

## RESOLUTION NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**RESOLUTION OF NECESSITY DECLARING THAT THE ACQUISITION OF PERMANENT EASEMENTS AND A TEMPORARY CONSTRUCTION EASEMENT BURDENING A PORTION OF THE REAL PROPERTY LOCATED AT 2710 MIDDLEFIELD ROAD, UNINCORPORATED REDWOOD CITY, CALIFORNIA, ASSESSOR PARCEL NUMBER 054-113-130, BY EMINENT DOMAIN, IS NECESSARY TO IMPROVE AND MODERNIZE ACCESS ALONG MIDDLEFIELD ROAD**

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**WHEREAS**, the Department of Public Works is a department of the County of San Mateo, a political subdivision of the State of California (“County”); and

**WHEREAS**, for the reasons set forth below, the County intends to acquire the following interests in real property that are located on a parcel commonly referred to as 2710 Middlefield Road, in unincorporated Redwood City, County of San Mateo, State of California, also known as Assessor Parcel Number 054-113-130 (the “Subject Property”), as legally described on Exhibit “A” hereof: (1) a permanent and non-exclusive easement interest in an approximately 412 square foot portion of the Subject Property for utility purposes (the “Utility Easement”) for the construction, operation, maintenance, repair and replacement of utilities and related facilities; (2) a permanent and non-exclusive easement interest in an approximately 1,944 square foot portion of the Subject Property for relocation of ingress and egress thereto (the “Access Easement”); and (3) a temporary easement interest in an approximately 14,014 square feet portion of the Subject Property for a temporary construction easement (the “Temporary Construction Easement”) for access to Seller’s Land during construction of

the Middlefield Road Improvement Project (the "Project"), all as described on Exhibit "A-1" hereof; and

**WHEREAS**, the Utility Easement and Access Easement (collectively the "Easements") and the Temporary Construction Easement ("TCE") are being acquired for the Middlefield Road Improvement Project (the "Project"), a public project designed, among other things, to improve and modernize access along Middlefield Road in unincorporated Redwood City; and

**WHEREAS**, pursuant to Code of Civil Procedure Section 1245.235, the notice of intention to adopt this Resolution of Necessity was given by first class mail to the person whose property is to be acquired by eminent domain ("Owner"), who was given a reasonable opportunity to appear at a public hearing and be heard on the matters referred to in Code of Civil Procedure Section 1240.030; and

**WHEREAS**, on February 23, 2021, the Board conducted a public hearing on the matters contained in this Resolution of Necessity; and

**WHEREAS**, a Resolution of Necessity may now be adopted pursuant to Code of Civil Procedure Section 1240.040.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS HEREBY RESOLVES AND DECLARES AS FOLLOWS:**

**Section 1. Compliance with California Environmental Quality Act.** The environmental impacts of the Project were evaluated in a mitigated negative declaration that was considered and adopted by the Board of Supervisors on February 12, 2019

(Resolution No. 076420). The acquisition of the Easements and TCE present no additional foreseeable environmental impacts beyond those addressed by the certified mitigated negative declaration.

**Section 2. Public Use and Authority for Taking.** The public use to which the Easements and TCE will be put is to support the implementation of the Project's goals of improving and modernizing access along Middlefield Road in unincorporated Redwood City, and the taking of the Easements and TCE is authorized by, *inter alia*, Section 19, Article I of the California Constitution, Government Code Sections 37350.5 and 40404(f), Public Utilities Code Section 21661.6, Code of Civil Procedure Section 1230.010 *et seq.*, and all other applicable laws as set forth herein.

**Section 3. Findings.** The Board hereby finds and determines each of the following:

1. The public interest and necessity require the Project; and
2. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and
3. The Easements and TCE sought to be acquired by eminent domain and described in this Resolution of Necessity are necessary for the proposed Project; and
4. The offer required by Government Code section 7267.2(a), together with the accompanying statement and summary of the basis for the amount established as just compensation, was actually made to the Owner on November 24, 2020, and was in a form and contained all of the factual information required by Government Code Section 7267.2(a).

**Section 4. More Necessary Public Use and/or Use Not Unreasonably Interfering with Existing Public Use(s).** Pursuant to Code of Civil Procedure Sections

1240.510 and 1240.610, to the extent that portions of the Subject Property are already devoted to a public use, this Board of Supervisors finds that the use to which the Easements and TCE are to be acquired under this Resolution is a more necessary public use than the use to which the Subject Property is already devoted, or, in alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Subject Property is already devoted.

**Section 5. Authorization and Direction to County Counsel.** The Board hereby authorizes and directs County Counsel to do the following:

1. Take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the Easements and TCE by eminent domain; and
2. Seek and obtain Orders for Prejudgment Possession of the Easements and TCE in accordance with eminent domain law; and
3. Enter into Stipulated Orders for Prejudgment Possession and/or Possession and/or Possession and Use Agreements, where such agreements constitute the functional equivalent of an Order for Prejudgment Possession; and
4. Correct any errors or agree to make any non-material changes to the legal description of the Easements and TCE that are deemed necessary for the conduct of condemnation action or other proceedings or transactions required to acquire the Easements and TCE; and
5. Subject to approval by the Board, when such prior approval is required, compromise and settle such eminent domain proceedings, if such negotiated settlement can be reached, and in that event, take all necessary action to complete the acquisition, including entering into stipulations as to the judgment and other matters, and to cause all payments for acquisition of the Easements and TCE to be made.

**Section 6. Authorization and Direction to County Manager.** The Board hereby authorizes and directs the County Manager, upon proper certification and

instruction from County Counsel, to draw demands, in the amounts necessary to make deposits of just compensation with the California State Treasurer's Office in connection with securing Orders for Prejudgment Possession of the Easements and TCE in the eminent domain proceedings and/or pay the purchase price for the acquisition of the Easements and TCE through negotiated settlement or court judgment.

**Section 7. Effective Date and Certification.** This Resolution of Necessity shall take effect upon adoption by the Board. The Clerk of the Board shall certify the adoption of this Resolution of Necessity and certify this record to be a full true, correct copy of the action taken.

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