

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DECLARING THE RESULTS OF THE SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN FOR ANNEXATION AREA NO. 3 OF COMMUNITY FACILITIES NO. 8 (COMMUNICATIONS HILL)

WHEREAS, on September 3, 2002, pursuant to Chapter 14.27 of Title 14 of the Municipal Code of the City, which incorporates and modifies the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (collectively, the “Ordinance”), this Council adopted Resolution No. 71194 establishing Community Facilities District No. 8 (Communications Hill) (hereinafter “CFD 8”); and

WHEREAS, on April 22, 2025, the City Council of the City of San Jose (hereinafter “Council”) adopted Resolution No. RES2025-85 entitled “A Resolution of Intention of the Council of the City of San Jose to Annex Territory into Community Facilities District No. 8 (Communications Hill) and to Authorize the Levy of Special Taxes (Annexation Area No. 3)” (hereinafter “Resolution of Intention”) stating its intention to annex Annexation Area No. 3 to CFD 8; and

WHEREAS, pursuant to California Government Code section 53326(a), all requirements, including but not limited to any time limit, pertaining to the conduct of the special election have been waived by unanimous consent of the qualified electors of the proposed annexation area as authorized by the Ordinance, which the executed Landowner Petition and Waiver from each qualified elector is on file with the Department of Public Works, and with the concurrence of the City Clerk as the designated election official conducting the election; and

WHEREAS, as authorized by the unanimous waiver of special election requirements by all qualified electors pursuant to the Ordinance (California Government Code section 53326(a)), the special election is by ballot mailed with the Notice of Public Hearing to all of the property owners within Annexation Area No. 3 by the City Clerk on May 5, 2025, to be tabulated by the City Clerk at 1:30 p.m. or as soon thereafter at the close of the public hearing on June 3, 2025; and

WHEREAS, the City Clerk has certified that a ballot in the form set forth in Exhibit "A" hereto has caused to be delivered to each of qualified electors in the annexation area, that each ballot indicated the number of votes to be voted by the respective landowner to which it pertains, that each ballot was accompanied by all supplies and written instructions necessary for the use and return of the ballot, and that the envelopes to return the ballot were enclosed with the ballot, and contained 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; and

WHEREAS, the City Clerk accepted the ballots of the qualified electors in their office upon and prior to 1:30 p.m. on June 3, 2025, or as soon thereafter as the matter could be heard, which is the special election date, whether said ballots be personally delivered or received by mail. The City Clerk also made available ballots to be marked at her office on the election day by said qualified electors; and

WHEREAS, the City Clerk has on file a canvass and Statement of Results of Election, a copy of which is attached hereto as Exhibit "B"; and

WHEREAS, the Council has reviewed that canvass and hereby approves it;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The above stated recitals are adopted herein as findings.
2. Notice of a Public Hearing of the City's intention to annex territory to CFD 8 was duly published in the *San Jose Post-Record* on May 27, 2025.
3. Said Public Hearing was held on June 3, 2025 at which less than 50 percent of the registered voters, (or less than six registered voters, whichever is more) residing in Annexation Area No. 3 filed written protests against the proposed annexation; and the owners of less than 50 percent of the area in Annexation Area No. 3 filed written protests against the proposed annexation.
4. This Council hereby accepts the Certificate of Registrar of Voters filed in these proceedings and hereby finds that it is not the case that at least 12 persons have been registered to vote within Annexation Area No. 3 for each of the ninety (90) days preceding the close of the Public Hearing conducted and concluded by this Council for the purposes of these proceedings. Accordingly, and pursuant to the Ordinance, this Council finds that the qualified electors are the landowners within Annexation Area No. 3 and that the vote is by such landowners or their authorized representatives, each having one vote for each acre or portion thereof such landowner owns in Annexation Area No. 3 as of the close of the Public Hearing.
5. This Council hereby finds that Section 4000 of the California Elections Code, which generally governs elections by mail, does not apply to this special election because of the petition and waiver executed and filed with the City by all qualified electors in Annexation Area No. 3 pursuant to the Ordinance.

6. The issue presented at said special election was the levy of a special tax within Annexation Area No. 3 to be levied in accordance with the formula heretofore approved by the Council by its Resolution of Intention.
7. Pursuant to said Canvass by the City Clerk, the issue presented at said special election was approved by the qualified electors of Annexation Area No. 3 by more than two-thirds (2/3) of the votes cast at said special election.
8. Pursuant to said voter approval, the Annexation Area No. 3 is hereby annexed into CFD 8 with full legal effect and the authority to levy special taxes as heretofore provided in these proceedings and in the Ordinance.
9. It is hereby found that all prior proceedings and actions taken by the City with respect to the CFD 8 annexation were valid and in conformity with the Ordinance.
10. The City Clerk is hereby directed to 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 Ordinance, said recording to occur no later than fifteen (15) days following adoption by the Council of this Resolution.

ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

EXHIBIT A

CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)
ANNEXATION AREA NO. 3

OFFICIAL BALLOT
(Mailed Ballot Election)

Special Tax Election
(June 3, 2025)

This ballot is for a special landowner election in connection with the annexation of a portion of a certain parcel into Community Facilities District No. 8 (Communications Hill), City of San José. In order to be counted, (1) this ballot must be executed and sealed inside the Ballot Return Envelope, (2) **the certification on the outside of the Ballot Return Envelope must be completely filled out and signed**; and (3) the Ballot Return Envelope must be returned to the City Clerk, by mail or in person, to be received by the City Clerk prior to 1:30 p.m. on June 3, 2025 at the San José City Hall at 200 East Santa Clara Street, 14th Floor Tower, San José, California, 95113.

Mailing on or before the due date will not be sufficient. Postmarks will not be accepted.
This ballot must be received by the City Clerk by time stated in order to be counted.

To vote, mark a cross (X) in the box after the word “YES” or after the word “NO”. AN “X” OR OTHER MARK IN THE BOX AFTER THE WORD “YES” OR AFTER THE WORD “NO” WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT 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 San José and obtain another.

BALLOT MEASURE:

“Shall the City Council of the City of the San José (the “City”) be authorized to levy annually, a special tax within Annexation Area No. 3 of Community Facilities District No. 8 (Communications Hill) (the “Annexation”), commencing in the City’s fiscal year 2025-2026, upon lands within the Annexation boundaries, to pay for the authorized services, costs and expenses, all as specified on City Resolution No. RES2025-85 and as further defined in the Community Facilities District No.8 (Communication Hill) Report?”

MARK “YES”
OR “NO”
WITH AN “X”:

YES: ☐

NO: ☐

Number of Votes: *XX (votes)*

- List of properties and signature line on other side -

EXHIBIT A

COMMUNITY FACILITIES DISTRICT NO. 8

Santa Clara County Assessor's Parcel Numbers *XXX-XX-XXX (assessor's parcel number)*
of properties owned in the District

Despite the necessary identification of the landowner-voter on this ballot, the secrecy of this ballot will be strictly protected. The ballot may not be disclosed to any person, including any City Councilmember, City officer or City employee other than the City Clerk and the City Clerk's staff that will count and tabulate the ballots and report the election results, and those persons may not reveal this ballot's contents to anyone unless ordered by a court of competent jurisdiction.

Property Owner: *(property owner)*

Signature: _____

Name: _____

Title: _____

EXHIBIT B

CANVASS AND STATEMENT OF RESULT OF ELECTION

COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)
ANNEXATION AREA NO. 3

I hereby certify that on June 3, 2025, I canvassed the returns of the special election held on June 3, 2025, in the City of San José Annexation Area No. 3 of Community Facilities District No. 8 (Communications Hill) and the total number of ballots cast in said 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:

	Landowner Ballots	Ballots Cast	Qualified Landowner Votes	Votes Cast	YES	NO
City of José Community Facilities District No. 8 (Communications Hill) Annexation Area No. 3 Special Election June 3, 2025	1	<u>0</u>	3	<u>0</u>	<u>0</u>	<u>0</u>

BALLOT MEASURE: Shall the City Council of the City of the San José (the "City") be authorized to levy annually, a special tax within Annexation Area No. 3 of Community Facilities District No. 8 (Communications Hill) (the "Annexation"), commencing in the City's fiscal year 2025-2026, upon lands within the Annexation boundaries, to pay for the authorized services, costs and expenses, all as specified on City Resolution No. RES2025-85 and as further defined in the Community Facilities District No.8 (Communication Hill) Report?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 3rd day of June 2025.

By: _____
Toni J. Taber, MMC
City Clerk, City of San José