



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano
Julia H. Cooper
Jim Shannon

SUBJECT: SEE BELOW

DATE: April 21, 2021

Approved

Date

04/29/21

COUNCIL DISTRICT: 3, 4 & 6

**SUBJECT: ANNEXATION AREA NO. 2 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. 2.
- (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. 2; and
 - (2) Directing the City Clerk to record a notice of special tax lien.
- (c) Adopt the following 2020-2021 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 \$4,582,360; and
 - (2) Increase the Unrestricted Ending Fund Balance by \$4,582,360.

OUTCOME

Approval of Annexation No. 2 to Convention Center Facilities District No. 2008-1 authorizes the levy of special taxes on property located within Annexation Area No. 2 in accordance with the Rate and Method of Apportionment of Special Tax (the "RMA").

BACKGROUND

On June 16, 2009, the City Council established Convention Center Facilities District No. 2008-1 (the “CCFD” or the “District”) authorizing the levy of special tax and issuance of debt as approved by hotel property owners. This District was formed to finance the acquisition, construction, reconstruction, replacement, rehabilitation, and upgrade of the San José 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 Transient Occupancy Tax (“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. On May 1, 2018, five (5) hotels were annexed into the CCFD pursuant to Council Resolution No. 78565 (“Annexation Area No. 1”).

The base special tax is currently 4% of room rent charged, with an additional special tax rate of 1% of rent to be levied in the event the required Revenue Stabilization Reserve balances fail to meet certain minimum thresholds. 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 José 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 and annexation in 2018, a number of hotels have either been newly constructed or annexed into the City from the County. These hotels have been submitting the CCFD tax but have not been annexed into the District. CCFD tax collected for non-annexed hotels has been set aside and cannot be spent until the 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 hotels, represented by four landowners, remitting the CCFD tax have completed and submitted the Approval of Landowner to Annex Property to Convention Center Facilities District No. 2008-1 form (“Annexation Form”). Those for landowners, representing the five (5) hotels, have been informed of the facilities authorized by the District and the rate and method of

apportionment of the special tax. The landowners consent to the levy of the special tax. With City Council approval, there will be a transfer of the CCFD tax collections from the hotels proposed for annexation through the most recently completed fiscal year (FY 2019-2020) from the Depositor's Fund to the Convention Center Facilities District Revenue Fund. Those five hotels have remitted approximately \$4.58 million in CCFD tax from 2009 through June 2020. One additional hotel site yet to remit the CCFD tax has submitted the Annexation Form and will be subject to the CCFD tax after annexation proceedings are complete. Table 1 below provides information on the six hotels that are being annexed through today's actions:

Table 1		
Hotel	Site Address / Assessor's Parcel Number	Landowner
Fairfield Inn & Suites by Marriott	656 American Center Court 015-45-013 & 015-45-024	SILICON VALLEY CLUB LLC
Homewood Suites by Hilton	4315 N 1st Street 015-39-053	SAN JOSE HOTELS LLC
Hotel Clariana	100 E Santa Clara Street 467-23-102	RSTP INVESTMENTS LLC
Hyatt House	75 Headquarters Drive 097-14-101	RLJ HYH SAN JOSE LP
Residence Inn by Marriott	656 American Center Court 015-45-013 & 015-45-024	SILICON VALLEY CLUB LLC
Studios Inn	348 South Clover Avenue 277-34-053	DAIWA LIVING NESUTO SAN JOSE LLC

There are three hotels that have also been remitting the CCFD special tax; however, the City does not have signed annexation approval forms from those property owners. Those funds will continue to be set aside. Staff will continue to work toward annexing the hotels shown below in Table 2 to the CCFD:

Table 2		
Hotel	Site Address	APN
Courtyard by Marriott	111 Holger Way	097-14-108
Hyatt House	2105 N 1st Street	101-05-010
Hyatt Place	82 Karina Court	101-05-008
		101-05-009

Three (3) attachments are included to provide detail for the annexation:

- Attachment A – Annexation Exhibit shows hotels to be annexed into the CCFD
- Attachment B – Description of Services
- Attachment C – Rate and Method of Apportionment of Special Tax

These documents were approved in connection with the formation of the CCFD and cannot be modified. The documents 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.

CONCLUSION

New hotels have been constructed or annexed into the City since the formation the CCFD. Many of those hotels have remitted the CCFD special tax, but not have formally been annexed into the District. The special tax collected from those hotels have been set aside until they are formally annexed. Six hotels have submitted Annexation Approval Forms, and with City Council Approval, the CCFD tax collected from those hotels will be transferred to the Convention Center Facilities District Fund (Fund 791).

EVALUATION AND FOLLOW-UP

Staff is working toward annexing to the District the remaining three hotels listed in Table 2 and new hotels as they develop. Staff will bring future annexation actions with associated fund transfer to City Council for approval after property owners have executed the necessary documents.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH/INTEREST

This memorandum will be posted on the City's website for the May 11, 2021, Council Agenda. 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 Department of Planning, Building and Code Enforcement, 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 \$4.58 million to recognize tax payments made by the five subject hotels through June 30, 2020 which have been held in the City's Depositor's Fund pending annexation. As part of the 2020-2021 Mid-Year Budget Review, interim measures were recommended in the Convention Center Facilities District Revenue Fund to offset projected CCFD tax revenue declines (\$3.5 million) due to the continued impact of COVID-19. These interim measures included the deferral of principal payment (\$2.3 million) in 2020-2021 for commercial paper issued for the prior Exhibit Hall expansion project at the San Jose McEnery Convention Center, and the return (\$1.7 million) of funds previously transferred to the Convention Center Facility District Capital Fund for capital improvement projects. Together these adjustments provide sufficient fund balance to pay debt service related to the Series 2011 and Series 2011A bonds through 2020-2021 without accessing the Revenue Stabilization Reserve, and also position the Convention Center Facilities District Revenue Fund against further revenue declines.

Recognition of prior remittances from the subject hotels allows the Convention Center Facilities District Revenue Fund to support all anticipated debt service requirements in 2021-2022 as hotel operations recover from the pandemic's impacts.

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	2020-2021 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
791	R210	Convention Center Facilities District Special Tax	\$4,500,000	\$4,582,360	X-34	02/09/2021, 79742
791	8999	Unrestricted Ending Fund Balance	\$2,088,189	\$4,582,360	X-34	02/09/2021, 30531

HONORABLE MAYOR AND CITY COUNCIL

April 21, 2021

Subject: Annexation Area No. 2 to Convention Center Facilities District No. 2008-1

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CEQA

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

/s/

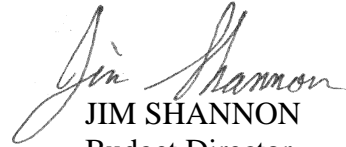
MATT CANO

Director of Public Works

/s/

JULIA H. COOPER

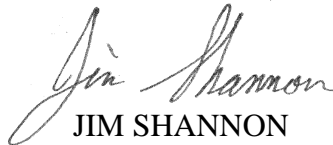
Director of Finance



JIM SHANNON

Budget Director

I hereby certify that there will be available for appropriation in the Convention Center Facilities District Revenue Fund in the Fiscal Year 2020-2021 moneys in excess of those heretofore appropriated therefrom, said excess being at least 4,582,360.



JIM SHANNON

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.

ATTACHMENT A



ATTACHMENT B

CITY OF SAN JOSE CONVENTION CENTER FACILITIES DISTRICT NO. 2008-1

AUTHORIZED CONVENTION CENTER FACILITIES

The Convention Center Facilities District special tax may finance any acquisition, construction, reconstruction, replacement, rehabilitation or upgrade, with an expected useful life of 5 years or longer, of any Convention Center Facility as defined in Section 14.32.220 of the Chapter. Pursuant to Section 14.32.300 of the Chapter, the Convention Center Facilities District special tax may be spent on the following: debt service; lease payments; costs of issuance of securities issued for the purpose of financing or refinancing Convention Center Facilities; administrative costs of the District; prepayment of such securities; direct costs of acquisition, design and construction of Convention Center Facilities; and ongoing capital repair and capital replacement of Convention Center Facilities.

Whether any such facility will be financed is within the sole discretion of the City Council. It is the intention of the City Council to develop the Phase I project outlined below. However, project components may be delayed if the capital markets limit the ability to issue bonds, the Redevelopment Agency's ability to partially fund the project changes, or other *force majeure* circumstances beyond the control of the City occur, including: acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster); terrorist activities; labor disputes, strikes and lockouts; shortage of supplies, equipment, or materials; or any other reason where failure to perform is beyond the reasonable control of the City and the City has exercised all reasonable efforts to avoid or remedy such *force majeure*. If the Phase I Project cannot be completed in its entirety, the City will seek a recommendation from an advisory committee to the City Manager (i.e. "Capital Facilities Advisory Committee") to assist in redefining the Phase I Project within the limits of Section 14.32.220 of the Chapter. The Capital Facilities Advisory Committee, established under the Agreement for the Management of the San Jose Convention Center and Cultural Facilities between the City of San José and Team San Jose, Inc., shall consist of four members from the hotel industry to be selected by Team San Jose, Inc., a California nonprofit mutual benefit corporation (the "Operator"), and four members from the City or Redevelopment Agency selected by City.

Ongoing capital repair and capital replacements shall be funded from special tax collections in excess of administrative fees, debt service or lease payments, and related financing costs (e.g. reimbursement payments to the City of the Redevelopment Agency). A long-range capital replacement plan shall be prepared and updated by the convention center Operator annually.

The Convention Center Facilities District special tax in excess of the capital repair and replacement expenditures needed for the San Jose Convention Center to achieve a quality level consistent with its competitors may finance future acquisition, construction, reconstruction, replacement, rehabilitation or upgrade, with an expected useful life of 5 years or longer, of any Convention Center Facility as defined in Section 14.32.220 of the Chapter.

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Whether any additional Convention Center Facilities will be financed is within the sole discretion of the City Council. However, the City Council will, before ordering the financing of any additional Convention Center Facilities, consult with the Capital Facilities Advisory Committee to consider its views on whether any of the Convention Center Facilities should be financed.

Phase I Project

The Phase I Project will include the following components:

1. Existing Convention Center Renovation
 - a. Fire Alarm and Protection - Replace the fire alarm and protection system consistent with current codes.
 - b. Central Plant - Replace the heating, ventilation, and air conditioning system including related pumps, chillers, exhaust fans, boilers, heat exchangers, cooling towers, and related electrical systems.
 - c. Building Management System - Replace the building management system with a direct digital control system that controls building systems.
 - d. Roof and Terraces - Replace flat roofs with single-ply overlay at build-up roofing, gutter system at aluminum barrel roof; and IPB glass block grid system. Waterproof terraces.
 - e. Exhibit Halls - Replace ACT ceiling panels and paint grid; replace/refurbish operable walls and tracks; reconfigure and replace acoustic wall panels; install new way finding; paint walls; reconfigure and replace lights; drop existing pick points below the ceiling; add additional pick points; repair and paint restrooms; replace and/or repair doors and door hardware.
 - f. Ballroom - Replace carpet tiles; repair and paint metal ceiling; replace operable walls and tracks; install new way finding; reconfigure and replace acoustic wall panels; paint walls; replace down lights; repair and paint restrooms; replace and/or repair doors and door hardware.
 - g. Exhibit Level Concourse - Replace carpet tiles; paint walls; install wall graphics; installing new way finding; refurbish metal slat ceiling; repair and paint metal ceiling; replace ACT ceiling panels and paint grid; reconfigure lighting; repair and paint restrooms; replace and/or repair doors and door hardware.
 - h. Meeting Rooms and Corridors - Replace carpet tiles; replace ACT ceiling panels and paint grid; replace/refurbish operable walls and tracks; install new way finding; reconfigure and replace acoustic wall panels; paint walls; repair and paint restrooms; replace and/or repair doors and door hardware.
 - i. Arcade - Paint walls; install wall graphics; install new way finding; refurbish metal slat ceiling; replace ACT ceiling panels and paint grid; reconfigure lighting; repair and paint restrooms; replace and/or repair doors and door hardware.

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- j. Elevators and Escalators - Refurbish elevator cabs on public elevators, refurbish controllers, power units, fixtures, and selectors; and refurbish escalator rollers, steps, comb-plate, and handrails.
 - k. Surveillance System - Replace existing cameras, door monitoring, front-end equipment, control panels and recording systems.
 - l. Kitchen - Renovate the existing kitchen to accommodate the needs of the existing and expanded convention center including reconfiguration of kitchen area and replacement of equipment. Kitchen may be an additive alternate in the Phase 1 project.
2. Convention Center Expansion
- The convention center expansion will be developed to current, competitive, “Class A” standards and include all the function and support spaces required for effective operations. Key components of the expansion will include:
- a. Exterior Façade - The exterior of the building will consist of a glass curtain wall and metal panel system. A 3,300 ± square foot programmable LED media messaging display wall may be included as an additive alternate in the Phase 1 project.
 - b. Lobby - A new lobby will be constructed that connects the existing convention center to the expanded facility.
 - c. Ballroom - A 35,000 square foot, column-free ballroom with 30-foot clear ceilings, and operable wall divisibility. In addition, the ballroom will be expandable to 43,000 square feet.
 - d. Junior Ballroom - A 20,000 square foot, column-free junior ballroom with 25-foot clear ceilings, and operable wall divisibility. In addition, the junior ballroom will have operable walls enabling expansion to 37,000 square feet.
 - e. Service - A plating kitchen, pre-function and back of house areas and systems to service the expansion space.
 - f. Wayfinding and Signage - A new wayfinding system will work throughout the renovated and expanded facility.
 - g. The expansion will be a LEED-Silver rated building in accordance with City policy.
 - h. Furniture, Fixtures and Equipment (F.F.&E.)- The F.F.&E. to operate the convention center with an expected useful life of 5 years or longer. Some F.F.&E. may be additive alternates in the Phase 1 project.

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CITY OF SAN JOSE CONVENTION CENTER FACILITIES DISTRICT NO. 2008-1

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

The Special Tax authorized by Convention Center Facilities District No. 2008-1 ("CCFD No. 2008-1") of the City of San Jose (the "City") shall be levied on all Assessor's Parcels within CCFD No. 2008-1 and collected as provided herein commencing in Fiscal Year 2009-2010 in an amount determined by the City Council through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property within CCFD No. 2008-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Additional Special Tax" means the Special Tax determined in accordance with Section D herein, which may be levied by the City Council in any Fiscal Year on an Assessor's Parcel of Taxable Property to satisfy the Revenue Stabilization Reserve Requirement, provided that there are Bonds outstanding.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned assessor's parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by assessor's parcel number.

"Base Special Tax" means the Special Tax determined in accordance with Section C herein, which may be levied by the City Council in any Fiscal Year on an Assessor's Parcel of Taxable Property.

"Bond Documents" means any bond indenture, trust agreement or similar document setting forth the terms of any Bonds.

"Bonds" means any binding obligation to pay or repay a sum of money, including obligations in the form of bonds, notes, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts, or any refunding thereof, to which the Special Tax has been pledged.

"CCFD Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes for CCFD No. 2008-1.

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“Chapter” means Chapter 14.32 of the San Jose Municipal Code, as amended.

“City” means the City of San Jose.

“City Council” means the City Council of the City.

“County” means the County of Santa Clara.

“Director of Finance” means the finance director of the City.

“Exempt Property” means all Assessor’s Parcels within CCFD No. 2008-1 which are exempt from the Special Taxes pursuant to Section F herein.

“Facilities” has the meaning given to that term in the resolution of which this Rate and Method of Apportionment of Special Tax is a part.

“Fiscal Year” means the period commencing on July 1 of any year and ending the following June 30.

“Hotel Property” means an Assessor’s Parcel of Taxable Property which consists of one or more buildings or structures situated in the City that has, on file with the Director of Finance, a transient occupancy registration certificate, including, but not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, guesthouse, bed and breakfast inn, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof situated in the city, which is occupied or intended or designed for Occupancy by Transients for dwelling, lodging or sleeping purposes.

“Hotel Transient Unit” means a room within Hotel Property as to which the Special Tax may be levied in that it is used for Transient Occupancy.

“Occupancy” means the use or possession, or right to the use or possession of any Hotel Transient Unit, or portion thereof.

“Operator” means the person who is proprietor of the Hotel Property, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator, and shall have the same duties and liabilities as his principal.

“Owner” means the landowner, owner of land, or property owner of Hotel Property, except that if the fee owner of the Hotel Property is a government entity, ‘Owner’ means the lessee of the government entity.

“Rent” means the consideration charged for the Occupancy of Hotel Transient Units valued in money, whether to be received in money, goods, property, labor, service, or otherwise. For purposes of this definition, Rent charged to: 1) a federal or state employee when on official business, or 2) any officer or employee of a foreign government, who is exempt by reason of

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express provision of federal law or international treaty, shall be excluded from the Base Special Tax and Additional Special Tax calculations defined in Section C and D herein, respectively.

“Revenue Stabilization Reserve” means a fund to be established and held by the City. Prior to the issuance of Bonds, all Special Tax revenues will, as collected and received by the City, be deposited in the Revenue Stabilization Reserve. Prior to the first issuance of Bonds, the City may pay its authorized expenses incurred in connection with the Convention Center Facilities District from the Revenue Stabilization Reserve, and thereafter as may be specified in the Bond Documents. Funds in the Revenue Stabilization Reserve shall be available for transfer to the appropriate redemption funds or accounts, established by the Bond Documents for the payment of debt service on Bonds, in the event that Special Tax collections, at any time, are not sufficient to make scheduled payments of principal or interest on the Bonds.

Subject to any limitations that may be imposed by the Bond Documents, the City may, at any time, transfer amounts in the Revenue Stabilization Reserve in excess of the Revenue Stabilization Reserve Requirement to the project fund for the Facilities or provide for changes, including a reduction, of the Revenue Stabilization Reserve.

The Bond Documents may establish terms and conditions under which the Revenue Stabilization Reserve may be closed and the Special Tax revenues therein, and any investment earnings thereon, applied to other authorized purposes of CCFD No. 2008-1. In the absence of provisions in the Bond Documents, once all Bonds have been retired, or provision has been made for their retirement or early redemption (which provision may include the application of moneys in the Revenue Stabilization Reserve), the Revenue Stabilization Reserve will be closed and all remaining funds in the Revenue Stabilization Reserve transferred to the project fund for the Facilities.

“Revenue Stabilization Reserve Requirement” means the minimum balance required in the Revenue Stabilization Reserve, as specified in the Bond Documents.

“Special Tax” means the special tax authorized by CCFD No. 2008-1 to be levied by the City Council pursuant to the Chapter to fund the Facilities.

“Taxable Property” means all Assessor’s Parcels that are not exempt from the Special Tax pursuant to law or the Rate and Method of Apportionment of Special Tax.

“Transient” means a person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days.

“Zone” means one of the two mutually exclusive geographic areas defined below.

- **“Zone 1”** means all territory in the City located within a two and one quarter (2 ¼) mile radius of the San Jose Convention Center located at 408 Almaden Blvd. San Jose CA. 95110.

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- “Zone 2” means all territory within the City of San Jose that is not within Zone 1.

B. CLASSIFICATIONS OF ASSESSOR’S PARCELS

Each Fiscal Year using the definitions above, all Assessor’s Parcels within CCFD No. 2008-1 shall be classified as either Hotel Property or Exempt Property and all Hotel Property shall be classified as within either Zone 1 or Zone 2. Commencing with Fiscal Year 2009-2010 and for each subsequent Fiscal Year, all Hotel Property shall be subject to Special Taxes pursuant to Sections C, D and E below.

C. BASE SPECIAL TAX RATE

Zone 1

Commencing in Fiscal Year 2009-2010, each Assessor’s Parcel classified as Hotel Property within Zone 1 of CCFD No. 2008-1 shall be subject to a Base Special Tax. The Base Special Tax for each Assessor’s Parcel classified as Hotel Property within Zone 1 shall equal four percent (4%) of all Rent charged.

Zone 2

Commencing in Fiscal Year 2009-2010, each Assessor’s Parcel classified as Hotel Property within Zone 2 of CCFD No. 2008-1 shall be subject to a Base Special Tax. The Base Special Tax for each Assessor’s Parcel classified as Hotel Property within Zone 2 shall equal the percentage of all Rent charged as identified in Table 1 below.

**TABLE 1
ZONE 2 BASE SPECIAL TAX RATES**

Term	Base Special Tax
July 1, 2009 – December 31, 2009	1%
January 1, 2010 – June 30, 2010	2%
Fiscal Year 2010-2011	3%
Fiscal Year 2011-2012 and thereafter	4%

D. ADDITIONAL SPECIAL TAX RATE

Commencing in Fiscal Year 2009-2010, each Assessor’s Parcel classified as Hotel Property in CCFD No. 2008-1 shall be subject to an Additional Special Tax. The Additional Special Tax for each Assessor’s Parcel classified as Hotel Property within either Zone shall equal one percent (1%) of all Rent charged.

If Bonds are outstanding, and the City Council determines, by no later than June 1 of any calendar year (or such other date as specified in the Bond Documents), that the amount in the Revenue Stabilization Reserve is less than the Revenue Stabilization Reserve Requirement, then

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the City Council may levy and collect the Additional Special Tax in the following Fiscal Year. The City must mail written notice of the imposition of the Additional Special Tax to all Owners, or Operators on behalf of Owners, at least 30 days before the imposition of the Additional Special Tax may commence. If the Additional Special Tax will not be imposed in any year immediately following a year in which it was imposed, then the City must mail written notice by June 1 to all Owners or Operators on behalf of Owners that levy of the Additional Special Tax will cease as of the following July 1 for the Fiscal Year beginning on that day.

E. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2009-2010, and for each subsequent Fiscal Year, the City Council shall levy Special Taxes as described below:

Step One: The Base Special Tax shall be levied on each Assessor's Parcel classified as Hotel Property up to the rates specified in Section C.

Step Two: The Additional Special Tax shall also be levied on each Assessor's Parcel classified as Hotel Property if authorized, and as provided in, Section D.

Special Taxes associated with Rent that is charged for Transient Occupancy shall be considered levied and due in the calendar month the Transient ceases Occupancy of the Hotel Transient Unit(s), except that Special Taxes associated with Rent that is paid by credit card shall be deemed levied and collected on the date that the credit card is presented for payment to the Operator. The Special Taxes are payable as described in Section G below.

F. EXEMPTIONS

No Special Tax shall be levied on any Assessor's Parcel not classified as Hotel Property.

G. MANNER OF COLLECTION

The Special Tax shall be collected monthly by the City. Each Operator on behalf of the Owner shall, on or before the last day of each calendar month, submit the Special Taxes levied against their Hotel Property to the Director of Finance of the City and shall include a special tax obligation form provided by the City.

H. FAILURE TO SUBMIT SPECIAL TAX

If any Owner, or Operator on behalf of Owner, fails or refuses to pay the Special Tax levied, the Director of Finance shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the Special Tax. As soon as the Director of Finance shall procure such facts and information as he is able to obtain upon which to base the Special Tax for such Assessor's Parcel classified as Hotel Property, the Director of Finance shall proceed to determine the amount of such Special Tax due plus any penalties and interest, as described below. In case such determination is made, the Director of Finance shall give a Determination of Special Tax Due by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the Owner or Operator on behalf of the Owner at its last known place of

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address. Such Owner, or Operator on behalf of the Owner, may file an appeal as prescribed in Section J herein.

Any Operator who fails to remit the Special Tax levied within the time required shall be subject to a penalty of ten percent (10%) of the amount delinquent in addition to the delinquent Special Tax. Delinquent Special Taxes will incur an additional 1½% penalty (applied to the amount originally levied without compounding) on the first day of each month which is more than six months after the date when the delinquent Special Tax was levied.

I. SPECIAL TAX AUDIT

It shall be the duty of the Owner, or Operator on behalf of the Owner, for each Assessor's Parcel classified as Hotel Property that is subject to the Special Tax to keep and preserve, for a period of three years, all records as may be deemed necessary by the City (and that will, at a minimum, include a record of all Rents collected) to determine the Special Taxes levied upon such Hotel Property by the City Council. The City shall have the right to inspect such records at all reasonable times.

J. APPEALS

Any Owner or Operator on behalf of the Owner, claiming that the amount or application of the Special Tax is not correct, may appeal to the City Council by filing a notice of appeal with the City Clerk within fifteen calendar days of the serving or mailing of the Determination of Special Tax Due. The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such Owner and Operator at their last known place of address. The findings of the City Council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any Special Tax found to be due shall be immediately due and payable upon the service of the City Council findings. If the City Council decision requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the Owner, or Operator on behalf of Owner, a cash refund shall not be made, but a credit shall be given against future Special Taxes on that Assessor's Parcel.

K. TERM OF SPECIAL TAX

The authority of the City Council to levy the Base Special Tax on all Assessor's Parcels classified as Hotel Property within CCFD No. 2008-1 in accordance with Section E is perpetual. The Additional Special Tax may only be levied during a period when Bonds are outstanding in accordance with Section E herein.