

## **RESOLUTION NO. 2013-053**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK ACCEPTING TWO (2) RIGHTS OF ENTRY FROM THE SONOMA LAND ACQUISITION COMPANY, LLC, FOR THE PURPOSE OF CONSTRUCTION STAGING FOR THE WILFRED AVENUE IMPROVEMENT PROJECT NO. 2010-05 (APN 045-074-007 & APN 045-074-001)**

**WHEREAS**, the Sonoma Land Acquisition Company, LLC, owns properties located along Wilfred Avenue (APN 045-074-007 & APN 045-074-001).

**WHEREAS**, the widening of Wilfred Avenue/Golf Course Drive West is called for in the City's and County's general plan.

**WHEREAS**, the City of Rohnert Park entered into a Joint Exercise of Powers Agreement ("JEPA") with Sonoma County representatives, and the Federated Indians of Graton Rancheria ("Tribe") to facilitate the road widening of Wilfred Avenue (hereinafter Wilfred Avenue Improvement Project).

**WHEREAS**, the JEPA provides for the Tribe, on behalf of the City, to facilitate the City's acquisition of right of way necessary for the Wilfred Avenue Improvement Project via voluntary grants.

**WHEREAS**, the Tribe has negotiated the rights of entry for two parcels along Wilfred Avenue for the purpose of temporary construction staging for the Wilfred Avenue Improvement Project.

**WHEREAS**, the Rights of Entry includes certificates of acceptance.

**WHEREAS**, the City desires to accept the Rights of Entry consistent with the Project.

**WHEREAS**, the Wilfred Avenue Improvement Project was previously approved by the City pursuant to a Notice of Exemption on September 25, 2012. The City filed a notice of exemption with the County Clerk on September 26, 2012, who posted it that same day through October 29, 2012. The temporary construction staging proposed herein was anticipated in the approval of the Wilfred Avenue Improvement Project and is a subsequent action toward implementing said project. Accepting the proposed Rights of Entry does not involve any substantial changes to the Project, nor would such acceptance cause new or more severe environmental impacts. For those reasons, neither the obligation to comply with CEQA nor the statute of limitations on that prior action is re-triggered by this action toward implementing the project.

**WHEREAS**, this action is exempt from compliance with the provisions of Government Code 65402 because this action involves the temporary use of real property acquisition for street alignment purposes and is minor in nature.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rohnert Park that it does hereby resolve, determine, find and order as follow:

Section 1. Acceptance of Rights of Entry. The City Council of the City of Rohnert Park hereby accepts the attached Rights of Entry, in substantially similar form as provided for in the attachment hereto subject to minor modification by the City Attorney, which is incorporated by this reference, from the Sonoma Land Acquisition Company, LLC, for property located at 104 & 186 Wilfred Avenue also known as Assessor Parcel Numbers 045-074-007 & 045-074-001, respectively.

Section 2. Section 65402 Compliance. The acquisition of said property is exempt from compliance with the provisions of Government Code 65402 because this action involves the temporary use of real property for street alignment purposes and is minor in nature.

Section 3. Mayoral Authorization. The Mayor of the City of Rohnert Park is hereby authorized and directed to execute the attached Rights of Entry, in substantially similar form as provided for in the attachment hereto, which is incorporated by this reference, for and on behalf of the City of Rohnert Park.

**DULY AND REGULARLY ADOPTED** this 26th day of March, 2013.



**CITY OF ROHNERT PARK**

Pam Stafford  
Pam Stafford, Mayor

**ATTEST:**

JoAnne Buergler  
JoAnne Buergler, City Clerk

Attachments:

- A. Rights of Entry for APN 045-074-007
- B. Rights of Entry for APN 045-074-001

AHANOTU: AYE BELFORTE: AYE MACKENZIE: AYE CALLINAN: AYE STAFFORD: AYE  
AYES: ( 5 ) NOES: ( 0 ) ABSENT: ( 0 ) ABSTAIN: ( 0 )

RIGHT OF ENTRY

Project: Wilfred Avenue Improvement Project  
APN: 045-074-007  
Property Address: 104 Wilfred Avenue

Sonoma Land Acquisition Company, LLC, a California limited liability company ("Owner"), is the owner of the above-referenced real property ("Property") and does hereby grant permission to City of Rohnert Park ("City"), and its agents, employees, contractors and assigns, to enter upon the Property for purposes related to the Wilfred Avenue Improvement Project and all necessary incidents thereto ("Project").

This Right of Entry shall be for a term of 19 months or until completion of the Project, whichever is sooner, commencing on April 1, 2013. During this time, City, and its agents, assigns, employees and contractors shall use the Property as a temporary work space and staging area in connection with the Project and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of such rights, including the right of reasonable access to and from the area. Owner will not erect any structure, fence, sign, or other permanent obstruction within the Property during the term of this Right of Entry.

Following completion of its use of the Property pursuant to this Right of Entry, City will cause the Property to be restored to the same condition, to the extent reasonably practicable, as it was prior to City's use.

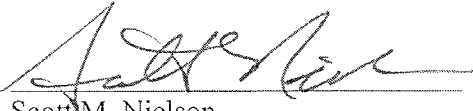
During the term of this Right of Entry, Owner agrees not to assign, sell, encumber or transfer any interest in the property without first obtaining the written consent of City. Owner further agrees that City may record a memorandum of this Agreement.

This Right of Entry shall bind and benefit the parties and their respective successors and assigns, regardless of whether such successors and assigns expressly agree to be bound by the Right of Entry. This Right of Entry is the entire understanding between the parties and supersedes any prior agreements or understandings whether oral or written. This Right of Entry may not be amended except by a written instrument executed by both parties. If any provision of this Right of Entry shall be held to be violative of any applicable law or unenforceable for any reason, the invalidity or unenforceability of any such provision shall not invalidate or render unenforceable any other provision hereof, which shall remain in full force and effect.

The parties have caused this Agreement to be duly executed by their respective duly authorized officers or representatives as of the date(s) set forth below.

**FOR:**

**SONOMA LAND ACQUISITION COMPANY, LLC,  
a California limited liability company ("Owner")**

By:   
Scott M. Nielson  
Senior Vice President

Dated: 2/27/13

**FOR: CITY OF ROHNERT PARK ("City"):**

PAM STAFFORD, MAYOR

By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

MICHELLE MARCHETTA KENYON, CITY ATTORNEY

By: \_\_\_\_\_  
City Attorney

Dated: \_\_\_\_\_

Attachment B

RIGHT OF ENTRY

Project: Wilfred Avenue Improvement Project

APN: 045-074-001

Property Address: 186 Wilfred Avenue

Sonoma Land Acquisition Company, LLC, a California limited liability company ("Owner"), is the owner of the above-referenced real property ("Property") and does hereby grant permission to City of Rohnert Park ("City"), and its agents, employees, contractors and assigns, to enter upon the Property for purposes related to the Wilfred Avenue Improvement Project and all necessary incidents thereto ("Project").

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**FOR:**

**SONOMA LAND ACQUISITION COMPANY, LLC,**  
a California limited liability company ("Owner")

By:   
Scott M. Nielson  
Senior Vice President

Dated: 2/27/13

**FOR: CITY OF ROHNERT PARK ("City"):**

PAM STAFFORD, MAYOR

By: \_\_\_\_\_  
Mayor

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

MICHELLE MARCHETTA KENYON, CITY ATTORNEY

By: \_\_\_\_\_  
City Attorney

Dated: \_\_\_\_\_