

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works *AKM* BOARD AGENDA # *C-3
Urgent Routine AGENDA DATE July 21, 2009
CEO Concurs with Recommendation YES NO 4/5 Vote Required YES NO
(Information Attached)

SUBJECT:

Approval of Purchase Agreements to Acquire Road Right-of-Way Easement for the Las Palmas Avenue at Elm Avenue Intersection Project, Parcel Owner Dixie Juanita Reichmuth, APN: 047-037-025

STAFF RECOMMENDATIONS:

1. Approve the purchase agreements for the subject acquisitions.
2. Authorize the Chairman of the Board to execute the agreements.
3. Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$6,180, payable to Chicago Title Company, for the purchase amount of \$4,680 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The Engineer's estimated cost for construction of this project is \$700,000. The \$6,180 for the purchase of the right-of-way easements is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$4,680 for the purchase of the road easements and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2009-500

On motion of Supervisor Monteith, Seconded by Supervisor Chiesa
and approved by the following vote,
Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) Other:

MOTION:

ATTEST: Elizabeth A. King
ELIZABETH A. KING, Assistant Clerk

File No.

Approval of Purchase Agreements to Acquire Road Right-of-Way Easement for the Las Palmas Avenue at Elm Avenue Intersection Project, Parcel Owner Dixie Juanita Reichmuth, APN: 047-037-025

DISCUSSION:

In March 2007, the Board of Supervisors awarded a contract to Associated Engineering Group, Inc. for environmental and engineering services for the Las Palmas Avenue and Elm Avenue Intersection Project.

The proposed new traffic signal will improve traffic safety and enhance the flow of traffic through this intersection. Installation of safety lighting and shoulder widening will also be completed.

To accomplish this project, Stanislaus County will need to acquire right-of-way easement from the parcel at the northeast corner of Las Palmas Avenue and Elm Avenue.

On October 2, 2007, the Board of Supervisors approved the agreement with Overland, Pacific & Cutler, Inc. to provide right-of-way acquisition services for the Las Palmas Avenue at Elm Avenue Intersection Project. The scope of work included appraisals by W.G. Bartha & Associates, a sub-consultant to Overland, Pacific & Cutler, Inc. On November 20, 2007, the County received the independent appraisal from W.G. Bartha & Associates.

On July 9, 2008, an offer letter was sent to the property owner for the right-of-way easements. The property owner has agreed to the following:

Property Owner: Dixie Juanita Reichmuth
Amount of Compensation: \$4,680
Assessors Parcel Number: 047-037-025
Right-of-Way Easement Area: 0.027 acres

The amount of compensation has been determined to be within the range of just compensation by W.G. Bartha & Associates and County staff.

POLICY ISSUES:

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system.

STAFFING IMPACT:

There is no staffing impact associated with this item.

**AUDITOR-CONTROLLER
STANDARD JOURNAL VOUCHER**



BATCH SCREEN

Batch
 Period
 Description

JOURNAL SCREEN

Journal
 Category
 Balance Type A = Actual or E = Encumbrance
 Description
 Control Total

Line	Coding Structure						Debit	Credit	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6			
1	2400	61270	85850	0	0	0.0	6,180.00		
2	1102	40310	46615	9725	0	0.0		6,180.00	
3						0			
4						0			
5						0			
6						0			
7						0			
8						0			
9						0			
10						0			
11						0			
12						0			
13						0			
14						0			
15						0			
16						0			
17						0			
18						0			
19						0			
20						0			
21						0			
22						0			
23						0			
24						0			
25						0			
26						0			
27						0			
Totals							6,180.00	6,180.00	

Explanation: Transfer funds from RTIF to The Las Palmas @ Elm Intersection Improvement Project

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS <i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
Prepared by	Supervisor's Approval	Prepared By	Admin Approval (\$75K+)
7/8/09	7-8-09	7/8/09	7/8/09
Date	Date	Date	Date

**AUDITOR-CONTROLLER
BUDGET JOURNAL**



Balance Type	Budget
Category	Budget - Upload
Source	
Currency	USD
Budget Name	LEGAL BUDGET
Batch Name	
Journal Name	
Journal description	Transfer budget to Las Palmas @ Elm Avenue Intersection Project
Period	JUL-08 to JUN-09
Organization	Stanislaus Budget Org
	BO#

Line	Coding Structure						Debit		Credit		Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6	incr appropriations decr est revenue	decr appropriations incr est revenue			
1	1102	40310	72600	9725	0	0.0	6,180.00				
2	1102	40310	63280		0	0.0		6,180.00			
3	1102	40310	46615		0	0.0	6,180.00				
4	1102	40310	46615	9725	0	0.0		6,180.00			
5						0					
6						.0					
7						0					
8						.0					
9						.0					
10						.0					
11						.0					
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18						.0					
19						.0					
20						.0					
21						.0					
22						.0					
23						.0					
24						.0					
25						.0					
Totals							12,360.00	12,360.00			

Transfer budget to Las Palmas @ Elm Avenue Intersection Project

Requesting Department		CEO	Auditors Office Only	
Sharon Andrews				
Signature		Signature	Prepared By	Admin Approval (\$75K+)
7/8/09		07/14/09		7/8/09
Date		Date	Date	Date

Contact Person & Phone Number

Project: Las Palmas Ave Signalization
Grantor: Dixie Juanita Reichmuth, Trustee
The Reichmuth Survivor's Trust
APN.: 047-037-025

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Dixie Juanita Reichmuth, as Trustee of the Reichmuth Survivor's Trust, established December 10, 1998 (Grantor). This Agreement is expressly subject to approval by the County Board of Supervisors.

1. PROPERTY.

Grantor agrees to sell to County, and County agrees to purchase from Grantor, on the terms and conditions set forth in this Agreement, the real property interest described in the Exhibits attached hereto which are incorporated herein by this reference (the "Property").

2. DELIVERY OF DOCUMENTS/ESCROW.

All documents necessary for the transfer of easement rights to the Property shall be executed and delivered by Grantor to the County's designated Acquisition Agent.

This transaction shall be handled through an escrow with Chicago Title Company, 1700 Standiford Avenue, Suite 110, Modesto, CA 95350, at (209) 571-6300.

3. PURCHASE PRICE AND TITLE.

The consideration to be paid by the County for easement rights to the Property is as follows:

Permanent Easement (1,188 sq. ft X \$2.00/sq. ft.)	\$ 2,376.00
Improvements (hardpack drive)	\$ 2,304.00
Total	\$ 4,680.00

County shall deliver the Purchase Price no later than 45 days after Board of Supervisors approval and after delivery and execution of all necessary transfer documents. Grantor shall convey by Road Easement to County easement rights to the Property free and clear of all liens, encumbrances, taxes, assessments and leases recorded and/or unrecorded.

Easement rights to the Property interest shall be evidenced by a CLTA owner's policy of title insurance ("Title Policy"). The Title Policy shall be in the amount of the Purchase Price, showing title to the easement rights of the Property interest vested in County. It shall be a condition precedent to County's obligations under this Agreement that escrow holder is able to issue the Title Policy to County.

County shall pay all costs of any escrow, title insurance, and recording fees incurred in this transaction.

The Grantor agrees that if claims are submitted by lien-holders, the County is hereby authorized to honor such claims and deduct the amount of said claims from the amount to be paid to the property owner. The County will notify the Grantor of any such claims prior to payment.

The Grantor acknowledges that this transaction is a negotiated settlement in lieu of condemnation and agrees that the Purchase Price to be paid herein is in full settlement of any claims for compensation or damages that may have arisen, including, but not limited to, attorney fees, pre-condemnation damages, severance damages, business goodwill, or any other claim regarding the acquisition of the Property or construction of improvements thereon.

4. PRORATION OF TAXES.

- (a) Taxes shall be prorated in accordance with California Revenue and Taxation Code section 5081 et seq., as of the recordation of the Grant Deed conveying title to County, except that where County has taken possession of the Property, taxes shall be prorated as of the date of possession.
- (b) Grantor authorizes County to deduct from the purchase price any amount necessary to satisfy any delinquent taxes, together with penalties and interest thereon, and any delinquent or non-delinquent assessments or bonds, which are to be cleared from the title to the Property.

5. POSSESSION.

Grantor agrees that immediately upon approval of this Agreement by County, the County may enter upon and take possession of the Property.

6. HAZARDOUS WASTE MATERIAL

The Grantor hereby represents and warrants that during the period of Grantors's ownership of the Property, there have been no disposals or releases of hazardous substances on, from, or under the Property. Grantor further represents and warrants that Grantor has no knowledge of any disposal or release of hazardous substances, on, from, or under the Property which may have occurred prior to Grantor taking title to the Property interest.

The Purchase Price of the Property reflects the fair market value of the Property without the presence of contamination. If the Property is found to be contaminated by the presence of hazardous substances which requires mitigation under Federal or County law,

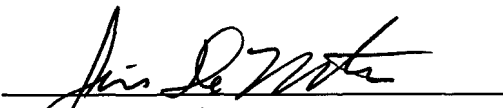
**Agreement for Purchase
Reichmuth Survivor's Trust
Page 3 of 3**

the County reserves the right to recover its clean-up costs from those who caused or contributed to the contamination.

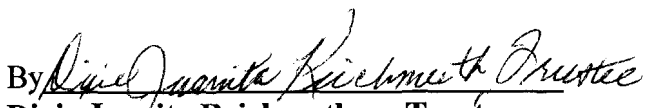
IN WITNESS WHEREOF, the parties have executed this Agreement on 6-1-09 as follows:

COUNTY OF STANISLAUS

GRANTOR



**Jim DeMartini
Chairman of the Board of Supervisors**

By 

**Dixie Juanita Reichmuth, as Trustee
of the Reichmuth Survivor's Trust,
established December 10, 1998**

**ATTEST:
Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California**

By: 

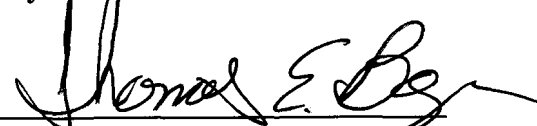
Deputy Clerk

**APPROVED AS TO CONTENT:
Department of Public Works**



Matt Machado, Director

**APPROVED AS TO FORM:
John P. Doering
County Counsel**

By: 

**Thomas E. Boze
Deputy County Counsel**

EXHIBIT "A"
LEGAL DESCRIPTION
FOR RIGHT-OF-WAY


ALL that certain piece or parcel of land situate in the County of Stanislaus, State of California, lying within Lot 184 as shown on that map entitled Patterson Colony, Sub-Tract No. One filed in the Office of the Recorder of the County of Stanislaus on December 13, 1909 in Volume 4 of Maps at Page 40, being more particularly described as follows:

COMMENCING at a 1" diameter iron pipe in a monument well marking the center line intersection point of Las Palmas Avenue and Elm Avenue, said point also being the Southwest corner of said Lot 184; thence North 02°00'09" East, a distance of 47.17 feet to the intersection point of the Northerly right-of-way line of Las Palmas Avenue and the Easterly right-of-way line of Elm Avenue and being the TRUE POINT OF BEGINNING of this description; thence North 30°00'18" West along said Easterly right-of-way line of Elm Avenue, a distance of 115.00 feet; thence North 59°59'42" East, a distance of 5.00 feet; thence South 30°00'18" East, a distance of 80.00 feet; thence South 75°00'18" East, a distance of 49.50 feet to a point on said Northerly right-of-way line of Las Palmas Avenue; thence South 60°00'10" West along last said line, a distance of 40.00 feet to the point of beginning.

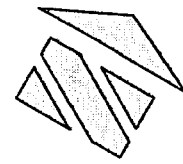
CONTAINING 1,188 square feet more or less.

SUBJECT TO all easements and/or rights-of-way of record.




Dave L. Skidmore, L.S. 7126
License Expires 12/31/10
4/30/09

PATTERSON COLONY
SUB-TRACT NO. 1



REICHMUTH

185

APN: 047-036-007

184

APN: 047-037-025

LINE TABLE		
LINE	BEARING	LENGTH
L1	S60°00'10"W	40.00'
L2	S75°00'18"E	49.50'
L3	N59°59'42"E	5.00'

N30°00'18"W

ELM AVENUE

N30°00'18"W 115.00'

S30°00'18"E 80.00'

1,188 S.F.

P.O.B.

N02°00'09"E
47.17'

FOUND 1" IRON PIPE
IN MONUMENT WELL

P.O.C.

S60°00'10"W
LAS PALMAS AVENUE

DRAWN	DLS
DATE	4/30/09 10:05
SCALE	1"=30'
JOB #	564A-07
DWG.	564A RW_EX

**PLAT TO ACCOMPANY
LEGAL DESCRIPTION**

A.P.N. 047-037-025 - REICHMUTH
BEING A PORTION OF LOT 184, OF PATTERSON COLONY
SUB-TRACT NO.1, VOL. 4 OF MAPS AT PAGE 40, S.C.R.
STANISLAUS COUNTY CALIFORNIA



**ASSOCIATED
ENGINEERING, INC.**
Surveying • Design • Planning
4206 TECHNOLOGY DRIVE
MODESTO, CALIFORNIA 95356
PH: (209) 545-3390 FAX: (209) 545-3875

NO FEE
RECORDING REQUESTED BY: BOARD OF SUPERVISORS
RETURN TO: STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS
1010 10th Street, Suite 3500
Modesto, CA 95354

Road Name: Las Palmas Avenue
APN: 047-037-025


ROAD EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Dixie Juanita Reichmuth, as Trustee of the Reichmuth Survivor's Trust, established December 10, 1998,

does hereby grant to the COUNTY OF STANISLAUS an easement for public road and highway purposes in the real property in the County of Stanislaus, State of California described as:

SEE EXHIBIT "A"


Dixie Juanita Reichmuth, as Trustee

Dated: 6-1-09

APPROVED as to description: _____ Dated: _____

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated: _____

from Dixie Juanita Reichmuth, as Trustee of the Reichmuth Survivor's Trust, established December 10, 1998 to County of Stanislaus, a political corporation and/or governmental agency, is hereby accepted by the undersigned officer or agent on behalf of the Board of Supervisors of the County of Stanislaus, pursuant to authority conferred by resolution of the Board of Supervisors of the County of Stanislaus adopted on _____ in accordance with the provision of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

MATTHEW MACHADO, Director, Department of Public Works
of Stanislaus County, State of California

Dated: 6-1-09

564A-07
REICHMUTH

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CONTAINING 1,188 square feet more or less.

SUBJECT TO all easements and/or rights-of-way of record.

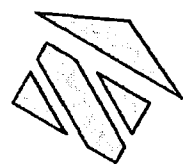


A handwritten signature in black ink, appearing to read "Dave L. Skidmore".

Dave L. Skidmore, L.S. 7126
License Expires 12/31/10

4/30/09

PATTERSON COLONY
SUB-TRACT NO. 1



REICHMUTH

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LAS PALMAS AVENUE

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BEING A PORTION OF LOT 184, OF PATTERSON COLONY
SUB-TRACT NO.1, VOL. 4 OF MAPS AT PAGE 40, S.C.R.
STANISLAUS COUNTY CALIFORNIA



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MODESTO, CALIFORNIA 95356
PH: (209) 545-3390 FAX: (209) 545-3875

GENERAL ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF Stanislaus)

On June 1, 2009 before me, Ken Halseth, a Notary Public, personally appeared DIXIE JUANITA REICHMUTH, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is) are subscribed to the within instrument and acknowledged to me that he (she) they executed the same in his (her) their authorized capacity (ies), and that by his (her) their signature (s) on the instrument the person (s), or the entity on behalf of which the person (s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ken Halseth

(Seal)

