RESOLUTION NO. 10-7707

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, TO **ESTABLISH**

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, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"),

Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California

Government Code, this City Council is authorized to establish a community facilities district and

to act as the legislative body for a community facilities district:

WHEREAS, this City Council, having received a petition from the owners of not less than 10%

of the area of land proposed to be included in the proposed community facilities district, now

desires to proceed with the establishment of a community facilities district in order to finance

costs of public infrastructure and certain public services necessary or incidental to development

within the proposed boundaries of the proposed community facilities district;

WHEREAS, pursuant to Section 53339.2 of the Act, this City Council further desires to

undertake proceedings to provide for future annexation of territory to the proposed community

facilities district:

WHEREAS, The City of Santa Clara (the "City"), as lead agency in accordance with the

requirements of the California Environmental Quality Act and the applicable state and local

implementing guidelines (collectively "CEQA") prepared and certified a Final Environmental

Impact Report for the proposed 49ers Santa Clara Stadium Project (the "EIR") (SCH No.

2008082084), which includes an environmental impact analysis of the portions of the Project that

potentially would be funded through the proposed community facilities district; and

Resolution/Intention to Establish Community Facilities District

Page 1 of 10

WHEREAS, the City Council's actions in considering the establishment of the proposed

community facilities district constitute a further action to implement a portion of the same

project that was carefully analyzed in the EIR and for the additional reasons set forth as follows,

the EIR has served as the document for CEQA compliance in the consideration and approval by

the City, as authorized and required by 14 California Code of Regulations Section 15162 and

Public Resources Code Section 21166. There have not been any of the following occurrences

since the certification of the EIR that would require a subsequent or supplemental environmental

document in connection with the City Council's determinations and preliminary approvals

hereunder;

1) There have not been substantial changes in the improvements proposed to be

funded pursuant to the community facilities district which would require major revisions in the

EIR;

2) There have not been substantial changes with respect to the circumstances under

which the proposed project is being implemented, which would require major revisions in the

EIR; and

3) There has not been the appearance of new information which was not known and

could not have been known as of the date of certification and approval of the EIR which is

relevant to the certification and approval of the EIR.

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.

Resolution/Intention to Establish Community Facilities District Rev. 03-09-10; Typed: 03-15-10

Page 2 of 10

2. <u>Authority</u>. This City Council proposes to conduct proceedings to establish a community

facilities district pursuant to the Act, and hereby determines that public convenience and

necessity require that a future annexation area be established pursuant to the Act.

3. <u>Petition and Waiver.</u> The City Council acknowledges receipt of a petition and waiver by

eight parcel owners within the proposed boundaries of the CFD, and of a waiver by the

Redevelopment Agency of the City of Santa Clara as to certain procedural matters, which taken

together represent the owners of all taxable property in the proposed boundaries of the CFD.

4. Name of CFD; Future Annexation Area. The name proposed for the community facilities

district is "City of Santa Clara Community Facilities District No. 2010-1" (the "CFD"). The

name proposed for the territory proposed to be annexed into the CFD in the future is "City of

Santa Clara Community Facilities District No. 2010-1 (Future Annexation Area)" (the "Future

Annexation Area").

5. <u>Boundaries Described.</u> The proposed boundaries of the CFD and the Future Annexation

Area are as shown on the map on file with the City Clerk, which boundaries are hereby

preliminarily approved and to which map reference is hereby made for further particulars. The

City Clerk is hereby directed to record, or cause to be recorded, the map of the boundaries of the

CFD and the Future Annexation Area in the office of the County Recorder of the County of

Santa Clara within 15 days after the date of adoption of this Resolution.

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. <u>Facilities</u> 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 City Council

hereby determines that the Facilities are necessary to meet increased demands placed upon local

agencies as the result of development occurring within the CFD and the Future Annexation Area.

The City Council hereby finds and determines that the public interest will not be served by

allowing the property owners in the CFD to enter into a contract in accordance with Section

53329.5(a) of the Act. Notwithstanding the foregoing, the City Council, on behalf of the CFD,

may enter into one or more contracts directly with any of the property owners with respect to the

construction or acquisition of the any portion of the Facilities.

The City Manager is hereby authorized to enter into one or more joint community

facilities agreements with any entity that will own or operate any of the Facilities, if and to the

extent necessary to comply with the provisions of Section 53316.2(a) and (b) of the Act. The

City Council hereby declares that such joint agreements will be beneficial to owners of property

in the area of the CFD.

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"). The City Council hereby determines that the Services are necessary to

meet increased demands for such services placed upon local agencies as the result of

development occurring within the area of the CFD and the Future Annexation Area. The

Services are in addition to those provided in the territory of the CFD and the Future Annexation

Area as of the date hereof and will not supplant services already available within the territory of

the CFD and the Future Annexation Area as of the date hereof.

Resolution/Intention to Establish Community Facilities District Rev. 03-09-10; Typed: 03-15-10

Page 4 of 10

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 this City Council

or its designee may determine, which may include including 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.

This City Council hereby finds that the provisions of Section 53313.6, 53313.7 and

53313.9 of the Act (relating to adjustments to ad valorem property taxes and schools financed by

a community facilities district) are inapplicable to the proposed CFD.

8. Future Annexation Area. As required by Section 53339.3(d) of the Act, the City Council

hereby determines that the Special Tax proposed to be levied within the Future Annexation Area

to pay for Facilities 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 City Council hereby further determines

that the Special Tax proposed to be levied within the Future Annexation Area to pay for Services

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, the City 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. Exempt Property. Except as may otherwise be provided by law or by the Rate and

Method, all lands owned by any public entity, including the United States, the State of California

and the City, or any departments or political subdivisions thereof, shall be omitted from the levy

of the Special Tax to be made to cover the costs and expenses of the Facilities, the Services and

the CFD.

This City Council acknowledges that a portion of the property proposed to be included

within the CFD is currently owned in fee by the Redevelopment Agency of the City of Santa

Clara and leased to private parties and that, under Section 53340.1 of the Act, the Special Tax

will be levied on such leasehold interests held by private parties.

If a portion of the property within the CFD becomes exempt for any reason, wholly or in

part, from the levy of the Special Tax, this City Council will, on behalf of the CFD, increase the

levy to the extent necessary upon the remaining property within the CFD which is not exempt in

order to yield the required debt service payments and other annual expenses of the CFD, if any,

subject to the provisions of the rate and method of apportionment of the Special Tax.

Resolution/Intention to Establish Community Facilities District Rev. 03-09-10; Typed: 03-15-10

Page 6 of 10

10. Election; Voting Procedure. The levy of the Special Tax shall be subject to the approval

of the qualified electors of the CFD at a special election. The proposed voting procedure shall be

by mailed or hand-delivered ballot to the landowners in the proposed CFD, with each owner

having one vote for each acre or portion of an acre such owner owns in the CFD.

A special tax shall be levied in the Future Annexation Area 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 any requirement for further public hearings or additional proceedings.

11. Special Tax Bonds. It is the intention of this City Council, acting as the legislative body

for the CFD, to cause bonds of the City to be issued for the CFD pursuant to the Act to finance in

whole or in part the construction or acquisition of the Facilities. The bonds shall be in an

aggregate principal amount not to exceed \$38,000,000, shall be issued in such series and bear

interest payable semi-annually or in such other manner as this City Council determines, at a rate

not to exceed the maximum rate of interest as may be authorized by applicable law at the time of

sale of such bonds, and shall mature no later than 40 years after their date of issuance.

12. CFD Report. The City Manager is hereby directed to study the proposed Facilities and

Services and to make, or cause to be made, and file with the City Clerk a report in writing, (the

"CFD Report") presenting the following:

A. A description of the Facilities and the Services by type which will be required to

adequately meet the needs of the CFD.

B. An estimate of the fair and reasonable cost of the Facilities including the cost of

acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction

therewith and incidental expenses in connection therewith, including the costs of the proposed

bond financing and all other related costs as provided in Section 53345.3 of the Act.

C. An estimate of the fair and reasonable cost of the Services and incidental

expenses in connection therewith, and all other related costs.

The CFD Report shall be made a part of the record of the public hearing specified below.

13. Public Hearing. This City Council hereby appoints and fixes Tuesday, May 11, 2010, at

7:00 p.m. or as soon as possible thereafter, in the Council Chambers, 1500 Warburton Ave, Santa

Clara, California, as the time and place when and where this City Council, as legislative body for

the CFD, will conduct a public hearing in order to take public comment on the establishment of

the CFD and the Future Annexation Area, and to consider and finally determine whether the

public interest, convenience and necessity require the formation of the CFD, the Future

Annexation Area and the levy of the Special Tax.

14. Notice of Hearing. Pursuant to Section 53322 of the Act, the City Clerk is hereby

directed to cause notice of the public hearing to be given by publication one time in a newspaper

published in the area of the CFD and the Future Annexation Area. The publication shall be

completed at least seven days before the date of the public hearing specified above. Under

Section 53322.4 of the Act, the City Clerk may also give notice of the public hearing by first-

class mail to each landowner within the CFD, to each such owner's addresses as it appear on the

most recent tax records of the County or as otherwise known to the City Clerk to be correct, such

mailing to be completed not less than 15 days before the date of the public hearing. Each of the

notices shall be substantially in the form specified in Section 53322 of the Act, with the form

summarizing the provisions hereof hereby specifically approved.

15. <u>Tender.</u> The City Council reserves to itself the right and authority set forth in Section

53344.1 of the Act, subject to any limitations set forth in any bond resolution or trust indenture

related to the issuance of bonds.

16. Approval of Financing Team. The firm of Goodwin Consulting Group, Inc., is hereby

designated as special tax consultant to the City for the CFD. The firm of Jones Hall, A

Professional Law Corporation, is hereby designated as bond counsel and disclosure counsel to

the City for the CFD. The firm of KNN Public Finance, a Division of Zions National Bank, is

hereby designated as financial advisor to the City for the CFD. The City Manager is hereby

authorized and directed to execute separate agreements with each of these firms for their

respective services in connection with the CFD, and any existing agreements with these firms on

file with the City Clerk are hereby ratified and approved. In addition, the City Manager is

hereby authorized and directed to select a trustee or fiscal agent for any bonds issued for the

CFD, an underwriter for any bonds issued for the CFD, and, if required by the underwriter, an

appraiser, in each case, on such terms as are acceptable to the City Manager. All compensation

to these firms shall be payable solely from money advanced with respect to, or the proceeds of

bonds issued by the City for, the CFD.

17. 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.

18. Notice of Determination. The City Manager is hereby authorized and directed to file the

appropriate notice of determination document pursuant to CEQA in connection with the actions

and approvals of this Resolution.

19. No Obligation. This Resolution shall in no way obligate the City Council to form the

CFD, to construct any of the Facilities, or to issue any bonds for the CFD. The formation of the

CFD shall be subject to the approval of this City Council by resolution following the holding of

the public hearing referred to above.

20. <u>Constitutionality, severability</u>. 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.

21. <u>Effective date</u>. 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 30th DAY OF MARCH, 2010, BY THE FOLLOWING VOTE:

AYES:

COUNCILORS:

Caserta, Kornder, Matthews, and Moore and

Mayor Mahan

NOES:

COUNCILORS:

Kennedy

ABSENT:

COUNCILORS:

McLeod

ABSTAINED:

COUNCILORS:

None

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

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. <u>DEFINITIONS</u>

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.