

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

DEPT: Public Works *Handwritten signature*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE April 1, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a Purchase Agreement to Acquire Right-of-Way for the Crows Landing Road at West Main Intersection Upgrade Project, Parcel Owner: Mary J. Terra-Boa, as Successor Trustee, Assessor's Parcel Number: 022-036-014

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement for the acquisition of the parcel identified as Assessor's Parcel Number (APN) 022-036-014.
2. Authorize the Chairman of the Board to execute the agreement.
3. Approve the compensation agreement for the tenant that leases land from the parcel owner for crop loss damages.
4. Authorize the Director of Public Works to sign and cause to record the Grant Deed on behalf of Stanislaus County as authorized by Board Resolution No. 2011-141 executed on March 8, 2011.

FISCAL IMPACT:

The total estimated cost for this project is \$2,900,000. The \$6,121 for the purchase of this Right of Way (ROW) is funded 100% from the Public Facilities Fee-Regional Transportation Impact Fee program and consists of \$4,821 for compensation associated with the purchase of this property, and \$1,300 for estimated title insurance and escrow fees. Funding is available in the Fiscal Year 2013-2014 Public Works Road Projects Budget.

BOARD ACTION AS FOLLOWS:

No. 2014-147

On motion of Supervisor O'Brien, Seconded by Supervisor Withrow

and approved by the following vote,

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

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 a Purchase Agreement to Acquire Right-of-Way for the Crows Landing Road at West Main Intersection Upgrade Project, Parcel Owner: Mary J. Terra-Boa, as Successor Trustee, Assessor's Parcel Number: 022-036-014

DISCUSSION:

The Crows Landing Road at West Main Intersection Upgrade project proposes to improve the intersection of Crows Landing Road and West Main Street. The proposed upgrades include:

- Construction of traffic signals;
- Widening the approaches and intersection to allow for dedicated left turn lanes;
- Improving pedestrian safety by:
 - i. Constructing ADA accessible crosswalks and ramps; and
 - ii. Widening the shoulders;
- Installing median dividers at the intersection; and,
- Improving the storm drain runoff control by:
 - i. Installing a storm drainage system; and,
 - ii. Upgrading the existing storm drain pump station.

On September 20, 2012, Caltrans approved the National Environmental Policy Act, and on September 12, 2012, the California Environmental Quality Act Notice of Exemption was filed with the County Clerk.

The County needs to acquire ROW from the Terra-Boa Family 1992 Trust dated May 18, 1992, to accomplish this project. The property is located at 107 West Main Street, Crowslanding, CA. The property owner has agreed to accept the following terms as outlined in the Agreement for Acquisition of Property in Attachment 1:

Property Owner:	Mary J. Terra-Boa, as Successor Trustee of the Terra-Boa Family 1992 Trust dated May 18, 1992
Amount of Compensation:	\$4,821 (\$2,440 is designated to the property owner, and \$2,381 is designated to the tenant for crop loss damages)
Assessor's Parcel Number:	022-036-014 (portion)
Right-of-Way Acquisition Area:	0.00567± Acres
Temporary Construction Easement:	±1.0219 Acres

The amount of compensation has been determined to be within the range of just compensation by an independent appraiser hired by the Consultant that is contracted with the County for all-inclusive engineering and project delivery services.

Overall, in order to construct the project, ROW acquisitions are required from eight parcels. Acquisitions are still being negotiated with the owners and/or tenants of seven parcels.

Approval of a Purchase Agreement to Acquire Right-of-Way for the Crows Landing Road at West Main Intersection Upgrade Project, Parcel Owner: Mary J. Terra-Boa, as Successor Trustee, Assessor's Parcel Number: 022-036-014

POLICY ISSUES:

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well-Planned Infrastructure System by improving intersection safety and reducing greenhouse gas emissions by improving traffic flow in this area of Stanislaus County.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

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

DB:sn
L:\ROADS\9729 - Crows Landing Rd at West Main Ave TS\Design\Board\Terra-Boa_022-036-014\4-1-14 BOS item_9729-CLRWMIU_Terra-Boa ROW PA_for DBazyuk

Project: Crows Landing Road at West Main
Street Intersection Upgrade Project
Grantor: The Terra-Boa Family 1992 Trust
dated May 18, 1992
APN: 022-036-014

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the **County of Stanislaus** (County) and **Mary J. Terra-Boa, as Successor Trustee of the Terra-Boa Family 1992 Trust dated May 18, 1992** (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 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 the Property is as follows:

Road Deed: 0.00567+/- Ac X \$18,000/Ac	\$	100.00
Temporary Construction Easement: 1.022+/-Ac X \$18,000/Ac X 10% (1 yr)	\$	1,840.00
Cost to Cure (Yucca plant replacement)	\$	500.00
Benefits	\$	00.00
	Total	\$ 2,440.00

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 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 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.

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.

Grantor acknowledges that the acquisition of the Property by the County is for a public purpose, and therefore, the Property is otherwise subject to taking by the power of eminent domain. Grantor acknowledges that this transaction is a negotiated settlement in lieu of condemnation and agrees that the Purchase Price to be paid herein shall constitute full and fair compensation and consideration for any and all claims that Grantor may have against the County by reason of the acquisition, improvement, possession, use and/or occupancy of the Property, and Grantor waives any and all claims, including, but not limited to, claims for attorney fees, pre-condemnation damages, severance damages, business goodwill, relocation assistance, or any other claim.

If any eminent domain action that includes the Property, or any portion thereof, has been filed by the County, Grantor hereby agrees and consents to dismissal of said action. Grantor waives any and all claims to any money that may have been deposited with the State Treasurer in such action and further waives any and all claims for damages, costs, or litigation expenses, including attorney's fees, arising by virtue of the abandonment of the action pursuant to Section 1268.510 of the California Code of Civil Procedure.

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 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.

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 State law, the County reserves the right to recover its clean-up costs from those who caused or contributed to the contamination, or who may be otherwise deemed responsible parties.

7. **ENTIRE AGREEMENT.**

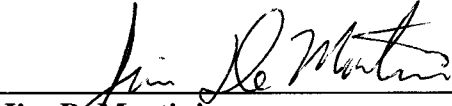
This Agreement and the attached Exhibits constitute the entire agreement between the parties relating to the sale of the Property. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the County and Grantor.

(INTENTIONALLY LEFT BLANK)

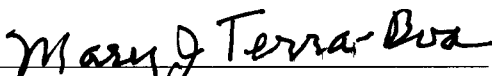
IN WITNESS WHEREOF, the parties have executed this Agreement on April 1, 2014 as follows:

COUNTY OF STANISLAUS

GRANTOR:
The Terra-Boa Family 1992 Trust
dated May 18, 1992

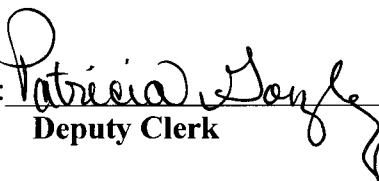


Jim DeMartini
Chairman of the Board of Supervisors

By: 

Mary J. Terra-Boa, as Successor Trustee

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

By: 


Patricia Goyke
Deputy Clerk

APPROVED AS TO CONTENT:
Department of Public Works



Mathew Machado, Director

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: 

Thomas E. Boze
Deputy County Counsel

#4

RECORDING REQUESTED BY:

Chicago Title Company
Escrow No.: 11-51122084-KH
Locate No.: CACTI7750-7750-4511-0051122084
Title No.: 11-51122084-MG

AND WHEN RECORDED MAIL TO

Stanislaus County
Department of Public Works
Attn: Denis Bazyuk
1716 Morgan Road
Modesto, CA 95358



Stanislaus County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2014-0028408-00

Acct 501-Chicago Title
Wednesday, MAY 07, 2014 08:00:00
Rcpt # 0003518778

OMK/R3/1-5

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ROAD DEED

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

5/10/14

NO FEE
RECORDING REQUESTED BY:
BOARD OF SUPERVISORS

RETURN TO:
STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS
1716 MORGAN ROAD
MODESTO, CA 95358

Road Name: Crows Landing Road at West Main Street
APN: 022-036-014

ROAD DEED

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

Mary J. Terra-Boa, as Successor Trustee of the Terra-Boa Family 1992 Trust dated May 18, 1992,

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

SEE EXHIBIT "A" AND "B"

Terra-Boa Family 1992 Trust

By Mary J Terra-Boa
Mary J. Terra-Boa, as Successor Trustee

Dated: 2/12/14

APPROVED as to description: LST Dated: 4/23/2014

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated 2-12-14
From **Mary J. Terra-Boa, as Successor Trustee of the Terra-Boa Family 1992 Trust dated May 18, 1992** to County of Stanislaus, a political subdivision of the State of California, 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 March 8, 2011 in accordance with the provisions of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

Mathew Machado, Director of Public Works
of Stanislaus County, State of California

By Mathew Machado Dated: 4/2/14

ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

COUNTY OF Stanislaus)

On 2.12.14 before me, ROSIE A. FRAMPTON, Notary

Public, personally appeared Mary J. Terra - Boa

_____, 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 upon 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

Rosie A. Frampton



(Seal)

EXHIBIT "A"

ROAD DEDICATION

LEGAL DESCRIPTION

Being a portion of the property granted to Jose Terra-Boa and Mary J. Terra-Boa, by Grant Deed recorded June 07, 1996 as Document No. 1996-0046311, Stanislaus County Records, situate in the southeast quarter of Section 17, Township 5 South, Range 9 East, Mount Diablo Meridian, Stanislaus County, California, more particularly described as follows:

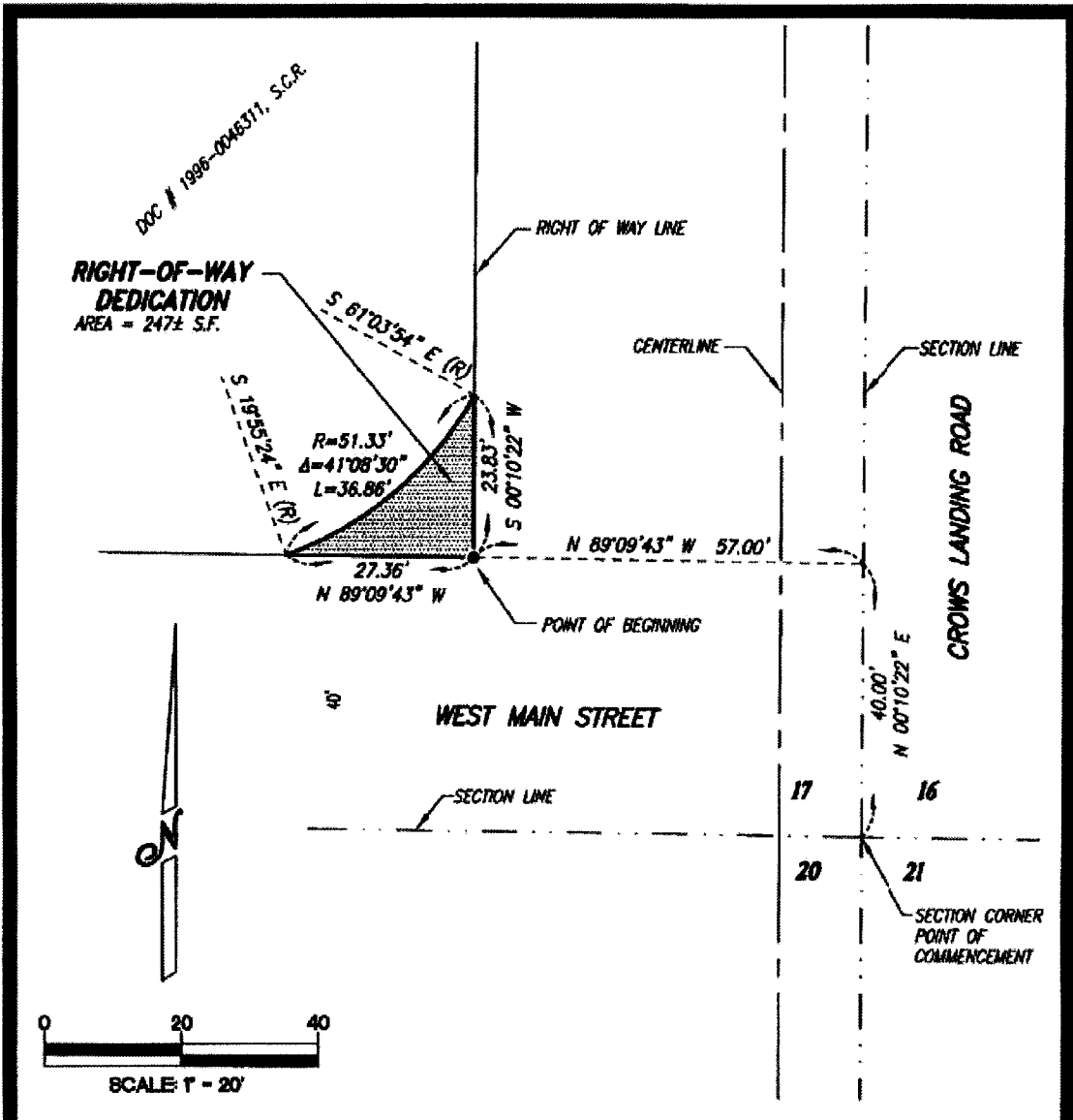
COMMENCING at the section corner common to Sections 16, 17, 20 and 21, said Township and Range; thence, along the east line of said southeast quarter of Section 17, North $00^{\circ}10'22''$ East 40.00 feet to the easterly extension of the northerly right-of-way line of West Main Street; thence along said easterly extension of the northerly right-of-way line of West Main Street, North $89^{\circ}09'43''$ West 57.00 feet to the westerly right-of-way line of Crows Landing Road and the true **POINT OF BEGINNING** of this description; thence along said northerly right-of-way line of West Main Street, North $89^{\circ}09'43''$ West 27.36 feet to a point of cusp with a curve concave to the northwest, having a radius of 51.33 feet and to which point a radial line bears South $19^{\circ}55'24''$ East; thence along said curve, through a central angle of $41^{\circ}08'30''$, an arc distance of 36.86 feet to the westerly right-of-way line of Crows Landing Road; thence along said westerly right-of-way line of Crows Landing Road, South $00^{\circ}10'22''$ West 23.83 feet to the point of beginning

Containing 247 square feet, more or less.



A handwritten signature in black ink, appearing to read "Ken Spencer", written over the bottom right portion of the professional seal.

July 2, 2013



**EXHIBIT "B" - AREA I
PLAT TO ACCOMPANY LEGAL DESCRIPTION**

North Star
Engineering Group, Inc.

• CIVIL ENGINEERING • SURVEYING • PLANNING •

620 12th Street Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB NO: 11-982
SCALE: 1" = 20'
DR BY: SCU
CK BY: KWS
FILE: Row ded-3.dwg
DATE: July 2, 2013



SIGNATURE:

NO FEE
RECORDING REQUESTED BY:
BOARD OF SUPERVISORS

RETURN TO:
STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS
1716 MORGAN ROAD
MODESTO, CA 95358

Road Name: Crows Landing Road at West Main Street
APN: 022-036-014

TEMPORARY CONSTRUCTION EASEMENT

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

Mary J. Terra-Boa, as Successor Trustee of the Terra-Boa Family 1992 Trust dated May 18, 1992,

does hereby grant to the COUNTY OF STANISLAUS, a political subdivision of the State of California, a **temporary construction easement** for access and construction purposes in the real property in the County of Stanislaus, State of California, described as:

SEE EXHIBIT "A" AND "B"

By Mary J. Terra-Boa
Mary J. Terra-Boa, as Successor Trustee

Dated: 2/12/14

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 **Mary J. Terra-Boa, as Successor Trustee of the Terra-Boa Family 1992 Trust dated May 18, 1992** to County of Stanislaus, a political subdivision of the State of California, 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 March 8, 2011 in accordance with the provisions of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

The Temporary Construction Easement shall commence on the date of this agreement and shall automatically terminate and expire upon the date of the improvements are completed and a Notice of Completion is filed for record with the Stanislaus County Recorder. All rights and benefits of the Grantee in, to and under the Temporary Construction Easement shall automatically terminate and shall cease to be enforceable or in effect.

Mathew Machado, Director of Public Works
of Stanislaus County, State of California

By _____ Dated: _____

ACKNOWLEDGEMENT

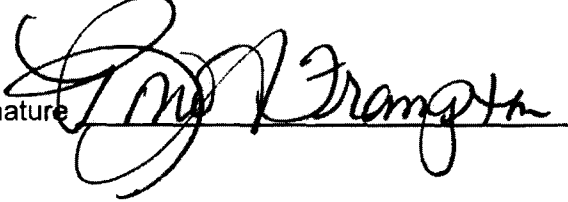
STATE OF CALIFORNIA)
COUNTY OF Stanislaus)

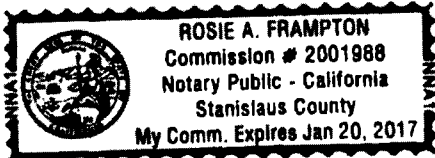
On 2-12-14 before me, ROSIE A. FRAMPTON, Notary
Public, personally appeared Mary J. Terra-Boa

_____, 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 upon 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 



(Seal)

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION

Those portions of the property granted to Jose Terra-Boa and Mary J. Terra-Boa, by Grant Deed recorded June 07, 1996 as Document No. 1996-0046311, Stanislaus County Records, situate in the southeast quarter of Section 17, Township 5 South, Range 9 East, Mount Diablo Meridian, Stanislaus County California, more particularly described as follows:

AREA 4

COMMENCING at the section corner common to Sections 16, 17, 20 and 21, said Township and Range;
thence along the east line of said southeast quarter of Section 17,
North 00°10'22" East 40.00 feet to the easterly extension of the northerly right-of-way line of West Main Street;
thence along a line parallel with and 40.00 feet northerly of the south line of said Section 17 and the northerly right-of-way line of West Main Street, North 89°09'43" West 191.51 feet to the true **POINT OF BEGINNING** of this description;
thence continuing along said northerly right-of-way-line of West Main Street,
North 89°09'43" West 200.00 feet;
thence North 00°50'17" East 200.00 feet;
thence South 89°09'43" East 200.00 feet;
thence South 00°50'17" West 200.00 feet to the point of beginning.

Containing 40,000 square feet, more or less.

AREA 5

COMMENCING at the section corner common to Sections 16, 17, 20 and 21, said Township and Range;
thence along the east line of said southeast quarter of Section 17,
North 00°10'22" East 40.00 feet to the easterly extension of the northerly right-of-way line of West Main Street;
thence along said easterly extension of the northerly right-of-way line of West Main Street, parallel with and 40.00 feet north of the south line of said Section 17,
North 89°09'43" West 57.00 feet to the westerly right-of-way line of Crows Landing Road;
thence parallel with and 57.00 feet westerly of the east line of said southeast quarter of Section 17, along the westerly right-of-way line of Crows Landing Road, North 00°10'22" East 23.83 feet to a point of cusp with a non-tangent curve from which a radial line to the center bears North 42°48'47" West and the true **POINT OF BEGINNING** of this description;
thence along said non-tangent curve, concave to the northwest and having a radius of 51.33 feet, through a central angle of 18°15'07", an arc distance of 16.35 feet;
thence parallel with and 67.00 feet westerly from the east line of said southeast quarter of Section 17, North 00°10'22" East 457.17 feet;
thence South 89°09'43" East 10.00 feet to the westerly right-of-way line of Crows Landing Road;

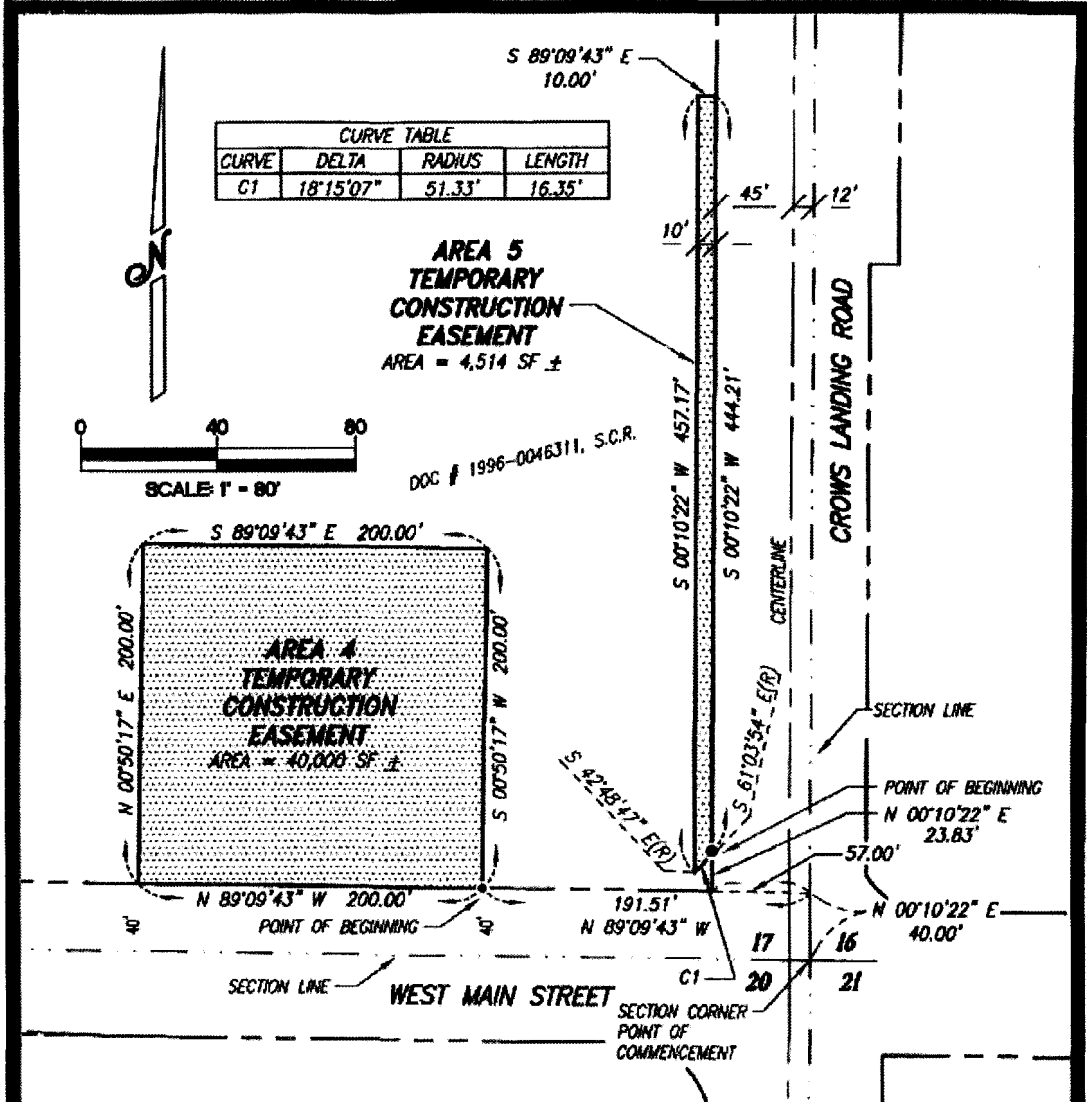
thence parallel with and 57.00 feet westerly from the east line of said southeast quarter of Section 17 and said westerly right-of-way, South 00°10'22" West 444.21 feet to the point of beginning.

Containing 4,514 square feet, more or less.



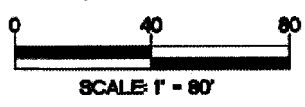
A handwritten signature in black ink, appearing to read "Kevin W. Spencer".

July 2, 2013



CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	18°15'07"	51.33'	16.35'

**AREA 5
TEMPORARY
CONSTRUCTION
EASEMENT**
AREA = 4,514 SF ±



DOC # 1996-0046311, S.C.R.

**EXHIBIT "B" - AREA 4 & 5
PLAT TO ACCOMPANY LEGAL DESCRIPTION**

**North Star
Engineering Group, Inc.**
• CIVIL ENGINEERING • SURVEYING • PLANNING •
620 12th Street Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB NO: 11-982
SCALE: 1" = 80'
DR BY: NM
CK BY: KWS
FILE: TCE ded-7
DATE: July 2, 2013



SIGNATURE:

**SETTLEMENT AND RELEASE AGREEMENT
2014 – 2015 CROP LOSS ASSOCIATED WITH COUNTY OF STANISLAUS USE
OF A PORTION OF TERRA-BOA PROPERTY**

This Settlement and Release Agreement (“Agreement”) is entered into by and between the County of Stanislaus (“County”), a political subdivision of the State of California, and Robert Gioletti and Sons Dairy, Inc. (“Gioletti”), a corporation formed pursuant to the laws of the State of California. Gioletti and County are referred to collectively herein as the “Parties” and each individually as a “Party”.

RECITALS

WHEREAS, County is by law vested with the power of eminent domain to acquire property for public use, including the construction of roadway facilities;

WHEREAS, County determined that the public interest and necessity require the acquisition by County of certain real property rights located near the intersection of Crows Landing Road and West Main Street, Stanislaus County, California consisting of a portion of Stanislaus County Assessor’s Parcel Number 022-036-014 as a temporary construction easement, (the “Property”) as depicted in Exhibit A attached hereto and incorporated herein by this reference, to be utilized as a staging area during construction of improvements to the aforementioned intersection;

WHEREAS, Terra-Boa leases the Property to Gioletti for agricultural purposes;

WHEREAS, by County’s use of the Property, Gioletti will not be able to farm the current alfalfa crop during 2014 and 2015; and

WHEREAS, the Parties now wish to enter into a formal settlement and release agreement to resolve any claims Gioletti may have against County for crop loss stemming from County’s acquisition and use of the Property.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

Section 1. Crop Loss Compensation. Gioletti agrees to accept compensation from County in the amount of Two Thousand Three Hundred Eighty One Dollars (\$2,381) as provided in the crop loss calculations set forth in Exhibit B, attached hereto and incorporated herein by this reference, for crop losses and lost goodwill, to be paid on or before February 28, 2014. Gioletti further stipulates under penalty of perjury that Exhibit B is an accurate and correct statement of income and expenses associated with the crop that Gioletti will be precluded from cultivating and harvesting on the Property in 2014 and 2015.

Section 2. Restoration of Property. Immediately upon completion of the intersection improvement project, County agrees to restore the Property to its original condition, including but not limited to removal of all debris, leveling, ripping and disking, as necessary.

Section 3. Waiver of Objection to Right to Take. As a condition of the payment in full of the amount set forth in Section 1 above, Gioletti waives any objection to County's right to take the Property and waives any and all further claims to compensation, including attorney's fees, expert fees, and court costs, for County's use of the Property, for crop loss, and for lost business goodwill.

Section 4. Waiver and Release. Following County's payment in full to Gioletti of the amount set forth in Section 1, and performance of those provisions described in Section 2, Gioletti on behalf of its respective officers, directors, partners, shareholders, employees, agents, insurers and subrogees, predecessors, successors, affiliated and related entities, sister and subsidiary corporations, and assignors and assignees, hereby waives, releases, and forever discharges County and its respective governing Board, officers, directors, officials, agents, employees, insurers and subrogees, predecessors, successors, affiliated and related entities, and assignors and assignees, from any and all claims, liabilities, debts and obligations, known or unknown, that it has had, now has, or may have in the future for any interest in the Property, or in crops growing on the Property.

Section 5. Civil Code Section 1542 Release. This waiver and release is a general release. Gioletti is aware of California Civil Code Section 1542, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Having been so apprised, Gioletti elects to waive and does waive all rights that may be granted to it pursuant to Civil Code Section 1542 and to assume all risks, known or unknown, covered by this release.

Section 6. Final Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the matters set forth herein. Except as otherwise provided herein, this Agreement is intended to be the final expression of the Agreement between the Parties with respect to the subject matter of this Agreement and supersedes and fully and completely extinguishes any prior understandings of agreements by or between the Parties, whether oral or in writing and will not be binding on the County unless and until it is approved by the Board of Supervisors.

Section 7. Amendments. This Agreement may not be modified, supplemented, or amended, or any of its provisions waived, except in writing by the Party against whom such modification, supplementation, amendment, or waiver is sought. Any modification, supplementation, amendment, or waiver that would materially affect the rights of both Parties must be signed by both Parties.

Section 8. Warranty of Authority. Each person signing this Agreement warrants to the other Party that he or she is authorized by the Party on whose behalf he or she is signing to execute this Agreement and to bind such Party to the terms of this Agreement.

Section 9. Time of the Essence. Time is of the essence for this Agreement.

Section 10. Mutual Cooperation. The Parties agree to cooperate in good faith to carry out the provisions and intent of this Agreement. The Parties agree to meet and confer in good faith to try to resolve any conflicts arising under this Agreement prior to bringing any action in court to enforce this Agreement.

Section 11. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowable by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situations shall remain in force and effect.

Section 12. Agreement Admissible in Enforcement Action. The Parties agree that this Agreement is admissible in any action to enforce this Agreement. Nothing in this Agreement shall be used as an admission of any fact or matter in any other challenge.

Section 13. Construction. This Agreement, and each of the provisions hereof, is the product of negotiations between the Parties and their respective attorneys, if any. Each of the Parties hereto expressly acknowledges and agrees that this Agreement shall not be deemed to have been prepared by or drafted by any particular Party hereto. The rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Section 14. Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights or impose any obligations upon any person or entity not a Party to this Agreement.

Section 15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 16. Headings and Captions. The headings and captions used in this Agreement are for convenience and ease of reference only, and are not intended to be part of the body of this Agreement, nor are they intended to be referred to in construing the provisions of this Agreement.

Section 17. Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be personally delivered, sent by first class United States mail, sent by electronic mail with original sent by United States Postal Service or reputable overnight courier for delivery the following day, or sent by reputable overnight courier to the addresses and electronic mail addresses set forth below. Any Party may at any time change its address or electronic mail address for the delivery of notice upon five (5) days written notice to the other Party.

ROBERT GIOLETTI AND SONS DAIRY, INC

Robert Gioletti, President
Robert Gioletti and Sons Dairy, Inc.
118 N. Blaker Road
Turlock, CA 95380
giodairy@sbcglobal.net

COUNTY OF STANISLAUS

Matt Machado, Public Works Director
County of Stanislaus
1716 Morgan Road
Modesto, CA 95358
machadom@stancounty.com

Section 18. Execution in Counterparts. This Agreement may be executed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument and shall have the same force and effect as if a single original had been executed by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on April 1, 2014 as follows:

COUNTY OF STANISLAUS

GRANTOR:

Robert Gioletti & Sons Dairy, Inc.



Jim DeMartini
Chairman of the Board of Supervisors

By: 

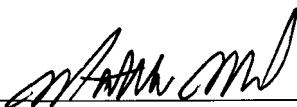
Robert Gioletti, President

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

By: 

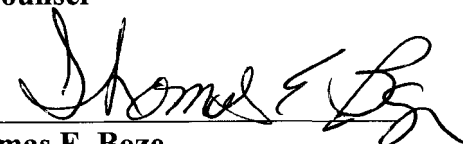
Patricia Gonyea
Deputy Clerk

APPROVED AS TO CONTENT:
Department of Public Works



Mathew Machado, Director

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: 

Thomas E. Boze
Deputy County Counsel

Exhibit "A"

TEMPORARY CONSTRUCTION EASEMENT LEGAL DESCRIPTION

Those portions of the property granted to Jose Terra-Boa and Mary J. Terra-Boa, by Grant Deed recorded June 07, 1996 as Document No. 1996-0046311, Stanislaus County Records, situated in the southeast quarter of Section 17, Township 5 South, Range 9 East, Mount Diablo Meridian, Stanislaus County California, more particularly described as follows:

AREA 4

COMMENCING at the section corner common to Sections 16, 17, 20 and 21, said Township and Range;

thence along the east line of said southeast quarter of Section 17,

North $00^{\circ}10'22''$ East 40.00 feet to the easterly extension of the northerly right-of-way line of West Main Street;

thence along a line parallel with and 40.00 feet northerly of the south line of said Section 17 and the northerly right-of-way line of West Main Street, North $89^{\circ}09'43''$ West 191.51 feet to the true **POINT OF BEGINNING** of this description;

thence continuing along said northerly right-of-way-line of West Main Street, North $89^{\circ}09'43''$ West 200.00 feet;

thence North $00^{\circ}50'17''$ East 200.00 feet;

thence South $89^{\circ}09'43''$ East 200.00 feet;

thence South $00^{\circ}50'17''$ West 200.00 feet to the point of beginning.

Containing 40,000 square feet, more or less.

AREA 5

COMMENCING at the section corner common to Sections 16, 17, 20 and 21, said Township and Range;

thence along the east line of said southeast quarter of Section 17,

North $00^{\circ}10'22''$ East 40.00 feet to the easterly extension of the northerly right-of-way line of West Main Street;

thence along said easterly extension of the northerly right-of-way line of West Main Street, parallel with and 40.00 feet north of the south line of said Section 17,

North $89^{\circ}09'43''$ West 57.00 feet to the westerly right-of-way line of Crows Landing Road;

thence parallel with and 57.00 feet westerly of the east line of said southeast quarter of Section 17, along the westerly right-of-way line of Crows Landing Road, North $00^{\circ}10'22''$ East 23.83 feet to a point of cusp with a non-tangent curve from which a radial line to the center bears North $42^{\circ}48'47''$ West and the true **POINT OF BEGINNING** of this description;

thence along said non-tangent curve, concave to the northwest and having a radius of 51.33 feet, through a central angle of $18^{\circ}15'07''$, an arc distance of 16.35 feet;

thence parallel with and 67.00 feet westerly from the east line of said southeast quarter of Section 17, North $00^{\circ}10'22''$ East 457.17 feet;

thence South $89^{\circ}09'43''$ East 10.00 feet to the westerly right-of-way line of Crows Landing Road;

thence parallel with and 57.00 feet westerly from the east line of said southeast quarter of Section 17 and said westerly right-of-way, South 00°10'22" West 444.21 feet to the point of beginning.

Containing 4,514 square feet, more or less.

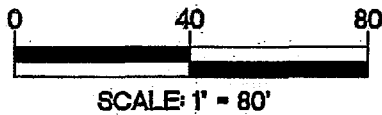


A handwritten signature in black ink, appearing to read "Keith W. Spencer", written over a horizontal line.

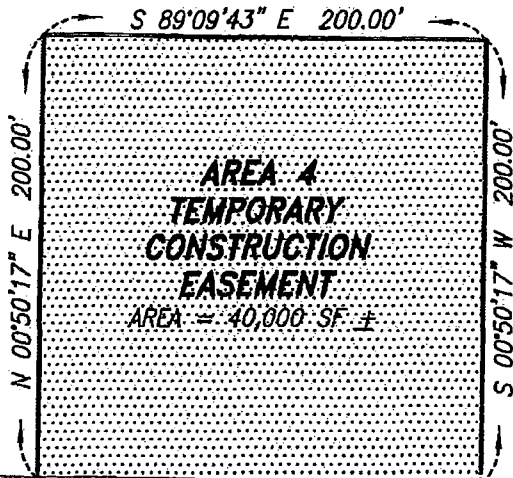
July 2, 2013

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	18°15'07"	51.33'	16.35'

**AREA 5
TEMPORARY
CONSTRUCTION
EASEMENT**
AREA = 4,514 SF ±

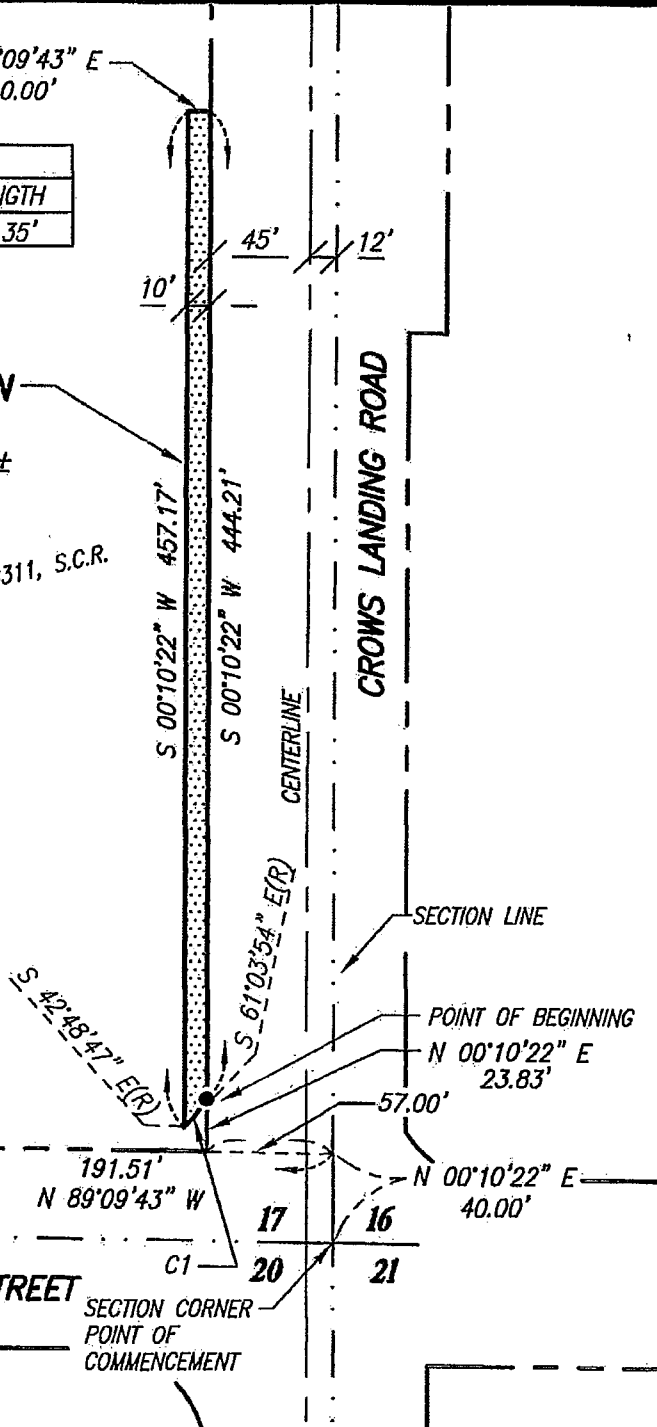


DOC # 1996-0046311, S.C.R.



POINT OF BEGINNING
N 89°09'43" W 200.00'

SECTION LINE
WEST MAIN STREET



SECTION LINE

POINT OF BEGINNING
N 00°10'22" E
23.83'

N 00°10'22" E
40.00'

SECTION CORNER
POINT OF
COMMENCEMENT

**EXHIBIT "B" - AREA 4 & 5
PLAT TO ACCOMPANY LEGAL DESCRIPTION**

**North Star
Engineering Group, Inc.**

• CIVIL ENGINEERING • SURVEYING • PLANNING •

620 12th Street Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB NO: 11-982
SCALE: 1" = 80'
DR BY: NM
CK BY: KWS
FILE: TCE ded-7
DATE: July 2, 2013



SIGNATURE:

Exhibit "B"

Stanislaus County
Robert Gioletti and Sons Dairy, Inc. Crop Loss Calculations
December 16, 2013

Robert Gioletti and Sons Dairy, Inc. (Gioletti) will incur crop loss on a property being acquired by Stanislaus County for the West Main and Crows Landing Road Project. The land being acquired is in alfalfa production. The County is acquiring approximately 1 acre of the Terra-Boa property (APN 022-036-014) as a temporary construction easement for a staging area. The following calculations are based on the County taking possession of the property by March 31, 2014.

Gioletti uses all of its alfalfa from the Terra-Boa property to feed its dairy herd.

The Gioletti lease is for \$450 per acre per year.

Costs to establish the multi-year crops were paid at the time they were incurred and are not considered in these calculations. These costs were to be recovered over the life of the crops. Also not considered are fixed cost, e.g. equipment, insurance, TID fixed irrigation fee, etc. because those costs will not change due to the reduction in farmable acreage.

The crop loss valuation is based on projected Gross Revenue minus Cultural costs for the 2 years remaining for the crop. Cultural costs are those which are directly attributed to growing and harvesting the lost crops. The attached Gioletti Crop Loss Worksheet shows the Gross Income and Operational Expenses per acre for this field. Projected Gross Revenue is based on the actual price per ton as reported by the Western Dairyman weekly update, Northern San Joaquin price, times the actual 2012 and 2013 tonnage from this field.

Gross Income (2 years)

6.7 tons of dry hay per acre X \$240/ton = \$1,608 X 2 years = \$3,216

2.6 tons of green chop per acre X \$80/ton = \$208 X 2 years = \$416.

Net Income (2 years)

<u>Gross Income</u>	<u>Rent</u>	<u>Cultural Costs</u>	<u>Net Profit</u>	<u>Crop Loss</u>
\$3,632	\$900	\$351	\$2,381	\$2,381

Total crop loss compensation to Gioletti is \$2,381.

CROP LOSS WORKSHEET

Name: Robert Gioletti

Crop Year: 2014 & 2015

Crop Description: alfalfa

2 years remaining

GROSS INCOME:

- ✓ Production per acre: Dry Hay 6.7 tons/acre/yr.
Green chop 2.6 tons/acre/yr.
- ✓ Price received per unit of measure: Dry Hay - \$240 per ton
Green chop - \$80 per ton
- ✓ Income per acre: Dry Hay \$1608
Green chop - 208
total - \$1816

OPERATIONAL EXPENSES:

- Rent per acre: \$450 or Share crop percentage:
- Ground preparation per acre:
- Seed:
- ✓ Fertilizer: ~~Q~~
- ✓ Pesticide: Lambda-Cy \$3.64 + \$13 application = \$16.64
- ✓ Herbicide: Prowl + Velpar \$68.88 + \$13 application = 81.88
- ✓ Irrigation: T.I.D. Fixed dry year charge \$26 + 30 inches of water @ \$5 = \$31
- ✓ Harvesting: Dry Hay Cut rake bale Haul \$36 per acre per yr.
Chopping/bussing Green chop \$36 per acre per yr.
- ✓ Hauling:
- Management:
- Other:

\$201.50
- 26.00
= \$175.50

Please provide documentation to support all items listed.

NOI/yr. = \$1,190.50