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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA FINDING THAT THE LOCATION, PURPOSE, AND EXTENT OF THE VACATION OF ORCHARD STREET, MARCELLO AVENUE, AND PORTIONS OF JOYCE AVENUE GENERALLY LOCATED ON THE WEST SIDE OF ACACIA AVENUE AND NORTH OF EAST JAMES AVENUE IS IN CONFORMANCE WITH THE GENERAL PLAN.

WHEREAS, the right-of-way for Orchard Street, Marcella Avenue, and Joyce Avenue, all located within Tract Map No. 17708 was dedicated to the City on December 29, 2017, as Instrument No. 2017-0554325 in Book 348 of Maps, Pages 97 - 99; and

WHEREAS, the Planning Commission conditionally approved Tentative Tract Map No. 17708 on May 30, 2007 and said conditions stated “the necessary right of way shall be dedicated for Joyce Avenue, Orchard Street and Marcella Avenue for private streets and other facilities...” The conditions of approval also required the community to be gated; and

WHEREAS, the City Council approved Tract Map No. 17708 on November 22, 2017 and the County Recorder's Office recorded the map on December 29, 2017. The final map included an offer by the owner to dedicate to the City of Rialto, the public in general and public utility companies and acceptance by the City Council on behalf of the same "an easement for streets and public utilities, sewer, emergency access, in, under, over, through and across Orchard Street, Marcella Avenue and Joyce Avenue, subject to improvement as shown on this final map"; and

WHEREAS, the language in the final map for the offer of dedication and acceptance of “an easement for streets” constitutes street dedication for right of way to the public and not a reservation of a private street as required by the approved conditions for the tentative tract map; and

WHEREAS, the best solution to resolve the incorrect offer of dedication and acceptance of the same is to vacate the right of way in accordance with Streets and Highways Code Section 8300 et seq and included (“Street Vacation”) for the City of Rialto (“City”) to vacate Orchard Street, Marcella Avenue, and Joyce Avenue, all located within Tract Map No. 17708, as described

1 herein and depicted in Exhibit A to this Resolution (“Excess Street-Right-Of-Way”); and have the
2 subdivider reserve for itself, assigns and heirs an easement for private access over the streets

3 WHEREAS, Streets and Highways Code Sections 8300 *et seq.* allow for vacation of excess
4 street right-of-way and access rights; and

5 WHEREAS, California Government Code Section 65402(a) states, “If a general plan or
6 part thereof has been adopted, no real property shall be acquired by dedication or otherwise for
7 street, square, park or other public purposes, and no real property shall be disposed of, no street
8 shall be vacated or abandoned, and no public building or structure shall be constructed or
9 authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose
10 and extent of such acquisition or disposition, such street vacation or abandonment, or such public
11 building or structure have been submitted to and reported upon by the planning agency as to
12 conformity with said adopted general plan or part thereof. The planning agency shall render its
13 report as to conformity with said adopted general plan or part thereof within forty (40) days after
14 the matter was submitted to it, or such longer period of time as may be designated by the legislative
15 body;”; and

16 WHEREAS, the General Plan of the City of Rialto Circulation Element does not identify
17 Orchard Street, Marcella Avenue, and Joyce Avenue, all located within Tract Map No. 17708; and

18 WHEREAS, because the excess street right-of-way of Orchard Street, Marcella Avenue,
19 and Joyce Avenue, all located within Tract Map No. 17708 is not necessary to be reserved,
20 improved, or maintained as a public roadway under the General Plan, it may be vacated by the
21 City.

22 WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

23 NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Rialto
24 as follows:

25 SECTION 1. The Planning Commission hereby specifically finds that all the facts set
26 forth in the recitals above of this Resolution are true and correct and incorporated herein.

27 SECTION 2. The Planning Commission hereby finds that location, purpose, and extent
28 of the vacation of Orchard Street, Marcella Avenue, and Joyce Avenue, all located within Tract

1 Map No. 17708, as depicted on Exhibit A to this Resolution, is in conformance with the City's
2 General Plan.

3 SECTION 3. The Chairman of the Planning Commission shall sign the passage and
4 adoption of this resolution and thereupon the same shall take effect and be in force.

5 PASSED, APPROVED AND ADOPTED this 8th day of September 2021.

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FRANK GONZALEZ, CHAIR
CITY OF RIALTO PLANNING COMMISSION

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)
4

5 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that
6 the foregoing Resolution No. **2021-43** was duly passed and adopted at a regular meeting of the
7 Planning Commission of the City of Rialto held on the 8th day of September 2021.

8 Upon motion of Commissioner Al Twine, second by Commissioner Dale Estvander the
9 foregoing Resolution No. **2021-43** was duly passed and adopted.
10

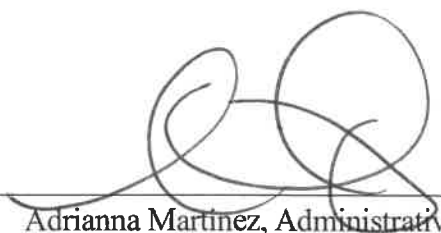
11 Vote on the motion:

12 AYES: 7

13 NOES: 0

14 ABSENT:

15 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
16 Rialto this 8th day of September 2021.

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Adrianna Martinez, Administrative Assistant