

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE
REPEALING ORDINANCE NO. 26420 LEVYING SPECIAL
TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO.
5A (NORTH COYOTE VALLEY FACILITIES)**

WHEREAS, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. ER-19-064; and

WHEREAS, the Council of the City of San José (alternatively, the “City Council”) previously conducted proceedings under and pursuant to the San José City Charter and Chapter 14.27 of the San José Municipal Code, which incorporates and modifies the Mello-Roos Community Facilities Act of 1982, as amended (collectively, the “Act”), to form Community Facilities District No. 5A (North Coyote Valley Facilities) (“CFD 5A”), to authorize the levy of special taxes upon the land within CFD 5A pursuant to Ordinance No. 26420, the proceeds of which were to be used to finance certain public improvements (the “Facilities”), all as described in those proceedings; and

WHEREAS, pursuant to such proceedings, the Notice of Special Tax Lien was recorded in the office of the Santa Clara County Recorder on July 5, 2001 as Document No. 15757636 and as subsequently modified by Document No. 15800018 recorded on July 31, 2001 (collectively, the “Notice of Special Tax Lien”) to give notice of the lien securing the obligation to pay special taxes to owners of all non-exempt property in CFD 5A; and

WHEREAS, at an election duly and regularly held in the City on November 6, 2018, the voters, by more than the required two-thirds vote, approved Measure T, entitled: “San José Disaster Preparedness, Public Safety and Infrastructure Bond” (“Measure T”) which authorizes the City to issue general obligation bonds in the principal amount of

not to exceed \$650,000,000 for the purpose of acquiring property for and constructing improvements in order to improve emergency and disaster response, repair deteriorating bridges vulnerable to earthquakes, repave streets and potholes in the worst condition, prevent flooding and water contamination including the acquisition of land in the Coyote Valley for these purposes, and repair critical infrastructure; and

WHEREAS, on July 25, 2019, pursuant to Resolution No. 79194, adopted by the City Council on June 25, 2019, the City issued its first series of general obligation bonds authorized under Measure T in the principal amount of \$239,900,000 (“Measure T Bonds”) with \$50 million of the Measure T Bonds issued as taxable bonds and allocated by the City Council for the acquisition of land in the Coyote Valley for preventing flooding and water contamination; and

WHEREAS, the City has been working with the Santa Clara Valley Open Space Authority (“OSA”) and the Peninsula Open Space Trust (“POST”) to acquire land in the Coyote Valley for the purposes specified in Measure T and conservation purposes; and

WHEREAS, on this date, the City Council approved the Coyote Valley Master Transfer and Conservation Agreement by and among POST, the City and OSA (the “Master Transfer Agreement”), specifying the rights and obligations of the parties related to, among other things, the acquisition of real property located in the Coyote Valley including approximately 596 acres owned by parties associated with Brandenburg Properties (the “Brandenburg Property”) and the acquisition of approximately 100 acres owned by parties associated with the Sobrato Organization (the “Sobrato North Property”); and

WHEREAS, also on this date, the Council approved separate agreements for the purchase of the Brandenburg Property and the Sobrato North Property with proceeds of Measure T Bonds; and

WHEREAS, following City's acquisition of the Brandenburg Property and the Sobrato North Property, the City will maintain ownership of a portion of the Brandenburg Property subject to a conservation easement in favor of the OSA and will transfer the Sobrato North Property to POST pending acquisition by OSA; and

WHEREAS, the Brandenburg Property and the Sobrato North Property are located in CFD 5A and are subject to payment of the special tax as specified in the Notice of Special Tax Lien; and

WHEREAS, as the Brandenburg Property and the Sobrato North Property will not be developed, and will instead be held as open space and used to prevent flooding and water contamination, it is in the public interest for the City to repeal Ordinance No. 26420, which will facilitate the acquisition of these properties;

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

SECTION 1. The City Council finds that the recitation of facts set forth in the recitals are true and correct.

SECTION 2. The City Council hereby repeals Ordinance No. 26420.

SECTION 3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and, following consultation with the City Attorney, to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the transactions described herein or to otherwise effectuate the purposes of this Ordinance. Any such actions previously taken by such officers are hereby ratified and confirmed.

SECTION 4. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any remaining provisions hereof.

SECTION 5. The provisions of this Ordinance shall take effect immediately upon adoption under Section 605(c) of the City Charter. Regardless of the effective date of this Ordinance, the provisions of this Ordinance will become operative on the date on which the sale of the Brandenburg Property and the Sobrato North Property have closed (“Operative Date”). On or promptly following the Operative Date, the City Manager or the City Manager’s authorized designee is directed to transmit to the City Clerk and the Director of Public Works a memorandum substantially in the form attached to this Ordinance as Exhibit A notifying them of the Operative Date, which memorandum shall be filed with this Ordinance in the records of the City Clerk.

ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

**EXHIBIT A
FORM OF OPERATIVE DATE NOTIFICATION**



Memorandum

TO: Toni J. Taber, CMC
City Clerk

FROM: David Sykes
City Manager

Matt Cano, Director of Public
Works

Or Authorized Designee

SUBJECT: Notification of Operative Date
Per Ordinance No. _____

DATE:

Pursuant to Section 5 of Ordinance No. _____, entitled: "An Ordinance of the City of San José Repealing Ordinance No. 26420 Levying Special Taxes within Community Facilities District No. 5A (North Coyote Valley Facilities)" (the "Ordinance"), this memorandum is to notify you that the Operative Date of the Ordinance is [DATE], which date is the date on which the sale of the Brandenburg Property and the Sobrato North Property have closed.

Pursuant to Section 5 of the Ordinance, this memorandum shall be filed with the Ordinance in the records of the City Clerk.

Capitalized terms in this memorandum that are not defined in this memorandum are defined in the Ordinance.

SIGNATURE BLOCK OF
CITY MANAGER OR
AUTHORIZED DESIGNEE

cc: Thomas Borden
Danielle Kenealey