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1 public utility companies, and the City Council on behalf of the same accepted “an easement
2 for streets and public utilities, sewer, emergency access, in, under, over, through and across
3 Orchard Street, Marcella Avenue and Joyce Avenue, subject to improvement as shown on
4 this final map.”

5
6 E. The language in the Final Map for the offer of dedication and acceptance of “an
7 easement for streets” constitutes a street dedication for right of way to the public and not
8 establishment of easements for private streets by the owner for the benefit of lot owners
9 within the Final Map as was required in the Planning Commission’s conditional approval of
10 Tentative Map No. 17708.

11
12 F. The best solution to resolve the incorrect offer of dedication and acceptance of
13 public street right of way for the private streets within the Final Map is to vacate the public
14 right of way dedicated and accepted for Orchard Street, Marcella Avenue, and Joyce
15 Avenue, all located within the Final Map (hereinafter the “Vacation Area”), as described
16 herein on Exhibit A and depicted on Exhibit B to this Resolution, pursuant to Section 8331 of
17 the statute.

18
19 G. In accordance with California Government Code section 65402, the proposed
20 summary vacation and abandonment of portions of Orchard Street, Marcella Avenue, and
21 Joyce Avenue, all located within the Final Map, was submitted to and reported upon by the
22 Planning Commission of the City of Rialto.

23
24 H. On September 8, 2021, the Planning Commission of the City of Rialto adopted
25 Resolution No. XXXX determining that the proposed vacation and abandonment of portions
26 of Orchard Street, Marcella Avenue, and Joyce Avenue, all located within the Final Map, was
27 in conformance with the Rialto General Plan.

1 I. The portions of Orchard Street, Marcella Avenue, and Joyce Avenue, all
2 located within the Final Map were impassable for vehicular travel and have not been
3 continuously used for a period of five consecutive years, and no public money was expended
4 for maintenance on the streets.

5
6 J. Section 21084 of the California Public Resources Code requires Guidelines for
7 Implementation of the California Environmental Quality Act ("CEQA"), and pursuant to the
8 CEQA Guidelines, Section 15060(c)(2) (the activity will not result in a direct or reasonably
9 foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not
10 a project as defined in Section 15378) the action to adopt this Resolution summarily vacating
11 the portions of Orchard Street, Marcella Avenue, and Joyce Avenue, all located within the
12 Final Map is considered categorically exempt from CEQA.

13
14 **THE CITY COUNCIL OF THE CITY OF RIALTO DOES HEREBY RESOLVE AS**
15 **FOLLOWS:**

16 **Section 1:** The findings and determinations reflected above are true and correct,
17 and are incorporated by this reference herein as the cause and foundation for the action
18 taken by and through this Resolution.

19 **Section 2:** The City Council does hereby find that the portions of Orchard Street,
20 Marcella Avenue, and Joyce Avenue, all located within the Final Map (hereinafter the
21 "Vacation Area"), as described herein on Exhibit A and depicted on Exhibit B to this
22 Resolution, are unnecessary for present or prospective use as public streets and should be
23 established as private streets for the sole benefit of the owners of lots within the Final Map.

24 **Section 3:** The City Council does hereby declare that this summary vacation is
25 being made under and pursuant to the California Streets and Highways Code Division 9, Part
26 3, Chapter 4, Summary Vacation, Section 8331.

27 **Section 4:** Subject to Sections 5 and 6, the City Council does hereby vacate and
28 abandon all of the City's right, title and interest in the Vacated Area, and that from and after

1 the date this Resolution is recorded in the records of the San Bernardino County Recorder,
2 those portions of the public streets known as Orchard Street, Marcella Avenue, and Joyce
3 Avenue within the Vacated Area shall no longer constitute public streets.

4 **Section 5:** The City of Rialto hereby reserves and excepts from the foregoing
5 vacation an easement for public utility purposes with the right to at any time, or from time to
6 time, construct, maintain, operate, replace, remove, and renew sanitary sewers, water lines,
7 and storm drains and appurtenant structures and to construct, maintain, operate, replace,
8 remove, renew and enlarge lines of pipe, conduits, cables, wires, and other convenient
9 structures, equipment, and fixtures and the operation of gas pipelines, telephone, cable,
10 electric and appurtenant structures over the Vacation Area.

11 **Section 6:** Prior to the recordation of this Resolution to summarily vacate those
12 portions of the public streets known as Orchard Street, Marcella Avenue, and Joyce Avenue
13 within the Vacated Area, the underlying fee owner of the Final Map shall provide to the City
14 Attorney, in a form acceptable to and approved by the City Attorney, a legally sufficient
15 document to establish common access and easement rights across the Vacated Area for the
16 benefit of owners of lots within the Final Map. An original executed document in such form
17 acceptable for recordation with the San Bernardino County Recorder shall be delivered to the
18 City Clerk for concurrent recordation by the City Clerk immediately following the recordation
19 of this Resolution. The underlying fee owner of the Final Map shall be responsible for
20 depositing funds with the City Clerk as may be required by the San Bernardino County
21 Recorder to record the document.

22 **Section 7:** The City Clerk of the City of Rialto shall cause a certified copy of this
23 Resolution, attested by the Clerk under seal, to be recorded in the Office of the County
24 Recorder of the County of San Bernardino, concurrently with the document furnished
25 therewith pursuant to Section 6.

1 **WHEREFORE**, this Resolution is passed, approved and adopted this 28th day of
2 September 2021.

3
4
5 _____
6 DEBORAH ROBERTSON, Mayor
7

8 **ATTEST:**
9

10
11 _____
12 BARBARA A. McGEE, City Clerk
13

14 **APPROVED AS TO FORM:**
15

16
17 _____
18 ERIC S. VAIL, City Attorney
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STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF RIALTO)

I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing Resolution No._____ was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the 28th day of September 2021.

Upon motion of Council Member_____, seconded by Council Member_____, the foregoing Resolution No. 2021-XXXX was duly passed and adopted.

Vote on the motion:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the
City of Rialto this _____ day of _____, 2021.

BARBARA A. McGEE, CITY CLERK