

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch

SUBJECT: See Below

DATE: May 12, 2025

Approved



Date:

5/13/25

COUNCIL DISTRICT: 7

SUBJECT: Community Facilities District No. 11 Annexation Area No. 1 Public Hearing and Special Election

RECOMMENDATION

Conduct a public hearing and take the following actions relating to annexing Annexation Area No. 1 into Community Facilities District No. 11 (Adeline-Mary Helen):

- (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. 1 is annexed to Community Facilities District No. 11; 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. 1 to Community Facilities District No. 11.

SUMMARY AND OUTCOME

Approval of the annexation area to Community Facilities District No. 11 (Adeline-Mary Helen) (CFD 11) 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 (RES2025-86), to annex property into Community Facilities District No. 11 (Adeline-Mary Helen) (CFD 11). The resolution of intention set a public hearing on June 3, 2025, and called an election immediately following the close of the 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, 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 11, and the associated special tax, were approved by qualified voters in June 2005 to accommodate the temporary maintenance needs of certain properties on Communications Hill until the installation of gravity fed storm and sanitary sewer systems are installed. The boundaries of CFD 11 currently include properties at the top of the hill beyond the reach of the current gravity feed system within Altino Avenue on the east, Donnici Street on the north, Adeline Avenue on the west, and Senhorita Street on the south.

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 11 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 (RES2025-86) to annex Annexation Area No. 1 (Attachment A – CFD 11 Annexation Map) into CFD 11 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 11 Authorized Services). The properties within Annexation Area No. 1 will be subject to the same special tax levy as specified in CFD 11's Rate and Method of Apportionment (Attachment C – CFD 11 Rate and Method of Apportionment). The maximum special tax rate for the existing district as

adjusted by the Consumer Price Index for Fiscal Year 2024-2025 is \$1,051.34 per unit for Residential Units.

The proposed schedule of events for the Annexation Area No. 1 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. 1, 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. 1 to CFD 11.

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. 1 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. 1 is annexed to CFD 11 and the adoption of an ordinance imposing the levy of a special tax on those properties within Annexation Area No. 1.

The special tax for Annexation Area No. 1 will be collected at the same time and the same manner as ordinary ad valorem property taxes, provided, that the CFD 11 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 11 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 1,080.38 for Residential Units; however, the actual special tax levy will be \$683.59 for Residential Units.

EVALUATION AND FOLLOW-UP

This is the final City Council action in the annexation process for Annexation Area No. 1. 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, 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 was published 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

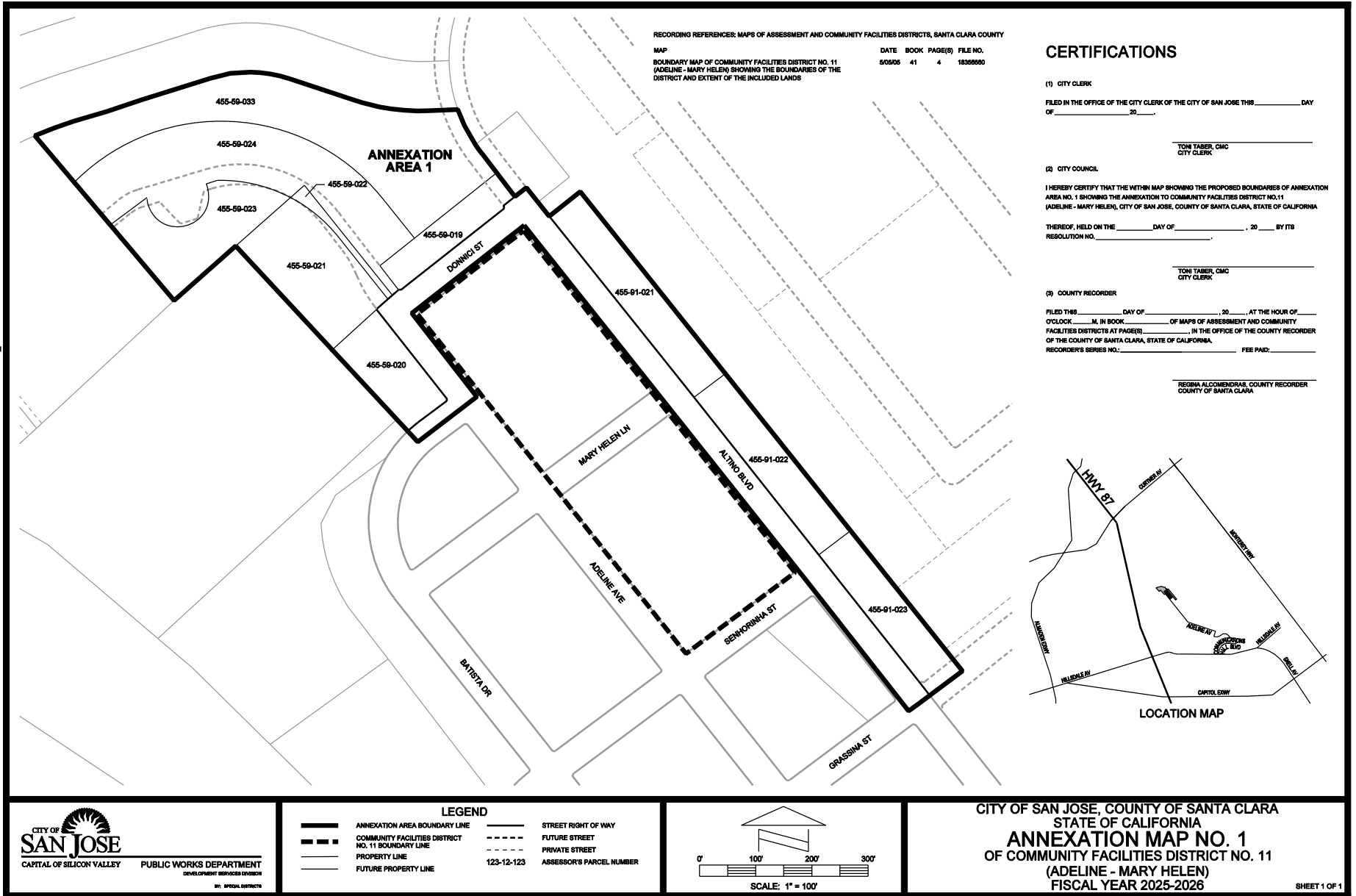
For questions, please contact J. Guevara, Deputy Director of Public Works, at j.guevara@sanjoseca.gov or (408) 535-8300.

ATTACHMENTS:

Attachment A – CFD 11 Annexation Map

Attachment B – CFD 11 Authorized Services

Attachment C – CFD 11 Rate and Method of Apportionment



ATTACHMENT B
CFD 11 Authorized Services

CITY OF SAN JOSE
Community Facilities District No. 11
(Adeline - Mary Helen)

DESCRIPTION OF PROPOSED SERVICES

The services proposed to be financed by Community Facilities District No. 11 (Adeline - Mary Helen) (the “CFD”) of the City of San José will provide for the maintenance of temporary sanitary and storm pump stations, including any appurtenances related to the operation of the pump stations and storm water detention pond. Maintenance of the improvements may include but will not be limited to necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for the safe and proper maintenance of items set forth below. This list identifies those improvements that are authorized for maintenance by the CFD; however, not all items on this list are guaranteed to be funded by the district.

Items authorized to be maintained:

- Sanitary sewer pump station
- Storm water pump station
- Storm water detention pond
- Electrical pedestal and generator that support the storm and sanitary pump stations
- Force mains
- Storm and sanitary mains
- Weed abatement around the pump station facilities and detention pond
- Litter and graffiti removal at pump station facilities and retaining wall
- Retaining wall
- Landscaping and irrigation
- Fencing and gates
- Drainage ditches
- Site lighting

ATTACHMENT C
CFD 11 Rate and Method of Apportionment

RATE AND METHOD OF APPORTIONMENT

A Services Special Tax shall be levied on all Taxable Parcels within Community Facilities District No. 11 (Adeline - Mary Helen) (the “CFD”), and collected according to the Rate and Method of Apportionment of Special Taxes described herein.

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.

“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 the CFD.

“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.

ATTACHMENT C
CFD 11 Rate and Method of Apportionment

“Electors” means the qualified voters, who are either the registered voters residing within the CFD (when there are at least 6) or the landowners within the CFD.

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

“Final Map” means a final map, or portion thereof, approved by the Director of Public Works pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) and Chapter 19.16 of the San Jose Municipal Code.

“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 B below that can be levied on Taxable Property in any Fiscal Year.

“Non-Residential Property” means Parcels of Developed Property within the CFD 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 the CFD, (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.

“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

ATTACHMENT C
CFD 11 Rate and Method of Apportionment

transfer of the residential land uses to another Parcel in the CFD, the City may but is not required to categorize that Parcel as Subsequent Non-Residential Property.

“Taxable Property” means all Assessors’ Parcels within the boundaries of the CFD that 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. MAXIMUM SPECIAL TAX

The Maximum Special Tax for Residential Property in the CFD is \$625 per Unit for Fiscal Year 2005-06. Beginning January 2, 2006 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the average annual change in the Index that has occurred since the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

C. CALCULATION OF THE SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied on Units receiving Special Storm and Sanitary Sewer Services as follows:

- Step1: 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 Units of Developed Property receiving Special Storm and Sanitary Sewer Services within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section B 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 each Unit on Developed Property receiving Special Storm and Sanitary Sewer Services pursuant to section B above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in the CFD, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the Electors voting in an election to increase the Maximum Special Tax.

ATTACHMENT C
CFD 11 Rate and Method of Apportionment

If the amount determined in Step 1 is equal to the amount calculated in Step 2, levy the Maximum Special Tax on Units receiving Special Storm and Sanitary Sewer Services pursuant to section B above.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax against Units receiving Special Storm and Sanitary Sewer Services 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.

D. COLLECTION OF THE SPECIAL TAX

The Special Tax for the CFD shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the CFD 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 Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Acts of 1982. If a Parcel had been taxed in any prior Fiscal Year as Residential Property and becomes Subsequent Non-Residential 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 information 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.