

City Attorney's Impartial Analysis

On March 10, 2009, the City Council of the City of San Jose adopted resolutions that established "The City of San José's Convention Center Facilities District No. 2008-1" (the "District") and called for a special mailed ballot election of property owners in the District to vote on the imposition of a special tax, the issuance of bonds, and other related matters.

The District was formed under Chapter 14.32 of the San José Municipal Code, and consists of all properties within the City that are used as hotels.

The proposed tax will be permanent and will only be used to finance the acquisition, construction, reconstruction, replacement, rehabilitation or upgrade of the existing San Jose McEnery Convention Center and any expansion or replacement of that facility. The tax will initially be used to finance the proposed Phase 1 Convention Center Project.

The ballot measure also authorizes the issuance of bonds for Convention Center purposes to be repaid by the special tax revenues. The maximum amount of indebtedness that can ever be issued for the life of the District is \$750,000,000.

To the extent special taxes are spent directly on Convention Center costs and not to repay bonds, they are subject to the constitutional annual appropriations limit requirements. The ballot measure establishes this limit at \$50,000,000.

The special tax will be imposed on hotel properties in the amount of 4% of the rent charged for room occupancy. The special taxes will be secured by a lien on the hotel property, but will be remitted to the City by the hotel operator in the same manner as the City's Transient Occupancy Tax. The District is divided into two zones. Hotels in Zone 1 will pay the 4% tax rate starting July 1, 2009. The tax rate for Zone 2 hotels will be phased in starting at 1% on July 1, 2009 and increasing incrementally to 4% on July 1, 2011.

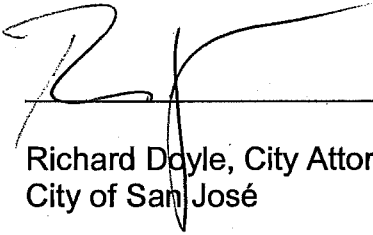
An Additional Special Tax of 1% of the rent charged for room occupancy could be levied only if bonds are outstanding and reserves funded by special tax revenues fall below certain levels (to be specified in bond documents). The City would annually, on a fiscal year (July 1-June 30) basis, determine whether the Additional Special Tax must be imposed and would provide hotel operators and property owners at least 30 days notice of any change in whether or not the special tax will be imposed.

The ballot measure must be approved by two-thirds of the votes cast. Votes are allocated according to the number of hotel rooms on each property. The contents of the

ballots are secret, and except to tabulate the votes, will not be disclosed to anyone unless ordered by a court of competent jurisdiction.

A "yes" vote is for the Convention Center Facilities District special tax on hotel properties, the authorization to issue bonds for the purposes of providing funding for improvements to the San Jose McEnery Convention Center, and approves the appropriations limit.

A "no" vote is against the special tax, the appropriations limit and the authorization to issue bonds.



Richard Doyle, City Attorney
City of San José

The above statement is an impartial analysis of the ballot measure. If you would like to read the full text of the resolutions, see <http://www.sanjoseca.gov/clerk/elections/2009Election/20090609/20090609mb.asp> or call (408) 535-1260 and a copy will be sent at no cost to you.