

**SUBMITTAL TO THE BOARD OF SUPERVISORS,  
COMMUNITY FACILITIES DISTRICT'S LEGISLATIVE BODY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

534



**FROM:** COUNTY EXECUTIVE OFFICE

**SUBMITTAL DATE:**  
June 10, 2008

**SUBJECT:** Resolution No. CFD 2008-06 of Community Facilities District No. 88-8. Consideration of a Change Proceeding to amend the existing Rate and Method of Apportionment of the Special Tax.

**RECOMMENDED MOTION:** That the Legislative Body of Community Facilities District No. 88-8 of the County of Riverside adopt Resolution No. CFD 2008-06, a Resolution of Consideration of a Change Proceeding to amend the existing Rate and Method of Apportionment of the Special Tax.

**BACKGROUND:** The Board of Supervisors, acting *ex officio* as the legislative body of Community Facilities District No. 88-8 of the County of Riverside ("CFD 88-8"), adopted Resolution No. 2006-07 which authorized the sale and issuance of the series 2006 refunding bonds. As part of that issuance the County notified bondholders, within the Official Statement, that at our discretion we may, at a future date, attempt to amend the Rate and Method of Apportionment of Special Tax to reduce the maximum special tax and to eliminate the annual two percent (2%) increase of the special tax.

The reduction of the maximum special tax and elimination of the annual two percent (2%) inflator would benefit the property owners subject to the special tax without jeopardizing CFD 88-8's ability to meet its debt service obligations. The proposed public hearing would take testimony and, at the Legislative Body's direction, set an election for October 14<sup>th</sup> to be conducted by the Registrar of Voters to determine whether these proposals are acceptable to the property owners within the CFD.

Jerry Norris, Principal Management Analyst

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N / A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N / A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2007-08

<b>SOURCE OF FUNDS:</b> N / A	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
<b>APPROVE</b>	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

BY:   
Dean Deines

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL

BY: Dale A. Gardner 6/10/08  
DATE

Departmental Concurrence

Policy

Consent

Dept't Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.: 8.1 & 9.1 of 1/8/08 | District: 1 | Agenda Number:

**ATTACHMENTS FILED WITH  
THE CLERK OF THE BOARD**

**8.1**

2  
3 **RESOLUTION NO. CFD 2008-06**

4 **A RESOLUTION OF THE LEGISLATIVE BODY OF**  
5 **COMMUNITY FACILITIES DISTRICT NO. 88-8 ("A" STREET-**  
6 **NORTH) OF THE COUNTY OF RIVERSIDE OF**  
7 **CONSIDERATION TO AMEND THE EXISTING RATE AND**  
8 **METHOD OF APPORTIONMENT OF SPECIAL TAX FOR SAID**  
9 **COMMUNITY FACILITIES DISTRICT AND TO SET THE**  
10 **DATE, TIME AND PLACE OF A PUBLIC HEARING TO**  
11 **CONSIDER THE PROPOSED AMENDMENT OF SAID RATE**  
12 **AND METHOD OF APPORTIONMENT OF SPECIAL TAX TO**  
13 **REDUCE THE MAXIMUM SPECIAL TAX FOR EACH ZONE**  
14 **AND TO ELIMINATE THE ANNUAL TWO PERCENT (2%)**  
15 **INCREASE OF THE SPECIAL TAX**

16 **WHEREAS**, the Board of Supervisors (the "Board of Supervisors") of the County of  
17 Riverside (the "County") by the adoption of Resolution No. 89-392 on August 1, 1989, has  
18 established Community Facilities District No. 88-8 ("A" Street-North) of the County of Riverside  
19 (the "Community Facilities District") under and pursuant to the terms and provisions of the "Mello-  
20 Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of  
21 the Government Code of the State of California (the "Code") and approved a rate and method of  
22 apportionment of a special tax (the "Existing Rate and Method") to be levied within the Community  
23 Facilities District; and

24 **WHEREAS**, the qualified electors of the Community Facilities District at a special election  
25 held on August 30, 1989, pursuant to the terms of the Act, authorized the levy of a special tax within  
26 the Community Facilities District pursuant to the Existing Rate and Method; and

27 **WHEREAS**, the Board of Supervisors of the County, acting *ex officio* as the legislative body  
28 (the "Legislative Body") of the Community Facilities District, by the adoption of Resolution No. CFD  
29 2006-07, authorized the sale and issuance of special tax refunding bonds (the "Series 2006 Refunding  
30 Bonds") in an aggregate principal amount not to exceed \$5,500,000, and the Series 2006 Refunding  
31 Bonds in an aggregate principal amount of \$3,505,000 were issued on July 20, 2006; and

32 **WHEREAS**, the Official Statement dated July 11, 2006, for the Series 2006 Refunding  
33 Bonds (the "Official Statement") in the sub-headings "*Determination of Maximum Special Tax Rate*"

1 and "*Possible Amendment to Rate and Method of Apportionment*" under the heading "The Special  
2 Tax" which is part of the division entitled "SECURITY AND SOURCES OF PAYMENT FOR THE  
3 BONDS" states that the Community Facilities District may amend the Existing Rate and Method to  
4 reduce the maximum special tax and to eliminate the annual two percent (2%) increase of the special  
5 tax; and

6 **WHEREAS**, the Legislative Body, consistent with the pertinent provisions of the Act,  
7 desires to commence proceedings that will amend the Existing Rate and Method consistent with the  
8 above referenced statements contained in the Official Statement and said amendment of the Existing  
9 Rate and Method would not interfere with the timely retirement of the payment of principal of and  
10 interest on the Series 2006 Refunding Bonds;

11 **NOW, THEREFORE, IT IS HEREBY RESOLVED, FOUND, DETERMINED AND**  
12 **ORDERED** by the Legislative Body of Community Facilities District No. 88-8 ("A" Street-North) of  
13 the County of Riverside as follows:

14 **Section 1.** All of the above recitals are true and correct.

15 **Section 2.** The boundaries of the Community Facilities District are set forth in the map  
16 entitled "Proposed Boundaries of Community Facilities District No. 88-8 of the County of Riverside,  
17 State of California ("A" Street-North)" recorded on August 16, 1989, in Book 28 of Maps of  
18 Assessment and Community Facilities Districts at Page 23 as Instrument No. 228219.

19 **Section 3.** It is the intention of the Legislative Body to, and the Legislative Body hereby  
20 proposes to, amend the Existing Rate and Method by reducing the maximum special tax for each zone  
21 within the Community Facilities District and eliminating the annual increase of two percent (2%) of  
22 the special tax as set forth in the First Amended Rate and Method of Apportionment of Special Tax for  
23 the Community Facilities District as attached hereto, marked as Exhibit A, and included herein by  
24 reference (the "First Amended Rate and Method"). At the conclusion of the Public Hearing, as  
25 defined and described in Section 6, below, the Legislative Body shall determine whether to amend the  
26 Existing Rate and Method to reduce the maximum special tax for each zone and to eliminate the  
27 annual two percent (2%) increase of the special tax.

28 **Section 4.** The Legislative Body hereby directs the Administrator of the Community  
Facilities District to cause to be prepared a report (the "Report") to determine whether the proposed

1 amendments to the Existing Rate and Method to reduce the maximum special tax for all zones within  
2 the Community Facilities District and the elimination of the annual two percent (2%) increase of the  
3 special tax will interfere with the timely retirement of the Series 2006 Refunding Bonds. The Report  
4 is to be filed with the Clerk of the Legislative Body prior to the date of the Public Hearing called in  
5 Section 6, below.

6 **Section 5.** The Legislative Body hereby declares its intention that the Taxable Property, as  
7 that term is defined in the Existing Rate and Method, will pay the interest on and principal of the  
8 Series 2006 Refunding Bonds.

9 **Section 6.** Notice is given that on the 15<sup>th</sup> day of July, 2008, at the hour of 9:30 a.m., or as  
10 soon thereafter as the matter may be heard, at the regular meeting place of the Legislative Body, in the  
11 County Administrative Center, 4080 Lemon Street, 1st Floor, Riverside, California 92501, a public  
12 hearing (the "Public Hearing") will be held at which the Legislative Body shall consider amending the  
13 Existing Rate and Method by reducing the maximum special tax for each zone within the Community  
14 Facilities District as set forth in the First Amended Rate and Method and eliminating the annual two  
15 percent (2%) increase of the special tax as provided in the First Amended Rate and Method.

16 Any protests may be made orally or in writing, except that any protests pertaining to the  
17 regularity or sufficiency of such proceedings shall be in writing and shall clearly set forth the  
18 irregularities and defects to which the objection is made. All written protests shall be filed with the  
19 Clerk of the Legislative Body on or before the time fixed for the Public Hearing, and any written  
20 protest may be withdrawn in writing at any time before the conclusion of the Public Hearing.

21 If written protests against amending the Existing Rate and Method are filed by fifty percent  
22 (50%) or more of the registered voters, or six (6) registered voters, whichever is greater, residing  
23 either within the Community Facilities District or by the owners of one-half (½) or more of the area of  
24 land included within the Community Facilities District and such protests are not withdrawn so as to  
25 reduce the protests to less than a majority, no further proceedings shall be undertaken for a period of  
26 one year from the date of decision of the Legislative Body on the issues discussed at the Public  
27 Hearing.

28 **Section 7.** If, following the Public Hearing, the Legislative Body determines to amend the  
Existing Rate and Method by reducing the maximum special tax for each zone within the Community

1 Facilities District and eliminating the annual two percent (2%) increase of the special tax, the  
2 Legislative Body shall then submit the proposition to amend the Existing Rate and Method to the  
3 qualified electors within the boundaries of the Community Facilities District. If at least twelve (12)  
4 persons, who need not necessarily be the same twelve (12) persons, have been registered to vote  
5 within the boundaries of the Community Facilities District for each of the ninety (90) days preceding  
6 the close of the Public Hearing, the vote shall be by registered voters within the Community Facilities  
7 District with each voter having one (1) vote. Otherwise, the vote shall be by mailed or hand delivered  
8 ballot, consistent with Section 53327.5 of the Code, by the owners of the land within the Community  
9 Facilities District that is subject to the special tax and who are the owners of record at the close of the  
10 Public Hearing, with each qualified elector having one (1) vote for each acre or portion of an acre of  
11 land owned within the Community Facilities District. The number of votes to be voted by a particular  
12 qualified elector shall be specified on the ballot provided to that qualified elector.

13 **Section 8.** Notice of the time and place of the Public Hearing shall be given by the Clerk of  
14 the Legislative Body in the following manner: A Notice of Public Hearing, in the form required by  
15 Section 53335 of the Code, shall be published in the *Press Enterprise*, a newspaper of general  
16 circulation published in the area of the Community Facilities District; such publication shall be made  
17 pursuant to Section 6061 of the Code and shall be completed at least seven (7) days prior to the date  
18 set for the Public Hearing. Further, a Notice of Public Hearing in the form referenced in Section  
19 53335 of the Code shall be sent by first-class mail, postage prepaid, to each owner of land within the  
20 Community Facilities District that is subject to the special tax, as shown on the last equalized  
21 assessment roll or other records of the County. Said mailing shall be sent not less than fifteen (15)  
22 days prior to the date of the Public Hearing.

23 **Section 9.** The officers of the Community Facilities District and the County and their  
24 authorized representatives, are, and each of them acting alone is, hereby authorized to execute any and  
25 all documents and agreements and do and perform any and all acts and things, from time to time,  
26 consistent with this Resolution and necessary or appropriate to carry the same into effect and to carry  
27 out its purpose.

28 **Section 10.** This Resolution shall take effect immediately upon its adoption.

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1 PASSED, APPROVED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2008.

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Roy Wilson, Chairman, Legislative Body  
of Community Facilities District No. 88-8  
("A" Street-North) of the County of Riverside

**ATTEST:**  
Nancy Romero,  
Clerk of the Legislative Body of Community  
Facilities District No. 88-8 ("A" Street-North)  
of the County of Riverside

By: \_\_\_\_\_  
Deputy

FORM APPROVED COUNTY COUNSEL  
BY: Dale A. Gardner 6/3/08  
DALE A. GARDNER DATE

**CERTIFICATION**

I, Nancy Romero, Clerk of the Legislative Body of Community Facilities District No. 88-8 ("A" Street-North) of the County of Riverside, do hereby certify that the foregoing resolution was introduced and adopted at a regular meeting of the Legislative Body held on the \_\_\_\_ day of July, 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

NANCY ROMERO, Clerk of the Legislative Body of  
Community Facilities District No. 88-8 ("A" Street-  
North) of the County of Riverside

By: \_\_\_\_\_  
Deputy

(SEAL)

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**EXHIBIT A**

**FIRST AMENDED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX  
FOR COMMUNITY FACILITIES DISTRICT NO. 88-8 ("A" STREET-NORTH) OF  
THE COUNTY OF RIVERSIDE**

**FIRST AMENDED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR  
COMMUNITY FACILITIES DISTRICT NO. 88-8  
("A" STREET - NORTH)  
OF THE COUNTY OF RIVERSIDE**

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 88-8 (herein "CFD No. 88-8") shall be levied and collected according to the tax liability determined by the Board of Supervisors of the County of Riverside acting in its capacity as the legislative body of CFD No. 88-8 (herein the "Board") through the application of the Special Tax formula for "Taxable Property" as described below. All of the property in CFD No. 88-8, 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.

A. Definitions.

The terms hereinafter set forth have the following meanings:

"Adjusted Gross Acreage" means gross acreage minus all acreage exempt from Special Tax pursuant to law or Section D below.

"Building" includes any structure used for support of shelter of any use or occupancy, including a structure wherein things may be grown, made, produced, kept, handled, stored or disposed of.

"Fiscal Year" means the period starting on July 1 and ending the following June 30.

"Maximum Special Tax" means the Maximum Special Tax, determined in accordance with Section B, that can be levied by CFD No. 88-8 in any Fiscal Year.

"Taxable Property" is all of the property within the boundaries of CFD No. 88-8 which is not exempt pursuant to law or Section D below.

B. Maximum Special Tax Rate.

The Maximum Special Tax for an Assessor's Parcel classified as Taxable Property shall be the greater of the amounts determined by reference to Table 1. For purposes of this Section B, the Maximum Special Tax for residential property will be apportioned based on the Maximum Special Tax per Adjusted Gross Acre applicable to the zone in which such property is located.

The Maximum Special Tax for commercial/industrial property will be the greater of (a) the Maximum Special Tax per Adjusted Gross Acre applicable to the zone in which such property is located, or (b) the Maximum Special Tax per gross square foot for such zone applied to the gross square footage of the commercial/industrial Building. The gross square footage of a Building shall be determined by reference to all building permits issued as of May 1 preceding any Fiscal Year regarding all structures within CFD No. 88-8.

In making the computations set forth in this Section B and in determining the Maximum Special Tax which may be levied in any Fiscal Year, on July 1, 2008 and each July 1 thereafter the applicable Special Tax rate shall not increase from the amounts set forth in Table 1 as amended.

TABLE 1

MAXIMUM ANNUAL SPECIAL TAX RATES PER GROSS SQUARE FOOT  
OR PER ADJUSTED GROSS ACRE ON TAXABLE PROPERTY IN  
COMMUNITY FACILITIES DISTRICT NO. 88-8  
(COMMENCING FISCAL YEAR 2008-09)

Maximum Annual Special Tax

<u>Zone</u> <sup>1</sup>	<u>Rate for Fiscal Year 2008-09</u> <sup>2</sup>
1	\$0.53 per gross sq. ft. of Building or \$6,784 per Adjusted Gross Acre, whichever is greater.
2	\$0.12 per gross sq. ft. of Building or \$1,400 per Adjusted Gross Acre, whichever is greater.
3	\$0.12 per gross sq. ft. of Building or \$1,384 per Adjusted Gross Acre, whichever is greater.
4	\$0.12 per gross sq. ft. of Building or \$1,386 per Adjusted Gross Acre, whichever is greater.
5	[Special Tax obligation prepaid in 2006]
6A	\$0.35 per gross sq. ft. of Building or \$4,430 per Adjusted Gross Acre, whichever is greater.
6B	[Special Tax obligation prepaid in 2006]

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<sup>1</sup> The boundaries of each zone are shown on the boundary map for CFD No. 88-8 which is attached hereto and marked as Exhibit 1.

<sup>2</sup> All parcels of land utilized for residential purposes at the adoption of the Resolution of Formation are exempt from this special tax upon annual filing of a written certificate pursuant to Section D below.

C. Method of Apportionment of Special Tax.

Starting in Fiscal Year 2008-09 and for each following Fiscal Year, the Board shall determine the amount of Special Tax to be levied on and collected from Taxable Property in CFD No. 88-8 in accordance Table 1 above. Such amount shall include the sums necessary to pay debt service on bonded indebtedness of CFD No. 88-8, to replenish the reserve fund and to pay annual administrative expenses of CFD No. 88-8. The Board shall levy the Special Tax as follows until the amount of the levy equals the amount to be collected:

First: The Special Tax shall be levied proportionately on each parcel of Taxable Property within CFD No. 88-8 up to 87% of the Maximum Annual Tax Rates for each zone shown in Table 1 above;

Second: If additional funds are needed after the first step has been completed, then the Special Tax shall be levied proportionately on each parcel of Taxable Property up to 100% of the Maximum Annual Tax Rates for each zone shown in Table 1 above.

D. Exemptions.

The Board shall not levy a Special Tax on:

- A) Properties exempted from Special Tax pursuant to Section 53340 of the Government Code.
- B) Property designated for the following uses in the public report filed with the Board of Supervisors pursuant to Section 53321.5 of the Government Code: Cajalco Expressway, North "A" Street, Interstate Highway 215 and flood control and drainage facilities.
- C) Property owned by a railroad or private utility at the time of formation of CFD No. 88-8 or burdened with a utility easement making impractical its utilization for other than purposes set forth in the easement and used for purposes which benefit the public.

While all publicly owned land conveyed or irrevocably offered for dedication after formation of CFD No. 88-8 may be subject to a Special Tax pursuant to Section 53317.3 of the Government Code, this Special Tax may be prepaid in accordance with a prepayment formula to be specified at the time that bonds are issued. A description of the prepayment formula specified with respect to bonds issued pursuant to Resolution No. 2006-07 is attached hereto.

The Board shall also not impose a Special Tax on any acreage that is utilized as residential property at the time the Resolution of Formation of CFD No. 88-8 was adopted. These parcels will remain exempt from Special Tax for any Fiscal Year in which the owner thereof files a written certificate with the Designated Officer of the County of Riverside. The necessity for the filing of such written certificate shall commence as of the January 1 succeeding the date that any bonds are issued and shall be due the succeeding March 1. If such written certificate is not filed with the County on or before March 1, said property shall be considered Taxable Property in the following Fiscal Year and shall be taxed as such to the extent set forth for the appropriate Zone in Table 1 above.

E. Manner of Collection.

The special taxes for CFD No. 88-8 will be collected in the same manner and at the same time and in the same installment as *ad valorem* property taxes on real property are payable, *provided however*, that CFD No. 88-8 may directly bill all or part of the Special Taxes, and may collect special taxes at a different time or in a different manner if deemed appropriate by the District. In the event of delinquency, CFD No. 88-8 will pursue foreclosure in a timely manner.

F. Review/Appeal Board.

The Board shall establish as part of the proceedings and administration of CFD No. 88-8 a special three-member Review/Appeal Board. This Board shall construe and make determinations relative to the administration of the Special Tax herein specified.

G. Prepayment of Special Taxes

Attached hereto as Exhibit A is a description of the terms by which owners of parcels within CFD No. 88-8 may prepay their share of the remaining Special Tax obligation to the District for bonds issued pursuant to Resolution No. CFD 2006-07 .