



Goodwin Consulting Group

**CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)**

CFD REPORT

CFD8

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I. INTRODUCTION

In 1992, the San Jose City Council adopted a Specific Plan for Communications Hill that set forth a vision for a dense, urbanized residential neighborhood that would include parks, terraces, recreational paths, bicycle lanes and public staircases to make Communications Hill a unique community in the City. Communications Hill is the largest tract of undeveloped land near downtown San Jose and is close to the freeway network, light rail transit and CalTrain. The site provides a rare opportunity for the City to create an urban hillside neighborhood similar to those that are popular in San Francisco, Berkeley and Sausalito.

The Communications Hill Specific Plan recommends the use of a maintenance district to generate funding for the unique public features that will be distributed throughout the project. The City has determined that the Mello-Roos Community Facilities Act, in combination with Chapter 14.27 of Title 14 of the City’s Municipal Code will provide the maximum flexibility in providing funding for the ongoing operations and maintenance of facilities and amenities in Communications Hill. Approximately one-third of Communications Hill is ready to develop, and the developer has requested that the City form a district to ensure that funding will be available as development of the project commences.

II. USING MELLO-ROOS FUNDING IN COMMUNICATIONS HILL

A. Introduction

A Mello-Roos Community Facilities District (CFD) may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property with an estimated useful life of five years or longer, which is needed to meet increased demands placed upon local agencies as a result of development occurring within the CFD. A CFD may also finance the costs of planning, design, engineering, legal assistance and other consultants involved in the construction of improvements or formation of the CFD. Finally, a CFD may generate funding for various public services, including the operation and maintenance of certain public improvements. San Jose relied on its charter city powers to expand the list of improvements and services that can be funded through a CFD.

Formation of a CFD requires the following primary events: (i) adoption of a Resolution of Intention to form the CFD, (ii) adoption of a Resolution of Formation and (iii) a vote of the “qualified electors”. Qualified electors is defined in the law to be either the registered voters within the CFD (if there are twelve or more registered voters within the boundary of the CFD) or the owners of property within the CFD (if there are less than twelve registered voters). A two-thirds vote of the qualified electors is required to authorize the levy of a special tax within the CFD. If a favorable vote is received, a special tax can be levied on all taxable property within the CFD to pay for facilities and services that are authorized to be funded by the CFD pursuant to the district formation documents.

B. Community Facilities District No. 8

The boundaries of Community Facilities District No. 8 will initially include that portion of Communications Hill is that is currently either ready to develop or actually under construction. Other portions of the Specific Plan area will annex into CFD No. 8 prior to development in order to contribute to funding the improvements and amenities that are authorized for CFD No. 8 and that will serve the entire Communications Hill project. The actual boundaries of CFD No. 8 are shown on a boundary map that will be 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.

On August 6, 2002, the City Council will hold a public hearing and conduct an election associated with formation of CFD No. 8. If at least two-thirds of the votes submitted by the landowners are in favor of the CFD, the CFD will be formed and the levy of a special tax will be authorized. The CFD will not be authorized to issue debt.

C. CFD Special Tax Structure

The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the Mello-Roos special tax will be allocated among properties in the CFD, is included as Exhibit A of this report. Pursuant to the RMA, a special tax will be levied and collected each year from parcels within the CFD to pay the authorized CFD service costs and expenses. Only parcels for which a building permit for new construction has been issued will be subject to the special tax levy. Each year, the CFD administrator will determine which parcels have been issued a building permit and will levy a special tax on these parcels up to the amount needed to pay the services budget but, in no event, in an amount greater than the maximum special tax.

As shown in Exhibit A, there are three separate categories of property on which the special tax can be levied. The first category is "Residential Property", which includes parcels for which a building permit has been issued for development of a single family unit or a duplex, triplex, fourplex, townhome, condominium or apartment structure. The maximum special tax for Residential Property is \$667 per unit for fiscal year 2002-03, and this amount will escalate each year based on the average change in two indices, which is explained in more detail in the RMA. The second category is "Non-Residential Property", which includes any parcel of taxable property in CFD No. 8 that does not meet the definition of Residential Property. The maximum special tax for Non-Residential Property is \$300 per acre for fiscal year 2002-03, and this amount will also escalate each year as set forth in the RMA. The final category is "Subsequent Non-Residential Property", which is defined to be any parcel of Non-Residential Property that had previously been planned for and/or taxed as Residential Property. The maximum tax for Subsequent Non-Residential Property will be set in the first fiscal year in which the property changes from residential to non-residential use and will be set at an amount that will prevent a reduction in special tax revenues because of the change in land use.

III. SERVICES TO BE FUNDED BY CFD No. 8

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/swales
- Terraces
- Biological mitigation/conservation areas
- Plazas
- Storm water detention ponds
- Decorative street lighting

IV. ESTIMATED COST OF SERVICES TO BE FUNDED BY CFD No. 8

Following is an estimate of the annual maintenance costs that will ultimately be funded by CFD No. 8 when all property in Communications Hill has been developed. The items listed in Section III above have been grouped into several general cost categories. All costs are reflected in year 2002 dollars. Regardless of the actual maintenance costs in future years, the special taxes levied within CFD No. 8 will never exceed the maximum rates identified in the RMA.

<u>Cost Item</u>	<u>Cost Estimate</u>
Open space maintenance	\$ 241,000
Landscape maintenance	621,630
Debris basin maintenance	107,044
Trail maintenance	41,140
Electricity	54,000
Water	168,000
Direct costs	192,000
Stair landscaping repair, powerwashing, maintenance of street trees, maintenance of post top lights, maintenance of decorated entries	<u>275,177</u>
Total Annual Cost (2002 \$)	\$1,700,000 (rounded)

EXHIBIT A

***CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)***

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

**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.

“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.

“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.

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.

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 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.