

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch

SUBJECT: See Below

DATE: May 12, 2025

Approved

Date:

5/13/25

Gregory S. Maguire

COUNCIL DISTRICT: 7

SUBJECT: Community Facilities District No. 8 Annexation Area No. 3 Public Hearing and Special Election

RECOMMENDATION

Conduct a public hearing and take the following actions relating to annexing Annexation Area No. 3 into Community Facilities District No. 8 (Communications Hill):

- (a) Adopt a resolution:
 - (1) Declaring the results of the special election;
 - (2) Contingent upon two-thirds qualified voter approval, determining that Annexation Area No. 3 is annexed to Community Facilities District No. 8; and
 - (3) Directing the City Clerk to record a notice of special tax lien.
- (b) Approve an ordinance levying special taxes within Annexation Area No. 3 to Community Facilities District No. 8.

SUMMARY AND OUTCOME

Approval of the annexation area to Community Facilities District No. 8 (Communications Hill) (CFD 8) will provide funding for the operation and maintenance of planned improvements needed for the development of this site. To start this process, City Council adopted a resolution of intention on April 22, 2025 (RES2025-85), to annex property into CFD 8. The resolution of intention set a public hearing on June 3, 2025, and called an election immediately following the close of public hearing. During the public hearing, community members will have the opportunity to present testimony to City Council. At the close of the public hearing, City Council will conduct a special

election in which property owners within the proposed annexation areas will cast ballots in favor of, or opposed to, on the special tax, with votes weighted by the acreage of land owned. If approved by voters, the special tax will take effect in Fiscal Year 2025-2026 and will include a Consumer Price Index for the San Francisco-Oakland-Hayward Area adjustment.

BACKGROUND

In 1992, the City Council adopted a Specific Plan for Communications Hill to define the criteria to develop the area as a dense, highly urbanized residential neighborhood. This neighborhood is also expected to include a village center consisting of small shops and restaurants. The Specific Plan calls for numerous small parks, terraces, recreational paths, bicycle lanes, and public staircases throughout the hilly neighborhood, making Communications Hill a unique community in San José.

CFD 8, and the associated special tax, were approved by qualified voters in September 2002 to accommodate the maintenance needs of Communications Hill. In February 2004, the northern portion of Communications Hill was annexed to CFD 8 with the same special tax. As KB Home South Bay, Inc. commenced the development of the remaining residential and industrial portion of Communications Hill (Communications Hill 2), the first two phases of the Communications Hill 2 project were annexed to CFD 8 in May 2016 with the same special tax. In April 2020, CFD 8 was altered to add authorized services and amend the original Rate and Method of Apportionment, but with no change to the maximum special tax. The boundaries of CFD 8 currently include properties on the southern portion of the hill fronting Hillsdale Avenue and properties on the northern portion of the hill fronting Curtner Avenue, with the expectation that the remainder of the hill would be added to the district during the development process with a bridge connecting the northern and southern areas.

Phases 3 and 4 of the residential portion of the Communication Hill 2 project are taking steps toward development. The developer submitted petitions requesting the annexation of Phase 3.1 under permit 2024-087709 Improvement Plan into CFD 8 to fund the maintenance of certain enhanced public improvements in connection with its current project. This phase will add 58 residential units to the district's existing 1,947 residential units.

On April 22, 2025, City Council approved an agreement with KB Home South Bay, Inc. to fund staff costs associated with the annexation process. City Council also adopted a resolution of intention (RES2025-85) to annex Annexation Area No. 3 (Attachment A – CFD 8 Annexation Map) into CFD 8 at the request of the property owner and developer, pursuant to Chapter 14.27 of Title 14 of the San José Municipal Code that incorporates and modifies by reference the Mello-Roos Community Facilities Act of 1982 to authorize the levy of a special tax to fund the operation and maintenance of the enhanced

improvements (Attachment B – CFD 8 Authorized Services). The properties within Annexation Area No. 3 will be subject to the same special tax levy as specified in CFD 8's Rate and Method of Apportionment (Attachment C – CFD 8 Rate and Method of Apportionment). The maximum special tax rates for the existing district as adjusted by the Consumer Price Index for Fiscal Year 2024-2025 are \$1,174.50 per unit for Residential Units, and \$528.14 per acre for Non-Residential parcels.

The proposed schedule of events for the Annexation Area No. 3 is outlined below in Table 1:

Table 1

Date	Action
April 22, 2025	Adopt a Resolution of Intention (City Council) (Completed)
May 5, 2025	Mail Ballots and Notice of Public Hearing (staff) (Completed)
May 27, 2025	Publish Notice of Public Hearing (staff) (Completed)
June 3, 2025	Conduct Public Hearing and Election (City Council)
June 18, 2025	Record Notice of Special Tax (staff)

ANALYSIS

As permitted by the Mello-Roos Community Facilities Act of 1982, all qualified electors within Annexation Area No. 3 have submitted waivers to expedite the election process. The waiver by the property owners along with the concurrence of the City Clerk as the election officer, authorize the election to be held immediately upon the close of the June 3, 2025, public hearing for the annexation of Annexation Area No. 3 to CFD 8.

At the June 3, 2025 meeting, City Council will conduct a public hearing to receive and record any public comments. Following the public hearing, if a majority of the qualified voters in Annexation Area No. 3 have not filed written protests against the annexation, City Council will direct the City Clerk to tabulate the ballots and report the results. If the election results in a two-thirds voter approval, the final actions for City Council are the adoption of a resolution declaring the results of the election, determining that Annexation Area No. 3 is annexed to CFD 8 and the adoption of an ordinance imposing the levy of a special tax on those properties within Annexation Area No. 3.

The special tax for Annexation Area No. 3 will be collected at the same time and the same manner as ordinary ad valorem property taxes, provided, that the CFD 8 may bill the taxes directly to the property owners if needed. The Director of Public Works or other officer as designated by the City Manager, is the officer of the City who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and estimating future special tax levies pursuant to Section 53340.2 of the California Government Code.

The CFD 8 special tax commences on parcels for which a building permit for new construction has been issued prior to June 30 of each Fiscal Year. Each year, staff will determine which parcels have been issued a building permit and will commence taxing those parcels up to the amount needed to pay for the services budget but, in no event, in an amount greater than the maximum special tax. The Consumer Price Index adjusted maximum for 2025-2026 will be 1,206.94 for Residential Units and \$542.93 for Non-Residential parcels; however, the actual special tax levy will be \$819.08 for Residential Units and \$368.32 for Non-Residential parcels.

EVALUATION AND FOLLOW-UP

This is the final City Council action in the annexation process for Annexation Area No. 3. If approved, a notice of special tax lien will be recorded with the Santa Clara County Clerk-Recorder's Office. Future year special taxes will be adjusted by the average annual percentage change in the Consumer Price Index and placed on the County tax roll for collection.

COST SUMMARY/IMPLICATIONS

The developer has submitted a deposit of \$38,745 to pay for annexation costs to the district. These funds were appropriated through a memorandum on April 22, 2025. Notably, any unused funds will be returned to the developer. However, if all funds are exhausted prior to the certification of election results, the developer must provide additional funds to continue the process.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Department of Planning, Building, and Code Enforcement.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 3, 2025, City Council meeting. These actions were initiated at the request of the property owner and developer and prepared by Public Works. City staff has met with the property owner and developer regularly regarding the district and their development plans. The ballots and Notice of Public Hearing were mailed to the qualified electors on May 5, 2025. The Notice of Public Hearing will publish in the San José Post Record by May 27, 2025.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Determination of Consistency with the Communication Hill 2 Project Final Environmental Impact Report (EIR) (Resolution No. 77172), and addenda thereto. The Project does not involve new significant impacts beyond those analyzed in the above EIR.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

MATT LOESCH
Director of Public Works

For questions, please contact J. Guevara, Deputy Director of Public Works, at j.guevara@sanjoseca.gov or (408) 535-8300.

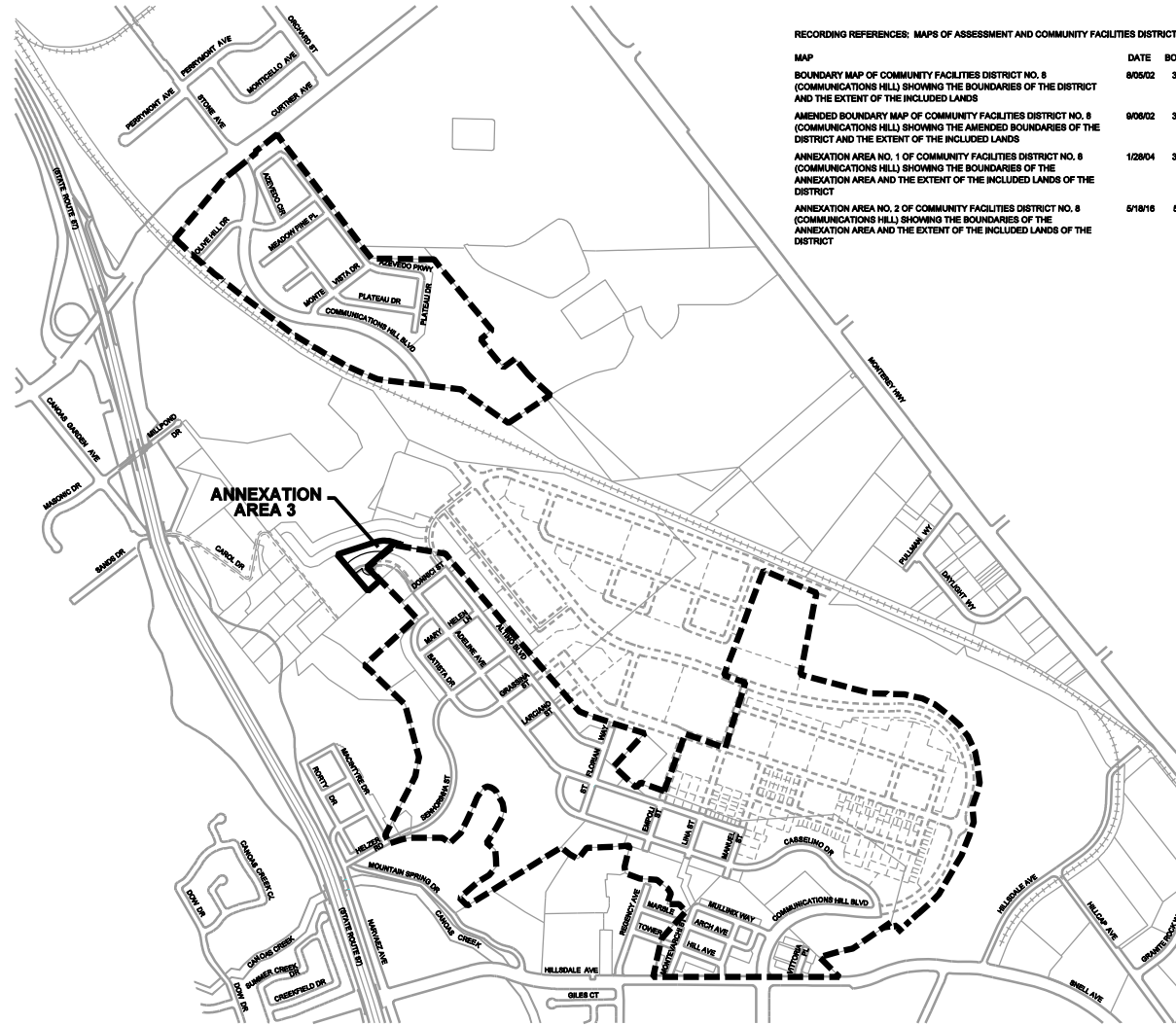
ATTACHMENTS:

Attachment A – CFD 8 Annexation Map

Attachment B – CFD 8 Authorized Services

Attachment C – CFD 8 Rate and Method of Apportionment

ATTACHMENT A CFD 8 Annexation Map



RECORDING REFERENCES: MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, SANTA CLARA COUNTY

MAP	DATE	BOOK	PAGE(S)	FILE NO.
BOUNDARY MAP OF COMMUNITY FACILITIES DISTRICT NO. 8 (COMMUNICATIONS HILL) SHOWING THE BOUNDARIES OF THE DISTRICT AND THE EXTENT OF THE INCLUDED LANDS	0/05/02	37	31	16402589
AMENDED BOUNDARY MAP OF COMMUNITY FACILITIES DISTRICT NO. 8 (COMMUNICATIONS HILL) SHOWING THE AMENDED BOUNDARIES OF THE DISTRICT AND THE EXTENT OF THE INCLUDED LANDS	0/05/02	36	14	16464029
ANNEXATION AREA NO. 1 OF COMMUNITY FACILITIES DISTRICT NO. 8 (COMMUNICATIONS HILL) SHOWING THE BOUNDARIES OF THE ANNEXATION AREA AND THE EXTENT OF THE INCLUDED LANDS OF THE DISTRICT	1/29/04	39	30	17569990
ANNEXATION AREA NO. 2 OF COMMUNITY FACILITIES DISTRICT NO. 8 (COMMUNICATIONS HILL) SHOWING THE BOUNDARIES OF THE ANNEXATION AREA AND THE EXTENT OF THE INCLUDED LANDS OF THE DISTRICT	5/19/16	51	39	23308791

CERTIFICATIONS

(1) CITY CLERK

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE THIS _____ DAY OF _____, 20____.

TONI TABER, CMC
CITY CLERK

(2) CITY COUNCIL

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION AREA NO. 3 SHOWING THE ANNEXATION TO COMMUNITY FACILITIES DISTRICT NO. 8 (COMMUNICATIONS HILL), CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 20____ BY ITS RESOLUTION NO. _____.

TONI TABER, CMC
CITY CLERK

(3) COUNTY RECORDER

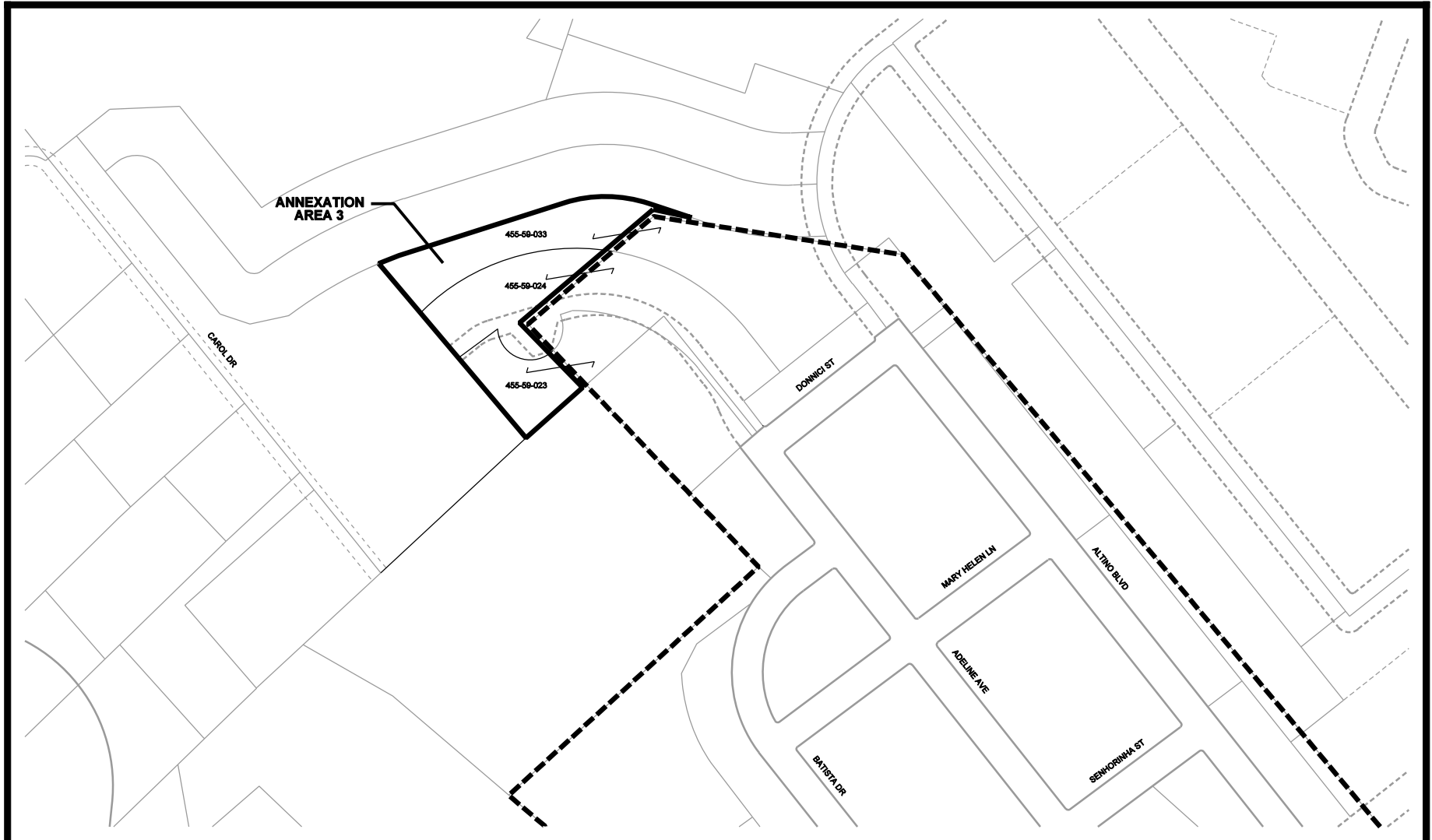
FILED THIS _____ DAY OF _____, 20____, AT THE HOUR OF _____ O'CLOCK _____ M., IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.
RECORDER'S SERIES NO.: _____ FEE PAID: _____

REGINA ALCOMENDRAS, COUNTY RECORDER
COUNTY OF SANTA CLARA



LOCATION MAP

ATTACHMENT A
CFD 8 Annexation Map



ATTACHMENT B
CFD 8 Authorized Services

CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)

DESCRIPTION OF SERVICES

CFD No. 8 is being formed to fund the maintenance of various improvements and amenities that are required to achieve the type of community envisioned in the Communications Hill Specific Plan. Maintenance of the improvements may include necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for safe and proper maintenance of the items set forth below. This list of items identifies those improvements and amenities which are authorized to be funded by CFD No. 8; however, not all items on this list are guaranteed to be funded by the CFD.

Items Authorized to be Maintained

- Median island landscaping
- Backup landscaping
- Parkstrip landscaping
- Street trees
- Pavers/decorative pavement
- Special entrances/gateways
- Separated sidewalks and associated landscaping
- Maintenance access roads
- Bike paths
- Stairways
- Stairway lighting and landscaping
- Retaining walls
- Graffiti removal and normal painting on soundwalls within right-of-way
- Trails/paved pathways
- Open spaces
- Slopes
- Drainage ditches
- Terraces
- Biological mitigation/conservation areas
- Plazas
- Storm water detention ponds
- Decorative street lighting

ATTACHMENT B
CFD 8 Authorized Services

CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)
ALTERATION NO. 1A

DESCRIPTION OF ADDITIONAL SERVICES

The services shown below are proposed to be added to the existing list of services financed by Community Facilities District No. 8 (Communications Hill) (the “CFD No. 8”) of the City of San Jose. This list of items identifies those services which are authorized to be funded by CFD No. 8; however, not all items on this list are guaranteed to be funded by the CFD.

Authorized Services

- Police protection services, including, without limitation, private security, community service officer and park ranger services for trails, terraces, overlooks, and staircases designated as parkland and common areas within CFD No. 8

ATTACHMENT C
CFD 8 Rate and Method of Apportionment

CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 8 (Communications Hill) [herein "CFD No. 8"] shall be levied and collected according to the tax liability determined by the City Council, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 8, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 8 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final subdivision map or other parcel map recorded at the Santa Clara County Recorder's Office.

"Act" means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code, and Chapter 14.27 of Title 14 of the Municipal Code of the City.

"Administrator" means the individual(s) designated by the City to administer the CFD in accordance with the authority and powers granted by the City Council.

"Airspace Parcel" means an Assessor's Parcel that shares common vertical space of an underlying land parcel with other parcels that have been assigned Assessor's Parcel numbers.

"Assessor's Parcel" or "Parcel" means a lot, parcel or Airspace Parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Santa Clara designating parcels by Assessor's Parcel number.

ATTACHMENT C
CFD 8 Rate and Method of Apportionment

“Church Property” means any Parcel within the CFD that meets both of the following criteria: (1) a structure has been built that is used as a place of worship, rectory, convent or private school, and (2) the Parcel is exempt from ad valorem property taxes because it is owned by a religious organization.

“City” means the City of San Jose.

“City Council” means the City Council of the City of San Jose, acting as the legislative body of CFD No. 8.

“Developed Property” means, in any Fiscal Year, all Taxable Property for which a building permit for new construction has been issued prior to June 30 of the preceding Fiscal Year.

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

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

“Non-Residential Property” means Parcels of Developed Property within CFD No. 8 that are not Residential Property.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Residential Property” means Parcels of Developed Property for which a building permit was issued for construction of a residential structure, including single family detached, duplex, triplex, fourplex, townhome, condominium or apartment units.

“Special Tax” means a special tax levied in any Fiscal Year to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of CFD No. 8, (iv) cure delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

ATTACHMENT C
CFD 8 Rate and Method of Apportionment

“Subsequent Non-Residential Property” means (i) a Parcel of Non-Residential Property which had, in any prior Fiscal Year, been taxed as Residential Property, or (ii) a Parcel that was, in the City’s sole discretion, expected to be Residential Property and subsequently had a building permit issued for a non-residential use. Notwithstanding the foregoing, if the City determines that, in conjunction with a particular Parcel being changed from a residential to a non-residential designation, there was a corresponding transfer of the residential land uses to another Parcel in CFD No. 8, the City may but is not required to categorize that Parcel as Subsequent Non-Residential Property.

“Taxable Property” means all Assessor’s Parcels within the boundaries of CFD No. 8 which are not exempt from the Special Tax pursuant to law or Section E below.

“Unit” means a residential dwelling unit, including individual single-family detached, duplex (2 units), triplex (3 units), fourplex (4 units), townhome, condominium, or apartment units.

B. DATA FOR ANNUAL ADMINISTRATION OF SPECIAL TAX

After July 1 of each Fiscal Year, the Administrator shall categorize all Parcels of Taxable Property in CFD No. 8 as either Residential Property, Non-Residential Property or Subsequent Non-Residential Property, as defined in Section A above. For each Parcel of Residential Property, the Administrator shall determine the number of Units on the Parcel by referencing the building permit, site plan, condominium plan, apartment plan or other development plan for the Parcel. If an individual Assessor’s Parcel contains both Residential Property and Non-Residential Property, the Administrator shall determine both the number of Units on the Parcel and the Acreage of the Parcel for purposes of applying the Maximum Special Tax as set forth in Section C.3 below.

C. MAXIMUM SPECIAL TAX

1. Residential Property

The Maximum Special Tax for Residential Property in CFD No. 8 is \$667 per Unit for Fiscal Year 2002-03. Beginning January 2, 2003 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

ATTACHMENT C
CFD 8 Rate and Method of Apportionment

2. *Non-Residential Property*

The Maximum Special Tax for Non-Residential Property in CFD No. 8 is \$300 per Acre for Fiscal Year 2002-03. Beginning January 2, 2003 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

3. *Subsequent Non-Residential Property*

The Maximum Special Tax for Subsequent Non-Residential Property shall be determined in the first Fiscal Year in which the property is categorized as Subsequent Non-Residential Property. If the Parcel had been taxed as Residential Property in the prior Fiscal Year, the Maximum Special Tax for the Parcel shall be equal to the Maximum Special Tax levied on the Parcel in the prior Fiscal Year adjusted by the increase, if any, in the Index that has occurred since January of the prior year. Beginning the next January 2, and each January 2 thereafter, the Maximum Special Tax on the Parcel shall again be adjusted by the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

If the Parcel of Subsequent Non-Residential Property had never been taxed as Residential Property, but had been expected to be developed as Residential Property, the Administrator shall apply the following steps to determine the Maximum Special Tax for the Parcel:

- Step 1:*** Estimate the number of Units that were expected to be developed on the Parcel before the land use changed to a non-residential use;
- Step 2:*** Multiply the Maximum Special Tax per Unit for Residential Property for the then current Fiscal Year by the number of anticipated Units from Step 1 to determine the Maximum Special Tax for the Parcel.

Beginning the next January 2, and each January 2 thereafter, the Maximum Special Tax on the Parcel shall again be adjusted by the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

ATTACHMENT C
CFD 8 Rate and Method of Apportionment

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied on all Parcels of Developed Property as follows:

Step 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;

Step 2: Calculate the total Special Tax revenues that could be collected from Developed Property within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section C above;

Step 3: If the amount determined in Step 1 is **greater than** the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property in the CFD. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in CFD No. 8, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the registered voters voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 **is equal to** the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property in the CFD.

If the amount determined in Step 1 is **less than** the amount calculated in Step 2, levy the Special Tax against all Parcels of Developed Property in equal percentages up to 100% of the Maximum Special Tax for each Parcel until the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

The Special Tax for CFD No. 8 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 8 may (under the authority provided in the Act), in any particular case, bill the taxes directly to the property owner off the County tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on land that has been conveyed to a Public

ATTACHMENT C
CFD 8 Rate and Method of Apportionment

Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. In addition, no Special Tax shall be levied on Church Property except that, if a Parcel that had been taxed in any prior Fiscal Year as Residential Property, Non-Residential Property or Subsequent Non-Residential Property becomes Church Property, the City has the discretion to levy a Special Tax against such Parcel if the Special Tax revenues generated from the Parcel are needed to meet the Special Tax Requirement.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.