

RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL

**RESOLUTION NO. 2022-xx**

**RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL ORDERING THE SUMMARY VACATION AND ABANDONMENT OF THE PUBLIC SERVICE EASEMENT LOCATED AT 960 SAN LEANDRO BOULEVARD**

**WHEREAS**, on May 11, 2001, the City of San Leandro conveyed the entire real property located at 960 San Leandro Boulevard, within the City of San Leandro by Grant Deed to Creekside Associates, LLC. (Alameda County Record number 2001-16103 attached hereto as Exhibit A), subject to a reservation of easement in favor of the City of San Leandro for ingress, egress, access and parking (including unrestricted weekend and evening use and eight (8) parking spaces during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday); and

**WHEREAS**, the City of San Leandro has determined this public service easement for ingress, egress, access and parking, has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding this proposed vacation, or has been determined to be excess and there are no public facilities located within the easement; and

**WHEREAS**, The City Council of the City of San Leandro may vacate all or part of a public service easement pursuant to the Public Streets Highways and Service Easements Vacation Law (State of California Streets & Highways Code § 8333); and

**WHEREAS**, adoption of this resolution and the abandonment or vacation of the easement will not result in direct or reasonably foreseeable indirect physical change in the environment and is, therefore, exempt from the California Environmental Quality Act pursuant to Public Resources Code section 15060; and

**WHEREAS**, this resolution is adopted pursuant to Chapter 4 of Part 3 of Division 9 of the California Streets and Highways Code Section 8330 et seq., a portion of the Public Street, Highway and Service Easement Vacation Law, relating to Summary Vacation of Streets and Easements; and

**WHEREAS**, the summary vacation requirement for a public use easement has been met, pursuant to §8333 and §8334.5 of the California Streets and Highways Code; and

**WHEREAS**, the facts justifying the summary vacation of the easement are that it has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the adoption of this resolution, the easement will not be used in the future in that the two lots are to be merged, thereby eliminating the property line along which the easement is located, and there are no public utility facilities in place that are in use, or anticipated for future use, that would be affected by the vacation.

**NOW, THEREFORE THE CITY OF SAN LEANDRO CITY COUNCIL RESOLVES** as follows:

1. The Council of the City of San Leandro hereby orders the summary vacation and abandonment of that right of way for ingress, egress, access and parking (including unrestricted weekend and evening use and eight (8) parking spaces during the hours of 9:00 a.m. to 5:00 p.m.,

Monday through Friday) located at 960 San Leandro Boulevard; and

2. A public hearing is not required and the use of a summary proceeding is allowed for the vacation of this public use easement by having met either of the following cases specified in California Streets and Highways Code section 8333:

- (a) 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; or
- (b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date; or
- (c) 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.

3. Separately and in addition to the provisions stated above the right of way to be abandoned lies within property under one ownership and there are no public utility facilities in place that are in use, or anticipated for future use, that would be affected by the vacation. California Streets and Highways Code section 8334.5 authorizes the use of the summary abandonment procedure.

4. The vacation and abandonment of the easement shall become effective, and therefore no longer constitutes a public service easement, as of the date this Resolution is recorded.

5. Pursuant to Streets and Highways Code section 8336 the City Clerk be, and hereby is, directed to record a certified copy of this resolution, attested by her under seal, in the office of the Recorder of Alameda County.

Introduced by \_\_\_\_\_ and passed and adopted this 2nd day of May 2022, by the following vote:

Members of the Council:

AYES:

NOES:

ABSENT:

ATTEST: \_\_\_\_\_  
Kelly B. Clancy, Acting City Clerk