

CITY OF SAN JOSÉ
Community Facilities District No. 17
(Capitol Expy - Evergreen Place)

COMMUNITY FACILITIES DISTRICT REPORT

August 14, 2018

Prepared by

City of San José
Department of Public Works
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Special Districts

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INTRODUCTION

WHEREAS, the City of San José (the “City”) utilizes Community Facilities Districts (the “District”) to finance various public services not currently available in an area and/or that are above and beyond what the City normally provides to the general public.

WHEREAS, Districts are established pursuant to the San José City Charter and Chapter 14.27 of the San José 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.

WHEREAS, the City relies on its charter city powers to expand the list of improvements and services that can be funded through a District.

WHEREAS, the Planned Development Rezoning (File Number PDC10-022) allows for the development of an 81 acre residential and commercial development in the Evergreen area of San José also known as the Evergreen Circle Planned Development Rezoning and Arcadia Softball Fields project.

WHEREAS, a condition of the development provides for the formation of a Special District to fund the operation and maintenance of non-standard improvements with this development.

WHEREAS, on June 12, 2018, this Council adopted a resolution entitled “A Resolution of the Council of the City of San José of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes – Community Facilities District No. 17 (Capitol Expy – Evergreen Place)” (the “Resolution of Intention”).

WHEREAS, in the Resolution of Intention, the Council expressly ordered the preparation of a written Community Facilities District Report (the “Report”), for the proposed District.

WHEREAS, the Resolution of Intention ordering the Report did direct that the Report generally contain the following:

1. A description of the Services by type, which will be required to adequately meet the needs of the District; and
2. An estimate of the fair and reasonable cost of the Services, including incidental expenses connected with said Services.

WHEREAS, the Resolution of Intention set a public hearing on August 14, 2018 on the establishment of the District.

WHEREAS, the ballot measure for consideration is “Shall the City of San José be authorized to levy annually, a special tax upon lands within Community Facilities District No. 17 (Capitol Expy - Evergreen Place), commencing in the City of San Jose’s fiscal year

2019-2020, at the rates and method and for the authorized services, costs and expenses as described in the Community Facilities District Report; and shall the District's annual appropriations limit be established at \$121,928, with annual increases not to exceed the percentage change in the Consumer Price Index (CPI) as defined in City's Resolution 78630?"

COMMUNITY FACILITIES DISTRICT NO. 17

The boundaries of Community Facilities District No. 17 (Capitol Expy - Evergreen Place) (the "CFD No. 17") are shown on a boundary map that was approved by the City Council and recorded in the Books of Maps of Assessment and Community Facilities Districts in the Santa Clara County Recorder's Office. The area bounded by CFD No. 17 is a mixed use planned development that can allow up to 250 residential units, up to 310,000 square feet of commercial/retail uses on approximately 54 developed acres.

This planned development is located in the Evergreen Area of San José fronting E. Capitol Expressway. The development includes enhanced landscaping in median islands, pork chop islands, roundabouts and parkstrips, plus decorative crosswalks, all of which require maintenance beyond what is generally provided for the rest of the City. The formation of CFD No. 17 is necessary to fund the high level of maintenance and operation costs associated with the improvements.

The City Council will hold a public hearing and conduct an election associated with the formation of CFD No. 17. If at least two-thirds of the votes submitted by the landowners are in favor of the CFD No. 17, the district will be formed and the levy of the special tax will be authorized to provide for the maintenance and operation of the improvements. The special tax will continue for future years.

DESCRIPTION OF PROPOSED SERVICES

CFD No. 17 will be responsible for the maintenance and operation of numerous public improvements currently approved and being constructed by the development. The services provided will include the necessary servicing, repairs, replacements, equipment, supplies, water, fuel, power, electric current, care supervision and any and all other items necessary for the safe and proper maintenance and operation thereof. A general description of the proposed services are shown in Exhibit "A" attached hereto and hereby made a part hereof.

COST ESTIMATE

The estimated costs of the services within this report, to be provided by the district, are reflected in year 2018 dollars. Regardless of the actual maintenance costs in future years,

the special taxes levied within CFD No. 17 will never exceed the maximum rates identified in the Rate and Method of Apportionment of Special Taxes unless approved by the qualified electors within the district during that time. The estimated cost of services for CFD No. 17 is \$121,928 and is further set forth in Exhibit “B” attached hereto and hereby made a part hereof.

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES


A special tax will be levied annually to pay for the services provided through the district, and will be secured by a continuing lien against all nonexempt real property in the district. The rate and method of apportionment of special taxes for CFD No. 17 is set forth in Exhibits “C” attached hereto and hereby made a part hereof.

PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT

The proposed boundaries of CFD No. 17 are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Services. The proposed boundaries of the CFD No. 17 are generally described as Quimby Avenue on the north, E. Capitol Expressway on the east, Meadowfair Park and LeyVa Middle School on the south, and the easterly boundaries of Tract Nos. 2871 and 2949 on the west, as shown on the map of the district set forth in Exhibit “D” attached hereto and hereby made a part hereof. The original boundary map is on file with the Santa Clara County Recorder’s Office.

NOW, THEREFORE, I, the Director of Public Works do hereby submit the report to be filed with the City Clerk to fulfill the state requirements of forming a District and to provide guidance on the operation of the district.

Dated as of 7/24/2018



Matt Cano, Director of Public Works
City of San José

Exhibit A**DESCRIPTION OF PROPOSED SERVICES**

The Services proposed to be financed by Community Facilities District No. 17 (Capitol Expy – Evergreen Place) (the “CFD No. 17”) of the City of San José will provide for the maintenance of various improvements associated and approved within the Evergreen Area. 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 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. 17; however, not all items on this list are guaranteed to be funded by the CFD.

Items Authorized to be Maintained

- Parkstrip landscape fronting the residential development and regional park along the public right-of-way (Quimby Road excluded)
- Median Island landscape
- Roundabout landscape
- Pork chop island landscape
- Tree maintenance within district maintained landscape
- Hardscape in district maintained median islands, roundabout, pork chop islands, and parkstrips
- Decorative crosswalks along residential development
- Graffiti removal on district maintained public improvements

Exhibit B**COST ESTIMATE**

The following table summarizes the estimated annual cost that will be financed by the parcels within the boundaries of the district. These costs are 2018 dollars and may be increased in future years.

	COST
LANDSCAPE AND ADMINISTRATION:	98,399.12
Median Islands	
Pork Chop Islands	
Roundabouts	
Parkstrip	
Trees	
MAINTENANCE, PARTS, AND REPAIRS	23,528.27
Decorative Concrete on Median Islands, Pork Chop Islands and Roundabouts	
Colored Concrete on Crosswalks	
Raised paved areas supporting the rotary	
Litter, Debris and Graffiti Removal	
Total Annual Cost (2018\$)	\$121,927.40

Exhibit C**RATE AND METHOD OF APPORTIONMENT**

A Special Tax, hereinafter defined, shall be levied on all Assessor's Parcels of Taxable Property in Community Facilities District No. 17 (Capitol Expy – Evergreen Place) of the City of San Jose ("CFD No. 17") and collected each Fiscal Year commencing in Fiscal Year 2019-2020 in an amount determined by the City Council of the City of San Jose, through the application of this Rate and Method of Apportionment as described below. All of the real property in CFD No. 17, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

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 map, parcel map, condominium plan, or other map or plan recorded with the County. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

"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, as incorporated into and modified by Chapter 14.27 of Title 14 of the Municipal Code of the City.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 17: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 17, or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 17 for any other administrative purposes of CFD No. 17, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure as a result of delinquent Special Taxes.

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

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by Assessor’s Parcel number.

“Authorized Maintenance Services” means, for each Fiscal Year, the street maintenance (including maintenance of trees, landscape and hardscape) and other maintenance services eligible to be funded by CFD No. 17, as defined in the Resolution of Intention.

“Building Permit” means, full structural building permits as well as partial permits such as foundation-only permits.

“CFD Administrator” means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“CFD No. 17” means Community Facilities District No. 17 (Capitol Expy – Evergreen Place) of the City of San José.

“City” means the City of San José.

“Consumer Price Index” or “CPI” means, for each Fiscal Year, the prior calendar year’s annual average consumer price index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco-Oakland-San Jose Area. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose Area.

“Council” means the City Council of the City, acting as the legislative body of CFD No. 17.

“County” means the County of Santa Clara.

“Developed Property” means, for each Fiscal Year, all Taxable Property for which a Planning or Building has been issued on or before June 30 of the prior Fiscal Year. Notwithstanding the foregoing, (a) if a building permit is revoked, expired or otherwise cancelled and a new building permit is issued for the same property, then the building type as indicated on the new building permit shall thereafter be used for purposes of determining the Land Use Class, and (b) if a building permit is revoked, expired or otherwise cancelled and no new building permit is issued for the same property, then the property will continue to be considered Developed Property and taxed based on the original building permit.

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

“Land Use Class” means any of the classes in Section C below.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on each Assessor’s Parcel within the boundaries of CFD No. 17.

“Non-Residential Property” means a Parcel of Developed Property within the boundaries of CFD No. 17 for which a Planning, Building, or Public Works permit(s) was issued for a non-residential use.

“Planning Permit” means a tentative map, parcel map, conditional use permit, site development permit, planned development permit, development agreement, or special use permit, or any discretionary permit excluding general plan amendments, zoning and rezoning, annexation, specific plans, and area development policies.

“Public Property” means property within the boundaries of CFD No. 17 owned by, dedicated to, or irrevocably offered for dedication to the federal government, the State of California, the County, the City, or any other public agency, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment for CFD No. 17.

“Residential Property” means any Parcel of Developed Property within the boundaries of CFD No. 17 for which a building permit for new construction has been issued for purposes of constructing one or more residential dwelling units.

“Resolution of Formation” means the Council resolution declaring the results of the special election for CFD No. 17.

“Special Tax” means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property within CFD No. 17 to fund the Special Tax Requirement, but in no event greater than the Maximum Special Tax.

“Special Tax Requirement” means that amount required in any Fiscal Year for CFD No. 17 to: (i) pay for Authorized Maintenance Services, (ii) create a sinking fund for replacement of facilities that will be maintained by Authorized Maintenance Services, (iii) pay Administrative Expenses of CFD No. 17, (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.

“State” means the State of California.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 17 which are not exempt from the Special Tax pursuant to law or Section E below.

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property not classified as Developed Property or Property Owner Association Property.

B. ASSIGNMENT TO LAND USE CLASSES

Each Fiscal Year, all Taxable Property shall be classified as Developed Property, Undeveloped Property and Public Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATES

The Maximum Special Tax for each Land Use Class for Fiscal Year 2019-2020 is as shown below.

Land Use Class	Taxable Property	Taxable Unit	Maximum Special Tax
1	Residential	Dwelling Unit	\$396.64
2	Non-Residential	Acre	\$880.48
3	Undeveloped	Acre	\$586.98

On each July 1, commencing on July 1, 2021, the Maximum Special Tax shall be adjusted based on the prior calendar year's average annual percentage change in the Consumer Price Index. Any increase in the Maximum Special Tax is subject to a maximum annual increase of five percent (5%) per Fiscal Year.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2019-2020 and for each following Fiscal Year, the Council or its designee shall determine the Special Tax Requirement and levy the Special Tax until the amount of Special Tax levy equals the Special Tax Requirement each Fiscal Year as follows:

- Step 1: Determine the Special Tax Requirement 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 and Undeveloped 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 and Undeveloped Property pursuant to Section C 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.

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 and Undeveloped Property 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 on all Parcels of Developed and Undeveloped 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

E. EXEMPTIONS / LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment, no Special Tax shall be levied on land that is Public Property, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982.

F. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 17 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Act.

G. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity to fund the Special Tax Requirement, unless no longer required to pay for Authorized Maintenance Services as determined at the sole discretion of the Council or as may be otherwise terminated pursuant to the Act.

Exhibit D

