

CITY OF MOUNTAIN VIEW
RESOLUTION NO.
SERIES 2019

A RESOLUTION TO DETERMINE THE NECESSITY TO ACQUIRE A PORTION OF PROPERTY LOCATED AT 790 SHORELINE BOULEVARD (APN 150-31-002) BY EMINENT DOMAIN FOR THE CONSTRUCTION OF THE SHORELINE BOULEVARD REVERSIBLE BUS LANE 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)

WHEREAS, the City Council has determined that the City of Mountain View ("City") needs to acquire certain property interests in order to construct the Shoreline Boulevard Reversible Transit Lane Project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Mountain View, by a vote of two-thirds or more of its members, finds, determines, declares, and resolves the following:

1. The City intends to construct the Shoreline Boulevard Reversible Bus Lane Project ("Project"), which is part of a phased program of transportation improvements to accommodate anticipated increases in employment and development in the North Bayshore Area. The Project will install a dedicated, center-running, reversible bus lane to reduce transit travel time and improve transit efficiency and reliability, protected bicycle lanes, and pedestrian improvements. The Project is for public use;

2. To construct the Project, the City needs to acquire approximately 100 square feet of that certain privately owned property known as 790 Shoreline Boulevard, Mountain View, California (APN 150-31-002), more particularly described and depicted in Exhibit A, attached to this Resolution and incorporated herein ("Property"). The Property is necessary to the completion of the Project;

3. The City also needs to acquire an approximately 200-square-foot temporary construction easement 10' in width directly adjacent and parallel to the Property for construction staging purposes ("Easement"). The Easement is located on APN 150-31-002 and is necessary to the completion of the Project;

4. The City is authorized to acquire the Property and Easement 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 and Highway Code Section 10102; and other provisions of law;

5. The Easement shall commence no fewer than 30 days after written notice is provided by the City to the owner of APN 150-31-002 reflecting the City's intent to make use of the Easement. The Easement shall terminate five months after the City takes possession of the Easement or immediately upon written notice by the City to the Property owner that the City no longer requires use of the Easement, whichever is sooner;

6. On May 7, 2019, the City mailed a Notice of Intention to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property and Easement, 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 or Easement area 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;

7. The hearing referenced in the Notice of Intention was held on May 23, 2019, 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;

8. Based upon the evidence presented at the hearing, the City Council of the City of Mountain View 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 and Easement sought to be acquired by eminent domain are necessary for the proposed Project;
- c. The proposed 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 and Easement described herein as well as any other matter regarding the right to take said Property and Easement 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 and Easement described herein when on March 21, 2017, the City certified an Addendum to the North Bayshore Precise Plan Final Environmental Report for the Shoreline Boulevard Bus Lane and Utility Improvements, Project 16-58;

9. The City Attorney is hereby authorized to acquire, in the name of the City, the Property and Easement 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 and Easement for the Project, and to take all necessary steps to acquire the Property and Easement under the law.

DPD/6/RESO
930-05-23-19r

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

EXHIBIT "A"
LEGAL DESCRIPTION

All that real property situate in the City of Mountain View, County of Santa Clara, State of California, being a portion of the land described in the GRANT DEED from Equilon Enterprises LLC d/b/a Shell Oil Products US to Nakash Enterprises, LLC, recorded August 24th, 2010 as DOCUMENT 20830429, Official Records of Santa Clara County, more particularly described as:

Beginning at a point on the westerly right-of-way of N. Shoreline Blvd, thence along said right-of-way North 01°10'36" East, a distance of 25.35 feet to the beginning of a tangent curve to the left; having a radius of 25.00 feet with a chord bearing of North 28°08'29" West and a chord distance of 24.48 feet;

Thence continuing along the south right-of-way line of W. Middlefield Rd northwesterly along said curve through a central angle of 58°38'10", an arc length of 25.58 feet;

Thence along the southwesterly right-of-way line of W. Middlefield Rd North 57°27'34" West, a distance of 10.23 feet;


Thence leaving the right-of-way line of W. Middlefield Rd the following three (3) course, curves, and distances:

- 1. South 46°14'36" East a distance of 14.38 feet to the beginning of a tangent curve to the right, having a radius of 24.00 feet with a chord bearing of South 25°09'52" East, and a chord distance of 17.26 feet;**
- 2. Southeasterly along said curve through a central angle of 42°09'29", an arc length of 17.66 feet;**
- 3. South 04°05'08" East, a distance of 26.93 feet to the Point of Beginning.**

Containing 100 square feet or 0.00 acres, more or less.

Assessor's Parcel Number: 150-31-002

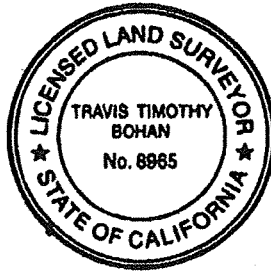
This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Travis Timothy Bohan, LS 8965

July 17, 2017

Date



Rancho, Pastoria
De Los Borregas

W. MIDDLEFIELD RD

LINE TABLE

- L1 N01°10'36"E 25.35'
- L2 N57°27'34"W 10.23'
- L3 S46°14'36"E 14.38'
- L4 S04°05'08"E 26.93'

0.00 Ac
100± sf

CURVE TABLE

- R=25.00'
- Δ=058°38'10"
- C1 L=25.58'
- CB=N28°08'29"W
- CH=24.48'
- R=24.00'
- Δ=042°09'29"
- C2 L=17.66'
- CB=S25°09'52"E
- CH=17.26'

POB

N. SHORELINE BLVD

Hadad Petroleum INC.

APN 150-31-002
Doc 22782363

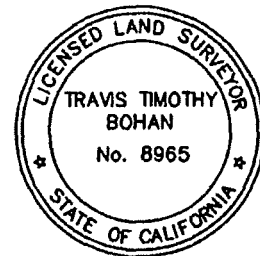


LEGEND

- POB POINT OF BEGINNING
- CB CHORD BEARING
- CH CHORD DISTANCE
- DIMENSION POINT
- ▨ AREA TO BE ACQUIRED



SCALE 1" = 40'



Travis T. Bohan

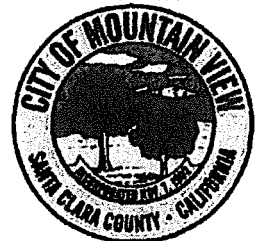
SHEET 1 OF 1

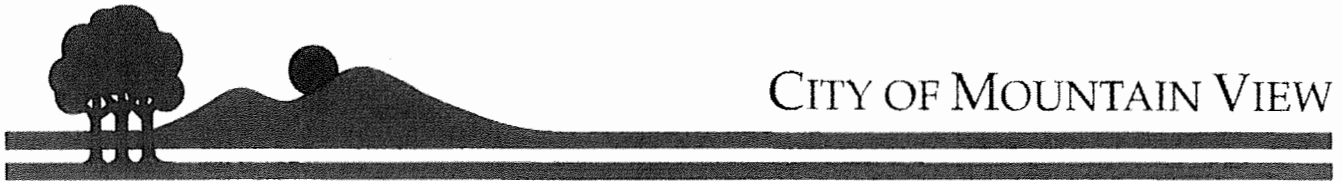


MARK THOMAS

Scale: 1" = 40'
Date July 2017
Drawn By ADB
Checked By TTB

APN 150-31-002
Plat to Accompany Legal Description
In the City of Mountain View
Santa Clara County, California





CITY OF MOUNTAIN VIEW

OFFICE OF THE CITY CLERK

500 Castro Street • Post Office Box 7540 • Mountain View • California • 94039-7540
650-903-6304 • Fax 650-962-8504

May 7, 2019

Mr. Ali Bozorghadad
Hadad Petroleum, Inc.
700 South Bernardo Avenue, No. 3103
Sunnyvale, CA 94087

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

Dear Mr. Bozorghadad:

Notice of Hearing Regarding Adoption of a Resolution of Necessity to Acquire Property and Temporary Construction Easement by Eminent Domain (California Code of Civil Procedure Section 1245.235).

- 1. Notice of the Intent of the City of Mountain View to Adopt a Resolution of Necessity and Hearing.** The City Council of the City of Mountain View ("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 Mountain View ("City") to acquire the real property and temporary construction easement described herein (collectively, the "Property") by eminent domain ("the right to take") for the construction of the Shoreline Boulevard Reversible Transit Lane Project, which will install a dedicated, center-running, reversible bus lane in the center of Shoreline Boulevard to improve transit efficiency and reliability (the "Project"). Enclosed as **Exhibit A** is a legal description and plat map depicting the property the City needs to acquire in fee for the Project. In addition, the City needs to acquire a temporary construction easement 10' in width, adjacent and parallel to the real property described and depicted in **Exhibit A**.

You are being sent this notice because your name appears on the last Equalized County Assessment Roll for the Property.

DATE AND TIME: May 23, 2019 at 5:30 p.m. or as soon as the matter may be heard (please note this is one hour earlier than normal)

PLACE: Council Chambers at City Hall
500 Castro Street
Mountain View, CA 94041

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. 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, Section 200 of the Mountain View City Charter, Article 1, Section 19, of the California Constitution, Section 10102 of the Streets and Highways Code, the California Eminent Domain Law, Code of Civil Procedure Sections 1230.010 *et seq.*, and Section 37350.5 of the California Government Code;

Hadad Petroleum, Inc.
May 7, 2019
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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 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, P.O. Box 7540, Mountain View, California, 94039-7540.

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 California Code of Civil Procedure Section 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. 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 for the Property or to be offered to you.

Dated and mailed on: May 7, 2019

CITY OF MOUNTAIN VIEW

By: 
City Clerk

DPD/1/PWK/930-05-23-19N/DL

Enclosure: Legal Description and Plat Map (Exhibit A)