



## **STAFF REPORT**

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### **Resolution Approving the Summary Vacation of a Portion of a 6-Foot Public Utility/Sewer Easement and Approving the Quitclaim of the City's Interest Related to Two 5-Foot Public Utility Easements Over and Across a Portion of Lots 20 & 21, Block 14 in the Bay View Heights Subdivision No. 2, also known as 1549 Molitor Road (APN 045-274-380)**

Honorable Mayor and City Council

#### **Summary**

The property owners at 1549 Molitor Road have requested that the City vacate a portion of a 6-foot public utility/sewer easement and two 5-foot public utility easements that run over and across their property at 1549 Molitor Road (APN 045-274-380). Staff recommends that Council adopt the resolution approving the summary vacation of a portion of the 6-foot public utility/sewer easement and quitclaim the City's interest associated with the two 5-foot public utility easements.

#### **Background and Discussion**

The applicants, Remy Zimmermann and Danielle Zimmermann, have requested that the Public Works Department process an application for the vacation of a portion of a 6-foot public utility/sewer easement and two 5-foot public utility easements that run over and across their property at 1549 Molitor Road.

The property at 1549 Molitor Road, consists of two lots that were originally subdivided in 1927 as a part of the Bay View Heights Subdivision No. 2. A 6-foot public utility/sewer easement running between the two lots was dedicated to the public with the original subdivision map.

## 1549 Molitor Road Easement Abandonment

August 10, 2004

Page 2

On April 29, 1938, two 5-foot easements for public utilities were reserved in the same location by California Pacific Title & Trust Company, the original owner of the development. The title report shows no record that these public utility easements were conveyed to the City or to any other local jurisdictions.

In the 1950s, a one-story building was constructed across the two lots placing the subject easements through the middle of the building. The easements were not vacated at the time of construction. On March 26, 1956, a water line easement was granted to Belmont County Water District at the same location as the existing public utility easements in exchange for the Water District approving construction of the building over an existing waterline. According to the Water District, this water line was subsequently rerouted from under the building.

In 2003, the property owners applied for a permit for a second story addition. Their application drawings showed a gas line and the water line running under the middle of the building. Upon staff inquiry, the applicants contacted PG&E and Mid Peninsula Water District to verify this information. The two utility companies confirmed in writing that they do not have any objection to vacating the easements. The gas line and water line were previously relocated and are not within these easements. The applicants also contacted other utility companies operating in Belmont (SBC, ComCast, Level 3 Communications, Qwest Communications, MCI, Sprint, AT&T, and City of Belmont Maintenance Division) and have received written confirmation that they do not have utilities within these easements.

Staff recommends the Council approve the summary vacation of the public utility/sewer easement pursuant to the provisions of Chapter 4 Part 3 of Division 9 of the California Streets and Highway Code. The portion of the public utility/sewer easement is no longer needed by the City and has not been used for utility purposes for more than five consecutive years.

The applicants have also requested that the City abandon the public utility easements that were reserved by the California Pacific Title & Trust Company in 1938. Staff checked with several State departments and found that the company was dissolved in 1959, apparently without ever conveying the easements to the City. Since the City cannot vacate an easement that was reserved by a private entity and it is not certain whether the easements have been conveyed to the City, staff recommends that the Council quitclaim all City's interests related to the two public utility easements. The applicants were notified that they may need to consult with their attorney to clear their title of these easements since California Pacific Title & Trust Company does not exist and there are no apparent successors.

The applicants have also obtained written confirmation from the Mid-Peninsula Water District that they do not have utilities through these easements. The applicants will contact Mid-Peninsula Water District for the abandonment of the water main easement that was granted to the District in 1956.

### **Fiscal Impact**

There is no fiscal impact of this action. The applicants have paid the appropriate fee for the abandonment process.

### **Recommendation**

It is recommended the City Council adopt the resolution approving the summary vacation of a portion of the 6-foot public utility/sewer easement and quitclaim all interest associated with the 5-foot public utility easements that were reserved by the California Pacific Title & Trust Company in 1938.

### **Alternatives**

1. Refer back to staff for further evaluation.
2. Deny the request.

### **Attachments**

1. Resolution
2. Plat map showing the location of the easements
3. Exhibit 'A1', 'B1', 'A2' and 'B2'

Respectfully submitted,

Gilbert Yau, PE  
Senior Civil Engineer

Raymond E. Davis III, PE, PTOE  
Director of Public Works

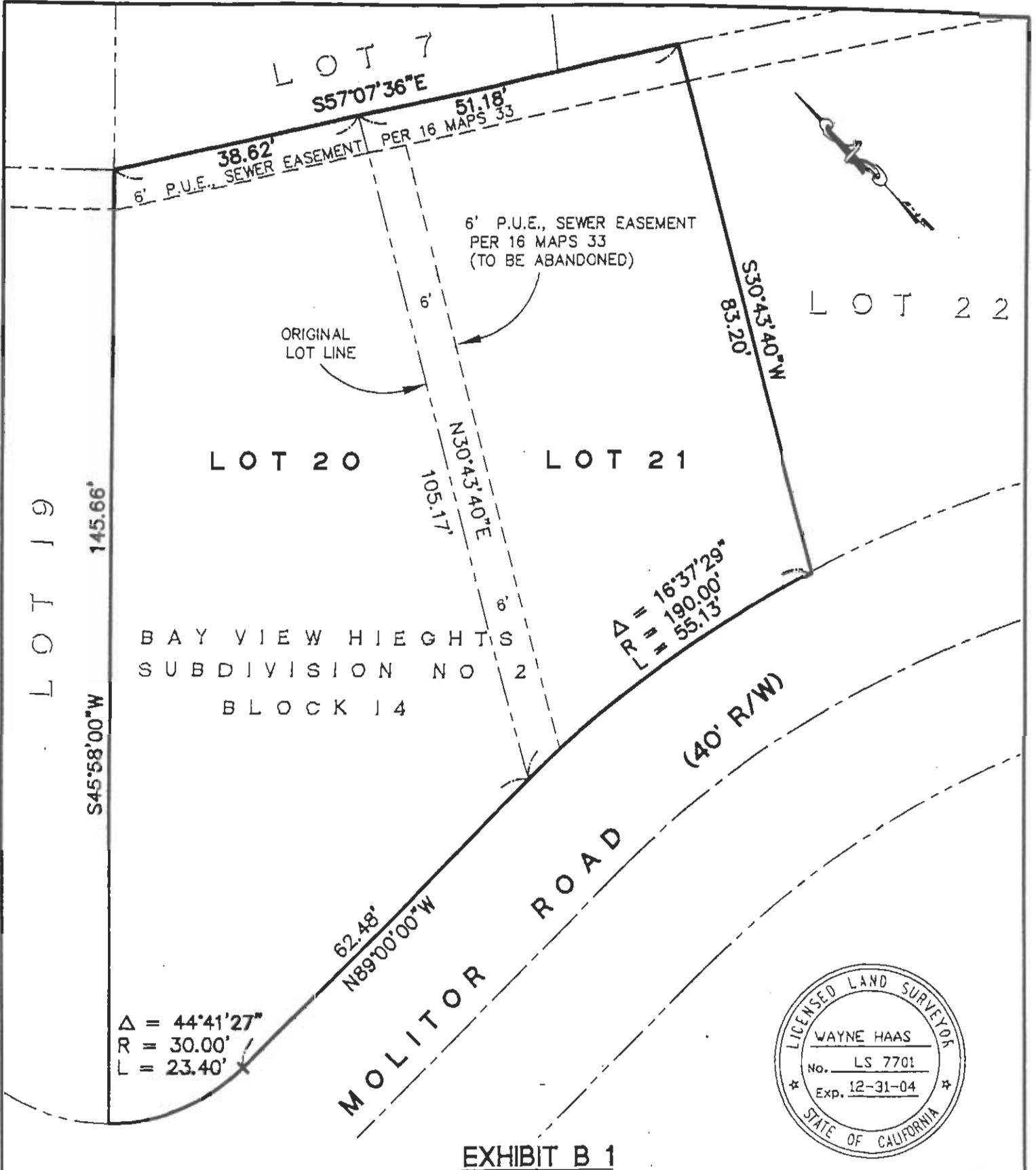
Jere A. Kersnar  
City Manager

EXHIBIT A 1

That portion of the 6 foot sewer and public utilities easement lying within Lot 21 in Block 14, as said easement and Lot are shown on that certain map entitled "BAY VIEW HEIGHTS SUBDIVISION NO. 2", filed in the office of the County Recorder of the County of San Mateo, State of California, on August 27, 1927 in Book 16 of Maps at Pages 32 and 33, said portion being adjacent and contiguous to the northwesterly line of said Lot 21.

Excepting therefrom the northeasterly 6' thereof, measured perpendicularly from the northeasterly line of Lot 21.





BAY VIEW HEIGHTS  
SUBDIVISION NO 2  
BLOCK 14

MOLITOR ROAD (40' R/W)

$\Delta = 44^{\circ}41'27''$   
 $R = 30.00'$   
 $L = 23.40'$

$\Delta = 16^{\circ}37'29''$   
 $R = 190.00'$   
 $L = 55.13'$



EXHIBIT B 1

B & H SURVEYING, INC. 901 WALTERMIRE ST., BELMONT, CA 94002 (650) 637-1590

TITLE: A PLAT TO ACCOMPANY EXHIBIT A 1

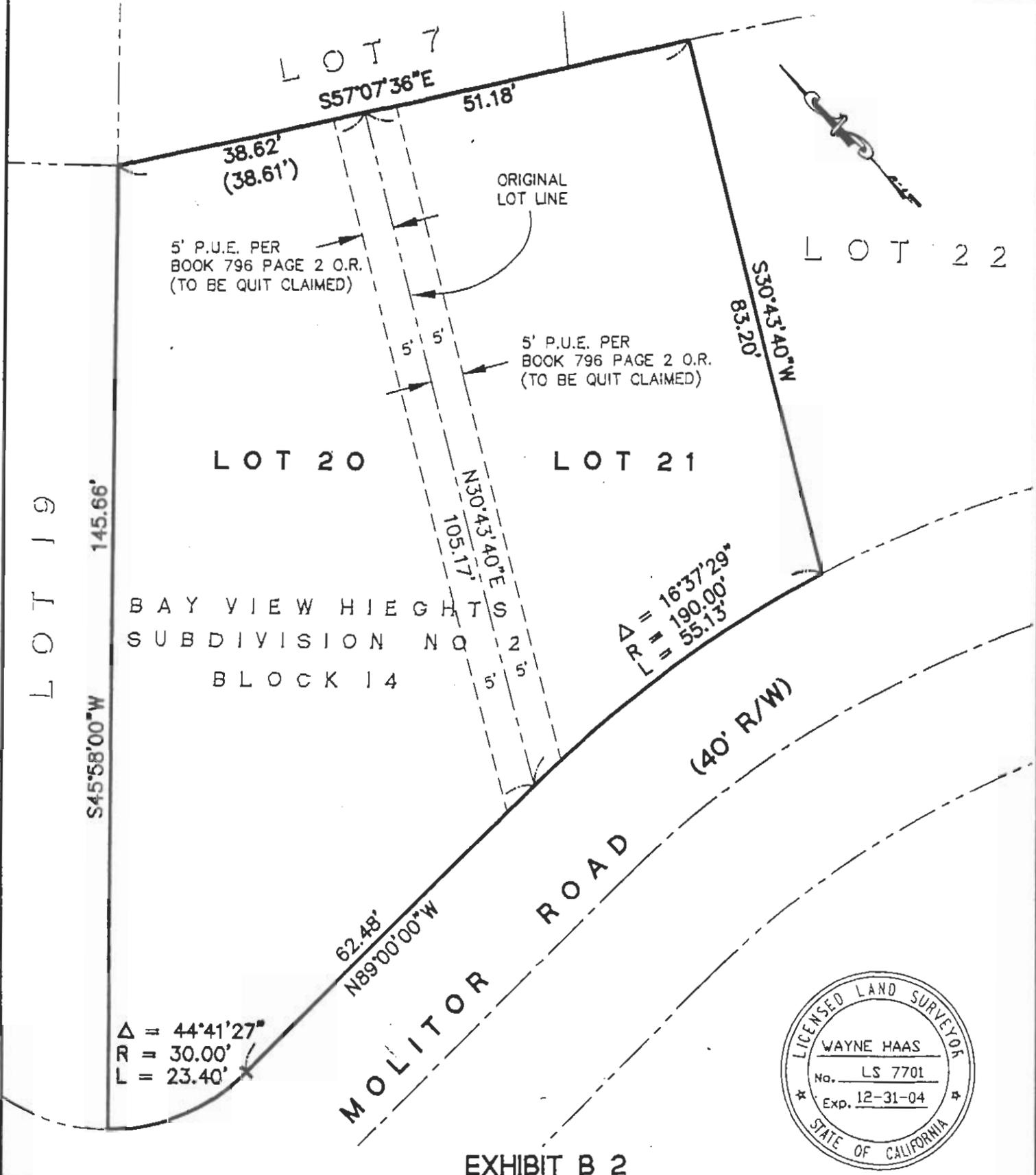
CITY: BELMONT COUNTY: SAN MATEO COUNTY CALIFORNIA

SURV:	SCALE: 1"=20'	FOR:	JOB NO. 4667-02
PLAT:	DATE:		DWG NO. 4667-EXHIBIT-B-2

EXHIBIT A 2

That certain portion of the 5 foot public utility easements laid out in the document entitled "Modification of Restrictions" recorded April 28, 1938 in Book 796 at Pages 2, 3 and 4 of Official Records of the County of San Mateo, State of California, lying northwesterly and southeasterly adjacent to the line dividing Lots 20 and 21 in Block 14 as shown on that certain map entitled "BAY VIEW HEIGHTS SUBDIVISION NO. 2" filed in the office of the County Recorder of the County of San Mateo, State of California, on August 27, 1927 in Book 16 of Maps at Pages 32 and 33.





**EXHIBIT B 2**

**B & H SURVEYING, INC.** 901 WALTERMIRE ST., BELMONT, CA 94002 (650) 637-1590

TITLE: A PLAT TO ACCOMPANY EXHIBIT A 2

CITY: BELMONT COUNTY: SAN MATEO COUNTY CALIFORNIA

SURV:	SCALE: 1"=20'	FOR:	JOB NO. 4667-02
PLAT:	DATE:		DWG NO. 4667-EXHIBIT-B-3

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

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT  
APPROVING THE SUMMARY VACATION OF A PORTION OF A 6- FOOT  
PUBLIC UTILITY/SEWER EASEMENT, AND APPROVING THE QUITCLAIM  
OF CITY'S INTEREST RELATED TO TWO 5-FOOT PUBLIC UTILITY  
EASEMENTS OVER AND ACROSS A PORTION OF LOTS 20 & 21 BLOCK 14  
IN THE BAY VIEW HEIGHTS SUBDIVISION NO. 2, ALSO KNOWN AS 1549  
MOLITOR ROAD (APN 045-274-380)**

WHEREAS, that certain map entitled, "Bay View Heights Subdivision No. 2" filed in the office of the County Recorder of the County of San Mateo, State of California on August 27, 1927 in Book 16 of Maps at Pages 32 & 33, shows a 6-foot public utility/sewer easement along the northwesterly line of Lot 21 in Block 14 of said map; and,

WHEREAS, certain 5-foot wide public utility easements over said Lots 20 & 21, were reserved by the California Pacific Title & Trust Company, the original owner and developer of the Bay View Heights Subdivision No. 2, as laid out in the document entitled, "Modification of Restrictions" recorded April 28, 1938 in Book 796 at Pages 2, 3, & 4 of Official Records of the County of San Mateo, State of California; and,

WHEREAS, the Council is authorized to summarily vacate a public service easement pursuant to and in accordance with the provisions of "Section 8333 Easements," subparagraph (a) of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California; and,

WHEREAS, the Council hereby determines that the public convenience and necessity does not require the reservation of any portion of the public utility/sewer easement; and,

WHEREAS, the Council finds that the public utility/sewer easement has not been used for public utility purposes for the preceding five consecutive years and that there are no in place public utility facilities that are in use and that would be affected by the vacation; and,

WHEREAS, the Council also finds that there is no public necessity of the two 5-foot public utility easements along the common property line of said Lots 20 & 21, which were reserved by California Pacific Title & Trust Company on April 28, 1938.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council does hereby order that under the provisions of "Section 8333 Easements," subparagraph (a) of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code, a portion of the 6-foot public utility/sewer easement along the northwesterly property line of Lot 21, Block 14 in the Bay View Heights Subdivision No. 2 in the City of Belmont is hereby vacated.

All that real property situated in the City of Belmont, County of San Mateo, State of California, as described in Exhibit 'A1' and depicted in Exhibit 'A2' attached.

- 2. From and after the date of recordation of this resolution, the vacated 6-feet will no longer constitute a public utility/sewer easement.
- 3. The City Council does hereby quitclaim to Remy Zimmermann & Danielle Zimmermann, husband and wife, its interest associated with the two 5-foot public utility easements along the common property line of said Lots 20 & 21.

All that real property situated in the City of Belmont, County of San Mateo, State of California, as described in Exhibit 'B1' and depicted in Exhibit 'B2' attached.

- 4. From and after the date of recordation of this resolution, the City's interest and rights associated with the said two 5-foot public utility/sewer easements will be quitclaimed to Remy Zimmermann and Danielle Zimmermann, husband and wife, property owners of said Lots 20 & 21.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on August 10, 2004.

AYES, COUNCILMEMBER(S): \_\_\_\_\_

NOES, COUNCILMEMBER(S): \_\_\_\_\_

ABSTAIN, COUNCILMEMBER(S) \_\_\_\_\_

ABSENT, COUNCILMEMBER(S): \_\_\_\_\_

\_\_\_\_\_  
Clerk of the City of Belmont

APPROVED:

\_\_\_\_\_  
Mayor of the City of Belmont