

**RECORDING REQUESTED BY AND  
AFTER RECORDATION RETURN TO:**

Assistant City Clerk  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050

**AMENDMENT NO. 1 TO  
NOTICE OF SPECIAL TAX LIEN**

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

**Annexation No. 1**

Pursuant to the requirements of Section 3117.5 of the Streets and Highways Code of California and the Mello-Roos Community Facilities Act of 1982, as amended, section 53311, et seq., of the California Government Code (the "Act"), the undersigned City Clerk of the City of Santa Clara (the "City"), County of Santa Clara, State of California, hereby gives notice that a lien to secure payment of a special tax, which the City is authorized to levy, is hereby imposed on the property described herein.

This Amendment No. 1 to Notice of Special Tax Lien amends the Notice of Special Tax Lien recorded in the Office of the County Recorder of the County of Santa Clara, State of California, on May 14, 2010, as Document No. 20712468 (the "Notice of Special Tax Lien"), to which reference is hereby made and the provisions of which are hereby incorporated by this reference. This Amendment No. 1 to Notice of Special Tax Lien gives notice that the territory described in Exhibit A hereto has been annexed into the City of Santa Clara Community Facilities District No. 2010-1 (the "CFD"). The territory included in the existing CFD is set forth in the map of the CFD recorded on April 7, 2010, in Book 45 at Pages 40 through 42 of Maps of Assessment and Community Facilities Districts, as Document No. 20670542, in the office of the County Recorder for the County of Santa Clara, to which reference is hereby made.

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 the Notice of Special Tax Lien, to pay the cost of the public facilities and the public services described in the Notice of Special Tax Lien, and to pay the cost of administering the CFD.

The rate, method of apportionment, and manner of collection of the authorized special tax is set forth in the Notice of Special Tax Lien and attached hereto as Exhibit B. The lien of the special tax is a continuing lien that shall secure the annual levy of the special tax and 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 Government Code Section 53330.5.

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

The assessor's tax parcel numbers of all parcels or any portion thereof that are included in this Amendment No. 1 to Notice of Special Tax Lien, together with the name of the owner thereof, as they appear on the latest secured assessment roll as of the date of recording hereof or as are otherwise known to the City, are as set forth in Exhibit A hereto and hereby made a part hereof.

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 \_\_\_\_\_, 2019

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

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

**Annexation No. 1**

**ASSESSOR'S PARCEL NUMBERS AND OWNERS OF LAND WITHIN  
ANNEXATION NO. 1**

Assessor's Parcel Nos.	Names of Property Owners
104-38-016	MISSION PARK HOTEL LP, a Delaware limited partnership
216-30-047-00	M9 Dev, LLC, a California limited liability company

## **EXHIBIT B**

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

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

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.