

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

DEPT: Public Works

BOARD AGENDA # \*C-1

Urgent  Routine

AGENDA DATE April 26, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Purchase Agreement to Acquire Road Right-of-Way for the McHenry Avenue Widening Project, Parcel Owner Steven F. Sbragia and Charlotte D. Sbragia, APN: 074-002-031

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement for the subject acquisition.
2. Authorize the Chairman of the Board to execute the agreement.
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 \$35,187, payable to First American Title Company, for the purchase amount of \$33,687 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total estimated cost for the McHenry Widening Project is approximately \$3,200,000. The \$35,187 for the purchase of this right-of-way is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$33,687 for the purchase of the right-of-way, and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2011-250

On motion of Supervisor O'Brien, Seconded by Supervisor Withrow  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

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: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of Purchase Agreement to Acquire Road Right-of-Way for the McHenry Avenue Widening Project, Parcel Owner Steven F. Sbragia and Charlotte D. Sbragia, APN: 074-002-031

## **DISCUSSION:**

As approved by the Board of Supervisors, the scope of the McHenry Avenue Widening Project is to widen McHenry Avenue between Ladd Road to the south and Hogue Road to the north. This widening will provide two through lanes in each direction and a dual left turn lane in the center of the road. To accomplish this project, pavement will be widened on both sides of the road, widened shoulders will be provided, additional right-of-way will be acquired from the adjacent properties, and additional storm drainage facilities will be constructed.

In December 2007, the Board of Supervisors awarded a contract to Associated Engineering for the design of the McHenry Avenue Widening Project (Ladd Road to Hogue Road). The Board also awarded a contract to Sycamore Environmental for the preparation of the environmental clearance documents in accordance with the California Environmental Quality Act.

Pursuant to the California Environmental Quality Act (CEQA), Sycamore Environmental has prepared and circulated a Negative Declaration to various agencies and to the public. The public comment period closed on November 3, 2009. Public Works' staff received comments from four agencies and incorporated the comments into the Final Initial Study/Negative Declaration.

On March 2, 2010, the Board of Supervisors approved the Initial Study/Negative Declaration for the McHenry Avenue Widening Project.

To accomplish the future McHenry Avenue Widening Project, the County will need to acquire additional roadway right-of-way from the Sbragia parcel on the east side of McHenry Avenue. The property owner has agreed to accept the following compensation:

Property Owners: Steven F. and Charlotte D. Sbragia  
Amount of Compensation: \$33,687  
Assessor's Parcel Number: 074-002-031  
Right-of-Way Area: 0.924 acres

The amount of compensation has been determined to be within the range of just compensation by an independent appraiser hired by the County.

## **POLICY ISSUES:**

The McHenry Avenue Widening Project supports the Board's priorities of providing A Safe Community, A Healthy Community and A Well-Planned Infrastructure System by improving traffic congestion on the County road system.

## **STAFFING IMPACT:**

There is no staffing impact associated with this item.

Approval of Purchase Agreement to Acquire Road Right-of-Way for the McHenry Avenue Widening Project, Parcel Owner Steven F. Sbragia and Charlotte D. Sbragia, APN: 074-002-031

**CONTACT PERSON:**

Matt Machado, Public Works Director. Telephone: (209) 525-4130.

CB:la

L:\ROADS\9216 - McHenry Ave Widening (Ladd Rd to Hogue Rd) Phase 1\Design\Board Items\ROW ACQUISTION PROCESS\Right of Way Sbragia 04-26-11

**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 the McHenry Avenue Widening Project
Period	JUL-10 to JUN-11
Organization	Stanislaus Budget Org
	BO#

Line	Coding Structure						Debit		Credit		Description
	Fund 4	Org 7	Account 5	GL Proj 7	Loc 6	Misc 6	incr appropriations decr est revenue	decr appropriations incr est revenue			
1	1102	40310	72600	9216	0	0.0	35,187.00				
2	1102	40310	63280	0	0	0.0		35,187.00			
3	1102	40310	46615	0	0	0.0	35,187.00				
4	1102	40310	46615	9216	0	0.0		35,187.00			
5						0.0					
6						0.0					
7						0.0					
8						0.0					
9						0.0					
10						0.0					
11						0.0					
12						0.0					
13						0.0					
14						0.0					
15						0.0					
16						0.0					
17						0.0					
18						0.0					
19						0.0					
20						0.0					
21						0.0					
22						0.0					
23						0.0					
24						0.0					
25						0.0					
<b>Totals</b>							<b>70,374.00</b>	<b>70,374.00</b>			

Transfer budget to the McHenry Avenue Widening Project  
Acquire Right-of-Way.

<b>Requesting Department</b>		<b>CEO</b>	<b>Auditor/Unit Only</b>	
Sharon Andrews				
Signature		Signature		Admin Approval (\$75K+)
4/8/2011		4/19/11		4/13/11
Date		Date		Date

Contact Person & Phone Number

**AUDITOR-CONTROLLER  
STANDARD JOURNAL VOUCHER**



**BATCH SCREEN**

Batch: PW  
 Period: Apr-11  
 Description: \_\_\_\_\_

**JOURNAL SCREEN**

Journal: PW SKA JV  
 Category: Transfer  
 Balance Type: A A = Actual or E = Encumbrance  
 Description: Transfer funds from RTIF to McHenry Ave Widening Project  
 Control Total: 35,187.00

Line	Coding Structure						Debit	Credit	Description	
	Fund	Org	Account	GL Prof	Loc	Misc				
1	2400	61270	85850	0	0	0.0	35,187.00		RTIF Transfer Out	
2	1102	40310	46615	9216	0	0.0		35,187.00	RTIF Transfer In	
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								35,187.00	35,187.00	

Explanation: Transfer funds from RTIF to McHenry Ave Widening Project

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS			
Prepared by	Supervisor's Approval	Prepared By	Admin Approval, (\$75K+)
4/8/2011	4/8/2011		4/13/11
Date	Date	Date	Date

Project: McHenry Avenue Widening  
Grantor(s): Steve & Charlotte Sbragia Tr  
APN.: 074-002-031 (portion)

### **AGREEMENT FOR ACQUISITION OF PROPERTY**

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Steven F. Sbragia and Charlotte Dianne Sbragia, Trustees of The Sbragia 1995 Revocable Trust under instrument dated October 26, 1995 (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 fee simple portion of real property described in Exhibit A and shown in Exhibit B, along with a temporary construction easement described in Exhibit A-1 and shown on Exhibit B-1, each attached hereto which are incorporated herein by this reference (the "Property").

2. **DELIVERY OF DOCUMENTS/ESCROW.**

All documents necessary for the transfer of 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 First American Title Company, 1506 H Street, Modesto, CA 95354, at (209) 529-5000.

3. **PURCHASE PRICE AND TITLE.**

The consideration to be paid by the County for the Property (the "Purchase Price") is THIRTY-THREE THOUSAND SIX HUNDRED EIGHTY-SEVEN AND NO/100 DOLLARS (\$33,687.00), and is segregated as follows:

\$ <u>32,340.00</u>	Fee Simple 40,257+/- sq. ft. (or 0.924+/- acre)
\$ <u>1,347.00</u>	Temporary Construction Easement 33,536+/- sq. ft. (or 0.77+/- acre)
\$ <u>00.00</u>	Cost-to-Cure (County to provide Agricultural lane)
\$ <u>33,687.00</u>	Total

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 good, marketable and insurable title to the Property free and clear of all liens, encumbrances, taxes, assessments and leases recorded and/or unrecorded.

Good, marketable and insurable fee simple title to the Property 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 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.

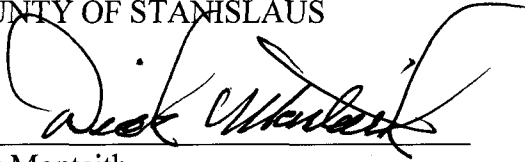
**6. DRIVEWAY LOCATIONS.**

County agrees to allow one (1) driveway encroachment onto McHenry Avenue on the north boundary of each of the following APN's: 074-002-021 and 074-002-031. The exact locations and configurations of the driveways will be determined when development plans are submitted to the County Planning Department.

**Agreement for Purchase  
The Sbragia 1995 Revoc. Trust  
Page 3 of 3**

IN WITNESS WHEREOF, the parties have executed this Agreement on APR 26 2011 as follows:

COUNTY OF STANISLAUS



Dick Monteith  
Chairman of the Board of Supervisors

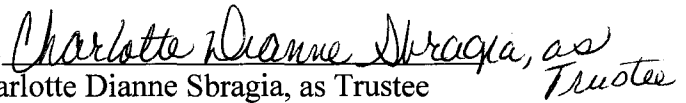
GRANTOR(S)


The Sbragia 1995 Revocable Trust under instrument dated October 26, 1995

By:   
Steven F. Sbragia, as Trustee

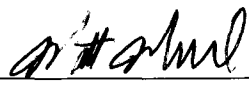
ATTEST:

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

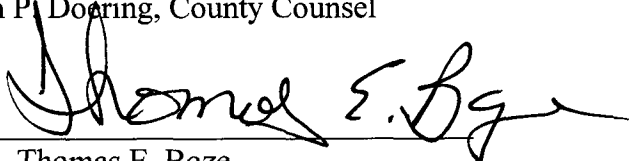
By:   
Charlotte Dianne Sbragia, as Trustee

By:   
Deputy Clerk

APPROVED AS TO CONTENT:  
Department of Public Works

By:   
Matt Machado  
Road Commissioner

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

By:   
Thomas E. Boze  
Deputy County Counsel



640-07  
(Sbragia)

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**STANISLAUS COUNTY-MCHENRY AVENUE RIGHT OF WAY WIDENING**  
**A.P.N. 074-002-031**

All that certain piece or parcel of land situate in the County of Stanislaus, State of California, lying within the Northwest quarter of Section 28, Township 2 South, Range 9 East, Mount Diablo Meridian, being described as follows:

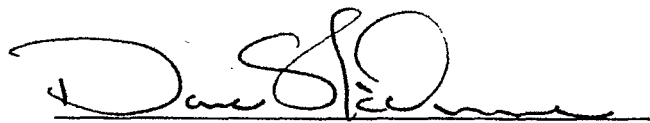
All that certain piece or parcel of land lying within that parcel of land conveyed to the Steven F. Sbragia and Charolette Diane Sbragia, trustees of the Sbragia 1995 Revocable Trust by Grant deed filed in the Office of the Recorder of the County of Stanislaus on November 9, 1995 as instrument number 95-0090846, being more particularly described as follows:

Commencing at the Northwest corner of said section 28, said point lying on the centerline of a County Road known as McHenry Avenue; thence South 89°42'00" East along the North line of said Section 28, a distance of 25.00 feet to the East right of way line of said McHenry Avenue, said point also being the Northwest corner of said land conveyed to Sbragia 1995 Revocable Trust, and being the TRUE POINT OF BEGINNING; thence continuing South 89°42'00" East along last said Section line, a distance of 30.00 feet; thence South 00°38'00" East along a line that is parallel with and 30.00 feet east of said east right of way line, a distance of 1341.64 feet; thence South 89°22'00" West, a distance of 30.00 feet to said East right of way line; thence North 00°38'00" West along the last said right of way line, a distance of 1342.13 feet to the TRUE POINT OF BEGINNING.

CONTAINING 40,257 square feet more or less.

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



  
Dave L. Skidmore, L.S. 7126  
License Expires 12/31/08  
7/02/08

APN: 004-076-007  
15-PM-107

APN: 074-002-031

POINT OF COMMENCEMENT  
NW CORNER OF SEC. 28

589°42'00"E 25.00'

28

589°42'00"E 30.00'

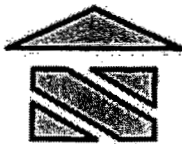
POINT OF BEGINNING

AREA=0.92 ACRES

SECTION LINE & C/L MCHENRY AVENUE

MCHENRY AVENUE

500°38'00"E 1341.64'  
1342.13'  
2642.64'



SBRAGIA  
DOC. NO. 1995-0090846-00  
RECORDED ON NOVEMBER 9, 1995  
APN: 074-002-031

APN: 004-076-007  
15-PM-107

25'  
50'  
55'  
80'

589°22'00"W 30.00'

1/4 1/4 SECTION LINE

PENDING RIGHT OF WAY  
DEDICATION

W 1/4 CORNER OF SEC. 28

29 28

EXHIBIT "B"

DRAWN	AG
DATE	5/8/08
SCALE	1"=200'
JOB #	640-07
DWG.	SBRAGIA

**PLAT TO ACCOMPANY  
LEGAL DESCRIPTION**

SBRAGIA  
APN: 074-002-031  
BEING A PORTION OF LAND IN THE NW QUARTER  
OF SECTION 28, T. 2 S, R. 9 E., M.D.H.  
STANISLAUS COUNTY CALIFORNIA



**ASSOCIATED  
ENGINEERING, INC.**

Surveying • Design • Planning

4206 TECHNOLOGY DRIVE  
MODESTO, CALIFORNIA 95356  
PH: (209) 545-3390 FAX: (209) 545-3875

640-07  
(Sbragia)

**EXHIBIT "A"-1  
LEGAL DESCRIPTION  
MCHENRY AVENUE TEMPORARY  
CONSTRUCTION EASEMENT  
A.P.N. 074-002-031**

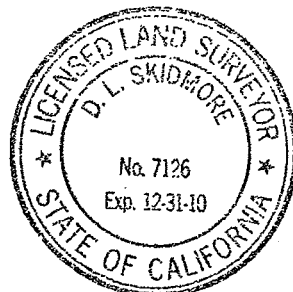
All that certain piece or parcel of land situate in the County of Stanislaus, State of California, lying within the Northwest quarter of Section 28, Township 2 South, Range 9 East, Mount Diablo Meridian, being described as follows:

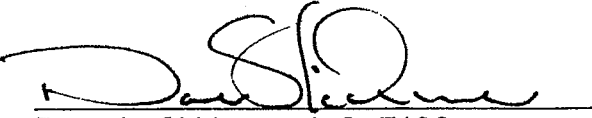
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Commencing at the Northwest corner of said section 28, said point lying on the centerline of a County Road known as McHenry Avenue; thence South 89°42'00" East along the North line of said Section 28 and the North line of said Sbragia 1995 Revocable Trust parcel, a distance of 55.00 feet to the TRUE POINT OF BEGINNING of this easement description; thence continuing South 89°42'00" East along last said line, a distance of 25.00 feet; thence South 00°38'00" East along a line that is parallel with and 80.00 feet East of the West line of said Section 28, a distance of 1341.24 feet; thence South 89°22'00" West, a distance of 25.00 feet to a point which lies 55.00 feet East of said West line of Section 28; thence North 00°38'00" West along a line that is parallel with and 55.00 feet East of the West line of said Section 28, a distance of 1341.64 feet to the point of beginning of this easement description.

CONTAINING 33,536 square feet more or less.

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



  
Dave L. Skidmore, L.S. 7126  
5/4/10

APN: 004-078-007  
 15-PM-107 20

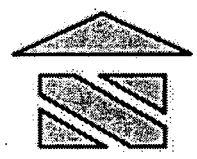
589°42'00"E 55.00'  
 POINT OF BEGINNING  
 21 APN: 074-002-031

POINT OF COMMENCEMENT  
 NW CORNER OF SEC. 28 29

28  
 589°42'00"E 25.00'

SECTION LINE & C/L MCHENRY AVENUE  
 MCHENRY AVENUE

TEMPORARY CONSTRUCTION EASEMENT  
 33,536 SQ. FT. (0.77 ACRES)



SBRAGIA  
 DOC. NO. 1995-0090846-00  
 RECORDED ON NOVEMBER 9, 1995  
 APN: 074-002-031

APN: 004-078-007  
 15-PM-107

500°38'00"E 1341.24'  
 500°38'00"E 1341.64'  
 1341.64'  
 2642.64'

PENDING RIGHT OF WAY  
 LINE

25'  
 55'  
 80'

1/4 1/4 SECTION LINE

589°22'00"W 25.00'

W 1/4 CORNER OF SEC. 28

TEMPORARY CONSTRUCTION EASEMENT  
 EXHIBIT "B"-1

29 28

DRAWN	AG/DLS
DATE	5/3/10
SCALE	1"=200'
JOB #	640-07
DWG.	SBRAGIA_TCE

**PLAT TO ACCOMPANY  
 LEGAL DESCRIPTION**

SBRAGIA  
 APN: 074-002-031  
 BEING A PORTION OF LAND IN THE NW QUARTER  
 OF SECTION 28, T. 2 S, R. 9 E., M.D.M.  
 STANISLAUS COUNTY CALIFORNIA



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