RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING A PUBLIC SERVICE EASEMENT UPON AND OVER REAL PROPERTY LOCATED ON SOUTH EIGHTH STREET BETWEEN SAN SALVADOR STREET AND SAN CARLOS STREET

WHEREAS, subdivision (c) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council of the City of San José (“Council”) to summarily vacate a public service easement that has been superseded by relocation, or determined to be excess by the easement holder, if there are no other public facilities located within the easement; and

WHEREAS, the Council intends to summarily vacate the public service easement, upon and over the real property located on South Eighth Street between San Salvador Street and San Carlos Street constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as follows (hereinafter the “Easement”):

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF SAN CARLOS STREET (60 FEET WIDE) WITH THE SOUTHWESTERLY LINE OF EIGHTH STREET (80 FEET WIDE);

THENCE, ALONG THE NORTHEASTERLY PROLONGATION OF SAID SOUTHEASTERLY LINE OF SAN CARLOS STREET (60 FEET WIDE) NORTH 59° 21' EAST, 10.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE, LEAVING SAID TRUE POINT OF BEGINNING AND CONTINUING ALONG SAID NORTHEASTERLY PROLONGATION OF SAID SOUTHEASTERLY LINE NORTH 59° 21' EAST, 40.00 FEET TO A POINT IN A LINE THAT IS PARALLEL WITH AND DISTANT 30.00 FEET, MEASURED AT RIGHT ANGLES, SOUTHWESTERLY FROM THE NORTHEASTERLY LINE OF EIGHTH STREET (80 FEET WIDE);

THENCE, ALONG SAID PARALLEL LINE SOUTH 30° 39' EAST, 551.36 FEET TO A POINT IN THE SOUTHWESTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAN SALVADOR STREET (60 FEET WIDE) LAST SAID POINT BEING DISTANT ALONG SAID SOUTHWESTERLY PROLONGATION OF SAID NORTHWESTERLY LINE SOUTH 59° 21' WEST 30.00 FEET FROM THE POINT OF INTERSECTION OF SAID NORTHWESTERLY LINE WITH SAID NORTHEASTERLY LINE OF EIGHTH STREET (80 FEET WIDE);
THENCE, ALONG SAID SOUTHWESTERLY PROLONGATION OF SAID NORTHWESTERLY LINE SOUTH 59° 21’ WEST, 40.00 FEET TO A POINT IN A LINE THAT IS PARALLEL WITH AND DISTANT 10.00 FEET, MEASURED AT RIGHT ANGLES, NORTHERLY FROM SAID SOUTHWESTERLY LINE OF EIGHTH STREET (80 FEET WIDE);

THENCE, ALONG LAST SAID PARALLEL LINE NORTH 30° 39’ WEST, 551.36 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 22,054 SQUARE FEET, MORE OR LESS.

WHEREAS, attached to this Resolution as Exhibit “A” is a map approved by the Director of Public Works on August 4, 2016 entitled “PLAT MAP SHOWING THE EASEMENT TO BE VACATED ON EIGHTH STREET BETWEEN SAN CARLOS STREET AND SAN SALVADOR STREET” showing the Easement that the Council intends to vacate; and

WHEREAS, attached to this Resolution as Exhibit “B” is a copy of the report, dated August 8, 2016 that the Director of Public Works submitted to the Council setting forth the facts justifying the summary vacation of the Easement (hereinafter “Report”).

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

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

1. The Easement constitutes a public service easement under Streets and Highways Code Section 8306; and

2. The Easement has been superseded by relocation, is excess, and there are no other public facilities located within the Easement; and

3. The proposed vacation is consistent with the City’s General Plan; and

4. The public convenience and necessity does not require reservation of any portion of, or any rights in, the Easement.

SECTION 2. Pursuant to Section 8333 (c) of the Streets and Highways Code, and based on the findings made in Section 1 of this Resolution, the Council does hereby summarily vacate the Easement.

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 Easement will no longer constitute a public service easement.

ADOPTED this _____ day of ____________, 2016, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

VACANT:

__________________________________________
SAM LICCARDO
Mayor

ATTEST:

__________________________________________
TONI TABER
City Clerk
PLAT MAP

SHOWING THE EASEMENT TO BE VACATED ON
EIGHTH STREET BETWEEN SAN CARLOS STREET AND SAN SALVADOR STREET

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

APPROVED THIS 4TH DAY OF AUGUST 2016

DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE
TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Barry Ng

SUBJECT: SEE BELOW

DATE: August 8, 2016

RECOMMENDATION

Adoption of a resolution:

1. Approving the report of the Director of Public works setting forth the facts justifying the summary vacation of a public service easement on property owned by the State of California (“PSE”);

2. Summarily vacating the PSE that had been reserved with the vacation of Eighth Street between San Salvador Street and San Carlos Street in Resolution No. 31726.

3. 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 no longer constitute a public service easement.

BACKGROUND

In 1967, at the request of San Jose State University, the City Council vacated a street easement on Eighth Street between San Salvador Street and San Carlos Street and reserved an approximately 0.5 acre PSE as various public utilities remained within this portion of Eighth Street (“Subject Property”). The vacation was approved with Resolution No. 31726 recorded on
September 22, 1967 in Book 7867, Page 192 of Official Records, Office of the Recorder, County of Santa Clara. In addition, in 1968, the City executed a Quitclaim Deed to the State of California, recorded February 27, 1968 in Book 8037, Page 506 of Official Records, Office of the Recorder, County of Santa Clara, for fee title ownership of the Subject Property. Currently, this area functions as a paved vehicular, bicycle, and pedestrian access road on the San Jose State University (SJSU) campus and also includes university parking. The purpose of the PSE was to allow the City access and maintenance rights for a 37-inch sanitary sewer main within the subject easement as well as other utilities maintained by various public utility companies.

In September of 2015, the City was approached by San Jose State University about the possible vacation of the PSE to support their planned construction of a $130 million student recreational and aquatic facility in the immediate area to be completed by late 2018. The project will have an additional gymnasium, weight and fitness center, exercise rooms, rock climbing wall, sports club organizations, and competition and recreation pools with support spaces. The PSE prohibits the installation of structures within the easement and conflicts with SJSU’s proposed project.

In order to support the vacation of the PSE, on April 4, 2016, San Jose State University and the City entered into a construction agreement to relocate the 37-inch sewer out of the PSE area and into adjacent City streets. Additionally, San Jose State University coordinated with other utility companies, including PG&E, on the relocation of their facilities outside of the PSE. At this time, all public utility facilities that were formerly located in the PSE, including the 37-inch sanitary sewer, have been relocated, and there are no public facilities in the PSE.

On May 17, 2016, San Jose State University submitted an application to vacate the PSE to facilitate their project.

**ANALYSIS**

Pursuant to California Streets and Highways Code Section 8333(c), the City Council may summarily vacate a public service easement that has been superseded by relocation, or determined to be excess by the easement holder, if there are no other public facilities located within the easement.

As a result of the relocation of the 37-inch sanitary sewer pipe and all other public facilities from within the PSE to adjacent city streets or other locations, staff has determined that the PSE has been superseded by relocation and is no longer required for present or prospective public purposes. Upon recordation of the resolution of vacation, the Subject Property will no longer be encumbered by the PSE and no further action by the City of San José will be required.
EVALUATION AND FOLLOW-UP

If Council adopts the resolution vacating the PSE on Eighth Street between San Carlos Street and San Salvador Street, no further action by the Council will be required.

PUBLIC OUTREACH/INTEREST

This memorandum will be posted to the City’s website for the August 30, 2016 Council agenda.

COORDINATION

The vacation has been coordinated with the Departments of Transportation, Fire, Police and the City Managers Budget Office. The resolution of vacation has been reviewed by the City Attorney’s Office. Additionally, all concerned utility companies have been contacted in writing and have no objection to the proposed vacation.

COST SUMMARY/IMPLICATIONS

The Department of Public Works collected cost recovery fees in 2016 in the amount of $3,745 to process the vacation. These fees were deposited into the Department of Public Works Services Fee Fund (Fund 001).

CEQA

Statement of Exemption, File No. PP16-082

/s/

BARRY NG
Director of Public Works

For questions, please contact Michael Liw, Deputy Director, at 408-535-8300.