




Agenda Item No: 6.c  
Meeting Date: August 1, 2022

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: City Attorney and Public Works

Prepared by: **Genevieve Coyle, Assistant City Attorney**  
**April Miller, Director of Public Works**

City Manager Approval: \_\_\_\_\_ 

**TOPIC: HEARING ON RESOLUTION OF NECESSITY INITIATING EMINENT DOMAIN PROCESS TO ACQUIRE A PORTION OF 700/740 FRANCISCO BOULEVARD WEST, SAN RAFAEL, CALIFORNIA IN CONNECTION WITH PHASE 1 OF THE FRANCISCO BOULEVARD WEST MULTI-USE PATHWAY PROJECT**

**SUBJECT: RESOLUTION TO DETERMINE THE NECESSITY TO ACQUIRE A PORTION OF PROPERTY BY EMINENT DOMAIN IN CONNECTION WITH PHASE 1 OF THE FRANCISCO BOULEVARD WEST MULTI-USE PATHWAY PROJECT; TO AUTHORIZE COMMENCEMENT OF LITIGATION TO ACQUIRE PROPERTY BY EMINENT DOMAIN; AND TO SEEK AN ORDER OF POSSESSION (CODE OF CIVIL PROCEDURE SECTION 1245.220)**

**RECOMMENDATION:**  
Staff recommends that the City Council open the hearing on the Resolution of Necessity, take testimony, close the hearing and consider adopting the Resolution of Necessity authorizing the acquisition of property by eminent domain in connection with Phase 1 of the Francisco Boulevard West Multi-Use Pathway project.

**BACKGROUND:**  
In 2018, the City began construction of Phase 1 of the Francisco Boulevard West Multi-Use Pathway project ("Project"), which includes the construction of a bicycle and pedestrian pathway between Andersen Drive and Rice Drive in San Rafael. The multi-use pathway project was separated into two phases due to fiscal constraints. Phase 1 involved the installation of a class 1 multi-use path from Andersen drive to Rice Drive, which parallels SMART's rail system. Phase 2 was completed in spring 2021 and involved installation of a Class IV two directional bicycle facility from Rice Drive to Second Street.

\_\_\_\_\_  
**FOR CITY CLERK ONLY**

**File No.:** \_\_\_\_\_

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

The Project included an asphalt pathway, fencing to separate the pathway from the SMART tracks, retaining walls, lighting, striping, a pedestrian crosswalk signal, and other supporting items. Phase 1 was completed in 2019.

Part of the Project was constructed on an approximately 18,398 square foot portion of privately owned property ("Property") located at 700/740 Francisco Boulevard West, San Rafael, California (APNs 018-014-66 and 018-014-67). That Property is owned by Francisco Boulevard Investors, LLC and improved with an auto dealership. On August 23, 2021, Francisco Boulevard Investors, LLC filed a complaint for inverse condemnation against the City for building a portion of the Project on its Property ("Inverse Action"). Before the Inverse Action was filed, the City made numerous efforts to reach an agreement with Francisco Boulevard Investors, LLC to purchase the Property that was necessary for the Project.

After the Inverse Action was filed, the City met and conferred with Francisco Boulevard Investors, LLC's attorney, who urged the City to file a complaint in eminent domain to acquire the Property. The Parties entered a stipulation providing that if the City Council, in its sole and absolute discretion, decides to consider and adopt a Resolution of Necessity to acquire the Property, Francisco Boulevard Investors, LLC will waive its right to challenge the City's right to acquire the Property via eminent domain. The proposed Resolution of Necessity is attached as Attachment 1. A copy of the Stipulation is attached as Attachment 2.

**ANALYSIS:**

A hearing on the Resolution of Necessity must be held and the resolution approved by a four-fifths (4/5) vote of the City Council prior to the City moving forward with the eminent domain process. Adoption of the Resolution of Necessity authorizes the City to acquire the Property by eminent domain, deposit the probable amount of just compensation with the State Treasury, and obtain an order for prejudgment possession of the Property. The purpose of the hearing on the Resolution of Necessity is to provide the property owner with an opportunity to address the City Council on this matter relating to the City's necessity acquiring the Property for the Project. However, the amount of compensation owed for the acquisition will be decided through continued negotiations or by a court of law, and thus, compensation is not a proper matter to be discussed at the hearing.

State law requires the City Council make certain findings with respect to the adoption of the Resolution of Necessity. The findings for the adoption of the Resolution of Necessity at the hearing of the City Council must include the following information:

1) The Public Interest and Necessity Require the Project

First, the City Council must find that the public interest and necessity require the Project. Here, the Property is necessary for a Project that provides residents, commuters, and students safe and accessible access to the Downtown San Rafael SMART Station, the Bettini Transit Center, and the Ferry. The Project is a component of a larger north-south non-motorized transportation network in Marin. The Project encourages increased cycling and walking trips and reduces the number of vehicle miles traveled in the City. The Project is for a public use and would not have been possible if the City could not acquire the Property.

2) The Interests Sought to be Acquired are Necessary for the Project

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

Second, the City Council must find that the interests sought to be acquired are necessary for the Project. As previously described, the Property sought to be acquired by eminent domain is necessary for the Project.

3) The Project is Located in such a Manner as to Offer the Greatest Public Benefit with the Least Private Detriment

Third, the City Council must find that the Project is located in such a manner as to offer the greatest public benefit with the least private detriment. Prior to the Project's construction, staff and City consultants evaluated a variety of options and determined that Project use of the Property, which was an undevelopable seasonal wetland/drainage swale/ditch that was separated from the auto dealership that occupies the remainder of 700/740 Francisco Boulevard West by a fence, and does not impact the operations of the car dealership(s), would result in the least private injury. Accordingly, the Project was designed to afford the greatest public benefit with the least possible burden on the affected property owner.

4) A Government Code Offer Has Been Extended To Each Property Owner

Fourth, the City Council must find that the City has extended an offer pursuant to Government Code section 7267.2 to each property owner. On July 6, 2022, the City sent a purchase offer in conformance with Government Code section 7267.2(a) to the owners of record. Since sending the offer, the City has reached out to the property owner's attorney to ascertain whether a negotiated purchase would be possible. To date, these efforts have been unsuccessful. On July 14, 2022, the City mailed the property owner a Notice of Intention to consider adoption of a Resolution of Necessity to acquire the Property by eminent domain at its regular meeting of Monday, August 1, 2022. A copy of the notice provided to the owner is attached as Exhibit B to the Resolution of Necessity.

**ENVIRONMENTAL REVIEW:**

The City has fully complied with the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, for acquiring the Property described herein when [on December 4, 2017](#), the City adopted a Mitigated Negative Declaration for the Project in Resolution No. 14428.

**PUBLIC OUTREACH AND NOTICING:**

The posting of the City Council agenda serves as the notice to the general public. Notice of the public hearing was mailed to the property owners and business tenants at least 15 days in advance of the hearing, as required by state law.

**FISCAL IMPACT:**

The amount of compensation owed for the acquisition will be decided through continued negotiations or by a court of law. While it is unknown as to what the ultimate cost will be for the acquisition of the Property, the City obtained an appraisal of the Property in June 2022 that appraised it for \$368,000.

**OPTIONS:**

1. Adopt Resolution as presented.
2. Adopt Resolution with modifications.
3. Direct staff to return with more information.

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

**RECOMMENDED ACTION:**

Conduct a Hearing and Consider Adopting the Resolution.

**ATTACHMENTS:**

1. Resolution, including:
  - Exhibit A – Legal Description and Plat Map
  - Exhibit B – Notice of Intention to Adopt Resolution of Necessity
2. Stipulation

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

## RESOLUTION NO.

### A RESOLUTION TO DETERMINE THE NECESSITY TO ACQUIRE A PORTION OF PROPERTY BY EMINENT DOMAIN IN CONNECTION WITH PHASE 1 OF THE FRANCISCO BOULEVARD WEST MULTI-USE PATHWAY PROJECT; TO AUTHORIZE COMMENCEMENT OF LITIGATION TO ACQUIRE PROPERTY BY EMINENT DOMAIN; AND TO SEEK AN ORDER OF POSSESSION (CODE OF CIVIL PROCEDURE SECTION 1245.220)

Property: Approximately 18,398 square foot Portion of  
700/740 Francisco Blvd. West, San Rafael, California  
(APNs 018-014-66 and 018-014-67)

**WHEREAS**, the City Council has determined that the City of San Rafael ("**City**") needs to acquire certain property interests in connection with Phase 1 of the Francisco Boulevard West Multi-Use Pathway project.

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City, by vote of four-fifths or more of its members, FINDS, DETERMINES, DECLARES, AND RESOLVES the following:

1. The City has constructed Phase 1 of Francisco Boulevard West Multi-Use Pathway project ("**Project**"), which includes the construction of a bicycle and pedestrian pathway between Andersen Drive and Rice Drive in San Rafael. The Project included, but is not limited to, an asphalt pathway, fencing to separate the pathway from the SMART tracks, retaining walls, lighting, striping, a pedestrian crosswalk signal, and other supporting items. The Project is for a public use.

2. In connection with the Project, the City needs to acquire approximately 18,398 square feet of that certain privately owned property known as 700/740 Francisco Boulevard West, San Rafael, California (APNs 018-014-66 and 018-014-67) and more particularly described and depicted on Exhibit A attached to this Resolution and incorporated herein ("**Property**"). The Property is necessary for the Project.

3. The City is authorized to acquire the Property by eminent domain for the public use set forth herein in accordance with the California Constitution, Article 1, Section 19; the California Eminent Domain Law, Code of Civil Procedure Section 1230.010 et seq., including, but not limited to, sections 1240.010 through 1240.050 inclusive, and sections 1240.110, 1240.120, 1240.150, 1240.220, 1240.320, 1240.330, 1240.350, 1240.410, 1240.510, 1240.610, 1240.650, and 1240.660; Government Code sections 37350.5 and 38730; Streets & Highway Code Section 10102; and other provisions of law.

4. On July 15, 2022, the City mailed a Notice of Intention to Adopt a Resolution of Necessity ("Notice of Intention") for acquisition by eminent domain of the Property, which notice is attached hereto as Exhibit B, and incorporated herein. The

Notice of Intention was mailed to all persons whose name(s) appear on the last Equalized County Assessment Roll as having an interest in the Property, and to the addresses appearing on the Roll. The Notice of Hearing advised the persons of their right to be heard on the matters referred to in the Notice of Hearing on the date and at the time and place stated.

5. The hearing referenced in the Notice of Intention was held on August 1, 2022, at the time and place stated in said notice, and all interested parties were given an opportunity to be heard. The hearing was then closed.

6. Based upon the evidence presented at the hearing, the City Council of the City of San Rafael finds, determines, declares, and resolves each of the following:

- A. The public interest and necessity require the proposed Project;
- B. The interests in the Property sought to be acquired by eminent domain are necessary for the Project;
- C. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- D. The City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein, as well as any other matter regarding the right to take said Property by eminent domain, including but not limited to, making the offer required by Government Code Section 7267.2(a); and
- E. The City has fully complied with the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, for acquiring the Property described herein when on December 4, 2017, the City adopted a Mitigated Negative Declaration for the Project in Resolution No. 14428.

7. The City Attorney is hereby authorized to acquire in the name of the City the Property described in this Resolution in accordance with the provisions of California Eminent Domain Law, to commence an action in eminent domain, to deposit the probable amount of compensation with the California State Treasury, to apply to the Superior Court for an order permitting the City to take immediate possession and make immediate use of the Property for the Project, and to take all necessary steps to acquire the Property under the law.

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 1<sup>st</sup> day of August 2022 by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

\_\_\_\_\_  
Lindsay Lara, City Clerk

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List of Exhibits:

- A. Legal Description and Plat Map of the Property
- B. Notice of Intention to Adopt a Resolution of Necessity

Exhibit A

**LEGAL DESCRIPTION FOR RIGHT OF WAY (RW) TAKE**

**APN 018-014-67 AND 018-014-66**

A portion or Real Property situated in the City of San Rafael, County of Marin, State of California, more particularly being a portion of the Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2004-0052865 in the Office of the County Recorder of said Marin County in addition to a portion of the Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2011-0052704 in the Office of the County Recorder of said Marin County; said portions being more particularly described as follows:


**Beginning** at the most easterly corner of said Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2011-0052704; thence along the boundary of said Lands South 49°38'54" West 17.00 feet; thence continuing along the boundary of said Lands North 49°10'05" West 381.01 feet to the northeasterly Right of Way Line of the Lands of the Sonoma-Marín Area Rail Transit (SMART) District; thence along said northeasterly Right of Way Line North 40°20'55" West 102.25 feet to the most southerly corner of said Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2004-0052865; thence along said northeasterly Right of Way Line and the southwest line of said Lands of Francisco Boulevard Investors, LLC North 40°20'55" West 90.39 feet; thence into said Lands of Francisco Boulevard Investors, LLC North 49°39'05" East 24.60 feet; thence South 40°20'55" East 90.39 feet to a point on the easterly line of said Lands of Francisco Boulevard Investors, LLC, said point also being on the westerly line of aforesaid Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2011-0052704; thence into said Lands South 40°20'55" East 172.11 feet; thence North 46°51'05" East 40.86 feet; thence South 51°45'27" East 50.51 feet to a point on the boundary line of said Francisco Boulevard Investors, LLC; thence along said boundary line South 40°21'08" East 259.13 feet to the **Point of Beginning.**

Contains 18,398 sq. ft. (0.422 acres) more or less

**Bearings based upon the California Coordinate System (CCS 83, Zone 3)**

All distances are in feet and decimals thereof.

Signature \_\_\_\_\_

  
\_\_\_\_\_  
Licensed Land Surveyor (PLS 7739)

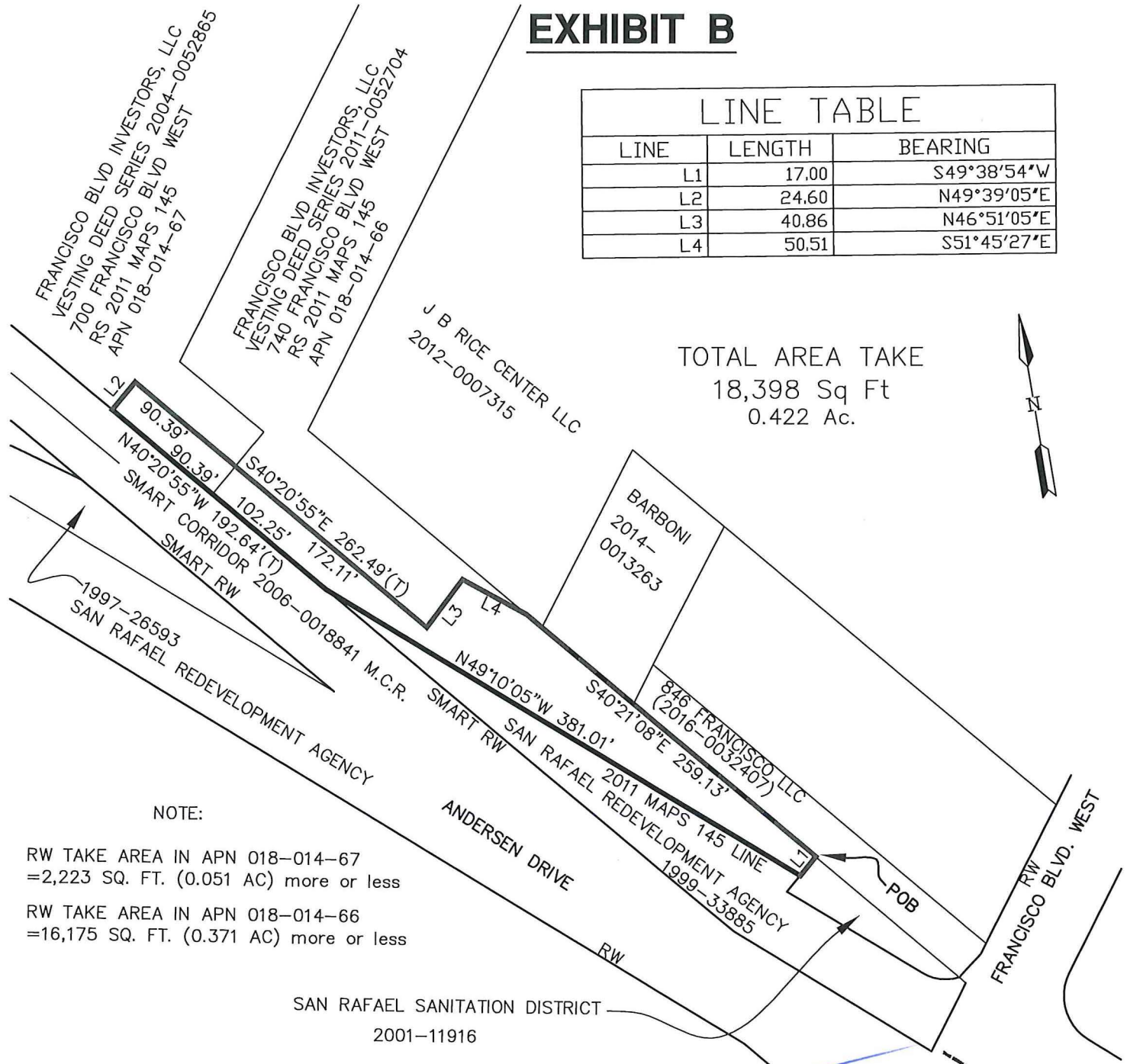




# EXHIBIT B

LINE TABLE		
LINE	LENGTH	BEARING
L1	17.00	S49°38'54"W
L2	24.60	N49°39'05"E
L3	40.86	N46°51'05"E
L4	50.51	S51°45'27"E

TOTAL AREA TAKE  
18,398 Sq Ft  
0.422 Ac.

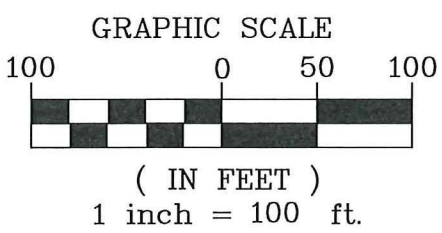


**NOTE:**

RW TAKE AREA IN APN 018-014-67  
=2,223 SQ. FT. (0.051 AC) more or less

RW TAKE AREA IN APN 018-014-66  
=16,175 SQ. FT. (0.371 AC) more or less

SAN RAFAEL SANITATION DISTRICT  
2001-11916



**LEGEND**

- APN ASSESSOR'S PARCEL NUMBER
- M.C.R. MARIN COUNTY RECORDS
- P.O.B. POINT OF BEGINNING
- RW RIGHT OF WAY
- (T) TOTAL DISTANCE

**RIGHT OF WAY TAKE OVER A PORTION OF THE  
LANDS OF THE FRANCISCO BLVD. INVESTORS, LLC  
AS RECORDED IN SERIES 2004-0052865 AND  
2011-0052704 FILED IN MARIN  
COUNTY RECORDERS OFFICE  
STATE OF CALIFORNIA**

MAY 29, 2019

SHEET 1 OF 1

**CHAUDHARY & ASSOCIATES, INC.**  
ENGINEERS SURVEYORS INSPECTORS  
211 Gateway Road West, Suite 204  
NAPA, CALIFORNIA 94558  
Tel: (707) 255-2729 FAX: (707) 255-5021  
WWW.CHAUDHARY.COM

Q:\2015\15-12-050 Kimley Horn\Closures\RW-Take-Area.txt  
Created on 5/29/2019 11:00:00 AM  
Created by H. Korstick, PLS

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Parcel name: RW-Take-Area

North:	2178526.9697	East :	5981655.7144
Line Course:	S 49-38-54 W	Length:	17.00
North:	2178515.9626	East :	5981642.7589
Line Course:	N 49-10-05 W	Length:	381.01
North:	2178765.0832	East :	5981354.4751
Line Course:	N 40-20-55 W	Length:	192.64
North:	2178911.8978	East :	5981229.7529
Line Course:	N 49-39-05 E	Length:	24.60
North:	2178927.8151	East :	5981248.5093
Line Course:	S 40-20-55 E	Length:	262.49
North:	2178727.7740	East :	5981418.4485
Line Course:	N 46-51-05 E	Length:	40.86
North:	2178755.7179	East :	5981448.2592
Line Course:	S 51-45-27 E	Length:	50.51
North:	2178724.4526	East :	5981487.9296
Line Course:	S 40-21-08 E	Length:	259.13
North:	2178526.9752	East :	5981655.7123

Perimeter: 1228.24 Area: 18,398 Sq Ft 0.422 Ac.

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.0058 Course: N 20-23-21 W  
Error North: 0.00546 East : -0.00203  
Precision 1: 211,763.79



Francisco Boulevard Investors LLC  
740 W Francisco Blvd  
San Rafael, CA 94901  
(APN 018-014-66)

Francisco Boulevard Investors LLC  
740 Francisco Blvd W  
San Rafael, CA 94901-3927  
(APN 018-014-67)

**NOTICE OF INTENTION TO ADOPT A RESOLUTION OF NECESSITY TO  
ACQUIRE PROPERTY BY EMINENT DOMAIN; AUTHORIZING  
COMMENCEMENT OF LITIGATION TO ACQUIRE PROPERTY AND FOR  
ORDER OF POSSESSION**

**City of San Rafael**  
Multi-Use Path Project

Re: Notice of Hearing Regarding Adoption of a Resolution of Necessity to Acquire Property by Eminent Domain. (Code Civ. Proc. § 1245.235.)

**1. Notice of the Intent of the City of San Rafael to adopt a Resolution of Necessity and Hearing.** The City Council of the City of San Rafael (“**City Council**”) intends to hold a hearing to consider whether a Resolution of Necessity should be adopted that, if adopted, will authorize the City of San Rafael (“**City**”) to acquire the real property described herein (“**Property**”) by eminent domain in connection with the SMART Larkspur extension project and the City of San Rafael multi-use path project (“**Project**”). Attached hereto as **Exhibit A** is a legal description of the approximately 18,398 square foot portion of the property located at 700/740 Francisco Blvd. West, San Rafael, California, commonly known as Assessor Parcel Numbers 018-014-66 and 018-014-67, that the City needs to acquire in fee for the Project.

You are being sent this notice because your name appears on the last equalized State Board of Equalization Assessment Roll for the Property.

DATE OF HEARING: August 1, 2022  
TIME OF HEARING: 7:00 p.m., or as soon as the matter may be heard  
PLACE OF HEARING: San Rafael City Council Chambers  
1400 Fifth Avenue  
San Rafael, CA 94901

**2. Notice of Your Right to Appear and Be Heard.** You have the right to appear and be heard before the City Council at the above-scheduled hearing on the following matters and issues and to have the City Council give consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

a) Whether the public interest and necessity require the Project;

- b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c) Whether the interest in the Property sought to be acquired is necessary for the Project;
- d) Whether the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property, as well as any other matter regarding the right to take said property by eminent domain, including but not limited to, making the offer required by Government Code Section 7267.2(a); and
- e) Whether the City has fully complied with the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

The statutes that authorize the City to acquire the Property by eminent domain for the Project include, but are not limited to, Article 1, Section 19 of the Constitution of the State of California; Streets and Highway Code section 10102; Government Code sections 37350.5, 40401, and 40404; and Code of Civil Procedure sections 1230.010, *et seq.*, including, but not limited to, sections 1240.010 through 1240.050 inclusive, and sections 1240.110, 1240.120, 1240.220, 1240.420, 1240.510, 1240.610, 1240.650, and other provisions of law.

**3. Failure to File a Written Request to Be Heard Within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard.** If you desire to be heard, or to present information to the City Council on this resolution, you are required by law to file a written request with the City Clerk no later than fifteen (15) days from the date that this notice was mailed. You must file your request to be heard at the Office of the City Clerk, 1400 Fifth Ave., Rm. 209, San Rafael, CA 94901.

If you mail a request to be heard, please keep in mind that it must be actually received by the City Clerk no later than fifteen (15) days after the date this notice is mailed. (See Code Civ. Proc. § 1245.235(b)(3).)

**If you elect not to appear and be heard at this hearing, your decision not to appear and be heard will constitute a waiver of your right to challenge the right of the City to acquire the Property by eminent domain. (Code Civ. Proc. § 1245.235(b)(3).) Thus, the matters described in the Resolution of Necessity will be deemed to be established.**

**4. You Will Not Waive the Right to Claim Greater Compensation if You Do Not Appear at the Hearing.** The amount of compensation to be paid for the Property will not be decided or heard at this hearing. Your nonappearance at this noticed hearing will not prevent you from claiming compensation in an amount to be determined by a court of law under the laws of the State of California. This notice is not intended to foreclose further ongoing negotiations between you and the representatives of the City on the amount of compensation to be paid to you for the Property. At this hearing, the City Council will not make any determination about the amount of money to be paid or to be offered to you for the Property.

**However, if you elect not to appear and be heard, you will be foreclosed from raising in a court of law the issues which are the subject of this noticed hearing and which are concerned with the right to take the property by eminent domain.**

If the City Council elects to adopt the Resolution of Necessity, then within six months of the adoption of the Resolution, the City will commence eminent domain proceedings in Superior

Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

CITY OF SAN RAFAEL

By:   
Lindsay Lara, City Clerk

Dated and mailed on: July 14, 2022

Enclosure: Exhibit A – Legal Description and Plat Map of the Property

Copy to: Peter Sonnen  
Francisco Boulevard Investors, LLC  
28 Liberty Ship Way, Suite 2840  
Sausalito, CA 94965

May 29, 2019

Exhibit A

**LEGAL DESCRIPTION FOR RIGHT OF WAY (RW) TAKE**

**APN 018-014-67 AND 018-014-66**

A portion of Real Property situated in the City of San Rafael, County of Marin, State of California, more particularly being a portion of the Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2004-0052865 in the Office of the County Recorder of said Marin County in addition to a portion of the Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2011-0052704 in the Office of the County Recorder of said Marin County; said portions being more particularly described as follows:

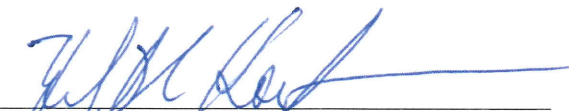
**Beginning** at the most easterly corner of said Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2011-0052704; thence along the boundary of said Lands South 49°38'54" West 17.00 feet; thence continuing along the boundary of said Lands North 49°10'05" West 381.01 feet to the northeasterly Right of Way Line of the Lands of the Sonoma-Marín Area Rail Transit (SMART) District; thence along said northeasterly Right of Way Line North 40°20'55" West 102.25 feet to the most southerly corner of said Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2004-0052865; thence along said northeasterly Right of Way Line and the southwest line of said Lands of Francisco Boulevard Investors, LLC North 40°20'55" West 90.39 feet; thence into said Lands of Francisco Boulevard Investors, LLC North 49°39'05" East 24.60 feet; thence South 40°20'55" East 90.39 feet to a point on the easterly line of said Lands of Francisco Boulevard Investors, LLC, said point also being on the westerly line of aforesaid Lands of Francisco Boulevard Investors, LLC as described in that certain Grand Deed Recorded in Series 2011-0052704; thence into said Lands South 40°20'55" East 172.11 feet; thence North 46°51'05" East 40.86 feet; thence South 51°45'27" East 50.51 feet to a point on the boundary line of said Francisco Boulevard Investors, LLC; thence along said boundary line South 40°21'08" East 259.13 feet to the **Point of Beginning**.

Contains 18,398 sq. ft. (0.422 acres) more or less

**Bearings based upon the California Coordinate System (CCS 83, Zone 3)**

All distances are in feet and decimals thereof.

Signature

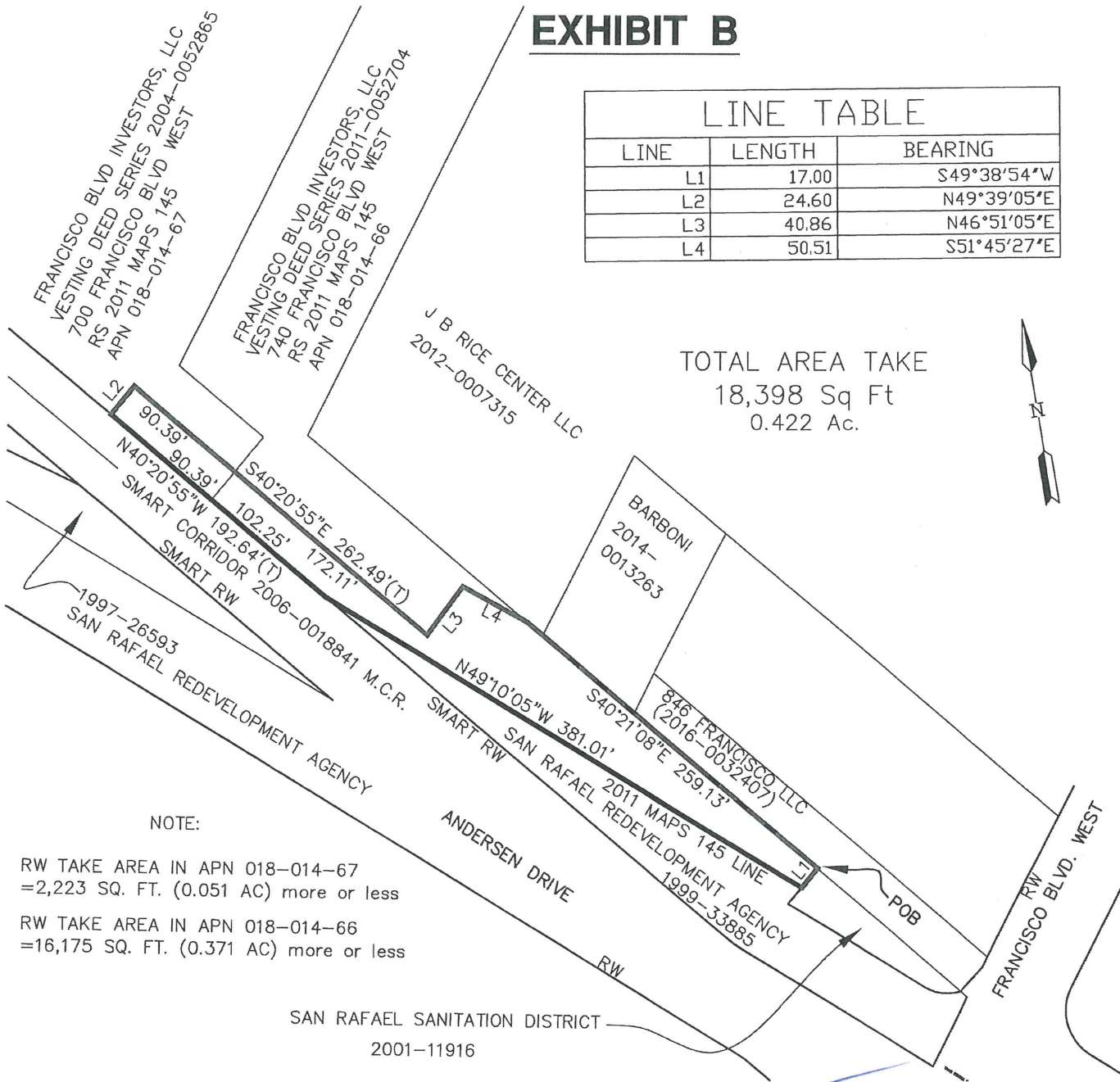
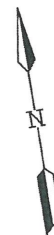
  
\_\_\_\_\_  
Licensed Land Surveyor (PLS 7739)



# EXHIBIT B

LINE TABLE			
LINE	LENGTH	BEARING	
L1	17.00	S49°38'54"W	
L2	24.60	N49°39'05"E	
L3	40.86	N46°51'05"E	
L4	50.51	S51°45'27"E	

TOTAL AREA TAKE  
18,398 Sq Ft  
0.422 Ac.

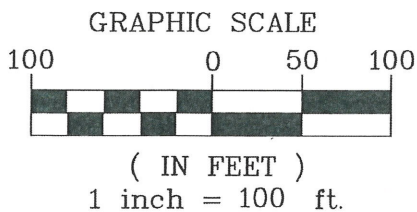


**NOTE:**

RW TAKE AREA IN APN 018-014-67  
=2,223 SQ. FT. (0.051 AC) more or less

RW TAKE AREA IN APN 018-014-66  
=16,175 SQ. FT. (0.371 AC) more or less

SAN RAFAEL SANITATION DISTRICT  
2001-11916



**LEGEND**

- APN ASSESSOR'S PARCEL NUMBER
- M.C.R. MARIN COUNTY RECORDS
- P.O.B. POINT OF BEGINNING
- RW RIGHT OF WAY
- (T) TOTAL DISTANCE



**CHAUDHARY & ASSOCIATES, INC.**  
ENGINEERS SURVEYORS INSPECTORS  
211 Gateway Road West, Suite 204  
NAPA, CALIFORNIA 94558  
Tel: (707) 255-2729 FAX: (707) 255-5021  
WWW.CHAUDHARY.COM

**RIGHT OF WAY TAKE OVER A PORTION OF THE  
LANDS OF THE FRANCISCO BLVD. INVESTORS, LLC  
AS RECORDED IN SERIES 2004-0052865 AND  
2011-0052704 FILED IN MARIN  
COUNTY RECORDERS OFFICE  
STATE OF CALIFORNIA**

MAY 29, 2019

SHEET 1 OF 1

Q:\2015\15-12-050 Kimley Horn\Closures\RW-Take-Area.txt  
Created on 5/29/2019 11:00:00 AM  
Created by H. Korstick, PLS

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Parcel name: RW-Take-Area

North:	2178526.9697	East :	5981655.7144
Line Course:	S 49-38-54 W	Length:	17.00
	North: 2178515.9626	East :	5981642.7589
Line Course:	N 49-10-05 W	Length:	381.01
	North: 2178765.0832	East :	5981354.4751
Line Course:	N 40-20-55 W	Length:	192.64
	North: 2178911.8978	East :	5981229.7529
Line Course:	N 49-39-05 E	Length:	24.60
	North: 2178927.8151	East :	5981248.5093
Line Course:	S 40-20-55 E	Length:	262.49
	North: 2178727.7740	East :	5981418.4485
Line Course:	N 46-51-05 E	Length:	40.86
	North: 2178755.7179	East :	5981448.2592
Line Course:	S 51-45-27 E	Length:	50.51
	North: 2178724.4526	East :	5981487.9296
Line Course:	S 40-21-08 E	Length:	259.13
	North: 2178526.9752	East :	5981655.7123

Perimeter: 1228.24 Area: 18,398 Sq Ft 0.422 Ac.

Mapcheck Closure - (Uses listed courses, radii, and deltas)  
Error Closure: 0.0058 Course: N 20-23-21 W  
Error North: 0.00546 East : -0.00203  
Precision 1: 211,763.79





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5

6 Attorneys for Defendant  
CITY OF SAN RAFAEL

FILING FEE EXEMPT PURSUANT TO  
GOVERNMENT CODE § 6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF MARIN

10  
11 FRANCISCO BOULEVARD  
INVESTORS, LLC,

12 Plaintiff,

13 v.

14 CITY OF SAN RAFAEL, et al.,

15 Defendant.  
16

Case No. CIV-2102789

**STIPULATION BETWEEN PLAINTIFF  
FRANCISCO BOULEVARD INVESTORS,  
LLC AND DEFENDANT CITY OF SAN  
RAFAEL**

JFAP: Honorable A. Sweet; Dept. E

Complaint Filed: 8/23/2021  
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1 Plaintiff Francisco Boulevard Investors, LLC (“Francisco”) and Defendant City of San  
2 Rafael (“City” and, together with Francisco, the “Parties”), by and through their counsel of  
3 record, hereby stipulate as follows:

4  
5 **RECITALS**

6 1. On or about June 18, 2019, the City sent Francisco a letter pursuant to Government  
7 Code section 7267.2 offering to purchase an approximately 18,398 square foot portion of that  
8 certain real property located at 700/740 Francisco Boulevard West, San Francisco (APN 018-014-  
9 66 and 018-014-67) (“Subject Property”) to facilitate the SMART Larkspur extension project and  
10 the City of San Rafael multi-use path project (“Project”). Francisco did not accept the City’s  
11 offer.

12 2. On August 23, 2021, Francisco filed a Complaint for Inverse Condemnation and  
13 Injunctive Relief against the City that alleges in relevant part that “[b]eginning on or about  
14 February 26, 2018, and without permission of or from plaintiff, and without payment of any  
15 compensation, defendant City caused [a portion of the Project] to be constructed . . . on plaintiff’s  
16 Properties.”

17 3. The Parties have met and conferred and, in the event that the City Council  
18 determines, in its sole and absolute discretion, to adopt a Resolution of Necessity and file a direct  
19 condemnation action to acquire the Subject Property from Francisco, hereby agree as follows:

20 **STIPULATIONS**

21 1. In the event that the City Council, in its sole and absolute discretion, decides to  
22 consider and adopt a Resolution of Necessity pursuant to Code of Civil Procedure sections  
23 1245.220 *et seq.* to acquire the Subject Property by eminent domain, Francisco hereby agrees to  
24 waive its right to challenge the City’s right to take the Subject Property for the Project by eminent  
25 domain. This waiver shall be deemed to have the same legal effect as a withdrawal of a deposit  
26 of probable compensation pursuant to Code of Civil Procedure section 1255.260.

27 2. In the event that (a) the City Council, in its sole and absolute discretion, decides to  
28 consider and adopt a Resolution of Necessity pursuant to Code of Civil Procedure sections  
SR #4894-6234-8311 v1

1 1245.220 *et seq.* to acquire the Subject Property by eminent domain, and (b) the City makes a  
2 deposit of probable just compensation pursuant to Code of Civil Procedure sections 1255.010 and  
3 1255.410, and (c) the City files a complaint in eminent domain to acquire the Subject Property,  
4 then the City will stipulate to Francisco's immediate withdrawal of the deposit of probable just  
5 compensation from the State's Condemnation Fund and Francisco will stipulate to the City taking  
6 immediate prejudgment possession of the Subject Property.


7 3. In the event that the City Council, in its sole and absolute discretion, decides to  
8 consider and adopt a Resolution of Necessity pursuant to Code of Civil Procedure sections  
9 1245.220 *et seq.* to acquire the Subject Property by eminent domain, and the City files a  
10 complaint in eminent domain to acquire the Subject Property, then City and Francisco both  
11 stipulate that said eminent domain action may be consolidated with the above-referenced action,  
12 Marin County Superior Court, Action No. CIV-2102789.

13 4. The Parties agree to execute and deliver such further stipulations and/or documents  
14 as may be reasonably necessary or appropriate to effectuate the intent of this Stipulation.

15 IT IS SO STIPULATED.

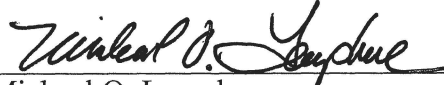
16 Dated: May 18, 2022

BURKE, WILLIAMS & SORENSEN, LLP

17 By:   
18 \_\_\_\_\_  
19 Nicholas J. Muscolino  
20 Attorneys for Defendant CITY OF SAN  
21 RAFAEL

22 Dated: May 18, 2022

LAMPHERE LAW OFFICES

23 By:   
24 \_\_\_\_\_  
25 Michael O. Lamphere  
26 Attorneys for Plaintiff FRANCISCO  
27 BOULEVARD INVESTORS, LLC  
28