to a parcel sufficient notice as to the existence of an assessment district and the amount of the lien.