AGENDA DATE: March 28, 2011
TO: Thomas J. Haglund, City Administrator
FROM: Rick Smelser, Public Works Director/City Engineer
Daniel Hughes, Senior Civil Engineer - Development
SUBJECT: Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)

Recommendation

With respect to the proposed Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance), it is proposed that the City Council:
(i) hold a public hearing,
(ii) adopt a resolution forming the Community Facilities District,
(iii) adopt a resolution calling a special election of the qualified landowner electors in the Community Facilities District,
(iv) hold the election,
(v) adopt a resolution declaring the results of the election, and
(vi) if the election is in favor of forming the Community Facilities District and levying special taxes, introduce an ordinance levying special taxes in the Community Facilities District.

Background

City planning and engineering staff have been working with the property owners on the proposed Rancho Hills / Deer Park Tract 9966 project located off Santa Teresa Blvd. As part of the development approval, certain landscape features on the primary entrance to the Rancho Hills / Deer Park Tract 9966 project have been addressed. In order for the City to secure ongoing maintenance of the landscaping and as conditioned, the property owner is requesting that the City form a community facilities district which will establish a special tax on the new homes within the Rancho Hills / Deer Park Tract 9966 development. This special tax will be used annually to maintain the landscaping specifically identified on a single parcel identified in the boundary map attached to the formation proceedings.

The special tax will be levied on the parcels included in the boundary map for the Community Facilities District and would continue in perpetuity with an annual inflator to provide a revenue source for the ongoing maintenance and replacement or repair of any landscape components. The annual special tax levy cannot exceed $121 per residential unit (starting in tax year 2011/12) and adjusted annual thereafter by 4%. The City does reserve the right to levy an amount lower than the special tax in the event the actual costs of maintenance do not require the full collection. No special tax funds can be used for anything other than the administration of the Community Facilities District and the landscaping maintenance.

On February 7, 2011, the City Council, acting as the legislative body for the proposed Community Facilities District, considered and adopted a resolution declaring its intention to form the Community Facilities District and called for a public hearing to be held on March 28, 2011. The Resolution of Intention formally started the process for formation of the Community Facilities District.
Immediately following the approval of the Resolution of Intention on February 7, 2011:

a. The City Clerk recorded a boundary map for the Community Facilities District in the Santa Clara County real property records. The boundary map was recorded on February 17, 2011.

b. The City Clerk published a notice of public hearing more than seven days prior to the public hearing. The City Clerk caused the notice of the hearing to be published on February 15, 2011.

c. City staff prepared a Community Facilities District Report. The Community Facilities District Report is on file with the City Clerk.

d. Because the landowners in the Community Facilities District previously consented to an accelerated election schedule, the City Clerk caused the ballots to be mailed to the landowner electors.

Discussion

The process for establishing the Community Facilities District requires specific actions by the City Council, City staff and the owners of taxable property in the Community Facilities District, all as set forth in the Mello-Roos Community Facilities Act of 1982, as amended (the "Mello-Roos Act"). Each step must be taken in order. The required steps include (i) those that have already taken place, as described in 'Background', (ii) the steps to be taken at the March 28, 2011 meeting (listed below) and (iii) a handful of final steps following the March 28, 2011 meeting (also listed below). The attached script details the process for the proceedings to take place on March 28, 2011; the script is to be read by the Mayor and reflects the order in which each step must be taken.

1. March 28, 2011:

a. Public Hearing: The City Council holds a public hearing to allow comments and record any protests. The City Council may not proceed with formation of the Community Facilities District if the owners of 50% or more of the taxable property in the proposed Community Facilities District file written protests. Staff does not expect any protests; the City Council has previously received written requests to form the Community Facilities District from each of the owners of the taxable property in the proposed Community Facilities District.

b. Resolution of Formation: The City Council, as the legislative body of the Community Facilities District, adopts a Resolution of Formation establishing the Community Facilities District, subject to approval of the qualified landowner electors.

c. Resolution Calling Special Election: The City Council adopts a Resolution Calling Special Election calling for an election of the owners of the taxable property in the Community Facilities District. The Mello-Roos Act requires the landowner electors to vote on the levy of special taxes and the establishment of an appropriations limit. Each owner has one vote for each acre or portion of an acre owned in the Community Facilities District.

d. Election: Following adoption of the Resolution Calling Special Election, the City Clerk opens and counts the ballots and reports to the City Council on the outcome of the election. In order for the special taxes to be levied in the Community Facilities District, at least two-thirds of the votes cast at the election must be in favor of the special taxes.

e. Resolution Declaring Results of Election: Following the election, the City Council adopts a resolution declaring the results of the election. Assuming the vote is favorable, the City Council directs the City Clerk to record a Notice of Special Tax Lien, which establishes...
the statutory lien of the special taxes on the taxable property in the Community Facilities District.

f. **Introduction and Adoption of an Ordinance Ordering Levy of Special Taxes (First reading: March 28, 2011; Second Reading: April 4, 2011).** This ordinance orders levy of the special taxes in the Community Facilities District to pay for the authorized services. The levy conforms to the special tax formula included in the Resolution of Formation and provides for the taxes to be collected each year on the general tax rolls of the County.

2. **Publication of Ordinance.** The Ordinance must be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the area of the Community Facilities District. Publication must be completed by April 29, 2011.

**Human Resources**

It is expected that the Community Development Department will provide full staffing support, either internally or by engaging an outside consultant, for all phases of this Community Facilities District formation.

**Financial Impact**

All costs, including Attorney, of the formation of the Community Facilities District will be borne by the Developer which has entered into a Deposit Agreement with the City to provide funds necessary to cover costs associated with the creation and approval process of the Community Facilities District.

**Attached Documents**

- Public hearing notice.
- Community Facilities District Report.
- A Resolution of the City Council of the City of Gilroy of Formation of Community Facilities District.
- A Resolution of the City Council of the City of Gilroy Calling Special Landowner Election for Community Facilities District.
- A Resolution of the City Council of the City of Gilroy Declaring Results of Special Landowner Election and Directing Recording of Notice of Special Tax Lien.
- An Ordinance of the City Council of the City of Gilroy Levying Special Tax Within Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)
- Community Facilities District Map (Recorded)
- Certificate of Mailing Ballot

Item VIII.A.
NOTICE OF PUBLIC HEARING
RE: Establishment of Community Facilities District

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

Notice is hereby given that the City Council (the "Council") of the City of Gilroy (the "City") adopted its "Resolution of Intention To Establish Community Facilities District" (the "Resolution of Intention") to establish "City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)" (the "CFD") under the Mello-Roos Community Facilities Act of 1982, constituting Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the "Act"). Under the Act and the Resolution of Intention, the Council gives notice as follows:

1. The text of the Resolution of Intention, with Exhibits A and B thereto, as adopted by the Council, is on file with City Clerk and reference is made thereto for the particular provisions thereof. The text of the Resolution of Intention is summarized as follows:

a. Under the Act, this Council is undertaking proceedings for the establishment of the CFD, the boundaries of which are shown on a map on file with the City Clerk.

b. The purpose of the CFD is to provide for the financing of the municipal services (the "Services") as more fully described in the Resolution of Intention and Exhibit A thereto.

c. The method of financing the Services is through the imposition and levy of a special tax (the "Special Tax") to be apportioned on the properties in the CFD under the rate and method of apportionment described in the Resolution of Intention and Exhibit B thereto. The Special Tax requires the approval of two-thirds of landowner votes voted at a special election called for that purpose by the Council, with each landowner having one vote for each acre or portion of acre such owner owns in the CFD.

d. The Resolution of Intention directed the preparation of a CFD Report that shows the Services by type that are required to adequately meet the needs of the CFD and the estimated costs of the Services. The CFD Report will be made a permanent part of the record of the public hearing specified below. Reference is made to the CFD Report as filed with the City Clerk.

e. As set forth below, the Council will hold a public hearing on the establishment of the CFD with its Services and Special Tax.

Item VIII.A.
2. The time and place established under the Resolution of Intention for the public hearing required under the Act is, Monday, March 28, 2011, at 6:00 p.m., or as soon as possible thereafter as the item can be heard, in the City Hall, Council Chambers, 7351 Rosanna Street, Gilroy, California.

3. At the hearing, the testimony of all interested persons or taxpayers for or against the establishment of the CFD, the extent of the CFD or the furnishing of the specified Services will be heard. Any person interested may file a protest in writing as provided in Section 53323 of the Act. If 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be included in the CFD, or the owners of one-half or more of the area of land in the territory proposed to be included in the CFD and not exempt from the special tax, file written protests against the establishment of the CFD and the protests are not withdrawn to reduce the value of the protests to less than a majority, the Council shall take no further action to create the CFD or levy the special taxes for a period of one year from the date of decision of the Council, and if the majority protests of the registered voters or landowners are only against the furnishing of a type or types of Services within the CFD, or against levying a specified special tax, those types of Services or the specified special tax will be eliminated from the proceedings to form the CFD.

4. The proposed voting procedure shall be by special mail or hand-delivered ballot to the property owners within the territory proposed to be included in the CFD.

Published: February 15, 2011

/s/ Shawna Freels, CMC
City Clerk, City of Gilroy
City of Gilroy
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

COMMUNITY FACILITIES DISTRICT REPORT

CONTENTS

Introduction
A. Description of Services
B. Proposed Boundaries of the Community Facilities District
C. Cost Estimate

************

EXHIBIT A - Description of the Proposed Services
EXHIBIT B - Boundary Map
EXHIBIT C - Cost Estimate

Item VIII.A.
City of Gilroy
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

INTRODUCTION

On February 7, 2011, the Gilroy City Council adopted a “Resolution of Intention to Establish Community Facilities District” (the “Resolution of Intention”), stating its intention to form the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) (the “CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982, Sections 53311 et. seq., California Government Code (the “Act”) to finance certain municipal services (the “Services”) by levying special taxes (the “Special Taxes”) in the area of the CFD.

In the Resolution of Intention, the Council expressly ordered the preparation of a written report (the “Report”), for the CFD containing the following:

1. A description of the Services by type which will be required to adequately meet the needs of the CFD; and

2. An estimate of the fair and reasonable cost of the Services included therewith.

For particulars, reference is made to the Resolution of Intention for the CFD, as previously approved and adopted by the Council.

NOW, THEREFORE, the undersigned does hereby submit the following data:

A. DESCRIPTION OF SERVICES. A general description of the proposed services is set forth in Exhibit “A” attached hereto and hereby made a part hereof.

B. PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. The proposed boundaries of the CFD 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 are described on the map of the CFD on file with the City Council, to which reference is hereby made.

C. COST ESTIMATE. The cost estimate for the Services for the District is set forth in Exhibit “B” attached hereto and hereby made a part hereof.

Dated as of February 7, 2011

For and on behalf of the City Administrator
of the City of Gilroy

By: ________________________________
EXHIBIT A

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

DESCRIPTION OF SERVICES

The captioned Community Facilities District will finance, in whole or in part, the following services ("services" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982), including all related administrative costs, expenses and related reserves for replacement of vehicles, equipment and facilities, relating to Parcel B of Tract 9966, constituting 32,927 square feet fronting Santa Theresa Blvd. between Sunrise Drive and the right-of-way in favor of the Santa Clara Valley Water District:

1. **Turf and Plant Maintenance**
   Sufficient water, fertilizer, and other nutrients shall be provided, and sufficient insect and disease control shall be applied, to turf and other plants to maintain them in a healthy and thriving condition.

2. **Turf and Plant Trimming**
   Plants shall be trimmed by removing dead wood from trees and shrubs, trimming back foliage which has exceeded the landscape boundaries and shaping plants as necessary, and keeping turf mowed to a height of between one and a half to two inches and trimmed back from edges of hardscape.

3. **Tree and Shrub Pruning**
   Trees and shrubs shall be pruned and trimmed, as necessary, in such a manner as to prevent interference with sight clearance for pedestrian, bicycle, and vehicle traffic on adjacent roadways, walkways, and rights of way.

4. **Irrigation System**
   The irrigation system serving the landscaping shall be maintained, repaired, and replaced as needed, and all legally required permits with respect to such work shall be obtained.

5. **Weeds, Trash, and Debris**
   All weeds, trash, and debris shall be removed regularly from the landscaped area.

6. **Plant Replacement**
   All plants which have died back or have become unsightly shall be replaced on no less than a monthly basis.

7. **Water and Electricity**
   All costs and expenses for water and electricity used to irrigate and light the landscaping.
EXHIBIT B

City of Gilroy
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

BOUNDARY MAP

Reference is hereby made to the map on file in the office of the City Clerk for a description of the boundaries of the CFD.
EXHIBIT C

City of Gilroy
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

Cost Estimate

FY 2011-12

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RESOLUTION NO. 2011-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY
OF FORMATION OF COMMUNITY FACILITIES DISTRICT

CITY OF GILROY
COMMUNITY FACILITIES DISTRICT NO. 2011-1
(DEER PARK LANDSCAPE MAINTENANCE)

RESOLVED by the City Council (the “Council”) of the City of Gilroy (the “City”), County of Santa Clara, State of California, that:

WHEREAS, this Council adopted a resolution entitled “A Resolution of the City Council of the City of Gilroy of Intention to Establish Community Facilities District” (the “Resolution of Intention”), stating its intention to form “City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)” (the “CFD”) pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”);

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services, is on file with the City Clerk and the provisions thereof are incorporated herein by this reference as if fully set forth herein;

WHEREAS, on this date, this Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD;

WHEREAS, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the services to be provided therein and the levy of such special tax were heard and a full and fair hearing was held;

WHEREAS, at the hearing evidence was presented to this Council on such matters before it, including a special report (the “Report”) as to the services to be provided through the CFD and the costs thereof, a copy of which is on file with the City Clerk, and this Council at the conclusion of said hearing is fully advised in the premises;

WHEREAS, written protests with respect to the formation of the CFD, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. Recitals Correct. The foregoing recitals are true and correct.

2. No Majority Protest. The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.
3. **Prior Proceedings Valid.** All prior proceedings taken by this City Council in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.

4. **Name of CFD.** The community facilities district designated “City of Gilroy Community Facilities District No. 2011-1 Deer Park Landscape Maintenance)” of the City is hereby established pursuant to the Act.

5. **Boundaries of CFD.** The boundaries of the CFD, as set forth in the map of the CFD heretofore recorded in the Santa Clara County Recorder’s Office on February 17, 2011, at 11:32 a.m., in Book 46 of Maps of Assessment and Community Facilities Districts at Page 33, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.

6. **Description of Services.** The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein (the “Services”).

7. **Special Tax.**
   
a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the “Special Tax”) sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as may be prescribed by this Council.
   
b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in Exhibit B attached hereto and hereby incorporated herein.

8. **Increased Demands.** It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the City, as the result of development occurring in the CFD. The Services are in addition to those provided in the territory of the CFD as of the date hereof and will not supplant services already available within the territory of the CFD as of the date hereof.

9. **Responsible Official.** The City Administrator of the City of Gilroy, City Hall, 7351 Rosanna Street, Gilroy, CA 95020, telephone number (408) 846-0400, is the officer of the City who will be responsible for preparing annually a current roll of the levy of the Special Tax obligations by assessor’s parcel number and who will be responsible for estimating future levies of the Special Tax.

10. **Tax Lien.** Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the City ceases.

11. **Appropriations Limit.** In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at $25,000 and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such annual appropriations limit shall
become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act and the Constitution.

12. **Election.** Pursuant to the provisions of the Act, the proposition of the levy of the Special Tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

13. **Effective Date.** This resolution shall take effect upon its adoption.

* * * * * * * *

**PASSED AND ADOPTED** by the City Council of the City of Gilroy this 28th day of March, 2011, by the following vote:

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APPROVED:

______________________________
Albert Pinheiro, Mayor

ATTEST:

______________________________
Shawna Freels, City Clerk
EXHIBIT A

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

DESCRIPTION OF SERVICES

The captioned Community Facilities District will finance, in whole or in part, the following services ("services" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982), including all related administrative costs, expenses and related reserves for replacement of vehicles, equipment and facilities, relating to Parcel B of Tract 9966, constituting 32,927 square feet fronting Santa Theresa Blvd. between Sunrise Drive and the right-of-way in favor of the Santa Clara Valley Water District:

1. Turf and Plant Maintenance
Sufficient water, fertilizer, and other nutrients shall be provided, and sufficient insect and disease control shall be applied, to turf and other plants to maintain them in a healthy and thriving condition.

2. Turf and Plant Trimming
Plants shall be trimmed by removing dead wood from trees and shrubs, trimming back foliage which has exceeded the landscape boundaries and shaping plants as necessary, and keeping turf mowed to a height of between one and a half to two inches and trimmed back from edges of hardscape.

3. Tree and Shrub Pruning
Trees and shrubs shall be pruned and trimmed, as necessary, in such a manner as to prevent interference with sight clearance for pedestrian, bicycle, and vehicle traffic on adjacent roadways, walkways, and rights of way.

4. Irrigation System
The irrigation system serving the landscaping shall be maintained, repaired, and replaced as needed, and all legally required permits with respect to such work shall be obtained.

5. Weeds, Trash, and Debris
All weeds, trash, and debris shall be removed regularly from the landscaped area.

6. Plant Replacement
All plants which have died back or have become unsightly shall be replaced on no less than a monthly basis.

7. Water and Electricity
All costs and expenses for water and electricity used to irrigate and light the landscaping.
EXHIBIT B

CITY OF GILROY
COMMUNITY FACILITIES DISTRICT NO. 2011-1
(DEER PARK LANDSCAPE MAINTENANCE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor’s Parcel in the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2011-1, 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 the CFD, 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:

“Accessory Unit” means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

“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 or other recorded County parcel map.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2011-1: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes; the costs to the City, CFD No. 2011-1, or any designee thereof of complying with City, CFD No. 2011-1, or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries, protests, or appeals regarding the Special Taxes; 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. 2011-1 for any other administrative purposes of CFD No. 2011-1, including attorney’s fees.
and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Administrator" means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Tax.

"Assessor’s Parcel” or “Parcel” means a lot or 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 designating parcels by Assessor’s Parcel Number.

"Assessor’s Parcel Number” or “APN” means a unique number assigned to an Assessor’s Parcel by the County Assessor for purposes of identifying a property.

"Authorized Services” means the public services authorized to be funded by the CFD as set forth in the documents adopted by the Council when the CFD was formed.

"CFD” or “CFD No. 2011-1” means the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance).

"City” means the City of Gilroy.

"Council” means the City Council of the City of Gilroy, acting as the legislative body of CFD No. 2011-1.

"County” means the County of Santa Clara.

"Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property for which a final building permit inspection was conducted or a certificate of occupancy was issued by the City on or prior to June 30 of the preceding Fiscal Year. In the absence of a final building permit inspection or certificate of occupancy, any Parcel of Taxable Property shall be classified as Developed Property if it has been purchased and occupied by a homeowner on or prior to June 30 of the preceding fiscal year.

"Final Map” means a final map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410, et seq.) that creates individual lots on which a building permit can be issued for construction of residential units without further subdivision of the lots.

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

"Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year.
"Proportionately" means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Undeveloped Property.

"Public Property" means, for each Fiscal Year: (i) any property within the boundaries of the CFD that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of the CFD that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Unit" means an individual single-family detached unit, an individual residential unit within a duplex, halfplex, triplex, fourplex, townhome, live/work or condominium structure, or an individual apartment unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA.

"RMA" means this Rate and Method of Apportionment of Special Tax.

"Special Tax" means any tax levied within the CFD to pay the Special Tax Requirement.

"Special Tax Requirement" means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

"Taxable Property" means all Assessor’s Parcels within the boundaries of CFD No. 2011-1 that are not exempt from the Special Tax pursuant to law or Section E below.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property in CFD No. 2011-1 that are not Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine: (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property; and (ii) the Special Tax Requirement for the then current Fiscal Year.
In any Fiscal Year, if it is determined that (i) a Final Map or parcel map for a portion of property in CFD No. 2011-1 was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, (ii) because of the date the Final Map or parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map or parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or parcel map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or parcel map.

C. **MAXIMUM SPECIAL TAXES**

1. **Developed Property**

   The Maximum Special Tax for Fiscal Year 2011-12 for all Parcels of Developed Property within CFD No. 2011-1 shall be $121 per Residential Unit.

2. **Undeveloped Property**

   The Maximum Special Tax for Fiscal Year 2011-12 for all Parcels of Undeveloped Property within CFD No. 2011-1 shall be $676 per Acre.

3. **Escalation of Maximum Special Tax**

   On July 1, 2012, and each July 1 thereafter, the Maximum Special Tax for Developed Property and Undeveloped Property shall be increased by an amount equal to 4.0% of the Maximum Special Tax in effect in the prior Fiscal Year.

D. **METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES**

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and levy the Special Tax on all Parcels of Taxable Property as follows:

*Step 1:* The Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement plus a reasonable reserve as determined by the Administrator;

*Step 2:* Beginning in Fiscal Year 2013-14 and each following Fiscal Year, if additional revenue is needed after Step 1, the Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied, when combined with the amount levied pursuant to Step 1,
is equal to the Special Tax Requirement plus a reasonable reserve as determined by the Administrator.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD, and the Special Tax shall be equally subject to foreclosure if delinquent.

E.  EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels of Public Property, except as otherwise provided in the Act.

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 resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

G.  TERM OF THE SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to pay the Special Tax Requirement.

H.  REPEAL OF THE SPECIAL TAX

If the levy of the Special Tax is repealed by initiative or any other action participated in by the owners of Parcels in the CFD, the City shall cease to levy the Special Tax and shall cease to be obligated to provide the Authorized Services for which the Special Tax was levied. The obligations to provide the Authorized Services previously funded by the repealed Special Tax shall become the obligations of any property owners association established within the CFD, and if there is no such association, they shall become the joint obligations of the property owners of Parcels within the CFD in proportion to the number of Parcels owned by each such owner to the total number of Parcels within the CFD.
RESOLUTION NO. 2011-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY CALLING SPECIAL LANDOWNER ELECTION FOR COMMUNITY FACILITIES DISTRICT

CITY OF GILROY
COMMUNITY FACILITIES DISTRICT NO. 2011-1
(DEER PARK LANDSCAPE MAINTENANCE)

RESOLVED by the City Council (the “Council”) of the City of Gilroy (the “City”), County of Santa Clara, State of California, that:

WHEREAS, this Council has adopted a resolution entitled “A Resolution of the City Council of the City of Gilroy of Formation of Community Facilities District” (the “Resolution of Formation”), ordering the formation of the “City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)” (the “CFD”), defining the public services (the “Services”) to be provided by the CFD, authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”); and

WHEREAS, pursuant to the provisions of the Resolution of Formation, the propositions of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors of the CFD as required by the provisions of the Act.

NOW THEREFORE, IT IS HEREBY ORDERED as follows:

1. Issues Submitted. Pursuant to the Act, the issues of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors (as defined below) of the CFD at an election called therefor as provided below.

2. Qualified Electors. This Council hereby finds that fewer than 12 persons have been registered to vote within the territory of the CFD for each of the ninety (90) days preceding the close of the public hearings heretofore conducted and concluded by this Council for the purposes of these proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that, for these proceedings, the qualified electors are the landowners within the CFD and that the vote shall be by such landowners or their authorized representatives, each having one vote for each acre or portion thereof such landowner owns in the CFD as of the close of the public hearing.

3. Conduct of Election. This Council hereby calls a special election to consider the issues described in section 2, above, which election shall be held on March 28, 2011, and the results thereof canvassed at the meeting of this Council on March 28, 2011. The City Clerk is hereby designated as the official to conduct the election and to receive all ballots until the close of business on the election date. It is hereby acknowledged that the Clerk has on file the Resolution of Formation, a map of the boundaries of the CFD, and a sufficient description to allow the Clerk to determine the electors of the CFD. Pursuant to Section 53327 of the Act, the election shall be conducted by messenger or mail-delivered ballot pursuant to Section 4000 of the California Elections Code. This Council hereby finds that paragraphs (a), (b), and (c) (2) of Section 4000 and Section 4108 are applicable to this special election, except that Sections 53326 and 53327 of the Act shall govern for purposes of determining the date of the election.
4. **Ballot.** As authorized by Section 53353.5 of the Act, the issues described in section 1 above shall be combined into a single ballot measure, the form of which as attached hereto as Exhibit “A” is hereby approved. The City Clerk is hereby authorized and directed to cause a ballot, in substantially the form of Exhibit “A,” to be delivered to each of the qualified electors of the CFD. Each ballot shall indicate the number of votes to be voted by the respective landowner to which the ballot pertains. Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The envelope to be used to return the ballot shall be enclosed with the ballot, have the return postage prepaid, and contain the following: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the landowner entitled to vote and is the person whose name appears on the envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration pursuant to clause (b) above, and (e) a notice that the envelope contains an official ballot.

5. **Waivers.** This Council hereby further finds that the provisions of Section 53326 of the Act requiring a minimum of 90 days following the adoption of the Resolution of Formation to elapse before the special election are for the protection of the qualified electors of the CFD. There is on file with the Clerk a written waiver executed by all of the qualified electors of the CFD allowing for a shortening of the time for the special election to expedite the process of formation of the CFD and waiving any requirement for notice, analysis and arguments in connection with the election. Accordingly, this Council finds and determines that the qualified electors have been fully apprised of and have agreed to the shortened time for the election and waiver of analysis and arguments, and have thereby been fully protected in these proceedings. This Council also finds and determines that the City Clerk has concurred in the shortened time for the election. Analysis and arguments with respect to the ballot measures are hereby waived, as provided in Section 53327 of the Act.

6. **Accountability.** Under Section 50075.1 of the Government Code, the following accountability provisions shall apply to the special taxes: (a) the construction and/or acquisition of the Services and the incidental costs thereof including any bonds, all as defined in the Resolution of Formation, shall constitute the specific single purpose; (b) the proceeds shall be applied only to the specific purposes identified in (a) above; (c) there shall be created special account(s) or fund(s) into which the proceeds shall be deposited; and (d) there shall be caused to be prepared an annual report if required by Section 50075.3 of the Government Code.

7. **Effective Date.** This Resolution shall take effect upon its adoption.

* * * * * * *

**PASSED AND ADOPTED** by the City Council of the City of Gilroy this 28th day of March, 2011, by the following vote:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>COUNCILMEMBERS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOES:</td>
<td>COUNCILMEMBERS:</td>
</tr>
<tr>
<td>ABSENT:</td>
<td>COUNCILMEMBERS:</td>
</tr>
</tbody>
</table>

APPROVED:

______________________________

Albert Pinheiro, Mayor

ATTEST:

Shawna Freels, City Clerk

Item VIII.A.
EXHIBIT A

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

OFFICIAL BALLOT
SPECIAL TAX ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Gilroy no later than the hour of 7:00 p.m. on Monday, March 28, 2011, either by mail or in person. The City Clerk’s office is located at 7351 Rosanna Street, Gilroy, California.

To vote, mark a cross (X) on the voting line after the word “YES” or after the word “NO”. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Gilroy and obtain another.

BALLOT MEASURE: Shall the City of Gilroy be authorized to annually levy a special tax solely on lands within the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) (the “CFD”) in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on March 28, 2011, commencing in the City’s fiscal year No. 2011-12, to pay for the municipal services for the CFD and to pay the costs of the City in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of $25,000?

YES: ________

NO: ________

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Number of Votes: ___

Property Owner:

[property owner name]

[signature block]
RESOLUTION NO. 2011-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY
DECLARING RESULTS OF SPECIAL LANDOWNER ELECTION AND
DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN

CITY OF GILROY
COMMUNITY FACILITIES DISTRICT NO. 2011-1
(DEER PARK LANDSCAPE MAINTENANCE)

RESOLVED by the City Council (the “Council”) of the City of Gilroy (the “City”), County of Santa Clara, State of California, that:

WHEREAS, this Council has adopted a resolution entitled “A Resolution of the City Council of the City of Gilroy of Formation of Community Facilities District” (the “Resolution of Formation”), ordering the formation of the “City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)” (the “CFD”), authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”).

WHEREAS, under the provisions of the Resolution of Formation and pursuant to a resolution entitled "A Resolution of the City Council of the City of Gilroy Calling Special Landowner Election for Community Facilities District” (the “Election Resolution”) heretofore adopted by this Council, the propositions of the levy of the special tax and the establishment of the appropriations limit were submitted to the qualified electors of the CFD as required by the provisions of the Act.

WHEREAS, pursuant to the terms of the Election Resolution, which are by this reference incorporated herein, the special election has been held and the City Clerk has on file a Canvass and Statement of Results of Election, (the “Canvass”) a copy of which is attached hereto as Exhibit A; and

WHEREAS, this Council has been informed of the Canvass, finds it appropriate and wishes to complete its proceedings for the CFD.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. **Recitals.** The foregoing recitals are all true and correct.

2. **Issues Presented.** The issues presented at the special election were the levy of a special tax within the CFD and the approval of an annual appropriations limit of not to exceed $25,000, all pursuant to the Resolution of Formation.

3. **Canvass and Issues Approved.** The Council hereby approves the Canvass and finds that it shall be a permanent part of the record of its proceedings for the CFD. Pursuant to the Canvass, the issues presented at the special election were approved by the qualified electors of the CFD by more than two-thirds of the votes cast at the special election.

4. **Proceedings Approved.** Pursuant to the voter approval, the CFD is hereby declared to be fully formed with the authority to levy the special taxes and to have the established appropriations limit, all as heretofore provided in these proceedings and in the Act. It is hereby found that all prior
proceedings and actions taken by this Council with respect to the CFD were valid and in conformity with the Act.

5. **Notice of Tax Lien.** The City Clerk is hereby directed to complete, execute and cause to be recorded in the office of the County Recorder of the County of Santa Clara a notice of special tax lien in the form required by the Act, such recording to occur no later than fifteen (15) days following adoption of this resolution by the Council.

6. **Effective Date.** This Resolution shall take effect upon its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Gilroy this 28th day of March, 2011, by the following vote:

**AYES:** COUNCILMEMBERS:

**NOES:** COUNCILMEMBERS:

**ABSENT:** COUNCILMEMBERS:

APPROVED:

__________________________
Albert Pinheiro, Mayor

ATTEST:

__________________________
Shawna Freels, City Clerk
EXHIBIT A

CANVASS AND STATEMENT OF RESULT OF ELECTION

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

I hereby certify that on March 28, 2011, I canvassed the returns of the election held on March 28, 2011, in the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) and the total number of ballots cast in such District and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

<table>
<thead>
<tr>
<th>Qualified Landowner</th>
<th>Votes Cast</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Gilroy</td>
<td></td>
<td></td>
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<tr>
<td>Community Facilities District No. 2011-1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Deer Park Landscape Maintenance)</td>
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</table>

BALLOT MEASURE: Shall the City of Gilroy be authorized to annually levy a special tax solely on lands within the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) (the “CFD”) in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on March 28, 2011, commencing in the City’s fiscal year No. 2011-12, to pay for the municipal services for the CFD and to pay the costs of the City in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of $25,000?

YES: _________

NO: _________

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND on March 28, 2011.

By:

Shawna Freels, City Clerk
City of Gilroy

Item VIII.A.

Exhibit A
Page 1
ORDINANCE NO. 2011-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY LEVYING SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 2011-1 (DEER PARK LANDSCAPE MAINTENANCE)

WHEREAS, on February 7, 2011, this Council adopted a resolution entitled “A Resolution of the City Council of the City of Gilroy of Intention to Establish Community Facilities District” (the “Resolution of Intention”), and has conducted proceedings (the “Proceedings”) to establish “City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)” (the “CFD”) pursuant to the Mello-Roos Community Facilities Act, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the “Act”) to finance certain municipal services (the “Services”) as provided in the Act;

WHEREAS, pursuant to notice as specified in the Act, and as part of the Proceedings, the Council has held a public hearing under the Act relative to the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax (“Special Tax”) to be levied within the CFD to finance the Services, and at such hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of the Special Tax were heard, substantial evidence was presented and considered by this Council and a full and fair hearing was held;

WHEREAS, upon the conclusion of the hearing, this Council adopted its “A Resolution of the City Council of the City of Gilroy of Formation of Community Facilities District” (the “Resolution of Formation”), pursuant to which it completed the Proceedings for the establishment of the CFD, the authorization of the levy of the Special Tax within the CFD and the calling of an election within the CFD on the propositions of levying the Special Tax and establishing an appropriations limit within the CFD, respectively; and

WHEREAS, on March 28, 2011, a special election was held among the landowner voters within the CFD at which such voters approved such propositions by the two-thirds vote required by the Act, which approval has been confirmed by resolution of this Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GILROY as follows:

Section 1. By the passage of this Ordinance, the Council hereby authorizes and levies the Special Tax within the CFD pursuant to the Act, at the rate and in accordance with the rate and method of apportionment of Special Tax set forth in the Resolution of Formation which rate and method is by this reference incorporated herein. The Special Tax is hereby levied commencing in fiscal year No. 2011-12 and in each fiscal year thereafter to pay for the Services for the CFD, as contemplated by the Resolution of Formation and the Proceedings and all costs of administering the CFD.

Section 2. The City’s Director of Finance or designee, or an employee or consultant of the City, is hereby authorized and directed each fiscal year to determine the specific Special Tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation.

Item VIII.A.
Section 3. Exemptions from the levy of the Special Tax shall be as provided in the Resolution of Formation and the applicable provisions of the Act. In no event shall the Special Tax be levied on any parcel within the CFD in excess of the maximum Special Tax specified in the Resolution of Formation.

Section 4. All of the collections of the Special Tax shall be used as provided in the Act and in the Resolution of Formation, including, but not limited to, the payment of costs of the Services, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the Special Tax.

Section 5. The Special Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Council may provide for other appropriate methods of collection by resolution(s) of the Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent Special Tax payments. The Director of Finance of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Santa Clara in order to effect proper billing and collection of the Special Tax, so that the Special Tax shall be included on the secured property tax roll of the County of Santa Clara for fiscal year No. 2011-12 and for each fiscal year thereafter until no longer required to pay for the Services or until otherwise terminated by the City.

Section 6. If for any reason any portion of this ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this ordinance and the application of the Special Tax to the remaining parcels within the CFD shall not be affected.

Section 7. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published immediately after its passage at least once in a newspaper of general circulation circulated in the City.

Section 8. This Ordinance shall take effect 30 days from the date of final passage.

PASSED AND ADOPTED by the City Council of the City of Gilroy this day of , 2011, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

APPROVED:

Albert Pinheiro, Mayor

ATTEST:

Shawna Freels, City Clerk
RECORDING REQUESTED BY AND AFTER RECORDATION RETURN TO:

City Clerk
City of Gilroy
7351 Rosanna Street
Gilroy, California 95020

NOTICE OF SPECIAL TAX LIEN

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code of California and the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"), the undersigned City Clerk of the City of Gilroy, County of Santa Clara, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Gilroy, County of Santa Clara. The special tax secured by this lien is authorized to be levied for the purpose of providing all or a portion of the public services described on Exhibit A attached hereto and hereby made a part hereof.

The special tax is authorized to be levied within "City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)" (the "CFD") which has now been officially formed and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as set forth in Exhibit B attached hereto and hereby made a part hereof. Conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled are: None.

Notice is further given that upon the recording of this notice in the office of the County Recorder of the County of Santa Clara, the obligation to pay the special tax levy shall become a

Item VIII.A.
lien upon all nonexempt real property within the CFD in accordance with Section 3115.5 of the Streets and Highways Code of California.

The name(s) of the owner(s) and the assessor's tax parcel numbers of the real property included within the area of the CFD and not exempt from the special tax are as set forth in Exhibit C attached hereto and hereby made a part hereof.

Reference is made to the boundary map of the CFD recorded on February 17, 2011, at 11:32 a.m., in Book 46 of Maps of Assessment and Community Facilities Districts at Page 33, in the office of the County Recorder for the County of Santa Clara, State of California, which map is now the final boundary map of the CFD.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the City Administrator of the City of Gilroy, 7351 Rosanna Street, Gilroy, California 95020; telephone number (408) 846-0400.

Dated: As of March 28, 2011

By: ________________________________
    City Clerk,
    City of Gilroy
EXHIBIT B

CITY OF GILROY
COMMUNITY FACILITIES DISTRICT NO. 2011-1
(DEER PARK LANDSCAPE MAINTENANCE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor’s Parcel in the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2011-1, 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 the CFD, 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:

“Accessory Unit” means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

“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 or other recorded County parcel map.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2011-1: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes; the costs to the City, CFD No. 2011-1, or any designee thereof of complying with City, CFD No. 2011-1, or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries, protests, or appeals regarding the Special Taxes; 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. 2011-1 for any other administrative purposes of CFD No. 2011-1, including attorney’s fees.
and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

“Assessor’s Parcel” or “Parcel” means a lot or 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 designating parcels by Assessor’s Parcel Number.

“Assessor’s Parcel Number” or “APN” means a unique number assigned to an Assessor’s Parcel by the County Assessor for purposes of identifying a property.

“Authorized Services” means the public services authorized to be funded by the CFD as set forth in the documents adopted by the Council when the CFD was formed.

“CFD” or “CFD No. 2011-1” means the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance).

“City” means the City of Gilroy.

“Council” means the City Council of the City of Gilroy, acting as the legislative body of CFD No. 2011-1.

“County” means the County of Santa Clara.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property for which a final building permit inspection was conducted or a certificate of occupancy was issued by the City on or prior to June 30 of the preceding Fiscal Year. In the absence of a final building permit inspection or certificate of occupancy, any Parcel of Taxable Property shall be classified as Developed Property if it has been purchased and occupied by a homeowner on or prior to June 30 of the preceding fiscal year.

“Final Map” means a final map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410, et seq.) that creates individual lots on which a building permit can be issued for construction of residential units without further subdivision of the lots.

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

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year.
“Proportionately” means, for Developed Property, that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual annual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Undeveloped Property.

“Public Property” means, for each Fiscal Year: (i) any property within the boundaries of the CFD that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of the CFD that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“Residential Unit” means an individual single-family detached unit, an individual residential unit within a duplex, halfplex, triplex, fourplex, townhome, live/work or condominium structure, or an individual apartment unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Special Tax” means any tax levied within the CFD to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

“Taxable Property” means all Assessor’s Parcels within the boundaries of CFD No. 2011-1 that are not exempt from the Special Tax pursuant to law or Section E below.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property in CFD No. 2011-1 that are not Developed Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine: (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property; and (ii) the Special Tax Requirement for the then current Fiscal Year.
In any Fiscal Year, if it is determined that (i) a Final Map or parcel map for a portion of property in CFD No. 2011-1 was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, (ii) because of the date the Final Map or parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map or parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or parcel map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or parcel map.

C. **MAXIMUM SPECIAL TAXES**

1. **Developed Property**

   The Maximum Special Tax for Fiscal Year 2011-12 for all Parcels of Developed Property within CFD No. 2011-1 shall be $121 per Residential Unit.

2. **Undeveloped Property**

   The Maximum Special Tax for Fiscal Year 2011-12 for all Parcels of Undeveloped Property within CFD No. 2011-1 shall be $676 per Acre.

3. **Escalation of Maximum Special Tax**

   On July 1, 2012, and each July 1 thereafter, the Maximum Special Tax for Developed Property and Undeveloped Property shall be increased by an amount equal to 4.0% of the Maximum Special Tax in effect in the prior Fiscal Year.

D. **METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES**

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and levy the Special Tax on all Parcels of Taxable Property as follows:

**Step 1:** The Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement plus a reasonable reserve as determined by the Administrator;

**Step 2:** Beginning in Fiscal Year 2013-14 and each following Fiscal Year, if additional revenue is needed after Step 1, the Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied, when combined with the amount levied pursuant to Step 1,
is equal to the Special Tax Requirement plus a reasonable reserve as determined by the Administrator.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels of Public Property, except as otherwise provided in the Act.

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 resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

G. TERM OF THE SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to pay the Special Tax Requirement.

H. REPEAL OF THE SPECIAL TAX

If the levy of the Special Tax is repealed by initiative or any other action participated in by the owners of Parcels in the CFD, the City shall cease to levy the Special Tax and shall cease to be obligated to provide the Authorized Services for which the Special Tax was levied. The obligations to provide the Authorized Services previously funded by the repealed Special Tax shall become the obligations of any property owners association established within the CFD, and if there is no such association, they shall become the joint obligations of the property owners of Parcels within the CFD in proportion to the number of Parcels owned by each such owner to the total number of Parcels within the CFD.
EXHIBIT C

CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

ASSESSOR'S PARCEL NUMBERS
AND OWNERS OF LAND WITHIN COMMUNITY FACILITIES DISTRICT

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<th>Assessor's Parcel No.</th>
<th>Name of Property Owner</th>
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<tbody>
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<td>Lot 19</td>
<td>Arcadia Development Co., a California corporation, as to an undivided 50% interest, and Glen Loma Corporation, a California corporation, as to an undivided 50% interest</td>
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Total: 191,523 square feet
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</table>
Item VIII.A.
CERTIFICATE OF MAILING BALLOT FOR SPECIAL LANDOWNER ELECTION

I, Sean Sharp, the undersigned, under penalty of perjury, certify as follows:

That for and on behalf of the City Clerk of the City of Gilroy (the "City"), and on March 11, 2011, I caused to be mailed the Official Ballot for special landowner election, postage prepaid, to all qualified electors in the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) whose names and addresses appear on the last equalized assessment roll for general taxes, or are known to said Clerk, at their respective addresses as same appeared on said roll or as known to said Clerk, a copy of which Ballot is hereto attached and marked Exhibit A. With respect to any real property for which the names and/or addresses as appeared on said roll and as known to said Clerk were not the same, the notice for such property was so mailed to both names and/or addresses.

Executed on March 11, 2011

Sean Sharp
CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

OFFICIAL BALLOT
SPECIAL TAX ELECTION

This ballot is for a special, landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Gilroy no later than the hour of 6:00 p.m. on Monday, March 28, 2011, either by mail or in person. The City Clerk's office is located at 7351 Rosanna Street, Gilroy, California.

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Gilroy and obtain another.

BALLOT MEASURE: Shall the City of Gilroy be authorized to annually levy a special tax solely on lands within the City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance) (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on March 28, 2011, commencing in the City's fiscal year No. 2011-12, to pay for the municipal services for the CFD and to pay the costs of the City in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of $25,000?

YES: _________

NO: _________

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Acres: 4.40
Number of Votes: 2.5
Property Owner:

ARCADIA DEVELOPMENT CO., a California corporation, as to an undivided 50% interest

By: ____________________________

Name: Brad Durga
Title: Vice President

Item VIII.A.
CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

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YES: ________
NO: ________

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Acres: 14.63
Number of Votes: 15
Property Owner:
K. HOVNANIAN AT GILROY, LLC, a California limited liability company

By: _____________________________
Name: Courtney McAlister
Title: Division Counsel

Item VIII.A.
CITY OF GILROY
Community Facilities District No. 2011-1
(Deer Park Landscape Maintenance)

OFFICIAL BALLOT
SPECIAL TAX ELECTION

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YES: ________
NO: ________

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Acres: 4.40
Number of Votes: 2.5
Property Owner:
GLEN LOMA CORPORATION, a California corporation, as to an undivided 50% interest

By: _______________________

Name: John M. Filice Jr.
Title: President

Item VIII.A.
March 11, 2011

Arcadia Development Co.
Brad Durga
P.O. Box 5368
San Jose, CA 95150

Re: City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)

Dear Property Owner:

This law firm is counsel to the City of Gilroy (the "City") with respect to the referenced Community Facilities District (the "CFD"). The City has begun the formation of the CFD, which includes your property. The next steps will be the public hearing and property owner election, which will both happen at the same City Council meeting on March 28, 2011. For the City, I enclose:

1. **Notice of Public Hearing.** There will be a public hearing on March 28, 2011. It will be on the formation of the CFD and the authorization of special tax. A copy of the published notice is attached.

2. **Proposed Resolution of Formation.** This is the resolution that the Council proposes to adopt after the hearing. It will form the CFD, subject to a favorable property owner vote. The services to be financed are shown in Exhibit A and the rate and method of special tax apportionment is shown in Exhibit B. Please review both exhibits carefully to make sure you understand what is being financed and how the special tax will affect your property. If the CFD process is completed, this tax will be secured by a lien recorded against your property.

   This resolution (Section 11) also establishes the "appropriations limit" under Article XIIIB of the Constitution at $25,000. This is not the amount of special tax to be levied. This is the limit on the amount the CFD can spend in one tax year. The amount is set deliberately high to assure that the amount will not be exceeded.

3. **Official Ballot.** This is the ballot that you must use to vote for the special tax and the appropriations limit for the CFD for your property. Please note the number of votes shown at Item VIII.A.
March 11, 2011

Glen Loma Corporation
Attn: John Filice
7888 Wren Avenue D143
Gilroy, CA 95020

Re: City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)

Dear Property Owner:

This law firm is counsel to the City of Gilroy (the “City”) with respect to the referenced Community Facilities District (the “CFD”). The City has begun the formation of the CFD, which includes your property. The next steps will be the public hearing and property owner election, which will both happen at the same City Council meeting on March 28, 2011. For the City, I enclose:

1. Notice of Public Hearing. There will be a public hearing on March 28, 2011. It will be on the formation of the CFD and the authorization of special tax. A copy of the published notice is attached.

2. Proposed Resolution of Formation. This is the resolution that the Council proposes to adopt after the hearing. It will form the CFD, subject to a favorable property owner vote. The services to be financed are shown in Exhibit A and the rate and method of special tax apportionment is shown in Exhibit B. Please review both exhibits carefully to make sure you understand what is being financed and how the special tax will affect your property. If the CFD process is completed, this tax will be secured by a lien recorded against your property.

This resolution (Section 11) also establishes the “appropriations limit” under Article XIIIIB of the Constitution at $25,000. This is not the amount of special tax to be levied. This is the limit on the amount the CFD can spend in one tax year. The amount is set deliberately high to assure that the amount will not be exceeded.

3. Official Ballot. This is the ballot that you must use to vote for the special tax and the appropriations limit for the CFD for your property. Please note the number of votes shown at

Item VIII.A.
March 11, 2011

K. Hovnanian at Gilroy, LLC
Attn: Courtney McAlister
1375 Exposition Boulevard, Suite 300
Sacramento, CA 95815

Re: City of Gilroy Community Facilities District No. 2011-1 (Deer Park Landscape Maintenance)

Dear Property Owner:

This law firm is counsel to the City of Gilroy (the "City") with respect to the referenced Community Facilities District (the "CFD"). The City has begun the formation of the CFD, which includes your property. The next steps will be the public hearing and property owner election, which will both happen at the same City Council meeting on March 28, 2011. For the City, I enclose:

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3. **Official Ballot.** This is the ballot that you must use to vote for the special tax and the appropriations limit for the CFD for your property. Please note the number of votes shown at Item VIII.A.