



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes

**SUBJECT:** SEE BELOW

**DATE:** March 12, 2012

Approved

Date

3/21/12

COUNCIL DISTRICT: 8

**SUBJECT: INTENTION TO ANNEX TERRITORY INTO MAINTENANCE  
DISTRICT 15 WITH FORMATION OF NEW ZONE I**

## RECOMMENDATION

Adopt a resolution of intention to annex territory into Maintenance District 15 (Silver Creek Valley), form new Zone I, annex a portion of the new territory into existing Zone B; and direct the Director of Public Works to create and file an engineer's report.

## OUTCOME

Adoption of the resolution of intention will initiate the district annexation process and satisfies the requirement to allow affected property owners the opportunity to vote on proposed new assessments.

## BACKGROUND

Maintenance District 15 (Silver Creek Valley) (hereafter "MD 15") was formed in 1992 to accommodate the maintenance requirements of the various enhanced public improvements installed around the Silver Creek Valley Country Club area. These improvements include enhanced landscape in the median islands, neighborhood entrances, and along the slopes adjacent to some streets; unique street lighting; and open space trails. Currently, there are seven zones within MD 15 to address specific maintenance needs of the various neighborhoods in the Silver Creek area.

TRI Pointe Homes, LLC currently has a development permit (PDC09-010) to construct 38 homes (Tract 10057) on a 16.5 acre site located on Nieman Boulevard approximately 500 feet south of Sequoia Creek Drive on the west and extends to Cadwallader Avenue approximately

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450 feet south of Country Vista Court on the east. This project is on land both within and adjacent to the maintenance district and requires a new public cul-de-sac and various other improvements to facilitate the project. In order to comply with current stormwater guidelines and to improve the overall impact of the addition to the adjacent neighborhood, the project proposes three public underground storm water treatment vaults in public easements, a landscaped Emergency Vehicle Access path and various enhanced landscaping areas within the public right-of-way.

### **ANALYSIS**

TRI Pointe Homes, LLC has entered into an agreement with the City to initiate proceedings to annex its land within the development into MD 15. The agreement requires the developer to put \$20,000 on deposit with the City to pay for costs incurred by the City in performing the steps required for the annexation. The deposit has been received by the City. If costs exceed the initial deposit, the agreement provides for additional deposits by the developer. In the event that the City does not wholly expend the deposit amount, the agreement provides for a refund to the developer.

Staff recommends that Council initiate proceedings to add Annexation Area 1 to MD 15 as identified in Attachment A. It is proposed that any property seeking to gain street access via Nieman Boulevard based on the subdivision pattern from Tract No. 10057 be annexed into existing Zone B and be subject to the same assessment and annual escalator as those properties currently within Zone B. It is also proposed that new Zone I be formed to address the additional maintenance needs of improvements constructed for TRI Pointe Homes LLC's Tract No. 10057. If successfully annexed, the funds collected from assessments upon these new homes would be used to maintain non-standard public improvements proposed for the development. These improvements are anticipated to include three underground storm treatment vaults, a landscaped emergency vehicle access road (EVA) and various enhanced landscaped areas within the public right-of-way. Staff also recommends that the proposed new assessment for Zone I include a provision for the assessment to be adjusted annually by applying the average annual change in the Consumer Price Index for the San Francisco-Oakland-San José area, in an attempt to keep pace with inflation in the same manner as the other zones in MD 15.

State and local law require that any new assessment on property must be approved by the owners of the parcels assessed through a form of an election process called an assessment ballot proceeding whereby property owners within the district cast ballots in favor or opposed to the assessment, with votes weighed by the amount of the assessment on each parcel. The amount of the assessment by parcel is determined in the engineer's report. The assessment can only be implemented if affected property owner ballots objecting do not outweigh the ballots cast in favor of the assessment. Council cannot impose the assessment in the event the ballots submitted in opposition to the assessment exceed the ballots in favor of the assessment. For maintenance districts, a four-step process is necessary for Council to complete the assessment ballot proceeding. The actions required of Council are to:

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- 1) Adopt a resolution of intention and to direct the Director of Public Works to file an engineer's report;
- 2) Adopt a resolution preliminarily approving the engineer's report, and setting the date and time of the public meeting, public hearing and tabulation of ballots;
- 3) Conduct a public meeting;
- 4) Conduct a public hearing, and at the end of the hearing, tabulating the ballots.

The proposed schedule of events for imposition of a new assessment:

April 3, 2012	Adopt resolution of intention (Council)
May 15, 2012	Adopt resolution to preliminarily approve the engineer's report, set Public Hearing, and Tabulation of Ballots (Council)
June 14, 2012	Publish Notice of Public Meeting and Hearing (staff)
June 15, 2012	Mail Notice of Public Meeting and Hearing along with property owner ballots (staff)
June 26, 2012	Conduct Public Meeting (Council)
August 7, 2012	Conduct Public Hearing and tabulate ballots (Council) Adopt resolution declaring ballot tabulation results, and if approved by voters annexing the land into the district and forming Zone I (Council)

Council may, at any time during the process, withdraw its intent to annex territory into the district and form Zone I.

### **EVALUATION AND FOLLOW-UP**

On May 15, 2012, Council is scheduled to preliminarily approve the engineer's report as filed or as modified by the Council. Council will then set Public Meetings to be held on June 26, 2012, and Public Hearings and the tabulation of ballots to be held on August 7, 2012. If approved by the voters, Council may by resolution annex the land into the district and form Zone I.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website for the April 3, 2012 Council Agenda. This action was initiated at the request and with support from the Developer and was prepared by Public Works. City staff has met with the Developer regularly regarding the district and their development plans.

### **COORDINATION**

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

### **FISCAL/POLICY ALIGNMENT**

These actions are in compliance with the Council-approved Budget strategy in that staff costs are funded by the Developer's deposit. If district annexation and zone formation is approved by the property owners, the costs of services provided through the district will be funded through annual assessments on the properties within the district.

### **COST IMPLICATIONS**

The Developer has deposited funds to pay annexation costs for the districts. Any unused funds will be returned to the Developer. If all funds are exhausted prior to the tabulation of ballots, the Developer must provide additional funds to continue the process or the formation process will be discontinued.

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**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	RC#	Total Appn	2010-2011 Annual Report (Page)	Last Budget Action (Date, Ord. No.)
465	7377	Maintenance District 15 Feasibility Study	169559	\$20,000	IV-27	10/18/2011 Ord. No. 28979

**CEQA**

Mitigated Negative Declaration, File No. PDC09-010.

/s/

DAVID SYKES

Director of Public Works

For questions please contact Thomas Borden, Special Districts Manager, Department of Public Works, at (408) 535-6831.

Attachment



**CERTIFICATIONS**

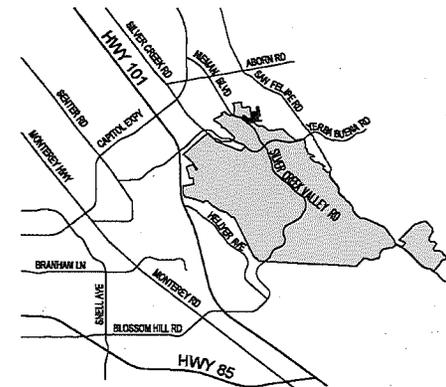
(1) DIRECTOR OF PUBLIC WORKS  
 FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF SAN JOSE.

(2) CITY CLERK  
 FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE.

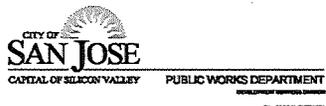
(3) CITY COUNCIL  
 BY RESOLUTION NUMBER \_\_\_\_\_ ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS DIAGRAM. THE APPROVED DIAGRAM AND ASSESSMENT ROLL FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS CONTAINS THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS DIAGRAM.

(4) COUNTY RECORDER  
 FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ AM IN BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS PAGE(S) \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO.: \_\_\_\_\_ FEE PAID: \_\_\_\_\_

REGINA ALDOMENDORAS, COUNTY RECORDER  
 COUNTY OF SANTA CLARA

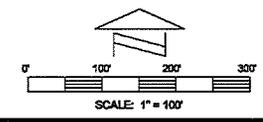


LOCATION MAP



**LEGEND**

	ANNEXATION AREA NO. 1		STREET RIGHT OF WAY
	PROPOSED ZONE I BOUNDARY		PROPERTY LINE
	PROPOSED ZONE 9 ANNEXATION		DISTRICT PARCEL NUMBER (DPN)



CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA  
**ANNEXATION AREA NO. 1**  
 AND  
**ZONE I (CADWALLADER)**  
 ANNEXATION TO  
**MAINTENANCE DISTRICT 15**  
 (SILVER CREEK VALLEY)  
 FISCAL YEAR 2011-2012