

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. 44, SUBJECT TO LIABILITY FOR GENERAL
INDEBTEDNESS OF THE CITY**

WHEREAS, the City of San José 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. 44 to the City of San José, and the detachment of certain territory, including the Burbank Sanitary District, Santa Clara County Central Fire Protection District, Valley Water, Santa Clara County Lighting Service Area, and Santa Clara County Library 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. 44**,” and a description of the boundaries of this territory is set forth in Exhibit “A,” entitled “Geographic 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 0.895 gross acres located on the northeast corner of West San Carlos Street and Brooklyn Avenue (APNs 274-16-050, 052, 053, 069 & 070), 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 0.895-gross-acre area of unincorporated Santa Clara County designated as Burbank No. 44 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. RES2023-50 on February 28, 2023, initiating annexation of Burbank No. 44 to the City of San José, City staff determined that Burbank No. 44 must detach from all current services, including the Burbank Sanitary District; and

WHEREAS, the City of San José reserves the right to seek LAFCO's certification and record this Resolution only after a development proposal has been submitted or permitted for the subject property or upon issuance of a building permit; and

WHEREAS, on February 28, 2023, the City Council adopted Ordinance No. 30889 approving the pre-zoning of the territory to the MUC Mixed Use Commercial Zoning District (under File No. C20-010) 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. 44**” 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 1881 West San Carlos Project Environmental Impact Report (Resolution No. RES2023-49); 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 September 16, 2020, 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 September 20, 2020, the City advised the following applicable special districts, from which the territory would be detached, of its intent to annex the subject property: Santa Clara County Lighting Service Area, Valley Water, Santa Clara County Central Fire Protection District, Burbank Sanitary District, and Santa Clara County Library District. The only objection to detachment received by the City was from Burbank Sanitary District.

The pre-zoning designation of the subject territory is MUC Mixed Use Commercial Zoning District inasmuch as the City Council on February 28, 2023, approved an ordinance and adopted said ordinance on February 28, 2023, pre-zoning the subject territory (Ordinance No. 30889;

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. 44 reorganized to include the following changes of organization: (a) the territory designated Burbank No. 44 is detached from all current services, including but not limited to: the Burbank Sanitary District, the Santa Clara County Central Fire Protection District, Valley Water, Santa Clara County Lighting Service Area, and Santa Clara County Library District; and (b) the territory designated Burbank No. 44 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 _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

County of Santa Clara

Planning and Development

Office of the County Surveyor

County Government Center

70 West Hedding Street, E. Wing, 7th Floor

San Jose, California 95110

(408) 299-5730



August 27, 2021

Angela Wang

Planner

City of San Jose, Planning Division

200 East Santa Clara Street,

San Jose, CA 95113

408-535-7800

SUBJECT: **Burbank No. 44 Annexation**

Dear Ms. Wang:

The attached revised map and description dated January 5, 2021 of territory proposed for annexation to the City of San Jose entitled **Burbank No. 44** is in accordance with Government Code Section 56757 (c) (2). The boundaries of said territory are definite and certain. The proposal is in compliance with the Local Agency Formation Commission's road annexation policies.

Sincerely,

Jeremy Koenig, PLS

Deputy County Surveyor



Date: 5/27/2021

Attachments: legal description, plat, GIS exhibit

cc: LAFCO Executive Officer (w/attachment)

County Assessor's Office (w/attachment)

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellemberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

EXHIBIT "A"
Geographic Description

ANNEXATION TO THE CITY OF SAN JOSE

Entitled
BURBANK No. 44

All that certain territory in the County of Santa Clara, State of California, described as follows:

Being Lots 10, 11, 12, 13, 14, 25, 26 and portion of Lot 27, in Block 14, of the Map of Interurban Park Tract, filed for record on December 5, 1904 in Book K of Maps at Page 21, Records of Santa Clara County, more particularly described as follows:

BEGINNING at the southwesterly corner of said Lot 12, in Block 14, of said Map of Interurban Park Tract, said corner being also at the intersection of the northerly line of West San Carlos Street, formerly Stevens Creek Road, being 100.00 feet in width with the easterly line of Brooklyn Avenue, being 50.00 feet in width, said corner being also at the angle point in the existing City of San Jose annexation boundary, described and designated as Burbank No. 40, as adopted on June 24, 2008 by the City of San Jose Resolution No. 74505;

Thence, (1) leaving said corner and along the easterly line of said Brooklyn Avenue and along the easterly line of said Burbank No. 40 annexation, North 00°15'00" West, 215.08 feet to the northwesterly corner of said Lot 10, in Block 14, of said Map of Interurban Park Tract;

Thence, (2) leaving said corner and said easterly line of said Burbank No. 40 annexation, along the northerly line of said Lot 10, in Block 14, of said Map of Interurban Park Tract, North 89°54'10" East, 125.03 feet to the northwesterly corner of the existing City of San Jose annexation boundary, described and designated as Burbank No. 18, as adopted on June 30, 1965 by the City of San Jose Resolution No. 27621;

Thence, (3) leaving said corner and along the westerly line of said Burbank No. 18 annexation, South 00°15'00" East, 45.02 feet to the southwesterly corner of said Burbank No. 18 annexation;

Thence, (4) leaving said corner and along the southerly line of said Burbank No. 18 annexation, North 89°54'10" East, 125.03 to a point in the westerly line of Boston Avenue, being 50.00 feet in width, said point being also a point in the westerly line of said Burbank No. 18 annexation;

Thence, (5) along said westerly line of Boston Avenue and along said westerly line of said Burbank No. 18 annexation, South 00°15'00" East, 45.02 feet to the northerly line of the existing City of San Jose annexation boundary, described and designated as Burbank No. 11, as adopted on July 22, 1960 by the City of San Jose Resolution No. 18810;

Thence, (6) along said northerly line of said Burbank No. 11 annexation, South 89°54'10" West, 73.36 feet to the westerly line of said Burbank No. 11 annexation;

EXHIBIT "A"
Geographic Description
ANNEXATION TO THE CITY OF SAN JOSE
Entitled
BURBANK No. 44

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Thence, (7) along said westerly line of said Burbank No. 11 annexation, South 00°15'00" East, 125.04 feet to a point on said northerly line of West San Carlos Street, said point being also the northeasterly corner of said Burbank No. 40 annexation;

Thence, (8) leaving said corner, along said northerly line of West San Carlos Street and along the northerly line of said Burbank No. 40 annexation, South 89°54'10" West, 176.70 feet to the point of **BEGINNING**.

Containing and area of 0.895 acres, more or less.

As shown on EXHIBIT "B" attached hereto and made a part hereof.

This description is for assessment purposes only and is not a legal description of the lands as defined in the Subdivision Map Act of the State of California. This description is not to be used as the basis for sale, lease or finance of the lands described herein.

By: John Koroyan
John Koroyan
P.L.S. No. 8883



Date: JAN. 5, 2021

