

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS SUMMARILY VACATING A PORTION OF THE PUBLIC SERVICE UTILITY EASEMENT (PSUE) ALONG THE NORTHERLY PROJECTION OF RAILROAD COURT AND PARALLEL TO UNION PACIFIC RAILROAD**

WHEREAS, California Streets and Highways Code Section 8333(a) authorizes the City Council to summarily vacate public service utility easements that are no longer necessary when 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

WHEREAS, California Streets and Highways Code Section 8333(c) authorizes the City Council to summarily vacate public service utility easements that are no longer necessary when the easement has been superseded by relocation or determined to be excess by the easement holder; and

WHEREAS, the Santa Clara Valley Transportation Authority (VTA) has acquired a portion of this easement to construct a power substation and other facilities to serve the BART – Silicon Valley Berryessa Extension (SVBX) project and requires that the area be cleared of easements for construction and land title reasons; and

WHEREAS, no public utility facilities are currently located, nor have been located within the past five years, on the public service utility easement area to be vacated; and

WHEREAS, City Utility Engineering staff has determined that the VTA acquired portion of the public service utility easement area to be vacated is excess, since there are no current and future City and public utility needs; and

WHEREAS, City Utility Engineering staff has further determined that the remaining parcel area, with the exception of a 10-inch strip adjacent to the existing Railroad Court right-of-way, of the public service utility easement to be vacated is also excess, since there are no current and future City and public utility needs; and

WHEREAS, the City Council intends to summarily vacate a portion of the PSUE as depicted on **Exhibit A** (Legal Description) attached to this Resolution, pursuant to California Streets and Highways Code Sections 8333 (a) & (c) and under the procedures provided for in Section 8335.

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Based on the foregoing, the City Council hereby makes the following findings:
 - a. The portion of the public service utility easement (PSUE) described and depicted in **Exhibit A** is an excess easement area and is not required now or in the future for public utility facility purposes.

- b. The portion of the public service utility easement (PSUE) described and depicted in **Exhibit A** has had no public utility facilities located within it for a period of at least five consecutive years preceding this summary vacation.
- 3. Based upon the findings made in this Resolution and the provisions of California Streets and Highways Code Section 8333 (a) & (c), the City Council does hereby order that the subject portion of the public service utility easement (PSUE), as described and depicted in **Exhibit A** is Summarily Vacated.
- 4. The City Clerk is hereby directed to record with the Santa Clara County Recorder's Office this Resolution, including **Exhibit A** hereto.
- 5. The Excess public service utility easement (PSUE) area vacated herein as described and depicted in **Exhibit A** will no longer constitute a public service utility easement (PSUE) for public utility facilities.

PASSED AND ADOPTED this _____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

LEGAL DESCRIPTION
PUBLIC UTILITY EASEMENT VACATION

APN: 022-31-030

REAL PROPERTY situated in the City of Milpitas, County of Santa Clara, State of California, being a portion of the permanent easement and right-of-way reserved in Resolution No. 2626, recorded August 13, 1976, in Book C214, Page 614, Official Records of Santa Clara County, also being a portion of Parcel Two of the Individual Grant Deed, recorded August 13, 2004, in Document No. 17948078, Official Records of Santa Clara County, being more particularly described as follows:

BEGINNING at the northwest corner of Parcel 1 as shown on the Parcel Map recorded December 3, 1984 in Book 536 of Maps, Page 32, Official Records of Santa Clara County;

Thence along the westerly line of said Parcel 1, also being the easterly line of said Parcel Two, South 09°02'42" East, 838.44 feet to beginning of a non-tangent curve to the left, parallel with and 10 feet northerly of the northerly right-of way line of Railroad Court;

Thence southwesterly along said non-tangent curve, having a radius of 80.00 feet, the radial of which bears North 11°55'00" West, through a central angle of 58°10'23" for an arc length of 81.23 feet to the westerly line of said Parcel Two;

Thence along said westerly line, North 09°02'42" West, 1142.65 feet to the southwesterly line of the parcel of land described in the Grant Deed recorded July 14, 2008, in Document No. 19916630, Official Records of Santa Clara County;

Thence along said southwesterly line, South 23°07'47" East, 271.19 feet to the **POINT OF BEGINNING**.

Containing an area of 64,842 square feet, more or less.

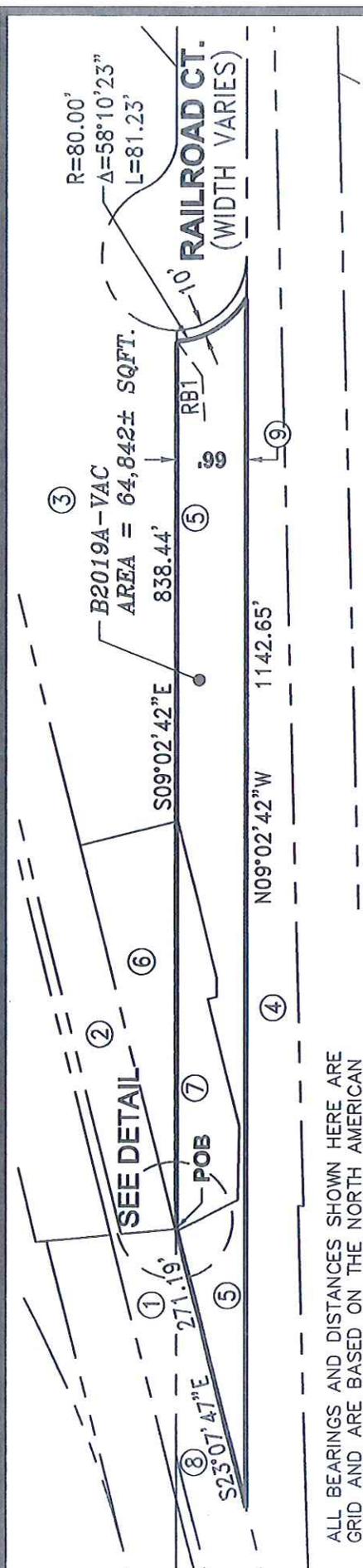
Plat Exhibit attached and by this reference made a part hereof.

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act. All bearings and distances are based on the North American Datum of 1983 (NAD83), Zone III, epoch 1998.5. All distances are grid distances. To convert grid distances to ground distances, multiply expressed distances by 1.00005333.

08.24.2015
Date



Julia MacRory
Julia MacRory, LS 7871
Survey and Mapping Manager



RADIAL BEARING TABLE	
LINE	BEARING
RB1	N11°55'00"W

ALL BEARINGS AND DISTANCES SHOWN HERE ARE GRID AND ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD83), ZONE 3, EPOCH 1998.5. MULTIPLY GRID DISTANCES BY 1.00003333 TO OBTAIN GROUND LEVEL DISTANCES.

LEGEND:

- POB = POINT OF BEGINNING
- RB = RADIAL BEARING
- SCVTA = SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
- SQFT. = SQUARE FEET
- UPRR = UNION PACIFIC RAILROAD

NOTES:

- ① APN 028-23-020, UPRR PARCEL 2, 700 M 22
- ② APN 028-23-011, UPRR PARCEL 2, 700 M 45
- ③ APN 028-23-022 WALTER CWCA WRIGLEY CREEK 31, LLC. DOC. NO. 20376344 PARCEL 1, 536 M 32
- ④ APN 022-31-030, BRIAN HORNER PARCEL 1, DOC. NO. 17948078
- ⑤ APN 022-31-030, BRIAN HORNER PARCEL 2, DOC. NO. 17948078
- ⑥ APN 028-23-023, SCVTA DOC. NO. 22623984
- ⑦ APN 022-31-030, SCVTA DOC. NO. 22938891
- ⑧ APN 022-31-031, SCVTA DOC. NO. 19916630
- ⑨ VACATED MAIN STREET C214 OR 614



PLAT TO ACCOMPANY LEGAL DESCRIPTION
 B2019A-VAC
 APN 022-31-030
 CITY OF MILPITAS,
 COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

3331 NORTH FIRST STREET, BLDG. A
 SAN JOSE, CA 95134-1906
 PH. 408-321-5886 FAX. 408-321-5890

SANTA CLARA
Valley Transportation Authority

SCALE: 1"=150'
 DATE: 08-24-15
 Drawn By: H. BRASALI
 Checked By: J. MacRORY
 SHEET: 1 OF 1