

RESOLUTION 20-\_\_\_\_

A RESOLUTION OF THE CUPERTINO CITY COUNCIL

DISCONTINUING USE OF MINOR PORTION OF WILSON PARK AND AUTHORIZING A  
LAND EXCHANGE WITH SANTA CLARA VALLEY WATER DISTRICT TO INCREASE AREA  
OF WILSON PARK

WHEREAS, in 1991 the City of Cupertino acquired land which was part of the former Wilson School ("the Property") to create a public park and has used such land to provide park and open space amenities for the benefit and enjoyment of the community; and

WHEREAS, in 1992 the City constructed improvements on the Property, including baseball and sports fields and other park and recreation amenities; and

WHEREAS, the baseball fields on the south side of the Property encroach 2,710 square feet onto property owned by Santa Clara Valley Water District ("Valley Water"); and

WHEREAS, Valley Water is willing to exchange the area of the baseball field encroachment ("Valley Water Land") for an adjacent and contiguous area of City-owned land at the southwest corner of Wilson Park south of Parkside Lane that is not used as a sports field ("City Land") to facilitate ongoing maintenance of Regnart Creek; and

WHEREAS, the proposed exchange would permit Valley Water to improve access to Regnart Creek for maintenance by enhancing access to the new maintenance ramp that will be constructed on the north side of Regnart Creek adjacent to the south side of Parkside Lane; and

WHEREAS, Government Code section 38440 authorizes the City to dispose of park land that the City owns in fee and that was dedicated for park use by the City rather than by a private party; and

WHEREAS, the City owns the City Land in fee and the City dedicated the City Land as a public park; and

WHEREAS, Government Code section 38441 authorizes the City to convey a minor portion of a park in exchange for an equal or greater area or value of privately owned contiguous property after notice and a public hearing, a determination that the exchange is in the public interest, and adoption of a resolution of discontinuance; and

WHEREAS, the City Land is less than 5,000 square feet in area and thus meets the criteria for conveyance of a minor portion of Wilson Park, the City Land will be exchanged for an equal or greater area of contiguous Valley Water property, and the exchange is in the public interest; and

WHEREAS, the City Land is designated "Parks and Open Space" in the City of Cupertino General Plan; and

WHEREAS, the Valley Water Land is designated “Riparian Corridor” in the City of Cupertino General Plan; and

WHEREAS, the City Land and Valley Water Land each has a zoning designation of PR (Parks and Recreation) under the City’s zoning ordinance; and

WHEREAS, conveyance of the City Land and acquisition of the Valley Water Land through the exchange is consistent with the General Plan because it furthers the City’s General Plan Policy RPC-5.1: Open Space and Trail Linkages including Strategy RPC-5.1.4: Joint Use Agreement;

WHEREAS, the exchange consists of a transfer of ownership in land and will not involve a change in land uses: the City Land will continue to be used as a public park and for Valley Water’s access to Regnart Creek as needed for maintenance of the Creek; the Valley Water Land will continue to be used for a public baseball field; and

WHEREAS, Valley Water’s new ramp on the north side of Regnart Creek will not involve a change in land use because it will replace Valley Water’s ramp on the south side of Regnart Creek; and

WHEREAS, all physical changes to the environment associated with the Regnart Creek Trail Project (“Project”) were analyzed in the Initial Study/ Mitigated Negative Declaration (“IS/MND”) for the Project; and

WHEREAS, the Environmental Review Committee at its April 16, 2020 meeting reviewed the Draft IS/MND, received public comments, and voted 5-0-0 to recommend that the City Council consider adopting the Mitigated Negative Declaration (“MND”); and

WHEREAS, after consideration of substantial evidence in the entire administrative record, on May 19, 2020 the City Council adopted the MND for the project, adopted and incorporated into the Project all of the mitigation measures for the Project within the responsibility and jurisdiction of the City that are identified in the Final IS/MND, and adopted the Mitigation Monitoring and Reporting Program for the Project prior to taking final action on the Project.

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

1. The City Council exercises its independent judgment and finds that the proposed land exchange is exempt from the requirements of the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* (“CEQA”), pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed land exchange may have a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity in question is not subject to CEQA. The proposed land exchange would have no or

only a de minimis effect on the environment because the properties to be exchanged will continue to be used for their existing uses.

2. The proposed exchange of the City Land for the Valley Water Land at the southwest portion of Wilson Park involves land of equivalent square footage and value.
3. The exchange of the City Land for the Valley Water Land is in the public interest and convenience.
4. The exchange of the City Land for the Valley Water Land is hereby authorized.
5. The park use of the City Land shall continue.
6. The Director of Public Works or his designee is authorized to negotiate and execute documents to implement the proposed land exchange, and to execute implementation actions, such as a lot-line adjustment or other mechanism, as appropriate.
7. This Resolution is effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 19<sup>th</sup> day of May 2020, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>Steven Scharf, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Kirsten Squarcia, City Clerk</p>	<p>_____</p> <p>Date</p>