

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

144



FROM: Executive Office

SUBMITTAL DATE:
November 4, 2008

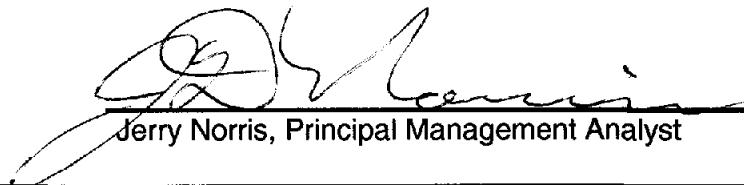
SUBJECT: Ordinance No. 683.1 Amending Ordinance No. 683 of the County of Riverside.

RECOMMENDED MOTION: That the Board of Supervisors of the County of Riverside introduce Ordinance No. 683.1 amending Ordinance No. 683 of the County of Riverside, and adopt Ordinance No. 683.1 at the next Board meeting on November 18, 2008.

BACKGROUND: Ordinance No. 683 was adopted by the Board of Supervisors on September 12, 1989 to provide for the levy of special taxes in Community Facilities District No. 88-8 of the County of Riverside (the "District"). On July 15, 2008 the Board adopted Resolution No. CFD 2008-07 as part of a change proceeding to consider the amendment of the Districts Rate and Method of Apportionment (the "RMA") which was attached to Ordinance No. 683 as Exhibit A.

On October 28, 2008 the Board adopted Resolution No. CFD 2008-08 certifying the election results which approved and authorized the amendment of the RMA for the District. This amendment was the purpose of the change proceeding taken by the Legislative Body for the District pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended. The Amended and Restated RMA is attached to Ordinance No. 683.1 as Exhibit A.

Departmental Concurrence



 Jerry Norris, Principal Management Analyst

FINANCIAL DATA	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:	FY 2008/09

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

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

BY: 

 County Executive Office Signature **Dean Deines**

- Consent
 Policy
- Consent
 Policy

Dept's Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: 8.3 of 7/15/08 & 8.1 of 10/28/08 | **District:** 1 | **Agenda Number:**

1 rehabilitation of public facilities including certain roads and roadway facilities, parkway
2 facilities, flood control and drainage facilities, and water and wastewater facilities (the
3 “Facilities”), and incidental expenses related thereto as authorized by the Act (the
4 “Incidental Expenses”), including, but not limited to, (1) the cost of planning and
5 designing the Facilities and the costs of environmental evaluations thereof, (2) the costs
6 associated with the creation of the District, issuance of bonds, determination of the
7 amount of taxes, collection of taxes, the payment of taxes, and costs otherwise incurred in
8 order to carry out the authorized purposes of the District, and (3) any other expenses
9 incidental to the construction, completion and inspection of the Facilities, all as more
10 fully described in the Resolution of Intention to Establish the District as amended by
11 Resolution No. 89-408.

12 c. Notice was published as required by law relative to the intention of the
13 Board to form the proposed District and to incur bonded indebtedness in an amount not to
14 exceed \$24,000,000.

15 d. On August 1, 1989, the Board convened a noticed public hearing as
16 required by law: (1) to determine whether it should proceed with the formation of the
17 District and authorize the rate and method of apportionment of a special tax to be levied
18 within the District for the purpose of paying for the Facilities and the Incidental Expenses
19 relating thereto and the costs associated with the bonded indebtedness proposed to be
20 issued to finance the Facilities, including the principal of and interest on the proposed
21 bonded indebtedness, and (2) on the proposed issuance of the bonded indebtedness.

22 e. At said hearing all persons desiring to be heard on all matters pertaining to
23 the formation of the District, the levy of the special tax, the proposed issuance of the
24 bonded indebtedness, and all other matters set forth in the Resolution of Intention to
25 Establish the District and the Resolution of Intention to Incur Bonded Indebtedness, were
26 heard and considered and a full and fair hearing was held thereon.

27 f. The Board, subsequent to said hearing, adopted Resolution No. 89-392
28 (the “Resolution of Formation”) which established the District, determined the validity of

1 prior proceedings relative to the formation of the District and the incurring of bonded
2 indebtedness, authorized the levy of a special tax within the District and called an
3 election for August 30, 1989, on the propositions of levying a special tax and establishing
4 an appropriations limit within the District.

5 g. The Board, subsequent to said hearing, adopted Resolution No. 89-393
6 (the "Resolution to Incur Bonded Indebtedness") which determined the necessity of
7 incurring bonded indebtedness in an aggregate principal amount not to exceed
8 \$24,000,000 and called a special mailed ballot election within the District for August 30,
9 1989, on the proposition as to whether the District was to incur bonded indebtedness in
10 an aggregate principal amount not to exceed \$24,000,000.

11 h. On August 30, 1989, in accordance with the Resolution of Formation and
12 the Resolution to Incur Bonded Indebtedness, a special mailed election was held in the
13 District in which the qualified electors approved by more than a two-thirds vote the
14 propositions of incurring bonded indebtedness, levying a special tax, and establishing an
15 appropriations limit within the District.

16 i. The qualified electors of the District at that special mailed ballot election,
17 authorized the levy of a special tax within the District pursuant to a specified rate and
18 method of special tax (the "Existing Rate and Method").

19 j. On September 12, 1989, the Board adopted Ordinance No. 683
20 ("Ordinance No. 683"), authorizing the levy of a special tax within the District in
21 accordance with the Existing Rate and Method.

22 k. On June 6, 1990, the District issued \$24,000,000 of special tax bonds (the
23 "Series 1990 Bonds").

24 l. The Board, acting *ex officio* as the Legislative Body of the District (the
25 "Legislative Body"), by adoption of Resolution No. CFD 2006-07, authorized the sale
26 and issuance of special tax refunding bonds (the "Series 2006 Refunding Bonds") in an
27 aggregate principal amount not to exceed \$5,500,000 and the Series 2006 Refunding
28 Bonds in an aggregate principal amount of \$3,505,000 were issued on July 20, 2006.

1 m. The Official Statement, dated July 11, 2006, for the Series 2006
2 Refunding Bonds (the "Official Statement") in the sub-headings "*Determination of*
3 *Maximum Special Tax Rate*" and "*Possible Amendment to Rate and Method of*
4 *Apportionment*" under the heading "**The Special Tax**" which is part of the division
5 entitled "**SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**" states
6 that the District may amend the Existing Rate and Method to reduce the maximum
7 special tax and to eliminate the annual two percent (2%) increase of the special tax.

8 n. On June 10, 2008, the Legislative Body adopted Resolution No. CFD
9 2008-06 (the "Resolution of Consideration") calling for a public hearing to be held on
10 July 15, 2008, to consider amending the Existing Rate and Method by reducing the
11 maximum special tax for the zones within the District and eliminating the annual two
12 percent (2%) increase in the special tax as provided in Exhibit A to the Resolution of
13 Consideration.

14 o. The Legislative Body held such noticed public hearing on July 15, 2008
15 (the "Public Hearing"), as required by the Act.

16 p. Subsequent to the Public Hearing, the Legislative Body adopted
17 Resolution No. CFD 2008-07 (the "Resolution Calling Election"), calling a special
18 election within the District for October 21, 2008, to amend the Existing Rate and Method
19 by reducing the maximum special tax for the zones within the District and eliminating the
20 annual two percent (2%) increase in the special tax as provided in Exhibit A to the
21 Resolution of Consideration (the "Proposition").

22 q. Consistent with the terms of the Resolution Calling Election and the
23 pertinent provisions of the Act, the special election was held on October 21, 2008.

24 r. The Proposition was approved by more than two-thirds (2/3) of the votes
25 cast at the special election held on October 21, 2008.

26 s. The Legislative Body adopted Resolution No. CFD 2008-08 on October
27 28, 2008, (the "Resolution of Change") certifying the special election results and ordering
28

1 that the Existing Rate and Method be amended consistent with Exhibit A to Resolution
2 No. CFD 2008-06 adopted on July 15, 2008.

3 t. Amending the Existing Rate and Method by reducing the maximum
4 special tax for the zones within the District and eliminating the annual two percent (2%)
5 increase in the special tax as provided in the First Amended Rate and Method of
6 Apportionment of Special Tax for Community Facilities District No. 88-8 ("A" Street-
7 North) of the County of Riverside attached as Exhibit A to the Resolution of
8 Consideration will not interfere with the timely retirement of the Series 2006 Refunding
9 Bonds.

10 Section 2. PURPOSE. The purpose of this ordinance is to provide for the
11 levy of a special tax within the District in accordance with the First Amended Rate and
12 Method of Apportionment of Special Tax for Community Facilities District No. 88-8
13 ("A" Street-North) of the County of Riverside attached hereto as Exhibit A.

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15 Section 3. AUTHORITY. This ordinance is adopted pursuant to Sections
16 53328, 53338, and 53340 of the Government Code.

17 Section 4. LEVY OF SPECIAL TAXES.

18 a. By the passage of this ordinance, the Board of Supervisors hereby
19 authorizes and levies special taxes within the District pursuant to Sections 53328, 53338,
20 and 53340 of the Government Code, at the rate and in accordance with the First Amended
21 Rate and Method of Apportionment of Special Tax for Community Facilities District No.
22 88-8 ("A" Street-North) of the County of Riverside attached hereto as Exhibit A and
23 made a part hereof. The special taxes shall be levied by the Board each year by
24 resolution pursuant to the Act to determine the specific special tax rate and amount to be
25 levied the next fiscal year on each parcel of real property within the District. The special
26 tax rate to be levied shall not exceed that set forth in the First Amended Rate and Method
27 of Apportionment of Special Tax for Community Facilities District No. 88-8 ("A" Street-
28 North) of the County of Riverside, but the special tax may be levied at a lower rate.

1 b. All of the collections of the special tax shall be used as provided for in the
2 Act and the Resolution of Formation. The special tax shall be levied only so long as
3 needed for its purpose as described in the Resolution of Formation and Resolution to
4 Incur Bonded Indebtedness.

5 c. The special tax shall be collected in the same manner as ordinary ad
6 valorem property taxes are collected and shall be subject to the same penalties and the
7 same procedure, sale, and lien priority in case of delinquency as is provided for ad
8 valorem taxes, as such procedure may be modified by law from time to time.

9 d. Notwithstanding the foregoing, the Board of Supervisors, acting as the
10 legislative body of the District, may collect, or cause to be collected, one or more
11 installments of the special taxes by means of direct billing by the District of the property
12 owners within the District if, in the judgment of the legislative body, such means of
13 collection will reduce the burden of administering the District or is otherwise appropriate
14 in the circumstances. In such event, the special taxes shall become delinquent if not paid
15 when due as set forth in any such respective billing to the property owners.

16 Section 5. EXEMPTIONS. Properties or entities of the state, federal or other
17 local governments shall, except as otherwise provided in Section 53317.3 and 53317.5 of
18 the Act, be exempt from the special tax. No other properties or entities are exempt from
19 the special tax unless the properties are expressly exempted in the First Amended Rate
20 and Method of Apportionment of Special Tax for Community Facilities District No. 88-8
21 (“A” Street-North) of the County of Riverside attached hereto as Exhibit A.

22 Section 6. SEVERABILITY. If for any reason any portion of this ordinance
23 is found to be invalid, or if the special tax is found inapplicable to any particular parcel
24 within the District, by a court of competent jurisdiction, the balance of this ordinance and
25 the application of the special tax to the remaining parcels within the District shall not be
26 affected.

27 Section 7. EFFECTIVE DATE. This ordinance relating to the levy of the
28 special tax shall take effect immediately upon its final passage in accordance with the

1 provisions of Section 25123(c) of the Government Code. The Chairman of the Board of
2 Supervisors shall sign this ordinance and the Clerk of the Board of Supervisors shall
3 attest to the Chairman's signature and then cause the same to be published within fifteen
4 (15) days after its passage at least once in *The Press Enterprise*, a newspaper of general
5 circulation published and circulated in the area of the District."

6 Section 2. This ordinance shall take effect immediately upon its passage in accordance with
7 the provisions of Section 25123(c) of the Government Code.

8 BOARD OF SUPERVISORS OF THE COUNTY OF
9 RIVERSIDE, STATE OF CALIFORNIA

10 By: _____
11 Roy Wilson, Chairman

12 ATTEST:
13 CLERK OF THE BOARD:

14 By: _____
15 Deputy

16 (SEAL)

17 FORM APPROVED COUNTY COUNSEL
18 BY: Dale A. Gardner 10/27/08
19 DALE A. GARDNER DATE

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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

(See the following 4 pages.)

**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> ¹	<u>Rate for Fiscal Year 2008-09</u> ²
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]

¹ 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.

² 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 .