

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE ORDERING THE ANNEXATION OF CERTAIN  
TERRITORY IN UNINCORPORATED SANTA CLARA  
COUNTY DESIGNATED AS MCKEE NO. 139, 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 McKee No. 139 to the City of San José, and the detachment of certain territory from the West Valley Sanitary District, Santa Clara County Central Fire Protection District, 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 “**McKee No. 139**,” 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 1.49 gross acres located on the south side of Kirk Avenue approximately 160 feet east of Madeline Drive, consisting of one unincorporated parcel in Santa Clara County, (APN 601-07-066), 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 1.49-gross-acre area of unincorporated Santa Clara County designated as McKee No. 139 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. RES2024-11 on January 23, 2024, initiating annexation of McKee No. 139 to the City of San José, City staff determined that McKee No. 139 must detach from all current services 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 January 23, 2024, the City Council adopted Ordinance No. 31007 approving the pre-zoning of the territory to the R-1(PD) Planned Development Zoning District (under File No. PDC22-006) 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 “**McKee No. 139**” under the California Environmental Quality Act; and

**WHEREAS**, the environmental impacts of this project were addressed by an Initial Study/Mitigated Negative Declaration for the 125 Kirk Avenue Subdivision Project (McKee 139/PDC22-006/PD22-013/T21-045), and related Mitigation Monitoring and Reporting Program, which was adopted by the City Council on January 23, 2024 (Resolution No. RES2024-10); 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 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 LAFCO for inclusion of the territory in the City's Urban Service Area as follows: On February 16, 2022, 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 February 16, 2023, 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, Santa Clara County Central Fire Protection District, West Valley Sanitary District, and Santa Clara County Library District.

The pre-zoning designation of the subject territory is R-1(PD) Planned Development Zoning District in as much as the City Council on January 23, 2024, approved an ordinance and adopted said ordinance on January 23, 2024, pre-zoning the subject territory (Ordinance No. 31007).

**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 McKee No. 139 reorganized to include the following changes of organization: (a) the territory designated McKee No. 139 is detached from the West Valley Sanitary District, the Santa Clara County Central Fire Protection District, Santa Clara County Lighting Service Area, and Santa Clara County Library District; and (b) the territory designated McKee No. 139 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 \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

**Legal Description****Prezoning, File No. PDC22-006**

Real property located in the City of San Jose, County of Santa Clara, State of California described as follows:

Being a portion of Lots 7 And 8, as shown on that certain map entitled, "Map of the Keith Tract", in the County of Santa Clara, State of California, which map was filed for record in the office of the recorder of the county of Santa Clara, State of California, On May 25, 1909, in Book M of Maps, at page 64.

**Beginning at the point** of intersection of the southwesterly line of Kirk Avenue, with the southeasterly line of lot 7, as said road and lot are shown upon the map above referred to; thence from said point of beginning along the following courses.

1. North 63°40'00" West 94.91 feet;
2. South 26°20'00" West 160.00 feet;
3. North 63°40'00" West 94.91 feet;
4. South 26°20'00" West 260.66 feet;
5. South 63°40'00" East 189.82 feet;

Thence along said southeasterly line of lot 7 North 26°20'00" East 420.66 feet to the **Point of Beginning**.

Said parcel containing an area of 64,663 square feet (1.48 acres), more or less.

Attached hereto is a Plat labeled "Exhibit 'B': Plat to Accompany Legal Description, Prezoning File No. C22-006" and by this reference is made a part hereof.



Kevin R. Weiss

11/20/2023

Date

