

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.: 646-132-01 through -10

RESOLUTION No. : _____
Meeting Date: October 16, 2019

**RESOLUTION OF THE BOARD OF SUPERVISORS TO SUMMARILY
VACATE PORTIONS OF OTAY MESA ROAD AND ENRICO FERMI
DRIVE, ALL OF MICHAEL FARADAY DRIVE AND ROLL
COMMERCE DRIVE, AND ALL OF AN EASMENT FOR HIGHWAY
EMBANKMENT SLOPES FOR OTAY MESA ROAD, IN THE EAST
OTAY MESA AREA (VACATION NO. 2018-0290)**

WHEREAS, offers of dedication (ODs), subject to improvement, for portions of Otay Mesa Road, Enrico Fermi Drive, and all of Roll Commerce Drive and Michael Faraday Drive for Public Highway, were made on County of San Diego Tract No. 5394-1, in the County of San Diego, State of California, according to Map thereof No. 16097, filed in the Office of the County Recorder of San Diego County on March 9, 2016, as File No. 2016-7000089; and

WHEREAS, an easement for highway embankment slopes was condemned to the County of San Diego in the Final Order of Condemnation (FOC), recorded in said County Recorder's Office on February 26, 1990 as Document No. 90-0101650; and

WHEREAS, the County of San Diego, Department of General Services, Real Estate Services Division, upon application by the owner of Assessor's Parcel Numbers (APN) 646-132-01 through -10, inclusive, has requested to summarily vacate the ODs and an easement for highway embankment slopes, more specifically described in Exhibit "A" and depicted in Exhibit "B" attached hereto; and

WHEREAS, California Government Code section 7050, and 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, County of San Diego Department of Public Works recommends approval of the proposed vacation.

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

1. The ODs for Otay Mesa Road, Enrico Fermi Drive, Roll Commerce Drive and Michael Faraday Drive, as described in Exhibit "A," are determined to be excess right-of-way of a street or highway not required for street or highway purposes pursuant to Streets and Highways Code section 8334 because these portions of road are not included in the County's General Plan Mobility Element, and are not a part of the County-Maintained Road System.

2. The easement for highway embankment slopes is determined to be an excess public service easement pursuant to Streets and Highways Code section 8333 because there are adequate slope rights previously acquired for Otay Mesa Road.

3. 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.

4. The ODs are not useful as a non-motorized transportation facility pursuant to California Streets and Highways Code sections 892 and 8314, and the easement for highway embankment slopes does not include rights for trail purposes.

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

6. The proposed summary vacations are in the public interest because they will remove encumbrances on private lands no longer needed by the public.

BE IT FURTHER RESOLVED AND ORDERED that the accepted ODs for Otay Mesa Road, Enrico Fermi Drive, Roll Commerce Drive, and Michael Faraday Drive, subject to improvement on County of San Diego Tract No. 5394-1, in the County of San Diego, State of California, according to Map thereof No. 16097, filed in the Office of the County Recorder of San Diego County on March 9, 2016, and an easement for highway embankment slopes condemned to the County of San Diego in the FOC, 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 Exhibits “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 area no longer constitutes a street, highway or public service easement.

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

The ODs and the 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 ODs for Otay Mesa Road, Enrico Fermi Drive, Roll Commerce Drive and Michael Faraday Drive were accepted, subject to improvement, on Map No. 16097, and the public service easement for highway embankment slopes was condemned to the County of San Diego by said FOC. The roads were never constructed as conditioned and therefore are open offers of dedication. The Department of Parks and Recreation has determined that the ODs and public service easement to be summarily vacated, and which are described in Exhibit “A,” are not needed for trail purposes because there are no community adopted trails or pathways planned for this area in the General Plan Community Trails Network that could utilize the ODs for public road or portions thereof, and the public service easement does not include trail rights. Therefore, the proposed areas to be summarily vacated are not useful as a non-motorized transportation facility pursuant to Streets and Highways Code sections 892 and 8314. The Department of Planning and Development Services confirmed that the proposed summary vacations are in conformance with the County of San Diego General Plan in a letter dated August 8, 2019. No reservations are required by the County for existing in-use utilities because the OD areas were never constructed and therefore not accepted by the County, and no franchise utility rights exist for utilities to use the OD areas described in Exhibit “A.” Additionally, the public service easement does not include utility rights. The Department of Public Works determined that there is no current or future need for these portions of public road because the portions to be vacated are not included in the County’s General Plan Mobility Element, are not a part of the County-Maintained Road System, and the public service easement is no longer needed because adequate slope rights exist for the future expansion of Otay Mesa Road. The Department of Public

Works has determined that the ODs proposed to be summarily vacated are excess right-of-way not required for street or highway purposes and the public service easement proposed to be summarily vacated is excess public service easement.

No property owner would be land-locked as a result of the proposed vacations. Therefore, the proposed summary vacation areas are excess and not required for road or public service purposes. The proposed summary vacations are in the public interest because they will remove encumbrances on private lands no longer needed by the public.

**LEGAL DESCRIPTION OF OFFERS TO DEDICATE REAL PROPERTY, AND
EMBANKMENT FOR HIGHWAY SLOPE EASEMENT TO BE SUMMARILY
VACATED**

SEE **EXHIBIT “A”** LEGAL DESCRIPTION, ATTACHED HERETO CONSISTING OF ONE (1)
PAGE, AND MADE A PART HEREOF, AND DEPICTED ON **EXHIBIT “B,”** ATTACHED
HERETO, CONSISTING OF ONE (1) PAGE, FOR ILLUSTRATIVE PURPOSES ONLY.

Approved as to form and legality:

THOMAS E. MONTGOMERY, County Counsel

By: SHIRI HOFFMAN, Senior Deputy County Counsel