



COUNCIL AGENDA: 04-26-05

ITEM: 2.16

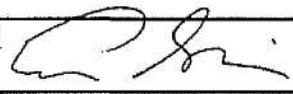
# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT:** INTENT TO FORM  
COMMUNITY FACILITIES  
DISTRICT NO. 11

**DATE:** 04-06-05

Approved 

Date 4/13/05

Council District: 7

## RECOMMENDATION

Adoption of a resolution of intention to form Community Facilities District No. 11 (Adeline-Mary Helen) to authorize the levy of special tax pursuant to the City of San José Community Facilities District Financing Procedure, to set a public hearing on June 7, 2005 at 1:30 p.m. regarding the formation of the District and to hold an election immediately following the close of the public hearing.

CEQA: Exempt, File No. PP05-021

## BACKGROUND

In 1992, Council adopted a Specific Plan for Communications Hill to define the criteria to develop the area as a dense, highly urbanized residential neighborhood. Development began at the intersection of Hillsdale Avenue and Communications Hill Boulevard on the southern portion of the hill and has progressed up over the hill to Tract No. 9354 on the top of the northern slope. This Tract is currently in the development process with the challenge that many of the lots are situated beyond reach of the existing storm and sanitary gravity fed systems on the southern portion of the hill, and there is no development on the northern slope with which to connect. The parcels adjacent to Tract No. 9354 on the northern side of the hill are owned by MTA Properties, and the timeline for development of these parcels is uncertain. This leaves a portion of Tract No. 9354, adjacent to this undeveloped land, unable to provide a City standard, storm and sanitary sewer gravity fed connection.

Therefore, City staff, in cooperation with the owner/developer of Tract No. 9354, KB Home South Bay Inc. (Developer), has required the construction, operation, and maintenance of storm and sanitary pump stations for those lots unable to connect to existing facilities. A City of San José Community Facilities District (CFD) provides funding for maintenance of public facilities

though a levy of special taxes upon property within the boundaries of the CFD. CFDs must be formed 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.

On March 29, 2005, Council approved a deposit agreement with the Developer and adopted an appropriation ordinance for the \$20,000 deposit received from the Developer. The deposit is to fund staff costs to determine the responsibilities of the district, which are outlined in Attachment B titled "Description of Services," and conduct the formation proceedings.

### ANALYSIS

Staff recommends that Council initiate formation proceedings for Community Facilities District No. 11 (Adeline – Mary Helen) to provide for the operation and maintenance of storm and sanitary pump stations for Tract No. 9354 until such time as all lots are connected to gravity feed systems.

For CFDs, casting ballots are required to approve the special tax. Because there are less than 12 registered voters residing within the proposed district boundaries, property owners cast ballots that are apportioned according to acreage. A maximum tax rate is established with an annual inflation adjustment, and the tax rate may not be raised above the adjusted amount for that year without subsequent approval from the electors.

The attachments as listed below, provide detail for the district:

Attachment A	Proposed Boundaries Map
Attachment B	Description of Services
Attachment C	Rate and Method of Apportionment of Special Tax

To expedite the process and avoid delays, the district formation schedule below anticipates Developer cooperation by signed waiver of the lengthy noticing requirement, allowing the election to be accelerated and held immediately following the close of the public hearing.

The proposed schedule of events for the formation of CFD No. 11 follows:

1.	City Council	Adopt a resolution of intention Set Public Hearing Set Election	April 26, 2005
2.	Public Works	Distribute Ballots	May 09, 2005
3.	City Clerk	Publish Notice of Public Hearing	May 31, 2005
4.	City Council	Conduct Public Hearing Conduct Election	June 07, 2005
5.	Public Works	Record Notice of Special Tax Lien	June 15, 2005
6.	Public Works	Special Tax to Santa Clara County Tax Collector	August 2005

### **OUTCOME**

The desired outcome for these proceedings is the formation of a CFD to provide for the operation and maintenance of storm and sanitary pump stations necessary for the development of Tract No. 9354, and the continued orderly development of Communications Hill.

### **PUBLIC OUTREACH**

These actions were initiated at the request and with support from the property owner/developer and were prepared by Public Works. City staff has met with the Developer regularly regarding the district and their development plans. Staff will mail the notice and ballot for the proposed special tax to the Developer.

### **COORDINATION**

This memorandum and related documents were prepared in cooperation with the Departments of Transportation, Planning, Building and Code Enforcement, the City Attorney's Office and the City Manager's Budget Office.

### **COST IMPLICATIONS**

The Developer has submitted a deposit of \$20,000 to pay formation costs for the district. Any unused funds will be returned to the Developer. If all funds are exhausted prior to the certification of election results, the Developer must provide additional funds to continue the process or the formation process will be discontinued.

These actions are in compliance with the Mayor's Budget Strategy in that staff costs are funded by the Developer's deposit. If district formation is approved by the qualified voters, the costs of

services provided through the district will be funded through annual special taxes on the properties within the district.

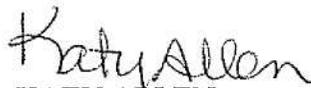
**BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. For Contract	Adopted Budget Page	Last Budget Action (Date, Ord. No.).
465	TBD	CFD No. 11 Feasibility Study	N/A*	\$20,000	N/A		

\* Appropriation ordinance amendments to establish this appropriation have been included in a memorandum scheduled for Council's consideration at the March 29, 2005, Council Meeting.

**CEQA**

Exempt, File No. PP05-021.



KATY ALLEN

Director, Public Works Department

Attachments

HF: TMB

CMcfd11intent.doc

# ATTACHMENT A

## CERTIFICATIONS

(1) CITY CLERK  
 FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE THIS \_\_\_\_\_ DAY  
 OF \_\_\_\_\_ 2004.

\_\_\_\_\_  
 LEE PRINCE, DMC  
 CITY CLERK

(2) CITY COUNCIL

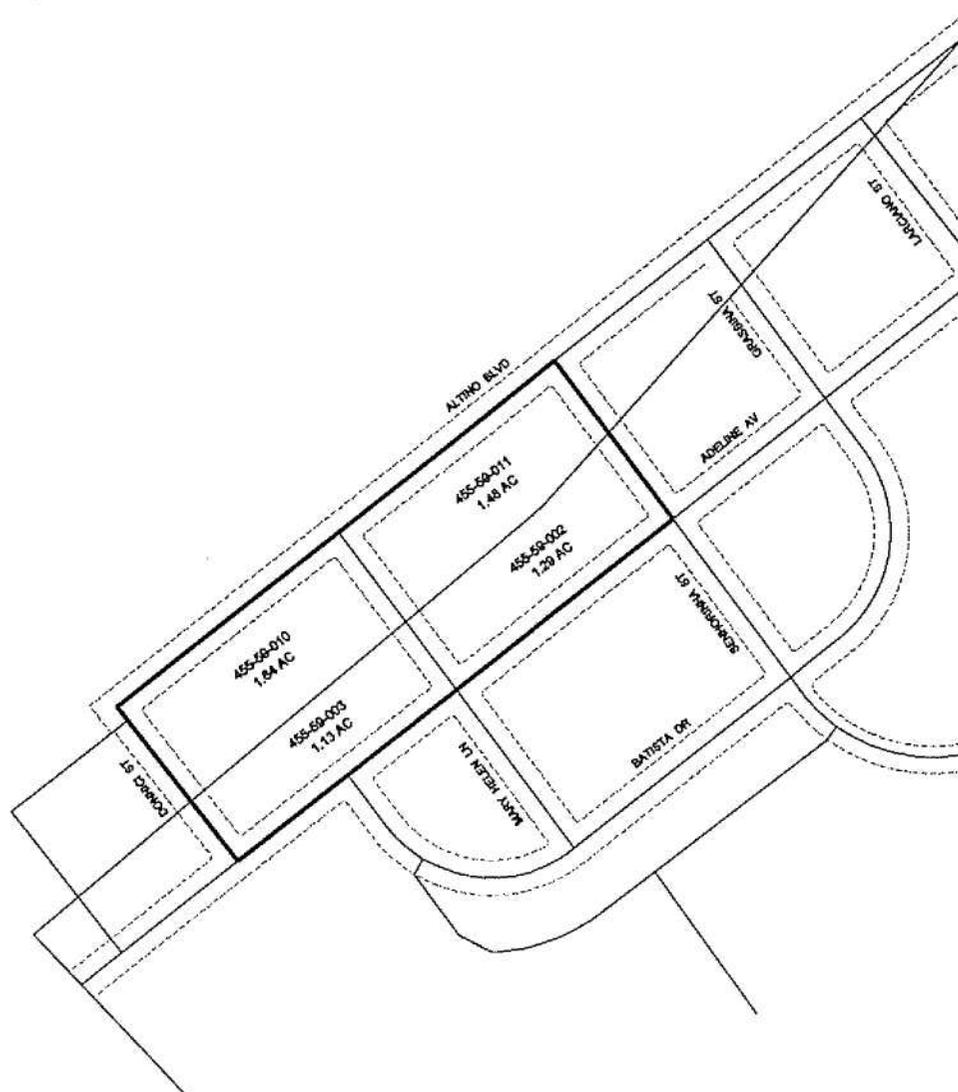
I HEREBY CERTIFY THAT THE WITHIN MAP SHOWS PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 11 ADELINE - MARY HELEN, CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AS APPROVED BY THE CITY COUNCIL OF SAN JOSE AT A REGULAR MEETING THEREON, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004, BY ITS RESOLUTION NO. \_\_\_\_\_.

\_\_\_\_\_  
 LEE PRINCE, DMC  
 CITY CLERK

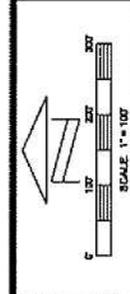
(3) COUNTY RECORDER

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004, AT THE OFFICE OF  
 COUNTY RECORDER \_\_\_\_\_ OF SALES OF SAN JOSE AND COUNTY  
 FACILITIES DISTRICT NO. 11 ADELINE - MARY HELEN, IN THE OFFICE OF THE COUNTY RECORDER  
 OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA. FEE PAID \_\_\_\_\_

\_\_\_\_\_  
 BRIGIDA DAVIS, COUNTY RECORDER  
 COUNTY OF SANTA CLARA



CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA  
 PROPOSED BOUNDARIES OF  
**COMMUNITY FACILITIES DISTRICT NO. 11**  
 (ADELINE - MARY HELEN)  
 FISCAL YEAR 2004-05



LEGEND	
	PROPOSED DISTRICT BOUNDARY
	PROPOSED STREET RIGHT OF WAY
	PROPERTY LINE
	APPROXIMATE PARCEL NUMBER
	APPROXIMATE PARCEL AREA IN ACRES

**CITY OF SAN JOSE**  
 OFFICE OF COMMUNITY DEVELOPMENT  
 TRANSPORTATION AND COMMUNITY SERVICES DIVISION  
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## ATTACHMENT B

### 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 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

### 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 CFD No.11.

**"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.

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

**“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.11, (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.

**“Taxable Property”** means all Assessors’ Parcels within the boundaries of CFD No. 11 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 CFD No. 11 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 Sewer Services as follows:

- 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;
- 2: Calculate the total Special Tax revenues that could be collected from Units receiving Special Storm and Sewer Services within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section C above;
- 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax on Units receiving Special Storm and Sewer Services pursuant to section C above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in CFD No.11, 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 Units receiving Special Storm and Sewer Services pursuant to section C 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 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 CFD No. 11 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 11 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.

#### **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.