

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014
RESOLUTION NO.19-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
SUMMARILY VACATING A PORTION OF AN EMERGENCY ACCESS EASEMENT
WITHIN THE FORUM AT RANCHO SAN ANTONIO PROPERTY LOCATED AT
23500 CRISTO REY DRIVE

WHEREAS, subdivision (a) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a portion of a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, subdivision (c) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a portion of a public service easement if the easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement; and

WHEREAS, the City Council intends to summarily vacate an Emergency Access Easement (hereinafter the "Easement") constituting all that real property situated in the City of Cupertino, County of Santa Clara, State of California, more particularly described in Exhibit "A"; and

WHEREAS, on April 16, 2019, the City Engineer approved that certain plat entitled "Plat To Accompany Description" attached herewith as Exhibit "B", showing the Easement that the City Council intends to summarily vacate; and

WHEREAS, attached to this Resolution as Exhibit "C" is a copy of the staff report, dated April 16, 2019, that the Director of the Department of Public Works submitted to the City Council setting forth the reasons justifying the summary vacation of the Easement (hereinafter "Report"); and

WHEREAS, on April 17, 2018 the City Council certified an Environmental Impact Report for Development Permit DP-2017-01, to allow construction of the Forum Project; and

WHEREAS, summary vacation of the Easement will facilitate construction of the Forum Project and constitutes a minor modification to the Project, and based on substantial evidence in the record, no subsequent environmental review is required

because there are no substantial changes in the Project or the circumstances under which the Project is to be undertaken that would result in new or substantially more severe environmental impacts requiring major revisions to the Final EIR, and there is no new information that involves new significant environmental effects or a substantial increase in the severity of previously identified environmental effects that would require preparation of a subsequent or supplemental EIR pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cupertino that:

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted, makes the following findings:

1. The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and
2. The easement is determined to be excess, and there are no other public facilities located within the easement.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8333(a) and 8333(c) of the Streets and Highways Code, the City Council does hereby order that the Easement shall be and hereby is summarily vacated.

SECTION 3. The City Clerk is hereby directed to record at Santa Clara County Records this Resolution, including Exhibits "A", "B", and "C" hereto.

SECTION 4. The Easement will no longer constitute an Emergency Access Easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 16th day of April 2019, by the following vote:

Vote

Members of the City Council

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Grace Schmidt
City Clerk

Steven Scharf, Mayor
City of Cupertino

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