RD:RG
File No. MA09-006

RESOLUTION NO. 75212

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ APPROVING A HISTORIC LANDMARK PRESERVATION AGREEMENT WITH SUZANNE RICE AND NEIL MCCARTHY FOR THE RIGGS HOUSE LOCATED AT 577 SOUTH TWELFTH STREET (CITY LANDMARK NO. HL09-186)

MA09-006

WHEREAS, California Government Code Section 50280, et seq. and Chapter 13.48 of Title 13 of the San José Municipal Code authorize the City of San José to enter into agreements with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance; and

WHEREAS, Suzanne Rice and Neil McCarthy possess fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address 577 South Twelfth Street, City Landmark No. HL09-186 (hereinafter referred to as the "Historic Landmark"); and

WHEREAS, on December 8, 2009 the City Council of the City of San José adopted its Resolution No. 75211 thereby declaring and designating the Historic Landmark as a historic landmark structure pursuant to the terms and provisions of Chapter 13.48 of the San José Municipal Code; and

WHEREAS, the City of San José and Suzanne Rice and Neil McCarthy, for their mutual benefit, now desire to enter into an agreement both to protect and preserve the characteristics of historical significance of the Historic Landmark and to qualify the Historic Landmark for an assessment of valuation pursuant to the provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Historic Landmarks Commission did, on November 4, 2009 at 6:00 p.m.,

conduct a public hearing on a Historic Landmark Preservation Agreement for the Historic Landmark and recommend approval of that agreement (hereinafter "Agreement"); and

WHEREAS, a copy of the Agreement upon which such recommendation was made is on file in the Office of the City Clerk of the City of San José; and

WHEREAS, the subject property upon which the Historic Landmark is situated is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Council did give notice that on December 1, 2009 at 1:30 p.m., or as soon thereafter as said matter could be heard, this Council would, in the City Hall of the City of San José, 200 East Santa Clara Street, San José, California, hold a public hearing on said Agreement at which hearing any and all persons interested in said Agreement could appear and avail themselves of an opportunity to be heard and to present their views with respect to said proposed Agreement; and

WHEREAS, at the aforesaid time and place set for hearing, or to which the hearing was continued, this Council duly met, convened, and gave all persons full opportunity to be heard to present their views with respect to said proposed Agreement.

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

SECTION 1. In accordance with the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, this Council does hereby approve the Historic Landmark Preservation Agreement with Suzanne Rice and Neil McCarthy, owner of the Riggs House (City Landmark No. HL09-186) located at 577 South Twelfth Street and makes the following findings:

a. The Agreement is consistent with the General Plan, in that the proposed Agreement is consistent with General Plan Historic, Archeological and Cultural

Resources Policies that state that the City should utilize a variety of techniques and measures to serve as incentives toward fostering the rehabilitation of individual buildings and districts of historic significance; and

b. The Agreement would provide greater protection for the Historic Landmark property than is otherwise provided by the provisions of San José Municipal Code Chapter 13.48 in that the owner, in partnership with the City, may use property tax relief to rehabilitate and maintain the property in accordance with the preservation plan, Exhibit "C" of the Agreement; and

c. The Agreement complies with the requirements of Section 13.48.520 of Chapter 13.48 of Title 13 of the San José Municipal Code – Historical Property Contracts – and incorporates the Municipal Code's required provisions for Historical Property Contracts, including the following: A description of the Historic Landmark property subject to the Agreement, a provision that the term of the Agreement is a minimum period of ten years, specific conditions requiring preservation of the Historic Landmark, provision for the periodic examination of the property, and a requirement that the property owner annually expend an amount equal to a minimum of 10% of the annual tax savings resulting from the Agreement, and a provision that the Agreement is binding upon – and shall inure to the benefit of – all successors in interest of the owners in the property.

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SECTION 2. Pursuant to the San José Municipal Code, Chapter 13.48, the City Clerk is hereby directed to notify the owner of the Historic Landmark subject to the Agreement and directed to record the Agreement in the Office of the Recorder of the County of Santa Clara.

ADOPTED this 8th day of December, 2009, by the following vote:

AYES:	CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION
FOR
THE RIGGS HOUSE
577 S. TWELFTH STREET
HL09-186

The land referred to in this Report is described as follows:

All of Lot 8, as shown upon that certain Map entitled, "Jackson Subdivision of B5 R 12 S", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on January 21, 1887 in Book B of Maps, at Page 43.

APN: 472-29-106