

RESOLUTION NO. .

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

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RESOLUTION OF NECESSITY DECLARING THAT THE ACQUISITION OF THREE PERMANENT EASEMENTS AND ONE 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 CONSTRUCT AN AFFORDABLE HOUSING PROJECT AT 2700 MIDDLEFIELD ROAD

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

WHEREAS, in 2014 the County acquired and now owns in fee the 3.21 acre property at 2700 Middlefield Road, in unincorporated Redwood City, County of San Mateo, California, also known as Assessor Parcel Number 054-113-140 (“the County Parcel”), which parcel is under consideration for a project by the Department of Housing (“the Project”), as further described in the Parcel A Summary for the Middlefield Junction Master Plan dated June 11, 2018 and as may be subsequently redesigned and modified; and

WHEREAS, the property interests currently owned by the County include vehicular access from Middlefield Road across the 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”), and the existing vehicular access is the only such access to the County Parcel, while the future development of the Project on the County Parcel requires an expansion of the existing easement rights to allow appropriate pedestrian and bicycle access to the County Parcel, and

WHEREAS, the Project also requires the acquisition of a water line easement, a garden easement, and a temporary construction easement to effectuate its purposes; and

WHEREAS, for the reasons set forth below, the County intends to acquire the following interests in the Subject Property, across the Subject Property, as legally described on Exhibit “A-1” hereof: (1) a permanent and non-exclusive easement interest across the Subject Parcel for improved bicycle and pedestrian access to the County Parcel (“the Public Access Easement”); (2) a water line easement (“the Water Line Easement”); (3) a garden easement (“the Garden Easement”); and (4) a temporary construction easement (“TCE”), (collectively, “the Easements”); and

WHEREAS, the Easements are being acquired for the future anticipated development of a housing project on the County Parcel, a public project designed, among other things, to provide permanent housing solutions for County residents; 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 July 13, 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.

This acquisition is exempt from further environmental review pursuant to California Government Code Section 65457 as consistent with the North Fair Oaks Community Plan adopted by this Board on November 15, 2011 and for which the County has previously undertaken environmental analysis in the form of a Final Environmental Impact Report, which was certified by the Board of Supervisors on November 15, 2011. Moreover, because no development is being approved by virtue of this action, the acquisition of the Easements is exempt from review under the California Environment Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and therefore the activity of enlarging the scope of the easement rights is not subject to CEQA.

Section 2. Public Use and Authority for Taking. The public use to which the Easements will be put is to support the implementation of the Project's goals of providing affordable public housing, and the taking of the Easements is authorized by, *inter alia*, Section 19, Article I of the California Constitution, Government Code Sections 25350.5; Code of Civil Procedure Sections 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 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 19, 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 uses to which the Easements 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 by eminent domain; and
2. Seek and obtain Orders for Prejudgment Possession of the Easements in accordance with eminent domain law, if advisable; and
3. Enter, if advisable, 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, or a Stipulated Final Order of Condemnation for the value of the Easements established by the offer of just compensation referenced in Section 3 above; and
4. Correct any errors or agree to make any non-material changes to the legal description of the Easements that are deemed necessary for the conduct of condemnation action or other proceedings or transactions required to acquire the Easements; and
5. Subject to approval by the Board, when such prior approval is required as beyond the authority delegated in Paragraph 3 above, 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 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 in connection with securing Orders for Prejudgment Possession and/or Stipulated Final Order(s) of Condemnation of the Easements in the eminent domain proceedings and/or pay the purchase price for the acquisition of the Easements 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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