

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ORDERING THE ANNEXATION OF CERTAIN UNINHABITED TERRITORY IN UNINCORPORATED SANTA CLARA COUNTY DESIGNATED AS BURBANK NO. 45, SUBJECT TO LIABILITY FOR GENERAL INDEBTEDNESS OF THE CITY

WHEREAS, the City of San José (“City”) desires to order proceedings, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, as the same may be amended from time to time, of the annexation of territory designated as Burbank No. 45 to the City of San José, and the detachment of certain territory from the Santa Clara County Lighting Service Area, Santa Clara County Central Fire Protection District, and the Burbank Sanitary District; and

WHEREAS, this proposal includes an annexation to the City of San José of certain unincorporated territory located within the County of Santa Clara and within the Urban Service Area of said City which is not subject to review by the Santa Clara County Local Agency Formation Commission as provided under Section 56757 of the California Government Code; and

WHEREAS, such territory is known by the short form designation of “**Burbank No. 45**,” and a description of the boundaries of this territory is set forth in Exhibit “A,” entitled “Legal Description,” attached and incorporated by reference, which description is subject to correction or revision as required; and

WHEREAS, a map showing the location of such territory is attached as Exhibit “B” and incorporated by reference; and

WHEREAS, the subject real property, comprising approximately 0.912 gross acres located on the northeast corner of West San Carlos Street and Cleveland Avenue (APNs 274-17-018, -019, -020, -021 and -022) and a portion of Cleveland Avenue, approximately 300 feet north beginning at West San Carlos Street and Cleveland Avenue, to the northerly property lines of APNs 274-17-023 and 274-17-037, is contiguous to the City of San José and is within the City's Urban Service Area; and

WHEREAS, the subject property is currently receiving services from and is under the control and jurisdiction of the County of Santa Clara; and

WHEREAS, upon obtainment of Santa Clara County Local Area Formation Commission's ("LAFCO") certification of the proposed annexation and recordation of this Resolution with the Office of the Clerk-Recorder of the County of Santa Clara, the approximately 0.912-gross-acre area of unincorporated Santa Clara County designated as Burbank No. 45 will be within the incorporated area of the City of San José and eligible to receive the following benefits from the City, to wit: all municipal services, including but not limited to street maintenance, street light, law enforcement, sanitary sewer, code enforcement, street sweeping, garbage collection, and fire protection; and

WHEREAS, subsequent to the adoption of Resolution No. RES2025-115 on May 6, 2025, initiating annexation of Burbank No. 45 to the City of San José, City staff determined that Burbank No. 45 must detach from all current services, including the Burbank Sanitation District, to keep City services consistent and avoid any duplication of services; and

WHEREAS, the City of San José reserves the right to seek LAFCO's certification and record this Resolution upon issuance of a building permit for construction or at any time prior to issuance of such permit; and

WHEREAS, on May 6, 2025, the City Council approved Ordinance No. 31200 approving the pre-zoning of the territory to the UV Urban Village Zoning District (under File No. C21-034) and will be so zoned upon its annexation to the City of San José in accordance with Section 20.120.300 of the Zoning Ordinance (Title 20 of the San José Municipal Code); and

WHEREAS, the City of San José is the Lead Agency for environmental review for the reorganization known as “**Burbank No. 45**” under the California Environmental Quality Act of 1970, as amended (“CEQA”); and

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the annexation is consistent with the 1921 and 1927 West San Carlos Street Project (IS/MND) (Resolution No. RES2025-114); and

WHEREAS, the County Surveyor of Santa Clara County has found the real property description of the subject property and the map of the subject property (Exhibits “A” and “B,” respectively) to be in accordance with California Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO’s annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the City Council of the City of San José shall be the conducting authority for a reorganization to the City, and the City Council is proposing the reorganization described in this Resolution; and

WHEREAS, all owners of land included in this proposal have consented to this annexation; and

WHEREAS, Government Code Section 56662 provides that if a proposal for an annexation is accompanied by proof that all owners of land within the affected territory

have given their written consent the City Council may approve or disapprove the annexation without public hearing; and

WHEREAS, this proposal is consistent with the sphere of influence of the City of San José; and

WHEREAS, the reason for the proposed reorganization is as follows: to annex the subject territory and detach the same from the appropriate special districts to eliminate a duplication of services; and

WHEREAS, evidence pertaining to the proposed reorganization was presented to the City Council at the City Council's public hearings on this matter; and

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56757:

1. The unincorporated territory proposed for reorganization is within the City's Urban Service Area, as adopted by the Santa Clara Local Agency Formation Commission.
2. The County Surveyor has determined the boundaries of the proposed reorganization to be definite and certain, and in compliance with the Santa Clara County Local Agency Formation Commission's road annexation policies.
3. The annexation does not split lines of assessment or ownership in that all affected parcels are being organized in their entirety.
4. The annexation does not create islands or areas in which it would be difficult to provide municipal services in that the completion of reorganization proceedings would result in the reduction in size of a county pocket of unincorporated territory.
5. The proposal is consistent with the City's adopted General Plan in that existing and future urban development should be located within cities.
6. The territory is contiguous to existing City limits.

7. The City has complied with all conditions imposed by the Santa Clara County Local Agency Formation Commission for inclusion of the territory in the City's Urban Service Area as follows: On October 25, 2021, the City of San José informed LAFCO of its intent to annex the subject territory. The City has received no conditions of approval from LAFCO with respect to the subject annexation. Furthermore, on October 27, 2021, the City advised the following applicable special districts, from which the territory would be detached, of its intent to annex the subject property: Central Fire Protection District, Santa Clara County Lighting Service Area, and the Burbank Sanitary District. One objection was received on behalf of Burbank Sanitary District.

The pre-zoning designation of the subject territory is UV Urban Village Zoning District inasmuch as the City Council on May 6, 2025, approved an ordinance and adopted said ordinance on May 20, 2025, pre-zoning the subject territory (Ordinance No. 31200);

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

1. That the City Council of the City of San José hereby incorporates the foregoing recitals into this Resolution as if fully contained herein.
2. That the City Council of the City of San José hereby orders the territory designated as Burbank No. 45 reorganized to include the following changes of organization: (a) the territory designated Burbank No. 45 is detached from the Central Fire Protection District, Santa Clara County Lighting Service Area, and the Burbank Sanitary District; and (b) the territory designated Burbank No. 45 is annexed into the City of San José. The City of San José, as conducting authority, reorganized such territory as indicated above, it being found and concurred that the territory involved in the reorganization is uninhabited and all the owners of land within the territory have filed a written petition for the City Council to initiate said reorganization.

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
LEGAL DESCRIPTION
PARCEL "A" RE-ZONING EXHIBIT**

THE LAND REFERRED TO IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 9 AND ALL OF LOTS 10, 11, 12, AND 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT", RECORDED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEASTERN CORNER OF THE AFOREMENTIONED LOT 13, SAME BEING THE TRUE POINT OF BEGINNING OF THE BURBANK NO. 40 ANNEXATION TO THE CITY OF SAN JOSE AS DESCRIBED IN RESOLUTION NO. 74505 DATED MAY 20, 2008; FROM WHICH A 3/4" IRON PIPE FOUND BEARS NORTH 89°59'38" WEST, 103.28 FEET, BEING 5 FEET EAST OF THE CENTERLINE OF CLEVELAND AVENUE;

THENCE ALONG THE NORTHERLY LINE OF WEST SAN CARLOS STREET, NORTH 89°59'38" WEST, 83.28 FEET TO THE SOUTHWESTERN CORNER OF SAID LOT 12, SAME BEING THE INTERSECTION OF WEST SAN CARLOS STREET AND CLEVELAND AVENUE;

THENCE ALONG THE EAST LINE OF SAID CLEVELAND AVENUE, NORTH 0°08'17" WEST, 237.66 FEET TO A POINT ON THE WEST LINE OF SAID LOT 9;

THENCE CROSSING SAID LOT 9, SOUTH 89°59'38" EAST, 124.92 FEET TO A POINT ON THE EAST LINE OF SAID LOT 9, SAME BEING THE WEST LINE OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED DECEMBER 18, 2009, FILED IN BOOK 834 OF MAPS, PAGES 50-51, SANTA CLARA COUNTY RECORDS;

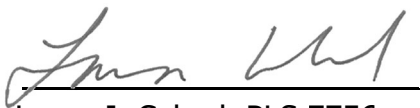
THENCE ALONG SAID COMMON LINE, SOUTH 0°08'17" EAST, 112.66 FEET TO THE SOUTHERLY LINE OF SAID LOT 11;

THENCE WESTERLY ALONG SAID SOUTHERLY LINE, NORTH 89°59'38" WEST, 41.63 FEET TO THE NORTHEAST CORNER OF SAID LOT 13, ALSO BEING THE MIDDLE NORTHWEST CORNER OF SAID PARCEL 1;

THENCE SOUTHERLY LEAVING SAID CORNER ALONG SAID COMMON LINE, SOUTH 0°08'17" EAST, 125.00 FEET TO THE **POINT OF BEGINNING**.

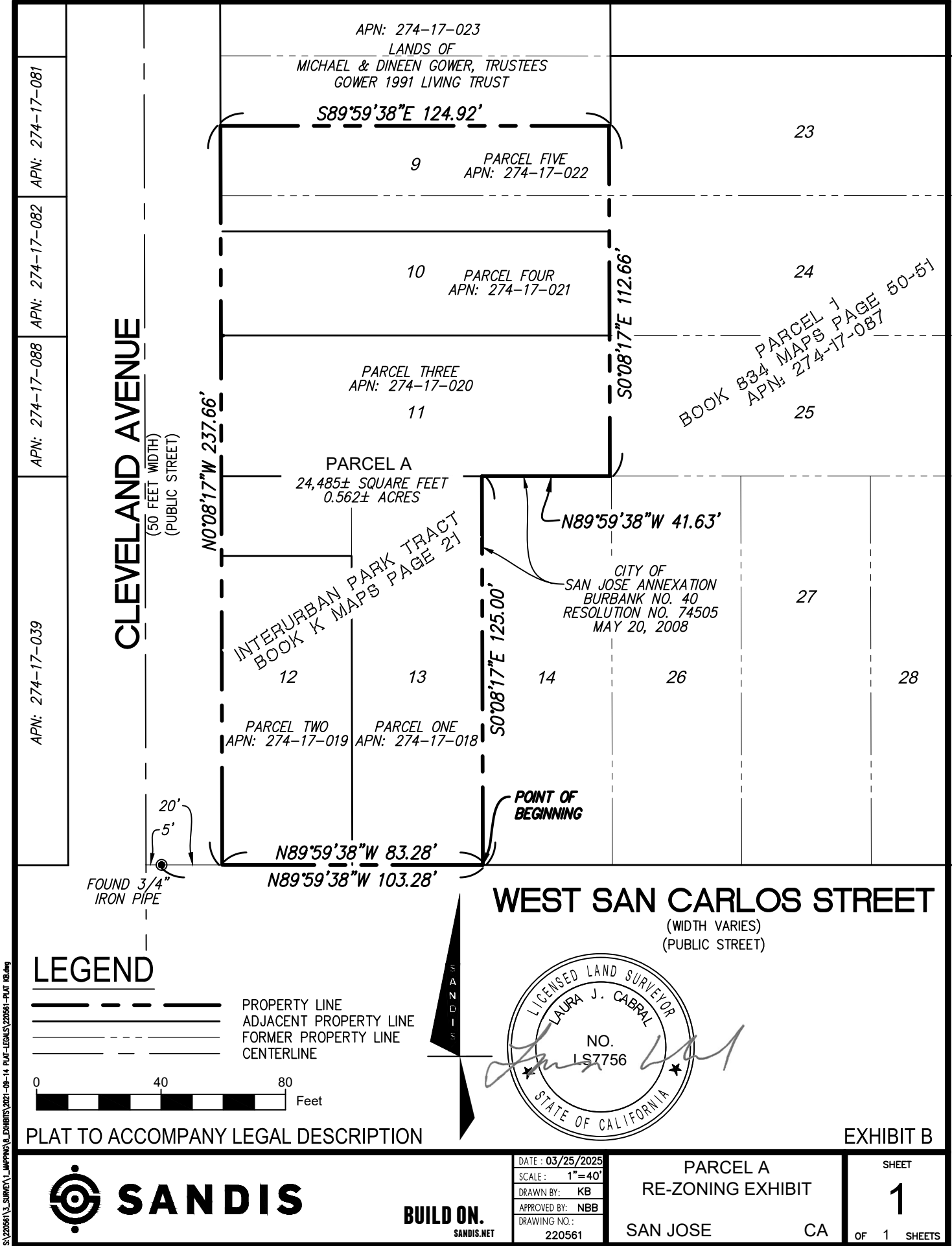
SAID PARCEL "A" AREA CONTAINING 24,485 SQUARE FEET OR 0.56 ACRES MORE OR LESS, AS SHOWN ON ATTACHED EXHIBIT "B", WHICH BY THIS REFERENCE IS MADE A PART HEREOF.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN
CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA PROFESSIONAL LAND
SURVEYORS ACT.



Laura J. Cabral, PLS 7756
Date: March 25, 2025





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