

CITY OF MOUNTAIN VIEW
RESOLUTION NO.
SERIES 2019

AN AMENDED RESOLUTION TO DETERMINE THE NECESSITY TO ACQUIRE A PORTION OF PROPERTY LOCATED AT 808 SHORELINE BOULEVARD (APN 153-14-002) BY EMINENT DOMAIN FOR THE CONSTRUCTION OF THE SHORELINE BOULEVARD REVERSIBLE TRANSIT 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 ("Project"); and

WHEREAS, on May 23, 2019, the City Council adopted Resolution No. 18334, which determined the necessity of acquiring the Property (as defined below) for the Project. Although Resolution No. 18334 included the correct legal description of the Property, it attributed the wrong square footages to the Property and Easement (defined below); and

WHEREAS, the City Council now desires to amend Resolution No. 18334 to specify the correct square footages for the Property and Easement, and to otherwise affirm its finding that the City needs to acquire the Property and Easement in order to construct the Project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Mountain View, by vote of two-thirds or more of its members, FINDS, DETERMINES, DECLARES, AND RESOLVES the following:

1. The City intends to construct the 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 a public use.

2. To construct the Project, the City needs to acquire approximately 1,215 square feet of that certain privately owned property known as 808 North Shoreline Boulevard, Mountain View, California (APN 153-14-002) more particularly described and depicted

on 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 1,800 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 153-14-002 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 & 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 153-14-002 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 July 8, 2019, the City mailed a Notice of Intention to Adopt an Amended Resolution of Necessity for acquisition by eminent domain of the Property and Easement, which notice is attached hereto as Exhibit B, and incorporated herein (“Notice”). The Notice 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 advised the persons of their right to be heard on the matters referred to in the Notice on the date and at the time and place stated.

7. The hearing referenced in the Notice was held on July 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/5/RESO
930-07-23-19r

- 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 Lot 21, as shown on TRACT NO. 2736, MOUNTAIN VIEW INDUSTRIAL PARK, filed July 20, 1961 in Book 135 of Maps at Pages 32-33, Santa Clara County Records, said Lot 21 described in the GRANT DEED from WALTER W. LEAMAN, dba LEAMAN INDUSTRIES, to CHEVRON U.S.A. INC., recorded April 7, 1988, in book K494 page 2155, Official Records of Santa Clara County more particularly described as:

Beginning at the northeasterly corner of said Lot 21, also being a point on the westerly right of way line of N. Shoreline Blvd. (formerly Stierlin Rd., as shown on said TRACT NO. 2736); thence along said westerly right of way line the following two (2) course, curves, and distances:

1. South $01^{\circ}10'36''$ West a distance of 173.01 feet to the beginning of a tangent curve concave to the northwest, having a radius of 25.00 feet and a chord bearing South $48^{\circ}35'37''$ West a distance of 36.81 feet; thence
2. southwesterly through a central angle of $94^{\circ}50'00''$, a distance of 41.38 feet along said curve to a point of cusp and the beginning of a non-tangent curve concave to the northwest, having a radius of 22.00 feet and a chord bearing North $48^{\circ}07'25''$ East, a distance of 25.63 feet;

thence leaving said westerly right of way line the following five (5) courses, curves, and distances:

1. northeasterly through a central angle of $71^{\circ}15'33''$, 27.63 feet along said curve; thence
2. North $12^{\circ}29'39''$ East a distance of 20.36 feet; thence
3. North $01^{\circ}11'03''$ East a distance of 90.46 feet; thence
4. North $88^{\circ}48'57''$ West a distance of 4.00 feet; thence
5. North $01^{\circ}11'03''$ East a distance of 70.00 feet to the northerly line of said Lot 21;

thence along said northerly line, South 88°49'24" East 8.36 feet to the Point of Beginning.

Containing 1,215 square feet or 0.03 acres, more or less.

Subject to an Anchor Easement, as shown on said TRACT NO. 2736.

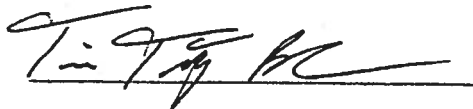
Subject to an easement for electrical facilities to Pacific Gas and Electric Company and Pacific Bell, recorded May 25, 1988 in Book K547 Page 1595, Official Records of Santa Clara County.

Subject to an easement for a water pipe line to the City of Mountain View, recorded December 8, 1959 in Book 4629 Page 366, Official Records of Santa Clara County.

Subject to a Public Street and Utilities easement to the City of Mountain View, recorded August 29, 1960 in Book 4901 Page 147, Official Records of Santa Clara County.

Assessor's Parcel Number: 153-14-002

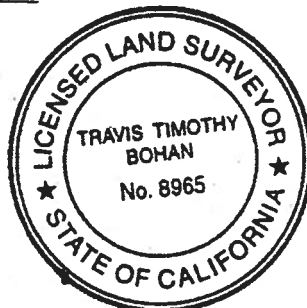
This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Travis Timothy Bohan, LS 8965

FEB. 27 2018

Date



LEGEND

- CB CHORD BEARING
- CH CHORD DISTANCE
- POB POINT OF BEGINNING
- ROW RIGHT OF WAY
- TM TRACT MAP
- DIMENSION POINT
- ▭ PARCEL TO BE ACQUIRED
- ▨ EASEMENT WITHIN PROPOSED RIGHT OF WAY

CURVE TABLE

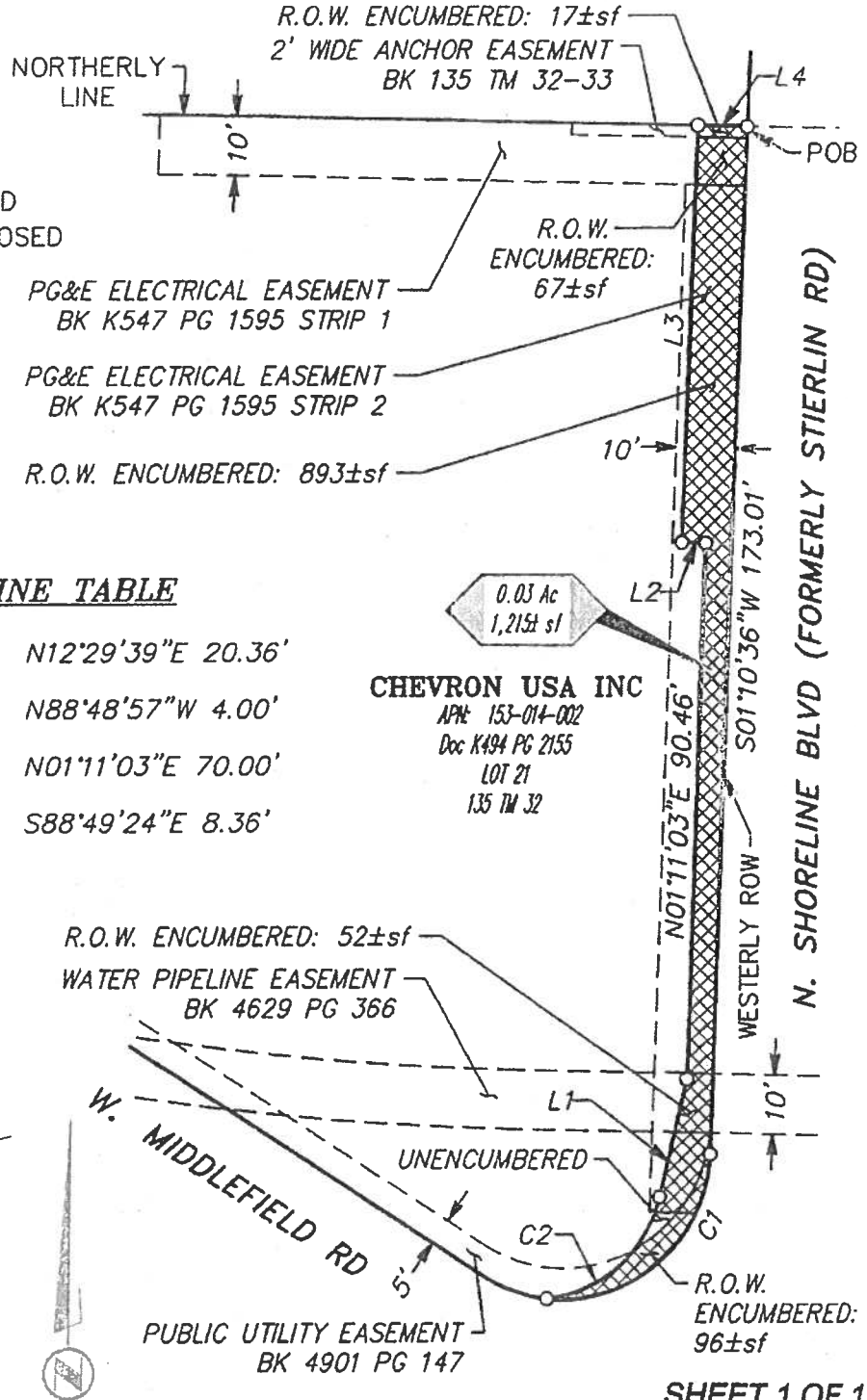
$R=25.00'$
 $\Delta=94^{\circ}50'00''$
 C1 $L=41.38'$
 $CB=S48^{\circ}35'37''W$
 $CH=36.81'$

$R=22.00'$
 $\Delta=71^{\circ}15'33''$
 C2 $L=27.36'$
 $CB=N48^{\circ}07'25''E$
 $CH=25.63'$

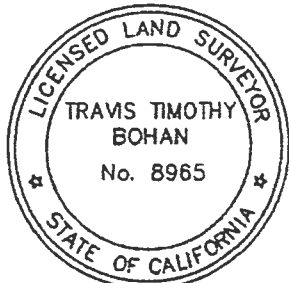
LINE TABLE

- L1 $N12^{\circ}29'39''E$ 20.36'
- L2 $N88^{\circ}48'57''W$ 4.00'
- L3 $N01^{\circ}11'03''E$ 70.00'
- L4 $S88^{\circ}49'24''E$ 8.36'

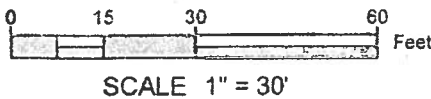
SECTION 16,
 T.6S., R.2W. M.D.B. & M.



CHEVRON USA INC
 APN: 153-014-002
 Doc K494 PG 2155
 LOT 21
 135 TM 32



Travis Timothy Bohan
 FEB. 27, 2018



SHEET 1 OF 1

MARK THOMAS

Scale: 1" = 30'
 Date Feb 2018
 Drawn By BRM/MSW
 Checked By TTB

Exhibit B
 APN 153-014-002
 Plat to Accompany Legal Description
 In the City of Mountain View
 Santa Clara County, California



Exhibit B
Notice of Intention



CITY OF MOUNTAIN VIEW

PUBLIC WORKS DEPARTMENT

500 Castro Street • Post Office Box 7540 • Mountain View • California • 94039-7540
650-903-6311 • Fax 650-962-8503

July 8, 2019

Chevron U.S.A. Inc.
6001 Bollinger Canyon Road
San Ramon, CA 94583

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE REGARDING FURTHER CITY COUNCIL HEARING TO ADOPT AMENDED
RESOLUTION OF NECESSITY

To Whom It May Concern:

As you may know, on May 23, 2019, the City Council of the City of Mountain View adopted a Resolution of Necessity to acquire a portion of your property located at 808 Shoreline Boulevard (APN 153-14-002), specifically, a fee interest consisting of approximately 1,215 square feet ("Fee Take") together with a nonexclusive temporary construction easement of approximately 1,800 square feet that is 10' in width directly adjacent and parallel to the Fee Take for a five-month period as is reasonably necessary to construct the Project ("TCE," and together with the Fee Take, the "Subject Property").

However, City staff subsequently noticed that the draft Resolution of Necessity in the agenda packet for the May 23, 2019 meeting contained the wrong square footages for the Fee Take and TCE. Although the correct square footages were set forth in the staff report, the notice of hearing on the resolution of necessity, the appraisal summary report attached to the May 23 letter, and in each of the legal descriptions attached thereto, the City Council will meet to formally adopt an amended Resolution of Necessity to eliminate any possibility of confusion regarding the Subject Property.

The offer extended to you for the Subject Property by letter dated May 23, 2019 remains open. As previously indicated, the City would like to resolve this matter with you by agreement, as the City believes that a negotiated purchase best serves everyone's interests. With this letter, the City is also enclosing a notice of intention of the City of Mountain View to consider the adoption of the amended resolution of necessity at the July 23, 2019 City Council meeting.

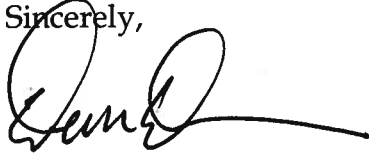
Chevron U.S.A. Inc.

July 8, 2019

Page 2

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis P. Drennan", with a long horizontal flourish extending to the right.

Dennis P. Drennan

Real Property Program Administrator

DPD/6/PWK

930-07-08-19L

Enclosure

cc (w/e): Sean O'Connor, Esq. (via e-mail)

Benjamin L. Stock, Esq.

CA, PWD, APWD – Cameron

Chevron U.S.A. Inc.
6001 Bollinger Canyon Road
San Ramon, CA 94583

**NOTICE OF INTENTION TO ADOPT AN AMENDED 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**

City of Mountain View

NOTICE OF HEARING REGARDING ADOPTION OF AN AMENDED 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 an Amended Resolution of Necessity and Hearing.** The City Council of the City of Mountain View ("City Council") intends to hold a hearing to consider whether an amended 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 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"). Attached hereto as Exhibit A is a legal description and plat map depicting the approximately 1,215 square foot property City needs to acquire in fee for the Project. In addition, City needs to acquire nonexclusive temporary construction easement of approximately 1,800 square feet that is 10' in width directly adjacent and parallel to the real property described and depicted in Exhibit A for a five-month period as is reasonably necessary to construct the Project.

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

DATE OF HEARING: July 23, 2019

TIME OF HEARING: 6:30 p.m., or as soon as the matter may be heard

PLACE OF HEARING: Council Chambers
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 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 City has fully complied with the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*

The statutes that authorize 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, Section 10102 of the Streets and Highway Code, Sections 40404 and 37350.5 of the Government Code, and Section 1230.010, *et seq.* of the Code of Civil Procedure.

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 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 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 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 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.

CITY OF MOUNTAIN VIEW

By: 
City Clerk

Dated and mailed on: July 8, 2019

DPD/6/PWK
930-07-08-19N

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 Lot 21, as shown on TRACT NO. 2736, MOUNTAIN VIEW INDUSTRIAL PARK, filed July 20, 1961 in Book 135 of Maps at Pages 32-33, Santa Clara County Records, said Lot 21 described in the GRANT DEED from WALTER W. LEAMAN, dba LEAMAN INDUSTRIES, to CHEVRON U.S.A. INC., recorded April 7, 1988, in book K494 page 2155, Official Records of Santa Clara County more particularly described as:

Beginning at the northeasterly corner of said Lot 21, also being a point on the westerly right of way line of N. Shoreline Blvd. (formerly Stierlin Rd., as shown on said TRACT NO. 2736); thence along said westerly right of way line the following two (2) course, curves, and distances:

1. South $01^{\circ}10'36''$ West a distance of 173.01 feet to the beginning of a tangent curve concave to the northwest, having a radius of 25.00 feet and a chord bearing South $48^{\circ}35'37''$ West a distance of 36.81 feet; thence
2. southwesterly through a central angle of $94^{\circ}50'00''$, a distance of 41.38 feet along said curve to a point of cusp and the beginning of a non-tangent curve concave to the northwest, having a radius of 22.00 feet and a chord bearing North $48^{\circ}07'25''$ East, a distance of 25.63 feet;

thence leaving said westerly right of way line the following five (5) courses, curves, and distances:

1. northeasterly through a central angle of $71^{\circ}15'33''$, 27.63 feet along said curve; thence
2. North $12^{\circ}29'39''$ East a distance of 20.36 feet; thence
3. North $01^{\circ}11'03''$ East a distance of 90.46 feet; thence
4. North $88^{\circ}48'57''$ West a distance of 4.00 feet; thence
5. North $01^{\circ}11'03''$ East a distance of 70.00 feet to the northerly line of said Lot 21;



thence along said northerly line, South 88°49'24" East 8.36 feet to the Point of Beginning.

Containing 1,215 square feet or 0.03 acres, more or less.

Subject to an Anchor Easement, as shown on said TRACT NO. 2736.

Subject to an easement for electrical facilities to Pacific Gas and Electric Company and Pacific Bell, recorded May 25, 1988 in Book K547 Page 1595, Official Records of Santa Clara County.

Subject to an easement for a water pipe line to the City of Mountain View, recorded December 8, 1959 in Book 4629 Page 366, Official Records of Santa Clara County.

Subject to a Public Street and Utilities easement to the City of Mountain View, recorded August 29, 1960 in Book 4901 Page 147, Official Records of Santa Clara County.

Assessor's Parcel Number: 153-14-002

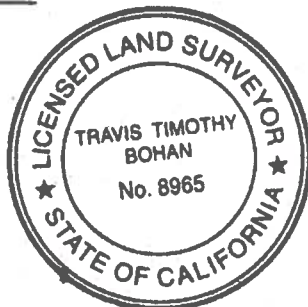
This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Travis Timothy Bohan, LS 8965

FEB. 27, 2018

Date





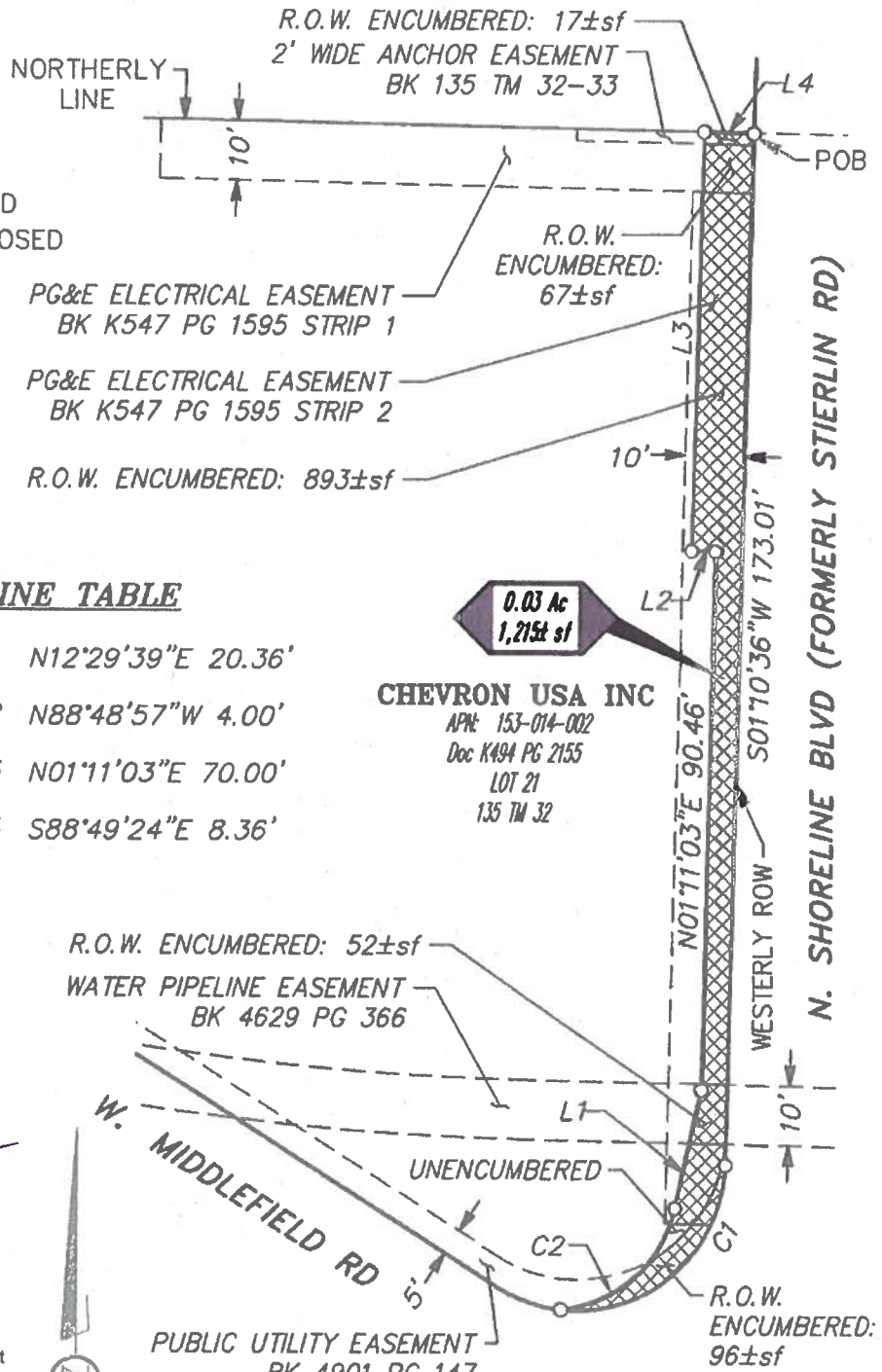
LEGEND

- CB CHORD BEARING
- CH CHORD DISTANCE
- POB POINT OF BEGINNING
- ROW RIGHT OF WAY
- TM TRACT MAP
- o DIMENSION POINT
- ▭ PARCEL TO BE ACQUIRED
- ▨ EASEMENT WITHIN PROPOSED RIGHT OF WAY

CURVE TABLE

- R=25.00'*
Δ=94°50'00"
C1 *L=41.38'*
CB=S48°35'37"W
CH=36.81'
- R=22.00'*
Δ=71°15'33"
C2 *L=27.36'*
CB=N48°07'25"E
CH=25.63'

**SECTION 16,
T.6S., R.2W. M.D.B. & M.**

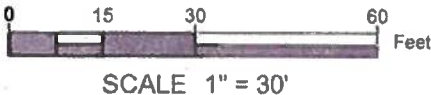


LINE TABLE

- L1 N12°29'39"E 20.36'
- L2 N88°48'57"W 4.00'
- L3 N01°11'03"E 70.00'
- L4 S88°49'24"E 8.36'



Travis Bohan
FEB. 27, 2018



SHEET 1 OF 1

MARK THOMAS

Scale: 1" = 30'
 Date Feb 2018
 Drawn By BRM/MSW
 Checked By TTB

Exhibit B
 APN 153-014-002
 Plat to Accompany Legal Description
 In the City of Mountain View
 Santa Clara County, California

