

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING AN APPROXIMATELY 1818 SQUARE FOOT PORTION OF NORTH 4TH STREET WITH THE RESERVATION OF A PUBLIC SERVICE EASEMENT OVER A PORTION OF THE VACATED AREA**

**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 street if the City Council determines that it is excess right-of-way of a street not required for street purposes, 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 1818 square foot portion of North 4th Street, described below as "Parcel One," ("Subject Property"), reserving from the vacation a public service easement over a two foot wide strip adjacent to North 4th Street, described below as "Parcel Two," constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

PARCEL ONE:

A TEN FOOT WIDE STRIP OF LAND LYING WITHIN THE BOUNDS OF THAT CERTAIN PARCEL OF LAND CONVEYED FROM R.T. GRIFFITH, ET AL TO THE CITY OF SAN JOSE, BY DEED DATED MAY 17, 1961, AND RECORDED JULY 5, 1961 IN BOOK OF OFFICIAL RECORDS, 5220, PAGE 180 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF FOURTH STREET (80 FEET IN WIDTH) DISTANT THEREON, NORTH 30°47'30" WEST, 377.0 FEET FROM THE INTERSECTION THEREOF WITH THE NORTHWESTERLY LINE OF YOUNGER

AVENUE (60 FEET IN WIDTH), SAID POINT OF BEGINNING BEING THE SOUTHWESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED BY DEED DATED MARCH 30, 1961, FROM SAMUEL A. LICCARDO AND ROSALIE LICCARDO, HIS WIFE, TO R.T. GRIFFITH AND HERBERT F. MABIE, BOTH MARRIED MEN, SAID DEED BEING FILED FOR RECORD ON APRIL 5, 1961, IN THE OFFICE OF THE COUNTY RECORDER, SANTA CLARA COUNTY, CALIFORNIA, IN BOOK 5125 OF OFFICIAL RECORDS AT PAGE 317;

THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF FOURTH STREET, NORTH 30°47'30" WEST, 181.87 FEET TO THE INTERSECTION THEREOF WITH THE NORTHWESTERLY LINE OF SAID CONVEYED PARCEL OF LAND;

THENCE ALONG LAST SAID NORTHWESTERLY LINE, NORTH 59°12'30" EAST, 10.00 FEET;

THENCE PARALLEL TO SAID NORTHEASTERLY LINE OF FOURTH STREET, SOUTH 30°47'30" EAST, 181.87 FEET TO A POINT IN THE SOUTH SOUTHEASTERLY LINE OF SAID CONVEYED PARCEL OF LAND;

THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 59°12'30" WEST, 10.00 FEET TO THE POINT OF BEGINNING, BEING A PORTION OF LOT A OF MRS. AUGUSTA YOUNGER SUBDIVISION.

PARCEL ONE CONTAINS 1,818 SQUARE FEET, MORE OR LESS.

PARCEL TWO:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE,

COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THE ABOVE DESCRIBED PARCEL ONE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTRLY CORNER OF SAID PARCEL ONE, SAID POINT ALSO LYING ON THE NORTHEASTERLY LINE OF FOURTH STREET (80 FEET IN WIDTH);

THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL ONE, NORTH 59°12'30" EAST, 5.00 FEET;

THENCE PARALLEL TO SAID NORTHEASTERLY LINE OF FOURTH STREET, SOUTH 30°47'30" EAST, 2.00 FEET;

THENCE PARALLEL TO SAID NORTHWESTERLY LINE OF PARCEL ONE, SOUTH 59°12'30" WEST, 5.00 FEET;

THENCE ALONG SAID NORTHEASTERLY LINE OF FOURTH STREET, NORTH 59°12'30" EAST, 2.00 FEET TO THE POINT OF BEGINNING.

PARCEL TWO CONTAINS 10 SQUARE FEET, MORE OR LESS.

**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 March 28, 2019 entitled "MAP SHOWING THE VACATION OF A PORTION OF NORTH 4TH STREET WITH THE RESERVATION OF A 10 SQUARE FOOT PUBLIC EASEMENT WITHIN THE AREA BEING VACATED" showing the Subject Property and reserved public service easement; and

**WHEREAS**, attached to this Resolution as Exhibit “B” and incorporated herein is a copy of the report, dated \_\_\_\_\_ 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 is excess right-of-way of a street not required for street purposes; and
- B. The vacation was submitted to Planning Commission, and the project was determined to be consistent with the San José General Plan; and
- C. The proposed vacation is consistent with the City’s General Plan; and
- D. The Subject Property is unnecessary for nonmotorized transportation as bordering rights-of-way are available and more suitable for such transportation; and
- E. There are in-place public utility facilities located within the Subject Property; and
- F. The public convenience and necessity requires the reservation of a public service easement as specified in this Resolution.

**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, reserving and accepting from the vacation, on, over, under and through the real property described as Parcel Two in Section 1 of this Resolution, a public service easement and all rights necessary to construct, maintain, operate, modify, enlarge, replace, remove and renew any and all in-place public utility facilities, said public service easement to be kept open and free from buildings and structures of any kind except irrigation systems and appurtenances thereto, lawful fences and all lawful unsupported roof overhangs.

**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 street and a portion of it will constitute a public service easement as specified in this Resolution.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

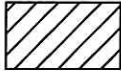
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TONI J. TABER, CMC  
City Clerk

Exhibit A

# MAP

SHOWING THE VACATION OF A PORTION OF NORTH 4TH  
STREET WITH THE RESERVATION OF A 10 SQUARE FOOT PUBLIC  
EASEMENT WITHIN THE AREA BEING VACATED



AREA TO BE VACATED



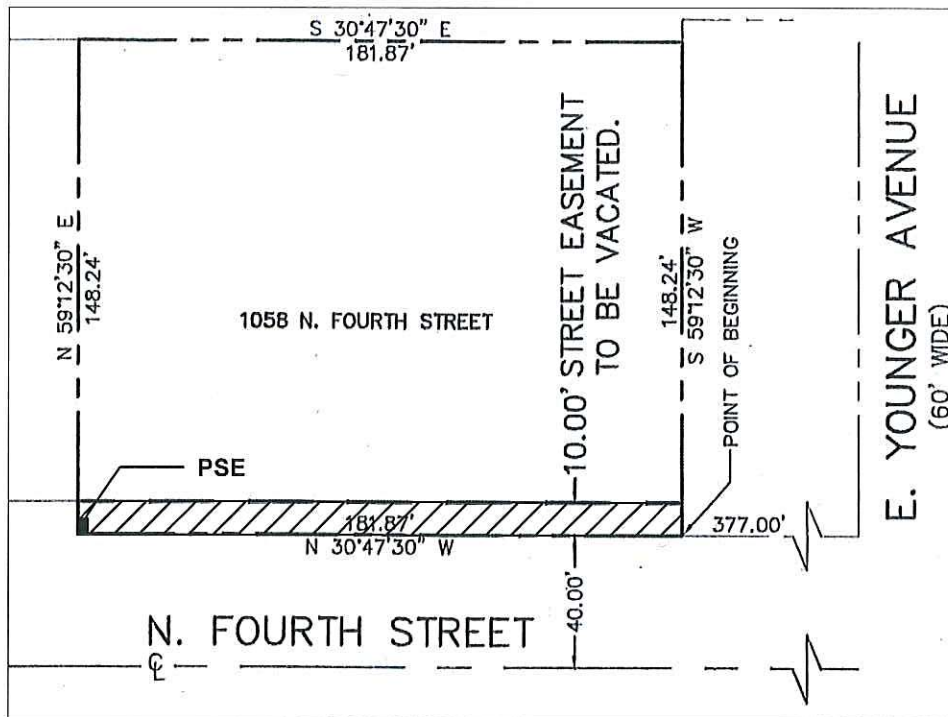
RESERVATION OF PSE

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

*(Signature)*  
for **MATTHEW CANO**  
DIRECTOR OF PUBLIC WORKS,  
CITY OF SAN JOSE

APPROVED THIS **28<sup>TH</sup>** DAY OF **MARCH 2019**



**EXHIBIT B**

To Be Attached