



COUNCIL AGENDA: 05/01/18  
FILE: 18-531  
ITEM: 2.12

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jon Cicirelli  
Julia H. Cooper  
Margaret McCahan

**SUBJECT:** SEE BELOW

**DATE:** April 9, 2018

Approved

Date

4-18-18

**COUNCIL DISTRICT:** 3, 4 & 7

**SUBJECT: ANNEXATION AREA NO. 1 TO CONVENTION CENTER FACILITIES  
DISTRICT NO. 2008-1**

## RECOMMENDATION

- (a) Accept the landowner approval forms to annex hotel property into Convention Center Facilities District No. 2008-1 as Annexation No. 1.
- (b) Adopt a resolution:
  - (1) Approving the annexation of territory to Convention Center Facilities District No. 2008-1 and levying a special tax within Annexation No. 1; and
  - (2) Directing the City Clerk to record a notice of special tax lien.
- (c) Adopt the following 2017-2018 Funding Sources Resolution and Appropriation Ordinance amendments in the Convention Center Facilities District Revenue Fund:
  - (1) Increase the revenue estimate for Convention Center Facilities District Special Tax by \$2,475,892; and
  - (2) Increase the Unrestricted Ending Fund Balance by \$2,475,892.

## OUTCOME

Approval of the annexation of Annexation No. 1 to Convention Center Facilities District No. 2008-1 authorizes the levy of special taxes on property located within Annexation Area No. 1 in accordance with the Rate and Method of Apportionment of Special Tax (the "RMA").

## **BACKGROUND**

On June 16, 2009, the City Council established the Convention Center Facilities District No. 2008-1 (the "CCFD" or the "District") after the levy of special tax and authorization to issue debt as approved by hotel property owners. This District was formed to finance the acquisition, construction, reconstruction, replacement, rehabilitation, and upgrade of the San Jose McEnery Convention Center under the provisions of Chapter 14.32 of the Municipal Code titled Convention Center Facilities District Financing Procedure (the "Chapter") which incorporates and modifies the Mello-Roos Community Facilities Act of 1982 (the "Act"). All hotels within the CCFD are subject to the district's special tax which is administered in the same manner as the City's Transient Occupancy Tax (the "TOT"). Resolution No. 74826 (Resolution of Formation) identifies all property that may be developed for hotel purposes anywhere within the City or within the City's sphere of influence as territory proposed for annexation in the future pursuant to the Act, which allows the territory to be annexed only with the unanimous approval of the landowners. As new hotels are built and established within the City or annexed into the City's jurisdiction, staff works with the property owners of the new hotels to obtain their consent to annex into the CCFD.

The base special tax is currently 4% of room rent charged, with an additional special tax rate of 1% of rent that would be levied in the event the required Revenue Stabilization Reserve balances fail to meet certain minimum thresholds in accordance with the requirements of the financing instrument used to fund the Convention Center Expansion and Rehabilitation Project. To date, it has not been necessary to implement the additional 1% special tax rate. The District was formed having two zones with the special tax rate varying initially between the two zones. Zone 1 includes territory in the City located within a two and one quarter mile radius of the San Jose Convention Center, and Zone 2 includes territory within the City that is not within Zone 1. The Zone 2 tax was phased in over a three-year period and reached the same tax rate of 4% as Zone 1 in Fiscal Year 2011-2012.

## **ANALYSIS**

Since the formation of the CCFD in 2009, eight hotels/motels have either been newly constructed or annexed into the City from the County and have been submitting both the Transient Occupancy Tax (TOT) and the Convention Center Facilities District tax, but have not been formally annexed into the District. Collection of the CCFD tax for those eight hotels has been set aside and not spent until those hotels agree to annexation. CCFD (annexed and non-annexed) tax collections remitted by hotels are collected and recognized in the Convention Center Facilities District Fund (Fund 791). At the end of each fiscal year, CCFD tax collections from non-annexed hotels are transferred to the Depositor's Fund. Five of those hotels (represented by four landowners) have completed and submitted the Approval of Landowner to Annex Property to Convention Center Facilities District No. 2008-1 form. Those four landowners (representing the five hotels) have been informed of the facilities authorized by the District and the rate and method of apportionment of the special tax, and consent to the levy of the special tax. With City Council approval, there will be a transfer of the CCFD tax collections

from the five hotels proposed for annexation through the most recently completed fiscal year (FY 2016-2017) from the Depositor’s Fund. Those five hotels have remitted approximately \$2.48 million in CCFD tax from 2009 through June 2017. Table 1 below provides information on the five hotels that are being annexed through today’s actions:

<b>Table 1</b>		
<b>Hotel</b>	<b>Site Address / Assessor’s Parcel Number</b>	<b>Landowner</b>
AC Marriott	350 West Santa Clara Street 259-39-111	RB-TPG San Jose, LLC
Aloft	510 America Center Court 015-45-048	CalTex Hospitality Holdings LLC DBA Aloft Santa Clara
Skyport Residence Inn	10 Skyport Drive 230-29-109	San Jose HHG Hotel Development, LP DBA Residence Inn/Springhill Suites San José Airport
Springhill Suites	10 Skyport Drive 230-29-109	San Jose HHG Hotel Development, LP DBA Residence Inn/Springhill Suites San José Airport
Whitehouse Inn	3030 Monterey Road 497-22-043	Panchal Natwarlal M and Panchal Gita N DBA White House Inn

Three remaining hotels have also been remitting the CCFD special tax, however the City does not have signed annexation approval forms from those property owners at this time. Those funds will continue to be set aside. Staff will be working toward annexing the hotels shown below in table 2 to the CCFD:

<b>Table 2</b>		
<b>Hotel</b>	<b>Site Address</b>	<b>APN</b>
Courtyard by Marriott	111 Holger Way	097-14-108
Hotel Clariana	100 East Santa Clara Street	467-23-089
Hyatt House San Jose	75 Headquarters Drive	097-14-101

Three attachments are included to provide detail for the annexation. Attachment A - Annexation Exhibit shows the hotels that will be annexed into the CCFD. Attachment B - Description of Services and Attachment C - Rate and Method of Apportionment of Special Tax were documents that were approved in connection with the formation of the CCFD and cannot be modified. These describe the use of the CCFD tax, the tax rate and how the tax is collected. Both attachments B and C were provided to the hotel property owners who have consented to the annexation.

### **EVALUATION AND FOLLOW-UP**

Staff is working toward annexing the remaining three new hotels to the District and will bring the annexation action and fund transfer to City Council for approval after the additional hotel property owners have executed the necessary documents.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the May 1, 2018, Council Agenda. These actions were initiated at the request of the Landowners, and prepared by staff. City staff has met with the hotel owners/operators regarding the district and associated special tax.

### **COORDINATION**

This memorandum, related documents and resolutions were prepared in coordination with the City Attorney's Office, the Planning, Building and Code Enforcement Department, the Office of Economic Development, and the City Clerk's Office.

### **COMMISSION RECOMMENDATION/INPUT**

No board or commission recommendation or input is associated with this action.

### **FISCAL/POLICY ALIGNMENT**

This action is consistent with the Council-approved Budget Strategy to focus on rehabilitating aging infrastructure and that it provides private sector jobs, thereby boosting our local economy.

### **COST SUMMARY/IMPLICATIONS**

This action increases the revenue estimate for the Convention Center Facilities District Special Tax by \$2.48 million to recognize tax payments made by five subject hotels through June 30, 2017 which have been held in the City's Depositor's Fund pending annexation. Revenues from the CCFD tax have been a key source of capital funding for the Convention Center. In addition to the original expansion project, notable projects include the Convention Center: Exhibit Hall Lighting and Ceiling Upgrades, Ballroom A Carpet Replacement, Restrooms Upgrades, Elevator Upgrades, Escalator Upgrades, and Boiler Protection. Recommendations to allocate the corresponding increase in ending fund balance will be incorporated into the 2018-2019 Proposed Operating and Capital Budgets.

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**BUDGET REFERENCE**

The table below identifies the recommended budget actions to recognize the additional Convention Center Facilities District Special Tax revenue.

Fund #	Appn #	Appn. Name	Current Appn.	Rec. Budget Action	2017-2018 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
791	R210	Convention Center Facilities District Special Tax	\$15,585,000	\$2,475,892	982	6/20/2017, 78229
791	8999	Unrestricted Ending Fund Balance	\$1,018,816	\$2,475,892	983	10/17/2017. 30014

**CEQA**

Determination of Consistency to the San Jose Downtown Strategy 2000 Environmental Impact Report (Resolution No. 72767), and Addenda thereto, File No. PP08-002.

/s/

JON CICIRELLI

Acting Director of Public Works

/s/

JULIA H. COOPER

Director of Finance



MARGARET MCCAHAN

Budget Director

I hereby certify that there will be available for appropriation in the Convention Center Facilities District Revenue Fund in the Fiscal Year 2017-2018 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$2,475,892.



MARGARET MCCAHAN

Budget Director

Attachments:

Attachment A - Annexation Exhibit

Attachment B - Authorized Convention Center Facilities

Attachment C - Rate and Method of Apportionment of Special Tax

For questions please contact Thomas Borden, Program Manager, Public Works Department, at (408) 535-6831.