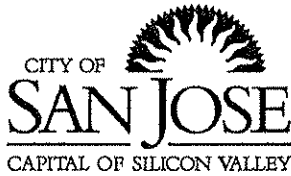


# SUPPLEMENTAL

COUNCIL AGENDA: 6-16-09

ITEM: 9.2



## Memorandum

**TO:** HONORABLE MAYOR, CITY  
COUNCIL AND REDEVELOPMENT  
AGENCY BOARD

**FROM:** Debra Figone  
Harry S. Mavrogenes

**SUBJECT:** SEE BELOW

**DATE:** June 11, 2009

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**COUNCIL DISTRICT:** Citywide

**SUBJECT:** ACTIONS RELATED TO THE FORMATION OF A CONVENTION  
CENTER FACILITIES DISTRICT

### SUPPLEMENTAL

#### REASON FOR SUPPLEMENTAL MEMORANDUM

This supplemental memorandum is to report the results of the special mailed-ballot election for the Convention Center Financing District No. 2008-1 (the "CCFD"), which votes were tallied on June 10, 2009.

#### SPECIAL MAILED-BALLOT ELECTION RESULTS

On June 10, 2009, an employee of Willdan Financial Services ("Willdan"), a contractor hired to assist the City Clerk with the special mailed-ballot election for the CCFD, received from the City Clerk all of the unopened ballot envelopes returned by the deadline for returning ballots for the election (8:00 p.m. on June 9, 2009). Willdan, while physically within the offices of the City Clerk, examined the ballot envelopes to determine whether the required certifications on the outside of the ballot envelopes were properly completed. For envelopes where certifications were not properly completed, those ballot envelopes were set aside without opening them. All properly completed envelopes were then opened, the ballots removed, and the ballots counted.

Votes in this election are allocated on the basis of number of hotel rooms, and each ballot had printed on it the name of the Landowner (as that term is defined in Section 14.32.230 of the San José Municipal Code) entitled to cast that ballot and the number of votes to be cast by that ballot. Based on the number of votes shown on each of the ballots, as certified by the City Clerk in the attached "Certification of City Clerk Re; Receipt of Executed Ballots and Declaring Election Results"(attachment A), the results of the election are as follows:

Total Votes Cast:	7,663
Total Votes Cast "Yes:"	5,955
Total Votes Cast "No:"	1,708

The percentage of those votes cast that were cast "yes," is 78%.

The results show that more than two-thirds (2/3) of the votes cast were in favor of approving the levy of the special tax.

### CERTIFICATIONS OF MAILING OF BALLOTS

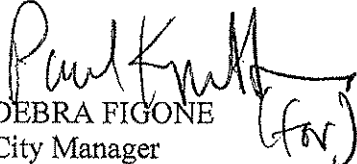
Also attached are the Certificates of Willdan Financial Services evidencing the mailing of the Special Election Ballots on May 11, 2009, (attachment B) and the mailing of the corrected ballot pamphlets on May 20, 2009, (attachment C) after an error was discovered in the initial mailing.

### SPECIAL TAX COLLECTION

The Rate and Method of Apportionment ("RMA") for the CCFD states that the special taxes will be collected monthly. Pursuant to Section 4.72.080 of the City's Municipal Code, hotel operators whose annual Transient Occupancy Tax ("TOT") is less than \$100,000 per year may elect, with City's approval, to pay taxes on a quarterly basis. This same provision applies to the collection of the CCFD special tax.

### CEQA

Resolution No. 72767 and addendum thereto, File No. PP08-002, available at <http://www.sanjoseca.gov/planning/eir/eir.asp>.

  
DEBRA FIGONE  
City Manager

  
HARRY S. MAVROGENES  
Executive Director

For questions, please contact Paul Krutko, Chief Development Officer, at (408) 535-8181.

### Attachments

Certificate of Clerk Re: Receipt of Executed Ballots, and Declaring Election Results  
Certificate of Mailing Notification Letter  
Certificate of Mailing Corrected Ballot Pamphlets

CONVENTION CENTER FACILITIES DISTRICT NO. 2008-1  
CITY OF SAN JOSÉ,  
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

**CERTIFICATE OF CLERK RE: RECEIPT OF EXECUTED BALLOTS, AND  
DECLARING ELECTION RESULTS**

I, Lee Price, City Clerk of the City of San José (the "City") hereby certify:

I have reviewed a "Certificate of Mailing Special Election Ballots" (the "Certificate re: Ballots") dated May 11, 2009 and executed by Jennie Carter of Willdan Financial Services ("Willdan"), the contractor hired by the City to assist in conducting this election. Attached thereto was a listing of all of the owners of land (each, a "Landowner," as that term is defined in Section 14.32.230 of the San José Municipal Code), and the number of hotel rooms on each parcel contained within the boundaries of the above-captioned convention center facilities district (the "Convention Center Facilities District").

The time for the return of executed ballots has now passed, and I have provided to Willdan, in an unopened condition, for the purpose of counting the ballots contained therein, all ballot envelopes received by my office by 8 p.m. on June 9, 2009. Each ballot had the name of the Landowner entitled to cast it printed or written on the ballot, and the number of votes to be cast by the ballot written or printed thereon according to the formula of one vote for each hotel room on each property within the Convention Center Facilities District owned by the Landowner.

Willdan has counted the ballots and prepared a "Ballot Tally" that I have personally reviewed. I have also reviewed the ballot envelopes and the ballots to confirm that they were properly marked and signed. Based on my review and on Willdan's Ballot Tally, I hereby certify the result of that count to be:

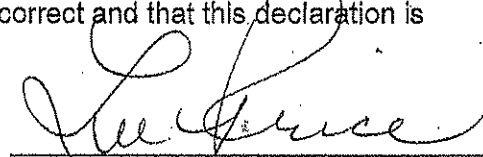
Total votes that could be cast: 8,941

Votes cast "Yes": 5,955

Votes cast "No": 1,708

Based upon the foregoing, the percentage of votes cast "Yes" out of all votes that were cast is 78%.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on June 10, 2009.



Lee Price, MMC  
City Clerk  
City of San José

CONVENTION CENTER FACILITIES DISTRICT NO. 2008-1  
CITY OF SAN JOSÉ,  
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

**CERTIFICATE OF MAILING NOTIFICATION LETTER**

The undersigned declares:

On May 11, 2009, on behalf of Lee Price, City Clerk of the City of San José, the undersigned mailed, by United States Postal Service first-class mail, the notification letter in the form attached hereto as Exhibit A to each person shown on the list attached hereto as Exhibit B, at the addresses shown on Exhibit B.

Executed at Temecula, California, on May 11, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

WILLDAN FINANCIAL SERVICES, INC

By Jennie Carter  
Jennie Carter  
Senior Analyst, Financial Consulting

CONVENTION CENTER FACILITIES DISTRICT NO. 2008-1  
CITY OF SAN JOSÉ,  
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

**CERTIFICATE OF MAILING CORRECTED BALLOT PAMPHLETS**

The undersigned declares:

On May 20, 2009, on behalf and at the direction of Lee Price, City Clerk of the City of San José, the undersigned mailed, by United States Postal Service first-class mail, the Corrected Ballot Pamphlets in the form attached hereto as Exhibit A to each owner of land (as defined in § 14.32.230 of the San José Municipal Code) within Convention Center Facilities District No. 2008-1, City of San José, County of Santa Clara, State of California, as the names and addresses of said owners appear on the last equalized assessment roll of the County of Santa Clara or as identified in May 2009 by the Assessor of the County of Santa Clara and thereby known to the undersigned. A list of these property owners and addresses is attached hereto as Exhibit B.

Executed at Temecula, California, on May 20, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

WILLDAN FINANCIAL SERVICES

By Jennie Carter  
Jennie Carter  
Senior Analyst, Financial Consulting