

1 [Resolution of Formation - Establishing the Central SoMa Special Tax District No. 2018-1]

2

3 **Resolution of formation to establish City and County of San Francisco Special Tax**
4 **District No. 2018-1 (Central SoMa); and determining other matters in connection**
5 **therewith, as defined herein.**

6

7 WHEREAS, On November 13, 2018, this Board of Supervisors (“Board of
8 Supervisors”) of the City and County of San Francisco (“City”) adopted a resolution entitled
9 “Resolution declaring the intention of the Board of Supervisors to establish City and County
10 Special Tax District No. 2018-1 (Central SoMa); ordering and setting a time and place for a
11 public hearing of the Board of Supervisors, sitting as a Committee of the Whole, on January
12 15, 2019, at 3:00 p.m.; and determining other matters in connection therewith” (“Resolution of
13 Intention”), pursuant to Chapter 43, Article X of the San Francisco Administrative Code
14 (“Code”), which Code incorporates the Mello-Roos Community Facilities Act of 1982, as
15 amended (“Act”); and

16 WHEREAS, The Resolution of Intention and the findings, determinations and
17 declarations of the Board of Supervisors therein and the other provisions thereof are
18 incorporated herein by this reference as if fully set forth herein; and

19 WHEREAS, The Central SoMa planning area (“Central SoMa Plan Area”) runs from
20 2nd Street to 6th Street, Market Street to Townsend Street, exclusive of those areas that are
21 part of the Downtown Plan or in the C-3 zoning districts, and the Resolution of Intention,
22 incorporating a map of the proposed boundaries of the Special Tax District, stated the
23 intention of this Board of Supervisors to establish a special tax district in order to finance costs
24 of public infrastructure and other authorized facilities and services necessary or incidental to
25 development of the Central SoMa Plan Area; and

1 WHEREAS, The special tax district is proposed to be called "City and County of San
2 Francisco Special Tax District No. 2018-1 ("Central SoMa") ("Special Tax District"), and

3 WHEREAS, The Resolution of Intention stated the intention of the Board of
4 Supervisors to undertake the proceedings to form the Special Tax District under the alternate
5 procedures established by Code Section 43.10.17, pursuant to which a special tax district
6 may initially consist solely of territory proposed for annexation to the special tax district in the
7 future, with the condition that a parcel or parcels within that territory may be annexed to the
8 special tax district and subjected to the special tax only with the unanimous approval of the
9 owner or owners of such parcel or parcels at the time that such parcel or those parcels are
10 annexed or in compliance with other procedures established by the Code, and pursuant to
11 which no additional hearings or procedures are required, and each such unanimous approval
12 shall be deemed to constitute a unanimous vote in favor of the matters addressed in the
13 unanimous approval; and

14 WHEREAS, On this date, this Board of Supervisors held a noticed public hearing as
15 required by the Code and the Resolution of Intention relating to the proposed formation of the
16 Special Tax District; and

17 WHEREAS, At the hearing all interested persons desiring to be heard on all matters
18 pertaining to the formation of the Special Tax District, the facilities and services to be financed
19 by the Special Tax District and the levy of a special tax on property annexed to the Special
20 Tax District were heard and a full and fair hearing was held; and

21 WHEREAS, At the hearing evidence was presented to this Board of Supervisors on the
22 matters before it, including a report caused to be prepared by the Director of the Office of
23 Public Finance ("Report") as to the facilities and services to be provided through the Special
24 Tax District and the costs thereof, a copy of which is on file with the Clerk of the Board of
25 Supervisors, and this Board of Supervisors at the conclusion of said hearing is fully advised

1 on the matters addressed in this Resolution and the Report; and

2 WHEREAS, Written protests with respect to the formation of the Special Tax District,
3 the furnishing of specified types of facilities and services and the rate and method of
4 apportionment of the special taxes have not been filed with the Clerk of the Board of
5 Supervisors by 50% or more of the registered voters residing within the territory proposed to
6 be annexed to the Special Tax District in the future, or by the owners of one-half or more of
7 the area of land proposed to be annexed in the future; now, therefore, be it

8 RESOLVED, That the foregoing recitals are true and correct; and, be it

9 FURTHER RESOLVED, That neither the proposed establishment of the Special Tax
10 District, the extent of the Special Tax District nor the furnishing of the facilities and services
11 specified in the Resolution of Intention and the Report has been precluded by majority protest
12 pursuant to Code Section 43.10.17; and, be it

13 FURTHER RESOLVED, That all prior proceedings taken by this Board of Supervisors
14 in connection with the establishment of the Special Tax District and the levy of a special tax
15 therein have been duly considered and are hereby found and determined to be valid and in
16 conformity with the Code; and, be it

17 FURTHER RESOLVED, That the Special Tax District to be designated "City and
18 County of San Francisco Special Tax District No. 2018-1 (Central SoMa)," is hereby
19 established pursuant to the Code; and, be it

20 FURTHER RESOLVED, That the boundaries of the Special Tax District, as set forth in
21 the map of the Special Tax District recorded in the office of the Assessor-Recorder for the City
22 and County of San Francisco on November 28, 2018, at 2:54 p.m., as Document
23 2018K598641, are hereby approved, are incorporated herein by reference and shall be the
24 boundaries of the Special Tax District, and that the Special Tax District shall initially consist
25 solely of territory proposed for annexation to the Special Tax District in the future, with the

1 condition that a parcel or parcels within that territory may be annexed to the Special Tax
2 District and subjected to a special tax only with the unanimous approval of the owner or
3 owners of such parcel or parcels at the time that such parcel or those parcels are annexed or
4 in compliance with other procedures established by the Code, and pursuant to which no
5 additional hearings or procedures are required; and, be it

6 FURTHER RESOLVED, That the type of facilities proposed to be financed by the
7 Special Tax District, subject to compliance with the Code and following any required
8 environmental review under the California Environmental Quality Act, shall consist of those
9 items listed in Exhibit A hereto and by this reference incorporated herein (“Facilities”), and this
10 Board of Supervisors hereby determines that the Facilities are necessary to meet increased
11 demands placed upon local agencies as the result of development occurring within the
12 Special Tax District; and, be it

13 FURTHER RESOLVED, That the type of services proposed to be financed by the
14 Special Tax District, subject to compliance with the Code and following any required
15 environmental review under the California Environmental Quality Act, shall consist of those
16 items listed in Exhibit A hereto and by this reference incorporated herein (“Services”), and this
17 Board of Supervisors hereby determines that the Services are necessary to meet increased
18 demands placed upon local agencies as the result of development occurring within the
19 Special Tax District; and, be it

20 FURTHER RESOLVED, That except to the extent that funds are otherwise available,
21 the City will levy a special tax (“Special Tax”) to pay directly for the Facilities and Services and
22 to pay the principal and interest on bonds and other debt (as defined in the Code) of the City
23 issued to finance the Facilities; and, be it

24 FURTHER RESOLVED, That the Special Tax will be secured by recordation of a
25 continuing lien against all real property in the Special Tax District that annexes to the Special

1 Tax District, will be levied annually within the Special Tax District, and will be collected in the
2 same manner as ordinary ad valorem property taxes, or in such other manner as this Board of
3 Supervisors or its designee shall determine, including direct billing of the affected property
4 owners in the Special Tax District; and be it

5 FURTHER RESOLVED, That the proposed rate and method of apportionment of the
6 Special Tax among the parcels of real property within the Special Tax District is described in
7 Exhibit B attached hereto and hereby incorporated herein (“Rate and Method”); and be it

8 FURTHER RESOLVED, That the Special Tax to be levied in the Special Tax District
9 shall not be levied in the Special Tax District to finance Facilities after the fiscal year
10 established therefor in the Rate and Method, except that a Special Tax that was lawfully
11 levied in or before the final tax year and that remains delinquent may be collected in
12 subsequent years. Under no circumstances shall the Special Tax levied against any parcel in
13 the Special Tax District to finance Facilities in any fiscal year used for private residential
14 purposes be increased in that fiscal year as a consequence of delinquency or default by the
15 owner or lessee of any other parcel or parcels within the Special Tax District by an amount
16 that exceeds any limits established in the Code; and, be it

17 FURTHER RESOLVED, That the Special Tax shall be levied on a parcel or parcels in
18 the Special Tax District only with the written unanimous approval (each, a “Unanimous
19 Approval”) of the owner or owners of each parcel or parcels to their annexation to the Special
20 Tax District or in compliance with other procedures established by the Code, without any
21 requirement for further public hearings or additional proceedings, and each such unanimous
22 approval shall be deemed to constitute a unanimous vote in favor of the matters addressed in
23 the unanimous approval. The Unanimous Approval shall be in substantially the form and
24 substance of the Unanimous Approval attached to the Resolution of Intention as Exhibit C, or
25 such other form authorized by the Director of the Office of Public Finance; and be it

1 FURTHER RESOLVED, That under Government Code Section 50075.1, the following
2 accountability provisions shall apply to the special taxes: (a) the provision and/or acquisition of
3 the Facilities and the Services and the payment of debt service on the bonds and other debt
4 and the incidental costs thereof, all as defined herein, shall constitute the specific single
5 purpose; (b) the proceeds shall be applied only to the specific purposes identified in the
6 preceding clause (a); (c) there shall be created special account(s) or funds(s) into which the
7 proceeds shall be deposited; and (d) there shall be caused to be prepared an annual audit
8 and report of the Special Tax District; and, be it

9 FURTHER RESOLVED, That the Director of the Office of Public Finance of the City
10 and County of San Francisco, 1 Dr. Carlton B. Goodlett Place, City Hall, Room 336, San
11 Francisco, CA 94102, (415) 554-5956, or designee thereof, is the officer of the City who will
12 be responsible for preparing annually a current roll of Special Tax levy obligations by
13 assessor's parcel number and who will be responsible for estimating future Special Tax levies
14 pursuant to the Code; and, be it

15 FURTHER RESOLVED, That upon recordation of a notice of Special Tax lien pursuant
16 to California Streets and Highways Code Section 3114.5, a continuing lien to secure each levy
17 of the Special Tax shall attach to all nonexempt real property in the Special Tax District and
18 this lien shall continue in force and effect until the Special Tax obligation is prepaid and
19 permanently satisfied and the lien canceled in accordance with law or until collection of the tax
20 by the City ceases, and that pursuant to Code Section 43.10.17, a notice of special tax lien
21 shall not be recorded against any parcel or parcels in the Special Tax District without the
22 unanimous approval of the owner or owners of such parcel or parcels' annexation to the
23 Special Tax District or in compliance with other procedures established by the Code, at which
24 time the notice of special tax lien shall be recorded against such parcel or parcels as set forth
25 in Act Section 53328.3 and, be it

1 FURTHER RESOLVED, That except as may otherwise be provided by law or by the
2 Rate and Method, all lands owned by any public entity, including the United States, the State
3 of California and/or the City, or any departments or political subdivisions thereof, shall be
4 omitted from the levy of the Special Tax to be made to cover the costs and expenses of the
5 Facilities, the Services or the Special Tax District. In the event that a portion of the property
6 within the Special Tax District shall become for any reason exempt, wholly or in part, from the
7 levy of the Special Tax, this Board of Supervisors will, on behalf of the Special Tax District,
8 increase the levy to the extent necessary upon the remaining property within the Special Tax
9 District which is not exempt in order to yield the required debt service payments and other
10 annual expenses of the Special Tax District, if any, subject to the provisions of the Rate and
11 Method; and, be it

12 FURTHER RESOLVED, That in accordance with the Code, the annual appropriations
13 limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution,
14 of the Special Tax District is hereby preliminarily established at \$5,300,000,000; and, be it

15 FURTHER RESOLVED, That pursuant to Code Section 43.10.17, in lieu of approval
16 pursuant to an election held in accordance with the procedures set forth elsewhere in the
17 Code and in Act Sections 53326, 53327, 53327.5 and 53328, the appropriations limit for the
18 Special Tax District, the Rate and Method and manner of collection of the Special Tax and the
19 authorization to incur bonded indebtedness and other debt for the Special Tax District shall be
20 specified and approved by the Unanimous Approval of the owner or owners of each parcel or
21 parcels at the time that such parcel or parcels are annexed to the Special Tax District or in
22 compliance with other procedures established by the Code. No additional hearings or
23 procedures are required, and such Unanimous Approval shall be deemed to constitute a
24 unanimous vote in favor of the appropriations limit for the Special Tax District, the
25 authorization to levy the Special Tax on such parcel or parcels and the authorization to incur

1 bonded indebtedness for the Special Tax District; and, be it

2 FURTHER RESOLVED, That pursuant to Code Section 43.10.19, in connection with
3 the annexation of a parcel or parcels to the Special Tax District pursuant to the alternate and
4 independent procedure set forth in Code Section 43.10.17 and the conduct of an election on
5 the proposition to authorize bonded indebtedness and other debt pursuant to the alternate
6 and independent procedure set forth in Code Section 43.10.18, the City may, without
7 additional hearings or procedures, designate a parcel or parcels as an improvement area
8 within the Special Tax District, and each improvement area will be known as "Improvement
9 Area No. ____ of City and County of San Francisco Special Tax District No. 2018-1 (Central
10 SoMa)," and after the designation of a parcel or parcels as an improvement area, all
11 proceedings for approval of the appropriations limit, the rate and method of apportionment
12 and manner of collection of special tax and the authorization to incur bonded indebtedness for
13 such parcel or parcels shall apply only to the improvement area. The City may incur bonded
14 indebtedness and other debt payable solely from special taxes levied on property in the
15 improvement area; and be it

16 FURTHER RESOLVED, That Act Section 53314.9 provides that, either before or after
17 formation of the Special Tax District, the City may accept advances of funds and may provide,
18 by resolution, for the use of those funds, including but not limited to pay any cost incurred by
19 the local agency in creating the Special Tax District, and may agree to reimburse the
20 advances under all of the following conditions: (A) the proposal to repay the advances is
21 included both in the resolution of intention and the resolution of formation to establish the
22 Special Tax District; and (B) any proposed special tax is approved by the qualified electors of
23 the Special Tax District and, if the qualified electors of the Special Tax District do not approve
24 the proposed special tax, the City shall return any funds which have not been committed for
25 any authorized purpose by the time of the election and, in furtherance of Act Section 53314.9,

1 the Board of Supervisors hereby declares its intent to enter into an agreement providing for
2 the advance and reimbursement of funds if it is determined by the Director of the Office of
3 Public Finance to be in the best interests of the City; and, be it

4 FURTHER RESOLVED, That Act Section 53314.9 provides that, either before or after
5 formation of the Special Tax District, the City may accept work in-kind from any source,
6 including, but not limited to, private persons or private entities, may provide, by resolution, for
7 the use of that work in-kind for any authorized purpose and this Board of Supervisors may
8 enter into an agreement, by resolution, with the person or entity advancing the work in-kind, to
9 reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as
10 determined by this Board of Supervisors, with or without interest, under the conditions
11 specified in the Act. Any work in-kind must be performed or constructed as if the work had
12 been performed or constructed under the direction and supervision, or under the authority of,
13 the City and, in furtherance of Act Section 53314.9, the Board of Supervisors hereby declares
14 its intent to enter into an acquisition and reimbursement agreement with one or more property
15 owners in the Special Tax District if it is determined by the Director of the Office of Public
16 Finance to be in the best interests of the City; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby reserves the right and
18 authority to allow any interested owner of property in the Special Tax District, subject to the
19 provisions of Act Section 53344.1 and such other conditions as the Board of Supervisors may
20 impose and any applicable prepayment penalties associated with bonds or other debt issued
21 or incurred by the Special Tax District, to tender bonds in full payment or part payment of any
22 installment of special taxes or the interest or penalties thereon which may be due or
23 delinquent, but for which a bill has been received; and, be it further

24 //

25 //

1 FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered
2 the Final EIR (as defined in the Resolution of Intention) and finds that the Final EIR is
3 adequate for its use for the actions taken by this resolution and incorporates the Final EIR and
4 the CEQA findings contained in the Resolution of Intention by this reference; and, be it

5 FURTHER RESOLVED, That this Resolution shall take effect upon its adoption.

6
7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9
10
11 By: _____
12 Mark D. Blake
13 Deputy City Attorney
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1 **EXHIBIT A**

2 **CITY AND COUNTY OF SAN FRANCISCO**

3 **Special Tax District No. 2018-1**

4 **(Central SoMa)**

5

6 **DESCRIPTION OF FACILITIES AND SERVICES THAT MAY BE FINANCED BY THE**

7 **SPECIAL TAX DISTRICT**

8 Special taxes collected in the Special Tax District may finance, in whole or in part, the costs of

9 the acquisition, construction and improvement of any of the following types of facilities that are

10 located inside or outside the Special Tax District, as long as such facilities are authorized

11 under the Code ("Facilities").

12 **FACILITIES**

- 13
- 14 1. **Transit Facilities.** Local and regional transit infrastructure, including near term
- 15 enhancements on the Transbay corridor and longer-term "core capacity" projects.
- 16
- 17 2. **Complete Streets.** Bicycle, pedestrian, and transit infrastructure. Improvements could
- 18 include, but not be limited to: sidewalk widening to accommodate additional pedestrian traffic
- 19 from new development; linear park space; pedestrian, streetscape and open space amenities;
- 20 pedestrian lighting; street furniture; pocket parks; active uses; and curb extensions; bicycle
- 21 facilities; bike lanes; transit upgrades such as dedicated transit lanes, boarding islands,
- 22 enhanced shelters and curb extensions to serve transit stops; new traffic signals, curb
- 23 extensions, and other pedestrian safety features as appropriate; crosswalks; improvements to
- 24 drop-off and pick-up zones at casual carpool locations; and roadway circulation, parking, and
- 25 loading changes.

- 1 3. Parks and Recreation. Parks and recreation centers.
- 2 4. Environmental Sustainability Projects. Environmental sustainability projects, including
- 3 but not limited to the following:
- 4 • The acquisition, installation and improvement of energy efficiency and conservation,
 - 5 water energy and conservation, water pollution control, and renewable energy
 - 6 improvements that are attached to or on real property and in buildings, whether such
 - 7 real property or buildings are privately or publicly owned.
 - 8 • Green infrastructure and stormwater management improvements, including, but not
 - 9 limited to, grey infrastructure and landscaping.
 - 10 • Air quality mitigation infrastructure (e.g., HVAC improvements) for privately-owned or -
 - 11 occupied commercial and residential buildings, and public buildings.
 - 12 • Sustainability studies and guideline documents related to development in the planning
 - 13 area governed by the Central SoMa Plan & Implementation Strategy.
- 14 5. Historic Preservation. Restoration and seismic upgrade of the U.S. Mint Building and
- 15 site.
- 16 6. Sea Level Rise Adaptations. Sea level rise adaptations, including, but not limited to,
- 17 demolition, excavation, and installation of revetment; structural improvements of shoreline and
- 18 revetment; construction, improvement or relocation of shoreline and creek structures,
- 19 seawalls, stormwater pump stations and outfalls; earthwork; and grading.

20

21 Authorized costs of the Facilities include any hard costs, soft costs and pre-

22 development costs associated with the design, procurement, development, and construction

23 of the Facilities.

24 ///

25 ///

1 SERVICES

2 Special taxes collected in the Special Tax District may finance, in whole or in part, the
3 following services (“services” and “maintenance” shall have the meaning given those terms in
4 the Code) in the Special Tax District, as long as such services are authorized by the Code
5 (“Services”):
6

- 7 1. Parks and Recreation. Park programming and activation.
8 2. Neighborhood Stabilization and Community Services. Social welfare, small business
9 development and workforce development, community health and arts/cultural programming
10 and services provided by governmental agencies and nonprofit organizations in the Central
11 SOMA area.
12 3. Capital Maintenance. Operation and maintenance of publicly-owned improvements,
13 including installation and maintenance of landscaping; maintenance of building systems,
14 structures, and equipment; maintenance of irrigation systems and other equipment; all related
15 personnel or third-party operation and maintenance costs; insurance costs and any other
16 related overhead costs.
17

18 OTHER

19 The Special Tax District may also finance any of the following:

- 20 1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest,
21 letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond
22 remarketing costs, and all other incidental expenses.
23 2. Administrative fees of the City and the bond trustee or fiscal agent related to the Special
24 Tax District and the bonds.

25 ///

- 1 3. Reimbursement of costs related to the formation of the Special Tax District advanced by
2 the City, the landowner(s) in the Special Tax District, or any party related to any of the
3 foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in
4 the Special Tax District, or any party related to any of the foregoing, for facilities, fees or other
5 purposes or costs of the Special Tax District.
- 6 4. A capital reserve fund to finance the Facilities.
- 7 5. A reserve to fund the Services.

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1 EXHIBIT B

2 CITY AND COUNTY OF SAN FRANCISCO
3 Special Tax District No. 2018-1
(Central SoMa)

4 RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

5
6 A Special Tax applicable to each Taxable Parcel in the City and County of San Francisco
7 Special Tax District No. 2018-1 (Central SoMa) shall be levied and collected according to the
8 tax liability determined by the Administrator through the application of the appropriate amount
9 or rate for Square Footage within Taxable Buildings, as described below. All Taxable Parcels
10 in the STD shall be taxed for the purposes, to the extent, and in the manner herein provided,
11 including property subsequently annexed to the STD unless a separate Rate and Method of
12 Apportionment of Special Tax is adopted for the annexation area.

13
14 A. DEFINITIONS

15
16 The terms hereinafter set forth have the following meanings:

17
18 “**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter
19 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the California
20 Government Code.

21
22 “**Administrative Expenses**” means any or all of the following: the fees and expenses of any
23 fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection
24 with any Bonds, and the expenses of the City carrying out duties with respect to the STD and
25 the Bonds, including, but not limited to, levying and collecting the Special Tax, the fees and

1 expenses of legal counsel, charges levied by the City Controller’s Office and/or the City
2 Treasurer and Tax Collector’s Office, costs related to property owner inquiries regarding the
3 Special Tax, costs associated with appeals or requests for interpretation associated with the
4 Special Tax and this RMA, costs associated with annexation of property into the STD,
5 amounts needed to pay rebate to the federal government with respect to the Bonds, costs
6 associated with complying with any continuing disclosure requirements for the Bonds and the
7 Special Tax, costs associated with foreclosure and collection of delinquent Special Taxes, and
8 all other costs and expenses of the City in any way related to the establishment or
9 administration of the STD.

10
11 “**Administrator**” means the Director of the Office of Public Finance who shall be responsible
12 for administering the Special Tax according to this RMA.

13
14 “**Affordable Housing Project**” means a residential or primarily residential project, as
15 determined by the Review Authority, within which all Residential Units are BMR Units. All
16 Land Uses within an Affordable Housing Project are exempt from the Special Tax, as provided
17 in Section G and are subject to the limitations set forth in Section D.4 below.

18
19 “**Airspace Parcel**” means a parcel with an assigned Assessor’s Parcel number that
20 constitutes vertical space of an underlying land parcel.

21
22 “**Apartment Building**” means a residential or mixed-use Building within which all of the
23 Residential Units are offered for rent to the general public and are not available for sale to
24 individual homebuyers.

1 **“Assessor’s Parcel”** or **“Parcel”** means a lot or parcel, including an Airspace Parcel, shown
2 on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

3
4 **“Assessor’s Parcel Map”** means an official map of the County Assessor designating Parcels
5 by Assessor’s Parcel number.

6
7 **“Authorized Expenditures”** means those public facilities and public services authorized to be
8 funded by the STD as set forth in the documents adopted by the Board at STD Formation, as
9 may be amended from time to time.

10
11 **“Base Facilities Special Tax”** means the per-square foot Facilities Special Tax for each Land
12 Use as identified in Table 1 in Section C.1 below.

13
14 **“Base Services Special Tax”** means the per-square foot Services Special Tax for each Land
15 Use as identified in Table 2 in Section C.1 below.

16
17 **“Base Special Tax”** means, prior to the Transition Year, the Base Facilities Special Tax and,
18 in and after the Transition Year, the Base Services Special Tax.

19
20 **“Below Market Rate Units”** or **“BMR Units”** means all Residential Units within the STD that
21 have a deed restriction recorded on title of the property that (i) limits the sales price of the
22 Residential Unit, (ii) limits the appreciation that can be realized by the owner of such unit, or
23 (iii) in any other way is intended to restrict the current or future value of the unit, as
24 determined by the Review Authority.

1 **“Board”** means the Board of Supervisors of the City, acting as the legislative body of the STD.

2
3 **“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series,
4 that are issued or assumed by the STD to finance Authorized Expenditures.

5
6 **“Building”** means a permanent enclosed structure that is, or is part of, a Conditioned Project.

7
8 **“Certificate of Occupancy”** or **“COO”** means the first certificate, including any temporary
9 certificate of occupancy, issued by the City to confirm that a Building or a portion of a Building
10 has met all of the building codes and can be occupied for residential and/or non-residential
11 use. For purposes of this RMA, “Certificate of Occupancy” shall not include any certificate of
12 occupancy that was issued prior to January 1, 2018 for a Building within the STD; however,
13 any subsequent certificates of occupancy that are issued for new construction or expansion of
14 the Building shall be deemed a Certificate of Occupancy and the associated Parcel(s) shall be
15 categorized as Taxable Parcels if the Building is, or is part of, a Conditioned Project.

16
17 **“City”** means the City and County of San Francisco.

18
19 **“Community Facility Square Footage”** means Square Footage that is or is expected to
20 occupy one or more land uses that contribute to the general welfare of the community and
21 provide services that enhance the social, economic, religious, medical and artistic well-being
22 of residents and employees in the City. Such uses, which are set forth in more detail in the
23 Planning Code, include but are not limited to community and neighborhood centers, licensed
24 child care facilities, philanthropic organizations, job training facilities, tax-exempt religious
25 institutions, social service facilities, residential care facilities providing licensed medical care,

1 and spaces used for the production of art. The Review Authority shall make the final
2 determination as to the amount of Community Facility Square Footage within a building in the
3 STD.

4
5 “**Conditioned Project**” means a Development Project that is required to participate in funding
6 Authorized Expenditures through the STD.

7
8 “**County**” means the City and County of San Francisco.

9
10 “**Development Project**” means a residential, non-residential, or mixed-use development that
11 includes one or more Buildings, or portions thereof, that are planned and entitled in a single
12 application to the City.

13
14 “**Escalator**” means the lesser of the following: (i) the increase, if any, in the Consumer Price
15 Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose region (base
16 years 1982-1984=100) published by the Bureau of Labor Statistics of the United States
17 Department of Labor, or, if such index is no longer published, a similar escalator that is
18 determined by the City to be appropriate, and (ii) five percent (5%).

19
20 “**Exempt Community Facility Square Footage**” means Square Footage within a Taxable
21 Building that, at the time of issuance of a COO, is determined by the Review Authority to be
22 reserved for Community Facility Square Footage.

1 **“Exempt Parking Square Footage”** means Square Footage within a Taxable Building that, at
2 the time of issuance of a COO, is determined by the Review Authority to be accessory parking
3 pursuant to Sections 151.1 and 204.5 of the Planning Code or successor sections.

4

5 **“Exempt PDR Square Footage”** means Square Footage within a Taxable Building that, at the
6 time of issuance of a COO, is determined by the Review Authority to be reserved for PDR
7 Square Footage.

8

9 **“Exempt Public Square Footage”** means Square Footage within a Taxable Building that, at
10 the time of issuance of a COO, is determined by the Review Authority to be reserved for
11 Public Square Footage.

12

13 **“Facilities Special Tax”** means a special tax levied in any Fiscal Year before the Transition
14 Year to pay the Facilities Special Tax Requirement.

15

16 **“Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year to: (i)
17 pay principal and interest on Bonds that are due in the calendar year that begins in such
18 Fiscal Year; (ii) pay periodic costs on the Bonds, including but not limited to, credit
19 enhancement, liquidity support and rebate payments on the Bonds, (iii) replenish reserve
20 funds created for the Bonds under the Indenture to the extent such replenishment has not
21 been included in the computation of the Facilities Special Tax Requirement in a previous
22 Fiscal Year; (iv) cure any delinquencies in the payment of principal or interest on Bonds which
23 have occurred in the prior Fiscal Year; (v) pay Administrative Expenses; and (vi) pay directly
24 for Authorized Expenditures. The amounts referred to in clauses (i) and (ii) above may be
25 reduced in any Fiscal Year by: (a) interest earnings on or surplus balances in funds and

1 accounts for the Bonds to the extent that such earnings or balances are available to apply
2 against such costs pursuant to the Indenture; (b) in the sole and absolute discretion of the
3 City, proceeds received by the STD from the collection of penalties associated with delinquent
4 Facilities Special Taxes; and (c) any other revenues available to pay such costs, each as
5 determined in the sole discretion of the Administrator.

6
7 **“First Bond Sale”** means issuance of the first series of Bonds secured, in whole or in part, by
8 Facilities Special Taxes levied and collected from Parcels in the STD.

9
10 **“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

11
12 **“For-Sale Residential Square Footage”** means Square Footage that is or is expected to be
13 part of a For-Sale Unit. The Review Authority shall make the determination as to the For-Sale
14 Residential Square Footage within a Taxable Building in the STD.

15
16 **“For-Sale Unit”** means a Market Rate Unit that has been, or is available or expected to be,
17 sold, including Market Rate Units offered for sale within boarding houses, projects operated
18 by medical and educational institutions, and residential care facilities that are not staffed by
19 licensed medical professionals. The Administrator shall make the final determination as to
20 whether a Market Rate Unit is a For-Sale Unit or a Rental Unit.

21
22 **“Indenture”** means any indenture, fiscal agent agreement, resolution, or other instrument
23 pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time
24 to time, and any instrument replacing or supplementing the same.

1 **“Land Use”** means the particular use on Taxable Square Footage within a Building that
2 results in the Square Footage being categorized as Tier C For-Sale Residential Square
3 Footage, Tier B Non-Residential Square Footage, or Tier C Non-Residential Square Footage.
4 For purposes of this RMA, the Review Authority shall have the final determination of the
5 actual Land Use(s) on any Taxable Parcel within the STD.

6
7 **“Market Rate Unit”** means a Residential Unit that is not a Below Market Rate Unit.

8
9 **“Maximum Facilities Special Tax”** means the greatest amount of Facilities Special Tax that
10 can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with
11 Sections C, D, and E below.

12
13 **“Maximum Services Special Tax”** means the greatest amount of Services Special Tax that
14 can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with
15 Sections C, D, and E below.

16
17 **“Maximum Special Tax”** means, prior to the Transition Year, the Maximum Facilities Special
18 Tax and, in the Transition Year and each Fiscal Year thereafter, the Maximum Services
19 Special Tax. Notwithstanding the foregoing, if there are any delinquent Facilities Special
20 Taxes to be collected from a Parcel in or after the Transition Year, such delinquent Facilities
21 Special Taxes shall continue to be levied against the Parcel and shall, in addition to the
22 Services Special Tax, be part of the Maximum Special Tax for the Parcel until paid.

23
24 **“Non-Residential Square Footage”** means Square Footage that is or is expected to be: (i)
25 space within any structure or portion thereof intended or primarily suitable for, or accessory to,

1 occupancy by retail, office, commercial, or uses other than a Residential Use, pursuant to
2 Section 102 of the Planning Code or successor sections, (ii) Taxable Parking Square
3 Footage, Taxable Community Facility Square Footage, Taxable PDR Square Footage, and
4 Taxable Public Square Footage, and (iii) any other Taxable Square Footage that does not
5 meet the definition of For-Sale Residential Square Footage, Rental Residential Square
6 Footage, Taxable PDR Square Footage, Taxable Community Facility Square Footage,
7 Taxable Parking Square Footage, Taxable Rental Residential Square Footage, or Taxable
8 Public Square Footage. For the purposes of this RMA, residential components of institutional
9 uses other than religious institutions shall be defined as a Residential Use. The Review
10 Authority shall make the final determination as to the amount of Non-Residential Square
11 Footage within a building in the STD.

12

13 **“PDR Square Footage”** means a grouping of uses that includes, but is not limited, to all
14 industrial and agricultural uses, ambulance services, animal hospital, automotive service
15 station, automotive repair, automotive wash, arts activities, business services, cat boarding,
16 catering service, commercial storage, kennel, motor vehicle tow service, livery stable, parcel
17 delivery service, public utilities yard, storage yard, trade office, trade shop, wholesale sales,
18 and wholesale storage, pursuant to Section 102 of the Planning Code or successor sections.
19 The Review Authority shall make the final determination as to the amount of PDR Square
20 Footage within a building in the STD.

21

22 **“Planning Code”** means the Planning Code of the City and County of San Francisco, as may
23 be amended from time to time.

24

25

1 **“Proportionately”** means that the ratio of the actual Special Tax levied in any Fiscal Year to
2 the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Taxable
3 Parcels.

4

5 **“Public Square Footage”** means Square Footage in a Taxable Building that is or is expected
6 to be owned or occupied by the federal government, the State of California, the City, or any
7 other public agency.

8

9 **“Rental Residential Square Footage”** means Square Footage that is or is expected to be
10 used for one or more of the following uses: (i) Rental Units, (ii) any type of group or student
11 housing which provides lodging for a week or more and may or may not have individual
12 cooking facilities, including but not limited to boarding houses, dormitories, housing operated
13 by medical institutions, and single room occupancy units, or (iii) a residential care facility that
14 is not staffed by licensed medical professionals.

15

16 **“Rental Unit”** means a Market Rate Unit within an Apartment Building. “Rental Unit” shall not
17 include any Residential Unit that has been purchased by a homeowner or investor and
18 subsequently offered for rent to the general public. The Administrator shall make the final
19 determination as to whether a Market Rate Unit is a For-Sale Unit or a Rental Unit.

20

21 **“Residential Unit”** means an individual townhome, condominium, live/work unit, or apartment
22 within a Taxable Building in the STD.

23

24 **“Review Authority”** means the City Planning Director or an alternate designee from the City
25 who is responsible for approvals and entitlements of a Development Project.

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

“**Services Special Tax**” means a special tax levied in any Fiscal Year after the Transition Event to pay the Services Special Tax Requirement.

“**Services Special Tax Requirement**” means the amount necessary in any Fiscal Year to: (i) pay the costs of operations and maintenance or other public services that are included as Authorized Expenditures; (ii) cure delinquencies in the payment of Services Special Taxes in the prior Fiscal Year; and (iii) pay Administrative Expenses.

“**Special Tax**” means, prior to the Transition Year, the Facilities Special Tax and, in and after the Transition Year, the Services Special Tax. Notwithstanding the foregoing, if there are any delinquent Facilities Special Taxes to be collected from a Parcel in or after the Transition Year, such delinquent Facilities Special Taxes shall continue to be levied against the Parcel in addition to the Services Special Tax.

“**Special Tax Requirement**” means, prior to the Transition Year, the Facilities Special Tax Requirement and, in and after the Transition Year, the Services Special Tax Requirement. Notwithstanding the foregoing, if there are any delinquent Facilities Special Taxes to be collected from a Parcel in or after the Transition Year, such delinquent Facilities Special Taxes shall continue to be levied against the Parcel in addition to the Services Special Tax Requirement for that Fiscal Year.

1 **“Square Footage”** means the net saleable or leasable square footage of each Land Use
2 within a Taxable Building, as determined by the Review Authority in conjunction with the
3 developer of the building. If a building permit is issued that will increase Taxable Square
4 Footage on any Parcel, the Administrator shall, in any Fiscal Year after the final building
5 permit inspection has been conducted in association with such expansion, work with the
6 Review Authority to recalculate (i) the Taxable Square Footage on each Taxable Parcel, and
7 (ii) the Maximum Special Tax for each Taxable Parcel based on the increased Taxable
8 Square Footage. The final determination of Square Footage for each Land Use on each
9 Taxable Parcel shall be made by the Review Authority.

10
11 **“STD”** means the City and County of San Francisco Special Tax District No. 2018-1 (Central
12 SoMa).

13
14 **“STD Formation”** means the date on which the Board approved documents to form the STD.

15
16 **“Taxable Building”** means, in any Fiscal Year, any Building within the STD that is, or is part
17 of, a Conditioned Project, and for which a Certificate of Occupancy was issued on or prior to
18 June 30 of the preceding Fiscal Year. If only a portion of the Building is a Conditioned
19 Project, as determined by the Review Authority, that portion of the Building shall be treated as
20 a Taxable Building for purposes of this RMA.

21
22 **“Taxable Community Facility Square Footage”** means any Community Facility Square
23 Footage within a Taxable Building that is not Exempt Community Facility Square Footage, as
24 determined by the Review Authority.

1 **“Taxable Parcel”** means, in any Fiscal Year, any Parcel within the STD on which there is
2 Taxable Square Footage.

3
4 **“Taxable Parking Square Footage”** means Square Footage of parking in a Taxable Building
5 that is not Exempt Parking Square Footage, as determined by the Review Authority.

6
7 **“Taxable PDR Square Footage”** means any PDR Square Footage within a building that is not
8 Exempt PDR Square Footage, as determined by the Review Authority.

9
10 **“Taxable Public Square Footage”** means any Public Square Footage within a building that is
11 not Exempt Public Square Footage, as determined by the Review Authority. In addition, any
12 property that is owned by a public agency but leased to a private entity for residential or non-
13 residential use for a term of twenty (20) years or more shall not, during the lease term, be
14 considered Public Square Footage and shall be taxed and classified according to the Land
15 Use on the Parcel(s), as determined by the Review Authority.

16
17 **“Taxable Rental Residential Square Footage”** means, in any Fiscal Year after the First
18 Bond Sale, the Square Footage of any Residential Unit that had, in any prior Fiscal Year,
19 been taxed as a For-Sale Unit and is subsequently converted to a Rental Unit.

20
21 **“Taxable Square Footage”** means, within a Taxable Building, all Square Footage that is not
22 exempt from the Special Tax pursuant to law or Section G below.

23
24 **“Tier”** means a Central SoMa Fee Tier, as defined in the Planning Code, into which a Taxable
25 Parcel is assigned based on the estimated increased development capacity on the Taxable

1 Parcel. Upon annexation into the STD, the Review Authority shall, in its sole discretion,
2 determine the appropriate Tier into which a Taxable Parcel on which Non-Residential Square
3 Footage is expected to be developed shall be assigned, which may be adjusted pursuant to
4 Section D.6 below. Only For-Sale Residential Square Footage that has been assigned to
5 Tier C shall be subject to the levy of the Special Tax.

6
7 **“Tier B Non-Residential Square Footage”** means Non-Residential Square Footage
8 developed on a Parcel that was assigned by the Review Authority to Tier B, as defined in the
9 Planning Code.

10
11 **“Tier C For-Sale Residential Square Footage”** means For-Sale Residential Square Footage
12 developed on a Parcel that was assigned by the Review Authority to Tier C, as defined in the
13 Planning Code.

14
15 **“Tier C Non-Residential Square Footage”** means Non-Residential Square Footage
16 developed on a Parcel that was assigned by the Review Authority to Tier C, as defined in the
17 Planning Code.

18
19 **“Transition Event”** shall be deemed to have occurred when all Bonds secured by the levy
20 and collection of Facilities Special Taxes in the STD have been fully repaid, all Administrative
21 Expenses from prior Fiscal Years have been paid or reimbursed to the City, and the Facilities
22 Special Tax has been levied within the STD for ninety-nine (99) Fiscal Years.

23
24 **“Transition Year”** means the first Fiscal Year in which the Administrator determines that the
25 Transition Event occurred in the prior Fiscal Year.

1 **B. DATA FOR STD ADMINISTRATION**

2
3 Upon annexation into the STD of a Taxable Parcel on which For-Sale Residential Square
4 Footage and Non-Residential Square Footage is expected to be developed, the Review
5 Authority shall assign the Taxable Parcel to the appropriate Tier. On an ongoing basis, the
6 Administrator will work with the Review Authority to determine and monitor the Taxable
7 Square Footage within each Taxable Building and the Tiers into which Parcels have been
8 assigned. Upon issuance of a COO for a Taxable Building, the Administrator will request
9 confirmation of the Square Footage of each Land Use within the Building, which shall be used
10 to determine the Maximum Special Tax revenues that can be collected from Taxable Square
11 Footage in the Building.

12
13 On or after July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's
14 Parcel numbers for all Taxable Parcels in the STD. The Administrator shall also work with the
15 Review Authority to confirm: (i) the number of BMR Units and aggregate Square Footage of
16 BMR Units within the Building, if applicable, and (ii) the Special Tax Requirement for the
17 Fiscal Year.

18
19 In any Fiscal Year, if it is determined by the Administrator that (i) a parcel map or
20 condominium plan for a portion of property in the STD was recorded after January 1 of the
21 prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-
22 created parcels into the then current tax roll), and (ii) the Assessor does not yet recognize the
23 newly-created parcels, the Administrator shall calculate the Special Tax that applies
24 separately to each newly-created parcel, then applying the sum of the individual Special
25

1 Taxes to the Assessor's Parcel that was subdivided by recordation of the parcel map or
2 condominium plan.

3
4 **C. DETERMINATION OF THE MAXIMUM SPECIAL TAX**

5
6 **1. Base Special Tax**

7
8 *Prior to the Transition Year*, the Base Special Tax to be used for calculation of the Maximum
9 Special Tax for each Taxable Parcel within a Building shall be the Base Facilities Special Tax
10 determined based on reference to Table 1 below:

11

Table 1		
Base Facilities Special Tax		
Land Use Category	Base Facilities Special Tax Before the Transition Year (in Fiscal Year 2018-19 dollars) *	Base Facilities Special Tax In and After the Transition Year (in Fiscal Year 2018-19 dollars) *
Tier C For-Sale Residential Square Footage	\$5.50 per square foot	\$0.00 per square foot
Tier B Non-Residential Square Footage	\$2.00 per square foot	\$0.00 per square foot
Tier C Non-Residential Square Footage	\$2.75 per square foot	\$0.00 per square foot

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24 *** The Base Facilities Special Taxes shown above shall be escalated as set forth in**
25 **Section D.1.**

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In and after the Transition Year, the Base Special Tax to be used for calculation of the Maximum Special Tax for each Taxable Parcel within the Building shall be the Base Services Special Tax, which shall be determined based on reference to Table 2 below:

Table 2		
Base Services Special Tax		
Land Use Category	Base Services Special Tax Before the Transition Year (in Fiscal Year 2018-19 dollars) *	Base Services Special Tax In and After the Transition Year (in Fiscal Year 2018-19 dollars) *
Tier C For-Sale Residential Square Footage	\$0.00 per square foot	\$1.37 per square foot
Tier B Non-Residential Square Footage	\$0.00 per square foot	\$0.50 per square foot
Tier C Non-Residential Square Footage	\$0.00 per square foot	\$0.69 per square foot

*** The Base Services Special Taxes shown above shall be escalated as set forth in Section D.2.**

2. Maximum Special Tax for Tier C For-Sale Residential Square Footage and Non-Residential Square Footage

Upon issuance of the first Certificate of Occupancy for a Taxable Building within a Conditioned Project that is not an Affordable Housing Project, the Administrator shall

1 coordinate with the Review Authority to determine the Square Footage of each Land Use on
2 each Taxable Parcel. The Administrator shall then apply the following steps to determine the
3 Maximum Special Tax for the next succeeding Fiscal Year for each Taxable Parcel in the
4 Taxable Building:

5
6 **Step 1.** Determine the Tier C For-Sale Residential Square Footage for all Residential Units on
7 each Taxable Parcel, as well as the Tier B Non-Residential Square Footage and Tier C
8 Non-Residential Square Footage on each Taxable Parcel.

9
10 **Step 2.** For each Taxable Parcel that includes only For-Sale Units, multiply the Tier C For-
11 Sale Residential Square Footage by the applicable Base Special Tax to determine the
12 Maximum Special Tax for the Taxable Parcel.

13
14 **Step 3.** For each Taxable Parcel that includes only Tier B Non-Residential Square Footage or
15 Tier C Non-Residential Square Footage, multiply the Tier B Non-Residential Square
16 Footage and Tier C Non-Residential Square Footage on the Parcel by the applicable
17 Base Special Tax to determine the Maximum Special Tax for the Taxable Parcel.

18
19 **Step 4.** For Taxable Parcels that include multiple Land Uses, determine the Tier C For-Sale
20 Residential Square Footage, Tier B Non-Residential Square Footage, and Tier C Non-
21 Residential Square Footage on each Parcel. Multiply the Square Footage of each
22 Land Use by the applicable Base Special Tax, and sum the individual amounts to
23 determine the aggregate Maximum Special Tax for the Taxable Parcel for the
24 succeeding Fiscal Year.

1 **3. Maximum Special Tax for Taxable Rental Residential Square Footage, Taxable**
2 **Community Facility Square Footage, Taxable PDR Square Footage, Taxable**
3 **Parking Square Footage, and Taxable Public Square Footage**

4
5 In any Fiscal Year in which the Administrator determines that there is Taxable Rental
6 Residential Square Footage, Taxable PDR Square Footage, Taxable Community Facility
7 Square Footage, Taxable Parking Square Footage, and/or Taxable Public Square Footage on
8 a Parcel, the Administrator shall determine the prior Land Use or expected Land Use for such
9 square footage before it was designated for Rental Units, PDR Square Footage, Community
10 Facility Square Footage, parking, or public use. The Administrator shall use the Base Special
11 Tax for the Land Use that had been, or was expected to be, on the Parcel to calculate the
12 Maximum Special Tax for the Taxable Parcel.

13
14 **D. CHANGES TO THE MAXIMUM SPECIAL TAX**

15
16 **1. Annual Escalation of Facilities Special Tax**

17
18 1a. For-Sale Residential Square Footage. Beginning July 1, 2019 and each July 1
19 thereafter until the Transition Year, the Base Facilities Special Taxes for Tier C For-
20 Sale Residential Square Footage in Table 1, and the Maximum Facilities Special Tax
21 (or portion thereof) assigned to each Parcel based on the Tier C For-Sale Residential
22 Square Footage on such Parcel shall be increased by 2% of the amount in effect in the
23 prior Fiscal Year.

1 1b. Tier B Non-Residential Square Footage and Tier C Non-Residential Square
2 Footage. Beginning July 1, 2019 and each July 1 thereafter until the Transition Year,
3 the Base Facilities Special Tax for Tier B Non-Residential Square Footage and Tier C
4 Non-Residential Square Footage in Table 1 shall be increased by 2% of the amount in
5 effect in the prior Fiscal Year. After the first Fiscal Year in which a Facilities Special
6 Tax is levied against Tier B Non-Residential Square Footage and/or Tier C Non-
7 Residential Square Footage on a Parcel, the Maximum Facilities Special Tax (or
8 portion thereof) assigned to the Parcel based on the Tier B Non-Residential Square
9 Footage and/or Tier C Non-Residential Square Footage on such Parcel shall, on July 1
10 of the next consecutive 25 Fiscal Years, be increased by 4% of the amount in effect in
11 the prior Fiscal Year. On July 1 of the Fiscal Year that commences after the 25th
12 Fiscal Year in which the Maximum Special Tax on the Parcel was escalated by 4%,
13 and on each July 1 thereafter until the Transition Year, the Maximum Special Tax shall,
14 be increased by 2% of the amount in effect in the prior Fiscal Year.

15
16 **2. Annual Escalation of Services Special Tax**

17
18 2a. For-Sale Residential Square Footage. Beginning July 1, 2019 and each July 1
19 thereafter until the Transition Year, the Base Services Special Taxes for Tier C For-
20 Sale Residential Square Footage in Table 2 shall be increased by 2% of the amount in
21 effect in the prior Fiscal Year. In July 1 of the Transition Year and each July 1
22 thereafter, the Base Services Special Taxes for Tier C For-Sale Residential Square
23 Footage in Table 2, and the Maximum Services Special Tax (or portion thereof)
24 assigned to each Parcel based on the Tier C For-Sale Residential Square Footage on
25 such Parcel shall be increased by the Escalator.

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2b. Tier B Non-Residential Square Footage and Tier C Non-Residential Square Footage. Beginning July 1, 2019 and each July 1 thereafter until the Transition Year, the Base Services Special Tax in Table 2 shall be increased by 2% of the amount in effect in the prior Fiscal Year. In July 1 of the Transition Year and each July 1 thereafter, the Base Services Special Tax in Table 2 and the Maximum Services Special Tax (or portion thereof) assigned to each Parcel based on the Tier B Non-Residential Square Footage and/or Tier C Non-Residential Square Footage on such Parcel shall be increased by the Escalator.

3. Conversion of For-Sale Units to Rental Units

If, prior to the First Bond Sale, a Taxable Building with For-Sale Units converts to an Apartment Building, the Rental Residential Square Footage in the Apartment Building will be exempt from the levy of the Special Tax unless and until the Residential Units in the building are converted back into For-Sale Units. After the First Bond Sale, if a Taxable Building with For-Sale Units converts to an Apartment Building, the aggregate Square Footage of the Residential Units shall be categorized as Taxable Rental Residential Square Footage for purposes of levying the Special Taxes pursuant to this RMA.

4. Below Market Rate Unit/Market Rate Unit Transfers

If, in any Fiscal Year, the Administrator determines that a Residential Unit that had previously been designated as a BMR Unit no longer qualifies as such, the Maximum Special Tax on the new Market Rate Unit shall be established pursuant to Section C.2 and adjusted, as

1 applicable, by Sections D.1 or D.2. If a Market Rate Unit becomes a BMR Unit after it has
2 been taxed in prior Fiscal Years as a Market Rate Unit, the Maximum Special Tax on such
3 Residential Unit shall not be decreased unless: (i) a BMR Unit is simultaneously redesignated
4 as a Market Rate Unit, and (ii) such redesignation results in a Maximum Special Tax on the
5 new Market Rate Unit that is greater than or equal to the Maximum Special Tax that was
6 levied on the Market Rate Unit prior to the swap of units. If, based on the Square Footage,
7 there would be a reduction in the Maximum Special Tax due to the swap, the Maximum
8 Special Tax that applied to the former Market Rate Unit will be transferred to the new Market
9 Rate Unit regardless of the Square Footage of the new Market Rate Unit.

10 11 ***5. Changes in Land Use on a Taxable Parcel***

12
13 If any Square Footage that had been taxed as Tier C For-Sale Residential Square Footage,
14 Tier B Non-Residential Square Footage, or Tier C Non-Residential Square Footage in a prior
15 Fiscal Year changes Land Use, the Administrator shall apply the applicable subsection in
16 Section C.2 to calculate what the Maximum Special Tax would be for the Parcel based on the
17 new Land Use(s). If the amount determined is greater than the Maximum Special Tax that
18 applied to the Parcel prior to the land use change, the Administrator shall increase the
19 Maximum Special Tax to the amount calculated for the new Land Uses. If the amount
20 determined is less than the Maximum Special Tax that applied prior to the land use change,
21 there will be no change to the Maximum Special Tax for the Parcel.

22
23 Under no circumstances shall the Maximum Special Tax on any Taxable Parcel be reduced,
24 regardless of changes in Land Use or Square Footage on the Parcel, including reductions in
25 Square Footage that may occur due to demolition, fire, water damage, or acts of God. In

1 addition, if a Taxable Building within the STD that had been subject to the levy of Special
2 Taxes in any prior Fiscal Year becomes all or part of an Affordable Housing Project, the
3 Parcel(s) shall continue to be subject to the Maximum Special Tax that had applied to the
4 Parcel(s) before they became part of the Affordable Housing Project. Notwithstanding the
5 foregoing, in and after the Transition Year, if the City determines that an adjustment in the
6 Maximum Services Special Tax on a Parcel due to a change in Land Use, affordability
7 restrictions, or Square Footage would not adversely affect the funding of Authorized
8 Expenditures, the City may direct the Administrator to adjust the Maximum Services Special
9 Tax for the Parcel based on the current Land Use, affordability category, or Square Footage,
10 and such Maximum Services Special Tax shall be adjusted by the Escalator in future Fiscal
11 Years.

12

13 **6. Changes to Tier Assignment**

14

15 Each Parcel that has been, or is expected to be, developed with Non-Residential Square
16 Footage shall, upon annexation to the STD, be assigned to a Tier and, based on such
17 assignment, the square footage shall be designated as Tier B Non-Residential Square
18 Footage or Tier C Non-Residential Square Footage. Prior to the First Bond Sale, the Review
19 Authority may change the Tier to which any Parcel is assigned. After the First Bond Sale,
20 Non-Residential Square Footage on or expected on a Parcel may be moved from Tier B Non-
21 Residential Square Footage to Tier C For-Sale Residential Square Footage, and the Review
22 Authority shall immediately notify the Administrator of such reassignment. However, no Non-
23 Residential Square Footage may be moved from Tier C Non-Residential Square Footage to
24 Tier B Non-Residential Square Footage after the First Bond Sale.

25

1 Prior to the First Bond Sale, if two or more Parcels that are in different Tiers merge to create a
2 new Parcel, the Review Authority shall determine the Tier to which the new Parcel will be
3 assigned. After the First Bond Sale, any Non- Residential Square Footage that is constructed
4 on a Parcel created by the merger of two or more Parcels on which at least one parcel is
5 categorized as Tier C Non-Residential Square Footage shall be categorized as Tier C Non-
6 Residential Square Footage.

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9 **E. METHOD OF LEVY OF THE SPECIAL TAX**

10
11 Each Fiscal Year, the Special Tax shall be levied Proportionately on each Taxable Parcel up
12 to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount
13 levied on Taxable Parcels is equal to the Special Tax Requirement.

14
15
16 **F. COLLECTION OF SPECIAL TAX**

17
18 Special Taxes shall be collected in the same manner and at the same time as ordinary ad
19 valorem property taxes, provided, however, that the City may directly bill the Special Tax, may
20 collect Special Taxes at a different time or in a different manner, and may collect delinquent
21 Special Taxes through foreclosure or other available methods. The Special Tax bill for any
22 Parcel subject to a leasehold interest will be sent to the same party that receives the
23 possessory interest tax bill associated with the leasehold.

1 The Facilities Special Tax shall be levied and collected until the Transition Year. The Services
2 Special Tax shall be levied and collected in perpetuity beginning in the Transition Year.
3 Pursuant to Section 53321(d) of the Act, the Facilities Special Tax levied against a Parcel
4 used for private residential purposes shall under no circumstances increase more than ten
5 percent (10%) as a consequence of delinquency or default by the owner of any other Parcel
6 or Parcels and shall, in no event, exceed the Maximum Facilities Special Tax in effect for the
7 Fiscal Year in which the Facilities Special Tax is being levied.

8
9
10 **G. EXEMPTIONS**

11
12 Notwithstanding any other provision of this RMA, no Special Taxes shall be levied on: (i) BMR
13 Units except as otherwise provided in Sections D.4 and D.5, (ii) Affordable Housing Projects,
14 including all Residential Units and Non-Residential Square Footage within buildings that are
15 part of an Affordable Housing Project, except as otherwise provided in Section D.5, (iii) Rental
16 Residential Square Footage unless it is determined to be Taxable Rental Residential Square
17 Footage, and (iv) Exempt Community Facility Square Footage, Exempt Parking Square
18 Footage, Exempt PDR Square Footage, and Exempt Public Square Footage.

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20 **H. INTERPRETATION OF SPECIAL TAX FORMULA**

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22 The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness,
23 or ambiguity, by resolution and/or ordinance, as long as such interpretation, clarification, or
24 revision does not materially affect the levy and collection of the Special Tax and any security
25 for any Bonds.

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I. SPECIAL TAX APPEALS

Any taxpayer who wishes to challenge the accuracy of computation of the Special Tax in any Fiscal Year may file an application with the Administrator. The Administrator, in consultation with the City Attorney, shall promptly review the taxpayer’s application. If the Administrator concludes that the computation of the Special Tax was not correct, the Administrator shall correct the Special Tax levy and, if applicable in any case, a refund shall be granted. If the Administrator concludes that the computation of the Special Tax was correct, then such determination shall be final and conclusive, and the taxpayer shall have no appeal to the Board from the decision of the Administrator.

The filing of an application or an appeal shall not relieve the taxpayer of the obligation to pay the Special Tax when due.

Nothing in this Section I shall be interpreted to allow a taxpayer to bring a claim that would otherwise be barred by applicable statutes of limitation set forth in the Act or elsewhere in applicable law.