

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CONDITIONALLY VACATING AN APPROXIMATELY 1,000 SQUARE FOOT PUBLIC UTILITY EASEMENT LOCATED AT 1420 UNIVERSITY AVENUE.

WHEREAS, Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California authorizes the City Council to vacate a public service easement if the City Council determines that it is unnecessary for present or prospective public use; and

WHEREAS, Council intends to, after the satisfaction of the conditions set forth in Section 4 of this Resolution, vacate an approximately 1,000 square foot public utility easement located at 1420 University Avenue, constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as ("Subject Property"):

AN EASEMENT OVER CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEING A PORTION OF LOT 74 AS SHOWN ON CERTAIN MAP ENTITLED "TRACT NO. 55, ROSE PARK UNIT NO. 3, LYING WITHIN THE CITY OF SAN JOSE" RECORDED AUGUST 24, 1937, IN BOOK 1 OF MAPS AT PAGE 56, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID LOT; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LOT, SOUTH 45°52'00" WEST 100.00 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT;

THENCE LEAVING SAID LINE AND ALONG SOUTHWESTERLY LINE OF SAID LOT, NORTH 44°08'00" WEST 10.00 FEET TO A POINT ON THE SOUTHWESTERLY OF SAID LOT;

THENCE LEAVING SAID LINE, ACROSS SAID LOT AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT, NORTH 45°52'00" EAST 100.00 FEET TO THE NORTHEASTERLY LINE OF SAID LOT;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID LOT, SOUTH 44°08'00"
EAST 10.00 FEET TO THE POINT OF BEGINNING;

CONTAINING 1000 SQUARE FEET, MORE OR LESS.

BASIS OF BEARINGS: THE BEARINGS DESCRIBED IN THIS DESCRIPTION ARE
BASED ON THE SOUTHEASTERLY LINE OF LOT 74, S45°52'00"W SHOWN ON
"TRACT NO. 55, ROSE PARK UNIT NO. 3, LYING WITHIN THE CITY OF SAN JOSE",
RECORDED IN BOOK 1 OF MAPS, AT PAGE 56, SANTA CLARA COUNTY
RECORDS.

WHEREAS, a notice of the proposed vacation was published in the manner prescribed
by law; and

WHEREAS, notices of the proposed vacation were posted conspicuously along the line
of the Subject Property in the manner prescribed by law; and

WHEREAS, on January 4, 2022, the Director of Public Works approved a map entitled
"MAP TO ACCOMPANY THE LEGAL DESCRIPTION FOR VACATION OF THE 10-
FOOT PUBLIC UTILITY EASEMENT" ("Map"), attached hereto as "Exhibit A" and
incorporated herein, which shows the Subject Property; and

WHEREAS, prior to the public hearing, the Map was filed in the Office of the City Clerk
and made available for examination by any persons desiring to do so; and

WHEREAS, at the public hearing, the City Council had before it the Map and a report
from the Director of Public Works to the City Council dated January 10, 2022 ("Report"),
attached hereto as "Exhibit B" and incorporated herein; and

WHEREAS, at the public hearing, the City Council heard all persons interested in the
proposed vacation and considered all evidence submitted;

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

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

- A. The proposed vacation is in conjunction with the vacation application submitted by James Rukstalis, property owner of Lot 74 of Tract No. 55; and
- B. Government Code Section 65402 does not apply to this vacation; and
- C. There are in-use public facilities located within the Subject Property.

SECTION 2. Council makes the following conclusions based on the above findings:

- A. After the satisfaction of the conditions set forth in Section 4 this Resolution, the Subject Property will be unnecessary for present or prospective public use; and
- B. The proposed vacation is consistent with the City's General Plan; and
- C. The proposed vacation shall be subject to the condition set forth in Section 4 of this Resolution.

SECTION 3. Based upon the foregoing findings and conclusions, and the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, the City Council does hereby vacate, subject to the condition stated in Section 4 below, the Subject Property.

SECTION 4. The vacation of the Subject Property shall be conditioned on, and shall not occur until, the owner(s) of 1420 University Avenue provide the City with a copy of fully executed Overhead Wire Easements in favor of any and all public utilities having in-place public utility facilities within the Subject Property.

SECTION 5. After receiving written confirmation from both the Director of Public Works and the Office of the City Attorney that the condition in Section 4 has been satisfied, 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 6. From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public service easement.

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NF:EH
12-16-21

ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MAP

TO ACCOMPANY THE LEGAL DESCRIPTION FOR
VACATION OF THE 10-FOOT PUBLIC UTILITY EASEMENT



AREA TO BE VACATED

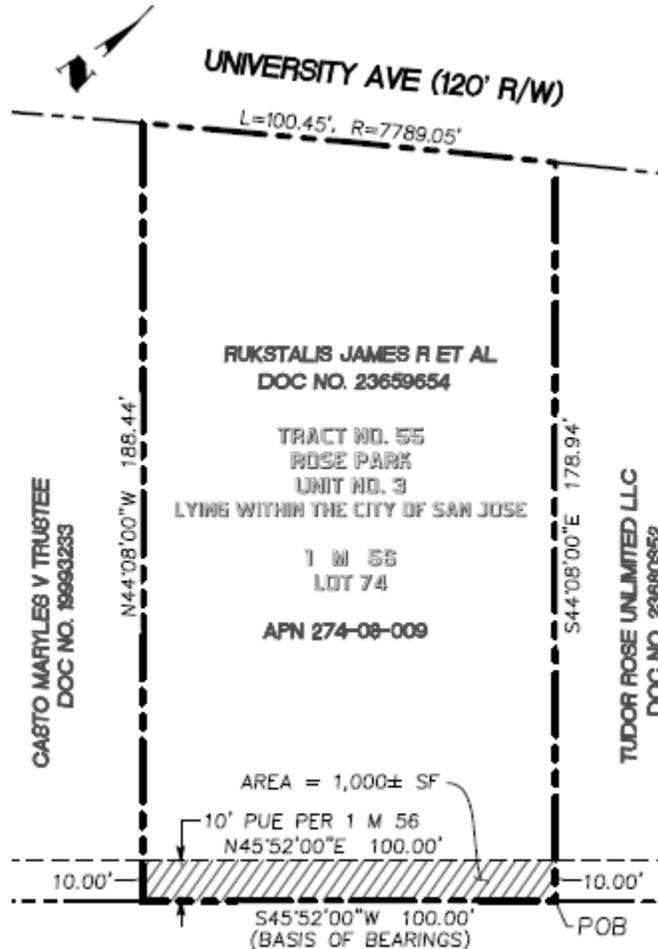
FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS _____ DAY OF _____, AND APPROVED BY SAID CITY COUNCIL THIS _____ DAY OF _____ BY RESOLUTION NUMBER _____

CITY CLERK, CITY OF SAN JOSE

APPROVED THIS 4th DAY OF January 2022

for MATT CANO

DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE



NF:EH
12-16-21

Exhibit B

To Be Posted Separately

T-122.082/1883179_2
Resolution of Vacation
Council Agenda: 2/1/2022
Item Number: 3.3

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.