

RECORDING REQUESTED BY DEPARTMENT OF GENERAL SERVICES FOR THE BENEFIT OF THE COUNTY OF SAN DIEGO PER GOVERNMENT CODE SECTION 27383

WHEN RECORDED, PLEASE RETURN THIS INSTRUMENT TO:

(MAIL STATION A45)

Clerk, Board of Supervisors
San Diego County Administration Center
1600 Pacific Highway
San Diego, California 92101

SPACE ABOVE FOR RECORDER'S USE ONLY

Assessor No.: 646-240-74

RESOLUTION No. : _____
Meeting Date: September 15, 2021

**RESOLUTION TO SUMMARILY VACATE BRUIN WAY AND COLACE COURT,
AND A PUBLIC SERVICE LANDSCAPE EASEMENT, IN THE OTAY MESA AREA
(VACATION NO. 2021-0153)**

WHEREAS, a public highway easement for Bruin Way and Colace Court, and incidental highway easement rights to extend and maintain drainage facilities, and excavation and embankment slopes, were dedicated to the County of San Diego, subject to improvement, and a landscape easement was dedicated to the County of San Diego (County); and

WHEREAS, the County, Department of General Services, Asset Management Division, upon application by the owners of Assessor's Parcel No. 646-240-74, has requested the summary vacation of the public highway, incidental highway rights, and landscape easement, as more specifically described in **Exhibit "A"**, and depicted in **Exhibit "B"**, attached hereto; and

WHEREAS, California Streets and Highways Code, at Chapter 4, of Part 3, of Division 9, commencing with Section 8330 and following, provides for the summary vacation of such interests; and

WHEREAS, after investigation, the County Department of Public Works recommends approval of the proposed vacations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of San Diego makes the following findings and determinations:

1. The public highway for future Bruin Way and Colace Court are considered an excess highway easement because Map No. 16450 is concurrently being modified to eliminate the need for these roads and the landscape easement. The roads are unimproved and there are no landscaping improvements constructed in the easement. A private road will be constructed to access the modified lots and a new landscape easement will be dedicated according to the new lot configurations on the modified map. Therefore, the Board may find that the public highway and landscape easements may be summarily vacated pursuant to State of California Streets and Highways Code Section 8334(a) and 8333(c), respectively, because they are determined to be excess and are no longer necessary to be retained by County for any present or prospective public use.

2. The proposed summary vacations conform to the San Diego County General Plan pursuant to California Streets and Highways Code Section 8313 and Government Code Section 65402.

3. The public highway and public service easements to be vacated are not useful as non-motorized transportation facilities pursuant to California Streets and Highways Code Sections 892 and 8314.

4. There are no in-place public utility facilities that are in use and would be affected by the vacation pursuant to California Streets and Highways Code Section 8334.5.

5. The proposed summary vacations are in the public interest because they will remove encumbrances on private lands no longer needed for public highway or public service easement purposes. They would relieve the County of potential liabilities associated with the offered public highway, the incidental public service easements, and a landscape easement, which are not necessary.

BE IT FURTHER RESOLVED AND ORDERED that the public highway, and the incidental highway easement rights for embankment slopes and drainage, and landscape easement, as more specifically described in **Exhibit “A”**, are hereby summarily vacated pursuant to Division 9, Part 3, Chapter 4, Sections 8330-8336, of the California Streets and Highways Code; the Clerk of the Board of Supervisors shall cause a copy of this Resolution, including **Exhibit “A”** and **“B”** to be recorded pursuant to California Streets and Highways Code Section 8336; and from and after the date of the recording of this Resolution, the subject areas no longer constitute public service easements.

THE FACTS UPON WHICH THIS VACATION IS MADE ARE AS FOLLOWS:

The public highway and public service easement areas proposed for summary vacation are located in the unincorporated area of the County in the vicinity of East Otay Mesa. The public highway and incidental rights were dedicated and accepted, subject to improvement, on County of San Diego Tract 5527-1, Map No. 16450, recorded May 7, 2021 as File No. 2021-7000134. The landscape easement was unconditionally accepted on Map No. 16450. The County's Department of Parks and Recreation has determined that the public highway to be summarily vacated is not useful as non-motorized transportation facilities pursuant to Streets and Highways Code Section 892 and 8314 because there are no community adopted trails, or any pathways planned for this property in the Community Trails Master Plan. The County Department of Planning and Development Services confirmed the proposed summary vacations are in conformance with the County of San Diego General Plan in a letter dated June 17, 2021. No reservations are required to be made by the County for existing in-use utilities because the public highway dedication condition has not been met because it is unimproved, and therefore there are no franchise utility rights for such utilities to use the public highway area. The public service landscape easement does not contain any additional utility rights, so no reservations can be made. The easements to be summarily vacated are located entirely within the applicant's property, being all of Map No. 16450 (a subdivision of Parcel B of Certificate of Compliance recorded December 2, 2005 as Instrument No. 2005-1040413), more particularly described in **Exhibit "A."** Therefore, the County has determined the easements are excess public highway and public service easements.

The proposed summary vacations are in the public interest because they will remove encumbrances on private lands no longer needed for public highway or public service easement purposes. They would also relieve the County of potential liabilities associated with the offered public highway and incidental rights, and landscape easement, which are not necessary.

LEGAL DESCRIPTION OF THE PUBLIC HIGHWAY AND INCIDENTAL RIGHTS, AND LANDSCAPE EASEMENT TO BE SUMMARILY VACATED

SEE EXHIBIT "A" LEGAL DESCRIPTIONS, ATTACHED HERETO CONSISTING OF TWO (2) SHEETS, AND MADE A PART HEREOF, AND DEPICTED ON EXHIBIT "B," ATTACHED HERETO, CONSISTING OF TEN (10) SHEETS, FOR ILLUSTRATIVE PURPOSES ONLY.

Approved as to form and legality:

THOMAS E. MONTGOMERY, County Counsel

By: SHIRI HOFFMAN, Senior Deputy County Counsel