

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE VACATING A PUBLIC EASEMENT FOR  
LIGHT AND AIR LOCATED AT 1064 WEST RIVERSIDE  
WAY**

**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**, on September 9, 2019, the Director of Public Works submitted a report to the City Council ("Report") recommending that the City Council vacate the public easement for light and air located at 1064 West Riverside Way constituting all that real property situated in the City of San José, County of Santa Clara, State of California more particularly described as follows ("Subject Property"):

THAT CERTAIN AREA DEDICATED AS A PUBLIC USE EASEMENT FOR LIGHT AND AIR ON OR OVER THAT CERTAIN STRIP OF LAND LYING BETWEEN THE LINES OF STREETS AND THE DOTTED LINES DESIGNATED AS "B.S.L." (BUILDING SETBACK LINE) ON LOT 23 AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "TRACT NO. 1693 FRIENDLY WOODS, UNIT NO. 1", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 22, 1956 IN BOOK 68 OF MAPS, AT PAGES 4 AND 5.

**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 September 18, 2019, the Director of Public Works approved the map, including exhibits thereto, entitled "Map to Accompany the Legal Description for

Vacation of the Setback Easement Within Lot 23 of Tract No. 1693" ("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 the Report, which is 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.** The City 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 application of Sowmyarani Ramarao for the vacation of the 25-foot light and air easement on her property, which is Lot 23 of Tract No. 1693; and
- B. The applicable setbacks for Lot 23 shall be regulated through the City of San José's Municipal Code; and
- C. Government Code Section 65402 does not apply to this vacation.
- D. There are other public service easements located within Tract No. 1693 that shall remain and are not proposed for vacation, including the public

easements of light and air located on lots other than Lot 23.

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

- A. The Subject Property is unnecessary for present or prospective public use; and
- B. The proposed vacation is consistent with the City's General Plan; and
- C. All public easements other than the Subject Property are not vacated pursuant to this action.

**SECTION 3.** Based on the above stated findings and conclusions, the City Council hereby vacates the public easement for light and air located within the Subject Property.

**SECTION 4.** 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 5.** From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public service easement for light and air.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk



EXHIBIT A

MAP

TO ACCOMPANY THE LEGAL DESCRIPTION FOR VACATION  
OF THE SETBACK EASEMENT WITHIN LOT 23 OF TRACT NO. 1693



AREA TO BE VACATED



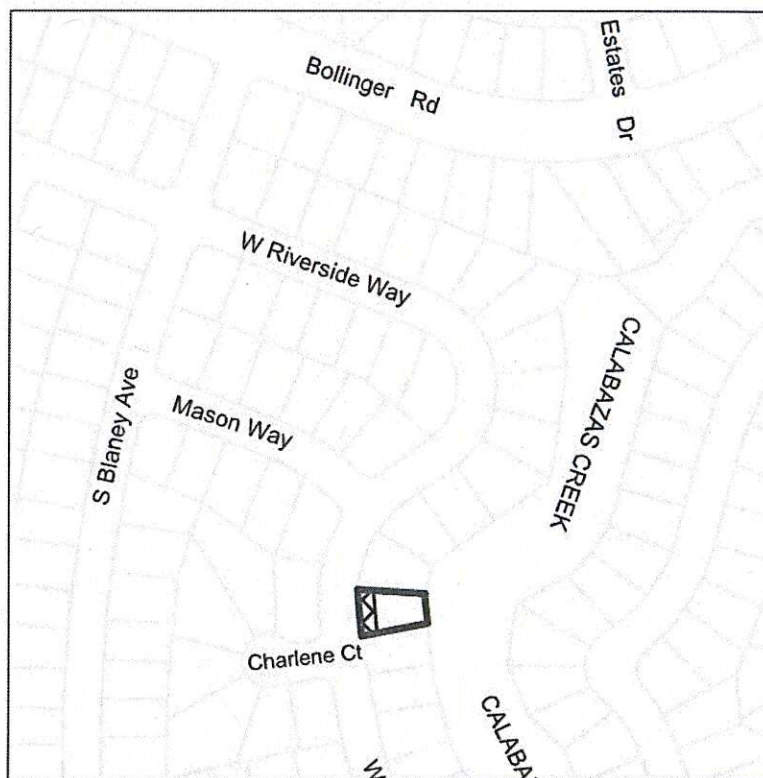
BOUNDARY OF LOT 23

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

 RYAN DO APPROVED THIS 18<sup>TH</sup> DAY OF SEPTEMBER 2019

MATT CANO  
DIRECTOR OF PUBLIC WORKS,  
CITY OF SAN JOSE



**Exhibit B**

TO BE ATTACHED

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