

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE SUMMARILY VACATING A PUBLIC SERVICE  
EASEMENT AT 525 WEST SANTA CLARA STREET AND  
566 WEST JULIAN STREET**

**WHEREAS**, Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public service easement if the City Council determines that it has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation, and there are no in-place public utility facilities that are in use and would be affected by the vacation; and

**WHEREAS**, the City Council intends to summarily vacate an approximately 30,360 square foot public service easement located at 525 West Santa Clara Street and 566 West Julian Street (“Subject Property”) constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

THAT CERTAIN 60.00’ PUBLIC SERVICE EASEMENT SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AS DESCRIBED IN THAT CERTAIN RESOLUTION NO. 65750 RECORDED ON MARCH 21, 1995 IN BOOK N794, PAGE 442 OF OFFICIAL RECORDS, SANTA CLARA COUNTY.

**WHEREAS**, attached to this Resolution as Exhibit “A” and incorporated herein is a map approved by the Director of the Department of Public Works on November 9, 2018 entitled “PLAT MAP SHOWING THE PUBLIC SERVICE EASEMENT TO BE VACATED” showing the Subject Property; and

**WHEREAS**, attached to this Resolution as Exhibit “B” and incorporated herein is a copy of the report, dated November 13, 2018 that the Director of the Department of Public Works submitted to the City Council setting forth the facts justifying the summary vacation of the Subject Property (hereinafter “Report”);

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

**SECTION 1.** The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted, makes the following findings:

- A. The Subject Property has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and
- B. The vacation is consistent with the City’s General Plan; and
- C. There are no in-place public utility facilities that are in use and would be affected by the vacation.

**SECTION 2.** Based upon the findings made in Section 1 of this Resolution and the provisions of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, the City Council does hereby summarily vacate the Subject Property.

**SECTION 3.** The City Clerk is hereby directed to record a certified copy of this Resolution, including the exhibits hereto, with the Office of the Recorder for the County of Santa Clara.

**SECTION 4.** From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public service easement.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI TABER, CMC  
City Clerk

EXHIBIT A

# PLAT MAP

SHOWING THE PUBLIC SERVICE EASEMENT TO BE VACATED

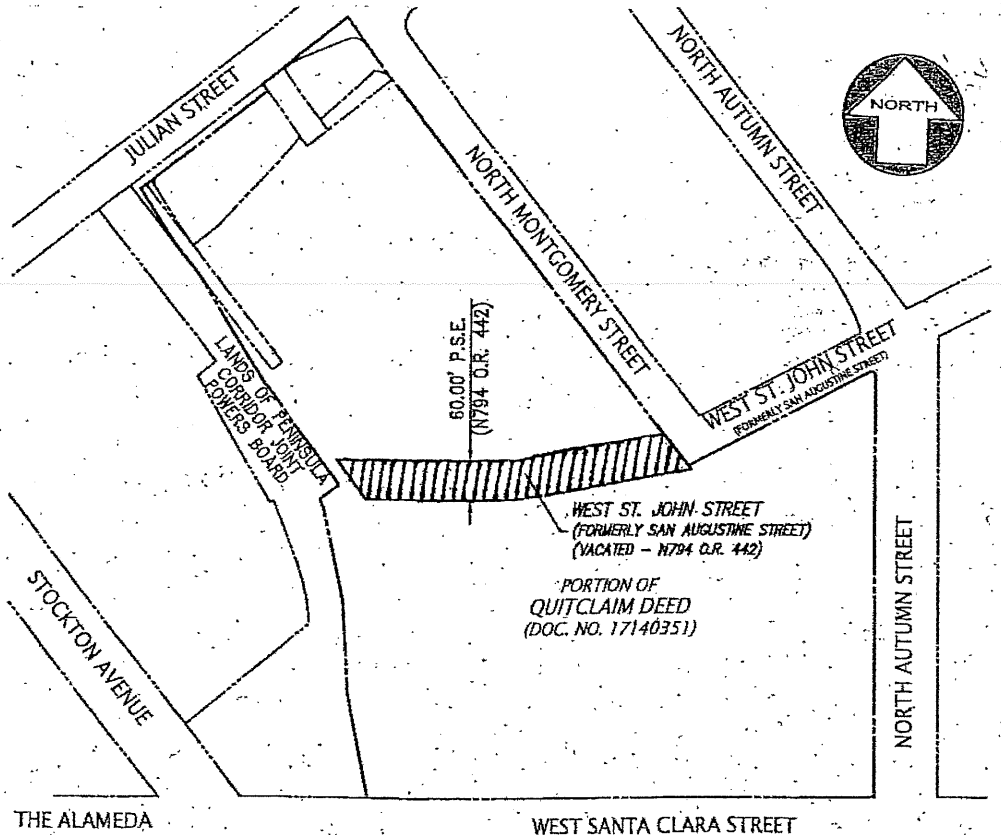


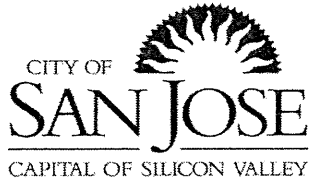
AREA TO BE VACATED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, AND APPROVED BY SAID CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ BY RESOLUTION NUMBER \_\_\_\_\_

\_\_\_\_\_  
CITY CLERK, CITY OF SAN JOSE

*Matt Cano*  
for MATT CANO APPROVED THIS 9 DAY OF November  
DIRECTOR OF PUBLIC WORKS,  
CITY OF SAN JOSE





# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** November 13, 2018

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Approved

Date

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**COUNCIL DISTRICT: 3**

**SUBJECT: SUMMARY VACATION OF A PUBLIC SERVICE EASEMENT AT 525 WEST SANTA CLARA STREET AND 566 WEST JULIAN STREET**

**RECOMMENDATION**

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of an approximately 30,360 square foot public service easement ("PSE") at 525 West Santa Clara Street and 566 West Julian Street;
- (b) Summarily vacating the PSE which has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

**OUTCOME**

Upon recordation of the resolution of vacation, the PSE will be terminated and will no longer constitute a public service easement.

**BACKGROUND**

The PSE is located within a portion of the previously vacated West St. John Street (Resolution No. 65750, dated February 21, 1995), between North Montgomery Street and the Peninsula Corridor Joint Powers Board right-of-way. When the City vacated the old West St. John Street,

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San Jose Water Company expressed a need to reserve a PSE for their planned facility. However, water facilities were never installed within the easement area and there will be no future plans to install new utilities.

### **ANALYSIS**

Pursuant to Streets & Highways Code Section 8333(a), a public service easement may be summarily vacated if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation, and there are no in-place public utility facilities in use that would be affected by the vacation.

Staff has determined that the area proposed for vacation has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation. No public utility facilities were installed in the PSE and none are planned for the future. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation.

According to the preliminary title report issued by First American Title Company, the City of San José holds the underlying fee ownership of the area proposed for vacation. Upon recordation of the vacation, the land will no longer be encumbered by the PSE.

### **EVALUATION AND FOLLOW-UP**

If Council adopts the resolution summarily vacating the PSE, no further action by Council will be required.

### **PUBLIC OUTREACH**

All concerned utility companies have been contacted in writing and have no objections to the PSE vacation.

This memorandum will be posted to the City's website for the December 4, 2018, City Council agenda.

### **COORDINATION**

The vacation has been coordinated with the Department of Planning, Building and Code Enforcement and the City Manager's Budget Office. Additionally, the vacation and resolution of vacation have been reviewed by the City Attorney's Office.

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**COMMISSION RECOMMENDATION/INPUT**

No Commission recommendation was associated with this action.

**COST SUMMARY/IMPLICATIONS**

The Department of Public Works collected cost-recovery fees in Fiscal Year 2018-2019 of \$4,127.00 to process the subject vacation. These fees were deposited into the Public Works Department Services Fee Fund (Fund 001).

**CEQA**

CEQA: Exempt File No. PP18-083.

/s/

MATT CANO

Director of Public Works

Attachment: Location Map

For questions please contact Matt Loesch, Deputy Director of Public Works, at (408) 975-7381.