

RESOLUTION NO. 73415

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CONDITIONALLY VACATING A PORTION OF A PUBLIC SERVICE EASEMENT ON THE NORTHEAST CORNER OF MURPHY AND RINGWOOD AVENUES**

**WHEREAS**, the vacation of a portion of a public service easement (“PSE”) on the northeast corner of Murphy and Ringwood Avenues described in Section 3 of this Resolution is being conducted pursuant to and in accordance with the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California; and

**WHEREAS**, on August 29, 2006, the City Council adopted Resolution No. 73370 (“Resolution of Intention”) declaring its intention to conditionally vacate the portion of a PSE on northeast corner of Murphy and Ringwood Avenues described in Section 3 of this Resolution; and

**WHEREAS**, the Resolution of Intention gave notice that on Tuesday, the 19th day of September, 2006 at 1:30 p.m., in the Council Chambers of the City Council, in the City Hall of the City of San Jose, the Council would hear any and all persons interested in or objecting to the vacation of said portion of a PSE on northeast corner of Murphy and Ringwood Avenues; and

**WHEREAS**, the Resolution of Intention giving notice of the date, time and place of the public hearing was published in the manner prescribed by law; and

**WHEREAS**, notices of the proposed easement vacation, stating the purpose of the Resolution of Intention and the time and place set for the public hearing, were posted in the manner prescribed by law; and

**WHEREAS**, prior to the public hearing the plat map approved by the Director of Public Works on August 17, 2006, entitled “Plat Showing That Portion of Public Service Easement on Northeast Corner of Murphy and Ringwood Avenues To Be Vacated” and showing the portion of the PSE proposed for vacation (“Plat Map”), was filed in the Office of the City Clerk and made available for examination by any persons desiring to do so; and

**WHEREAS**, on September 19, 2006, at 1:30 p.m. in the City Council chambers, the City Council heard any and all persons interested in or objecting to the proposed vacation of a PSE on the northeast corner of Murphy and Ringwood Avenues and received and considered all evidence submitted; and

**WHEREAS**, at the public hearing on the vacation of the portion of a PSE on the northeast corner of Murphy and Ringwood Avenues described in Section 3 of this Resolution, the City Council had before it a report from the Director of Public Works to the City Council, dated August 9, 2006, identified as “EXHIBIT A” and incorporated herein, and the Plat Map, identified as “EXHIBIT B” and incorporated herein; and

**WHEREAS**, the portion of a PSE on the northeast corner of Murphy and Ringwood Avenues is being vacated for the purpose of fulfilling the development conditions of Planned Development Permit 91-007. This vacation is conditional because there are utilities located in the portion of the PSE to be vacated. The vacation shall only take effect at such time as these utilities are abandoned, removed or relocated.

**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 other evidence submitted at the public hearing, makes the following findings of relevant fact:

- A. The portion of the PSE on the northeast corner of Murphy and Ringwood Avenues, as described in Section 3 of this Resolution, is not needed for public purposes.

SECTION 2. The City Council makes the following conclusions and finding based upon an analysis of the above facts:

- A. The portion of the PSE located at the northeast corner of Murphy and Ringwood Avenues described in Section 3 of this Resolution and depicted in the Plat Map is not necessary for present or prospective easement purposes; and
- B. The proposed vacation is consistent with the City's General Plan.

SECTION 3. Based on the above stated facts, conclusions and findings, the City Council hereby conditionally vacates the following portion of a PSE on the northeast corner of Murphy and Ringwood Avenues for the purpose of fulfilling the development conditions of Planned Development Permit 91-007. This vacation is conditional because there are utilities located in the portion of the PSE to be vacated. The vacation shall only take effect at such time as these utilities are abandoned, removed or relocated. The portion of the PSE on the northeast corner of Murphy and Ringwood Avenues to be conditionally vacated is described as follows:

AREA TO BE VACATED

All that certain real property lying within the City of San Jose, County of Santa Clara, State of California, being a portion of Lot 1 as shown on that certain Map of Tract No. 8454, filed for record on August 1, 1991 in Book 629 of Maps, Pages 20 through 24, Santa Clara County Records, described as follows:

Commencing at the most easterly corner of Lot 2 as shown on said map;  
Thence South 52°42'08" West, 115.20 feet along the southeasterly line of said Lot 2 to a line common to Lot 1 and Lot 2 as shown on said Map;  
Thence North 33°54'02" West, 81.19 feet along said common line to the True Point of Beginning;  
Thence leaving said common line South 52°42'08" West, 7.82 feet;  
Thence North 37°17'52" West, 7.38 feet;

Thence South 52°42'08" West, 17.17 feet;  
Thence South 37°17'52" East, 11.50 feet;  
Thence South 52°42'08" West, 5.67 feet;  
Thence North 37°17'52" West, 11.50 feet;  
Thence South 52°42'08" West, 8.50 feet;  
Thence South 37°17'52" East, 7.38 feet;  
Thence South 52°42'08" West, 21.67 feet;  
Thence North 37°17'52" West, 8.88 feet;  
Thence South 52°42'08" West, 6.25 feet to the corner of an existing "Exception to Public Service Easement" as shown on said Map of Tract No. 8454;  
Thence North 37°17'52" West, 67.42 feet along said existing "Exception to Public Service Easement";  
Thence leaving said "Exception to Public Service Easement" North 52°42'08" East, 6.25 feet;  
Thence North 37°17'52" West, 8.88 feet;  
Thence North 52°42'08" East, 21.67 feet;  
Thence South 37°17'52" East, 7.38 feet;  
Thence North 52°42'08" East, 17.17 feet;  
Thence North 37°17'52" West, 11.50 feet;  
Thence North 52°42'08" East, 5.67 feet;  
Thence South 37°17'52" East, 11.50 feet;  
Thence North 52°42'08" East, 8.50 feet;  
Thence North 37°17'52" West, 7.38 feet;  
Thence North 52°42'08" East, 21.67 feet;  
Thence South 37°17'52" East, 8.88 feet;  
Thence North 52°42'08" East, 21.67 feet;  
Thence South 37°17'52" East, 37.34 feet to a point on a line common to said Lots 1 and 2;  
Thence South 52°42'08" West, 33.20 feet along said common line to the most westerly corner of said Lot 2;  
Thence South 33°54'02" East, 39.02 feet along said common line to the True Point of Beginning.

SECTION 4. The City Clerk shall record a certified copy of this Resolution in the Santa Clara County Recorder's Office only upon notification from the Public Works Department that the existing public utilities have been abandoned, removed or relocated.

SECTION 5. From and after the date this Resolution is recorded and the conditions in Section 3 above are completed, the portion of the PSE to be vacated will no longer constitute a public service easement.

ADOPTED this 19<sup>th</sup> day of September, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,  
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;  
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

---

RON GONZALES  
Mayor

ATTEST:

---

LEE PRICE, MMC  
City Clerk