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**RESOLUTION NO. 2022-32**

**A RESOLUTION OF NECESSITY BY THE CITY COUNCIL OF THE CITY OF  
ALBANY, CALIFORNIA, DECLARING THAT THE ACQUISITION OF THE  
EASEMENT INTEREST FOR THE EXISTING CROSS, AS WELL AS REMOVAL OF  
THE CROSS ITSELF, ON A PORTION OF ALBANY HILL PARK LOCATED ON THE  
WEST SIDE OF THE 700 BLOCK OF TAFT STREET, IDENTIFIED AS ASSESSOR  
PARCEL NOS. 066-2754-14-5, 066-2754-40-3, BY EMINENT DOMAIN, IS NECESSARY  
FOR ELIMINATION OF A POTENTIAL ESTABLISHMENT CLAUSE VIOLATION  
AND TO PROVIDE FOR AN UNENCUMBERED PUBLIC PARK IN  
THE CITY OF ALBANY, ALAMEDA COUNTY, CALIFORNIA**

**WHEREAS**, the City of Albany (the “City”) proposes to acquire the easement interest regarding ingress and egress for maintenance of an existing cross, as well as removal of the cross itself, on a portion of Albany Hill Park, more particularly described as Assessor Parcel Nos. 066-2754-14-5, 066-2754-40-3, in order for the elimination of a potential establishment clause violation and to provide for an unencumbered public park in the City of Albany, Alameda County, California, pursuant to the authority granted to it by section 37350.5 of the California Government Code and sections 1240.010, 1240.020 and 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Monday, April 4, 2022, at 7:00 p.m., to be held via Zoom conference, and gave to each affected person, or entity identified as having a possessory interest in the existing easement, 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 was held by the City and each person whose property interest 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.

1 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALBANY, CALIFORNIA,**  
2 **DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**  
3

4 **SECTION 1.** The recitals above and true and correct and are hereby adopted as findings by the  
5 City Council.  
6

7 **SECTION 2.** The City Council finds that this Resolution is not subject to the requirements of the  
8 California Environmental Quality Act (“CEQA”) for the following reasons:  
9

- 10 A. The Resolution is not a “project” within the meaning of Section 15378 of the State  
11 CEQA Guidelines. (See State CEQA Guidelines, § 1560, subd. (c)(3) [“An activity  
12 is not subject to CEQA if...[t]he activity is not a project as defined in Section  
13 15378”]. Here, the Resolution is not a “project” within the meaning of Section  
14 15378 because the Resolution has no potential “for resulting in a direct physical  
15 change in the environment, or a reasonably foreseeable indirect physical change in  
16 the environment,” as further discussed below. (State CEQA Guidelines, § 15738.)
- 17 B. In the alternative, and if a project, this Resolution is exempt under State CEQA  
18 Guidelines section 15061(b)(3), the common sense exemption, because it can be  
19 seen with certainty that there is no possibility that the activity in question may have  
20 a significant effect on the environment.

21 Notably, this Resolution will not result in any construction or development. Rather, this Resolution  
22 simply: (1) acquires the easement interest currently in favor of the Albany Lions Club, Lions  
23 International for ingress and egress to maintain an existing cross standing on a portion of the  
24 property; and (2) removes a standing cross from the property. For these reasons, the Resolution  
25 has no potential to result in a direct, or unforeseeable indirect, physical change in the environment,  
26 and it can be seen with certainty that there is no possibility that the activity in question may have a  
27 significant effect on the environment.

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**SECTION 3. Compliance with California Code of Civil Procedure and California**

**Environmental Quality Act.** There has been compliance by the City with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing and with the California Environmental Quality Act.

**SECTION 4. Public Use.** The public use for which the real property is required to be acquired by the City of Albany for the elimination of a potential establishment clause violation and to provide for an unencumbered public park in the City of Albany, Alameda County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

**SECTION 5. Description of Property.** Attached and marked as **Exhibit A** is the legal description and assessor map of the interest 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 6. Findings.** 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 real property described in **Exhibit A** is necessary for the proposed project;
- (d) The offers required by section 7267.2 of the California Government Code were made; and
- (e) The public use for this property is a more necessary use than the use for which the property is appropriated.

1  
2 **SECTION 7. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the  
3 underlying real property to be acquired is owned by the City as a public park. The legal descriptions  
4 regarding this ownership is on file with the City and describes the general location and extent of  
5 the public park sufficient detail for reasonable identification. In the event the herein described use  
6 or uses will not unreasonably interfere with or impair the continuance of the public use as it now  
7 exists or may reasonably be expected to exist in the future, counsel for the City is authorized to  
8 acquire the real property subject to such existing public use(s) pursuant to section 1240.510 of the  
9 California Code of Civil Procedure.

10  
11 **SECTION 8. More Necessary Public Use.** Some or all of the underlying real property to be  
12 acquired is owned by the City as a public park for existing public uses. The acquisition described  
13 herein is not believed to interfere with or impair the existing public use of the property. To the  
14 extent that the herein described use or uses will unreasonably interfere with or impair the  
15 continuance of the public use as it now exists or may reasonably be expected to exist in the future,  
16 the City finds and determines that the herein described use or uses are more necessary than said  
17 existing public use. Legal Counsel for the City is authorized to acquire the real property  
18 appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of  
19 Civil Procedure. Staff is further authorized to make such improvements to the real property being  
20 acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing  
21 public use.

22  
23 **SECTION 9. Further Activities.** Legal Counsel for the City is hereby authorized to file legal  
24 proceedings necessary to acquire the hereinabove described real property interest in the name of  
25 and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute  
26 such legal proceedings as may be required in connection therewith. Legal counsel is further  
27 authorized to take such steps as may be authorized and required by law, and to make such security

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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. Legal 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 transaction required to acquire the subject real property. Legal Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the reason for what the real property is being acquired.

**SECTION 10.** This Resolution supersedes all prior resolutions to the extent that such resolutions conflict with this Resolution

**SECTION 11. Effective Date.** This Resolution shall take effect upon adoption.

**PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on the 4th day of April, 2022, by the following vote:

**AYES: Council Members Gary, McQuaid, Nason, Tiedemann and Mayor Jordan**

**NOES: none**

**ABSENT: none**

**ABSTAINED: none**

  
\_\_\_\_\_  
PRESTON JORDAN, MAYOR

**EXHIBIT "A"**

**LEGAL DESCRIPTION  
RECORDED GRANT DEED  
AERIAL MAPS**

**Lots 1-18, Block 8, Map 00024, Page 70, Plat of Cerrito Hill, City of Albany, County of Alameda, State of California.**

**APN: 66-2754-14-5, 40-3**

RECORDED EASEMENT

RECORDING REQUESTED BY

OK- 220776-B  
TITLE INS. & TRUST COMPANY  
AND WHEN RECEIVED MAIL TO

ALBANY LIONS CLUB  
LIONS INTERNATIONAL  
c/o Mr. Hubert F. Call  
823 San Pablo Ave.  
Albany, California

RECORDED AT REQUEST OF

TITLE INSURANCE & TRUST CO.

At \_\_\_\_\_ Min. Past 4:00 P.M.

RE: 3497 IM: 152

AUG 24 1973

73-116351

OFFICIAL RECORDS OF  
ALAMEDA COUNTY, CALIFORNIA  
JACK G. BLUE  
County Recorder

SPACE ABOVE THIS LINE FOR RECORDERS USE

MAIL TAX STATEMENTS TO

SAME AS ABOVE

DOCUMENTARY TRANSFER TAX & NONP- Consideration \$180.  
... COMPUTED ON FULL VALUE OF PROPERTY CONVEYED.  
... OR COMPUTED ON FULL VALUE AS LISTED ...  
INSURANCES REMAINING AS OF 9/1/73  
Hubert F. Call  
Representative of Deedmaker or Agent of Recording Office.

EASEMENT

Grant Deed

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
HUBERT F. CALL AND RUTH L. CALL, HIS WIFE

hereby GRANT(S) to

ALBANY LIONS CLUB, LIONS INTERNATIONAL, A California Non-Profit Corporation

the following described real property in the CITY OF ALBANY  
County of ALAMEDA, State of California:

AN EASEMENT FOR INGRESS AND EGRESS TO MAINTAIN THE EXISTING CROSS STANDING ON A PORTION OF THE FOLLOWING DESCRIBED PREMISES:

Lots 1 through 18, in Block 8, as shown on a plat of Cerrito Hill, Alameda County, California, Filed in the office of the Recorder of said county on May 13, 1909, in Map Book 24, Page 70.

Excepting therefrom that portion thereof conveyed to the City of Albany, A Municipal Corporation, by Deed dated August 29, 1960, Recorded January 4, 1961, under Recorder's Series No. AS/637, Alameda County Records.

Dated August 17, 1973

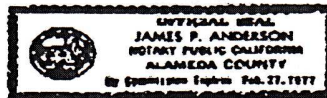
Hubert F. Call  
Hubert F. Call  
Ruth L. Call

STATE OF CALIFORNIA }  
COUNTY OF Alameda } ss.  
On August 17, 1973

I, \_\_\_\_\_, a Notary Public in and for said State, personally appeared Hubert F. Call and Ruth L. Call

known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same. WITNESS my hand and official seal.

Signature: James P. Anderson  
Name (Typed or Printed): James P. Anderson



Title Order No. \_\_\_\_\_ Record or Loan No. \_\_\_\_\_

MAIL TAX STATEMENTS AS DIRECTED ABOVE

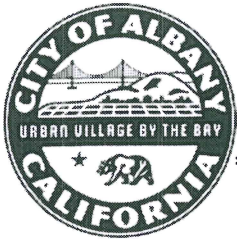
AERIAL VIEW





# AERIAL VIEW





# City of Albany

1000 San Pablo Avenue • Albany, California 94706  
(510) 528-5710 • [www.albanyca.org](http://www.albanyca.org)

**RESOLUTION NO. 2022-32**

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 4th day of April, 2022, by the following votes:

AYES: Council Members Gary, McQuaid, Nason, Tiedemann and Mayor Jordan

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 5th  
day of April, 2022.

Anne Hsu  
CITY CLERK