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2 RESOLUTION OF THE BOARD OF SUPERVISORS OF
3 ORANGE COUNTY, CALIFORNIA

4 September 12, 2000

5 On motion of Supervisor Coad, duly seconded and carried, the following Resolution
6 was adopted:

7 **WHEREAS**, acting in its capacity as the legislative body, the Board of Supervisors
8 ("Board") of the County of Orange ("County") may establish a community facilities
9 district ("CFD") pursuant to Sections 53311, et seq., of the Government Code; and

10 **WHEREAS**, the Board also may establish an assessment district, as authorized by the
11 Streets and Highways Code under Sections 5000, et seq., and Sections 10000, et seq.
12 (CFDs and assessment districts together are referred to as "Districts" in the plural or
13 "District" in the singular); and

14 **WHEREAS**, in order to finance the costs of certain needed public facilities, including
15 the payment of debt service on bonds issued for that purpose, ("District Debt") the Board
16 may levy a special tax on property within a CFD or a special assessment on property
17 within an assessment district; and

18 **WHEREAS**, the Board is required by Section 53312.7 of the Government Code to adopt
19 local goals and policies which include, among other criteria, a statement concerning the
20 desirable and maximum amounts of special tax to be levied against a parcel in a CFD and
21 a statement of definitions, standards and assumptions to be used in appraisals required by
22 Section 53345.8 of the Government Code ("Section 53345.8") in a CFD established on or
23 after January 1, 1994; and

24 **WHEREAS**, Section 53345.8 requires the Board to make certain findings and
25 determinations with respect to the value of property within a CFD relative to all debt
26 incurred with respect to such property ("Value-to-Lien Test") before approving a bond
27 financing; and

28 **WHEREAS**, on April 19, 1994, the Board adopted Resolution No. 94-458, the "Orange
County Public Finance Program Policy Statement and Applicant Information Package",
which is applicable to all Districts ("Policy Statement"); and

WHEREAS, to minimize the financial risk of default to general taxpayers, the Policy
Statement requires that prior to Board approval of the issuance of bonds, a District must
fulfill certain value-to-lien requirements; and

WHEREAS, to assure that the maximum effective tax rate on a parcel of property
intended for residential use is not overly burdensome, the Policy Statement requires that
prior to the issuance of bonds, total taxes of a District, including special taxes,
assessments and ad valorem taxes, must not exceed two percent of the assessed value of
property ("2% Test"); and

RESOLUTION NO. 00-353
Amend Orange County Public Finance
Program Policy Statement and
Applicant Information Package

1 **WHEREAS**, historically, the 2% Test has been applied in connection with the issuance
2 of District bonds to finance public facilities, and has not applied to District refinancings
which reduce the amount of debt service payments; and

3 **WHEREAS**, the assessed value of property is determined in accordance with the
4 provisions of Article XIII A of the Constitution of the State of California and assessed
5 value often does not increase proportionately relative to the market value; and

6 **WHEREAS**, other taxing agencies may levy special taxes or special assessments on
7 property within a District for the payment of debt incurred by those agencies
("Overlapping Debt"); and

8 **WHEREAS**, after creation of a District, District Debt and Overlapping Debt may cause
9 total taxes and assessments to exceed 2% of the District's assessed value, but not its
10 estimated market value and thus, the Policy Statement's use of assessed value for the 2%
Test may limit a District's ability to issue new debt to finance needed public facilities;
and

11 **WHEREAS**, the Policy Statement provides that a District may not issue new debt to
12 finance needed public facilities if the 2% Test is not met; and

13 **WHEREAS**, the California Debt and Investment Advisory Commission ("CDIAC") has
14 recommended that the maximum special tax for a community facilities district financing
15 should not cause the Total Tax Burden, as hereafter defined, on residential property to
16 exceed two percent (2%) of the anticipated fair market value of improved parcels upon
the completion of all public and private improvements; and

17 **WHEREAS**, this Board desires to amend the Policy Statement to conform the 2% Test to
18 CDIAC recommendations, and to conform the Value-to-Lien Test to the requirements of
Section 53345.8; and

19 **WHEREAS**, this Board also desires to clarify that the 2% Test does not apply to
20 refinancings; commercial, retail or industrial property; or residential property for which a
major landowner enters into a secured tax subsidy; and

21 **WHEREAS**, this Board recognizes that prevailing market conditions and public benefit
22 may justify individual exceptions to the 2% Test;

23 **NOW, THEREFORE, BE IT RESOLVED, THIS BOARD HEREBY AMENDS**
24 **THE POLICY STATEMENT AS FOLLOWS:**

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26 Paragraph 4 of Page 3 and Paragraph 5 of Page 4 of the Policy Statement are deleted in
their entirety, and the following Paragraphs are inserted:

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1 4. Acting in its capacity as the legislative body, the Board of Supervisors shall not
2 approve any sale of bonds secured by special taxes levied on property in community
3 facilities districts until it makes findings and/or determinations pursuant to Government
4 Code Section 53345.8, as it may be amended from time to time. The requirements
applicable to community facilities districts shall also apply to the sale of bonds secured
by special assessments levied on property in assessment districts.

5 5. The maximum special tax or special assessment that may be levied for a District
6 should not cause the Total Tax Burden (as defined below) on residential property in the
7 District to exceed two percent (2%) of its estimated market value. Total Tax Burden
8 shall mean the projected sum of the estimated ad valorem taxes and the maximum special
9 taxes and special assessments, that may be first levied by a District on residential
10 property as of the first date that residential property is to be occupied, including taxes and
11 assessments levied by any other agency for the payment of District Debt and Overlapping
12 Debt. If the residential property has not been developed and sold to the end user
(homeowner), the Total Tax Burden should not exceed two percent (2%) of the estimated
market value of the improved parcel. The 2% Test shall not apply to commercial, retail
or industrial property, or bond refinancings. Additionally, the 2% test shall not apply to
residential property for which a tax subsidy agreement is provided in accordance with
this Policy Statement.

13 The estimated market value of unsold residential property in a District shall be based
14 upon the lowest anticipated sales price, excluding premiums, for each proposed product
15 type within a given project (e.g., apartment, townhome, condominium, attached single
16 family home and detached single family home by square foot area categories). The
applicant shall supply the necessary information related to the anticipated sales price for
the proposed product types which will be confirmed on behalf of the District by a report
of an independent real estate economist, appraiser and/or review appraiser.

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18 The 2% Test shall be calculated at the time of District formation. In connection with
19 each District bond issue, Staff will disclose to the Board, the District's estimated Total
20 Tax Burden. If the 2% Test is not met, at the time of District formation or a District bond
21 issue, the Board may consider the following options: 1) entering into an agreement with
22 a major landowner to require the landowner to provide a tax subsidy to ensure the Total
Tax Burden paid by homeowners does not exceed 2% of the estimated market value of
the property; 2) approving additional security for the bonds, such as, a letter of credit or
surety which is acceptable to the Board; 3) issuing bonds where the Total Tax Burden
exceeds the 2% Test; or 4) not issuing bonds.

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24 Any tax subsidy agreement or additional security approved shall be provided by the
25 landowner for a reasonable period of time in order to prevent sudden tax increases to
26 homeowners. Terms and details of any tax subsidy and/or additional security shall be
fully disclosed by the landowner to all prospective homebuyers at the time of their receipt
of the notice of special tax. Neither the District nor the County shall bear any liability or

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1 financial obligation for any tax subsidy and/or additional security which may be
2 approved.

3 Additionally, any exception to the 2% Test must be justified on the basis of its public
4 benefit, and must be specifically considered and recommended by the Public Financing
5 Advisory Committee (so long as it remains in effect) and approved by the Board and or
6 applicable legislative body. Any information provided by the applicant to justify an
7 exception to the 2% Test may be subject to review by independent consultants retained
8 on behalf of the District.

9 6. At the time of a bond issuance the maximum special taxes authorized for a CFD on all
10 taxable property, less projected administrative expenses and taking into consideration
11 potential changes in land use or development, must be estimated to be at least one
12 hundred ten percent (110%) of the CFD's maximum annual debt service amount in each
13 fiscal year for as long as the debt is outstanding.

14 7. Prior to the time of a bond issuance an appraisal shall be completed to estimate the
15 market value of property in the District which shall be conducted pursuant to the
16 County's Appraisal Guidelines, as these may be modified from time to time, unless
17 assessed values are to be used in connection with the bond sale.

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The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on September 12, 2000, to wit:

AYES:	Supervisors:	CYNTHIA P. COAD, THOMAS W. WILSON, JAMES W. SILVA TODD SPITZER
NOES:	Supervisor(s):	
EXCUSED:	Supervisor(s):	CHARLES V. SMITH
ABSTAINED:	Supervisor(s):	

Charles V. Smith

CHAIRMAN

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

Darlene J. Bloom
DARLENE J. BLOOM
Clerk of the Board
County of Orange, State of California



Resolution No: 00-353
Agenda Date: 09/12/2000
Item No: 89



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: *Maia Lopez*

Deputy