

RESOLUTION NO. _____

**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)

WHEREAS, on September 3, 2002, this Council, pursuant to Chapter 14.27 of Title 14 of the Municipal Code of the City, which incorporates and modifies by reference 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 (together, the “Act”), completed all actions necessary to form and levy special taxes within Community Facilities District No. 8 (Communications Hill) (hereinafter, the “CFD 8”); and

WHEREAS, on February 17, 2004, Council completed all actions necessary to annex territory (“Annexation Area No. 1”) to CFD 8; and

WHEREAS, on June 14, 2016, Council completed all actions necessary to annex additional territory (“Annexation Area No. 2”) to CFD 8; and

WHEREAS, on April 7, 2020, Council adopted a Resolution of Change supplementing the services authorized to be financed by CFD 8 and amended the original Rate and Method of Apportionment; and

WHEREAS, this Council has been presented with Annexation Map No. 3, showing the parcels proposed to be annexed to CFD 8;

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

1. A map entitled “Annexation Map No. 3 of Community Facilities District No. 8 (Communications Hill) City of San Jose, Santa Clara County, California,” (hereinafter, the “Annexation Map No. 3”) has been filed with the City Clerk.
2. Annexation Map No. 3 shows the area to be annexed and the boundaries of the existing CFD 8. The map cross-references the following maps affecting CFD 8:
 - a. The map entitled, “Proposed Boundaries of Community Facilities District No. 8 (Communications Hill),” City of San José, Santa Clara County, California, filed for record in the office of the County Recorder of the County of Santa Clara on August 5, 2002, under Recorder’s File No. 16402569, Book 37 of Maps of Assessment and Community Facilities Districts at page 31.
 - b. The map entitled “Amended Map of Proposed Boundaries of Community Facilities District No. 8 (Communications Hill),” City of San Jose, Santa Clara County, California, filed for record in the office of the County Recorder of the County of Santa Clara on September 6, 2002, under Recorder’s File No. 16464029, Book 38 of Maps of Assessment and Community Facilities Districts at page 14.
 - c. The map entitled, “Annexation Area No. 1 of Community Facilities District No. 8 (Communications Hill),” City of San Jose, Santa Clara County, California, filed for record in the office of the County Recorder of the County of Santa Clara on January 28, 2004, under Recorder’s File No.

17589990, Book 39 of Maps of Assessment and Community Facilities Districts at page 30.

- d. The map entitled, "Annexation Area No. 2 of Community Facilities District No. 8 (Communications Hill)," City of San Jose, Santa Clara County, California, filed for record in the office of the County Recorder of the County of Santa Clara on May 18, 2016, under Recorder's File No. 23308791, Book 51 of Maps of Assessment and Community Facilities Districts at page 39.
3. This Council approves this Annexation Map No. 3 and adopts the boundaries shown on the map as describing the extent of the territory being proposed for annexation to CFD 8.
4. This Council finds that Annexation Map No. 3 is in the form and contains the matters prescribed by Section 3110.5 of the California Streets and Highways Code.
5. The Council directs the Clerk to certify the adoption of this resolution on the face of Annexation Map No. 3, and to file a copy of the map with the County Recorder of the County of Santa Clara for placement in the Book of Maps of Assessment and Community Facilities Districts.
6. This Council hereby determines that the public convenience and necessity require the annexation of additional parcels of land to CFD 8. The parcels of land to be annexed are Santa Clara County Assessor's Parcel Nos. 455-59-023, 455-59-024, and 455-59-033. Copies of Annexation Map No. 3 are available for inspection in the City Clerk's Office.

7. The type of public services (hereinafter, the “Services”) to be financed by CFD 8 and the areas proposed to be annexed shall consist of those items listed as services contained in the Resolution of Formation of CFD 8, Resolution No. 71194, adopted September 3, 2002, and the Resolution of Change of CFD 8, Resolution No. 79460, adopted April 7, 2020. The lists of authorized services are attached hereto as Exhibit A.
8. The Services authorized to be financed by CFD 8 are not proposed to be expanded or diminished by this annexation.
9. The areas to be annexed shall be subject to the same special tax, from the time of its inclusion in CFD 8, under the rate and method of apportionment contained in the Resolution of Change of CFD 8, Resolution No. 79460, adopted April 7, 2020. The rate and method of apportionment for CFD 8 is attached hereto as Exhibit B. This special tax will be secured by the recordation of a continuing lien against all non-exempt real property in the area to be annexed.
10. No alteration of rates and method of apportionment of special tax within CFD 8 is contemplated by these proceedings either as pertains to the area already within CFD 8 or as pertains to the area to be annexed.
11. The Council hereby sets June 3, 2025, at 1:30 p.m., or as soon thereafter as the Council may reach the matter, at the City Council Chambers, 200 East Santa Clara Street, San José, California, as the time and place for the public hearing on this Resolution. At that hearing, the testimony of all interested persons for or against the annexation of territory to CFD 8 or the levying of special taxes within the area proposed to be annexed will be heard. Written protests must be filed with the City Clerk at or before the time fixed for the hearing.

12. The City Clerk is hereby directed to cause notice of said public hearing to be given by publication on time in a newspaper of general circulation published in the area of CFD 8. The publication of said notice shall be completed at least seven days before the date herein set for said hearing. Said notice shall be in the form specified in the Act.

13. If no written protest is filed with the City Clerk, the Council shall call a special election pursuant to the Act immediately following the close of the public hearing. It is anticipated that the voters will be the owners of land within the area proposed to be annexed, which will be subject to the special tax, with each landowner eligible to cast one vote for each acre or portion of an acre owned therein.

14. The City Clerk shall commence the canvass of the returns of the special election and tabulate the ballots received after the close of the election in accordance with the Act. The City Clerk shall report the returns to the Council at the earliest opportunity upon conclusion of the canvass at the Council's regularly scheduled meeting. The Council may thereupon declare the results of the special election.

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NVF:VXC:JMD
4/10/2025

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)

DESCRIPTION OF SERVICES

CFD No. 8 is being formed to fund the maintenance of various improvements and amenities that are required to achieve the type of community envisioned in the Communications Hill Specific Plan. Maintenance of the improvements may include necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for safe and proper maintenance of the items set forth below. This list of items identifies those improvements and amenities which are authorized to be funded by CFD No. 8; however, not all items on this list are guaranteed to be funded by the CFD.

Items Authorized to be Maintained

- Median island landscaping
- Backup landscaping
- Parkstrip landscaping
- Street trees
- Pavers/decorative pavement
- Special entrances/gateways
- Separated sidewalks and associated landscaping
- Maintenance access roads
- Bike paths
- Stairways
- Stairway lighting and landscaping
- Retaining walls
- Graffiti removal and normal painting on soundwalls within right-of-way
- Trails/paved pathways
- Open spaces
- Slopes
- Drainage ditches/swales
- Terraces
- Biological mitigation/conservation areas
- Plazas
- Storm water detention ponds
- Decorative street lighting

EXHIBIT A (continued)

**CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 8
(COMMUNICATIONS HILL)
ALTERATION NO. 1A**

DESCRIPTION OF ADDITIONAL SERVICES

The services shown below are proposed to be added to the existing list of services financed by Community Facilities District No. 8 (Communications Hill) (the "CFD No. 8") of the City of San Jose. This list of items identifies those services which are authorized to be funded by CFD No. 8; however, not all items on this list are guaranteed to be funded by the CFD.

Authorized Services

- Police protection services, including, without limitation, private security, community service officer and park ranger services for trails, terraces, overlooks, and staircases designated as parkland and common areas within CFD No. 8

EXHIBIT B

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

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 8 (Communications Hill) [herein "CFD No. 8"] shall be levied and collected according to the tax liability determined by the City Council, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 8, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 8 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final subdivision map or other parcel map recorded at the Santa Clara County Recorder's Office.

"Act" means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code, and Chapter 14.27 of Title 14 of the Municipal Code of the City.

"Administrator" means the individual(s) designated by the City to administer the CFD in accordance with the authority and powers granted by the City Council.

"Airspace Parcel" means an Assessor's Parcel that shares common vertical space of an underlying land parcel with other parcels that have been assigned Assessor's Parcel numbers.

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

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

“Church Property” means any Parcel within the CFD that meets both of the following criteria: (1) a structure has been built that is used as a place of worship, rectory, convent or private school, and (2) the Parcel is exempt from ad valorem property taxes because it is owned by a religious organization.

“City” means the City of San José.

“City Council” means the City Council of the City of San Jose, acting as the legislative body of CFD No. 8.

“Developed Property” means, in any Fiscal Year, all Taxable Property for which a building permit for new construction has been issued prior to June 30 of the preceding Fiscal Year.

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

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

“Non-Residential Property” means Parcels of Developed Property within CFD No. 8 that are not Residential Property.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Residential Property” means Parcels of Developed Property for which a building permit was issued for construction of a residential structure, including single family detached, duplex, triplex, fourplex, townhome, condominium or apartment units.

“Special Tax” means a special tax levied in any Fiscal Year to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of CFD No. 8, (iv) cure delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of

Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

“Subsequent Non-Residential Property” means (i) a Parcel of Non-Residential Property which had, in any prior Fiscal Year, been taxed as Residential Property, or (ii) a Parcel that was, in the City’s sole discretion, expected to be Residential Property and subsequently had a building permit issued for a non-residential use. Notwithstanding the foregoing, if the City determines that, in conjunction with a particular Parcel being changed from a residential to a non-residential designation, there was a corresponding transfer of the residential land uses to another Parcel in CFD No. 8, the City may but is not required to categorize that Parcel as Subsequent Non-Residential Property.

“Taxable Property” means all Assessor’s Parcels within the boundaries of CFD No. 8 which are not exempt from the Special Tax pursuant to law or Section E below.

“Unit” means a residential dwelling unit, including individual single-family detached, duplex (2 units), triplex (3 units), fourplex (4 units), townhome, condominium, or apartment units.

B. DATA FOR ANNUAL ADMINISTRATION OF SPECIAL TAX

After July 1 of each Fiscal Year, the Administrator shall categorize all Parcels of Taxable Property in CFD No. 8 as either Residential Property, Non-Residential Property or Subsequent Non-Residential Property, as defined in Section A above. For each Parcel of Residential Property, the Administrator shall determine the number of Units on the Parcel by referencing the building permit, site plan, condominium plan, apartment plan or other development plan for the Parcel. If an individual Assessor’s Parcel contains both Residential Property and Non-Residential Property, the Administrator shall determine both the number of Units on the Parcel and the Acreage of the Parcel for purposes of applying the Maximum Special Tax as set forth in Section C.3 below.

C. MAXIMUM SPECIAL TAX

1. *Residential Property*

The Maximum Special Tax for Residential Property in CFD No. 8 is \$667 per Unit for Fiscal Year 2002-03. Beginning January 2, 2003 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

2. Non-Residential Property

The Maximum Special Tax for Non-Residential Property in CFD No. 8 is \$300 per Acre for Fiscal Year 2002-03. Beginning January 2, 2003 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

3. Subsequent Non-Residential Property

The Maximum Special Tax for Subsequent Non-Residential Property shall be determined in the first Fiscal Year in which the property is categorized as Subsequent Non-Residential Property. If the Parcel had been taxed as Residential Property in the prior Fiscal Year, the Maximum Special Tax for the Parcel shall be equal to the Maximum Special Tax levied on the Parcel in the prior Fiscal Year adjusted by the increase, if any, in the Index that has occurred since January of the prior year. Beginning the next January 2, and each January 2 thereafter, the Maximum Special Tax on the Parcel shall again be adjusted by the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

If the Parcel of Subsequent Non-Residential Property had never been taxed as Residential Property, but had been expected to be developed as Residential Property, the Administrator shall apply the following steps to determine the Maximum Special Tax for the Parcel:

- Step 1:** Estimate the number of Units that were expected to be developed on the Parcel before the land use changed to a non-residential use;
- Step 2:** Multiply the Maximum Special Tax per Unit for Residential Property for the then current Fiscal Year by the number of anticipated Units from Step 1 to determine the Maximum BSpecial Tax for the Parcel.

Beginning the next January 2, and each January 2 thereafter, the Maximum Special Tax on the Parcel shall again be adjusted by the increase, if any, in the Index that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied on all Parcels of Developed Property as follows:

- Step 1:** Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;
- Step 2:** Calculate the total Special Tax revenues that could be collected from Developed Property within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section C above;
- Step 3:** If the amount determined in Step 1 is **greater than** the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property in the CFD. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in CFD No. 8, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the registered voters voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 **is equal to** the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property in the CFD.

If the amount determined in Step 1 is **less than** the amount calculated in Step 2, levy the Special Tax against all Parcels of Developed Property in equal percentages up to 100% of the Maximum Special Tax for each Parcel until the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

The Special Tax for CFD No. 8 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 8 may (under the authority provided in the Act), in any particular case, bill the taxes directly to the property owner off the County tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on land that has been conveyed to a Public

Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. In addition, no Special Tax shall be levied on Church Property except that, if a Parcel that had been taxed in any prior Fiscal Year as Residential Property, Non-Residential Property or Subsequent Non-Residential Property becomes Church Property, the City has the discretion to levy a Special Tax against such Parcel if the Special Tax revenues generated from the Parcel are needed to meet the Special Tax Requirement.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.