

RESOLUTION NO. 21-8964

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA
DECLARING RESULTS OF THE MAJORITY PROTEST
PROCEEDINGS AND ESTABLISHING THE SANTA CLARA
TOURISM IMPROVEMENT DISTRICT (SCTID)**

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

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the City to establish business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district;

WHEREAS, lodging business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the SCTID have petitioned the City Council to establish the SCTID;

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses within the SCTID to pay for sales, marketing, communications, and other improvements and activities set forth in the Plan;

WHEREAS, the assessed lodging businesses within the SCTID will receive a specific benefit from the activities and improvements set forth in the Plan;

WHEREAS, on April 6, 2021 at 4:00 PM or as soon thereafter at 1500 Warburton Avenue, Santa Clara, CA 95050, the City Council adopted a Resolution of Intention, Resolution No. 21-8955;

WHEREAS, the public meeting and public hearing to consider the establishment of the SCTID have been properly noticed in accordance with Streets and Highways Code §36623;

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WHEREAS, on April 20, 2021 at 4:00 PM or as soon thereafter at 1500 Warburton Avenue, Santa Clara, CA 95050, the City Council held a public meeting regarding the establishment of the SCTID, and the City Council heard and received objections and protests, if any, to the establishment of the SCTID and the levy of the proposed assessment;

WHEREAS, on May 25, 2021 at 4:00 PM or as soon thereafter at 1500 Warburton Avenue, Santa Clara, CA 95050, the City Council held a public hearing regarding the establishment of the SCTID, and the City Council heard and received all objections and protests, if any, to the establishment of the SCTID and the levy of the proposed assessment;

WHEREAS, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the proposed SCTID which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and,

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

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

1. That the recitals set forth herein are adopted by the City Council as findings and they are true and correct.
2. That the SCTID is hereby established for a five (5) year term beginning July 1, 2021 through June 30, 2026.
3. That the Plan dated January 6, 2021 is hereby adopted and approved.

4. That the activities to be provided to benefit businesses in the SCTID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the SCTID; to provide activities or improvements outside the SCTID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the SCTID boundaries to create a specific benefit to the assessed businesses may be provided but shall be limited to marketing or signage pointing to the SCTID.

5. That the City Council finds as follows:

A. The activities funded by the assessment will provide a specific benefit to assessed businesses within the SCTID that is not provided to those not paying the assessment.

B. The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

C. The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

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D. Assessments imposed pursuant to the SCTID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "SCTID Assessment" or "Tourism Assessment" as specified in the Plan. As an alternative, the disclosure may include the amount of the SCTID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the "Tourism Assessment."

6. That the assessments levied for the SCTID shall be applied towards sales, marketing, and communications to market City of Santa Clara lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. The annual assessment rate is one and one-half of one percent (1.5%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays by any officer or employee of a foreign government who is exempt by reason of express provision of Federal law or international treaty. Additionally, assessments will not be collected on stays by any Federal or State of California officer or employee on official business who shall provide one of the following; a warrant or check drawn on the Treasury of the United States; a copy of the official travel orders indicating the issuing governmental agency and the employee's full name; or, a copy of a letter on the official letterhead of an exempt governmental agency requesting exemption and listing the employee's name and stating that the stay is for official government business. The dates of occupancy must also be included. These requirements must be demonstrated by the guest at the time of registration. Failure to satisfy these requirements will result in no assessment exemption. Copies of the documentation for each exemption claimed must be submitted to the Director of Finance with each remittance of assessments. After the initial year of the SCTID's five (5) year term the assessment rate may be increased in

any year by the SCTID Owners' Association's Board to a maximum of two percent (2%) of gross short-term room rental revenue.

8. That assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

9. That the assessment for the entire SCTID will total approximately \$610,936 in year one (1).

10. That bonds shall not be issued to fund the SCTID.

11. That the SCTID shall include all lodging business comprised of ten (10) rooms or more located within the boundaries of the City of Santa Clara. A boundary map is attached hereto and incorporated herein by reference.

12. That the assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the SCTID assessment is levied as long as they are used consistent with the requirements set forth herein.

13. That the assessments to fund the activities and improvements for the SCTID will be collected by the City on a quarterly basis or at the close of any shorter reporting period as established by the Director of Finance, and in accordance with Streets and Highways Code §36631.

14. That the City Council, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the SCTID as defined in Streets and Highways Code §36612. The City Council has determined that Silicon Valley/Santa Clara DMO, Inc. shall be the SCTID Owners' Association.

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15. Silicon Valley/Santa Clara DMO, Inc., pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the SCTID.

16. That the SCTID established pursuant to this Resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

17. That the City Clerk, or his or her designee, is directed to take all necessary actions to complete the establishment of the SCTID and to levy the assessments.

18. 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 25TH DAY OF MAY, 2021, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park, and Watanabe, and Mayor Gillmor
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NOES:	COUNCILORS:	None
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ABSENT:	COUNCILORS:	None
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ABSTAINED:	COUNCILORS:	None
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ATTEST:


NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
1. Exhibit A – District Boundaries

EXHIBIT A
District Boundaries

