

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, DECLARING ITS INTENT TO VACATE ORTEGA DRIVE FOR PUBLIC ROADWAY PURPOSES, GENERALLY LOCATED BETWEEN ELISEO ROAD AND AGUA CAYENDO ROAD, AND RESERVING OF EASEMENT FOR PUBLIC UTILITIES

WHEREAS, the City of Desert Hot Springs ("City") is a charter city and a political subdivision of the State of California; and

WHEREAS, California Streets and Highways Code Section 8312 provides that the legislative body of a local agency, including the City, may utilize general vacation procedures to vacate any excess right-of-way of a street not required for street or highway purposes; and

WHEREAS, the City Council of the City does hereby declare its intention to vacate Ortega Drive located between Eliseo Road and Agua Cayendo Road, which it owns in fee ("Subject Street"), for public roadway street purposes located in accordance with the procedures contained in the Streets and Highways Code Section 8320 et seq. for non-summary vacation; and

WHEREAS, if there are any public utility facilities within the Subject Street, any vacation of the Subject Street by the City would require reservation of an easement(s) and right necessary to maintain, operate, replace, remove, or renew the public utility facilities; and

WHEREAS, the vacation of a right-of-way is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061 (b)(3) of the CEQA Guidelines because such vacations do not have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council desires to initiate the procedures to possibly vacate the Subject Street.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS DOES RESOLVE, AS FOLLOWS:

Section 1. Recitals.

That the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. Public Hearing.

That the City Council hereby sets a public hearing to be held at **6:00pm** on **December 3, 2019**, or as soon thereafter as the matter may be heard at:

Carl May Center/Council Chambers
11711 West Drive
Desert Hot springs, California 92240

Section 3. Vacation of Ortega Drive.

The area to be vacated is commonly described as Ortega Drive, and is further shown in the map which is attached hereto and incorporated herein, as Exhibit "A."

Section 4. Posting and Publication of Notice.

The City Engineer, or designee, is hereby directed to post the notice of this vacation in accordance with the provisions of Streets and Highways Code Section 8323, which currently provides.

At least two weeks before the day set for the hearing, the legislative body shall post conspicuously notices of vacation along the line of the street, highway, or public service easement proposed to be vacated. The notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. If the line of the street, highway, or public service easement proposed to be vacated exceeds one mile in length, the legislative body may, in lieu of posting not more than 300 feet apart, post notices at each intersection of another street or highway with the street, highway, or public service easement to be vacated and at one point approximately midway between each intersection, but at least three notices shall be posted.

The City Clerk is hereby directed to provide notice of the above hearing in accordance with the provisions of Streets and Highways Code Section 8322, which currently provides:

(a) Except as provided in subdivisions (b) and (c), notice of the hearing on the proposed vacation shall be published for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper published and circulated in the local agency conducting the proceeding and which is selected by the legislative body for that purpose or by the clerk or other officer responsible for the publication where the legislative body has not selected any newspaper for that purpose.

(b) If the proceeding is conducted by a city and there is no daily, semiweekly, or weekly newspaper published and circulated in the city, the notice shall be published in some newspaper published in the county in which the city is located.

(c) Notice need not be published under this section where there is no daily, semiweekly, or weekly newspaper published and circulating in the county in which the local agency conducting the proceeding is located.

Section 5. Planning Commission Review.

The Planning Commission is hereby directed to review this street vacation and determine in a report whether the proposed street vacation is in conformance with the General Plan pursuant to Government Code Section 65402

Section 6. Compliance with CEQA.

That vacation of the Lot is exempt from CEQA pursuant to Section 15061 (b)(3) of the CEQA Guidelines because such vacation does not have the potential for causing a significant effect on the environment.

Section 7. Severability.

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 8. Repeal of Conflicting Provisions.

That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 9. Effective Date.

That this Resolution shall take effect upon its adoption.

Section 10. Certification.

That the City Clerk shall certify to the passage of this Resolution and enter it into the book of original resolutions.

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PASSED AND ADOPTED THIS 5th day of November, 2019.

CITY OF DESERT HOT SPRINGS

Scott Matas, Mayor

ATTEST:

Jerryl Soriano, City Clerk

APPROVED AS TO FORM:

Jennifer Mizrahi
City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF LOT

SEE ATTACHED

EXHIBIT “B”

DEPICTION OF LOT

SEE ATTACHED

EXHIBIT “C”

PLANNING COMMISSION STAFF REPORT, DATED DECEMBER 14, 2017

SEE ATTACHED