

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch
Jim Shannon

SUBJECT: See Below

DATE: April 1, 2025

Approved



Date:

4/10/25

COUNCIL DISTRICT: 7

**SUBJECT: Actions Related to the Intent to Annex Territory to Community
Facilities District No. 8 and Community Facilities District No. 11**

RECOMMENDATION

- (a) Approve an agreement with KB Home South Bay, Inc. to fund the City's costs in conducting annexation proceedings to Community Facilities District No. 8 and Community Facilities District No. 11 for enhanced services within the Communication Hill Specific Plan area.
- (b) Adopt a resolution of intention to:
 - (1) Annex Annexation Area No. 3 to Community Facilities District No. 8 (Communications Hill);
 - (2) Levy a special tax on land within Annexation Area No. 3;
 - (3) Set a Public Hearing for June 3, 2025, at 1:30 p.m. regarding the annexation; and
 - (4) Call an election immediately following the close of public hearing.
- (c) Adopt a resolution of intention to:
 - (1) Annex Annexation Area No. 1 to Community Facilities District No. 11 (Adeline-Mary Helen);
 - (2) Levy a special tax on land within Annexation Area No. 1;
 - (3) Set a Public Hearing for June 3, 2025, at 1:30 p.m. regarding the annexation; and
 - (4) Call an election immediately following the close of public hearing.
- (d) Adopt the following 2024-2025 Funding Sources Resolution and Appropriation Ordinance amendments in the Community Facilities District #8 (Communications Hill) Fund:
 - (1) Establish an estimate for Other Revenue in the amount of \$38,745; and

- (2) Establish an appropriation to the Public Works Department for the Community Facilities District No. 8 Annexation Feasibility Project in the amount of \$38,745.
- (e) Adopt the following 2024-2025 Funding Sources Resolution and Appropriation Ordinance amendments in the Community Facilities District #11 (Adeline-Mary Helen on Communications Hill) Fund:
 - (1) Establish an estimate for Other Revenue in the amount of \$38,745; and
 - (2) Establish an appropriation to the Public Works Department for the Community Facilities District No. 11 Annexation Feasibility Project in the amount of \$38,745.

SUMMARY AND OUTCOME

City Council formed Community Facilities District No. 8 (Communications Hill) (CFD 8) in 2002 and Communities Facilities District No. 11 (Adeline-Mary Helen on Communications Hill) (CFD 11) in 2005 to provide enhanced services to the Communications Hill Specific Plan area. The districts levy a special tax that only pays for authorized district services that are above standard City services. As the area continues to develop, the developer of yet-to-be-recorded Phase 3.1 of the Communications Hill 2 project has submitted petitions to annex property into CFD 8 and CFD 11.

Approval of the agreement (**Attachment A** – Funding Agreement) and adoption of the resolutions will allow the City to initiate the annexation process, which meets the legal requirement to allow affected property owners to vote on the proposed annexations. The public hearing on June 3, 2025, will allow public testimony to be presented to City Council. At the close of the public hearing, City Council will conduct a special election whereby property owners within the annexation areas cast ballots in favor of, or opposed to, the special tax, with votes weighted by the acreage of land owned. If the annexations are voter approved, the special tax will commence in Fiscal Year 2025-2026 and will include a Consumer Price Index 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 (**Attachment B** – CFD 8 Annexation Map).

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 (**Attachment C** – CFD 11 Annexation Map).

Phases 3 and 4 of the residential portion of the Communication Hill 2 project is taking steps toward development. The developer has submitted petitions requesting the annexation of Phase 3.1 under permit 2024-087709 Improvement Plan into CFD 8 ("CFD 8 Annexation Area No. 3") and CFD 11 ("CFD 11 Annexation Area No. 1") 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. City staff has studied the proposal and believes that annexing Phase 3.1 into the two districts is feasible.

ANALYSIS

The agreement requires the developer to deposit \$77,490 to fund City staff costs to initiate and perform annexation proceedings for annexing the properties into both districts. If the City's costs exceed the initial deposit, the agreement includes provisions for additional funding by the developer. In the event the City does not wholly expend the deposit amount, the agreement allows for the refund of unspent funds to the developer.

Along with the agreement, staff recommends City Council initiate annexation proceedings to add Phase 3.1 of the Communications Hill 2 property to CFD 8 and CFD 11. Properties in proposed CFD 8 Annexation Area No. 3 and proposed CFD 11 Annexation Area No. 1 will be subject to the same special tax levy as specified in each

district's Rate and Method of Apportionment. **Table 1** below presents the various attachments that provide details about the proposed annexations.

Table 1

	CFD 8	CFD 11	Description
Annexation Map	Attachment B	Attachment C	Shows the properties proposed to be annexed to the district.
Authorized Services	Attachment D	Attachment F	Services allowed, however, contingent upon available funding.
Rate and Method of Apportionment	Attachment E	Attachment G	Includes criteria for taxation, maximum tax, and annual adjuster.

The maximum annual special taxes for the land uses are adjusted annually each January 2 based on the change in the annual average of the Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-Hayward Area. The special tax levy is determined based on the amount needed to provide authorized services and can be adjusted annually up to the maximum special tax without limitation. **Table 2** summarizes the maximum special tax and the actual special tax levy for Fiscal Year 2024-2025.

Table 2

	CFD 8		CFD 11	
Fiscal Year 2024-2025	Maximum Tax	Tax Levy	Maximum Tax	Tax Levy
Residential	\$1,174.50	\$737.58	\$1,051.34	\$665.21
Non-Residential	\$528.14	\$331.68	N/A	N/A

Annexations to a Community Facilities District must be in accordance with the Community Facilities District Financing Procedure contained in the San José Municipal Code, which incorporates and modifies the Mello-Roos Community Facilities Act of 1982. For Community Facilities Districts, a two-thirds vote of the qualified electors within the annexation area casting ballots is required to approve the special tax.

If fewer than 12 registered voters reside in the annexation area—as is the case for CFD 8 Annexation Area No. 3 and CFD 11 Annexation Area No. 1—the property owner becomes the qualified elector, with votes apportioned according to acreage. A maximum tax rate is established with an annual inflation adjuster, and it cannot exceed the adjusted amount without voter approval. Since these proposed annexations currently have one property owner, KB Home South Bay, Inc., the developer has waived the lengthy noticing requirement, expediting the election process as outlined in the schedule below, shown in Table 3.

Table 3

Date	Milestone
April 22, 2025	<ul style="list-style-type: none">• Adopt a Resolution of Intention• Set a Public Hearing• Set Election
May 5, 2025	<ul style="list-style-type: none">• Mail Ballots and Notice of Public Hearing
May 27, 2025	<ul style="list-style-type: none">• Publish Notice of Public Hearing
June 3, 2025	<ul style="list-style-type: none">• Conduct Public Hearing and Election
June 18, 2025	<ul style="list-style-type: none">• Record Notice of Special Tax

The public hearing on June 3, 2025, will allow public testimony to be presented to the City Council. City Council must consider all objections or protests to the proposed special tax levy. The hearing may be continued, if necessary, to allow staff to respond to City Council's inquiries. At the close of the public hearing, City Council will conduct a special election whereby property owners within the district cast ballots in favor of, or opposed to, the special tax, with votes weighted by the acreage of land owned. If approved, the proposed special tax will begin Fiscal Year 2025-2026 and will continue to be adjusted annually.

To be included in the vote, each completed ballot must be received by the City Clerk prior to the close of the public hearing. Although this is a mailed ballot election, property owners may submit their ballot to City Council at the public hearing.

EVALUATION AND FOLLOW-UP

The public hearing on June 3, 2025, will allow public testimony to be presented to City Council. At the close of the public hearing, City Council will conduct a special election. If the district is approved, staff will propose appropriation and funding sources recommendations for City Council approval.

COST SUMMARY/IMPLICATIONS

As recommended in this memorandum, KB Home South Bay, Inc. will provide funding of \$77,490 to reimburse the City for existing staff to investigate the feasibility of district annexation, and, if feasible, to annex property into CFDs 8 and 11.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Current Appn.	Rec. Budget Action	2024-2025 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
373	R130	Other Revenue	N/A	\$38,745	N/A	N/A
374	R130	Other Revenue	N/A	\$38,745	N/A	N/A
373	New	Community Facilities District No.8 Annexation Feasibility Project	N/A	\$38,745	N/A	N/A
374	New	Community Facilities District No. 11 Annexation Feasibility Project	N/A	\$38,745	N/A	N/A

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the April 22, 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.

If approved by City Council on April 22, 2025 the Notice of Public Hearing, along with the property owner ballot, will be mailed on or before May 5, 2025, and the Notice of Public Hearing will be published on May 27, 2025. The notice will include the text of the Resolution of Intention, the time and place of the hearing, a statement that public testimony will be heard, and a description of the voting procedure.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

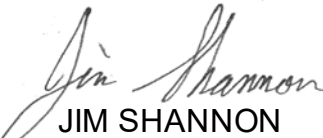
CEQA

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


JIM SHANNON
Budget Director

I hereby certify that there will be available for appropriation in the Community Facilities District #8 (Communications Hill) Fund in the Fiscal Year 2024-2025 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$38,745, and in the Community Facilities District #11 (Adeline-Mary Helen on Communications Hill) Fund in the Fiscal Year 2024-2025 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$38,745.


JIM SHANNON
Budget Director

HONORABLE MAYOR AND CITY COUNCIL

April 1, 2025

Subject: Actions Related to the Intent to Annex Territory to Community Facilities District No. 8 and Community Facilities District No. 11

Page 8

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

ATTACHMENTS:

Attachment A – Funding Agreement

Attachment B – CFD 8 Annexation Map

Attachment C – CFD 11 Annexation Map

Attachment D – CFD 8 Authorized Services

Attachment E – CFD 8 Rate and Method of Apportionment

Attachment F – CFD 11 Authorized Services

Attachment G – CFD 11 Rate and Method of Apportionment

ATTACHMENT A
Funding Agreement

**AGREEMENT BETWEEN THE CITY OF SAN JOSE AND
KB HOME SOUTH BAY INC. FOR
FUNDING DISTRICT FEASIBILITY AND ANNEXATION
TO COMMUNITY FACILITIES DISTRICT NO. 8 AND
COMMUNITY FACILITIES DISTRICT NO. 11**

THIS AGREEMENT is made and entered into this _____ day of _____ 2024, by and between the CITY OF SAN JOSE, a municipal corporation of the State of California (the "CITY"), and KB HOME SOUTH BAY INC., a California corporation (the "DEVELOPER").

RECITALS

- A. DEVELOPER has initiated the development process for its property located along Altino Boulevard and Donnichi Street, APNs 455-59-019 through 24, 455-59-033, and 455-91-021 through -023, planned for future subdivision under Tract No. 10636, ("Property") in the Communications Hill Specific Plan area of the CITY; and
- B. The City approved planned development permit 2024-087709 IP calls for the construction and maintenance of various public infrastructure improvements, including enhanced landscape and hardscape in various locations in the public right-of-way, and stormwater treatment measures (collectively, the "Public Improvements"); and
- C. DEVELOPER and CITY desire to investigate the feasibility of annexing Property to Community Facilities District No. 8 (Communications Hill) and Community Facilities District No. 11 (Adeline-Mary Helen) (collectively, the "Districts") to fund the maintenance of the Public Improvements; and
- D. CITY staff time will be required to investigate the feasibility of an annexation and to take the initial steps required to annex Property to each District; and
- E. CITY and DEVELOPER desire to enter into this Agreement to provide for CITY to investigate the feasibility of annexing Property to each District and if necessary to engage any consultants needed to perform these activities, and for DEVELOPER to advance funds to CITY to cover the costs incurred by CITY in the performance of such tasks.

NOW, THEREFORE, in consideration of their mutual promises and subject to the terms, provisions, and conditions hereinafter set forth, the parties hereto agree as follows:

1. RESPONSIBILITIES OF DEVELOPER

DEVELOPER shall perform the obligations to the satisfaction of CITY'S Director of Public Works (the "Director"):

1.1 Payment of CITY'S Costs. DEVELOPER shall advance sufficient funds to pay for all CITY'S costs, direct and indirect, incurred in performing the scope of work described in Section 2.1.

1.2 Deposits.

1.2.1 Payment. DEVELOPER shall make an initial deposit with CITY of SEVENTY-SEVEN THOUSAND, FOUR HUNDRED NINETY DOLLARS (\$77,490.00), (the "Deposit") to pay for all CITY'S costs related to researching and investigating annexation of the Property and to possibly annexing the Property to Districts. The standard initial deposit is THIRTY-EIGHT THOUSAND, SEVEN HUNDRED FORTY-FIVE DOLLARS (\$38,745.00) for annexing Property to each community facilities district. The Deposit shall be made within five (5) business days following full execution of this AGREEMENT by CITY and DEVELOPER. Notwithstanding anything to the contrary in this AGREEMENT, DEVELOPER shall have no obligation to pay CITY any amount in excess of the Deposit without DEVELOPER'S written authorization. Nor shall CITY be obligated to perform any services in excess of the initial Deposit of \$77,490.00 until such time as DEVELOPER makes an additional deposit as set forth in Section 1.2.3 below.

1.2.2 Accounting. The Deposit may be comingled with other funds of the CITY, but the CITY shall at all times maintain records as to the expenditure of the Deposit.

1.2.3 Additional Deposits. Requests to DEVELOPER for additional deposits will be made in writing by the Director or the Director's designee. DEVELOPER shall make additional deposits in FIFTEEN THOUSAND DOLLAR (\$15,000.00) increments to CITY to replenish the account as necessary pursuant to this AGREEMENT within thirty (30) calendar days of receipt of the written request for additional funds from the Director or designee. If the Deposit, including interest, is wholly expended, CITY will do no further work related to the Districts until DEVELOPER deposits with CITY additional funds to cover estimated remaining CITY expenses for the Districts as provided herein.

1.2.4 Relationship to Other Fees and Charges. The funds deposited with CITY pursuant to this Section 1.2 do not cover any fees or charges set by resolution or ordinance of CITY as part of the development process, including but not limited to, fees and charges collected in connection with subdivision maps, planning permits, environmental review, encroachment permits (collectively, "Development Permits"), and improvement agreements.

1.3 No Commitment by CITY.

1.3.1 DEVELOPER acknowledges and understands that this Agreement is only for the purpose of allowing CITY staff and CITY consultants to perform necessary tasks connected with the feasibility investigation and initial steps toward District annexation. DEVELOPER agrees and acknowledges that this Agreement in no way commits CITY to approve any project proposed by DEVELOPER in the Communications Hill Specific Plan area, nor in any other way commits CITY regarding DEVELOPER'S Communications Hill 2 - Phase III and Phase IV projects.

1.3.2 DEVELOPER acknowledges that, even if CITY decides not to annex the Property, or does not complete the work described in Section 2.1, DEVELOPER shall remain responsible for payment of all administrative and overhead costs incurred by CITY in the performance of the scope of work described in Section 2.1 during the term of this Agreement, and all other payments required of DEVELOPER under this Agreement. Provided, however, that, as set forth above, DEVELOPER shall have no obligation to pay CITY any amount in excess of the Deposit without DEVELOPER'S written authorization.

1.4 Engineering and Architectural Work. DEVELOPER shall provide a description of the Public Improvements proposed to be maintained by the Community Facilities District ("CFD"), including plans, maps, and diagrams as requested by CITY. DEVELOPER shall meet with CITY as necessary to determine the level of maintenance required for the Public Improvements to be maintained by the CFD. All services provided by DEVELOPER under this section shall be collectively referred to as the "Engineering Services."

1.5 DEVELOPER'S Consultants. DEVELOPER has hired or intends to hire the following consultants to perform the Engineering Services.

Engineering and Design:	HMH Engineers
Architectural Design:	KTGY Group, Inc.
Landscape Design:	The Guzzardo Partnership, Inc.

CITY agrees to DEVELOPER'S use of these consultants and/or subconsultants. In the event that DEVELOPER determines that additional or substitute consultants are needed, DEVELOPER agrees to work with CITY to ensure that the most qualified consultants are selected. CITY shall have the right to reject DEVELOPER's consultant selections. CITY shall approve in writing advance any additional or substitute subconsultants retained by prime consultant to perform work pursuant to this Agreement. CITY shall have the right to review and approve the scope of the services for any additional or substitute consultants or subconsultants.

In the event this Agreement expires or is terminated as provided herein, DEVELOPER shall provide CITY with all reports, drawings, and other work product related to the maintenance of the Public Improvements (collectively, "Work Product") of its design engineer and other consultants to the extent that DEVELOPER owns such Work Product and DEVELOPER shall authorize CITY to use such items in connection with the development of the Communications Hill 2 - Phase III and Phase IV areas.

1.6 INTENTIONALLY OMITTED

1.7 Indemnity. To the fullest extent permitted by law, the **DEVELOPER** shall defend, indemnify and hold harmless the CITY and its officers, employees and agents against all claims, losses, damages, injuries, expenses or liabilities that – directly or indirectly, or in whole or in part - arise out of, pertain to, or relate to this AGREEMENT, including but not limited to any of the following:

- The DEVELOPER's negligent performance of all or any part of the DEVELOPER or any of its subconsultant's obligations under this AGREEMENT; or
- Any negligent act or omission, recklessness or willful misconduct of the Consultant, any of its subconsultants, anyone directly or indirectly employed by either the DEVELOPER or any of its subconsultants, or anyone that they control; or
- Any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person(s) caused by the City's use of any services, deliverables or other items provided by the DEVELOPER; or
- Any defect or other flaw of the Engineering Services or the Documents and services to be performed pursuant to this AGREEMENT
- Any breach of this AGREEMENT.

The obligation in this Section 1.7 does not apply to the extent that any claim, loss, damage, injury, expense or liability results from the sole negligence or willful misconduct of the City or its officers, employees or agents. Upon the City's written request, the DEVELOPER, at its own expense, shall immediately defend any suit or action that is subject to the obligation in this Subsection 1.7.

The City's acceptance of any insurance in accordance with Section 1.6 above does not relieve the DEVELOPER from its obligations under this Section 1.7. The DEVELOPER's obligations under this Section 1.7 apply whether or not the insurance required by the AGREEMENT covers any damages or claims for damages.

The DEVELOPER's obligations under this Section 11 survive the expiration or earlier termination of the AGREEMENT.

DEVELOPER shall cause and require all subconsultants hired by DEVELOPER to defend, indemnify and hold harmless CITY, its officers, employees and agents as set forth above.

2. RESPONSIBILITIES OF CITY

2.1 Scope of Work.

2.1.1 Feasibility and District Annexation. CITY will conduct a preliminary investigation of the feasibility of District annexation to fund the maintenance of the Public Improvements including: evaluation of which services should be provided by the CFD; meetings with DEVELOPER to determine the appropriate level of maintenance for the improvements to be included in the CFD; and calculation of the cost of carrying out such maintenance. If District annexation is determined to be feasible, CITY will initiate the process to annex Property to the District to maintain the Public Improvements.

2.1.2 Engineering & Architectural Work. If District annexation is determined to be feasible, CITY will perform necessary engineering and other work required to for the District Annexation pursuant to Chapter 14.27 of the City of San Jose Municipal Code, which incorporates and modifies 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.

2.1.3 Review and Approval of Documents. At appropriate intervals during the development process, DEVELOPER shall submit to CITY for review and comment all engineering plans, maps, diagrams, architectural drawings, cost estimates and other documents (collectively, "Documents") required to be prepared by DEVELOPER or DEVELOPER'S consultants pursuant to Section 1.4. CITY will review each submittal and provide DEVELOPER its review comments. DEVELOPER shall address CITY's review comments and where appropriate incorporate them into the Documents.

2.1.4 Meetings. CITY staff will attend meetings with the DEVELOPER and DEVELOPER'S consultants as needed to implement the purposes of this AGREEMENT.

2.2 Consultants. CITY, in its sole discretion, may engage outside consultants to assist CITY in its performance of this AGREEMENT, for which DEVELOPER shall be obligated to pay subject to the provisions of Section 1.2.1.

2.3 Deposit.

2.3.1 Accounting.

- a. The Department of Public Works will keep records of all funds advanced by DEVELOPER pursuant to this AGREEMENT and of all expenditures of such funds.
- b. CITY must be fully cost recovery under this AGREEMENT. CITY will bill work at hourly rates based on CITY'S direct and indirect costs, including but not limited to, salaries, benefits, overhead and other administrative expenses. Fees and other costs of any consultants hired by CITY in connection with the scope of work described in Section 2.1 shall be billed at the rate actually incurred by CITY. Fees and other costs of publication of notices, preparation and mailing of ballots and other costs related to the annexation process with respect to the District shall be billed at the rate incurred by the CITY.
- c. At any time during normal business hours, but upon no less than forty-eight (48) hour notice, and not more than once every three (3) months, DEVELOPER may request, and CITY will make available to DEVELOPER for examination, all records, contracts, invoices, materials, conditions of employment and other data relating to all matters covered by this AGREEMENT.

2.3.2 Refunds. If, following the expiration or earlier termination of this AGREEMENT, a portion of the amount(s) deposited by DEVELOPER remain unexpended and unencumbered, CITY will return such amount(s) to DEVELOPER within thirty (30) calendar days of the final accounting, as referenced in Section 3.3 below.

3. OBLIGATIONS OF BOTH PARTIES

3.1 **Termination and Expiration.** Either DEVELOPER or CITY may terminate this AGREEMENT by delivering to the other party ten (10) calendar days advance written notice of election to terminate. In addition, this AGREEMENT may be terminated for default as provided in Section 3.2. If not subject to earlier termination, as provided herein, this AGREEMENT shall expire upon the later to occur of: (1) a determination by CITY not to proceed with District annexation; or (2) the date that the Property is annexed.

3.2 INTENTIONALLY OMITTED

3.3 Disposition of Deposit. If this Agreement expires or is terminated as provided herein, either by DEVELOPER or CITY, the balance of any remaining Deposits made by DEVELOPER that are not required to pay for costs already incurred by CITY in accordance with this Agreement prior to the expiration date or the date of the termination notice, shall be refunded to DEVELOPER within thirty (30) calendar days after the date of expiration or termination. CITY shall not refund any funds expended from the Deposits prior to the expiration date or the date of the termination notice, nor be responsible for any reimbursement of such expended funds to DEVELOPER. DEVELOPER shall reimburse CITY for any additional costs incurred by CITY in accordance with this Agreement prior to the expiration date or the date of the termination notice that exceed the amounts deposited by DEVELOPER within thirty (30) calendar days after the date of expiration or termination.

3.4 Notices. All notices to be given hereunder shall be in writing and shall be served, either personally or by mail, postage prepaid, to the addresses set forth below, or to any other address provided by one party to the other in writing.

To CITY: City of San José
Department of Public Works
Development Services Division
Attn: Stanley Wong
200 East Santa Clara Street, 3rd Floor
San José, CA 95113

To DEVELOPER: KB Home South Bay, Inc.
5000 Executive Parkway, Suite 125
San Ramon, CA 94583
Attn.: Blake Peters

The effective date of such written notice shall be the date of personal delivery or the date of receipt by certified mail or three calendar days after mailing in the United States Mail.

3.5 Entire Agreement. This AGREEMENT contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, AGREEMENTS, arrangements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this AGREEMENT, which are not fully expressed herein. This AGREEMENT may not be amended except pursuant to a written instrument signed by all parties.

3.6 Assignment. DEVELOPER shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or notation), without the prior written approval of CITY; provided that DEVELOPER may assign any interest in this Agreement to any entity that is a member of DEVELOPER or to any successor owner of the Property without CITY's consent.

- 3.7 Waiver.** The parties agree that waiver by either party of any breach of one (1) or more of the terms, covenants or conditions under this AGREEMENT or any default in the performance of any obligations under this Agreement shall not be construed as waiver by that party of any other term, covenant, condition or obligation, nor shall a waiver of any incident of breach or default constitute a continuing waiver of same.
- 3.8 Applicable Law and Venue.** This AGREEMENT shall be governed by and interpreted in accordance with the laws of the State of California. In the event that suit shall be brought by either party to enforce or interpret the terms of this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.
- 3.9 No Third-Party Beneficiaries.** This AGREEMENT shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties, and no third party or parties shall have any right or action hereunder for any cause whatsoever.

APPROVED AS TO FORM:

“City”

CITY OF SAN JOSE, a municipal corporation

By {{__signer2}}

By {{__signer3}}

JOHNNY V. PHAN
Chief Deputy City Attorney

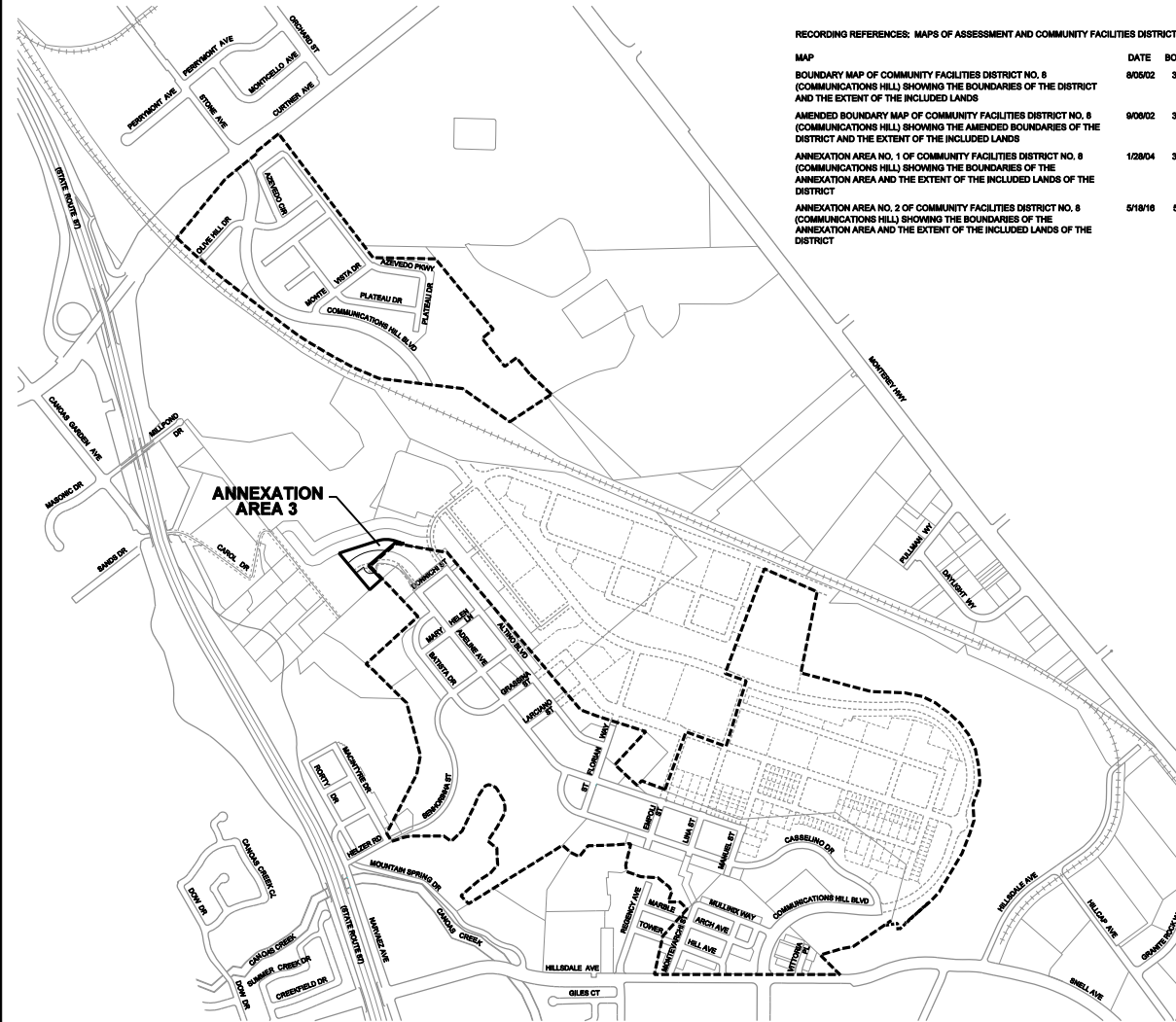
TONI J. TABER, CMC,
City Clerk

“DEVELOPER”

KB Home South Bay Inc., a California
corporation

By _____
Title:

ATTACHMENT B 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	8/05/02	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	9/09/02	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	17589990
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	5/18/16	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

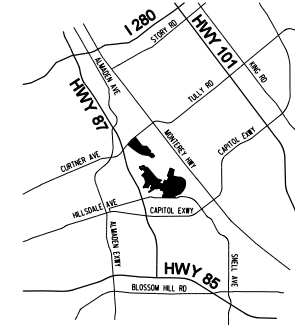
I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION AREA NO. 3 SHOWING THE ANNEXATION TO COMMUNITY FACILITIES DISTRICT NO. 8 (COMMUNICATIONS HILL), CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AT A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

TONI TABER, CMC
CITY CLERK

(3) COUNTY RECORDER

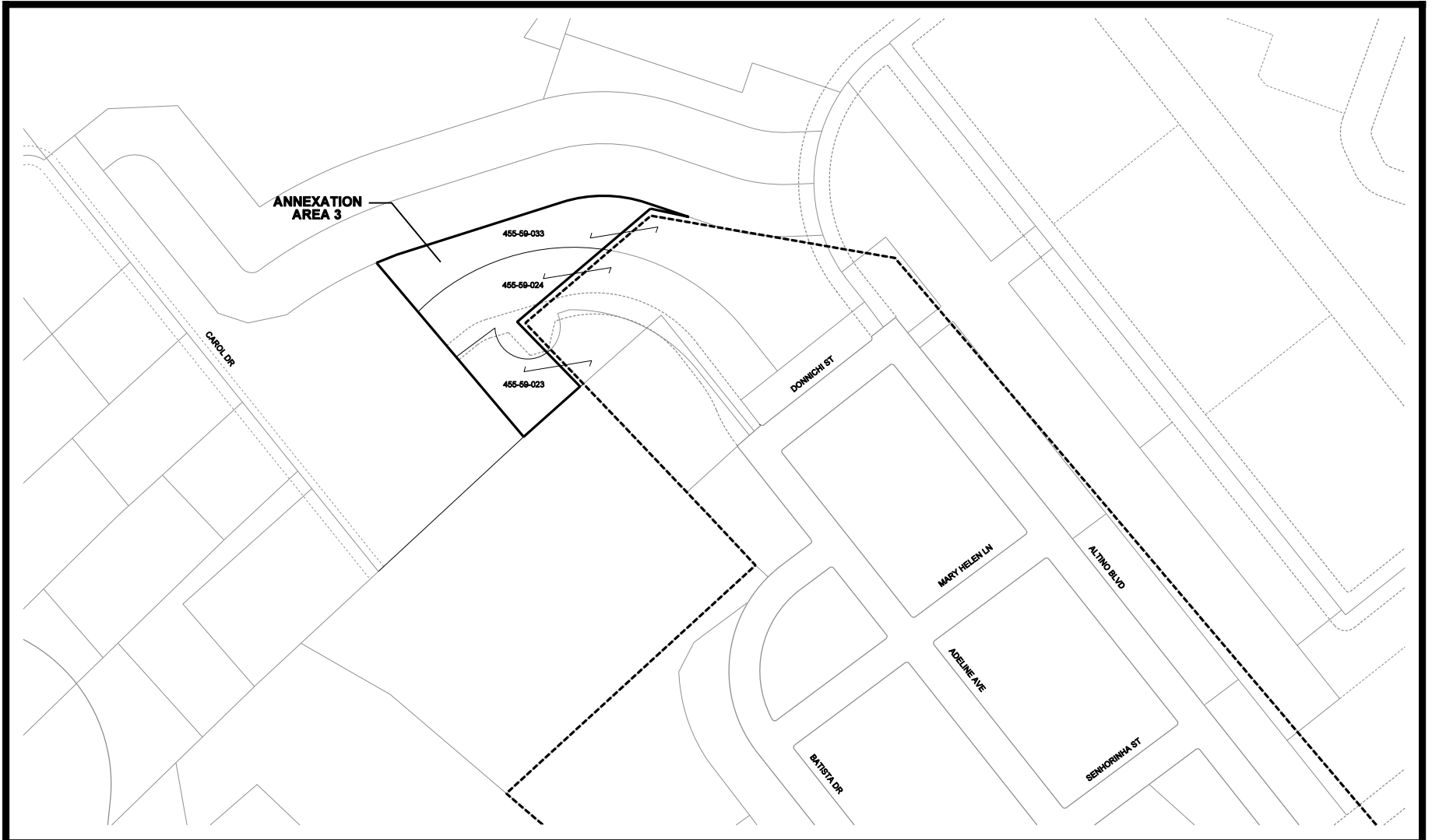
FILED THIS _____ DAY OF _____, 20____, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.
RECORDER'S SERIES NO.: _____ FEE PAID: _____

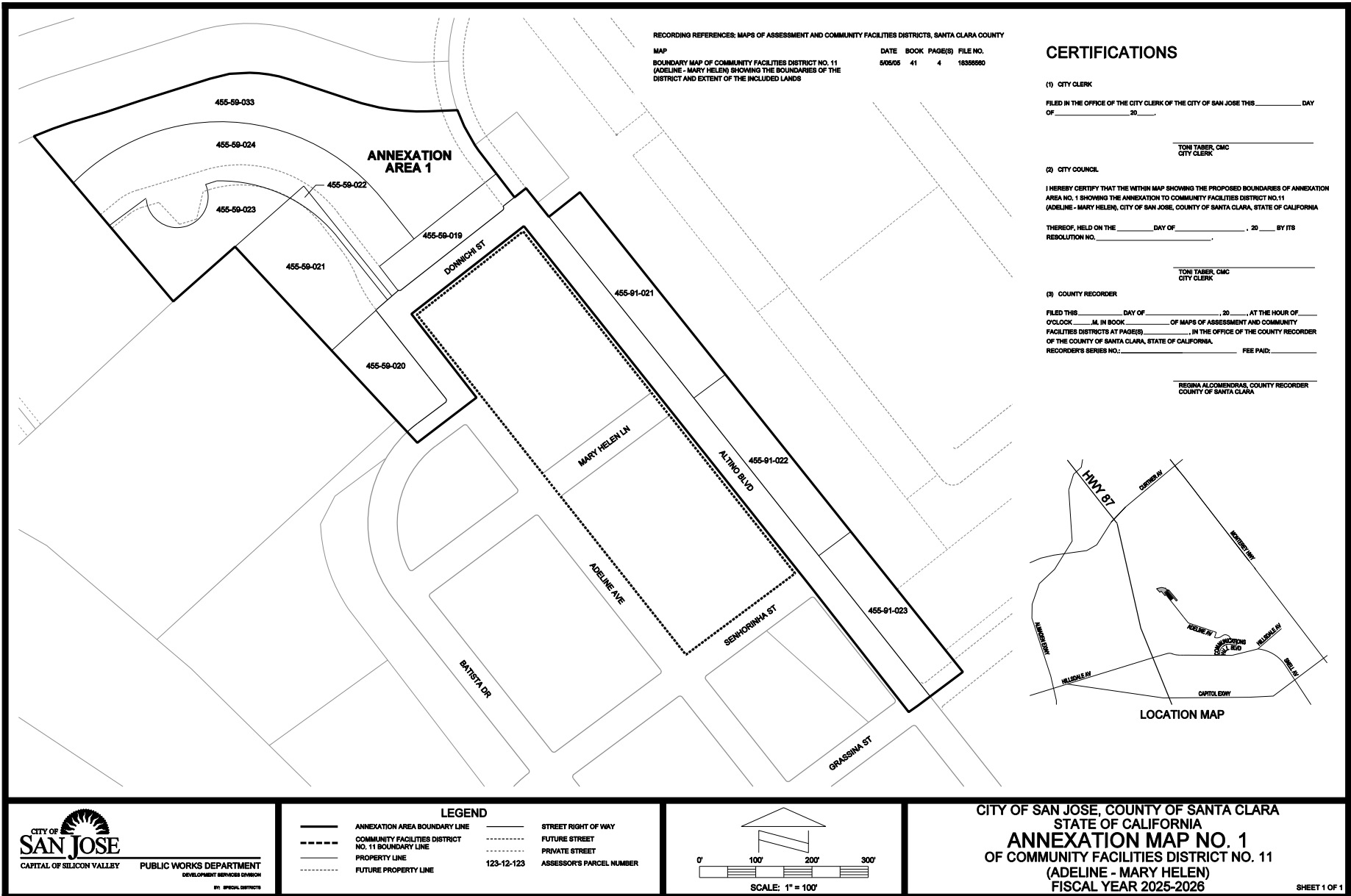
REGINA ALCOMENDRAS, COUNTY RECORDER
COUNTY OF SANTA CLARA



LOCATION MAP

ATTACHMENT B
CFD 8 Annexation Map





ATTACHMENT D
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 D
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 E
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 E
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 E
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 E
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 E
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 E
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.

ATTACHMENT F
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 G
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 G
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 G
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 G
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.