

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: STEPHANIE VALKOVIC, ASSOCIATE REAL PROPERTY AGENT
REAL ESTATE SERVICES
SUBJECT: A RESOLUTION OF NECESSITY FOR THE ACQUISITION BY
EMINENT DOMAIN OF EASEMENT INTERESTS IN PORTIONS
OF REAL PROPERTY COMMONLY KNOWN AS 4912 AND 4914
HIGHWAY 12, APNS 031-240-006 AND 031-240-067, FOR THE
LOS ALAMOS TRUNK SEWER REPLACEMENT PROJECT

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Water and Transportation and Public Works Departments and Real Estate Services that the Council conduct a public hearing and adopt a Resolution of Necessity, by a two-thirds vote, declaring the necessity of acquisition, by eminent domain, of two permanent easement interests and two temporary construction easement interests in portions of certain real property, more particularly described as Assessor Parcel Nos. 031-240-006 and 031-240-067 (collectively, the "Subject Property"), for the Los Alamos Trunk Sewer Replacement Project ("Project") in the City of Santa Rosa, Sonoma County, California.

EXECUTIVE SUMMARY

In line with the Council's goals to build and maintain sustainable infrastructure, acquisition of the above-described property interests will allow the City to complete construction of Segment I of the Los Alamos Trunk Sewer Replacement Project, which will provide upgrades to deficient portions of the existing sewer system and provide improved sewer system capabilities to the public.

BACKGROUND

The City of Santa Rosa completed the Sanitary Sewer System Master Plan Update ("MPU") in 2014 that identified approximately three miles of the Los Alamos Trunk Sewer in the Rincon Valley and Southeast Santa Rosa area from Streamside Drive to the vicinity of 6200 Channel Drive for near-term replacement due to its nearly 60-year age, deteriorated condition, and inadequate level of service under high flow conditions. The MPU identified the Project as the number one high priority project needed to maintain the City's desired service levels within the sewage collection system.

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Segment 1 of the Project will be constructed from Streamside Drive easterly approximately 5,500 feet terminating at Elaine Drive. The Subject Property is located on the South side of State Highway 12 (Sonoma Highway) in the Eastern portion of the City of Santa Rosa and is within the Segment 1 limits identified for the Project. The Subject Property is commonly known as 4912 and 4914 Highway 12 and more particularly described as Assessor Parcel Numbers 031-240-006 and 031-240-067. The Subject Property is owned by Samantha Zappelli ("Property Owner"):

1. Samantha Zappelli (4912 Sonoma Highway, APN 031-240-006); and
2. Samantha Zappelli (4914 Sonoma Highway, APN 031-240-067).

The Subject Property is part of a larger parcel ("the Larger Parcel"), which is comprised of Assessor Parcel Nos. 031-240-67, 031-240-006 and 032-300-005, is 1.171 acres in size, and is zoned as R-3-18, multi-family residential, by the City of Santa Rosa.

The Larger Parcel is a finished site that is improved with an auto repair building of approximately 5,900 square feet and a single family residence of 858 square feet, a carport and a restroom/storage building that is utilized by customers and employees of the auto repair building, none of which improvements will be impacted by the Project. However, there are 17 fruit trees, a septic system currently located within the limits of the existing sewer easement, an unpermitted covered car wash station currently located within the limits of the existing sewer easement, landscaping and asphalt pavement that will be impacted by the Project. As part of the Project, the existing sewer connections to the existing septic system that will be impacted by the Project will be connected to City sewer in accordance with current health & safety standards.

The City obtained an appraisal of the real estate from Ryan Ward, MAI of Ward Levy Appraisal Group Inc. The Property Owner then exercised the right to obtain an independent appraisal of the real estate, which was provided by Wayne Harding, MAI, of Wayne Harding & Associates. The City made an offer of just compensation to the Property Owner for the acquisition of the property interests, pursuant to California Government Code section 7267.2. The acquisition of the Subject Property will not require the relocation of any residences or businesses.

PRIOR CITY REVIEW

On August 2, 2018, the City of Santa Rosa Board of Public Utilities adopted the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Plan and approved the Project alignment and Segment 1 of the Project.

On May 10, 2022, in closed session, Council gave direction to staff on price and terms to negotiate the purchase of the Subject Property.

On May 24, 2022, at the Council meeting, Council considered the adoption of a Resolution of Necessity for acquisition by eminent domain of easement interests in portions of the Subject Property for the Los Alamos Trunk Sewer Replacement Project

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(Agenda Item 15.1). The motion for adoption of the Resolution of Necessity required five affirmative votes to pass. It failed on a vote of 3-2, with two Council members absent. A motion for reconsideration was made and seconded, allowing Council to vote on the motion for request for reconsideration at a future Council meeting.

On June 7, 2022, at the Council meeting, Council voted in the affirmative by a 7-0 vote on the motion for reconsideration of the May 24, 2022, Agenda Item 15.1, regarding a Resolution of Necessity for acquisition by eminent domain of easement interests in portions of the Subject Property for the Los Alamos Trunk Sewer Replacement Project, allowing the item to be reheard at a future Council meeting.

ANALYSIS

The two permanent easement interests and two temporary construction easement interests in portions of Assessor Parcel Numbers 031-240-006 and 031-240-067, are necessary for the Project. The trunk sewer currently traverses a portion of the Subject Property and the Project will upsize and realign the positioning of the trunk to better increase service levels within the sewer collection system. The City acquisition and negotiations process has transpired over the course of three years, involving active negotiations over the last sixteen months and dozens of emails and phone calls between the Property Owner, City right of way consultant and City, including but not limited to the following formal dates:

4/30/19--The Notice of Decision to Appraise was sent;

8/30/19--The City's appraiser Ward Levy valued the easements ("Original Appraisal");

1/13/21--An offer was made in the amount of Original Appraisal;

5/28/21--Property Owner hired an independent appraiser Wayne Harding who valued the easements ("Independent Appraisal");

6/4/21--City, City ROW consultant and Property Owner met at Subject Property and proposed easements are staked;

9/7/21--The City had its Original Appraisal updated;

9/23/21--The City made a revised offer on the basis of the Independent Appraisal;

11/9/21--The City made a further revised and final offer above the Independent Appraisal amount to reflect the easement value of the Independent Appraisal plus an additional value for the trees being removed (which value was reflective of the higher amount from the Original Appraisal).

Based on the current schedule, the Subject Property will be necessary for construction by approximately January 2023, so the City must start the eminent domain process immediately to avoid potential delays or change orders from the contractor should the City not succeed in obtaining a settlement agreement with Property Owner.

FISCAL IMPACT

A RESOLUTION OF NECESSITY FOR THE ACQUISITION BY EMINENT DOMAIN OF EASEMENT INTERESTS IN PORTIONS OF REAL PROPERTY COMMONLY KNOWN AS 4912 AND 4914 HIGHWAY 12, APNS 031-240-006 AND 031-240-067, FOR THE LOS ALAMOS TRUNK SEWER REPLACEMENT PROJECT
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Approval of this action does not have a fiscal impact on the General Fund. Funds for this project are identified in the fiscal year 2022-23, Capital Improvement Program budget.

ENVIRONMENTAL IMPACT

On August 2, 2018, the City of Santa Rosa Board of Public Utilities (Board) adopted a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Plan and approved the Project alignment and Segment 1 of the Project. The Initial Study/Mitigated Negative Declaration determined that Segment 1 of the Project would not result in any significant impacts to the environment with the incorporation and implementation of mitigation measures. Upon adoption of the MND and approval of the Project alignment and Segment 1 of the Project by the Board, a Notice of Determination (NOD) was filed with the Sonoma County Clerk's Office and the State Clearinghouse, completing the environmental review process for Segment 1. No additional environmental review is required for this action.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On August 2, 2018, the Board reviewed and adopted a Mitigated Negative Declaration for the Project.

On August 2, 2018, the Board approved Amendment No. 1 to Project Work Order No. A010017-2011-29 to Brelje and Race Consulting Engineers of Santa Rosa, CA for the Project, Streamside Drive to Elaine Drive Environmental (CEQA) Review and Design project, increasing the contract amount by \$93,854 for a total of \$590,317.

On June 20, 2019, the Board approved staff to require the proposed StoragePRO II New Multifamily Housing and Self-Storage Facilities project located at 4332-4374 Sonoma Highway to upsize and relocate a portion of the Los Alamos Trunk, and delegated signature authority to the Director of Santa Rosa Water to approve the reimbursement agreement for the required improvements, subject to review by the City Attorney's Office.

NOTIFICATION

Following standard public records and due diligence searches for ownership information, a notice of the public hearing was mailed to the owner of record on June 13, 2022, by regular U.S. Mail.

HEARINGS AND REQUIRED FINDING

The recommended actions of the City Council pertain to the acquisition of specified easements on the Subject Property identified as Assessor Parcel Nos. 031-240-006 and 031-240-067, owned by Samantha Zappelli.

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California eminent domain law provides that a public entity may not commence an eminent domain proceeding until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property or their representatives a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed Project.
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.
3. The real property to be acquired is necessary for the Project.
4. The offer of just compensation has been made to the property owner.

All notices of hearing were mailed on June 13, 2022, by first class mail to the Property Owner in accordance with Section 1245.235 of the California Code of Civil Procedure.

The above four required findings are addressed as follows:

1. The Public Interest and Necessity Require the Proposed Project

The City of Santa Rosa completed the Sanitary Sewer System Master Plan Update (MPU) in 2014 that identified approximately three miles of the Los Alamos Trunk Sewer in the Rincon Valley and Southeast Santa Rosa area from Streamside Drive to the vicinity of 6200 Channel Drive for near-term replacement due to its nearly 60-year age, deteriorated condition, and inadequate level of service under high flow conditions. The MPU identified the Los Alamos Trunk Sewer Replacement Project as the number one high priority project needed to maintain the City's desired service levels within the sewage collection system.

2. The Project is Planned or Located in a Manner That Will be Most Compatible With the Greatest Public Good and the Least Private Injury

In Segment 1 of the Project, approximately 5,500 feet of 24 inch trunk sewer will be constructed from the downstream end at its connection point with an existing 24-inch sewer in Streamside Drive, traversing along the Santa Rosa Creek Trail corridor within private property and City streets (mostly Quigg Drive) to Elaine Drive. From the current east terminus of Quigg Drive, the replacement trunk sewer will generally follow the existing trunk sewer alignment across private properties for approximately 1,600 feet to Elaine Drive. The proposed alignment was selected to effectively collect all tributary flows that currently feed the existing trunk, minimize the amount of bypass pumping operations that may be necessary to facilitate construction, minimize the impact on the potential for future development of the properties that are crossed by the proposed easements, and minimize the impact on heritage trees.

3. The Real Property to be Acquired is Necessary for the Proposed Project

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The real property described in the exhibits attached to the Resolution of Necessity, as two permanent easement interests and two temporary construction easement interests in portions of Assessor Parcel Numbers 031-240-006 and 031-240-067, is needed for the Los Alamos Trunk Sewer Replacement Project and is necessary for the Project.

4. The Offer of Just Compensation Has Been Made

Following the Original Appraisal, the Independent Appraisal (prepared by Wayne Harding, MAI, of Wayne Harding & Associates), was used to establish the fair market value of the property interests the City is seeking to acquire. An offer of just compensation was made to the record owner to purchase the two permanent easement interests and two temporary construction easement interests as established by the approved appraisal and as required by Section 7267.2 of the California Government Code. Although negotiated settlements may still be possible for the property interests cited above, it would be appropriate to commence the procedures to acquire the necessary property interests through eminent domain, to ensure that the City has possession of the Subject Property, which is necessary in order for the City to continue timely construction of the Project.

ATTACHMENTS

- Resolution/ Exhibit A – Legal Definitions

CONTACT

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