

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

DEPT: Public Works *skl*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE May 8, 2012

CEO Concur with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of Purchase Agreement to acquire a Temporary Construction Easement for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project, Parcel Owners Billy and Robin Laws, APN: 136-020-012

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 issue a warrant in the total amount of \$2,000 payable to First American Title Company, for the purchase amount of \$1,500 and \$500 for estimated escrow fees.

FISCAL IMPACT:

The total estimated construction cost for the SR 99/SR 219 (Kiernan Avenue) Interchange project is approximately \$34,000,000. The \$2,000 for the purchase of this temporary construction easement is funded 100% Regional Transportation Impact Fees (available in the current year's Road Projects budget) and consists of \$1,500 for the purchase of the easement, and \$500 for estimated escrow fees.

BOARD ACTION AS FOLLOWS:

No. 2012-220

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow
and approved by the following vote,

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

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:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of Purchase Agreement to acquire a Temporary Construction Easement for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project, Parcel Owners Billy and Robin Laws, APN: 136-020-012

DISCUSSION:

Stanislaus County, in cooperation with Caltrans District 10, proposes to reconstruct the SR 99/SR 219 (Kiernan Avenue) Interchange in the community of Salida. This project will help facilitate future growth, help alleviate traffic congestion, and will improve the operation of this interchange. Increasing the efficiency of the interchange will also encourage the free flow of goods and services for the region and the State. Two build alternatives and the no-build alternative were proposed and studied for this interchange. Alternative #1 was the preferred alternative and has been estimated to cost approximately \$38 million (in today's dollars) for construction, right-of-way acquisitions, and utility relocations. The project is proposed for funding by the Stanislaus County Public Facilities Fees, environmental mitigation fees, and the State Route 99 Bond Savings funds. The Bond Savings funds will provide up to \$34 million toward the construction phase of the project.

The proposed interchange improvements include reconstruction of the existing interchange to provide improved operations for turning movements to and from State Route (SR) 99, as well as associated local road improvements at adjacent intersections.

The interchange is located in the north part of Stanislaus County and on the northern edge of the City of Modesto, providing access to commercial and residential properties in the community of Salida.

Stanislaus County Public Works has completed the planning and environmental phases of the project, which were funded with contributions from developers in conjunction with the Salida Community Plan and the voluntary regional transportation contribution received from Kaiser Permanente.

To construct a portion of the SR 99/SR 219 (Kiernan Avenue) Interchange project, the County needs to acquire a temporary construction easement on the Billy and Robin Laws parcel near the northwest corner of the SR 219 (Kiernan Avenue) and Sisk Road intersection. The property owner has agreed to accept the following compensation:

Property Owner: Billy and Robin Laws
Amount of Compensation: \$1,500
Assessor's Parcel Number: 136-020-012
Temporary Construction Easement: 294 +/- SF

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

At the completion of the project or a period of 36 months, whichever comes sooner, the acquired temporary construction easement will expire.

Approval of Purchase Agreement to acquire a Temporary Construction Easement for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project, Parcel Owners Billy and Robin Laws, APN: 136-020-012

POLICY ISSUES:

The SR 99/SR 219 (Kiernan Avenue) Interchange project supports the Board's priorities of providing A Safe Community, A Healthy Community and A Well-Planned Infrastructure System by reducing traffic congestion on the County road system.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

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

CB:la L:\ROADS\9207 - Hwy 99 @ Kiernan Interchange\PS&E\Right of Way\Laws (TCE)\Board Report - Final.pdf

| District | County | Route | P.M. | E. A. | Caltrans Parcel No. | Federal Reference No. | Name | APN |
|----------|--------|-----------------------|---------|------------------------|---------------------|-----------------------|---------------|-------------|
| 10 | STAN | Kiernan Ave. SR219 | 0.0/0.3 | 10-OL3309 BRI 10118 | 16558 | | Billy L. Laws | 136-020-012 |

Salida _____, California

April 3, 2012

Billy L. Laws

Grantor

COUNTY OF STANISLAUS RIGHT OF WAY CONTRACT

Document number 16558 in the form of a Temporary Construction Easement (TCE) with attached Legal Description and Plat Map labeled "Exhibit A," has been executed and delivered to, Tom Ganyon, Senior Right of Way Agent, acting as Agent for the County of Stanislaus California, by Billy L. Laws (Grantor).

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve County of all further obligations or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
 - (B) County requires said property described in Exhibit "A" for construction of roadway and ancillary purposes, a public use for which the County has the authority to exercise the power of eminent domain. Grantor is compelled to sell, and County is compelled to acquire the property.
 - (C) Grantor acknowledges that this transaction is a negotiated settlement in lieu of condemnation and agree 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. Both Grantor and County recognize the expense, time, effort, and risk to both parties in determining the compensation for the property by eminent domain litigation. The compensation set forth herein for the property is in compromise and settlement, in lieu of such litigation.
2. County of Stanislaus shall:
 - A. Pay the undersigned Grantor the sum of \$1,500.00 for the property or interests therein conveyed by the above referenced document number 10-16558 in the form of a Temporary Construction Easement. Payment to Grantor includes compensation for the value to Grantor of an above-ground planter box and bench situated along the existing easterly property fence line in the amount of \$1,000.00 and a 36-month Temporary Construction Easement valued at \$500.00
 - B. Pay all escrow fees for this transaction handled through an escrow with First American Title Company located at 1506 H Street, Modesto CA 95354, Escrow No. 5005-3932311.
 3. It is agreed and understood that County's valuation of the subject property located at 4504 Trowbridge Lane, situated within the limits of the Town of Salida, Stanislaus County, California further identified as APN 136-020-012 is based on a Waiver Valuation Report of \$1,250 plus and additional sum of \$250 as an Administrative Settlement.
 4. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by County, including the right to remove and dispose of the easterly property line fencing, shall commence on the date of the close of the escrow controlling this transaction or by April 30, 2012 whichever comes first. It is further agreed and confirmed by the parties that the amount shown in Clause

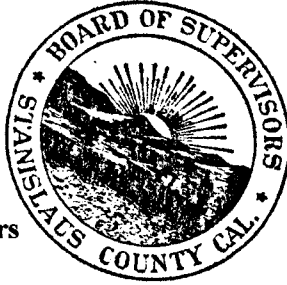
----- No Obligation Other Than Those Set Forth Herein Will Be Recognized -----

2(A) herein includes, but is not limited to, full payment for such possession and use, including those landscaping improvements described in the Waiver Valuation of the property with an estimated value to Grantor of \$1,000.00

5. Grantor warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and the Grantor agrees to hold County harmless and reimburse County for any and all of its losses and expenses occasioned by reason of any lease of said property held by any Tenant of Grantor for a period exceeding one month.
6. County agrees to indemnify and hold harmless the undersigned Grantor from any liability arising out of County's operations under this agreement. County further agrees to assume responsibility for any damages proximately caused by reason of County's operations under this agreement and County will, at its option, either repair or pay for such damage.
7. County agrees that Grantor will have access to the remainder property during construction with said access maintained in such a way so that it does not impact or interfere with normal residential occupancy. County will notify Grantor at least 30-days prior to start of construction.
8. Grantor hereby represents and warrants that during the period of Grantor'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.
9. It is further understood and agreed between the parties to this contract that any work required to restore and/or replace; portions of existing property fencing and/or landscaping items (other than those noted in Clause No. 4 particularly described in the Waiver Valuation Report) removed or otherwise damaged by County's Roadway Contractor during the course of the project will be the responsibility of County, and will be performed under separate contract at County/Project expense.
10. Grantor understands and agrees that the compensation in the amount of \$1,500 offered in this Agreement is subject to and contingent upon approval of the Stanislaus County Board of Supervisors by adopting a Resolution authorizing the execution of the Agreement at their May 1, 2012 meeting. Should Grantor agree to sell to County, and County is unable to approve funding of the purchase of this temporary property right by December 31, 2013, this Agreement becomes null and void, and County shall have no further obligation to Grantor. If Grantor agrees to sell, and County approves funding by said date, all terms and condition of this Agreement apply. 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.
11. Escrow Agent shall deliver payment under this contract to Grantor at close of Escrow as per the terms of the Escrow Instructions executed by the parties and submitted to Escrow Agent.
12. It is understood and agreed by and between the parties hereto that this Agreement inures to the benefit of, and is binding on, the parties, their respective heirs, personal representatives, successors, and or assignees.

IN WITNESS WHEREOF, the parties have executed this Agreement on 3 Apr 2012 as follows:

COUNTY OF STANISLAUS



By: William O'Brien
William O'Brien
Chairman of the Board of Supervisors

GRANTOR

By: Billy L. Laws
Billy L. Laws

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

By: Christine Ferraro
~~Deputy~~ Clerk

APPROVED AS TO CONTENT:
Department of Public Works

By: Matt Machado
Matt Machado
Public Works Director

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

By: Thomas E. Boze
Thomas E. Boze
Deputy County Counsel

RECOMMENDED FOR APPROVAL:

By: Tom Canyon
Tom Canyon
Senior Right of Way Agent
Bender Rosenthal Inc.

-----No Obligation Other Than Those Set Forth Herein Will Be Recognized-----



**STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS
1716 MORGAN ROAD
MODESTO CALIFORNIA**

DO NOT RECORD

**Kiernan Avenue SR219/SR99 Interchange Improvement Project
Salida California
APN: 136-020-012
Caltrans Parcel No. 16558**

TEMPORARY CONSTRUCTION EASEMENT

Billy L. Laws hereby Grants to the County of Stanislaus, a Temporary Construction Easement (TCE) over, upon and across all that real property in the City of Salida, County of Stanislaus, State of California, described in Exhibit "A" attached hereto and made a part hereof.

This Temporary Construction Easement shall be for the purpose of construction activities related to construction of a sound wall for the Kiernan Avenue SR219/SR99 Interchange Improvement Project including, but not limited to use for ingress and egress and construction areas and other activities in nature incidental to construction of the specified sound wall for the project.

This Temporary Construction Easement shall become effective September 1, 2012 and shall terminate either upon the completion of construction of that portion of the project lying adjacent to the above described parcel, or August 31, 2015, whichever date occurs first.

Dated: 30 March 2012

By: Billy Laws

By: _____

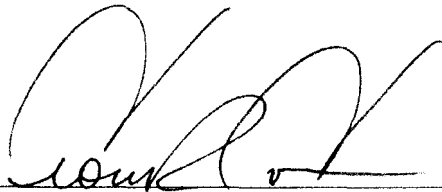
Exhibit A Legal Description

Being a portion of Parcel 12 in Block A of Clarendon Woods Unit No. 1, as said Parcel 12 is shown on that certain Map filed for Record on January 13, 1987 in Volume 31 of Maps, at Page 53 Official Records of the County of Stanislaus, more particularly described as follows:

For Temporary Construction Easement purposes, being the easterly 3.00 feet of said Parcel 12.

Said Parcel contains 294± square feet of land, more or less.

This Temporary Construction Easement shall cease and terminate on January 1, 2015.



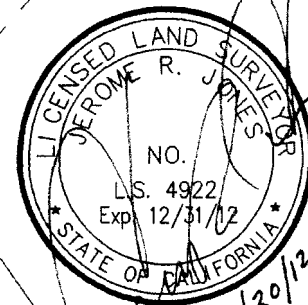
Jerome R. Jones L.S. 4922
License Expires: December 31, 2012

3/30/12
Date



TROWBRIDGE LANE

10' PUE
(31-M-53)



PARCEL 13
(31-M-53)

PARCEL 12
(31-M-53)

PARCEL 11
(31-M-53)

3.00' TCE

EASTERLY LINE
OF PARCEL 12

10' PUE
(31-M-53)



SCALE: 1" = 20'

KIERNAN COURT

NOLTE

BEYOND ENGINEERING

2495 NATOMAS PARK DRIVE, 4TH FLOOR, SACRAMENTO, CA. 95833
916.0418100TEL. 916.0418222 FAX WWW.NOLTE.COM

DATE: _____ TIME: _____
NETWORK: _____
PATH: _____
DWG NAME: _____
PLOT VIEW: _____
DESIGNER: _____ MGR: _____

"EXHIBIT B"-PARCEL 16558
TEMPORARY CONSTRUCTION EASEMENT
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

PREPARED FOR: STATE OF CALIFORNIA

DATE SUBMITTED: 01/2012

SHEET NUMBER

1

OF 1 SHEETS

JOB NUMBER
SAB041001

YREFS: