


CAPITAL FINANCING & DEBT MANAGEMENT

17.01.040

Subject: DEBT MANAGEMENT POLICY FOR CAPITAL AND LAND – SECURED FINANCING	Number: 17.01.040
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POLICY

Public agencies develop and apply debt management policies to ensure that debt is issued and managed prudently. This practice is advocated by the Government Finance Officers Association (GFOA) which published and subsequently updated best practice guidelines for debt management policies in 1995, 2003, and 2012. These guidelines, along with other GFOA publications, recommend that a formal debt management policy guiding debt issuance should be a part of a public agency's debt administration. The GFOA endorsed the use of a debt management policy to improve the quality of decisions, articulate policy goals, provide guidelines for the structure of debt issuance and demonstrate a commitment to long-term capital and financial planning.

To maintain the highest quality capital financing and debt management program, the City of Stockton prepared the policies outlined in this document to guide decisions related to debt supported by the City's General Fund, Enterprise Funds, Land-Secured Districts (Mello Roos, 1915 Act), and any other related funding entities including the Successor Agency to the former Redevelopment Agency.

It is the City's intent to support projects that address a significant public benefit and that would not otherwise be constructed absent the City's participation. However, the City will not pledge any resources to payment on land-secured debt other than assessments and special tax revenues collected specifically for payment on such debt. These Policies are also designed to comply with sections 53312.7 and 53345.8 of the Government Code, as amended.

The City's policy related to the issuance of debt will be to limit it to the greatest extent practicable, and only for those projects/purposes that demonstrate a clear need and benefit to the public, when the City cannot cash finance the project, or when debt is the most optimal cost-benefit vehicle. The City intends to be prudent in its issuance of debt as to limit its potential exposure in the event of an economic downturn or other unforeseen events.

The City's policy will be to limit total debt payments (including bankruptcy settlements) paid by, or potentially paid by the General Fund to no more than 5% of budgeted expenditures.

FINANCING CRITERIA

When the City determines that the use of debt is appropriate, the following criteria will be utilized to evaluate the type of debt to be issued.

A. Long-Term Debt

The City may only issue long-term debt (e.g., general obligation bonds, revenue bonds, and lease obligations bonds) when an appropriate assessment of the need and priority of the capital improvement project has been undertaken, current cash resources are insufficient to finance the project, and when debt financing is the optimal structure given the City's financial outlook in relation to the long-range financial plan. The proceeds derived from long-term borrowing will not be used to finance current operations or normal maintenance. Long-term debt will be structured such that the obligations do not exceed the expected useful life of the respective projects.

1. Subordinate Debt (e.g., subordinate or junior lien bonds).
2. May be issued in instances where statutory or indenture restrictions prevent additional series of parity of senior lien bonds.

B. Short-Term Debt

Defined as borrowing that spans less than one year, short-term borrowing may be utilized for the temporary funding of operational cash flow deficits or anticipated revenues (defined as an assured source with the anticipated amount based on conservative estimates). The City will determine and utilize the least costly method for short-term borrowing. The City may issue short-term debt when there is a defined repayment source or amortization of principal, subject to the following policies:

1. 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.
2. Tax and Revenue Anticipation Notes (TRANs) should be issued only to meet projected cash flow needs consistent with a finding by bond counsel that the sizing of the issue fully conforms to IRS requirements and limitations.
3. Commercial Paper should only be considered as an alternative when taking into account not only the expected interest to be paid but the cost of the letter of credit and remarketing fees to be incurred to maintain the financing.
4. Lines of Credit should only 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.

C. Variable Rate Debt

For the foreseeable future, the City will not seek issuance of variable rate debt.

D. Tax-Exempt Lease Financed Debt

Intermediate and long-term tax-exempt debt financing can also be undertaken for the acquisition of, for example, equipment, information technology enhancements, vehicles or HVAC and other renewal and replacement systems improvements. The parameters for the City to enter into a tax-exempt lease financing agreement is as follows:

1. A minimum threshold of \$250,000 up to a maximum of \$5,000,000 can be tax-exempt lease financed. Special consideration is negotiable for exceptions to be made on a case-by-case basis.

2. Identified repayment revenue resource must be a continuous funding source. Grant awards cannot be identified as the repayment source but can be utilized as a down payment to reduce the amount of the proposed tax-exempt lease.
3. Selection of both the projects and tax-exempt financing method must undergo review and approval by both the Budget Division and the Administrative Services Department.
4. The terms of the tax-exempt lease financing may not exceed the useful life of the capital asset.

E. Land-Secured Debt

The City shall make the determination as to whether a proposed district shall proceed under the provisions of the Mello-Roos Community Facilities Act ("CFD") or the appropriate assessment district laws, and whether the district will be a construction or acquisition district. The City may confer with the applicant and its consultants to learn of any unique district requirements, such as regional serving facilities or long-term development phasing before making any final determination.

Rate and Method of Apportionment

The City requires that the special taxes within a CFD not extend for a period of more than fifty (50) years after formation or thirty (30) years beyond expected build-out, whichever is shorter.

The City requires that a Transition Event be included within any Rate and Method of Apportionment ("RMA") and that such event will occur upon the final maturity of any debt obligations. The Transition Event will require the infrastructure tax to convert to a maintenance tax at not less than 20% of the infrastructure amount then in effect.

The City will allow for a Pay-As-You-Go ("PAYGO") period equal to the expected build-out of any respective District or twenty (20) years, whichever is shorter. During the PAYGO period, the City will allow for any special taxes above and beyond the amounts need to pay for ongoing administrative expenses and debt service to acquire additional infrastructure from the developer. Beyond the PAYGO period, the City reserves all rights to continue the tax or reduce the tax below the maximum.

Services and Maintenance

Per Council Policy 5.05, the City requires any new development to annex into the citywide services CFD or to provide for services within the specific RMA for the District. The City also requires future special taxes to provide for ongoing maintenance of any facilities acquired by the City either through a Transition Event within the specific RMA for the District or to otherwise provide for such maintenance.

General Terms

Eligible public facilities and improvements will be tax-exempt financed in accordance with the provisions of the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, or the Mello-Roos Community Facilities Act of 1982.

Generally, only improvements directly benefiting the CFD or the LID can be financed with Mello-Roos or assessment district bonds. Developer exactions, such as off-site housing subsidies and school and transit impact fees, are not eligible. Existing neighborhoods may apply to the City for the use of assessment financing to fund local or neighborhood serving facilities in accordance with the Improvement Act of 1911, Municipal Improvement Act of 1913, or the Improvement Bond Act of 1915.

All City and consultant costs incurred in the evaluation of new development district application and the establishment of districts will be paid by the applicant(s) by advance deposits in those instances

where a proposed district has been initiated by a party or parties other than the City. The City shall not incur any expenses for processing assessment or community facilities districts. The City may incur expenses for analyzing proposed districts where the City is the principal proponent of the formation for financing of the district. Expenses not legally reimbursable by the district shall be borne by the applicant. Both City and district consultant costs can be funded from Bond proceeds regardless of how funding is initially arranged.

These policies shall apply to all CFD's and LID's formed by the City.

1. Land-Secured Financing – Economic Viability Review – Credit Quality

a) General.

The City will (unless deemed to be unnecessary by the CFO or designee under the circumstances) require each of the following as a condition of processing an Application. Failure to supply any required information in a timely manner shall be cause for the City to suspend processing the Application:

- 1) *Title Evidence.* The Applicant must submit a current (not older than three months) CLTA or ALTA lender's title insurance policy or preliminary title evidence showing the vesting of title to the land that will secure the financing and showing the interests of any lenders, creditors, etc., as well as any easements, rights of way or other encumbrances that may impact the value of the land. The title evidence will also be used to verify ownership for any owner's petition for the financing. The Applicant will supply copies of any documents disclosed by the title evidence as requested by the City.
- 2) *Administrative Approvals.* The Applicant must furnish information as to the *completeness* of the approval process, including, but not limited to environmental clearances, land use planning approvals, rights to capacity or ability to use water, sewer and storm drainage facilities, availability of special permits (e.g., Army Corps of Engineers, California Fish and Game, CalTrans, Regional Water Quality Control Board, Division of Dam Safety, etc.). Failure or inability to obtain any approval deemed necessary by the City shall be cause for delaying or suspending the Application or proceedings, including any bond sale.
- 3) *Security.* As a general rule, assessment and CFD bonds will be issued on an unrated *basis* since the rating agencies normally will not rate these types of securities. Therefore, in cases of new development, the Applicant or property owner must demonstrate their financial plan and ability to pay all assessments and/or special taxes before full build-out has taken place.

While the City's credit is not pledged to support the bonds, a default in assessment or special tax bonds can negatively impact the City's bonding capacity and market perception. To minimize the risk of default, the City may require third-party guarantees for individual assessments or special taxes from each property owner responsible for twenty percent (20%) or more of the annual special tax payments within the district and additional security may be required by the City in certain instances. The third-party guarantee must be provided on or before the date of delivery of the bonds. The third-party guarantee shall remain in effect, on an irrevocable basis, until the property owner's annual special assessment or special tax liability is reduced below twenty percent (20%) (New property owners responsible for twenty percent (20%) or more of the special tax payments within the district will be required to provide third-party guarantees).

Third-party guarantees can include letters of credit, surety bonds or some other mechanism which assures payment of special assessments and special taxes in the event of the bankruptcy of the developer entity or its principals.

If the City requires letters of credit or other security, the credit enhancement must be issued by an institution in a form and upon terms and conditions satisfactory to the City. All fees payable on the letter of credit or other security shall be the sole responsibility of the district Applicant or developer, not the City or district.

Any security required to be provided by the Applicant must be discharged by the City upon the opinion of a qualified appraiser, retained by the City, that a minimum value-to-lien ratio of 3:1 has been attained, with value determined pursuant to the appraisal criteria as set forth herein.

- 4) *Value-to-Lien.* The district (or improvement area) property value-to-lien ratio shall be at least 3:1 as determined pursuant to the appraisal criteria as set forth herein and considering any prior or pending special taxes or improvement liens. As an alternative valuation method to an appraisal, County assessed valuation may be utilized in accordance with the Act. Notwithstanding, the CFO has the complete discretion to require value-to-lien ratio in excess of 3:1.

If an appraisal is used to determine value, the value-to-lien ratio shall be determined based upon an appraisal report prepared by an independent appraiser with Member Appraisal Institute (MAI) of the proposed district using the appraisal criteria set forth in Exhibit 'B' or such other appraisal criteria as is allowed by the Act. The appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the Applicant through the advanced deposit mechanism. The appraisal shall employ either a discounted cash flow or utilize bulk sale comparables where appropriate.

Upon receiving an appraisal and determining the value-to-lien-ratio, the City shall apply the following criteria:

- (a) If the value-to-lien-ratio is 3:1 or greater, the City may determine not to require letters of credit or other security to secure payment of the special taxes or assessments to be levied annually on properties within the district. However, letters of credit or other security may be required within a district that have a value-to-lien-ratio of less than 3:1 based on market access requirements.
- (b) If the value-to-lien-ratio is less than 3:1, the City shall 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 not to pursue bonding until value-to-lien-ratio is sufficient to garner market access.

The City shall have discretion to retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties which may be subject to the maximum special tax or assessments in the district.

- 5) *Irrevocable Letters of Credit.* In situations where a district or certain parcels within a district have a value-to-lien-ratio of less than 3:1, an Irrevocable Letter of Credit ("LOC") or cash escrow fund deposit shall be required to assure payment of annual special taxes/special assessments until such time that the 3:1 ratio is achieved, as determined by a qualified appraiser retained by the City. An LOC is

a bank credit arrangement, wherein the bank agrees to lend a specified amount of funds for a limited term.

The following criteria will be used by the City to determine the acceptability of an LOC security:

- a) The LOC shall be issued by a bank which has been approved by the City.
- b) The term of the LOC shall be the length of time anticipated for the subject parcel(s) to reach a value-to-lien-ratio of 3:1, as determined by an appraiser and/or market absorption consultant retained by the City. In the event the 3:1 ratio has not been reached by the expiration date and the LOC has not been renewed, the City may draw the full amount of the LOC as security. When the ratio has been reached the LOC will be released, or if it has been drawn upon, the City will return any unused portion of the security that may exist. The principal amount of the LOC may be reduced by the amount related to parcels that have been developed and sold. All costs associated with the LOC shall be borne by the district Applicant(s).
- c) The amount of the LOC shall be the sum of all special taxes/special assessments due on the undeveloped parcel(s) for the period that is determined to be needed to reach a value-to-lien-ratio of 3:1. The City, at its discretion, may allow the amount of the letter of credit to be reduced annually by the amount of special taxes/special assessments paid by the property owner on the undeveloped parcel(s) if development proceeds on a schedule which is satisfactory to the City.
- d) The LOC shall be made payable to the Fiscal Agent. The City shall be allowed to draw on the LOC in any year, when taxes/assessments are not paid on the subject parcel(s) or the amount of taxes/assessments paid do not meet the special tax/assessment obligation for the parcel(s) for that year.

The following are the City's credit requirements with respect to the credit bank provider:

- e) Rated "A" or better by Moody's or Standard & Poor's with a rating of "9/C" or better by Thompson BankWatch for a domestic bank and a "B" or better for an international bank.

or

- f) Be a subsidiary of a parent organization rated "A" or better by Moody's or Standard & Poor's with parent's confirmation, and with a bank rating of "B/C" for a domestic bank or "B" for an international bank from Thompson BankWatch.

or

- g) If approved by the CFO, be rated below investment grade or not rated by Moody's or Standard & Poor's but meeting the following test: (1) Assets of at least \$1 billion; (2) Capital & Surplus of at least \$100 million; (3) Collateral of 110% of liability exposure to be held by Trustee (Collateral to be those types of government securities used for bond defeasance) and to be marked-to-market weekly.

I. SPECIAL TAXES AND ASSESSMENTS

The total of the following special taxes, ad valorem taxes and assessments shall not exceed two percent (2.0%) of the appraised market value (as defined in the appraisal criteria set forth herein) of the subject properties:

- A. Ad valorem property taxes levied by the City;
- B. Voter approved ad valorem taxes levied by the City in excess of one percent (1%) of the Market Value,
- C. Maximum special taxes allowed by any existing CFD for the payment of bonded indebtedness or ongoing services;
- D. Assessments levied for any assessment district or maintenance district for the payment of bonded indebtedness or services; and
- E. The maximum special tax or special assessment for the proposed district.

II. SPECIAL TAX FORMULA

For a Mello-Roos district, the maximum special tax formula shall adhere to the following requirements:

- A. The maximum special tax submitted to the qualified electors of the CFD, when combined with other assessments on the property, shall not exceed one percent (1%) of the appraised or assessed value, whichever is higher, of the subject properties at the time of the district formation.
- B. The maximum special tax shall provide for the inclusion of the annual administrative costs of the City to administer the district.
- C. The maximum special tax shall establish tax rates corresponding to the adopted land use designations on each parcel.
- D. The City shall retain a special tax consultant to prepare a report as required by the Act which:
 - Recommends a special tax for the proposed CFD; and
 - Evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.
 - It is further the policy of the City to comply with the provisions of Section 53321 of the Act with respect to the escalation of maximum taxes.

III. TERMS AND CONDITIONS OF BONDS GOVERNMENT DEBT

The City shall establish all terms and conditions relating to the issuance of bonds, and will control, manage, and invest all bond proceeds. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- A. Term

All capital improvements financed through the issuance of debt will be financed for a period not to exceed the useful life of the improvements.

B. Capitalized Interest

Certain types of financings such as certificates of participation and other lease-secured financings may require the use of capitalized interest from the issuance date until the City has beneficial use and occupancy of the financed project. Interest shall not be funded (capitalized) beyond a period of three 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. As an alternative to capitalizing interest during the acquisition or construction of a project, the City may lease and lease-back an existing capital asset to secure the financing.

C. Debt Service Structure

Market conditions at the time of sale will inform the City on its decision regarding 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. The City shall avoid the use of bullet or balloon maturities except in those instances where these maturities serve to levelize existing debt service.

D. Call Provisions

In general, the City's securities will include a call feature, which is no later than 10 years from the date of delivery of the bonds. The City will avoid the sale of non-callable bonds absent careful evaluation by the City of the value of the call option. Every effort shall be made to minimize call premiums which shall not exceed 3% unless required by statute.

E. Original Issue Discount and Premiums

An original issue discount or premium will be permitted only if the City determines that such discounts or premiums result in a lower true interest cost on the bonds and that their use will not adversely affect the project identified by the bond documents.

F. Deep Discount Bonds

Deep discount bonds may provide a lower cost of borrowing in certain markets. The City will carefully consider their value and effect on any future refinancing as a result of the lower-than-market coupon.

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.

IV. TERMS AND CONDITIONS OF BONDS – LAND SECURED

All terms and conditions of the bonds shall be established by the City. The City or a fiscal agent or other administrator will control, manage and invest all district issued bond proceeds. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- A. Bonds issued for land secured financings shall be limited obligations, payable solely from special assessments or taxes or other identified sources other than general funds or revenues of the City and do not require the use of such general funds or revenues to replenish any reserves or to bid at any foreclosure sale.

- B. Per California Debt Advisory Commission (CDIAC) guideline published in 1991. Guidelines regarding Special Tax Inflaters: Special tax formulas should limit escalator rates allowing annual tax increases in the maximum special tax to two percent (2%) annually. The City believes this restriction is necessary to enable property owners to better plan financing where larger inflators might become overly burdensome over time. Other than increases of up to 2%, debt service shall be substantially level throughout the life of the bond issue. Phased bond issuance in larger developments shall not result in increases of more than 2% annually to existing residential homeowners. Unless determined to be specifically required, debt service shall not exceed thirty (30) years from the date of the bonds.
- C. Maximum redemption premiums shall not exceed five percent (5%). If available, no-call provisions shall not exceed ten (10) years. Unless specifically found to be of economic benefit to the City, no provision shall restrict the ability of the City to refund any bond issue for any period of time. Provision shall be made to allow redemption of bonds at par (without premium) with surplus construction funds or prepayments by applicant or property owners. Provision shall be made to allow the City to purchase bonds on the open market at par plus accrued interest, in lieu of redemption of bonds.
- D. A reserve fund shall be required (unless specifically exempted for cause) for every land-secured financing. The reserve fund should be equal to the lesser of (1) ten percent (10%) of the original principal amount of the bonds, (2) one hundred percent (100%) of the maximum annual debt service, and (3) 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 and in accordance with the requirements of credit enhancement providers and/or rating agencies. This "three prong" test will also apply to a common reserve fund (parity reserve) calculated on all parity bonds within a series. Policies governing the investment of debt service reserves and bond proceeds can be found in both the bond documents and the City's Investment Policy. At district formation, the reserve fund can be funded at less than the reserve requirement with City approval providing a plan is in place to bring the reserve fund up to the reserve requirement within a reasonable amount of time.
- E. The City may purchase reserve equivalents (i.e., the use of a reserve fund surety or letter of credit) 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.
- F. The maximum special tax for a CFD shall be established to assure that the annual revenue produced by levy of the maximum special tax shall be equal to at least 110% of the maximum annual debt service;
- G. Prior to the issuance of bonds, the City may 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, unless advised to the contrary by such bond counsel;
- H. In instances where multiple series of bonds are to be issued, the first series shall include public facilities of highest priority to the City, as determined by the City;
- I. The City may require that each new district bond financing refund any prior liens, if they exist on properties included in the district, in order to avoid subordinated liens. Instances where prior liens may not require refunding are: 1) where refunding prior liens will result in higher interest cost; 2) where there can be assurance that prior liens may pose no marketing problems for the new district bonds; or 3) where refunding prior liens present administrative difficulties to the City or other affected public entities.
- J. Delinquency Management: Pursuant to statute, the City may enter into covenants with bond holders to institute delinquency management proceedings. As a result, special assessments and special taxes that are delinquent on July 1 on each year may be removed from the tax roll and

turned over to special counsel on or about August 1 of each year for collection. Special counsel will institute action in Superior Court to foreclose these delinquent special assessments and special taxes in their principal amount together with accrued interest, penalties, and attorney fees.

- K. Initial Disclosure: Developer(s) and property owner(s) shall provide all information requested by the City, its bond counsel, disclosure counsel, financial advisor and underwriter which, in the opinion of such entities or persons, is necessary for the City to comply with federal and state laws and regulations regarding initial disclosure for sale of municipal securities.

V. CREDIT ENHANCEMENTS

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

- 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 insured bonds versus uninsured bonds.
- Provider Selection. The CFO, with the assistance of the financing team, will solicit quotes for bond insurance (or cause such quotes to be solicited) from interested providers or in the case of a competitive sale submit an application for pre-qualification of insurance. In a negotiated sale, the CFO shall have the authority to select a provider whose bid is the most cost effective and whose terms and conditions governing the guarantee are satisfactory to the City.
- B. Debt Service Reserves. When required, a reserve fund equal to the least of (1) ten percent (10%) of the original principal amount of the bonds, (2) one hundred percent (100%) of the maximum annual debt service, and (3) 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 and in accordance with the requirements of credit enhancement providers and/or rating agencies. This "three prong" test will also apply to a common reserve fund (parity reserve) calculated on all parity bonds within a series. Policies governing the investment of debt service reserves and bond proceeds can be found in both the bond documents and the City's Investment Policy.

The City may purchase reserve equivalents (i.e., the use of a reserve fund surety or letter of credit) 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, taking into account projected interest earnings on a cash funded reserve.

- C. Letters of Credit. The City may enter into a letter-of-credit ("LOC") agreement when such an agreement is deemed prudent and advantageous. The CFO shall prepare (or cause to be prepared) and distribute to qualified financial institutions as described in the subsection "Selection Criteria" below, a request for qualifications which includes terms and conditions that are acceptable to the City.
1. Provider Selection. Only those financial institutions with long-term ratings greater than or equal to that of the City, and short-term ratings of VMIG 1, A-1, or F1, by Moody's Investors Service, Standard & Poor's and Fitch IBCA, respectively, may be solicited.
 2. Selection Criteria. The selection of LOC providers will be based on responses to a City-issued request for qualifications; criteria will include, but not be limited to, the following:

- a) Ratings at least equal to or better than the financing issues' underlying credit rating.
- b) Evidence of ratings (including the market outlook of the LOC).
- c) Trading value relative to other financial institutions.
- d) Terms and conditions acceptable to the City; the City may provide a term sheet along with the request for qualifications to which the financial institution may make modifications.
- e) Representative list of clients for whom the bank has provided credit facilities.
- f) Fees, specifically, cost of LOC, draws, financial institution counsel and other administrative charges.

VI. REFINANCING OUTSTANDING DEBT

- A. The CFO shall have the responsibility to analyze outstanding bond issues for refunding opportunities that may be presented by underwriting and/or municipal advisory firms. The CFO will consider the following issues when analyzing possible refunding opportunities:
 - B. Debt Service Savings. The City establishes a guideline net present value savings threshold goal of three percent (3%) of the refunded bond principal amount. The net present value savings will be net of all costs related to the refinancing. The City will evaluate each refunding candidate on a case-by-case basis. In evaluating such refundings and the appropriateness of a 3% or higher refunding goal, the City will take into account whether the refunding will be current or advance, and if the latter, the period of time before the call date and the efficiency of the refunding escrow.
 - C. Restructuring. The City will refund debt when in its best interest to do so. Refunding will include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, release reserve funds, or remove unduly restrictive bond covenants.
 - D. Term of Refunding Issues. The City may refund bonds within the term of the originally issued debt. However, the City may consider maturity extension, when necessary to achieve a desired outcome, provided that such extension is legally permissible. The City may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.
 - E. Escrow Structuring. The City shall utilize the least costly securities available in structuring refunding escrows. The City will examine the viability of an economic versus legal defeasance on a net present value basis. In the case where open market securities are purchased, the City shall procure a minimum of 3 competitive bids from approved broker-dealers. Such securities must be more cost effective than State and Local Government Obligations (SLGS), and that the price paid for the securities must be reasonable within Federal guidelines. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the City from its own account.
 - F. Arbitrage. The City shall take all necessary steps to optimize escrows and to avoid negative arbitrage on any refunding.

VII. METHODS OF ISSUANCE

The City will determine, on a case by case basis, whether to sell its bonds competitively, private placement sale approach, or through negotiation.

- A. Competitive Sale. In a competitive sale, the City's bonds shall be awarded to the bidder providing the lowest true interest cost as long as the bid adheres to the requirements set forth in the official Notice of Sale.

B. Negotiated Sale. The City recognizes that some securities are best sold through negotiation. In its consideration of a negotiated sale, the City shall assess the following circumstances:

1. Bonds issued as variable rate demand obligations.
2. A complex structure which may require a strong pre-marketing effort.
3. Size of the issue which may limit the number of potential bidders.
4. Market volatility is such that the City would be better served by flexibility in timing its sale in changing interest rate environments.

Other criteria to consider: the absence of investment grade rating of the bonds; timing considerations beyond "market volatility" (e.g., refundings),

C. Novel structuring approach - When a novel structuring requires advance selling by the managing underwriter(s), a negotiated sale may be appropriate.

D. Complex or unrated debt - An unrated financing (Baa or below) or a complex set of credit arrangements can also favor a negotiated sale. If a complex or unrated credit requires more pre-market or advance sales preparation by a managing underwriter, a negotiated sale may be appropriate.

E. Volatile market conditions - In times when the bond market experiences wide swings in interest rates over short periods, and when the bond issue is interest rate sensitive, a negotiated sale offers more latitude in bringing an issue to market.

F. Rejection of competitive bids - Should the City hold a competitive sale and reject the bids due to unanticipated unfavorable market conditions, the City may select among those underwriters which it deems most responsive and negotiate the sale as and when market conditions improve. This option should be utilized only in those circumstances when market conditions have changed markedly immediately prior to the sale.

In instances where none of the above factors are present, a competitive sale approach may be utilized. In those instances, where a negotiated sale is used, the selection of underwriter(s) by the City shall be one or more of the underwriters from the City's approved list of underwriters.

VIII. UNDERWRITER SELECTION

It is within the City's best interest to be in a position to be able to react quickly and issue debt based on favorable market conditions. Therefore, the City will periodically issue a Request for Proposals to a number of underwriting firms, and through a thorough review and selection process will pre-qualify a number of underwriting firms for a pool from which underwriters will be selected for various financings. Firms from this pool may be selected to act as sole, senior or co-manager, or as a group member in a syndicate. The selection of an underwriter or underwriters will be determined by the CFO.

The City, with the advice of the financing team, will determine, for each financing, the amount of capitalized interest required. The amount of such interest will be determined based on the length of the construction period, the earliest date upon which tax roll collection may commence and the amount of such interest will be added to the total amount of the financing, taking into account the restrictions on value-to-lien expressed herein and the ability of the owner(s) to defray the debt service.

A. Underwriter's Responsibilities. The underwriter will be expected to assist in the development of a sound financial plan for the capital facility or infrastructure that is planned to be financed as necessary, and to underwrite the bonds to finance the project. Specific services, although not all inclusive, are listed below. Note that if the terms of the specific services differ from those described in a formal contract, the services as described in the contract shall prevail.

1. Meet with City staff, developers, members of the financial team and others as required, to become familiar with the Project.
2. Determine and recommend the means of financing which is the most cost effective in regard to net interest cost, annual debt service, market timing and other matters which affect the cost of the financing.
3. Either independently, or in conjunction with City's municipal advisor, recommend alternative credit structures for the financing.
4. Prepare a written analysis to be presented to the City of the recommended structure, pricing and sizing of the issue, based on the then current market conditions. Modify said analysis to meet the changing conditions of the financial markets.
5. Prepare a time schedule for the financing, with each critical component or task identified with the operative date of occurrence. Modify such schedule as needed. The schedule will be circulated to all participants in the financing including City staff, municipal advisor, the developer, if any, bond counsel, disclosure counsel, and the City Attorney's Office.
6. Recommend and institute, with the City's concurrence, a marketing plan for selling the financial instruments. Such plan may include distributing preliminary official statements to all individuals, broker-dealers and institutional investors targeting those most likely to purchase the instruments, and following up with telephone calls and other forms of communication.
7. Coordinate the financing with the municipal advisor, bond counsel and disclosure counsel regarding the legal requirements of the financing and the preparation and structure of documents, including but not limited to, the preliminary and final official statements.
8. Conduct a pre-pricing conference call with City staff the day before the sale. The purpose is to discuss with staff coupon interest rates, prices and yields for the financial instruments to be issued, and to review the comparable sales provided by the underwriter for recently conducted sales of like issues.
9. Purchase the bonds, subject to pertinent resolutions, the official statement, and all other necessary documents with all approvals and proceedings governing such debt obligations having been determined by bond counsel, the City, municipal advisor and underwriter to be satisfactory in all respects for financing purposes.
10. Obtain CUSIP Numbers for the bonds, if required.
11. Prepare a final pricing report which includes an analysis of the interest rates obtained compared to other comparable financings in the market at that time. In competitive bond sales, the amount of the underwriter's discount shall be determined by the City with the advice of its municipal advisor. In negotiated sales, the underwriter must justify its discount as competitive and such justification must take into account any other compensation being paid to the underwriter. Original issue discounts and premiums will be allowed only if the City determines that it results in a lower true interest cost and will not adversely affect the ability to construct the public improvements.

- Underwriter's Compensation. See Exhibit 'A'

IX. BOND COUNSEL SELECTION

The issuance of debt by the City will include a written opinion by legal counsel affirming that the City is authorized to issue the proposed debt, that the City has met all constitutional and statutory requirements necessary for issuance, and a determination of the proposed debt's federal income tax status. The approving opinion and other documents relating to the issuance of debt will be prepared by counsel with extensive experience in public finance and tax issues.

To be able to react quickly and issue debt based on favorable market conditions, the City will periodically issue a Request for Proposals to a number of bond counsel firms, and through a thorough review and selection process will pre-qualify a number of bond counsel firms for a pool from which bond counsel will be selected for a particular financing. The selection of bond counsel will be determined by the CFO in consultation with the City Attorney's Office.

- A. **Bond Counsel Responsibilities.** The services to be provided by bond counsel will include, but not be limited to, those listed below. Note that if the terms of the specific services differ from those described in a formal contract, the services as described in the contract shall prevail.
1. Provide an objective legal opinion with respect to the authorization and issuance of local agency debt obligations and whether interest paid is tax-exempt under federal and/or state laws and regulations.
 2. Research applicable law; preparing documents; consulting with City staff and the financial team; reviewing proceedings; and performing additional duties as necessary to render the opinion.
 3. Provide continuing legal advice regarding any actions necessary to ensure that interest will continue to be tax-exempt.
 4. Prepare legal documents for the financing, including closing documents and transcripts.
 5. Participate, when requested, in activities associated with rating agency reviews.
 6. Offer continuing legal advice, as needed, on issues related to the sale and the trustee administration of City's obligations.
 7. In cases where a separate disclosure counsel is not retained by the City, bond counsel will provide the City with a "10b-5 Opinion" with respect to the preliminary and final official statements.
 8. Provide a legal opinion with respect to the authorization and issuance of the debt obligations and whether interest paid is tax-exempt.
 9. Attend City Council meetings when the debt obligation for which counsel is providing services is being considered. Participate in staff meetings, including post issuance reviews, as requested, relating to the issuance of debt.
- **Bond Counsel Compensation.** See Exhibit 'A'

X. CONSULTANTS

A. Municipal Advisor

The City may select a municipal advisor (or advisors) to assist in its debt issuance and debt administration processes. Selection of the City's financial advisor(s) shall be based on, but not limited to, the following criteria:

- Experience in providing consulting services to complex issuers.
- Knowledge and experience in structuring and analyzing complex issues.
- Experience and reputation of assigned personnel.
- Fees and expenses.

To be able to react quickly and issue debt based on favorable market conditions, the City will periodically issue a Request for Proposals to a number of municipal advisor firms, and through a thorough review and selection process will pre-qualify a number of municipal advisor firms for a pool from which a municipal advisor or advisors will be selected for a particular financing. The selection of a municipal advisor or advisors will be determined by the CFO.

Municipal Advisor services provided to the City shall include, but shall not be limited to those listed below. Note that if the terms of the specific services differ from those described in a formal contract, the services as described in the contract prevail.

- Take primary responsibility for review of the quantitative analysis of the cash flows provided by the underwriter. Prepare reports matching all calculations for bond sizing, debt service schedules, savings calculations, bond calls, escrow calculations and cash flows on the project. Prepare any other cash flow schedules as requested by the City.
- Provide all cash flow schedules in a reasonable and timely fashion to all Finance Team members including but not limited to City staff, bond counsel, underwriter, and disclosure

counsel. In addition, make all schedules, in presentation form, available to rating agencies and bond insurers as requested by the City.

- Prepare the detailed costs of issuance, review the gross spread (underwriter's discount) and review all funds available as contributions to any refinancing.
- Assist the City in the design and implementation of a credit strategy, including preparation of presentations to credit rating agencies and bond insurers or other credit providers, development of requests for proposals for municipal bond insurance, surety bonds and/or letters of credit, and the analysis of the economic efficiency of any proposed credit enhancement.
- In the case of a competitive sale of bonds, advise the City on the appropriate terms and parameters for the Notice of Sale and market timing for the receipt of bids.
- Be available at reasonable times for consultation to render advice regarding all financial aspects of the project as may be requested.
- Attend meetings and make presentations as requested. Prepare graphs, charts, etc. for staff presentations as needed.
- Review and comment on all legal documents including, but not limited to, the preliminary and final official statements, resolutions, loan agreements, indentures or fiscal agent agreements.
- Conduct pre-pricing, pricing and post-pricing conference calls with City Staff and underwriter reviewing market conditions, comparable sales, fees related to the refinancing and final sale results.
- Provide City staff with recent comparable sales from similar projects including information related to that project and the final sale coupons and yields.
- Be responsible and readily available to City staff (or designee) for the handling and answering of any and all questions, inquiries, and correspondence from interested persons referred to the Municipal Advisor by City staff (or designee) regarding the services provided by the Municipal Advisor.

Municipal Advisor Compensation. See Exhibit 'A'

B. Disclosure Counsel.

In any sale of City debt in which legal counsel is required to represent the City, the CFO shall appoint a disclosure counsel from the pool of qualified bond counsel firms. The scope of duties will include, but not be limited to, the following:

- Prepare the preliminary and final official statements.
- Provide a "10b-5 Opinion" with respect to the preliminary and final official statements.
- Prepare all documents and materials necessary to comply with all applicable "continuing disclosure" requirements for the transaction.
- Review, as necessary, applicable law and pertinent documents.
- Attend City Council meetings when the debt obligation for which counsel is providing services is being considered. Participate in staff meetings, including post issuance reviews, as requested, relating to the issuance of debt.

Disclosure Counsel Compensation. See Exhibit 'A'

C. District Formation and Special Tax Consultant.

To be able to react quickly and issue debt based on favorable market conditions, the City's finance team will review options for selection of a particular District Formation or Special Tax Consultant on a case by case basis. Final selection will be determined by the CFO

The Scope of duties will include, but not be limited to the following:

- Background and property tax research.
- Infrastructure eligibility, phasing, and reimbursement planning.

- Tax Spread Analysis.
- Bond Sizing, Structure and planned coverage to meet policy guidelines.
- Preparation of the Rate and Method of Apportionment to fit parameters established above
- Preparation of Boundary Map and Reports
- Attendance at meetings a necessary during formation
- Value-to-Lien Analysis
- Assistance in preparation of Appraisals and Bond documents

District Formation and Special Tax Consultant Compensation. See Exhibit A”

XI. MARKET AND INVESTOR RELATIONSHIPS

A. Rating Agencies and Investors

The CFO shall be responsible for maintaining the City's relationships with Moody's Investors Service, Standard & Poor's and Fitch IBCA. The City may, from time to time, choose to deal with only one or two of these agencies as circumstances dictate. In addition to general communication, the CFO shall: (1) communicate with credit analysts at least once each fiscal year, and (2) prior to each competitive or negotiated sale, offer conference calls and meetings with agency analysts in connection with any planned sale.

B. City Council Communication

As appropriate, the CFO shall provide feedback to the City Manager from rating agencies and/or investors regarding the City's financial strengths and weaknesses and recommendations for addressing any weaknesses.

C. Continuing Disclosure

The City shall remain in compliance with Rule 15c2-12 by filing its annual financial statements and other financial and operating data for the benefit of its bondholders.

Developer(s) and property owner(s) shall provide continuing information to City, or, at the City's option, directly to State and National Repositories, which is required by the City, in its opinion or in the opinion of bond counsel, disclosure counsel, financial advisor or underwriter, to comply with federal and state laws and regulations regarding continuing disclosure for municipal securities. Developer(s) or property owner(s) shall enter into an agreement to provide such information prior to the issuance of any securities.

D. Conduit Financings

The applicant must go through any Joint Powers Authority (JPA) of which the City is a member. Conduits, or Tax and Equity Fiscal Responsibility Act of 1982 (TEFRA), are (non-city) debt, therefore the City does not act as an issuer for conduit debt. The sole purpose of the JPA is to finance projects that promote economic development through the issuance of bonds.

Before bonds are issued, the federal tax laws under the TEFRA and Section 147 (f) of the Internal Revenue Code require the JPA member (City of Stockton) to 1) conduct a public hearing and 2) approve the JPA's issuance of indebtedness.

XII. AGREEMENTS

The Applicant may be required to enter into an agreement(s) incident to district proceedings as required by and in a form provided by the City and consistent with these policies. An agreement(s) may include, but not be limited to:

- A. Agreement(s) with any other public agency entitled to receive any portion of the bond proceeds or entitled to own and operate any of the public facilities financed by bond proceeds;
- B. Reimbursement/Acquisition Agreement(s); and
- C. Advance Deposit Agreement(s).

As a condition to the issuance and sale of the bonds, any agreement(s) which may be required shall be duly approved and executed by the parties thereto. Prior to execution of any agreements, such agreements shall be reviewed by bond counsel and the City Attorney. Funding of the above agreements shall be payable solely from the proceeds of the sale of bonds.

XIII. ACQUISITION PROVISIONS

The City generally allows acquisition districts. The City shall have final determination as to whether and to what extent it will allow the financing of public facilities through acquisition.

In the event the acquisition provisions of the Municipal Improvement Act of 1913 or Mello-Roos Act are utilized, the City and the Applicant or property owner shall mutually agree upon facilities to be acquired and the method of determining reasonable acquisition costs. For acquisitions pursuant to the Municipal Improvement Act of 1913 or the Mello-Roos Act, an acquisition agreement shall be required and approved by the City prior to any payment from the bond proceeds for the subject district.

Specifications and contracts must require payment of "prevailing wages" (each individual department is responsible for its own contract compliance with prevailing wages) as set forth in Sections 1720-1861 of the Labor Code of the State of California, where improvements are to be acquired and reimbursement made therefore. The City Attorney will provide the necessary provisions which must be included in the contract to comply with the Labor Code.

Upon completion of construction, the following shall be submitted to the City:

- A. An itemized list of the improvements proposed for acquisition which gives a description of the individual items, the final quantity for each item, the unit price bid for the item and the total cost for each item.
- B. Basis and billing for all engineering fees paid and claimed for reimbursement.
- C. Description of any City fees paid and claimed for reimbursement.
- D. Release from contractor, subcontractors, and suppliers indicating payment in full.
- E. Guaranty that there are no liens on the improvements to be acquired together with indemnification agreement to the City regarding unknown or future claims.
- F. Competitive Bidder. The Developer covenants that all contracts to be awarded pursuant to the Acquisition Agreement shall be awarded to the contractor who is the lowest responsible bidder on that particular contract, after notice inviting sealed bids is given as required for public works projects by law.

- G. Prevailing Wages. The Developer covenants that, with respect to the construction of Facilities, it will assure complete compliance with any applicable law or regulation for the payment of prevailing wages.

XIV. DISCLOSURE TO PURCHASERS

The applicant or property owner will be required to disclose an assessment, special tax or other liens on individual parcels to existing and future property owners. It is the goal of the City that all taxpayers residing within, or owning property within, the boundaries of a Mello-Roos district heretofore or hereafter established by the City will receive the form of notice required by Section 53341.5 of the Act, at the time set forth therein, as such Section may be amended from time to time. To comply with this goal, it is the policy of the City to provide Section 53340.2 notice of special tax to any individual requesting such notice or any owner of property subject to a special tax levied by the City within five working days of receiving a request for such notice.

XV. EXCEPTIONS TO THESE POLICIES

The City may find in limited and exceptional instances that a waiver to any of the above stated policies is warranted given identified special City benefits to be derived from such waiver. Such waivers may be granted by the City Manager or CFO with the approval of the City Attorney, if provisions waived are not material, and shall be granted only by action of the City Council if as to material provisions and shall be based upon stated policies as warranted given identified special City benefits to be derived from such specific public purpose, economic and/or health and safety findings.

XVI. POST ISSUANCE COMPLIANCE

A. External Advisors / Documentation

The CFO and other appropriate City personnel shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in a City resolution(s), Tax Certificate(s) and/or other documents finalized at or before issuance of the Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The CFO and other appropriate City personnel also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of bond-financed assets and future contracts with respect to the use of output or throughput of bond-financed assets.

Whenever necessary or appropriate, the City shall engage expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds.

B. Role of the City as Bond Issuer

Unless otherwise provided by City resolutions, unexpended Bond proceeds shall be held by the City and the investment of Bond proceeds shall be managed by the CFO. The CFO shall maintain records and shall prepare regular, periodic statements to the City regarding the investments and transactions involving Bond proceeds.

If a City resolution provides for Bond proceeds to be administered by a trustee, the trustee shall provide regular, periodic (monthly) statements regarding the investments and transactions involving Bond proceeds.

C. Arbitrage Rebate and Yield

Unless a Tax Certificate documents that bond counsel has advised that arbitrage rebate will not be applicable to an issue of Bonds:

1. The City shall engage the services of a Rebate Service Provider, and the City or the Bond trustee shall deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider on a prompt basis;
2. Upon request, the CFO and other appropriate City personnel shall provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
3. The CFO and other appropriate City personnel shall monitor efforts of the Rebate Service Provider and assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed; and
4. During the construction period of each capital project financed in whole or in part by Bonds, the CFO and other appropriate City personnel shall monitor the investment and expenditure of Bond proceeds and shall consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds.

The City shall retain copies of all arbitrage reports and trustee statements as described below under "Record Keeping Requirements."

D. Use of Bond Proceeds

The CFO and other appropriate City personnel shall:

1. Monitor the use of Bond proceeds, the use of Bond-financed assets (e.g., facilities, furnishings or equipment) and the use of output or throughput of Bond-financed assets throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in applicable City resolutions and Tax Certificates;
2. Maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds;
3. Consult with Bond Counsel and other professional expert advisers in the review of any contracts or arrangements involving use of Bond-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable City resolutions and Tax Certificates;
4. Maintain records for any contracts or arrangements involving the use of Bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable City resolutions and Tax Certificates; and
5. Meet at least annually with personnel responsible for Bond-financed assets to identify and discuss any existing or planned use of Bond-financed, assets or output or throughput of Bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable City resolutions and Tax Certificates.

All relevant records and contracts shall be maintained as described below.

E. Record Keeping Requirements:

1. Unless otherwise specified in applicable City resolutions or Tax Certificates, the City shall maintain the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years;
2. A copy of the Bond closing transcript(s) and other relevant documentation delivered to the City at or in connection with closing of the issue of Bonds;
3. A copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds;
4. A copy of all contracts and arrangements involving private use of Bond-financed assets or for the private use of output or throughput of Bond-financed assets; and
5. Copies of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements.

EXHIBIT 'A'

COMPENSATION SCHEDULE

- **Underwriter's Compensation.** An underwriter shall be entitled to an Underwriter's Discount to be negotiated with the City prior to initiating underwriting services. Said Underwriter's Discount shall not exceed those amounts set forth below in conjunction with the monetary value of the issuance.

– Non-Rated Issues:

<u>Maximum Fee per \$1,000 Bond</u>	<u>Bond Issue Size</u>
\$15.00 of the portion	up to \$5,000,000
plus \$12.50 of the portion	from \$5,000,001 to \$10,000,000
plus \$11.50 of the portion	from \$10,000,001 to \$20,000,000
plus \$10.00 of the portion	over \$20,000,001

– Rated or Insured Issues:

Underwriter compensation on rated or insured issues will be set in collaboration with the municipal advisor and will be based on the prevailing market for fees paid for in comparable issue types, complexities and size.

Notwithstanding the above, an underwriter shall be entitled to a minimum fee of \$25,000 for any issue for which underwriter has been engaged to provide underwriting services.

The Underwriter's Discount allowed on each issue shall include management fees, takedown, underwriter's risk, and expenses of sale, including but not limited to, underwriter's counsel, travel and out-of-pocket expenses, computer and modeling, charges from the California Debt Advisory Commission (CDIAC), assignment of CUSIPS, day loan charges, and other usual and customary costs incurred by the underwriter.

- All fees are contingent upon the successful completion of the City's financing.
- Fees may be negotiated by the Director of Administrative Services outside of the above schedule to accommodate unusual or special circumstances.

- **Bond Counsel Compensation.** Compensation will be based on the following terms.
 - The fee for each financing will be computed on the basis of a minimum fee of twenty thousand dollars (\$20,000) plus one-quarter of one percent (.25%) of the first ten million dollars (\$10,000,000) of bonds issued plus one tenth of one percent (.1%) of any principal amount of bonds issued in excess of ten million dollars (\$10,000,001) up to \$20,000,000, plus seven and one half of one percent (.075%) of any principal amount of bonds issued in excess of twenty million dollars (\$20,000,000) up to \$50,000,000. For amounts in excess of \$50,000,000, the City shall negotiate an acceptable fee with the qualified firm of its choice. In the event that an agreement is not reached between the City and that qualified firm, the City shall negotiate with a different qualified firm. Such selection process will continue until a qualified firm accepts the City's proposed fee.

- Reimbursement for actual out-of-pocket expenses shall not exceed 10% of the fee unless otherwise agreed to in advance. The qualified firm must submit documentation for such expenses satisfactory to the City prior to reimbursement of any out-of-pocket expense.
- All fees are contingent upon the successful completion of the City's financing.
- Fees may be negotiated by the CFO outside of the above schedule to accommodate unusual or special circumstances
- **Municipal Advisor Compensation.** Municipal Advisor compensation shall be negotiated on a case-by-case basis not to exceed the fees paid to the Bond Counsel. The Municipal Advisor should be compensated based on the following terms.
 - The fee for each financing will be negotiated based on the complexity and size of the specific transaction.
 - All fees paid to the Municipal Advisor are inclusive of out-of-pocket expenses.
 - All fees are contingent upon the successful completion of the City's financing.
 - Fees may be negotiated by the CFO outside of the above schedule to accommodate unusual or special circumstances
- **Disclosure Counsel Compensation.** The fee paid to disclosure counsel is 60% of the fee paid to bond counsel. Other terms of compensation include:
 - Reimbursement for actual out-of-pocket expenses shall not exceed 10% of the fee unless otherwise agreed to in advance. The qualified firm must submit documentation for such expenses satisfactory to the City prior to reimbursement of any out-of-pocket expense.
 - All fees are contingent upon the successful completion of the City's financing.
- **District Formation and Special Tax Consultant.** All City and consultant costs incurred in the evaluation of new development district application and the establishment of districts will be paid by the applicant(s) by advance deposits in those instances where a proposed district has been initiated by a party or parties other than the City.
 - Compensation shall be negotiated on a case-by-case basis and may include costs for formation (phase 1), which are to be paid from developer deposit and for bond issuance (phase 2), which will be paid at closing upon successful completion of the City's financing.
 - Reimbursement for actual out-of-pocket expenses shall not exceed 10% of the fee unless otherwise agreed to in advance. The qualified firm must submit documentation for such expenses satisfactory to the City prior to reimbursement of any out-of-pocket expense.
- **City Administration Fee.** In addition to deposits advanced by the Applicant to cover the costs of the initial review of the application and consultants, the City shall receive an administrative fee which is intended to cover the City's costs associated with the formation of the assessment or special tax district and the issuance of bonds. The City's Administrative Fee is based on the following fee scale: Three-quarters of one-percent (.75%) up to the first \$5 million of the par amount of the bond issue; one-half of one-percent (.50%) of the par amount of the bond issue over \$5 million up to \$10 million; one-quarter of one-percent (.25%) of the par amount of the bond issue over \$10 million. The City's Administration Fee is a component of the cost of issuance and is paid from bond proceeds.

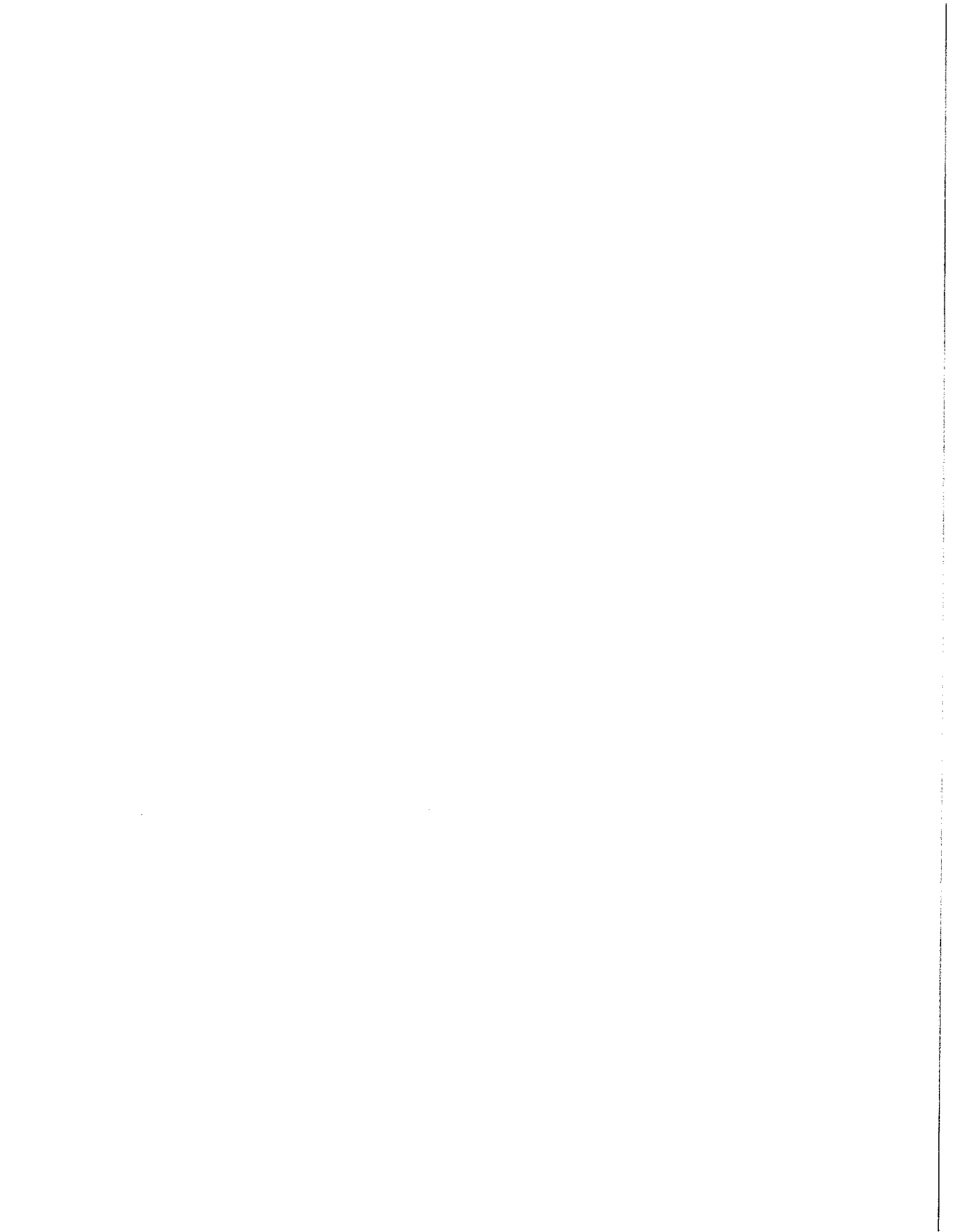


EXHIBIT 'B'

APPRAISAL CRITERIA

Appraisals undertaken to establish value-to-lien-ratios in assessment districts and CFDs shall value the fee simple estate, *subject to* special tax and special assessment liens.

The appraiser undertaking the appraisal of real property in connection with the issuance of bonds of a CFD or assessment district formed by the City shall be designated an (MAI) at the time of appraisal. He/she shall be an independent appraiser contractor and represent himself/herself to be well qualified to perform the appraisal services required. Such appraiser shall certify that he/she is familiar with the recognized and acceptable appraisal methods, techniques and Standards of Professional Practice and Code of Ethics as set forth by the Appraisal Institute and Uniform Standards of Professional Appraisal Practice of The Appraisal Foundation or any other requirements or qualifications pursuant to the laws of the State of California.

In the preparation of the appraisal report the appraiser shall follow professional appraisal practices utilizing such methods and approaches to value as are appropriate for the specific property being appraised. Should certain approaches to value, or requirements covered in these specifications, not be applicable to the assignment at hand, the appraiser can fulfill the obligation herein by identifying that approach or requirement together with a brief explanation of its omission (i.e., an appraisal involving land only).

Generalizations and unsupported assumptions by the appraiser relating to the existence of infrastructure, utilities, improvements, grading, access, soil conditions, topography, etc., and/or an estimated Highest and Best Use which differs from the present or permitted use and zoning are unsatisfactory in reports to be submitted relating to the issuance of CFD bonds. These items must be confirmed or justified by patterns of growth and demand trends, as indicated in the area, city and neighborhood analyses. As a minimum, the appraisal report must comply with the appraisal requirements set forth below.

The appraiser should use precise definitions of terms, as some readers of appraisals are from outside the real estate profession. Examples of definitions include bulk acreage sales, bulk discounts, aggregate retail value, quick sale valuation, etc.

In lieu of a value determination made by an appraiser in accordance with the criteria set forth herein, the value of property within the CFD may be determined by using the County assessed valuation of the real property within the CFD.

Appraisal Criteria

A. The definitions to be used in appraisals required by Section 53345.8 of the Act shall include, but shall not be limited to, the following:

"Market Value" means the most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well-informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.

4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specified financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. The effect, if any, on the amount of market value of atypical financing, services, or fees shall be clearly and precisely revealed in the appraisal report.

"Scope of the Appraisal" means it is the intent of the appraisal that all appropriate data considered pertinent in the valuation of the subject property be collected, confirmed and reported in conformity with the Uniform Standards of Professional Appraisal Practice.

"As-is" means the state of development of the subject property and the level of entitlements obtained with respect to the subject property as of the date of value of the appraisal.

"Fee Simple Interest" means absolute ownership unencumbered by any other interest or estate; subject only to the limitations of eminent domain, escheat, police power, and taxation.

B. The standards to be used in Appraisals required by Section 53345.8 of the Act are as follows:

1. The appraisal shall be prepared by an appraiser licensed by the State of California at the time of appraisal; and
2. The appraisal shall be prepared for the purposes of publication by any of the City, an underwriter or an authorized purchaser of bonds in connection with the contemplated CFD financing; and
3. If deemed necessary by the City, the appraisal shall be consistent with a market absorption study, prepared by an experienced market absorption analyst, with respect to the development of the property which is the subject of the appraisal; and
4. The appraiser shall be the agent of the City rather than the agent of any developer in the subject CFD.

C. The assumptions to be used in the Appraisals required by Section 53345.8 of the Act shall include, but shall not be limited to, the following:

1. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.

D. The contents of the appraisal report shall include, but shall not be limited to, the following:

1. Statement of Limiting Conditions and Assumptions.
2. Certification of Appraiser and Permission to Reproduce and Use Report as Required for Bond Issuance.
3. Purpose of Appraisal - This shall include the reason for the appraisal, a definition of all values required, and property rights appraised.
4. Primary Assumption - The appraiser will process the valuation of subject properties assuming only improvements which are completed as of the date of value or for which current financing has been irrevocably obtained, e.g., proceeds of current bond issue.

5. Legal Description -- This description shall be complete so as to properly identify the property appraised.
6. Property Data - All information pertinent to the current state of the property shall be considered.
7. Zoning - Describe the zoning for the subject and comparable properties and if rezoning is imminent, discuss further.
8. Analysis of Highest and Best Use - The report shall state and support the highest and best use to which a property can be put and recognize that land is appraised as though vacant and available for development to its highest and best use, and the improvements are based on their actual contribution to the site. If the highest and best use is based on a "Land Use" study provided by the developer, the appraiser's investigation and study supporting the conclusion that said land use is reasonable must be included in the report.
9. Proposed Construction - The report shall describe the construction in the manner proposed by the developer, based on the appraiser's study of construction drawings and/or interviews with engineers and architects responsible for project design which support such construction.
10. Sales Comparison Approach to Value -
 - a. Land - Direct Comparison - The appraiser's opinion of the value of the land shall be supported by confirmed sale prices of comparable, or nearly comparable, lands having like optimum uses.
 - b. Subdivision or Developmental Approach - All variables contained within this approach shall be appropriately supported.
 - (1) Costs of Development - Land: Direct Costs - All land improvement costs shall either be estimated by developer's independent civil engineer or, if based upon "in-house" estimates, these costs shall be presented in the report in sufficient detail so that they may be reviewed by a qualified civil engineer. Estimates made by appraiser or "rules of thumb" are not acceptable.
 - (2) Costs of Improvement - Structures - Appraisers shall check for reasonableness the developer's costs of constructing structures for work in progress and cite sources of cost data.
 - (3) Discount Rates - Appraisals should have an adequate discussion and support/reasoning for discount rate derivation.
11. Value Estimate; Cost Approach, if Applicable - This section shall be in the form of computative-data, arranged in sequence beginning with reproduction or replacement cost, and shall state the name of the source of all cost estimates (i.e., engineering firm, contractor, cost estimating service, etc.).

The dollar amounts of physical depreciation and functional and economic obsolescence, or the omission of same, shall be explained in narrative form.
12. Income Approach to Value - This approach should include a discussion on the leasing (rental) status of subject property (i.e., percent occupied, rental rates, concessions, terms, rental adjustments, etc.).
13. Mass Appraisal Techniques - It may be appropriate for projects that have built-out and occupied product to use mass appraisal techniques.
14. Interpretation and Correlation of Estimates - The appraiser shall interpret the foregoing estimates and shall state his/her reasons why one or more of the conclusions reached in Items 10 through 13 are indicative of the market value of the property.

15. Value Allocations - Appraiser should report values by ownerships or assessor parcel numbers. In CFDs where production units have been built and sold/occupied, these separate ownerships may be grouped together by logical categories (e.g., by tract, etc.).

These value allocations are necessary for preparation of the Official Statement for bond sale offerings.

16. Exhibits - The appraisal report must contain sufficient exhibits to assist the reader in understanding the appraisal.

RESPONSIBILITIES

The Chief Financial Officer is responsible for implementation of financial policies related to the subject matter of City Council Policy Title – 5 Financial Management.

RELEVANT AUTHORITY

Charter of the City of Stockton Article XXII Section 12.01

RELATED CITY POLICIES

17.01.030 - Investments

RELATED CITY PROCEDURES

17.01.050.01 - District Formation and Financing

RELATED FORMS, DOCUMENTS, OR LINKS

Not applicable

FREQUENTLY ASKED QUESTIONS

Not applicable

UPDATE HISTORY

Not applicable
