

**COUNTY OF ALAMEDA
PUBLIC WORKS AGENCY**
399 Elmhurst Street • Hayward, CA 94544-1307
(510) 670-5480

March 13, 2012

The Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

Dear Board Members:

SUBJECT: HOLD HEARING ON NOTICE OF INTENTION TO CONDEMN TEMPORARY CONSTRUCTION EASEMENTS; ADOPT RESOLUTIONS OF NECESSITY. (INTERSTATE 580 EASTBOUND AUXILIARY LANE PROJECT)

RECOMMENDATION:

It is recommended that your Board consider all of the evidence presented at the hearing on Notice of Intention to Condemn Temporary Construction Easements and then, if appropriate, adopt the proposed resolutions of necessity, by at least a 4/5 vote, which will authorize County Counsel, or her designee, to commence and maintain a proceeding in eminent domain to acquire temporary construction easements necessary for the Alameda County Transportation Commission's project to construct freeway improvements for the Interstate 580 Eastbound Auxiliary Lane Project in Pleasanton and Livermore from the following properties:

<u>Caltrans</u>		
<u>R/W No.</u>	<u>Owner</u>	<u>Property Required</u>
62063	Continuing Life Pleasanton	TCE
62068	LHJS	TCE
62070	Dayton Hudson	TCE

SUMMARY/DISCUSSION:

The Alameda County Transportation Commission (Alameda CTC), working with the State of California Department of Transportation (Caltrans), has a proposed project to widen and improve the eastbound lanes of I-580 between the Santa Rita Road interchange in the west and the North First Street interchange in the east. Specifically, this project will construct an auxiliary lane within

these limits to reduce eastbound peak period congestion and delay, encourage use of high-occupancy vehicles and transit, support regional air quality attainment goals and improve safety for motorists and Caltrans maintenance workers. This project is being built, in part, with State of California bond funding, and thus any necessary eminent domain actions must be filed no later than mid-April 2012 to secure this funding. The design of the project will require, in some locations, a small amount of property adjoining I-580 to be acquired as Temporary Construction Easements (TCE) that will only be utilized to facilitate the construction of the freeway auxiliary lane improvements within the Caltrans right of way. The temporary construction easement areas to be acquired are either unimproved or improved with minor landscape improvements and the remainder of the property is unimproved or improved with commercial uses that will not be disturbed during construction. The TCE areas will be returned to the owners at the end of construction. Acting as right of way agents through a cooperative agreement with Alameda CTC, County right of way staff presented the offer of market value to each of the owners herein named. Due to the critical time frame to secure the bond funding for this project, the commencement of eminent domain proceedings are now required to avoid losing the funding for the project. By letters dated February 16, 2012, the owners have been notified of the hearing.


On November 22, 2011, your Board by Resolution R-2011-386 agreed to hold the Hearing of Necessity for this project on behalf of Alameda CTC for this Project on the State highway system.

To proceed with the condemnation action, your Board must find and determine each of the following:

1. The public interest and necessity require the project.
2. The proposed project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.
3. The property described in the resolution is necessary for the proposed project.
4. The offer required by Section 7267.2 of the Government Code has been made to the owner of record;
5. The County of Alameda, as the condemning agency for the project, 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 required to take the property by eminent domain.

The proposed resolutions conform to the requirements of Section 1245.230 of the Code of Civil Procedure, and will also direct the County Counsel to apply for Orders for Prejudgment Possession. The resolutions should be adopted so that the condemnation actions can be filed in a timely manner to allow the project to be advertised and awarded.

Approved as to Form
DONNA R. ZIEGLER, County Counsel

By 
Andrew Massey, Deputy

THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA
RESOLUTION NUMBER: R-

**DETERMINE AND AUTHORIZE THAT THE PUBLIC INTEREST AND NECESSITY
REQUIRE THE ACQUISITION OF CERTAIN LAND AND DIRECTING THE FILING
OF EMINENT DOMAIN PROCEEDINGS ON CERTAIN PROPERTY FOR THE
INTERSTATE 580 EASTBOUND AUXILIARY LANE PROJECT**

WHEREAS, the County of Alameda (the "County") is vested with the power of eminent domain and is authorized to acquire real property by virtue of Article 1, Section 19 of the Constitution of the State of California, Section 25350.5 of the Government Code of the State of California, Section 760 of the Streets and Highways Code of the State of California, and Sections 1240.010 through 1240.110 of the Code of Civil Procedure of the State of California; and

WHEREAS, the Alameda County Transportation Commission has a Project in eastern Alameda County for widening Interstate 580 for the purposes of constructing an auxiliary lane; and

WHEREAS, the California Department of Transportation requested and this Board of Supervisors agreed on November 22, 2011 that the County of Alameda would conduct hearings of necessity, and adopt or reject resolutions of necessity, to obtain the real property or real property interests determined to be necessary for the Project; and

WHEREAS, it is desirable and necessary for the County of Alameda to acquire certain real property and property interests, particularly described in Exhibit A, for the purpose of, *inter alia*, widening eastbound Interstate 580 between the Greenville overcrossing in the City of Livermore to the San Ramon / Foothill Road overcrossing in the Cities of Dublin and Pleasanton for the purposes of the construction of an auxiliary lane in the County of Alameda, State of California; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, written notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Alameda County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before the Board of Supervisors of the County of Alameda 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 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 owners of record.

NOW THEREFORE, BE IT RESOLVED, by at least a four-fifths vote of this Board of Supervisors, pursuant to Sections 1240.030 and 1245.230 of the Code of Civil Procedure of the State of California, that this Board does and it hereby finds and determines each of the following:

Section 1. Based upon the evidence presented, this Board of Supervisors of the County of Alameda finds and resolves as follows:

(a) The property to be acquired is described in Exhibit A attached hereto and incorporated herein;

(b) Said property is to be acquired for public use, to wit, for public highway purposes, pursuant to the authority granted by Article 1, Section 19 of the Constitution of the State of California, Section 25350.5 of the Government Code of the State of California, Section 760 of the Streets and Highways Code of the State of California, and Part 3, Title 7 of the Code of Civil Procedure;

(c) The public interest and necessity require the project, which is to improve public health, safety and welfare by widening eastbound Interstate 580 between the Greenville overcrossing in the City of Livermore to the San Ramon / Foothill Road overcrossing in the Cities of Dublin and Pleasanton for the purposes of the construction of an auxiliary lane in the County of Alameda, State of California;

(d) The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;

(e) The property described in Exhibit A is being acquired as a temporary construction easement, and is necessary for the proposed project;

(f) The offer required by Government Code Section 7267.2 has been made to the owners of record of the real property.

Section 2. The County Counsel of the County of Alameda or her duly authorized designee be, and is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as counsel may deem advisable or necessary in connection therewith. An order for prejudgment possession may be obtained in said action and a warrant issued and deposited with the State Treasurer Condemnation Fund, in the amount determined the most probable compensation for the property sought to be acquired, as a condition to the right of possession.

BY ORDER OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, THIS 3rd DAY OF APRIL, 2012.

Number
62070

EXHIBIT "A"

Land Description of a parcel of land situate in the City of Livermore, Alameda County, California, same being a portion of that certain parcel of land described in the Grant Deed to Dayton Hudson Corporation and filed for record September 24, 1991 under document number 91258046, same being Parcel 1 of that certain Parcel Map 6134, recorded September 24, 1991 in Book 198, at pages 47 and 48, Official Records of Alameda County, and being more particularly described as follows:

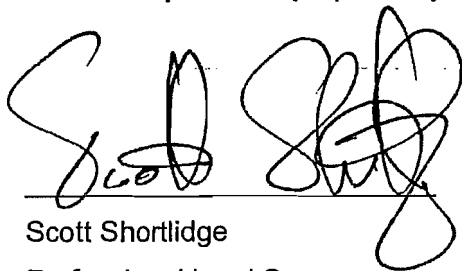
Parcel 1 (62070-1) TEMPORARY CONSTRUCTION EASEMENT

Beginning at a point on the southerly right of way line of the existing State Route 580, same being the southeast corner of the lands described in Grant Deed to the State of California filed for record on January 24, 1967 under Reel 1905, Image 684, Official Records of Alameda County, same also being the northwest corner of Parcel 1; thence along the line common to the southerly right of way line of the existing State Route 580 and the northerly line of Parcel 1, South 86° 13' 32" East – 121.78 feet to an angle point on said southerly right-of-way line; Thence continuing along said southerly right-of-way line South 49° 04' 32" East – 16.56 feet; thence leaving last said line and across Parcel 1 North 86°13' 32" West – 138.98 feet to the westerly line of Parcel 1; thence along the westerly line of the Parcel 1, North 25° 35' 56" East – 10.77 feet to the **Point of Beginning**.

Containing 1,304 square feet of land area, more or less.

Coordinates, bearings and distances are based on the California Coordinate System of 1983, Zone 3, CA-HPGN, Epoch 2007.00. Distances are U.S. Survey Feet unless otherwise noted. Distances and stationing are grid distances. Multiply distances by 1.0000871 to obtain ground level distances.

This description was prepared by me, or under my direct supervision.



Scott Shortlidge

Professional Land Surveyor

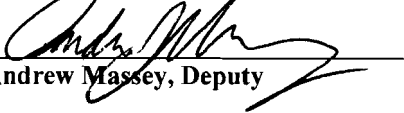
California No. 6441

2-1-2012

Date



Approved as to Form
DONNA R. ZIEGLER, County Counsel

By 
Andrew Massey, Deputy

THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA
RESOLUTION NUMBER: R-

**DETERMINE AND AUTHORIZE THAT THE PUBLIC INTEREST AND NECESSITY
REQUIRE THE ACQUISITION OF CERTAIN LAND AND DIRECTING THE FILING
OF EMINENT DOMAIN PROCEEDINGS ON CERTAIN PROPERTY FOR THE
INTERSTATE 580 EASTBOUND AUXILIARY LANE PROJECT**

WHEREAS, the County of Alameda (the "County") is vested with the power of eminent domain and is authorized to acquire real property by virtue of Article 1, Section 19 of the Constitution of the State of California, Section 25350.5 of the Government Code of the State of California, Section 760 of the Streets and Highways Code of the State of California, and Sections 1240.010 through 1240.110 of the Code of Civil Procedure of the State of California; and

WHEREAS, the Alameda County Transportation Commission has a Project in eastern Alameda County for widening Interstate 580 for the purposes of constructing an auxiliary lane; and

WHEREAS, the California Department of Transportation requested and this Board of Supervisors agreed on November 22, 2011 that the County of Alameda would conduct hearings of necessity, and adopt or reject resolutions of necessity, to obtain the real property or real property interests determined to be necessary for the Project; and

WHEREAS, it is desirable and necessary for the County of Alameda to acquire certain real property and property interests, particularly described in Exhibit A, for the purpose of, *inter alia*, widening eastbound Interstate 580 between the Greenville overcrossing in the City of Livermore to the San Ramon / Foothill Road overcrossing in the Cities of Dublin and Pleasanton for the purposes of the construction of an auxiliary lane in the County of Alameda, State of California; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, written notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Alameda County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before the Board of Supervisors of the County of Alameda 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 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 owners of record.

NOW THEREFORE, BE IT RESOLVED, by at least a four-fifths vote of this Board of Supervisors, pursuant to Sections 1240.030 and 1245.230 of the Code of Civil Procedure of the State of California, that this Board does and it hereby finds and determines each of the following:

Section 1. Based upon the evidence presented, this Board of Supervisors of the County of Alameda finds and resolves as follows:

(a) The property to be acquired is described in Exhibit A attached hereto and incorporated herein;

(b) Said property is to be acquired for public use, to wit, for public highway purposes, pursuant to the authority granted by Article 1, Section 19 of the Constitution of the State of California, Section 25350.5 of the Government Code of the State of California, Section 760 of the Streets and Highways Code of the State of California, and Part 3, Title 7 of the Code of Civil Procedure;

(c) The public interest and necessity require the project, which is to improve public health, safety and welfare by widening eastbound Interstate 580 between the Greenville overcrossing in the City of Livermore to the San Ramon / Foothill Road overcrossing in the Cities of Dublin and Pleasanton for the purposes of the construction of an auxiliary lane in the County of Alameda, State of California;

(d) The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;

(e) The property described in Exhibit A is being acquired as a temporary construction easement, and is necessary for the proposed project;

(f) The offer required by Government Code Section 7267.2 has been made to the owners of record of the real property.

Section 2. The County Counsel of the County of Alameda or her duly authorized designee be, and is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as counsel may deem advisable or necessary in connection therewith. An order for prejudgment possession may be obtained in said action and a warrant issued and deposited with the State Treasurer Condemnation Fund, in the amount determined the most probable compensation for the property sought to be acquired, as a condition to the right of possession.

BY ORDER OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, THIS 3rd DAY OF APRIL, 2012.

Number
62068

EXHIBIT "A"

Land Description of a parcel of land situate in the unincorporated area of Alameda County, California, same being a portion of that certain parcel of land described in the Grant Deed to Hill et.al. filed for record December 6, 2007 under document number 2007414633, Official Records of Alameda County, and being more particularly described as follows:

Parcel 1 (62068-1) TEMPORARY CONSTRUCTION EASEMENT

Beginning at a point on the southerly right of way line of the existing State Route 580, same being the southeast corner of the lands described in Grant Deed to the State of California filed for record on July 27, 1966 under Reel 1812, Image 853, Official Records of Alameda County, same also being the northwest corner of the Hill parcel; thence along the line common to the southerly right of way line of the existing State Route 580 and the northerly line of the Hill parcel, South 86° 13' 32" East – 476.29 feet to the northeast corner of the Hill parcel; thence leaving last said line and along the east line of the Hill parcel, South 05° 47' 57" West – 10.01 feet; thence leaving last said line and across the Hill parcel, North 86° 13' 32" West – 475.96 feet to the westerly line of the Hill parcel; thence along the westerly line of the Hill parcel, North 03° 53' 45" East – 10.00 feet to the **Point of Beginning**.

Containing 4,761 square feet of land area, more or less.

Coordinates, bearings and distances are based on the California Coordinate System of 1983, Zone 3, CA-HPGN, Epoch 2007.00. Distances are U.S. Survey Feet unless otherwise noted. Distances and stationing are grid distances. Multiply distances by 1.0000871 to obtain ground level distances.

This description was prepared by me, or under my direct supervision.



Scott Shortlidge

Professional Land Surveyor

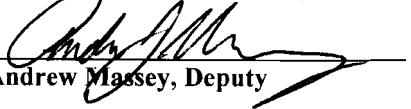
California No. 6441

2-1-2012

Date



Approved as to Form
DONNA R. ZIEGLER, County Counsel

By 
Andrew Massey, Deputy

THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA
RESOLUTION NUMBER: R-

**DETERMINE AND AUTHORIZE THAT THE PUBLIC INTEREST AND NECESSITY
REQUIRE THE ACQUISITION OF CERTAIN LAND AND DIRECTING THE FILING
OF EMINENT DOMAIN PROCEEDINGS ON CERTAIN PROPERTY FOR THE
INTERSTATE 580 EASTBOUND AUXILIARY LANE PROJECT**

WHEREAS, the County of Alameda (the "County") is vested with the power of eminent domain and is authorized to acquire real property by virtue of Article 1, Section 19 of the Constitution of the State of California, Section 25350.5 of the Government Code of the State of California, Section 760 of the Streets and Highways Code of the State of California, and Sections 1240.010 through 1240.110 of the Code of Civil Procedure of the State of California; and

WHEREAS, the Alameda County Transportation Commission has a Project in eastern Alameda County for widening Interstate 580 for the purposes of constructing an auxiliary lane; and

WHEREAS, the California Department of Transportation requested and this Board of Supervisors agreed on November 22, 2011 that the County of Alameda would conduct hearings of necessity, and adopt or reject resolutions of necessity, to obtain the real property or real property interests determined to be necessary for the Project; and

WHEREAS, it is desirable and necessary for the County of Alameda to acquire certain real property and property interests, particularly described in Exhibit A, for the purpose of, *inter alia*, widening eastbound Interstate 580 between the Greenville overcrossing in the City of Livermore to the San Ramon / Foothill Road overcrossing in the Cities of Dublin and Pleasanton for the purposes of the construction of an auxiliary lane in the County of Alameda, State of California; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, written notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Alameda County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before the Board of Supervisors of the County of Alameda 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 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 owners of record.

NOW THEREFORE, BE IT RESOLVED, by at least a four-fifths vote of this Board of Supervisors, pursuant to Sections 1240.030 and 1245.230 of the Code of Civil Procedure of the State of California, that this Board does and it hereby finds and determines each of the following:

Section 1. Based upon the evidence presented, this Board of Supervisors of the County of Alameda finds and resolves as follows:

(a) The property to be acquired is described in Exhibit A attached hereto and incorporated herein;

(b) Said property is to be acquired for public use, to wit, for public highway purposes, pursuant to the authority granted by Article 1, Section 19 of the Constitution of the State of California, Section 25350.5 of the Government Code of the State of California, Section 760 of the Streets and Highways Code of the State of California, and Part 3, Title 7 of the Code of Civil Procedure;

(c) The public interest and necessity require the project, which is to improve public health, safety and welfare by widening eastbound Interstate 580 between the Greenville overcrossing in the City of Livermore to the San Ramon / Foothill Road overcrossing in the Cities of Dublin and Pleasanton for the purposes of the construction of an auxiliary lane in the County of Alameda, State of California;

(d) The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;

(e) The property described in Exhibit A is being acquired as a temporary construction easement, and is necessary for the proposed project;

(f) The offer required by Government Code Section 7267.2 has been made to the owners of record of the real property.

Section 2. The County Counsel of the County of Alameda or her duly authorized designee be, and is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as counsel may deem advisable or necessary in connection therewith. An order for prejudgment possession may be obtained in said action and a warrant issued and deposited with the State Treasurer Condemnation Fund, in the amount determined the most probable compensation for the property sought to be acquired, as a condition to the right of possession.

BY ORDER OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, THIS 3rd DAY OF APRIL, 2012.

EXHIBIT "A"

Land Description of a parcel of land situate in the City of Pleasanton, Alameda County, California, same being a portion of that certain parcel of land described in the Grant Deed to Continuing Communities Pleasanton, LLC, and recorded August 25, 2011 under Document No. 2011-244157, same being portions of Lots 6 and 7 as shown on that certain map entitled "Tract Map 8020 – Staples Ranch" and filed on August 11, 2011 and recorded in Book 313 of Maps at pages 53 through 63, Official Records of Alameda County, and being more particularly described as follows:

Parcel 1 (62063-1) TEMPORARY CONSTRUCTION EASEMENT

Beginning at a point on the southerly line of existing State Route 580, same being the northwest corner said Lot 7; Thence along the south line of State Route 580 and the northerly line of Lot 7, South 88° 32' 27" East – 849.88 feet to the northeast corner of Lot 7; Thence along the east line of said Lot 7, South 01° 27' 34" West – 10.00 feet; Thence across said Lot 7, North 88° 32' 27" West – 849.91 feet to a point on the west line of said Lot 7; Thence along said west line, North 01° 36' 52" East 10.00 feet to the **Point of Beginning**.

Containing 8,499 square feet of land area, more or less.

Coordinates, bearings and distances are based on the California Coordinate System of 1983, Zone 3, CA-HPGN, Epoch 2007.00. Distances are U.S. Survey Feet unless otherwise noted. Distances and stationing are grid distances. Multiply distances by 1.0000871 to obtain ground level distances.

This description was prepared by me, or under my direct supervision.

Scott Shortlidge
Professional Land Surveyor
California No. 6441



2-1-2012
Date