

DRAFT RESOLUTION

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO DETERMINE THE NECESSITY TO ACQUIRE PROPERTY BY EMINENT DOMAIN FOR THE SHANNON ROAD CAPITAL IMPROVEMENT PROJECT; TO AUTHORIZE COMMENCEMENT OF LITIGATION TO ACQUIRE PROPERTY BY EMINENT DOMAIN; AND TO SEEK AN ORDER OF PREJUDGMENT POSSESSION (CODE OF CIVIL PROCEDURE SECTION 1245.220)

Property Owner: John W. Hoffee
Property Address: 14915 Shannon Road, Los Gatos, CA (portion)
APN: 537-27-047

WHEREAS, the Town of Los Gatos proposes to acquire a portion of that certain real property located in the Town of Los Gatos, County of Santa Clara, State of California that is designated Assessors Parcel No. 537-27-047 (“Larger Parcel”). Specifically, an approximately 29,807 square foot portion of the Larger Parcel comprised of (a) an approximately 21,929 square foot strip of land within the Town’s existing Shannon Road right of way; and (b) an approximately 7,878 square foot strip of land along the Larger Parcel’s frontage on Shannon Road, as more particularly described and depicted in Exhibit A incorporated herein by reference (the “Subject Property”) for the Shannon Road Capital Improvement Project (“Project”);

WHEREAS, the Project will repair the roadbed and bring the road into compliance with existing Town standards, including by increasing the width of the paved road surface, installing guardrails, and installing retaining walls on the north side of Shannon Road;

WHEREAS, the Town is vested with the power of eminent domain to acquire real property interests 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 section 37350.5; Streets & Highway Code section 10102; and other provisions of law;

WHEREAS, the Town fully complied with the requirements of the California Environmental Quality Act (Public Resources Code sections 21000 *et seq.*) for acquiring the Subject Property when on September 4, 2024, the Town determined that the Project is categorically exempt from CEQA pursuant to 14 California Code of Regulation, sections 15301 (Existing Facilities Exemption) and 15061(b)(3) (Common Sense Exemption). The Town filed the Notice of Exemption in accordance with Public Resources Code section 21152 on September 10, 2024. No further environmental review is required;

WHEREAS, the Subject Property was appraised by an independent real estate appraiser and an amount believed to be probable just compensation for the Subject Property was established by the Town;

WHEREAS, a written offer for the full appraised value was mailed to the owner or owners of record for the Subject Property, pursuant to Government Code section 7267.2;

WHEREAS, on November 1, 2024, the Town mailed a Notice of Intention to Consider Adoption of a Resolution of Necessity (“Notice”) for acquisition by eminent domain of the Subject Property. As required by Code of Civil Procedure section 1245.235, the Notice was mailed to all persons whose name(s) appear on the last County of Santa Clara Equalized County Assessment Roll as having an interest in the Subject Property, 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;

WHEREAS, the Notice informed the owner of its right to appear and to be heard by the Town Council of the Town of Los Gatos on the following matters: (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 Subject Property sought to be acquired is necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record; and

WHEREAS, the hearing referenced in the Notice was held on November 19, 2024, at the time and place stated in said notice, and all interested parties were given an opportunity to be heard on the following matters:

- A. Whether the public interest and necessity require the Project;
- B. Whether said 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 Subject Property is necessary for the Project; and
- D. Whether the offer required by Government Code section 7267.2 has been made to all owners of record.

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS BY A VOTE OF FOUR-FIFTHS OR MORE OF ITS MEMBERS:

- 1. The recitals contained herein are true and correct;
- 2. The Subject Property is situated in the Town;
- 3. The public interest and necessity require the Project;
- 4. The interests in the Subject Property described and depicted in Exhibit A sought to be acquired by eminent domain are necessary for the Project;
- 5. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

6. The Town has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Subject Property, as well as any other matter regarding the right to take said Subject Property by eminent domain, including but not limited to, making the offer required by Government Code section 7267.2;
7. Insofar as any portion of the Subject Property has heretofore been appropriated for public use, the proposed use set forth herein constitutes a compatible use under Code of Civil Procedure section 1240.510 or alternatively a more necessary public use to which the Subject Property is appropriated pursuant to Code of Civil Procedure sections 1250.410, 1240.610, and 1240.650. The Town is, thus, empowered to acquire the Subject Property for a compatible public use pursuant to Code of Civil Procedure section 1240.510 *et seq.*, and a more necessary public use pursuant to Code of Civil Procedure section 1240.610 *et seq.*;
8. All environmental review required by law has been prepared and adopted; and
9. The Town Attorney is hereby authorized to acquire in the name of the Town the Subject Property 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 just compensation with the State Condemnation Fund, to apply to the Superior Court for an order permitting the Town to take immediate possession and make immediate use of the Subject Property for the Project, to take all necessary steps to acquire the Subject Property under the law, and to take such actions as he or she may deem advisable or necessary in connection therewith.

PASSED AND ADOPTED, by the Town Council of the Town of Los Gatos, State of California on November 19, 2024, by the following vote:

COUNCIL MEMBERS

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK

Exhibits:

- A. Legal Description and Plat Map of the Subject Property

EXHIBIT A
LEGAL DESCRIPTION
Shannon Road Grant of Right of Way

All that certain real property situate in the Town of Los Gatos, County of Santa Clara, State of California, being a portion of the lands granted to Diane Barnett and Ray M. Elam, III as Co-Trustees of the Elam Family Trust A by deed filed for record May 29, 2015 as Document 22970019 in the office of the Santa Clara County Recorder, being more particularly described as follows:

Commencing at an iron pipe in monument box located at the northerly terminus of that certain course shown as "N 46° 11' 21" W, 394.60'" on the map entitled "Record of Survey of the Monument Line of Shannon Road..." filed for record July 13, 1978 in Book 422 of Maps at Pages 39-46 in said Recorder's office; said course being depicted on sheet 4 of 8 therein, thence from said point of commencement North 07°12'24" West, 26.58 feet to the true Point of Beginning of this description; thence South 55°48'03" East, 31.91 feet; thence South 48°26'38" East, 45.97 feet; thence South 46°41'49" East, 107.02 feet; thence South 45°34'03" East, 124.07 feet to the beginning of a curve concave northeasterly having a radius of 500.00 feet; thence southeasterly along the arc of said curve 74.81 feet through a central angle of 08°34'21" to the beginning of a non-tangent curve concave northeasterly having a radius of 350.00 feet, from which point the radius bears North 34°44'06" East; thence southeasterly along the arc of said curve 99.18 feet through a central angle of 16°14'09"; thence South 71°30'03" East, 57.32 feet to the beginning of a curve concave southerly having a radius of 375.00 feet; thence easterly along the arc of said curve 38.43 feet through a central angle of 5°52'20"; thence South 65°37'44" East, 153.47 feet; thence North 24°22'16" East, 5.00 feet; thence South 65°37'44" East, 9.00 feet; thence South 24°22'16" West, 5.00 feet; thence South 65°37'44" East, 33.94 feet; thence North 24°22'16" East, 33.00 feet; thence South 65°37'44" East, 20.00 feet; thence South 24°22'16" West, 33.00 feet; thence South 65°37'44" East, 68.97 feet to the beginning of a curve concave southerly having a radius of 325.00 feet; thence southeasterly 44.19 feet through a central angle of 07°47'28"; thence South 57°50' 15" East, 25.21 feet; thence North 32°09'45" East, 5.00 feet; thence South 57°50'15" East, 10.00 feet; thence South 32°09'45" West, 5.00 feet; thence South 57°50'15" East, 33.40 feet to the beginning of a non-tangent curve concave southwesterly having a radius of 335.00 feet, from which point the radius bears South 43°55'48" West; thence southerly along the arc of said curve 54.96 feet through a central angle of 09°24'00"; thence South 25°59'14" East, 57.73 feet to a point in the westerly line of that certain 72.14 acre tract granted to Manuel F. Escover by deed dated November 27, 1922, filed for record in Book 566 of Deeds at Page 403 in said Recorder's office, from which point an iron pipe in monument box located at the southerly terminus of that certain course shown as "N 30°09'05" W, 240.63'" on sheet 4 of said Record of Survey bears South 16°54'19" East, 167.68 feet; thence along said westerly line South 23°40'51" West, 38.50 feet to an iron pipe set at the southwesterly corner of said 72.14 acre tract; said corner being further described as

LEGAL DESCRIPTION (cont.)
Shannon Road Grant of Right of Way

lying in the center of Shannon Road; thence along the southwest line of said lands of Elam et. al., said southwest line also being the centerline of Shannon Road, the following courses and distances, each as shown on that certain map entitled "Record of Survey of a portion of Shannon Road" filed for record May, 28, 2024 in Book 962 of Maps at Page 10 in said Recorder's office, North 24°21'16" West, 20.92 feet to the beginning of a curve concave southwesterly having a radius of 285.00 feet; thence northwesterly along the arc of said curve 214.93 feet through a central angle of 43°12'32"; thence North 67°33'47" West, 69.26 feet to the beginning of a curve concave northerly having a radius of 500.00 feet; thence northwesterly along the arc of said curve 25.95 feet through a central angle of 02°58'26"; thence North 64°35'21" West, 150.28 feet to the beginning of a curve concave southerly having a radius of 750.00 feet; thence westerly along the arc of said curve 90.05 feet through a central angle of 06°52'46"; thence North 71°28'07" West, 42.02 feet to the beginning of a curve concave northerly having a radius of 360.00 feet; thence northwesterly along the arc of said curve 161.26 feet through a central angle of 25°39'54"; thence North 45°48'13" West, 199.08 feet to the beginning of a curve concave southwesterly having a radius of 2,500.00 feet; thence northwesterly along the arc of said curve 127.44 feet through a central angle of 02°55'14"; thence leaving said centerline of Shannon Road North 41°16'33" East, 20.00 feet to the point of beginning.

Containing 29,807 square feet, more or less.

Bearings used in this description are based upon the California Coordinate System of 1983 (CCS83), Zone 3.

Prepared under the direction of:



Charles M. Weakley, L.S. 6421

DATUM NOTE:

Bearings shown are based upon the California Coordinate System of 1983 (CCS1983), Zone 3, epoch 2021.3.

CURVE DATA TABLE			
NO.	DELTA	LENGTH	RADIUS
C1	08° 34' 21"	74.81'	500.00'
C2	16° 14' 09"	99.18'	350.00'
C3	05° 52' 20"	38.43'	375.00'

LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	N07° 12' 24"W	26.58'
L2	S55° 48' 03"E	31.91'
L3	S48° 26' 38"E	45.97'
L4	S71° 30' 03"E	57.32'
L5	S65° 37' 44"E	153.47'
L23	N71° 28' 07"W	42.02'
L24	N41° 16' 33"E	20.00'

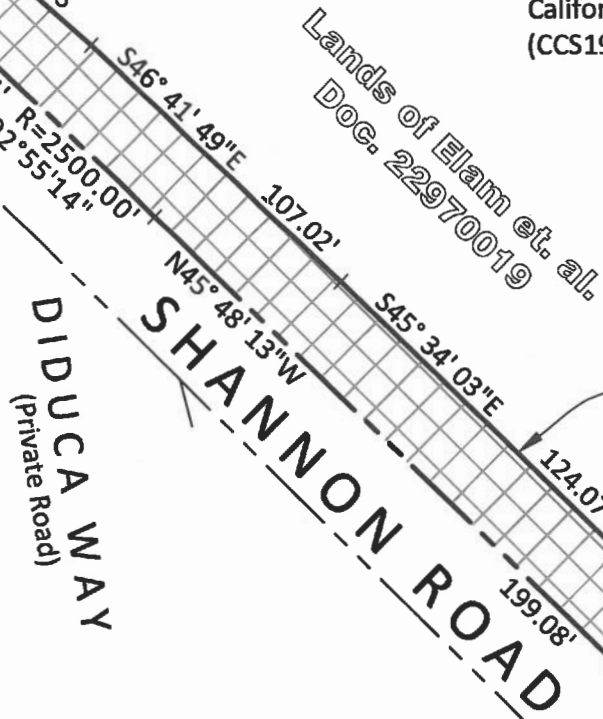
Point of Commencement, Fnd. monument per R-1
 N: 1,907,166.93
 E: 6,145,747.40



LEGEND

- C1 or L1 See curve or line data table
- Rad Radial Bearing
- R-1 Bk. 422 Maps, Pg. 39-46

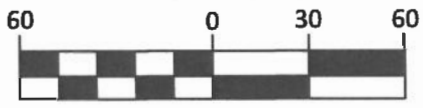
Occupational ϵ per 2023 Survey (Property Line per Deed Reference)



Right of Way
 29,807± sq. ft.

Match Line
 See Sheet 2

GRAPHIC SCALE



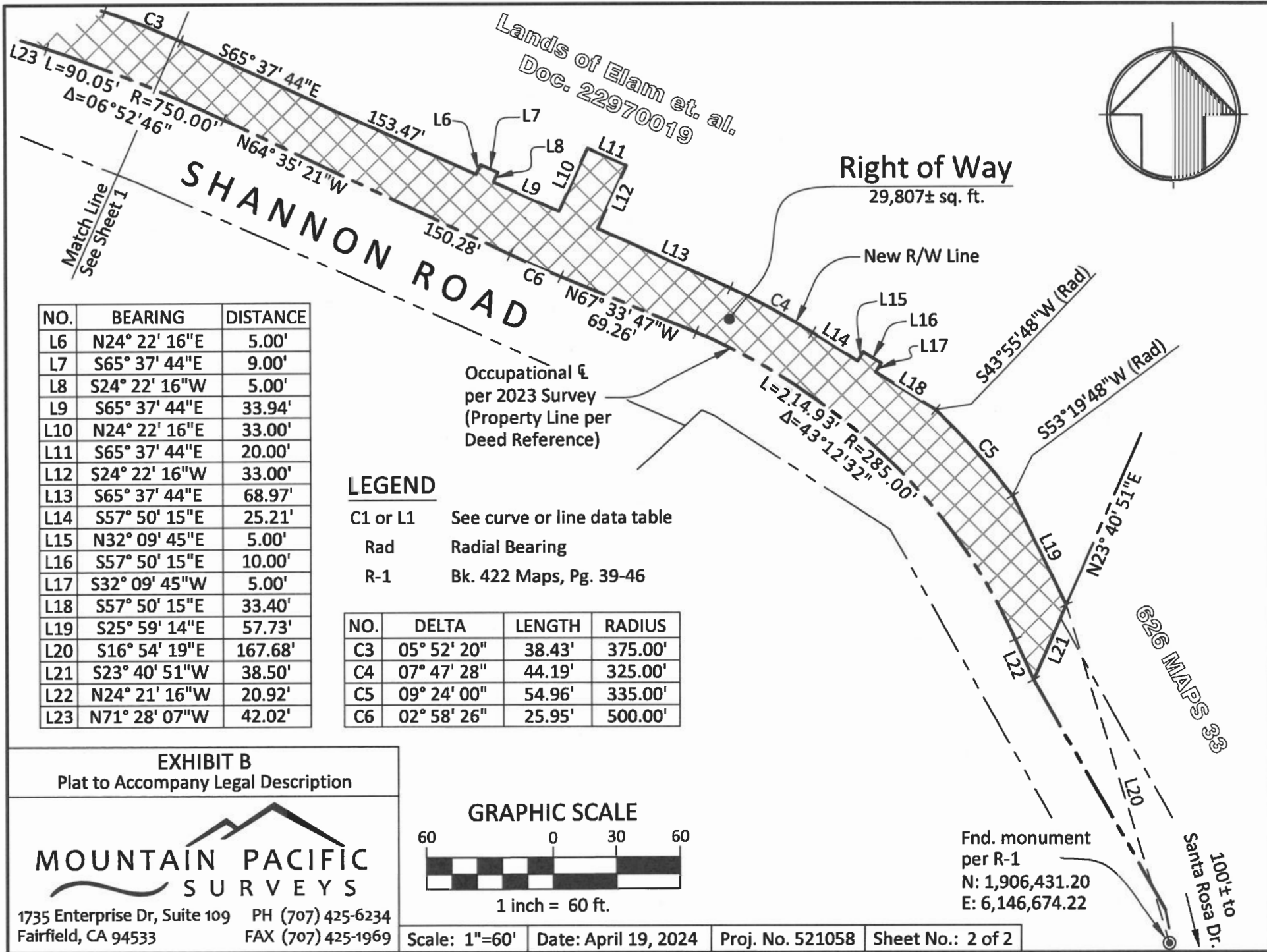
1 inch = 60 ft.

EXHIBIT B

Plat to Accompany Legal Description



1735 Enterprise Dr, Suite 109 PH (707) 425-6234
 Fairfield, CA 94533 FAX (707) 425-1969



NO.	BEARING	DISTANCE
L6	N24° 22' 16"E	5.00'
L7	S65° 37' 44"E	9.00'
L8	S24° 22' 16"W	5.00'
L9	S65° 37' 44"E	33.94'
L10	N24° 22' 16"E	33.00'
L11	S65° 37' 44"E	20.00'
L12	S24° 22' 16"W	33.00'
L13	S65° 37' 44"E	68.97'
L14	S57° 50' 15"E	25.21'
L15	N32° 09' 45"E	5.00'
L16	S57° 50' 15"E	10.00'
L17	S32° 09' 45"W	5.00'
L18	S57° 50' 15"E	33.40'
L19	S25° 59' 14"E	57.73'
L20	S16° 54' 19"E	167.68'
L21	S23° 40' 51"W	38.50'
L22	N24° 21' 16"W	20.92'
L23	N71° 28' 07"W	42.02'

LEGEND

- C1 or L1 See curve or line data table
- Rad Radial Bearing
- R-1 Bk. 422 Maps, Pg. 39-46

NO.	DELTA	LENGTH	RADIUS
C3	05° 52' 20"	38.43'	375.00'
C4	07° 47' 28"	44.19'	325.00'
C5	09° 24' 00"	54.96'	335.00'
C6	02° 58' 26"	25.95'	500.00'

EXHIBIT B
Plat to Accompany Legal Description

MOUNTAIN PACIFIC SURVEYS

1735 Enterprise Dr, Suite 109 PH (707) 425-6234
Fairfield, CA 94533 FAX (707) 425-1969

