



**Date:** May 3, 2010

**To:** City Manager for Council Action

**From:** Administrative Analyst to the City Manager

**Subject:** Public Hearing to Consider Adoption of Resolutions Related to the Formation of a Community Facilities District and Holding a Special Election, and Pass to Print an Ordinance Levying Special Taxes within City of Santa Clara Community Facilities District No. 2010-1, for Financing of Publicly-Owned Infrastructure for a Proposed Professional Football Stadium

**EXECUTIVE SUMMARY:**

As part of the June 2, 2009 non-binding Term Sheet between the City and the San Francisco 49ers for a professional football stadium, the parties contemplated the formation of a Community Facilities District (CFD) that would include all hotel properties in the vicinity of the proposed stadium, subject to a vote of the affected hotel property owners (there are presently eight hotels in this proximate area). If approved by a vote of the hotel property owners included in the CFD, those hotel properties would be subject to a special tax based on hotel room revenue equivalent to a 2% transient occupancy tax (TOT), and this special tax would be pledged to finance portions of the publicly owned infrastructure for the proposed stadium project, up to a cap of \$35 million (excluding debt service and other financing costs). If the voters do not approve the stadium project at the June 8, 2010 election, staff will return to Council with proceedings to dissolve the CFD.

The City has begun the process of forming a CFD under California law, specifically the Mello-Roos Community Facilities Act of 1982. Once the proceedings are completed, the City will be authorized to issue and sell bonds or incur other forms of debt to finance identified public infrastructure improvements. The bonds or other debt will be secured by and payable solely from the special taxes to be levied on the eight hotel properties within the CFD, and will not represent an obligation or debt of the City or the General Fund.

At the March 30, 2010 City Council meeting, in response to petitions and waivers from 100% of affected hotel property owners requesting Council to initiate proceedings to form the CFD and waive certain time frames associated with the formation process, Council adopted 1) a resolution adopting goals and policies for Community Facilities Districts, which provide guidance and conditions for the conduct by the City of proceedings for forming CFDs, and the issuance of bonds secured by special taxes levied in CFDs; 2) a Resolution of Intention to Establish Community Facilities District, which formally began the formation process and identified the infrastructure and services that may be funded by the special taxes (Authorized Facilities and Services) and specified the special tax rate and method of apportionment; and 3) a Resolution of Intention to Incur Bonded Indebtedness, setting the maximum amount of bonded debt that may be incurred by the CFD. A public hearing was set for the City Council meeting on Tuesday, May 11, 2010, so that public testimony could be taken on the question of establishing the CFD and issuing bonds.

Following the actions taken at the March 30, 2010 Council meeting, special tax ballots were sent to each hotel parcel owner, with instructions that they return sealed ballots to the Clerk by 7 p.m. on May 11, 2010. For the two hotel parcels owned by the Redevelopment Agency (Agency) that are leased to hotels, the

Agency was provided with the special tax ballot, as the qualified landowner entitled to vote under the Mello-Roos Act; if approved, the CFD tax will be levied on and secured by the hotel owners' leasehold interest in the parcels, not on the Agency's fee ownership.

During the May 11, 2010 public hearing, the testimony of all interested persons, including voters or persons owning property in the area of the proposed CFD, will be heard on the subjects of (a) establishment of the CFD, the extent of the CFD, and the furnishing of the specified facilities and services, and (b) the proposed bonded debt. In addition, interested persons may submit written protests or comments to the City. If the owners of one-half or more of the area of land in the territory proposed to be included in the CFD and not exempt from the special tax file written protests against the establishment of the CFD and the protests are not withdrawn to reduce the protests to less than a majority, the Council may take no further action to create the CFD or levy the Special Tax for period of one year from the date of decision of the Council, and, if the majority protests of the landowners are only against the furnishing of a type or types of facilities or services within the CFD, or against levying a specified special tax, those types of facilities or services or the specified part of the special tax will be eliminated from the proceedings to form the CFD. It should be noted that although all interested persons may provide testimony to the Council and may protest the formation of the CFD or the proposed special tax, it is only protests filed by the affected property owners that are counted in determining whether the Council can form the District and impose a special tax.

In addition, at the hearing, the testimony of all interested persons will be heard for and against the establishment of the Future Annexation Area or the levying of special taxes within any portion of the Future Annexation Area annexed in the future to the CFD. If 50% or more of the registered voters residing within the territory proposed to be included in the Future Annexation Area, or the owners of 50% or more of the area of land in the territory proposed to be included in the CFD or in the Future Annexation Area, file written protests against the establishment of the Future Annexation Area and the protests are not withdrawn to reduce the protests to less than a majority, the Council may take no further action to create the Future Annexation Area for a period of one year from the date of decision of the Council.

Five actions are being brought before the City Council:

1. **Resolution of Formation of Community Facilities District.** This resolution approves the formation of the CFD and describes the boundaries of the CFD including the Future Annexation Area, the rate and method of apportionment of the special tax, and the authorized facilities and services that may be funded by the special tax. The resolution also preliminarily establishes the annual appropriations limit as required under the Mello-Roos Community Facilities Act.
2. **Resolution of Necessity to Incur Bonded Indebtedness.** This resolution sets forth the maximum amount of bonded debt at \$38 million (which includes project costs as well as the costs of issuing and selling bonds, the costs of the City in establishing and administering the CFD, debt service reserves, capitalized interest and other financing costs).
3. **Resolution Calling Special Election.** This resolution calls for a special election of the hotel property owners to consider the issues of the levy of the special tax, the incurring of bonded indebtedness and the establishment of the appropriations limit. Each property owner has one vote per acre or portion of acre owned within the CFD boundaries. The special election will be held at the May 11, 2010 Council meeting,

during a short break after the adoption of this resolution, with the results canvassed by the City Clerk and reported to the Council immediately after the election.

4. **Resolution Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien.** This resolution is considered after the ballots are opened and the vote is announced by the City Clerk. If the vote passes, this resolution declares the CFD to be fully formed and directs the filing of the Notice of Special Tax Lien against the parcels in the CFD within 15 days.

5. **Pass to Print an Ordinance Levying Special Taxes.** This ordinance gives the City Council the authority to levy the special taxes within the CFD. The second reading of the Ordinance will be calendared for the May 25, 2010 Council meeting.

Following these actions, the Notice of Special Tax Lien (copy attached) must be recorded within 15 days of the May 11, 2010 meeting. A timeline of the next steps to complete the formation of the CFD is attached.

#### **ADVANTAGES AND DISADVANTAGES OF ISSUE:**

Adopting these Resolutions, holding the special landowner election, and passing to print the ordinance levying the special taxes within the CFD will complete the next steps of the CFD formation process, which is in furtherance of the larger financing plan for the proposed stadium. Construction of the proposed stadium through a public-private partnership with the 49ers is in keeping with the Council's goals of creating an entertainment destination in the Redevelopment Project Area, and is expected to provide economic benefits to the City and its residents and businesses. In particular, it is anticipated that a stadium in the Bayshore North Area will significantly benefit the weekend business of local hotels and increase overall TOT revenues in the City.

The 2% TOT equivalent included on every room charge is a potential TOT opportunity cost to the City's General Fund, although it does not preclude a TOT increase in support of General Fund revenue enhancement at any time that the City would determine a TOT increase would be beneficial, subject to voter approval.

#### **ECONOMIC/FISCAL IMPACT:**

The rate imposed on the participating hotels may not exceed a rate equal to a 2% TOT equivalent, and the term of the CFD will not exceed 40 years. This special tax will not take effect until and unless a stadium is approved by Santa Clara voters and construction is completed. The City will be authorized to issue special tax bonds and other indebtedness for the CFD that would provide up to \$35 million in net proceeds (exclusive of debt service reserves, capitalized interest and other financing costs) with a maximum principal amount of indebtedness for the CFD of \$38 million (including debt service reserves, capitalized interest and other financing costs).

By instituting a CFD with eight of the City's largest hotels in proximity to the proposed stadium, the 2% TOT equivalent included on every room charge is a potential TOT opportunity cost to the City's General Fund. However, there is no restriction on a general TOT increase. The City continues to retain the right to increase the TOT at any time that the City determines a TOT increase in support of General Fund revenue enhancement would be beneficial, subject to voter approval.

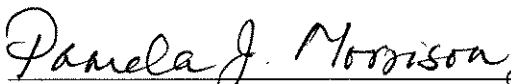
The City will have no liability for the payment of debt service on the bonds, if issued. Any City costs associated with administering the CFD in the future will be paid from the special taxes. In the unlikely event of future special tax delinquencies that trigger a requirement that the City initiate foreclosure actions on delinquent parcels, the City could be required to advance legal and other costs to carry out the foreclosure process; all such costs would be reimbursed to the City from the proceeds of the foreclosure action.

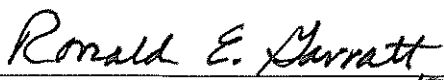
For the two parcels owned by the Agency that are leased to hotels, the CFD tax will be levied on and secured by the hotel owners' leasehold interest in the parcels. The Agency is exempt from the special tax; no obligation or lien for the special taxes can be levied against the Agency's fee ownership interest in the parcels.

**RECOMMENDATION:**

That the Council:

- 1) adopt a Resolution of Formation of Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1
- 2) adopt a Resolution Determining Necessity to Incur Bonded Indebtedness: City of Santa Clara Community Facilities District No. 2010-1
- 3) adopt a Resolution Calling Special Election: City of Santa Clara Community Facilities District No. 2010-1
- 4) adopt a Resolution Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien: City of Santa Clara Community Facilities District No. 2010-1
- 5) Pass to print an Ordinance Levying Special Taxes within City of Santa Clara Community Facilities District No. 2010-1

  
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Pamela J. Morrison  
Administrative Analyst to the City Manager

  
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Ronald E. Garratt  
Assistant City Manager

APPROVED:

  
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Jennifer Sparacino  
City Manager

***Documents Related to this Report:***

- 1) *Resolution of Formation of Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1*
- 2) *Exhibit A to Resolution: Authorized Facilities and Services*
- 3) *Exhibit B to Resolution: Rate and Method of Apportionment of Special Tax*
- 4) *Resolution Determining Necessity to Incur Bonded Indebtedness: City of Santa Clara Community Facilities District No. 2010-1*
- 5) *Resolution Calling Special Election: City of Santa Clara Community Facilities District No. 2010-1*
- 6) *Exhibit A to Resolution: Form of Ballot*
- 7) *Resolution declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien: City of Santa Clara Community Facilities District No. 2010-1*
- 8) *Exhibit A to Resolution: Canvass and Statement of Result of Election*
- 9) *Ordinance Levying Special Taxes within City of Santa Clara Community Facilities District No. 2010-1*
- 10) *Community Facilities District Timeline for Next Steps*

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SANTA CLARA,  
CALIFORNIA, FORMATION OF COMMUNITY  
FACILITIES DISTRICT: CITY OF SANTA CLARA  
COMMUNITY FACILITIES DISTRICT NO. 2010-1**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, on March 30, 2010, the City Council adopted its Resolution No. 10-7707 entitled “A Resolution of the City of Santa Clara, California, Intention to Establish Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Intention”), stating its intention to form “City of Santa Clara Community Facilities District No. 2010-1” (the “CFD”), including a “City of Santa Clara Community Facilities District No. 2010-1 (Future Annexation Area)” (the “Future Annexation Area”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”);

**WHEREAS**, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and the Future Annexation Area and stating the facilities and the services to be provided (as set forth in the list attached hereto as Exhibit A), the cost of providing such facilities and the services, and the rate and method of apportionment of the special tax to be levied within the CFD to pay the principal and interest on bonds proposed to be issued with respect to the CFD, the cost of the facilities and the cost of the services, is on file with the City Clerk and the provisions thereof are incorporated herein by this reference as if fully set forth herein;

**WHEREAS**, on this date, Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD and the Future Annexation Area;

**WHEREAS**, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD and the Future Annexation Area, the facilities to be provided therein, the services to be provided therein and the levy of said special tax were heard and a full and fair hearing was held;

**WHEREAS**, at the hearing evidence was presented to Council on said matters before it, including a report caused to be prepared by the Assistant City Manager (the "Report") as to the facilities and the services to be provided through the CFD and the costs thereof, a copy of which is on file with the City Clerk, and Council at the conclusion of said hearing is fully advised in the premises;

**WHEREAS**, written protests with respect to the formation of the CFD, the furnishing of specified types of facilities and services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special tax;

**WHEREAS**, the special tax proposed to be levied in the CFD to pay for the proposed facilities and services to be provided therein has not been eliminated by protest by 50% or more of the registered voters residing within the territory of the CFD or the owners of one-half or more of the area of land within the CFD and not exempt from the special tax; and

**WHEREAS**, prior to the time fixed for the hearing, written protests had not been filed with the City Clerk against the proposed annexation of the Future Annexation Area to the CFD by (i) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the proposed boundaries of the CFD, or (ii) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the Future Annexation Area, (iii) owners of one-half or

more of the area of land in the proposed CFD or (iv) owners of one-half or more of the area of land in the Future Annexation Area.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

1. Recitals. The City Council finds that the above Recitals are true and correct.
2. No Majority Protest. The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.
3. Prior Proceedings Valid. All prior proceedings taken by this City Council in connection with the establishment of the CFD and the Future Annexation Area and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.
4. Establishment of CFD and Future Annexation Area. The "City of Santa Clara Community Facilities District No. 2010-1" (the "CFD") and the "City of Santa Clara Community Facilities District No. 2010-1 (Future Annexation Area)" (the "Future Annexation Area") are hereby established pursuant to the Act.
5. Boundaries Described. The boundaries of the CFD and the Future Annexation Area as set forth in the map of the CFD heretofore recorded in the Santa Clara County Recorder's Office on April 7, 2010, as Document No. 20670542, in Book 45 at Pages 40 through 42, of Maps of Assessment and Community Facilities Districts, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD and the Future Annexation Area.

Parcels within the Future Annexation Area shall be annexed to the CFD only with the unanimous approval (each, a "Unanimous Approval") of the owner or owners of each parcel or

parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

6. Facilities and Services. The type of public facilities proposed to be financed and funded by the CFD and the Future Annexation Area pursuant to the Act shall consist of those listed as facilities on Exhibit A hereto and hereby incorporated herein (the “Facilities”). The type of services proposed to be funded by the CFD and the Future Annexation Area and pursuant to the Act shall consist of those listed in Exhibit A hereto and hereby incorporated herein (the “Services”).

7. Special Tax. Except to the extent that funds are otherwise available, the City will levy a special tax (the “Special Tax”) to pay directly for the Facilities, to pay the principal and interest on bonds or other indebtedness of the City issued to finance the Facilities, to pay for the Services, and to reimburse third parties for the costs of Facilities. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the CFD, will be levied periodically within the CFD, and will be collected in such manner as Council or its designee may determine, which may include direct billing of the affected property owners, or collection in the same manner as ordinary ad valorem property taxes.

The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD are described in Exhibit B attached hereto and hereby incorporated herein (the “Rate and Method”), which contains sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay.

The Special Tax shall not be levied in the CFD after the fiscal year specified in the Rate and Method except that a Special Tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. Under no circumstances shall the



Special Tax levied against any parcel in the CFD to be used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the CFD by more than 10%.

8. Future Annexation Area. Territory in the Future Annexation Area will be annexed into the CFD and a special tax will be levied on such territory only with the Unanimous Approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed into the CFD. Except to the extent that funds are otherwise available, the City will levy the Special Tax to pay directly for the Facilities, to pay the principal and interest on bonds or other indebtedness of the City issued to finance the Facilities, to pay for the Services, and to reimburse third parties for the costs of Facilities. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the Future Annexation Area, will be levied periodically within the Future Annexation Area, and will be collected in such manner as Council or its designee may determine, which may include direct billing of the affected property owners, or collection in the same manner as ordinary ad valorem property taxes.

As required by Section 53339.3(d) of the Act, Council hereby determines that the Special Tax proposed to pay for one or more Facilities to be supplied within the Future Annexation Area will be equal to the Special Taxes levied to pay for the same Facilities in previously-existing areas of the CFD, except that (i) a higher Special Tax may be levied within the Future Annexation Area to pay for the same Facilities to compensate for the interest and principal previously paid from Special Taxes in the original area of the CFD, less any depreciation allocable to the financed Facilities and (ii) a higher Special Tax may be levied in the Future Annexation Area to pay for new or additional Facilities, with or without bond financing. As required by Section 53339.3(d) of the Act, the Council hereby further determines that the Special

Tax proposed to pay for Services to be supplied within the Future Annexation Area shall be equal to any Special Tax levied to pay for the same Services in the existing CFD, except that a higher or lower tax may be levied within the Future Annexation Area to the extent that the actual cost of providing the Services in the Future Annexation Area is higher or lower than the cost of providing those Services in the existing CFD. In so finding, Council does not intend to limit its ability to levy a Special Tax within the Future Annexation Area to provide new or additional services beyond those supplied within the existing CFD.

9. Increased Demands. It is hereby found and determined that the Facilities and the Services are necessary to meet increased demands placed upon local agencies as the result of development occurring in the CFD and the Future Annexation Area.

10. Responsible Official. The City Manager is the officer of the City who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and who will be responsible for estimating future special tax levies pursuant to the Act. The City Manager can be contacted at City of Santa Clara, 1500 Warburton Avenue, Santa Clara, CA 95050, 408-615-2200.

11. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code of California, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the special tax obligation is permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City ceases.

12. Appropriations Limit. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at \$38,000,000, and said appropriations limit shall be

submitted to the voters of the CFD as hereafter provided. The proposition establishing the annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act.

13. Election. Pursuant to the Act, the proposition of the levy of the special tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election. The time, place and conditions of the election shall be as specified by a separate resolution of this City Council.

14. Further Action. The City Manager is hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

15. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

16. Effective date. This resolution shall become effective immediately.

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I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_ DAY OF \_\_\_\_\_, 2010, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

\_\_\_\_\_  
ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A: Authorized Facilities and Services
2. Exhibit B: Rate and Method of Apportionment of Special Tax

## EXHIBIT A

### **CITY OF SANTA CLARA Community Facilities District No. 2010-1**

#### **AUTHORIZED FACILITIES AND SERVICES**

##### DESCRIPTION OF AUTHORIZED FACILITIES TO BE FINANCED BY THE CFD

The Facilities shown below are proposed to be financed or funded in whole or in part by the CFD. The Facilities shall be owned and operated by the City or by another public agency, and shall be constructed, whether or not acquired in their completed states, pursuant to the plans and specifications approved by the City and its officials, including the City Engineer.

- (a) utility improvements
- (b) streets, parking lots and paving
- (c) sidewalks, pedestrian pathways and pedestrian bridges
- (d) fencing
- (e) landscaping and lighting
- (f) storm drain and flood protection facilities

The Facilities to be financed or funded shall include, without limitation, the following costs: earthwork related to the Facilities; appurtenances to and improvements related to the Facilities; related landscaping and irrigation; acquiring rights-of-way (including any right-of-way intended to be dedicated by the recording of a final map); design, architecture, engineering and planning; any environmental review or environmental studies, traffic studies, surveys, geotechnical studies, soils testing, or other studies related to the Facilities; permits, plan check and inspection fees; insurance, legal and related overhead costs; project management, coordination and supervision; and any other costs or appurtenances related to any of the foregoing.

The CFD may also finance or fund, and the special taxes may also be used, for any of the following purposes:

1. To pay for the purchase, construction, expansion, improvement or rehabilitation of any of the Facilities, and to reimburse the City or any third parties for advances made to purchase, construct, expand, improve or rehabilitate any of the Facilities.
2. To pay principal of, interest on, and any premium due with respect to, any bonds or other indebtedness issued or entered into by the City with respect to the CFD, and to pay lease payments or installment sale payments with respect to any of the Facilities.
3. To pay all expenses related to the issuance of bonds or other indebtedness by the City with

respect to the CFD, including without limitation: underwriters discount; reserve fund; capitalized interest; fees, expenses and premium associated with any letter of credit or other credit enhancement; fees and expenses of bond counsel, disclosure counsel and issuer's counsel; fees and expenses of the City's financial advisors and special tax consultants, and other City consultants; and all other incidental expenses.

4. To pay annual or periodic administrative fees of the City and the bond trustee or fiscal agent related to the CFD and the bonds, and to reimburse the City for its costs and expenses related to the administration of the CFD and the bonds.

5. To reimburse the City or any third parties for actual costs advanced that are related to the formation of the CFD.

#### DESCRIPTION OF AUTHORIZED SERVICES TO BE FINANCED BY THE CFD

The Services shown below and authorized to be funded by the CFD and paid by the special taxes shall incorporate and have the meaning given to the term "services" in the Mello-Roos Community Facilities Act of 1982. The cost of the Services include all related administrative costs and expenses, and related reserves for replacement of vehicles, equipment and facilities.

- (a) Police protection services.
- (b) Fire protection and suppression services, and ambulance and paramedic services.

## EXHIBIT B

### CITY OF SANTA CLARA COMMUNITY FACILITIES DISTRICT NO. 2010-1

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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A Special Tax applicable to each Assessor's Parcel in the City of Santa Clara Community Facilities District No. 2010-1 shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Hotel Property, as described below. All of the property in CFD No. 2010-1, unless exempted by law or by the provisions of Section D below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2010-1, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**“Act”** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

**“Administrative Expenses”** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2010-1 and the Bonds, including, but not limited to, levying and collecting the Special Tax, the fees and expenses of legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Tax, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Tax, and all other costs and expenses of the City in any way related to the establishment or administration of CFD No. 2010-1 or administration of the Bonds.

**“Administrator”** means the Director of Finance for the City, or such other person or entity designated by the Director of Finance of the City to administer the Special Tax according to this RMA.

**“Assessor's Parcel”** or **“Parcel”** means a lot or parcel shown on an official map of the County Assessor designating parcels by Assessor's Parcel numbers.

**“Authorized Facilities”** means those public facilities authorized to be funded by CFD No. 2010-1 as set forth in the CFD formation documents.

**“Authorized Services”** means those public services authorized to be funded by CFD No. 2010-1 as set forth in the formation documents.

**“Base Special Tax”** means the Special Tax levied pursuant to this RMA, which equals two percent (2%) of the Rent that is used in the calculation of the Transient Occupancy Tax for Hotel Property.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued or assumed by CFD No. 2010-1 to pay for Authorized Facilities.

**“CFD No. 2010-1”** or **“CFD”** means the City of Santa Clara Community Facilities District No. 2010-1.

**“City”** means the City of Santa Clara and/or any joint powers agency that becomes the governing authority for issues related to the new professional National Football League Stadium in the City of Santa Clara.

**“City Code”** means the Santa Clara City Code.

**“City Council”** means the City Council of the City of Santa Clara, acting as the legislative body of CFD No. 2010-1.

**“County”** means the County of Santa Clara.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

**“Future Annexation Areas”** means the areas designated for potential future annexation to CFD No. 2010-1 as shown in the CFD No. 2010-1 boundary map that was recorded in the County Recorder’s Office.

**“Hotel”** or **“Hotel Property”** means any structure, or any portion of any structure within the CFD, that is occupied or intended or designed for occupancy by Transients for dwelling, lodging, or sleeping purposes, including but not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home, or house trailer at a fixed location, or other similar structure or portion thereof. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(b) of the TOT Chapter.

**“Indenture”** means the bond indenture, fiscal agent agreement, trust agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**“Maximum Special Tax”** means the greatest amount of Special Tax that can be collected in accordance with Section B below.

**“Operator”** means the person or entity who is proprietor of any Hotel Property, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, or licensee, or in any other capacity.



Where this person performs his/her functions through a managing agent of any type or character other than as an employee of an operator, the managing agent shall also be deemed an Operator for the purposes of this RMA and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this RMA by either the principal or the managing agent shall, however, be considered to be compliance by both. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(d) of the TOT Chapter.

**“Rent”** means the consideration charged, whether or not actually received by Operator, for the occupancy of space in a Hotel valued in money, whether said Rent is received in money, goods, labor, or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(f) the TOT Chapter.

**“RMA”** means this Rate and Method of Apportionment of Special Tax.

**“Special Tax”** means a special tax collected pursuant to this RMA.

**“Stadium Opening Date”** means the date of the first pre-season, regular season, or post-season game, whichever comes first, held at the new professional National Football League Stadium located in the City.

**“TOT Chapter”** means the Transient Occupancy Tax chapter, being Chapter 3.25 (commencing with Section 3.25.010) of the City Code, as it may be amended from time to time.

**“Transient”** means any person who exercises occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty (30) consecutive days or less, counting portions of days as full days. Any such person exercising occupancy in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days has expired. If such person enters into a written agreement with a Hotel pursuant to Section 3.25.020(g) of the TOT Chapter, and such agreement requirements are satisfied, such person shall not be considered a Transient and will not be subject to the Special Tax. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(g) of the TOT Chapter.

**“Transient Occupancy Tax”** means a tax imposed for the privilege of occupancy in Hotel Property, which each Transient is subject to and is required to pay in accordance with the TOT Chapter.

## **B. MAXIMUM SPECIAL TAX**

In any Special Tax reporting period, the Maximum Special Tax for each Operator shall be equal to the sum of (i) the then-current Base Special Tax, (ii) any Base Special Taxes from prior reporting periods that have not yet been paid, and (iii) penalties and interest that have accrued on the delinquent Special Taxes.

### **C. COLLECTION OF THE SPECIAL TAXES**

Starting in the calendar quarter after the Stadium Opening Date, Special Taxes shall be levied on and collected from each Hotel Property pursuant to this RMA. Each Operator of Hotel Property shall report and remit the Special Taxes in the same manner as outlined in Section 3.25.090 of the TOT Chapter. Specifically, the Operators' duties shall include the following:

- (i) Each Operator shall, on or before the last day of the month following the close of each calendar quarter (or at the close of any shorter reporting period, which may be established by the Administrator), file a Special Tax return with the Administrator, on forms and pursuant to guidelines provided by the Administrator, of the total Rents charged and received and the amount of Special Tax collected for transient occupancies. The Special Tax collected shall be the Maximum Special Tax, unless the Administrator determines a lesser amount shall be collected pursuant to the Indenture or pursuant to any provisions in a term sheet, disposition and development agreement, or other such agreement between the City and the Operators that provide for a reduction of, or credit against, Special Taxes.
- (ii) At the time the return is filed, the full amount of the Special Tax collected shall be remitted to the Administrator.
- (iii) The Administrator may establish shorter reporting periods for any Operator if the Administrator deems it necessary in order to ensure timely collection of the Special Tax, and the Administrator may require further information in the Special Tax return. Special Tax returns and payments of all Special Taxes are due immediately upon cessation of business for any reason.
- (iv) All Special Taxes collected by Operators shall be held by the Operators in trust for the account of the CFD until payment thereof is made to the Administrator.

Special Taxes for CFD No. 2010-1 shall be collected in the same manner and at the same time as Transient Occupancy Taxes, provided, however, that the City may collect Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods as set forth in the Indenture. Special Taxes levied pursuant to this RMA shall be subject to the same penalties and interest applied to delinquent Transient Occupancy Taxes pursuant to Sections 3.25.100 and 3.25.110 of the TOT Chapter. Additionally, Special Taxes will be subject to the same audit, appeal, and refund procedures as set forth in Sections 3.25.120, 3.25.130, and 3.25.150 of the TOT Chapter.

The Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, the City's costs of constructing or acquiring Authorized Facilities from Special Tax proceeds have been paid, and all Administrative Expenses and Authorized Services have been paid and/or reimbursed. However, in no event shall a Special Tax be levied for more than 40 years beginning with the first calendar quarter after the Stadium Opening Date.

**D. EXEMPTIONS**

Notwithstanding any other provision of this RMA, no Special Tax shall be collected from (i) any Parcel that is not Hotel Property, and (ii) any person who is exempt from the Transient Occupancy Tax pursuant to Section 3.25.040 of the TOT Chapter.

**E. INTERPRETATION OF SPECIAL TAX FORMULA**

The City may amend or supplement this RMA, including without limitation changes to mechanisms for collecting the Special Taxes, to clarify or make this RMA consistent with the TOT Chapter. No such amendment, supplement, or change shall increase the Maximum Special Tax that can be collected.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SANTA CLARA,  
CALIFORNIA, DETERMINING NECESSITY TO INCUR  
BONDED INDEBTEDNESS: CITY OF SANTA CLARA  
COMMUNITY FACILITIES DISTRICT NO. 2010-1**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, on March 30, 2010, the City Council adopted its Resolution No. 10-7707 entitled “A Resolution of the City of Santa Clara, California, Intention to Establish Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Intention”), stating its intention to form “City of Santa Clara Community Facilities District No. 2010-1” (the “CFD”), including a “City of Santa Clara Community Facilities District No. 2010-1 (Future Annexation Area)” (the “Future Annexation Area”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”);

**WHEREAS**, on March 30, 2010, Council also adopted its Resolution No. 10-7708 entitled “A Resolution of the City of Santa Clara, California, Intention to Incur Bonded Indebtedness: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Intention to Incur Indebtedness”) stating its intention to incur bonded indebtedness within the boundaries of the CFD for the purpose of financing the costs of certain facilities specified in the Resolution of Intention;

**WHEREAS**, Council has held a noticed public hearing as required by the Act about the determination to proceed with the formation of the CFD, including a future annexation area, the provision of certain public facilities and public services by the CFD and the rate and method of apportionment of the special tax to be levied within the CFD to pay the cost of the facilities and

the services, the principal and interest on the proposed bonded indebtedness in the CFD and the administrative costs of the City relative to the CFD;

**WHEREAS**, subsequent to the public hearing, Council adopted a resolution entitled “Resolution of Formation of Community Facilities District” (the “Resolution of Formation”);

**WHEREAS**, Council has also held a noticed public hearing as required by the Act relative to the matters material to the questions set forth in the Resolution of Intention to Incur Indebtedness; and

**WHEREAS**, written protests with respect to the matters material to the questions set forth in the Resolution of Intention to Incur Indebtedness have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special tax.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

1. Recitals. The City Council finds that the above Recitals are true and correct.
2. Necessity. Council deems it necessary to incur bonded indebtedness in the maximum aggregate principal amount of \$38,000,000 within the boundaries of the CFD for the purpose of financing the costs of all or a portion of the facilities defined in the Resolution of Formation (the "Facilities"), including, but not limited to, the costs of issuing and selling bonds to finance all or a portion of the Facilities and the costs of the City in establishing and administering the CFD.
3. Entire CFD Liable. The whole of the CFD shall pay for the bonded indebtedness through the levy of the special tax. The tax is to be apportioned in accordance with the formula set forth in Exhibit “B” to the Resolution of Formation.

4. Bonds or Other Indebtedness. Bonds or other forms of indebtedness, in the maximum aggregate principal amount of \$38,000,000, are hereby authorized subject to voter approval. The bonds or other indebtedness may be issued in one or more series and mature and bear interest at such rate or rates, payable semiannually or in such other manner, all as Council or its designee may determine at the time or times of sale of such bonds or issuance of such indebtedness; provided, however, that the interest rate or rates may not to exceed the maximum interest rate permitted by applicable law at the time the bonds are sold or the indebtedness is incurred, and the bonds or other indebtedness may not have a final maturity falling more than 40 years after the first calendar quarter after the Stadium Opening Date (as that term is defined in the rate and method of apportionment of the Special Tax for the CFD, which is attached as Exhibit B to the Resolution of Formation).

5. Election. The proposition of incurring the bonded indebtedness herein authorized shall be submitted to the qualified electors of the CFD and shall be consolidated with elections on the proposition of levying special taxes within the CFD and the establishment of an appropriations limit for the CFD pursuant to Section 53353.5 of the Act. The time, place and further particulars and conditions of such election shall be as specified by separate resolution of this City Council.

6. Further Action. The City Manager is hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

7. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and

word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

8. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_ DAY OF \_\_\_\_\_, 2010, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

\_\_\_\_\_  
ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

Documents Related to this Report: None

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SANTA CLARA,  
CALIFORNIA, CALLING SPECIAL ELECTION: CITY OF  
SANTA CLARA COMMUNITY FACILITIES DISTRICT  
NO. 2010-1**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, the City Council has adopted a resolution entitled “A Resolution of the City of Santa Clara, California, Formation of Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Formation”), ordering the formation of the “City of Santa Clara Community Facilities District No. 2010-1” (the “CFD”) and a future annexation area, authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”);

**WHEREAS**, Council has also adopted a resolution entitled “A Resolution of the City of Santa Clara, California, Determining Necessity to Incur Bonded Indebtedness: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution Determining Necessity”), determining the necessity to incur bonded indebtedness in the maximum aggregate principal amount of \$38,000,000 upon the security of the special tax to be levied within the CFD pursuant to the Act;

**WHEREAS**, pursuant to the Resolution of Formation and the Resolution Determining Necessity, the propositions of the levy of the special tax, the establishment of the appropriations limit and the incurring of the bonded indebtedness shall be submitted to the qualified electors of the CFD as required by the Act.



**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA  
AS FOLLOWS:**

1. Recitals. The City Council finds that the above Recitals are true and correct.
2. Issues Submitted. Pursuant to Sections 53326, 53351 and 53325.7 of the Act, the issues of the levy of the special tax, the incurring of bonded indebtedness and the establishment of the appropriations limit shall be submitted to the qualified electors (as defined below) of the CFD at an election called therefor as provided below.
3. Qualified Electors. This Council hereby finds that fewer than 12 persons have been registered to vote within the territory of the CFD for each of the 90 days preceding the close of the public hearings heretofore conducted and concluded by this Council for the purposes of these proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that, for these proceedings, the qualified electors are the landowners within the CFD and that the vote shall be by such landowners or their authorized representatives, each having one vote for each acre or portion thereof such landowner owns in the CFD as of the close of the public hearings.
4. Conduct of Election. This Council hereby calls a special election to consider the measures described in Section 2 above, which election shall be held on May 11, 2010, and the results thereof canvassed at the meeting of this Council on May 11, 2010. The City Clerk is hereby designated as the official to conduct the election and to receive all ballots until 7:00 p.m. on the election date. It is hereby acknowledged that the City Clerk has on file the Resolution of Formation, a map of the boundaries of the CFD, and a sufficient description to allow the City Clerk to determine the electors of the CFD. Pursuant to Section 53327 of the Act, the election shall be conducted by messenger or mail-delivered ballot pursuant to Section 4000 of the

California Elections Code. This Council hereby finds that paragraphs (a), (b), (c) (1) and (c)(2) of Section 4000 are applicable to this special election.

5. Ballot. As authorized by Section 53353.5 of the Act, the three propositions described in Section 2 above shall be combined into a single ballot measure, the form of which is attached hereto as Exhibit A and by this reference incorporated herein and the form of ballot is hereby approved. The City Clerk is hereby authorized and directed to cause a ballot, in substantially the form of Exhibit "A," to be delivered to each of the qualified electors of the CFD. Each ballot shall indicate the number of votes to be voted by the respective landowner to which the ballot pertains. Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The envelope to be used to return the ballot was enclosed with the ballot and contained the following: (a) a declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the landowner entitled to vote, (b) the signature of the voter, (c) the date of signing and place of execution of the declaration, and (d) a notice that the envelope contains an official ballot and is to be opened only at the special election.

6. Waivers. Council hereby further finds that the provisions of Section 53326 of the Act requiring a minimum of 90 days following the adoption of the Resolution of Formation to elapse before the special election are for the protection of the qualified electors of the CFD. There is on file with the City Clerk a written waiver executed by all of the qualified electors of the CFD allowing for a shortening of the time for the special election to expedite the process of formation of the CFD and waiving any requirement for notice, analysis and arguments in connection with the election. Accordingly, Council finds and determines that the qualified electors have been fully apprised of and have agreed to the shortened time for the election and waiver of analysis

and arguments, and have thereby been fully protected in these proceedings. Council also finds and determines that the City Clerk has concurred in the shortened time for the election. Analysis and arguments with respect to the ballot measures are hereby waived, as provided in Section 53327 of the Act.

7. Accountability. Council hereby finds that the proposed debt issuance constitutes a “local bond measure” within the meaning of Sections 53410, et seq. of the California Government Code. As a result, the bond measure shall include the propositions set forth above and the following: (a) the specific purpose of the bonds shall be as set forth in the propositions; (b) any proceeds received from the sale of any bonds shall be applied only to the purposes set forth in the propositions; (c) the proceeds of any bonds shall be deposited into special accounts to be created therefor as part of the issuance of the bonds; and (d) the City shall cause a report to be prepared annually under Section 53411 of the Government Code.

8. Further Action. The City Manager is hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

9. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

10. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_ DAY OF \_\_\_\_\_, 2010, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

\_\_\_\_\_  
ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A: Form of Ballot

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**EXHIBIT A**

**FORM OF BALLOT**

**CITY OF SANTA CLARA  
Community Facilities District No. 2010-1**

**OFFICIAL BALLOT  
SPECIAL TAX ELECTION  
( \_\_\_\_\_ )**

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope, either by mail or in person, to the office of the City Clerk of the City of Santa Clara no later than the public hearing on the proposed Community Facilities District, which will be held during the Council meeting starting at 7:00 p.m. on Tuesday, May 11, 2010. In order to ensure all ballots are received in time, the City requests that you return your ballot to the City Clerk no later than **the close of business on Tuesday, May 4, 2010**. The City Clerk's office is located at:

City Clerk  
City of Santa Clara  
1500 Warburton Ave  
Santa Clara, CA 95050

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk and obtain another.

**BALLOT MEASURE NO. 1:** Shall the City of Santa Clara, on behalf of the City of Santa Clara Community Facilities District No. 2010-1 (the "CFD"), be authorized to issue special tax bonds and incur other indebtedness for the CFD that would provide up to \$35,000,000 in net proceeds (exclusive of debt service reserves, capitalized interest and other financing costs) with a maximum principal amount of indebtedness for the CFD of \$38,000,000 (including debt service reserves, capitalized interest and other financing costs), with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds or incurrence of such indebtedness, the proceeds of which will be used to pay for the purchase, construction, expansion, improvement or rehabilitation of the public facilities specified in the Resolution of Formation of the CFD adopted by the City Council on May 11, 2010, and to pay for the costs of issuing the bonds and incurring the indebtedness and related expenses?

**YES:** \_\_\_\_\_

**NO:** \_\_\_\_\_

**BALLOT MEASURE NO. 2:** Shall the City of Santa Clara be authorized to annually levy a special tax solely on lands within the City of Santa Clara Community Facilities District No. 2010-1 (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council on May 11, 2010, to finance and pay for the public facilities, pay for the public services, and pay the related administrative costs, all as specified in the Resolution of Formation, and shall the annual appropriations limit of the CFD be established in the amount of \$38,000,000?

**YES:** \_\_\_\_\_

**NO:** \_\_\_\_\_

By execution in the space provided below, (a) you represent and warrant that the property information listed below is true and correct, and (b) you indicate your waiver of (i) the time limit pertaining to the conduct of the election, (ii) any requirement for analysis and arguments with respect to the ballot measure, and (iii) any irregularity in the proceedings that may be claimed as a result of the application of such waivers.

The Property that is the subject of this Ballot is identified as:

County of Santa Clara Assessor Parcel Number:

\_\_\_\_\_

Property Address:

\_\_\_\_\_

\_\_\_\_\_

Santa Clara, CA 9\_\_\_\_\_

The total acreage of the Property :

\_\_\_\_\_, \_\_ acres

Total number of votes:

\_\_\_\_\_

Dated: \_\_\_\_\_, 2010

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_,  
a \_\_\_\_\_,  
its \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SANTA CLARA,  
CALIFORNIA, DECLARING RESULTS OF SPECIAL  
ELECTION AND DIRECTING RECORDING OF NOTICE  
OF SPECIAL TAX LIEN: CITY OF SANTA CLARA  
COMMUNITY FACILITIES DISTRICT NO. 2010-1**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, the City Council has adopted a resolution entitled “A Resolution of the City of Santa Clara, California, Formation of Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Formation”), ordering the formation of the “City of Santa Clara Community Facilities District No. 2010-1” (the “CFD”) and a future annexation area, authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”);

**WHEREAS**, Council has also adopted a resolution entitled “A Resolution of the City of Santa Clara, California, Determining Necessity to Incur Bonded Indebtedness: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution Determining Necessity”), determining the necessity to incur bonded indebtedness in the maximum aggregate principal amount of \$38,000,000 upon the security of the special tax to be levied within the CFD pursuant to the Act;

**WHEREAS**, pursuant to the Resolution of Formation and the Resolution Determining Necessity, and pursuant to a “Resolution Calling Special Election” (the “Election Resolution”) adopted by Council, the propositions of the levy of the special tax, the establishment of the appropriations limit and the incurring of the bonded indebtedness were submitted to the qualified electors of the CFD as required by the Act;

**WHEREAS**, pursuant to the Election Resolution, which is by this reference incorporated herein, the special election has been held and the City Clerk has on file a Canvass and Statement of Results of Election, (the “Canvass”) a copy of which is attached hereto as Exhibit A; and

**WHEREAS**, Council has reviewed the Canvass, finds it appropriate and wishes to complete its proceedings for the CFD.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

1. Recitals. The City Council finds that the above Recitals are true and correct.
2. Issues Presented. The issues presented at the special election were the levy of a special tax within the CFD, the incurring of a bonded indebtedness in the maximum aggregate principal amount of \$38,000,000, and the approval of an annual appropriations limit of not to exceed \$38,000,000, all pursuant to the Resolution of Formation and the Resolution of Necessity.
3. Canvass and Issues Approved. The Council hereby approves the Canvass and finds that it shall be a permanent part of the record of its proceedings for the CFD. Pursuant to the Canvass, the issues presented at the special election were approved by the qualified electors of the CFD by more than two-thirds (2/3) of the votes cast at the special election.
4. Proceedings Approved. Pursuant to the voter approval, the CFD is hereby declared to be fully formed with the authority to levy the special taxes, to incur the approved bonded indebtedness and to have the established appropriations limit, all as heretofore provided in these proceedings and in the Act. It is hereby found that all prior proceedings and actions taken by this City Council with respect to the CFD were valid and in conformity with the Act.
5. Notice of Special Tax Lien. The City Clerk is hereby directed to complete, execute and cause to be recorded in the office of the County Recorder of the County of Santa Clara a notice



of special tax lien in the form required by the Act, such recording to occur no later than 15 days following adoption by Council of this resolution.

6. Further Action. The City Manager is hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

7. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

8. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_ DAY OF \_\_\_\_\_, 2010, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

\_\_\_\_\_  
ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A: Canvass and Statement of Result of Election

Exhibit A – Canvass and Statement of Result of Election

Page 3

**EXHIBIT A**

**CANVASS AND STATEMENT OF RESULT OF ELECTION**

**CITY OF SANTA CLARA  
Community Facilities District No. 2010-1**

I hereby certify that: on May 11, 2010, I canvassed the returns of the election held on May 11, 2010, in the City of Santa Clara Community Facilities District No. 2010-1; the total number of ballots cast, and the total number of votes cast for and against each ballot measure, are as set forth below; and the totals as shown for and against each ballot measure are full, true and correct:

	<b>Qualified Landowner Votes</b>	<b>Total Votes Cast</b>	<b>YES</b>	<b>NO</b>
CITY OF SANTA CLARA, Community Facilities District No. 2010-1, Special Tax Election, May 11, 2010	49	—	—	—

**BALLOT MEASURE NO. 1:** Shall the City of Santa Clara, on behalf of the City of Santa Clara Community Facilities District No. 2010-1 (the "CFD"), be authorized to issue special tax bonds and incur other indebtedness for the CFD that would provide up to \$35,000,000 in net proceeds (exclusive of debt service reserves, capitalized interest and other financing costs) with a maximum principal amount of indebtedness for the CFD of \$38,000,000 (including debt service reserves, capitalized interest and other financing costs), with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds or incurrence of such indebtedness, the proceeds of which will be used to pay for the purchase, construction, expansion, improvement or rehabilitation of the public facilities specified in the Resolution of Formation of the CFD adopted by the City Council on May 11, 2010, and to pay for the costs of issuing the bonds and incurring the indebtedness and related expenses?

	<b>Qualified Landowner Votes</b>	<b>Total Votes Cast</b>	<b><u>YES</u></b>	<b><u>NO</u></b>
CITY OF SANTA CLARA, Community Facilities District No. 2010-1, Special Tax Election, May 11, 2010	49	—	—	—

**BALLOT MEASURE NO. 2:** Shall the City of Santa Clara be authorized to annually levy a special tax solely on lands within the City of Santa Clara Community Facilities District No. 2010-1 (the “CFD”) in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council on May 11, 2010, to finance and pay for the public facilities, pay for the public services, and pay the related administrative costs, all as specified in the Resolution of Formation, and shall the annual appropriations limit of the CFD be established in the amount of \$38,000,000?

**IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND** this 11th day of May, 2010.

By: \_\_\_\_\_  
City Clerk

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE  
OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA  
LEVYING SPECIAL TAXES WITHIN THE  
CITY OF SANTA CLARA  
COMMUNITY FACILITIES DISTRICT NO. 2010-1**

**WHEREAS**, on March 30, 2010, the City Council adopted its Resolution No. 10-7707 entitled “A Resolution of the City of Santa Clara, California, Intention to Establish Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Intention”), stating its intention to form “City of Santa Clara Community Facilities District No. 2010-1” (the “CFD”), including a “City of Santa Clara Community Facilities District No. 2010-1 (Future Annexation Area)” (the “Future Annexation Area”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”);

**WHEREAS**, notice was published as required by the Act relative to the intention of this City Council to form the CFD, to provide for certain public facilities and public services and to incur bonds or other indebtedness for the CFD (the “Bonds”) in an amount not to exceed \$38,000,000;

**WHEREAS**, Council has held noticed public hearings as required by the Act relative to (i) the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax to be levied within the CFD to finance a portion of the costs of the public facilities and public services and (ii) the issuance of not to exceed \$38,000,000 of bonds or other indebtedness for the CFD;

**WHEREAS**, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of the special taxes were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held;

**WHEREAS**, subsequent to the hearing, this City Council adopted its Resolution No. \_\_\_\_ entitled “A Resolution of the City of Santa Clara, California, Formation of Community Facilities District: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Formation”), its Resolution No. \_\_\_\_ entitled “A Resolution of the City of Santa Clara, California, Determining Necessity to Incur Bonded Indebtedness: City of Santa Clara Community Facilities District No. 2010-1” (the “Resolution of Necessity”) and its Resolution No. \_\_\_\_ entitled “A Resolution of the City of Santa Clara, California, Calling Special Election: City of Santa Clara Community Facilities District No. 2010-1” which resolutions defined the public facilities to be financed by the CFD (the "Facilities") and the public services to be funded by the CFD (the “Services”), established the CFD, authorized the levy of a special tax with the CFD, determined the necessity to incur bonds or other indebtedness in the CFD and called an election within the CFD on the propositions of incurring indebtedness, levying a special tax, and establishing an appropriations limit within the CFD; and

**WHEREAS**, on May 11, 2010, a special election was held within the CFD at which the eligible landowner electors approved such propositions by the two-thirds vote required by the Act.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA**, as follows:

**Section 1.** By the passage of this Ordinance this City Council hereby authorizes and levies special taxes within the CFD pursuant to the Act, at the rate and in accordance with the formula (the "Rate and Method") set forth in the Resolution of Formation, which Resolution of Formation is by this reference incorporated herein. The special taxes are hereby levied starting in the

calendar quarter after the Stadium Opening Date (as that term is defined in the Rate and Method) and continuing until principal and interest on the Bonds have been repaid, the City's costs of constructing or acquiring the Facilities have been paid, and all administrative expenses and Services have been paid or reimbursed; provided, however, that in no event shall the special tax be levied for more than 40 years beginning with the first calendar quarter after the Stadium Opening Date (as that term is defined in the Rate and Method).

**Section 2.** The Director of Finance of the City is hereby authorized and directed to determine the specific special tax rate and amount to be levied for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation and the Rate and Method.

**Section 3.** Properties or entities of the state, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Resolution of Formation and the Rate and Method.

**Section 4.** All of the collections of the special tax shall be used as provided for in the Act and in the Resolution of Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of any reserve fund for the Bonds, the payment of the costs of the Facilities and the Services, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the special tax.

**Section 5.** The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Director of Finance is hereby authorized to collect the special taxes by other appropriate methods of collection, including direct billing to the affected property owners at such

intervals deemed appropriate. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

**Section 6.** If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the CFD shall not be affected.

**Section 7.** The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the City.

**Section 8.** This Ordinance shall take effect 30 days from the date of final passage.

\* \* \* \* \*

**PASSED FOR THE PURPOSE OF PUBLICATION** this \_\_\_ day of \_\_\_\_\_ 2010, by the following vote:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: \_\_\_\_\_  
ROD DIRIDON, JR.  
CITY CLERK  
CITY OF SANTA CLARA

**RECORDING REQUESTED BY AND  
AFTER RECORDATION RETURN TO:**  
CITY CLERK  
CITY OF SANTA CLARA  
1500 Warburton Ave  
Santa Clara, CA 95050

**NOTICE OF SPECIAL TAX LIEN**

**CITY OF SANTA CLARA**  
**Community Facilities District No. 2010-1**

Pursuant to the requirements of Section 3114.5 of the California Streets and Highways Code of California and Section 53328.3 of the California Government Code, the undersigned City Clerk of the City of Santa Clara, County of Santa Clara, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Santa Clara, County of Santa Clara. The special tax secured by this lien is authorized to be levied for the purpose of paying principal and interest on bonds or other indebtedness, the proceeds of which are being used to finance the acquisition and construction of all or a portion of the public facilities described in Exhibit A attached hereto and hereby made a part hereof, to pay the cost of the public facilities and the public services described in Exhibit A, and to pay the cost of administering the CFD (defined below).

The special tax is authorized to be levied within the "City of Santa Clara Community Facilities District No. 2010-1" (the "CFD"), which has now been officially formed and the lien of the special tax is a continuing lien which shall secure each levy of the special tax and which shall continue in force and effect until the special tax obligation is permanently satisfied and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as set forth in Exhibit B attached hereto and hereby made a part hereof.

Notice is further given that, upon the recording of this notice in the office of the County Recorder of the County of Santa Clara, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the CFD in accordance with Section 3115.5 of the Streets and Highways Code of California.



The name(s) of the owner(s) and the assessor's tax parcel numbers of the real property included within the area of the CFD and not exempt from the special tax are as set forth in Exhibit C attached hereto and hereby made a part hereof.

Reference is made to the boundary map of the CFD recorded on April 7, 2010, in Book 45 at Pages 40 through 42, as Document No. 20670542, in the office of the County Recorder for the County of Santa Clara, State of California, which map is now the final boundary map of the CFD.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Director of Finance, City of Santa Clara, 1500 Warburton Avenue, Santa Clara, California, 95050; Telephone: (408) 615-2340.

Dated: As of May 11, 2010

By: \_\_\_\_\_  
City Clerk,  
City of Santa Clara

**EXHIBIT A**

**NOTICE OF SPECIAL TAX LIEN**

**CITY OF SANTA CLARA  
Community Facilities District No. 2010-1**

**AUTHORIZED FACILITIES AND SERVICES**

**DESCRIPTION OF AUTHORIZED FACILITIES TO BE FINANCED BY THE CFD**

The Facilities shown below are proposed to be financed or funded in whole or in part by the CFD. The Facilities shall be owned and operated by the City or by another public agency, and shall be constructed, whether or not acquired in their completed states, pursuant to the plans and specifications approved by the City and its officials, including the City Engineer.

- (a) utility improvements
- (b) streets, parking lots and paving
- (c) sidewalks, pedestrian pathways and pedestrian bridges
- (d) fencing
- (e) landscaping and lighting
- (f) storm drain and flood protection facilities

The Facilities to be financed or funded shall include, without limitation, the following costs: earthwork related to the Facilities; appurtenances to and improvements related to the Facilities; related landscaping and irrigation; acquiring rights-of-way (including any right-of-way intended to be dedicated by the recording of a final map); design, architecture, engineering and planning; any environmental review or environmental studies, traffic studies, surveys, geotechnical studies, soils testing, or other studies related to the Facilities; permits, plan check and inspection fees; insurance, legal and related overhead costs; project management, coordination and supervision; and any other costs or appurtenances related to any of the foregoing.

The CFD may also finance or fund, and the special taxes may also be used, for any of the following purposes:

1. To pay for the purchase, construction, expansion, improvement or rehabilitation of any of the Facilities, and to reimburse the City or any third parties for advances made to purchase, construct, expand, improve or rehabilitate any of the Facilities.
2. To pay principal of, interest on, and any premium due with respect to, any bonds or other indebtedness issued or entered into by the City with respect to the CFD, and to pay lease payments or installment sale payments with respect to any of the Facilities.
3. To pay all expenses related to the issuance of bonds or other indebtedness by the City with respect to the CFD, including without limitation: underwriters discount; reserve fund;

capitalized interest; fees, expenses and premium associated with any letter of credit or other credit enhancement; fees and expenses of bond counsel, disclosure counsel and issuer's counsel; fees and expenses of the City's financial advisors and special tax consultants, and other City consultants; and all other incidental expenses.

4. To pay annual or periodic administrative fees of the City and the bond trustee or fiscal agent related to the CFD and the bonds, and to reimburse the City for its costs and expenses related to the administration of the CFD and the bonds.

5. To reimburse the City or any third parties for actual costs advanced that are related to the formation of the CFD.

#### DESCRIPTION OF AUTHORIZED SERVICES TO BE FINANCED BY THE CFD

The Services shown below and authorized to be funded by the CFD and paid by the special taxes shall incorporate and have the meaning given to the term "services" in the Mello-Roos Community Facilities Act of 1982. The cost of the Services include all related administrative costs and expenses, and related reserves for replacement of vehicles, equipment and facilities.

- (a) Police protection services.
- (b) Fire protection and suppression services, and ambulance and paramedic services.

## EXHIBIT B

### CITY OF SANTA CLARA COMMUNITY FACILITIES DISTRICT NO. 2010-1

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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A Special Tax applicable to each Assessor's Parcel in the City of Santa Clara Community Facilities District No. 2010-1 shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Hotel Property, as described below. All of the property in CFD No. 2010-1, unless exempted by law or by the provisions of Section D below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2010-1, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**“Act”** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

**“Administrative Expenses”** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2010-1 and the Bonds, including, but not limited to, levying and collecting the Special Tax, the fees and expenses of legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Tax, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Tax, and all other costs and expenses of the City in any way related to the establishment or administration of CFD No. 2010-1 or administration of the Bonds.

**“Administrator”** means the Director of Finance for the City, or such other person or entity designated by the Director of Finance of the City to administer the Special Tax according to this RMA.

**“Assessor's Parcel”** or **“Parcel”** means a lot or parcel shown on an official map of the County Assessor designating parcels by Assessor's Parcel numbers.

**“Authorized Facilities”** means those public facilities authorized to be funded by CFD No. 2010-1 as set forth in the CFD formation documents.

**“Authorized Services”** means those public services authorized to be funded by CFD No. 2010-1 as set forth in the formation documents.

**“Base Special Tax”** means the Special Tax levied pursuant to this RMA, which equals two percent (2%) of the Rent that is used in the calculation of the Transient Occupancy Tax for Hotel Property.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued or assumed by CFD No. 2010-1 to pay for Authorized Facilities.

**“CFD No. 2010-1”** or **“CFD”** means the City of Santa Clara Community Facilities District No. 2010-1.

**“City”** means the City of Santa Clara and/or any joint powers agency that becomes the governing authority for issues related to the new professional National Football League Stadium in the City of Santa Clara.

**“City Code”** means the Santa Clara City Code.

**“City Council”** means the City Council of the City of Santa Clara, acting as the legislative body of CFD No. 2010-1.

**“County”** means the County of Santa Clara.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

**“Future Annexation Areas”** means the areas designated for potential future annexation to CFD No. 2010-1 as shown in the CFD No. 2010-1 boundary map that was recorded in the County Recorder’s Office.

**“Hotel”** or **“Hotel Property”** means any structure, or any portion of any structure within the CFD, that is occupied or intended or designed for occupancy by Transients for dwelling, lodging, or sleeping purposes, including but not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home, or house trailer at a fixed location, or other similar structure or portion thereof. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(b) of the TOT Chapter.

**“Indenture”** means the bond indenture, fiscal agent agreement, trust agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**“Maximum Special Tax”** means the greatest amount of Special Tax that can be collected in accordance with Section B below.

**“Operator”** means the person or entity who is proprietor of any Hotel Property, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, or licensee, or in any other capacity. Where this person performs his/her functions through a managing agent of any type or character

other than as an employee of an operator, the managing agent shall also be deemed an Operator for the purposes of this RMA and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this RMA by either the principal or the managing agent shall, however, be considered to be compliance by both. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(d) of the TOT Chapter.

**“Rent”** means the consideration charged, whether or not actually received by Operator, for the occupancy of space in a Hotel valued in money, whether said Rent is received in money, goods, labor, or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(f) the TOT Chapter.

**“RMA”** means this Rate and Method of Apportionment of Special Tax.

**“Special Tax”** means a special tax collected pursuant to this RMA.

**“Stadium Opening Date”** means the date of the first pre-season, regular season, or post-season game, whichever comes first, held at the new professional National Football League Stadium located in the City.

**“TOT Chapter”** means the Transient Occupancy Tax chapter, being Chapter 3.25 (commencing with Section 3.25.010) of the City Code, as it may be amended from time to time.

**“Transient”** means any person who exercises occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty (30) consecutive days or less, counting portions of days as full days. Any such person exercising occupancy in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days has expired. If such person enters into a written agreement with a Hotel pursuant to Section 3.25.020(g) of the TOT Chapter, and such agreement requirements are satisfied, such person shall not be considered a Transient and will not be subject to the Special Tax. This definition incorporates by reference and shall be deemed to be amended to incorporate any changes made from time to time to Section 3.25.020(g) of the TOT Chapter.

**“Transient Occupancy Tax”** means a tax imposed for the privilege of occupancy in Hotel Property, which each Transient is subject to and is required to pay in accordance with the TOT Chapter.

## **B. MAXIMUM SPECIAL TAX**

In any Special Tax reporting period, the Maximum Special Tax for each Operator shall be equal to the sum of (i) the then-current Base Special Tax, (ii) any Base Special Taxes from prior reporting periods that have not yet been paid, and (iii) penalties and interest that have accrued on the delinquent Special Taxes.

### **C. COLLECTION OF THE SPECIAL TAXES**

Starting in the calendar quarter after the Stadium Opening Date, Special Taxes shall be levied on and collected from each Hotel Property pursuant to this RMA. Each Operator of Hotel Property shall report and remit the Special Taxes in the same manner as outlined in Section 3.25.090 of the TOT Chapter. Specifically, the Operators' duties shall include the following:

- (i) Each Operator shall, on or before the last day of the month following the close of each calendar quarter (or at the close of any shorter reporting period, which may be established by the Administrator), file a Special Tax return with the Administrator, on forms and pursuant to guidelines provided by the Administrator, of the total Rents charged and received and the amount of Special Tax collected for transient occupancies. The Special Tax collected shall be the Maximum Special Tax, unless the Administrator determines a lesser amount shall be collected pursuant to the Indenture or pursuant to any provisions in a term sheet, disposition and development agreement, or other such agreement between the City and the Operators that provide for a reduction of, or credit against, Special Taxes.
- (ii) At the time the return is filed, the full amount of the Special Tax collected shall be remitted to the Administrator.
- (iii) The Administrator may establish shorter reporting periods for any Operator if the Administrator deems it necessary in order to ensure timely collection of the Special Tax, and the Administrator may require further information in the Special Tax return. Special Tax returns and payments of all Special Taxes are due immediately upon cessation of business for any reason.
- (iv) All Special Taxes collected by Operators shall be held by the Operators in trust for the account of the CFD until payment thereof is made to the Administrator.

Special Taxes for CFD No. 2010-1 shall be collected in the same manner and at the same time as Transient Occupancy Taxes, provided, however, that the City may collect Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods as set forth in the Indenture. Special Taxes levied pursuant to this RMA shall be subject to the same penalties and interest applied to delinquent Transient Occupancy Taxes pursuant to Sections 3.25.100 and 3.25.110 of the TOT Chapter. Additionally, Special Taxes will be subject to the same audit, appeal, and refund procedures as set forth in Sections 3.25.120, 3.25.130, and 3.25.150 of the TOT Chapter.

The Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, the City's costs of constructing or acquiring Authorized Facilities from Special Tax proceeds have been paid, and all Administrative Expenses and Authorized Services have been paid and/or reimbursed. However, in no event shall a Special Tax be levied for more than 40 years beginning with the first calendar quarter after the Stadium Opening Date.

### **D. EXEMPTIONS**

Notwithstanding any other provision of this RMA, no Special Tax shall be collected from (i) any Parcel that is not Hotel Property, and (ii) any person who is exempt from the Transient Occupancy Tax pursuant to Section 3.25.040 of the TOT Chapter.

**E. INTERPRETATION OF SPECIAL TAX FORMULA**

The City may amend or supplement this RMA, including without limitation changes to mechanisms for collecting the Special Taxes, to clarify or make this RMA consistent with the TOT Chapter. No such amendment, supplement, or change shall increase the Maximum Special Tax that can be collected.



**EXHIBIT C**

**NOTICE OF SPECIAL TAX LIEN**

**CITY OF SANTA CLARA  
Community Facilities District No. 2010-1**

**ASSESSOR'S PARCEL NUMBERS AND OWNERS OF LAND  
WITHIN COMMUNITY FACILITIES DISTRICT**

<u>Assessor's Parcel Nos.</u>	<u>Names of Property Owners</u>
104-41-040	Skyline Holiday House a Limited Partnership
104-14-089	Kang Family Partners L.P.
216-30-053	Ashford Santa Clara Partners LP a Delaware limited partnership
097-08-106	Santa Clara Sierra Associates, L.P. a Kansas limited partnership
104-41-026 104-40-022	Stephen & Gwen Dorcich Revocable Living Trust Dated June 5, 2002  Dorcich Farms LLC a California limited liability company  Dorcich Living Trust  Stephen N. Dorcich
216-30-054	Sierra Santa Clara, Inc. a California corporation
104-43-042 104-55-012	Redevelopment Agency of the City of Santa Clara



**SUMMARY OF CFD FORMATION PROCEDURE**

**CITY OF SANTA CLARA  
 Community Facilities District No. 2010-1**

April 27, 2010

Action	Due Date/ Status	Responsible Party
<b>Petition.</b> Formation of the CFD must be instituted by the City Council within 90 days after a petition signed by owners of not less than 10% of the land proposed to be included in the CFD is filed with the City Clerk.	COMPLETED	Hotels and Redevelopment Agency
<b>File Special Tax Formula/Rate and Method and Boundary Map.</b> The Rate And Method and Boundary Map must be on file with the City Clerk before the Resolutions of Intention are adopted.	March 30, 2010 COMPLETED	Special Tax Consultant
<b>First Council Meeting</b>		
<b>A. Local Goals and Policies.</b> A local agency may initiate proceeds to establish a CFD only after adopting local goals and policies. This action may be placed on the consent calendar, and can take place at the same meeting as the Resolutions of Intention, but must occur before the Resolutions of Intention are adopted.	March 30, 2010 COMPLETED	City Council
<b>B. Resolution Consenting to Formation of CFD.</b> The Redevelopment Agency, as a landowner within the CFD, adopts a resolution consenting to the formation of the CFD.	March 30, 2010 COMPLETED	Redevelopment Agency
<b>C. Resolution of Intention to Form CFD.</b> The City Council, acting as the legislative body for the proposed CFD, considers and adopts a Resolution of Intention to Form a Community Facilities District.	March 30, 2010 COMPLETED	City Council
<b>D. Resolution of Intention to Incur Debt.</b> The City Council, acting as the legislative body for the proposed CFD, considers and adopts a Resolution of Intention to Incur Bonded Indebtedness.	March 30, 2010 COMPLETED	City Council



<b>Boundary Map (Recorded within 15 days of Resolution of Intention).</b> The boundary map is completed and recorded with the County Recorder.	No later than April 14, 2010 COMPLETED	City Clerk / Engineering
<b>Published Notice of Hearings.</b> Two notices of public hearings (one for the public hearing on formation, the other for the public hearing on incurring bonded debt) must be published at least once 7 days prior to the date of the hearings.  The Mello-Roos Act provides that the notice of the formation hearing <i>may</i> also be mailed, at least 15 days before the hearing, to each landowner within the proposed CFD.	No later than May 4, 2010 COMPLETED	City Clerk or City Manager
<b>CFD Report.</b> The report is prepared by the Special Tax Consultant and must be filed with the City Clerk before the public hearings. Will be attached to agenda report.	No later than agenda deadline for May 11, 2010 meeting	Special Tax Consultant
<b>Mail Landowner Ballots.</b> The ballots are mailed to the landowner voters in time to be returned prior to the May 11 public hearing/election date.	COMPLETED	Bond Counsel or City Manager
<b>Return Landowner Ballots.</b> The ballots must be marked, signed, sealed and returned to the City Clerk, in a sealed envelope, no later than <b>7:00 p.m. on May 11, 2010</b> (the time and date of the public hearing/election). Clerk will begin receiving returned ballots after April 1, 2010.	No later than 7:00 p.m. on May 11, 2010 PENDING	Hotels and Redevelopment Agency
<b>Hold Landowner Ballots.</b> City Clerk holds landowner ballots until May 11, 2010 Council meeting. in a sealed		City Clerk
<b>Second Council Meeting</b>		
<b>A. Public Hearings.</b> The City Council holds the two public hearings, one on the establishment of the CFD, the other on the incurrence of bonded indebtedness. If the owners of 50% or more of the non-exempt land in the CFD, file written protests against establishment of the CFD, the proceedings must stop for at least one year. The City Council may continue the formation hearing, but it generally must be completed within 30 days.	May 11, 2010	City Council
<b>B. Resolution of Formation of the CFD.</b> If there has been no majority protest, the City Council considers (but is not required to adopt) the Resolution of Formation, which forms the CFD.	May 11, 2010	City Council



<b>C. Resolution of Necessity to Incur Bonded Indebtedness.</b> This resolution establishes the maximum bonded debt for the CFD.	May 11, 2010	City Council
<b>D. Resolution Calling Special Election.</b> This resolution calls for the required vote on (i) the levy of the special taxes, (ii) issuance of a not-to-exceed bonded indebtedness and (iii) an appropriations limit for the CFD.	May 11, 2010	City Council
<b>E. Election.</b> The Council takes a brief break to allow the City Clerk to open and tabulate the landowner ballots. When the meeting resumes, the Clerk announces the results. The ballots are weighted by acreage, with each landowner having one vote for each acre or portion of acre owned. Following tabulation, Clerk will complete the <b>Canvass and Statement of Result of Election</b> attached to the Resolution Confirming Results of Election.	May 11, 2010	City Clerk (during Council meeting)
<b>F. Resolution Confirming Results of Election and Directing Recording of Notice of Special Tax Lien.</b> Following the election, the City Council adopts this resolution, which determines the outcome of the election and provides for the required recording of the special tax lien notice.	May 11, 2010	City Council
<b>G. First Reading of Ordinance Ordering Levy of Special Taxes.</b> If the vote is positive and the ballot is approved by a 2/3ds majority, the Council is authorized to adopt an ordinance levying the special taxes.	May 11, 2010	City Council
<b>Publication of Ordinance.</b> The Ordinance must be published within 15 days after its second reading at least once in a newspaper of general circulation published and circulated in the area of the CFD. <i>City practice is to publish the Ordinance before the second reading.</i>	Before May 25, 2010.	City Clerk or City Manager
<b>Third Council Meeting:</b> (at least 5 days after May 11, 2010)		
<b>Second Reading and Adoption of Ordinance Ordering Levy of Special Taxes.</b> The ordinance is generally effective 30 days after the second reading.	May 25, 2010	City Council
<b>Publication of Ordinance.</b> The Ordinance must be published within 15 days after its second reading at least once in a newspaper of general circulation published and circulated in the area of the CFD.	Not later than June 9, 2010	City Clerk



<b>Recordation of Notice of Special Tax Lien.</b> The City Clerk must complete, execute and cause to be recorded in the office of the County Recorder a notice of special tax lien no later than <b>15 days</b> following adoption by the City Council of the Resolution Confirming Results of Election and Directing Recording of Notice of Special Tax Lien.	Not later than June 9, 2010	City Clerk/Engineering
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CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

Council Date: May 11, 2010

SUBJECT: Public Hearing to Consider Adoption of Resolutions Related to the Formation of a Community Facilities District and Holding a special Election, and Pass to Print an Ordinance Levying Special Taxes within City of Santa Clara Community Facilities District No. 2010-1, for Financing of Publicly Owned Infrastructure for a Proposed Professional Football Stadium

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published time(s) at least days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for , 20.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title U.S.C. § (Titles run 1 through 50)

California Codes:

Code § (i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title C.F.R. § (Titles run 1 through 50)

California Regulations:

Title California Code of Regulations § (Titles run 1 through 28)

City Regulations:

City Charter § (i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening) City Code §

Reviewed and approved:

1. As to City Functions, by

Carol McCarthy Department Head

2. As to Legality, by

Glenn H. Sol City Attorney's Office/CAO Assign. No 10.

3. As to Environmental Impact Requirements, by

Director of Planning and Inspection

4. As to Substance, by

J. Sparano City Manager

**PROOF OF PUBLICATION**

*Santa Clara Weekly*

**P.O. Box 580, Santa Clara, California 95052**

IN THE  
City of Santa Clara,  
State of California,  
County of Santa Clara

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**CITY OF SANTA CLARA**

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**NOTICE OF PUBLIC HEARING**

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**TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO 2010-1**

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State of California, }  
County of Santa Clara } SS.

The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to nor interested in the above entitled proceeding; and was at and during all said times and still is publisher of the Santa Clara Weekly, a newspaper of general circulation printed and published weekly in the County of Santa Clara, State of California, and said Santa Clara Weekly is and was at all times hereinmentioned a newspaper of general circulation as that term is defined by sections 6000 and following, of the government code of the State of California, and, as provided by said sections, is published for the dissemination of local or telegraphic news and intelligence of a general character, having a bonafide subscription list of paying subscribers, and is not devoted to the interest or published for the entertainment or instruction of a particular class, profession, trade, calling, race or denomination, or for the entertainment and instruction of any number of such classes, professions, trades, callings, races or denominations; that at all times said newspaper has been established, printed and published in the said County of Santa Clara and State of California at regular intervals for more than one year proceeding the first publication of the notice herein mentioned; that said notice was set in type not smaller than non-parell, describing and expressing in general terms the purport and character of the notice intended to be given; that the clipping of which the annexed is a true printed copy, was published and printed in said newspaper on the following dates to wit:

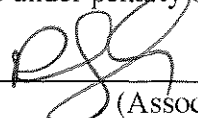
**Pub: 4/14/2010**

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Dated at Santa Clara, California

This \_\_\_\_\_ 15TH \_\_\_\_\_ day of \_\_\_\_\_ APRIL \_\_\_\_\_, 2010

I declared under penalty of perjury that the foregoing is true and correct.

Signed:  \_\_\_\_\_  
(Assoc.) Publisher of the Santa Clara Weekly

The Santa Clara Weekly was adjudicated a newspaper of general circulation in and for the County of Santa Clara on September 3, 1974 (Case No. 314617). The Santa Clara Weekly was adjudicated a newspaper of general circulation within the City of Santa Clara on April 2, 1976 (Case No. 347776).

**NOTICE OF PUBLIC HEARING**  
To Establish a Community Facilities District

**CITY OF SANTA CLARA**  
Community Facilities District No. 2010-1

On March 30, 2010, the City Council (the "City Council") of the City of Santa Clara (the "City"), County of Santa Clara, State of California, adopted its "Resolution of Intention To Establish Community Facilities District" (the "Resolution of Intention") to establish "City of Santa Clara Community Facilities District No. 2010-1" (the "CFD") under the Mello-Roos Community Facilities Act of 1982 (the "Act"). Under the Act and the Resolution of Intention, the City Council gives notice as follows:

1. The text of the Resolution of Intention, with the Exhibits A and B thereto, as adopted by the City Council, is on file with the City Clerk and reference is made thereto for the particular provisions thereof. The text of the Resolution of Intention is summarized as follows:

a. Under the Act, this Council is undertaking proceedings for the establishment of the CFD, including a future annexation area (the "Future Annexation Area"), the boundaries of which are shown on a map on file with the City.

b. The purpose of the CFD is to provide for the financing of (i) the public facilities (the "Facilities") as more fully described in the Resolution of Intention and Exhibit A thereto and (ii) certain public services (the "Services") as more fully described in the Resolution of Intention and Exhibit A thereto.

c. The method of financing the Facilities and the Services is through the imposition and levy of a special tax (the "Special Tax") to be apportioned on the properties in the CFD under the rate and method of apportionment described in the Resolution of Intention and Exhibit B thereto.

d. The Resolution of Intention directed the preparation of a CFD Report that shows the Facilities and the Services and the estimated costs of the Facilities and the Services. The CFD Report will be made a permanent part of the record of the public hearing specified below. Reference is made to the CFD Report as filed with the Clerk.

e. Property within the Future Annexation Area will be annexed to the CFD, and a special tax will be levied on such property, only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without additional hearings or elections.

f. As set forth below, the City Council will hold a public hearing on the establishment of the CFD and the Future Annexation Area, the Facilities, the Services and the Special Tax.

2. The public hearing will be held on Tuesday, May 11, 2010, at 7:00 p.m. or as soon as possible thereafter, in the City Council Chambers, 1500 Warburton Avenue, Santa Clara, California.

3. At the hearing, the testimony of all interested persons or taxpayers for or against the establishment of the CFD, the extent of the CFD or the furnishing of the specified Facilities and Services will be heard. Any person interested may file a protest in writing as provided in Section 53323 of the Act. If 50% or more of the registered voters, residing in the territory proposed to be included in the CFD, or the owners of one-half or more of the area of land in the territory proposed to be included in the CFD and not exempt from the special tax, file written protests against the establishment of the CFD and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council shall take no further action to create the CFD or levy the Special Tax for period of one year from the date of decision of the City Council, and, if the majority protests of the registered voters or landowners are only against the furnishing of a type or types of Facilities or Services within the CFD, or against levying a specified special tax, those types of Facilities or Services or the specified part of the Special Tax will be eliminated from the proceedings to form the CFD.

In addition, at the hearing, the testimony of all interested persons for and against the establishment of the Future Annexation Area or the levying of special taxes within any portion of the Future Annexation Area annexed in the future to the CFD will be heard. If 50% or more of the registered voters, or 6 registered voters, whichever is more, residing within the proposed territory of the CFD, or if 50% or more of the registered voters, or 6 registered voters, whichever is more, residing in the territory proposed to be included in the Future Annexation Area, or the owners of 50% or more of the area of land in the territory proposed to be included in the CFD or in the Future Annexation Area, file written protests against the establishment of the Future Annexation Area and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council shall take no further action to create the Future Annexation Area for a period of one year from the date of decision of the City Council.

4. If there is no majority protest, the City Council may submit the levy of the Special Tax for voter approval at a special election. The Special Tax requires the approval of 2/3rds of the votes cast at a special election by the property owner voters of the CFD, with each owner having one vote for each acre or portion thereof such owner owns in the CFD.

Dated as of May 1, 2010  
City of Santa Clara  
Pub.: 4/14/2010



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*Santa Clara Weekly*

**P.O. Box 580, Santa Clara, California 95052**

IN THE  
City of Santa Clara,  
State of California,  
County of Santa Clara

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**CITY OF SANTA CLARA**

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NOTICE OF PUBLIC HEARING *To INCUR INDEBTNESS*

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COMMUNITY FACILITIES DISTRICT NO 2010-1

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State of California, }  
County of Santa Clara } SS.

The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to nor interested in the above entitled proceeding; and was at and during all said times and still is publisher of the Santa Clara Weekly, a newspaper of general circulation printed and published weekly in the County of Santa Clara, State of California, and said Santa Clara Weekly is and was at all times hereinmentioned a newspaper of general circulation as that term is defined by sections 6000 and following, of the government code of the State of California, and, as provided by said sections, is published for the dissemination of local or telegraphic news and intelligence of a general character, having a bonafide subscription list of paying subscribers, and is not devoted to the interest or published for the entertainment or instruction of a particular class, profession, trade, calling, race or denomination, or for the entertainment and instruction of any number of such classes, professions, trades, callings, races or denominations; that at all times said newspaper has been established, printed and published in the said County of Santa Clara and State of California at regular intervals for more than one year proceeding the first publication of the notice herein mentioned; that said notice was set in type not smaller than non-parell, describing and expressing in general terms the purport and character of the notice intended to be given; that the clipping of which the annexed is a true printed copy, was published and printed in said newspaper on the following dates to wit:

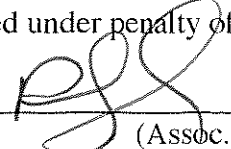
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Dated at Santa Clara, California

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Signed:  \_\_\_\_\_  
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**NOTICE OF PUBLIC HEARING**  
To Incur Bonded Indebtedness

**CITY OF SANTA CLARA**  
**Community Facilities District No. 2010-1**

On March 30, 2010, the City Council (the "City Council") of the City of Santa Clara (the "City"), County of Santa Clara, State of California, adopted its "Resolution of Intention To Incur Bonded Indebtedness" (the "Resolution") for the "City of Santa Clara Community Facilities District No. 2010-1" (the "CFD") under the Mello-Roos Community Facilities Act of 1982 (the "Act"). Under the Act and the Resolution, the City Council gives notice as follows:

1. Reference is hereby made to the entire text of the above Resolution, a complete copy of which is on file with the City Clerk of the City. The text of the Resolution is summarized as follows:

a. The City Council has adopted its Resolution of Intention to Establish a Community Facilities District, stating its intention to form the CFD for the purpose of financing, among other things, all or part of certain public facilities (the "Facilities"), as further provided in that Resolution of Intention.

b. The City Council estimates the amount required to finance the costs of the Facilities to be not more than \$38,000,000 and, in order to finance such costs, it is necessary to incur bonded indebtedness in the amount of not more than \$38,000,000.

c. The proposed bonded indebtedness is to finance the Facilities, including acquisition and improvement costs and all costs incidental to or connected with the accomplishment of such purposes and of the financing thereof, as permitted by the Act.

d. The City Council intends to authorize the issuance and sale of bonds or other forms of debt provided by the Act (collectively, the "Bonds") in the aggregate principal amount of not more than \$38,000,000 in such series and bearing interest payable semi-annually or in such other manner as the City Council may determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of the Bonds, and maturing not to exceed 40 years from the date of the issuance of the Bonds.

2. The public hearing will be held on Tuesday, May 11, 2010, at 7:00 p.m. or as soon as possible thereafter, in the City Council Chambers, 1500 Warburton Avenue, Santa Clara, California.

3. At public hearing the testimony of all interested persons, including voters or persons owning property in the area of the proposed CFD, for and against the proposed bonded debt, will be heard. Interested persons may submit written protests or comment to the City.

Dated as of May 1, 2010  
City of Santa Clara  
Pub.: 4/14/2010