

RESOLUTION NO. 73818

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE
SUMMARILY VACATING A PORTION OF HOLGER WAY BETWEEN
HEADQUARTERS DRIVE AND NORTH FIRST STREET, AND
RESERVING A PUBLIC SERVICE EASEMENT**

WHEREAS, Section 8331 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public right-of-way if the public right-of-way has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation and no public money was expended for maintenance on the street during such five year period; and

WHEREAS, the City Council intends to summarily vacate a portion of the public right-of-way easement used for street purposes (hereinafter the "Easement") and reserve a public service easement over the entire area proposed for vacation, constituting all that real property situated in the City of San Jose, County of Santa Clara, State of California, more particularly described as:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California and being a portion of Holger Way located between the northeasterly line of North First Street and the northwesterly line of Headquarters Drive, as shown on that certain Record of Survey filed for record in Book 627 of Maps at pages 33 and 34 and that certain Parcel Map filed for record in Book 683 of Maps at Pages 44 and 45, Santa Clara County Records more particularly described as follow:

Beginning at a point on the northeasterly line of North First Street at the southeasterly terminus of that certain course shown as North 52°27'37" West 116.26 feet as shown on said certain Parcel Map;

Thence southeasterly, tangent to said preceding course, along the arc of a curve to the left, having a radius of 50.00 feet, through a central angle of 89°59'35" for an arc distance of 78.53 feet to a point on the northwesterly line of Holger Way as shown on said Parcel Map;

Thence along the northwesterly and northerly line of said Holger Way, the following five (5) courses and distances:

1. North 37°32'48" East, 252.35 feet;
2. Along the arc of a tangent curve to the right, having a radius of 327.00

- feet, through a central angle of $7^{\circ}12'35''$ for an arc distance of 41.15 feet;
3. North $44^{\circ}45'22''$ East, 796.10 feet;
 4. Along the arc of a tangent curve to the right, having a radius of 325.00 feet, through a central angle of $45^{\circ}24'13''$ an arc distance of 257.54 feet;
 5. South $89^{\circ}50'25''$ East, 598.45 feet to a point of a cusp;

Thence southwesterly along the arc of a curve to the left, from a tangent which bears North $89^{\circ}50'25''$ West, having a radius of 178.00 feet, through a central angle of $89^{\circ}59'37''$ an arc distance of 279.58 feet to a point on the westerly line of said Headquarters Drive as shown on said Record of Survey;

Thence along said westerly line North $00^{\circ}09'58''$ East 74.97 feet,

Thence along the arc of a tangent curve to the left having a radius of 50.00 feet, through a central angle of $90^{\circ}00'23''$ for an arc distance of 78.55 feet to a point on the southerly line of said Holger Way as shown on said Record of Survey;

Thence along the southerly and southeasterly line of said Holger Way the following six (6) courses and distances:

1. North $89^{\circ}50'25''$ West, 365.70 feet;
2. Along a tangent curve to the left, having a radius of 280.00 feet, through a central angle of $45^{\circ}24'13''$ for an arc distance of 221.88 feet;
3. South $44^{\circ}45'22''$ West, 793.75 feet;
4. Along a tangent curve to the left, having a radius of 273.00 feet, through a central angle of $7^{\circ}12'35''$ for an arc distance of 34.35 feet;
5. South $37^{\circ}32'48''$ West, 252.34 feet;
6. Along a tangent curve to the left, having a radius of 50.00 feet, through a central angle of $90^{\circ}00'00''$ for an arc distance of 78.54 feet to a point on the northeasterly line of said North First Street as shown on said Record of Survey;

Thence northwesterly along the northwesterly prolongation of said northeasterly line, North $52^{\circ}27'12''$ West, 77.00 feet;

Thence northwesterly along the southwesterly prolongation of said course shown as North $52^{\circ}27'12''$ West on said Parcel Map, North $52^{\circ}27'37''$ West 76.99 feet to said Point of Beginning.

Containing 2,406 acres, more or less.

WHEREAS, on May 21, 2007 the Director of the Department of Public Works approved that certain map entitled "Plat Map Showing That Portion Of Holger way To Be Vacated With Reservation of a Public Service Easement Over the Entire Area being Vacated" showing the portion of the Easement that the City Council intends to summarily vacate (hereinafter "Map"); and

WHEREAS, attached to this Resolution as Exhibit "A" is a copy of the report, dated May 21, 2007, that the Director of the Department of Public Works submitted to the City Council setting forth the reasons justifying summary vacation of the Easement (hereinafter "Report").

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

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

- A. 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
- B. No public money was expended for maintenance on the street during such five year period.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8331 of the Streets and Highways Code, the City Council does hereby order the Easement shall be and hereby is summarily vacated, and reserves a public service easement over the entire area.

SECTION 3. The City Clerk is hereby directed to record at Santa Clara County Records this Resolution, including Exhibit "A" hereto, and the Map.

SECTION 4. The Easement to be vacated herein will no longer constitute a public right-of-way from and after the date of recordation of the documents identified in Section 3 of this Resolution.

ADOPTED this 12th day of June, 2007, by the following vote:

AYES:	CAMPOS, CHIRCO, CONSTANT, CORTESE, LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED
NOES:	NONE
ABSENT:	NONE
DISQUALIFIED	NONE
VACANT:	DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk