RESOLUTION NO. ______

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SETTING A PUBLIC HEARING TO CONSIDER WHETHER TO CONDITIONALLY VACATE A 12,903 SQUARE FOOT PORTION OF OLD WEST JULIAN STREET BETWEEN NORTH AUTUMN STREET AND AUTUMN PARKWAY, RESERVING FROM THE VACATION PUBLIC SERVICE EASEMENTS OVER THE AREA VACATED

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

SECTION 1. Pursuant to Chapter 3 of Part 3 of the Division 9 of the Streets and Highways Code of the State of California, the City Council desires to initiate proceedings to vacate, subject to the conditions stated in Section 2 below, a 12,903 square foot portion of Old West Julian Street between North Autumn Street and Autumn Parkway reserving and excepting from the vacation public service easements over the area vacated, which property is more particularly described in Section 7 of this Resolution ("Subject Property").

SECTION 2. The vacation of the Subject Property shall be conditioned on, and shall not occur until, the satisfaction of one of the following:

(1) The property owner shall have received a City-approved land use permit for the development of APNs 259-25-063, 259-25-004, 259-25-005, 259-25-035, 259-29-104, 259-29-093 and 259-29-099 (each a "Parcel" and collectively, "Parcels") in accordance with the San Jose Municipal Code and other applicable laws and regulations and a final map for the Parcels shall have been approved and recorded in accordance with the California Subdivision Map Act and Title 19 of the San Jose Municipal Code, which results in all legal parcels created by or shown on the map having adequate public street access; or in the alternative
The property owner shall have: (i) demonstrated to the City’s satisfaction that with respect to each Parcel, either (a) the owner has sole ownership and possession of the Parcel and no other persons or entities have a legal right to use or occupy such Parcel (such demonstration shall be by a sworn statement duly executed by the owner, current title report and, at the City’s discretion, a confirmatory site inspection), or (b) the Parcel has adequate public street access other than via the Subject Property (meaning adequate legal right to, and physical capability of, ingress and egress to/from such Parcel to a public street other than the Subject Property, without the need for physical modifications); and (ii) executed an agreement acceptable to the City that indemnifies and holds the City harmless from any claims arising out of or related to the City’s vacation of the Subject Property.

SECTION 3. Notice is hereby given that the City Council will conduct a public hearing on the proposed conditional vacation at 1:30 p.m., or as soon thereafter as the matter can be heard, on August 29, 2017, in the Council Chambers located at City Hall, 200 East Santa Clara Street, San Jose, California. At the public hearing, all persons interested in, or objecting to, the proposed conditional vacation may appear and be heard. The City Council will consider all evidence presented at the hearing in order to determine whether to conditionally vacate the Subject Property.

SECTION 4. On June 12, 2017, the Director of Public Works approved the plat map entitled "Plat Map Showing the Portion of Old West Julian Street to be Vacated with Reservation of a Public Service Easement" (Plat Map), which shows the Subject Property. The City Clerk is directed to file the Plat Map in the Office of the City Clerk and to make it available for examination by any persons desiring to do so.
SECTION 5. The City Clerk is further directed to cause this Resolution to be published in its entirety for at least two successive weeks prior to the public hearing in a newspaper of general circulation in the City of San José.

SECTION 6. The Director of Public Works is directed to cause notices of the proposed conditional vacation to be posted conspicuously along the line of the Subject Property proposed to be conditionally vacated. The notices shall be posted at least two (2) weeks before the date set for the public hearing. Such notices shall be posted not more than 300 feet apart, but at least three (3) notices shall be posted. The notices shall state the passage of this Resolution and the time and place of the public hearing.

SECTION 7. The Subject Property proposed to be conditionally vacated is described as follows:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 1:

BEING A PORTION OF OLD WEST JULIAN STREET AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON JANUARY 28, 1991 IN BOOK 623 OF MAPS AT PAGES 36 AND 37, SANTA CLARA COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT ON THE NORTHWESTERLY LINE OF SAID OLD WEST JULIAN STREET, SAID POINT BEING DISTANT THEREON NORTH 49°08′28″EAST, 61.76 FEET AND NORTH 40°51′8″WEST, 30.00 FEET FROM THE INTERSECTION OF THE CENTERLINE OF SAID OLD WEST JULIAN STREET AND THE CENTERLINE OF SAID NORTH AUTUMN STREET;

THENENCE ALONG SAID NORTHWESTERLY LINE OF SAID OLD WEST JULIAN STREET NORTH 49°08′28″EAST, 212.46 FEET;

THENENCE LEAVING SAID NORTHWESTERLY LINE AT RIGHT ANGLES SOUTH 40°51′8″EAST, 60.00 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SAID OLD WEST JULIAN STREET;
THENCE ALONG SAID SOUTHEASTERLY LINE SOUTH 49°08‘20” WEST, 212.46 FEET;

THENCE LEAVING SAID SOUTHEASTERLY LINE AT RIGHT ANGLES NORTH 40°51’8” WEST, 60.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 12,748 ± SQUARE FEET.

**LOT 2:**

BEING A PORTION OF OLD WEST JULIAN STREET AND NORTH AUTUMN STREET AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON JANUARY 28, 1991 IN BOOK 623 OF MAPS AT PAGES 36 AND 37, SANTA CLARA COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF PARCEL FOUR AS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED ON JUNE 2, 2010 AS DOCUMENT NO. 20728173 OF OFFICIAL RECORDS, SANTA CLARA COUNTY, SAID POINT BEING DISTANT THEREON NORTH 49°08‘20” EAST, 61.76 FEET AND SOUTH 40°51’8” EAST, 30.00 FEET FROM THE INTERSECTION OF THE CENTERLINE OF SAID OLD WEST JULIAN STREET AND THE CENTERLINE OF SAID NORTH AUTUMN STREET;

THENCE NORTH 49°08‘20” EAST, 60.87 FEET ALONG SAID NORTHWesterly LINE OF SAID PARCEL FOUR TO A POINT OF CUSP, SAID LINE ALSO BEING THE SOUTHWESTERLY PROLONGATION OF THE SOUTHEASTERLY LINE OF SAID OLD WEST JULIAN STREET, AS SHOWN ON SAID RECORD OF SURVEY;

THENCE ALONG SAID RIGHT OF WAY LINE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, TO WHICH POINT A RADIAL LINE BEARS NORTH 40°51’8” WEST, THROUGH A CENTRAL ANGLE OF 11°55‘33” FOR AN ARC DISTANCE OF 52.04 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE ALONG A COMPOUND CURVE HAVING A RADIUS OF 40.00 FEET, THROUGH A CENTRAL ANGLE OF 13°58’0” FOR AN ARC DISTANCE OF 9.76 FEET;

THENCE LEAVING SAID RIGHT OF WAY LINE NORTH 40°51’8” WEST, 8.55 FEET TO THE POINT OF BEGINNING.

CONTAINING 155 ± SQUARE FEET.
ADOPTED this ______ day of __________________, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk