

RESOLUTION NO. 2025-07

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE
RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY BY
EMINENT DOMAIN AND FINDING THE ACQUISITION EXEMPT FROM CALIFORNIA
ENVIRONMENTAL QUALITY ACT
(12105 San Joaquin Avenue, Clearlake, CA APN 037-171-100)**

THE CITY COUNCIL OF THE CITY OF CLEARLAKE DOES RESOLVE AND ORDER AS FOLLOWS:

Section 1. The property to be acquired by eminent domain is located in the City of Clearlake, County of Lake, is commonly known as a portion of 112105 San Joaquin Avenue, Clearlake, CA 95422, and identified by Assessor Parcel Number 037-171-100 ("Subject Property") to make way for the City's Gooseneck Landslide Emergency Repair Project ("Project"). The Subject Property to be acquired is further described and depicted in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. Legal authority for the acquisition described herein is set out in Government Code sections 37350.5 and 40404, inclusive, Article I, Section 19 of the California Constitution, and Code of Civil Procedure Sections 1230.010 *et seq.*

Section 3. The City has advised the property owners affected by the Project of the need for the Project and has offered the property owner an opportunity for a hearing before the City Council on February 20, 2025, pursuant to section 1245.235 of the Code of Civil Procedure, State of California.

Section 4. The Project and the need for acquisition of the Subject Property was the repair of a landslide which impacted Lakeshore Drive and the subject parent property of the property owners. The required work consisted of removing landslide debris, installing two soil nail walls to permanently stabilize the landslide areas, new guardrail installation on Lakeshore Drive, hydro seeding disturbed soil, and restoring the areas to as close to their original condition as possible.

Section 5. After consideration of the staff report, the staff presentation, oral testimony given, and all other evidence in the record, all of which is incorporated herein by this reference, the City Council of the City of Clearlake has found and determined each of the following to be true:

- a. *That the public interest, convenience and necessity require the acquisition of the proposed Subject Property for the benefit of the City's landslide repair Project and the ongoing maintenance of the public right of way.*
 1. The Project is necessary because a storm event in February of 2024 caused a land slide that threatened the integrity of Lakeshore Drive. Lakeshore Drive is one of the main routes for thousands of residents, who if this area of roadway failed would have to take an approximately one-hour detour to get to their homes.

2. A large portion of the land slide was in the City Right of Way, but it was impossible to repair only the area of the land slide in the City Right of Way and not encroach onto private property. If only the City Right of Way portion of the land slide was repaired, it would have failed because an area of the landslide the on the Subject Property would have still been unstable.
3. As a necessary part of the emergency stabilization of the slope encroaching onto the Subject Property a permanent retaining structure was constructed.
4. It is necessary to acquire the Subject Property so that the City may maintain this area and the permanent retaining structure to prevent further landslide events to the extent feasible.
5. Funding for the City Project is reimbursable through the State of California.
6. Under the requirements of CalTrans, because the City installed a permanent structure on the Subject Property the City must acquire the Subject Property as City Right of Way. If the City does not acquire the Subject Property for additional City Right of Way, the City will not get reimbursed for the construction costs which will be a substantial burden on the City's General Fund.
7. The Project will benefit the public by reducing the risk of further landslides potentially causing grave risks to motorists and impacting the safety and security of the public using Lakeshore Drive.

b. The Project is located in the manner that will be most compatible with the greatest public good and the least private injury.

Public Good:

1. The Subject Property presently abuts the existing right of way which can only be protected by ongoing maintenance of the permanent retaining structure located on the Subject Property if the Subject Property is acquired.
2. The City Project repairing the landslide area also served to protect the remainder of the Hulett property and their home. The Hulett's gave the City and its Contractor written permission to be on their property to fix the land slide and ultimately save their home.

Least Private Injury:

3. The Subject Property is a 790 square foot portion of land on the edge of a larger 17,860 square foot parcel.
4. After acquisition, the land area of the subject parent property will be enhanced with additional landslide protection from the City Project. The subject parent property home site will function in a similar fashion as in the "before" condition with no substantial impairment to the subject parent property. Property features such as drainage, present use, vehicular accessibility, configuration, highest and best use, along with overall building condition remain unchanged. There are no severance damages that will accrue to the remainder.
5. The Property Owner will be justly compensated for the partial fee take.

c. That the Subject Property sought to be acquired is necessary for the City's landslide

repair and ongoing landslide protection Project. Without the acquisition of the Subject Property, the City will not be able to proceed with the Project.

The Project cannot be permanently maintained without acquisition of the Subject Property. No reasonable design alternatives exist that would enable the City to accomplish the Project without acquiring the Subject Property.

- d. *That the offer required by section 7267.2 of the Government Code has been made to the owners of record of the property to be acquired.*
1. A statutory written offer letter was sent to the Property Owner on January 23, 2025.
 2. The offer required by Government Code Section 7267.2 has been made to the owners of record of the Subject Property, based on the appraisal for the fair market value of the Subject Property Interests prepared by Richard Thomas, a California Certified Real Estate Appraiser (“Appraisal Report”) that used a date of value of August 1, 2024 (“Date of Value”). Full appraisal reports and summaries thereof were prepared by the appraiser. A summary of the August 1, 2024 inspection and resulting appraisal report is attached hereto as Exhibit B and incorporated herein by this reference.
- e. *The acquisition of the Subject Property is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA). The City of Clearlake has fully complied with all requirements of the California Environmental Quality Act. The proposed acquisition of the Subject Property is in compliance with the City's General Plan.*
1. The Project is statutorily exempt under CEQA Guidelines section 15269, Emergency, subsection (f), as this Project was undertaken, carried out, and approved by the City to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring.
 2. The Project is Categorically Exempt under CEQA Guidelines section 15301 Class 1, Existing Facilities, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. Subsections (c) and (d) which state: (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes); (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is

determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood.

3. The Project is Categorical Exempt under CEQA Guidelines section 15301 Class 1, Existing Facilities, Class 1, subsection (f) which states: Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices.
4. The Project is Categorical Exempt under CEQA Guidelines section 15325, Class 25, Transfers of Ownership Of Interest In Land To Preserve Existing Natural Conditions And Historical Resources which consists of the transfers of ownership of interests in land in order to preserve open space, habitat, or historical resources, specifically subsection (c) Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.

Section 6. The Jones & Mayer law firm, City Attorneys for the City of Clearlake, are hereby authorized to commence and prosecute condemnation proceedings in a court of competent jurisdiction on behalf of the City of Clearlake to acquire the property. The City Attorney, or his designee, the City Manager, and all other officers and employees of the City of Clearlake are each hereby authorized to sign and verify all papers necessary to commence and prosecute said condemnation proceedings, to make application to said court for an order fixing the amount of security by money deposits as the court may direct, and to obtain an order permitting the City of Clearlake to take immediate possession and use of said real property prior to judgment, and to make deposit of such security of property funds in such amounts so fixed and determined in such manner as the court in which said condemnation proceedings are pending may direct.

ADOPTED AND APPROVED by the City Council of the City of Clearlake this 20th day of February, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: