

RESOLUTION NO. RES-2023-126

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA ADOPTING A RESOLUTION OF NECESSITY FOR THE ACQUISITION BY EMINENT DOMAIN OF TEMPORARY EASEMENT AND FEE SIMPLE INTERESTS IN PORTIONS OF REAL PROPERTY, COMMONLY KNOWN AS 1975 CLEVELAND AVENUE AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBER 012-490-052, FOR THE HIGHWAY 101 BICYCLE AND PEDESTRIAN OVERCROSSING PROJECT

WHEREAS, the City of Santa Rosa (the "City") proposes to acquire, by eminent domain, a fee simple interest (709 square feet) and a temporary construction easement interest (3,495 square feet) in portions of real property located on the west side of U.S. Highway 101 (Hwy 101) in the Western portion of the City of Santa Rosa, County of Sonoma, commonly known as 1975 Cleveland Avenue and more particularly described as Assessor Parcel Number 012-490-052, for the Highway 101 Bicycle and Pedestrian Overcrossing Project, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for July 11, 2023, at 5:00 p.m. at Santa Rosa City Hall, Council Chamber, 100 Santa Rosa Avenue, Santa Rosa, California, and gave to each person whose property interests are to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SANTA ROSA DOES HEREBY DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. The City has complied with the requirements of Section 1245.235 of the California Code of Civil Procedure and has completed required environmental review in compliance with the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property interests are to be acquired is for the City of Santa Rosa to construct the Highway 101 Bicycle and Pedestrian Overcrossing Project, in the City of Santa Rosa, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit “A” is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. Pursuant to California Code of Civil Procedure section 1245.230(c), the City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The fee simple interest (709 square feet) and a temporary construction easement interest (3,495 square feet) described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use. Some or all of the real property affected by the interests to be acquired may be appropriated to existing public uses. The legal descriptions of these interests are on file with the City and describe the general location and extent of the interests with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the interests subject to such existing public use(s) pursuant to section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property affected by the interests will be appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City of Santa Rosa is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real

property that are deemed necessary for the conduct of the condemnation action or other proceedings, or transactions required to acquire the subject real property.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Santa Rosa shall certify as to the adoption of this Resolution.

IN COUNCIL DULY PASSED this 11th day of July, 2023.

AYES: (7) Mayor N. Rogers, Vice Mayor MacDonald, Council Members Alvarez, Fleming, Okrepkie, C. Rogers, Stapp

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
City Clerk Mayor

APPROVED AS TO FORM: \_\_\_\_\_  
City Attorney

Exhibit A - Legal Definitions of Property to be Acquired