

RESOLUTION NO. \_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND,  
CALIFORNIA, ADOPTING LOCAL GOALS AND POLICIES RELATING TO  
COMMUNITY FACILITIES DISTRICTS

WHEREAS, the City of Richmond (the "City") is a municipal corporation and a charter city that is duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the City desires to form one or more community facilities districts pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") to finance certain public facilities to be owned and operated by the City and/or other public agencies and to finance certain public services; and

WHEREAS, pursuant to Section 53312.7 of the Act, the City must adopt local goals and policies relating to the use of the Act to finance public facilities prior to initiating proceedings to form a community facilities district;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RICHMOND THAT:

Section 1. Each of the above recitals is true and correct.

Section 2. The "Statement of Goals and Policies for the Use of the Mello-Roos Community Facilities Act of 1982" of the City attached as Exhibit A hereto (the "Policies") is hereby approved. The Policies may be amended from time to time by the City Council as necessary to comply with legal requirements or as otherwise desired by the City Council.

Section 3. The Mayor, any member of the City Council, the City Attorney, the City Manager, and other members of City staff, are hereby directed and authorized to take all actions necessary to comply with the Policies.

Section 4. This Resolution shall be effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Richmond held on the 15<sup>th</sup> day of March, 2022.

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Tom Butt,  
Mayor

ATTEST:

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Pamela Christian,  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF CONTRA COSTA ) ss.  
CITY OF RICHMOND )

I, \_\_\_\_\_, City Clerk and ex-officio Clerk of the City Council of the City of Richmond, California, do hereby certify that the whole number of the members of the City Council is five; that the above and foregoing Resolution No. \_\_\_\_ was duly and regularly passed and adopted at a regular meeting of the City Council held on the 15<sup>th</sup> day of March, 2022 by the following vote:

COUNCILPERSONS AYES: \_\_\_\_\_()

COUNCILPERSONS NOES: \_\_\_\_\_()

COUNCILPERSONS ABSTAINED: \_\_\_\_\_()

COUNCILPERSONS ABSENT: \_\_\_\_\_()

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Pamela Christian,  
City Clerk

## EXHIBIT A

**CITY OF RICHMOND**

**STATEMENT OF GOALS AND POLICIES FOR THE USE OF  
THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

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**STATEMENT OF GOALS AND POLICIES FOR THE USE  
OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

**I. INTRODUCTION**

The City of Richmond (the “City”) has developed the following Goals and Policies on debt financing as guidelines to assist concerned parties in following the City’s approach to community facilities district debt financing. It is the City’s goal to support projects which address a public need and provide a public benefit. Proposed projects requesting community facilities district debt financing will be evaluated to determine if such financing is financially viable and in the best interest of the City and current and future City and project residents. These Goals and Policies are designed to comply with Section 53312.7 of the Government Code.

The City will consider applications requesting the formation of community facilities districts and the issuance of bonds to finance eligible public facilities pursuant to the Mello-Roos Act. The City reserves the right to request any additional reports, information or studies reasonably necessary in evaluating these applications.

All City and any consultant costs incurred in evaluating applications requesting the establishment of Districts (as defined below) will be paid by the applicant(s) by advance deposit increments or as otherwise agreed in writing by the City. The City shall not incur any non-reimbursable expense for processing such applications. Expenses not chargeable to the District shall be borne by the applicant.

As a result of a judgment against the City, (i) that certain Disposition and Development Agreement for Point Molate Mixed-use Development, dated as of September 30, 2020, by and between the City and Winehaven Legacy LLC, and (iii) that certain Development Agreement, by and between the City and Winehaven Legacy LLC, dated as of October 21, 2020, the City was obligated to form a community facilities district encompassing a portion of the area formerly known as the Point Molate Naval Fuel Depot. It is the intent of the City that these Goals and Policies govern the Point Molate CFD in addition to the other Districts formed within the City.

**II. DEFINITIONS**

“*Account Party*” means, collectively, the owner of any land within a District or improvement area, together with land owned by any affiliate.

“*Bonds*” means bonds authorized and issued under the Mello-Roos Community Facilities Act of 1982.

“*City*” means the City of Richmond.

“*District*” means a Community Facilities District formed under the Mello-Roos Community Facilities Act of 1982, as amended.

“*Mello-Roos Act*” means the Mello-Roos Community Facilities Act of 1982, as amended.

“Point Molate CFD” means the community facilities district formed by the City that encompasses a portion of the area formerly known as the Point Molate Naval Fuel Depot and each improvement area designated therein.

“Point Molate Development Agreements” means (i) that certain Disposition and Development Agreement for Point Molate Mixed-use Development, dated as of September 30, 2020, by and between the City and Winehaven Legacy LLC and (ii) that certain Development Agreement, by and between the City and Winehaven Legacy LLC, dated as of October 21, 2020.

“Public Facilities” means improvements authorized to be constructed or acquired under the Mello-Roos Act including, but not limited to, fees for capital facilities imposed by public agencies as a condition to approval of the development encompassed by the District or as a condition to service the District.

“Value” or “Fair Market Value” means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of a difficulty of the other and both have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon uses and purposes.

### **III. ELIGIBLE PUBLIC FACILITIES, SERVICES AND PRIORITIES**

It shall be a goal and policy of the City that Public Facilities eligible to be financed must be owned by a public agency or public utility and must have a useful life of at least five (5) years. In any event, no bonds shall be issued with a maturity date greater than the average useful life of the facilities or improvements being financed. The development proposed within a District must be consistent with the City’s general plan, if any, and must have received any required zoning or specific plan approvals.

The list of Public Facilities eligible to be financed by a District include, but are not limited to, the following:

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|--|--|
| Streets, highways and bridges          | Flood control facilities   |
| Street lighting                        | Libraries  |
| Traffic signals and safety lighting    | Public utilities   |
| Parks                                  | Police and fire protection facilities  |
| Governmental facilities                | Recreation facilities, including open space  |
| Sanitary sewer facilities              | Biological mitigation measures involving land acquisition, dedicating and revegetation |
| Storm drain facilities                 |  |
| Potable and reclaimed water facilities |  |

The City has final determination as to any facility’s eligibility for financing, as well as the prioritization of facilities to be included within or for the benefit of a District. The City may enter into joint

community facilities agreements with other public entities for the purpose of financing any Public Facilities.

The foregoing list of eligible Public Facilities may include facilities included as part of the City's or other public agencies' development impact fee programs to the extent permitted by the Mello-Roos Act.

When it is determined by the City that only impact fees are to be financed by a series of Bonds, the City may collect a premium of the total fees to be financed. The amount of such premium shall be determined by the City. The City may use the premium to finance Public Facilities and improvements directly benefiting and identified by the City as the most necessary to serve the specific needs of the applicable District.

Additionally, a District may finance any one or more of the types of services specified in Section 53313 of the Act. Priority for District financing shall be given to services provided by or directly benefiting the City and, if multiple services are to be financed, with no service having priority over another service; provided, however, the City has final determination as to any service's eligibility for financing. The City shall not finance services on behalf of other public agencies.

#### **IV. CREDIT QUALITY REQUIRED OF BOND ISSUES**

In evaluating a proposed Bond issuance, it shall be a goal and policy of the City that the City's independent financing consultant, special tax consultant and/or a municipal advisor has reviewed and approved the proposed issuance of the Bonds.

Unless waived by the City Council, or as it relates to privately placed debt, as provided for in Section XI below, prior to the issuance of Bonds, the following credit criteria shall be satisfied: the ratio of the value of all parcels of property subject to the special tax securing the Bonds to the amount of outstanding community facilities district or assessment district bonds attributable to such parcels (the "Value-to-Lien Ratio") may not be less than five-to-one (5:1). The fair market value of the property within the District or improvement area for purposes of determining the foregoing ratio will be determined based on the appraised value of the property or the assessed value of the property based on the valuation made by an appraiser selected by the City, with a valuation date preceding the issuance of the Bonds by not more than ninety (90) days, and as described more fully in Section IX.

#### **V. SECURITY**

It shall be a goal and policy of the City to require sufficient security in connection with the development within each District. To this end:

A. Value-to-Lien Ratios and Status of Development. Unless waived by the City Council, or as it relates to privately placed debt, as provided for in Section XI below, prior to the issuance of Bonds, the following credit criteria shall be satisfied: the ratio of the aggregated total value of all parcels of property subject to the special tax securing the Bonds to the amount of outstanding community facilities district or assessment district bonds attributable to such parcels (the "Value-to-Lien Ratio") may not be less than five-to-one (5:1). The fair market value of the property within the District or improvement area for purposes of determining the foregoing ratio will be determined based on the assessed value of the property or the appraised value of the property based on the appraisal made by an appraiser selected



by the City with a valuation date within ninety (90) days of the issuance of the Bonds, as more fully described in Section VII.

B. Letter of credit requirement. Unless waived by the City Council, in cases where the aggregate maximum special taxes on taxable developed property within a CFD directly securing a CFD bond issue is less than 80% of maximum annual debt service on that bond issue, the developers or owners of the undeveloped property securing that bond issue will be required to post a letter of credit. The amount of the letter of credit shall be equal to 2 years of the maximum annual debt service on the bond issue, less 2 years of the maximum special taxes on developed taxable property securing the bond issue. Developed property shall be determined based on proof of Permit closure and/or Certificates of Occupancy. The letter of credit shall be from a bank or other financial institution rated A or better by Standard & Poor's or Moody's. The amount of the letter of credit may be reduced annually, based on the sizing formula described above.

## **VI. DISCLOSURE REQUIREMENTS**

It shall be a goal and policy of the City to require sufficient developer disclosure and compliance with all applicable federal securities laws in connection with each District. To this end:

A. Disclosure Requirement for Developers. The applicant will be required to demonstrate, to the satisfaction of the City, that there will be full disclosure of the Mello-Roos special taxes and any other special tax, assessment, overlapping special taxes or assessment of other districts, or other liens on individual parcels to existing and future property owners, and to prospective purchasers of property including interim purchasers and sales to merchant builders (Section 53341.5 of the Government Code). In addition to all requirements of law, the City shall require the applicant to provide disclosure of such information as the City deems appropriate to the purchasers of property within the District or improvement area, with respect to the existence of the District or improvement area, maximum and/or backup special taxes to be levied within the District or improvement area, facilities to be constructed, the foreclosure process and the terms and conditions of Bond issues on behalf of the District. Such disclosure shall include home buyer notifications requiring signature prior to home purchases, as well as methods to notify subsequent home purchasers.

The land developer shall be required to disclose (a) all prior experience with CFDs in California, including subsidiaries or affiliated companies, (b) any tax delinquencies with respect to any such prior CFDs, (c) any foreclosures against their properties within such prior CFDs, and any bankruptcy filings by the land developer, including subsidiaries and affiliated companies, with respect to any such prior CFDs.

B. Compliance with Federal Securities Laws. The City shall use all reasonable means to ensure compliance with applicable federal securities laws in connection with the issuance of debt and the provision of annual information regarding any District established by the City with respect to which Bonds have been issued, including requiring any developer in a District or improvement area who is material to the Bond issue to transmit appropriate information to the City or its designee for disclosure to Bond investors.

## **VII. OTHER REQUIREMENTS FOR LAND DEVELOPERS**

The City may make the following requirements from land developers with respect to the issuance of any bonds secured by special taxes from a CFD:

A. The land developer may be required to fund all major projects initially, and then be reimbursed in full or in part by bond proceeds through an acquisition agreement.

B. A reserve for future foreclosure and/or bankruptcy expenses related to the applicable District of at least \$100,000 shall be funded by closing on the first series of Bonds from either costs of issuance or a developer cash contribution. If no foreclosure actions or bankruptcy actions are required prior to refunding or pay off of the first series of Bonds, such reserve can be released back to the developer, if funded by the developer, or re-allocated to other purposes, if funded by costs of issuance.

C. The City may charge a fee of up to \$100,000, payable from proceeds of the bond issue, to reimburse itself for the costs of staff time and other expenses related to the issuance of bonds for a CFD.

### **VIII. EQUITY OF TAX ALLOCATION FORMULAS**

It shall be a goal and policy of the City that 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 or improvement area. The City prefers that this apportionment of costs be based on the benefit that each parcel is to receive from the Public Facilities.

The rate and method of apportionment of the special tax is to provide for the administrative expenses of the proposed District or improvement area, including, but not limited to, those expenses necessary for the enrollment and collection of the special tax and Bond administration.

All property not otherwise exempted by the Mello-Roos Act or the rate and method of apportionment of special tax from taxation shall be subject to the special tax. At the time of formation of the District or improvement area, exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

The annual special tax levy on each residential parcel developed to its final land use shall be approximately equal each year, except that a variation for administrative expenses and delinquencies will be allowed. It is further the policy of the City to comply with the provisions of Section 53321 of the Mello-Roos Act with respect to the escalation of maximum special taxes.

The maximum annual special tax, together with ad valorem property taxes, special assessments or taxes for an overlapping financing district, or any other charges, taxes, or fees payable from and secured by the property, including potential charges, taxes, or fees relating to authorized but unissued debt of public entities other than the City, in relation to the expected assessed value of each parcel upon completion of the private improvements to the parcel is of great importance to the City in evaluating the proposed financing.

It is the objective of the City that maximum special taxes or assessments on residential owner-occupied property, when taken together with *ad valorem* taxes, any other special taxes levied pursuant to the Mello-Roos Act and assessments applicable to such property, do not exceed in any year in which

bonds are issued for the applicable District or improvement area two percent (2%) of the greater of the appraised value or assessed value of such property.

In evaluating whether this objective can be met, the City will consider the aggregate public service needs for the proposed project. It will consider what public improvements the applicant is proposing to be financed in relation to these aggregate needs and decide what is an appropriate amount to extend in public financing to the identified public improvements.

This evaluation will be based on information obtained from other affected taxing entities that have jurisdiction to impose a levy on the proposed project.

The total maximum annual special taxes that can be collected from taxable property in a District or improvement area, taking into account any potential changes in land use or development density or rate, and less all projected administrative expenses, must be equal to at least one hundred ten percent (110%) of the gross annual debt service on any Bonds issued by or on behalf of the District or improvement area in each year that said Bonds will remain outstanding.

The rate and method of apportionment of the special tax may include a provision or a backup tax to protect against any changes in development that would result in insufficient special tax revenues to meet the debt service requirements of the district. Such backup tax shall be structured in such a manner that it shall not violate any provisions of the Mello-Roos Act regarding cross-collateralization limitations for residential properties.

A formula to provide for the prepayment of the special tax may be provided; however, neither the City nor the District shall be obligated to pay for the cost of determining the prepayment amount which is to be paid by the applicant.

## **IX. APPRAISALS**

It shall be a goal and policy of the City to establish a uniform set of standards applicable to all appraisals undertaken in connection with the development of a District. To this end:

A. Definition of Appraisal. An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

B. Absorption Study and Discounted Present Value Cash Flow Analysis. Any appraisal for a CFD financed land development project with an estimated project build out schedule of more than one year shall include the following:

(1) The estimated build out period shall be based on an absorption study by an experienced consultant selected by the City and contracting with the City. The cost of the absorption study shall be paid for by the land developer.

(2) One of the bases for determining the appraised value of property within a District shall be a discounted present value cash flow analysis based on the results of the absorption study.

C. Standards of Appraisal. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A detailed appraisal shall be prepared for complex

appraisal problems. A detailed appraisal shall reflect nationally-recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of the data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following items:

- (1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.
- (2) An adequate description of the physical characteristics of the property being appraised, location, zoning, present use, an analysis of the highest and best use.
- (3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method such as a market approach using sales that are at the same stage of land development. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
- (4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source, and method of financing, and verification by a party involved in the transaction.
- (5) A statement of the value of the real property.
- (6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

D. Conflict of Interest. No appraiser or review appraiser shall have any interest direct or indirect in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

E. Community Facilities District Appraisal Premises. The valuation of proposed community facilities districts should be based on three premises:

- (1) Raw Land Value (Premise No. 1). The total land within the project is valued "as is"
  - (a) With any existing infrastructure.
  - (b) Without proposed infrastructure being financed.
  - (c) With existing parcel configuration.
  - (d) Considering planned densities allowed by the specific plan of the project.

This is a typical type of land valuation.

- (2) Project Build-Out Value (Premise No. 2). The total land within the project is valued under projected conditions:
  - (a) With proposed infrastructure being financed completely.
  - (b) At the planned densities allowed by the specific plan.
  - (c) Land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed.

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

- (3) Bulk Land Value (Premise No. 3). The total land within the project is valued under projected conditions:
  - (a) With proposed infrastructure being financed completely.
  - (b) With existing parcel configuration.
  - (c) Considering planned densities allowed by the specific plan of the project.

## **X. POINT MOLATE COMMUNITY FACILITIES DISTRICT**

To the extent the formation, levy of special taxes, issuance of bonds, or other provisions with respect to the Point Molate CFD as required pursuant to the terms of the Point Molate Development Agreements and any acquisition or other agreement executed by the City in connection the Point Molate CFD is inconsistent with these Goals and Policies, the provisions of these Goals and Policies that are inconsistent therewith are hereby waived with respect to the Point Molate CFD.

## **XI. PRIVATELY PLACED DEBT**

If determined to be in its best interests, the City may cause the issuance of Bonds by a District on a private placement basis. City staff shall be delegated the authority to negotiate and finalize the terms of any such privately placed debt. However, the following requirements shall apply to all privately placed debt, unless otherwise waived pursuant to Section XI below:

A. Privately placed debt shall only be sold to investors who sign an Investor Letter in form and substance acceptable to the City.

B. After the issuance of any privately placed debt, such debt shall only be transferred to subsequent transferees who sign an Investor Letter in form and substance acceptable to the City.

C. Unless waived by the City Council, prior to the issuance of the privately placed debt, the following credit criteria shall be satisfied: the ratio of the aggregated total value of all parcels of property subject to the special tax securing the Bonds to the amount of outstanding

community facilities district or assessment district bonds attributable to such parcels (the “Value-to-Lien Ratio”) may not be less than two and 1/2-to-one (2.5:1).

D. No letter of credit, as described in Section V, shall be required for a private placement that otherwise meets the criteria of this section.

## **XII. EXCEPTIONS TO THESE POLICIES**

The City may find in limited and exceptional instances that a waiver of any of the above stated policies, or portions thereof, is reasonable given identified special City benefits to be derived from such waiver. Such waivers are granted only by action of the City Council based upon specific public purpose and/or health and safety findings.