



Contra Costa County
Public Works
Department

Julia R. Bueren, Director

Deputy Directors
Brian M. Balbas
Stephen Kowalewski
Stephen Silveira
Joe Yee

October 9, 2013

Jeff McDaniel, Director
Maintenance and Operations
Mt. Diablo Unified School District
1480 Gasoline Alley
Concord, CA 94520

Project: Pacifica Avenue Sidewalk Project
Assessor's Parcel No.: 098-200-001 (Portion of)
Project No.: 0662-6R4026

Dear Mr. McDaniel:

As you are aware, Contra Costa County Public Works Department proposes to provide pedestrian facilities along a segment of Pacifica Avenue which students from Rio Vista Elementary School, Shore Acres Elementary School, and Riverview Middle School use to walk to and from the school sites. The project will extend the distance of sidewalk along Pacifica Avenue, to provide improved access for the mobility impaired and provide more paved area for bicyclists. Overall, the project will improve safety for children walking and biking to school sites and residences in the surrounding neighborhood.

The overall project extends along the north side of Pacifica Avenue between Mariners Cove Drive and Inlet Drive. Improvements consist of constructing approximately 1,000 linear feet of curb and gutter, a 5-foot wide sidewalk, driveway conforms, drainage improvements, and curb ramps. A segment of proposed improvements fronting your property is shown in the attached Property Map. To install the proposed improvements, we will require the purchase of certain property rights from you, as shown on the enclosed Property Map.

In September 2013, you were informed you that Contra Costa County would be conducting an appraisal of the property rights needed. An appraisal report has recently been completed and reviewed by the County. This report identifies the amount being offered as just compensation for the property rights needed for the project. You will find the following documents enclosed for review:

- Informational Brochure
- Title VI Form
- 2 Right of Way Contracts (Temporary Construction Easement)

"Accredited by the American Public Works Association"

255 Glacier Drive Martinez, CA 94553-4825
TEL: (925) 313-2000 • FAX: (925) 313-2333
www.cccpublicworks.org

Project: Pacifica Avenue Sidewalk Project
Project No.: 0662-6R4026
Parcel No.: 098-200-001 (portion of)
Page: 2

- Slope and Drainage Easement
- Appraisal Summary Statement
- 2 Rights of Entry

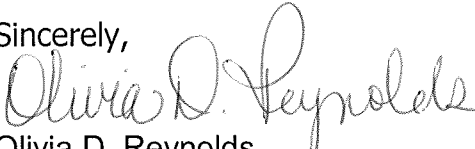
Pursuant to Code of Civil Procedure Section 1263.025 should you, as the owner(s) of the property elect to obtain an independent appraisal, the County will pay for the actual reasonable costs of the appraisal up to \$5,000 subject to the following conditions;

- a.) You, not the County, must order the appraisal. Should you enter into a contract with an appraiser; the County will not be a party to the contract.
- b.) The appraiser must be licensed with the Office of Real Estate Appraisers (OREA)
- c.) Appraisal cost reimbursement requests must be made in writing, and submitted to the Public Works Department, Real Estate Division, Attn: Principal Real Property Agent, 255 Glacier Drive, Martinez, CA 94553, within 90 days of the earliest of the following dates: (1) the date the selected appraiser requests payment from you for the appraisal; or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal. Copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the County concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.

The appraisal determined a value of \$8,200 for the proposed property rights and improvements required for the project.

Also enclosed are two Rights of Entry which will allow the County to secure the necessary funding for the Project. Please sign both copies and return to me by November 1, 2013.

Please contact me at your earliest convenience at (925) 313-2306 to discuss this offer and address any questions that you may have.

Sincerely,

Olivia D. Reynolds
Senior Real Property Agent

**INFORMATION AND
ACQUISITION PROCEDURES OF
STATE AND LOCAL
PUBLIC AGENCIES**

**THE PROCESS OF EMINENT DOMAIN
AND YOUR RIGHTS UNDER THE LAW**

MARCH 2008

INTRODUCTION

All governments have a duty to serve the public welfare. In order to meet this responsibility, it is often necessary for public agencies to acquire private lands to accommodate public projects. The authority to acquire privately owned real property for a public use, even when the property owner objects, has long been recognized as an inherent power of federal, state and local public agencies, known as "eminent domain." However, there are constitutional and legislative restraints on a public agency's power of eminent domain. Both the federal and state constitutions require the power of eminent domain may only be exercised for a public use, and that a fair price ("just compensation") be paid. In California, the laws that regulate the power of eminent domain can be found in the California Eminent Domain Law, which is set forth in Title 7 of the Code of Civil Procedure, Sections 1230.010 through 1273.050. Additional benefits for occupants of businesses, farms or residential properties displaced by a taking are available under the state's Relocation Assistance Act. This law can be found in the Government Code at sections 7260 and following, and in implementing regulations. This pamphlet was prepared to give you a general overview of the process of eminent domain and your rights under the law. This is an informational pamphlet only. It is not intended to give a complete statement of all laws and regulations pertaining to the acquisition of your property, the relocation assistance program, or to be any form of legal advice.

POLICIES AND PROCEDURES FOR REAL PROPERTY ACQUISITION

The purpose of the California Eminent Domain Law and Relocation Assistance Act is to encourage public agencies to acquire private property by agreement, to avoid litigation, to assure consistent treatment of property owners, and to promote public confidence in State and local acquisition programs. The following sections describe the procedures that typically occur in the acquisition of real property by a public agency.

Just Compensation

As a property owner whose land is needed for a public use, you are entitled to "just compensation" for your property under both the state and federal constitutions. The measure of this compensation is the fair market value of the property to be acquired, taking into account damages and benefits to the remaining lands in situations where there is only a partial taking, and loss of goodwill, if any, for businesses. Fair market value is defined as the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, not obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

The first step that the public agency takes in determining the fair market value of your real property is to obtain an appraisal. Real property is defined as the rights and interests possessed in land, and any improvements to the land that cannot be removed without a substantial economic loss or without substantial damage to the property on which the improvement is installed, such as structures, equipment and fixtures. You, or a representative you designate, will be given an opportunity to accompany the appraiser on

his or her inspection and to point out any unusual or hidden features the property may possess.

In preparing the appraisal, the appraiser is not allowed to consider an increase or decrease in the value of your property that results from the public project for which the property is needed, or the likelihood that your property will be acquired for the project. However, any physical deterioration within your reasonable control will be considered in the valuation of your property.

The completed appraisal(s) must be reviewed by the public agency staff. Based on a review of the appraisals, the agency will establish the amount it believes to be the just compensation to be offered for the property.

Offer to Purchase

Except under certain limited situations, the public agency must make an offer to purchase the property for the full amount it has determined to be just compensation. A written statement must be provided to you that includes the amount offered and explains the basis for determining this amount. Where only a part of the property is to be acquired, the statement must separate the amount of compensation to be paid for the property being acquired and the amount (if any) for damages to the remainder. If the acquisition leaves you with a remaining piece of land that is in such a size, shape or condition as to be of little market value, the agency may offer to purchase it.

At the time that the public agency makes its initial offer to purchase your property prior to filing an eminent domain action, it must also offer to pay the reasonable costs, not to exceed \$5,000, of an independent appraisal ordered by you as the property owner. In cases involving owner occupied residential property containing no more than four residential units, you will be allowed to review a copy of the appraisal upon which the offer is based. In cases where property is being acquired by or under threat of eminent domain by or on behalf of the State Department of Transportation for highway purposes, a copy of the agency's appraisal will be given to you.

The public agency may not take any action which would coerce you into accepting its offer. Prohibited actions include advancing the time of eminent domain, deferring negotiations or eminent domain proceedings, or postponing the deposit of funds for your use.

Eminent Domain

If you are not satisfied with the public agency's offer of just compensation, you will be given a reasonable opportunity to present relevant material for the agency's consideration. If negotiations have reached an impasse and possession of the property is required in order to allow the project to proceed to construction, the agency will either have to resort to acquiring your property through its powers of eminent domain, or abandon its intention to acquire the property. Our earnest hope is to avoid a proceeding in eminent domain with the added time, concern and cost to everyone. About 20 percent of our transactions countywide require eminent domain proceedings, with the remainder being settled through negotiations.

Before filing a lawsuit to acquire your property through eminent domain, the governing body of the public entity or agency must adopt a resolution making certain findings about the proposed public project and approving the filing of an eminent domain action. You will be given notice and an opportunity to appear before the governing body to question whether public interest, necessity, planning and location require the proposed project and your property. The governing body does not hear arguments regarding compensation.

Legal documents to acquire your property by eminent domain will be prepared by the agency and filed in the Contra Costa County Superior Court. Summons and complaint will then be served on all persons having a property interest in the parcel. The persons served must file a legal response with the court within 30 days.

Parties will then prepare for trial where a judge or jury will decide how much money the public agency must pay you for your property. The resulting award of compensation will be written down in a Judgment. When the public entity pays the full amount of the judgment, a final order is issued by the court and recorded. This final order effectuates the transfer of property interests to the public agency.

Possession of Property

Before the public agency can begin using your property for the intended public purpose, one of the following must occur:

1. You have signed a document allowing the agency to buy or use your property; or
2. The agency has deposited with the State Treasury an amount at least equal to the agency's approved appraisal of the value of your property for your benefit AND an order for prejudgment possession of your property has been issued by a court of law following a duly noticed hearing in which you will have the opportunity to oppose and be heard; or
3. After trial of the eminent domain case, the court issues its order transferring the necessary property rights to the public agency.

RELOCATION ASSISTANCE ACT

In addition to the just compensation required under the constitution, you are entitled to certain benefits under the State's Relocation Assistance Act if acquisition of property results in the displacement of you, your business, or your farm operation from the property.

If you must move because your home has been acquired, or if you must relocate your business or farm operation because of the acquisition of your property, you will be given advisory assistance and at least 90 days advance written notice of the date by which you are required to move. If you have to move from your home, a decent, safe and sanitary replacement dwelling must be available to you, on a nondiscriminatory basis, prior to your displacement.

REIMBURSEMENT OF ELIGIBLE EXPENSES

If you are being displaced, you are entitled to payment for actual moving and related expenses as are determined to be reasonable and necessary by the public agency. You are also entitled to be reimbursed for fair and reasonable expenses you necessarily incurred in conveying real property to the public agency such as recording fees, transfer taxes, prepayment penalties, and the pro-rata portion of real property taxes you have paid which are allocable to the period after title passes to the public agency, or the date of effective possession, whichever is earlier.

For further information on relocation benefits available under the law, a brochure entitled "**Relocation Services**" is available from the County Public Works Department, Real Property Division, 255 Glacier Drive, Martinez, California or telephone (925) 313-2220.

COMMONLY ASKED QUESTIONS

Who will contact me?

Appraisal and purchase of properties needed for the public project are the responsibility of the public agency that needs to acquire the property. The public agency provides a Relocation Assistance Program for businesses and persons who must move because of the project. An agent from the public agency will assist you and give you general information about the project.

One of the first persons you will meet is a staff appraiser collecting valuation data in your neighborhood. The appraiser will analyze your property and examine all of the features which contribute to its value. Information about improvements you have made and any other special features that you believe may affect the value of your property should be given to the appraiser to ensure a fair value is assigned to your property.

It is the duty of the public agency to ensure that you receive the same price which you would receive if you sold your property privately in the open market. The public agency cannot buy your property for more than it is worth but it *can and will* assure you that you do not have to sell your property for less than its fair market value.

What advantage is there in selling your property to a public agency?

A real estate purchase by the public agency is handled in the same way as any private sale of property. However, there can be financial advantages in selling to the public agency.

You will receive the market value of your property in cash. Nothing will be deducted for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. The public agency will pay these expenses.

Sales expenses in a private sale can be as high as \$14,000 in addition to any real estate commissions. There are no seller's expenses in a sale to the agency.

Additionally you may be eligible for relocation payments and benefits when you move. (These benefits are described in supplemental booklets which will be provided to you.)

Will I be paid for loss in value to my remaining property?

When only a part of your property is needed, every reasonable effort is made to ensure that you do not suffer a financial loss. The total payment by the public agency will be for the property the agency purchases and for any loss in value to your remaining property.

The determination of loss in value is an appraisal problem involving variables in which a brief explanation might not adequately cover all situations. Should this situation be involved, the agency representative will fully explain the effect of a part purchase on your remaining property.

May I retain and move my home, business building, machinery, or equipment?

The representative who has been assigned to buy your property will help you to determine whether it is feasible to move your house to another location, if this is what you wish. If your house is movable and you wish to make such arrangement, the agency will pay you on the basis of the market value of your present lot including landscaping, plus the reasonable cost of moving the building. There are cases, because of age, size or condition of the house, where the cost of moving it would exceed its present market value less its salvage value. In such a case, payment of moving cost would, of course, be an unwise expenditure.

If you operate a business you may wish to keep and move fixed machinery and equipment. Additionally, as an owner of a business conducted on the property to be purchased, you may be entitled to compensation for the loss of goodwill.

If any of these concepts are applicable to your situation, they will be fully explained by the agent assigned to purchase your property.

Will I have time to select another home after the public agency makes its purchase?

The public agency starts to appraise properties early enough so that you will have ample time to move prior to project construction. Like any other real estate transaction, it requires a month or two to close escrow after a purchase agreement and deed have been signed. You will not be required to move until reasonable replacement housing is available.

If you don't want to buy another home right away, and the public project is not going to start right away, it may be possible for you to rent your home back from the public agency for a temporary period of time after you have sold it. It is in your best interest, however, to look for a new place in which to live as soon as possible. Finding a home early, that best suits your needs, before you are required to move will minimize your personal inconvenience and you will avoid having to make a choice of housing under pressure when you are required to move.

If you wish, the public agency will, at no cost to you, provide you with assistance in finding a new place in which to live. The public agency will give you at least 90 days notice in writing before asking you to move.

What happens to the loan on my property?

After you and the public agency have agreed upon a price, an agency representative will contact all other parties having an interest in the property. If the public agency is taking most or all of your parcel, payment to satisfy outstanding loans or liens will be made through a title company escrow as in any other real estate transaction.

What will happen to my GI or Cal-Vet loan?

The Veterans Administration and the California Department of Veterans Affairs allow your veteran loan privileges to be transferred and to become available for coverage on another property.

Your agency representative will assist you; however, it is to your benefit and it is your responsibility to check with the Veterans Administration or the California Department of Veterans Affairs for procedural instructions.

If the value of my property is higher today than when I purchased it, do I have to pay income tax on this difference when I sell it to the public agency?

According to the Internal Revenue Service, the sale of property to a governmental agency for public purposes comes under the definition of an "involuntary conversion." The IRS has regulations to help taxpayers determine whether or when they need to report gain from an involuntary transfer. You should be aware that these regulations exist and check with your local Internal Revenue Service Office and, if appropriate, your own tax adviser. The IRS web site can be found at www.irs.gov.

What happens in an eminent domain lawsuit?

In most cases, the purpose of the eminent domain lawsuit is to determine the amount of compensation because the parties have been unable to agree on how much the property is worth. Sometimes the parties reach a settlement. But, if not, the case will go to trial and be decided by a judge or a jury. Both the property owner and the public agency will have the opportunity to present evidence of value. The jury will determine the amount of compensation, after being instructed as to the law by the judge. In those cases where the parties choose not to have a jury, the judge will decide the amount of compensation.

The judgment is then prepared by the lawyers and signed by the judge. It will state that, upon deposit of the amount of the verdict with the court for the benefit of the property owner, title will be transferred to the public agency.

When the public agency makes the deposit as required by the judgment, the final order is signed by the judge and recorded. This is the actual transfer of title.

Who pays the trial costs?

The public agency pays the costs of its attorney and its engineering and appraisal witnesses. It will also pay the jury fees and certain of your incidental costs which are determined by law to be allowable costs. The fee for filing your answer with the court is an example of such costs.

The property owner's attorney's fees and costs are generally a matter between the owner and his or her attorney. However, if, at the end of the trial, the judge determines that the public agency's offer of settlement was unreasonable and the demand of the property owner was reasonable, viewed in the light of the evidence admitted and the verdict, the property owner may be awarded litigation expenses at the discretion of the judge.

If I want a trial, must I have an attorney and expert witnesses?

Most property owners will be represented by an attorney, although they have the right to represent themselves.

You may wish to consult your family attorney. If you do not have one, in many communities the yellow pages of the telephone directory will refer you to an attorney reference service.

You and your attorney must decide what type of case you will present and what witnesses will be needed.

Will I be paid any moving expenses or any other relocation assistance benefit even though I go to court?

A decision to go to court has no effect on your right to moving expenses. Payment of moving expenses is made separately from the eminent domain action.

RIGHT OF WAY CONTRACT -- STATE HIGHWAY- TEMPORARY EASEMENT

RW 8-4 (6/95)

_____ , California	District	County	Route	Post Mile	Parcel No.
_____ , 2013	4	CC	N/A	N/A	5, 6 & 7

Grantor (s): MT. DIABLO SCHOOL DISTRICT OF CONTRA COSTA COUNTY, a political subdivision

THIS DOCUMENT in the form of a TEMPORARY EASEMENT, covering the property particularly described in Clause 3 below has been executed and delivered to Olivia D. Reynolds, Senior Right of Way Agent for Contra Costa County (County).

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

1. 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 the County of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The County shall pay the undersigned grantors the sum of \$8,200 for this Temporary Easement.
3. Permission is hereby granted to the County or its authorized agent to enter upon grantor's land where necessary within that certain area described in Exhibit "A" attached hereto and made a part hereof, for the purpose of constructing pedestrian facilities.
4. This Temporary Easement shall terminate on December 31, 2014 or upon completion of construction, whichever occurs first.
5. The undersigned grantors warrant that they are the owners in fee simple of the property affected by this Temporary Easement as described in Clause 3 above and that they have the exclusive right to grant this Temporary Easement.
6. In case of unpredictable delays in construction, upon written notification, the expiration date of the Temporary Easement may be extended one month at a time at \$50 per month. Said amount will be paid to the grantors in a lump sum within sixty (60) days after County has determined the easement is no longer required.

RIGHT OF WAY CONTRACT -- STATE HIGHWAY- TEMPORARY EASEMENT

RW 8-4 (6/95)

In Witness Whereof, the Parties have executed this agreement the day and year first above written.

GRANTEE
CONTRA COSTA COUNTY

GRANTOR
MT. DIABLO UNIFIED SCHOOL DISTRICT

By _____
Julia R. Bueren
Public Works Director

By _____
Dr. Nellie Meyer
Superintendent

Date: _____
(Date of Approval)

Date: _____
(Date signed by Grantor)

Recommended for Approval:

By _____
Olivia D. Reynolds
Senior Real Property Agent

By _____
Karen Laws
Principal Real Property Agent

Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

EXHIBIT "A"

Real property in an unincorporated area of the County of Contra Costa, State of California, being a portion of the Southeast ¼ of the Northeast ¼ of Section 9, Township 2 North, Range 1 West, Mount Diablo Meridian, and being a portion of the property described in the deeds to Mt. Diablo Unified School District (MDUSD), recorded October 16, 1952 in Book 2008 Official Records at Page 486 and Page 489, Contra Costa County Records, described as follows:

Parcel Five – Slope Easement

Commencing at the southwest corner of said MDUSD parcel (2008 OR 489), said point being on the northerly Right of Way line of Pacifica Avenue; thence along the westerly line of said MDUSD parcel north 00°43'42" east (said bearing being taken for purposes of this description), 10.00 feet to the northerly line of an existing slope and drainage easement to Contra Costa County, recorded June 15, 1956 in Book 2788 of Official Records, at Page 367; thence along said line south 89°51'35" east, 60.00 feet to the Point of Beginning; thence from said Point of Beginning, north 00°43'42" east, 6.95 feet; thence south 63°11'10" east, 20.37 feet; thence south 89°54'24" east, 101.66 feet; thence south 00°43'42" west, 2.89 feet to the northerly line of said slope and drainage easement (2788 OR 367); thence along said line north 89°51'35" west, 95.00 feet; thence north 78°30'19" west, 25.40 feet to the Point of Beginning.

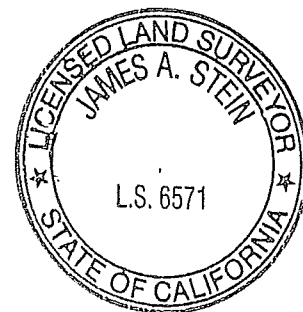
Containing an area of 362 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 9/10/13



Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

EXHIBIT "A"

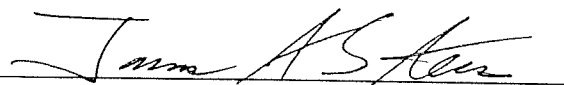
Real property in an unincorporated area of the County of Contra Costa, State of California, being a portion of the Southeast ¼ of the Northeast ¼ of Section 9, Township 2 North, Range 1 West, Mount Diablo Meridian, and being a portion of the property described in the deed to Mt. Diablo Unified School District (MDUSD), recorded October 16, 1952 in Book 2008 Official Records Page 489, Contra Costa County Records, described as follows:

Parcel Six – Drainage Easement

Commencing at the southwest corner of said MDUSD parcel (2008 OR 489), said point being on the northerly Right of Way line of Pacifica Avenue; thence along the westerly line of said MDUSD parcel north 00°43'42" east (said bearing being taken for purposes of this description), 10.00 feet to the northerly line of an existing slope and drainage easement to Contra Costa County, recorded June 15, 1956 in Book 2788 of Official Records, at Page 367; thence along said line south 89°51'35" east, 10.00 feet to the Point of Beginning; thence from said Point of Beginning, north 00°43'42" east, 20.00 feet; thence south 89°51'35" east, 31.91 feet; thence south 25°58'32" east, 5.31 feet; thence south 61°55'29" east, 17.67 feet; thence south 00°43'42" west, 6.95 feet to the northerly line of said slope and drainage easement (2788 OR 367); thence along said line north 89°51'35" west, 50.00 feet to the Point of Beginning.

Containing an area of 854 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: 

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 9/10/13



Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

EXHIBIT "A"

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Parcel Seven – Temporary Construction Easement to expire December 31, 2014

Commencing at the southwest corner of said MDUSD parcel (2008 OR 489), said point being on the northerly Right of Way line of Pacifica Avenue; thence along the westerly line of said MDUSD parcel north 00°43'42" east (said bearing being taken for purposes of this description), 10.00 feet to the northerly line of an existing slope and drainage easement to Contra Costa County, recorded June 15, 1956 in Book 2788 of Official Records, at Page 367, also being the Point of Beginning; thence from said Point of Beginning continuing along said line north 00°43'42" east, 30.00 feet; thence south 89°51'35" east, 60.00 feet; thence south 00°43'42" west, 23.05 feet; thence north 61°55'29" west, 17.67 feet; thence north 25°58'32" west, 5.31 feet; thence north 89°51'35" west, 31.91 feet; thence south 00°43'42" west, 20.00 to the northerly line of said slope and drainage easement (2788 OR 367); thence along said line north 89°51'35" west, 10.00 feet to the Point of Beginning.

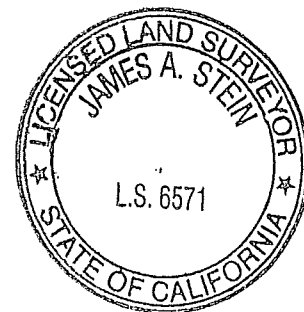
Containing an area of 946 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 9/10/13



RIGHT OF WAY CONTRACT -- STATE HIGHWAY- TEMPORARY EASEMENT

RW 8-4 (6/95)

_____ , California	District	County	Route	Post Mile	Parcel No.
_____ , 2013	4	CC	N/A	N/A	5, 6 & 7

Grantor (s): MT. DIABLO SCHOOL DISTRICT OF CONTRA COSTA COUNTY, a political subdivision

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

1. 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 the County of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The County shall pay the undersigned grantors the sum of \$8,200 for this Temporary Easement.
3. Permission is hereby granted to the County or its authorized agent to enter upon grantor's land where necessary within that certain area described in Exhibit "A" attached hereto and made a part hereof, for the purpose of constructing pedestrian facilities.
4. This Temporary Easement shall terminate on December 31, 2014 or upon completion of construction, whichever occurs first.
5. The undersigned grantors warrant that they are the owners in fee simple of the property affected by this Temporary Easement as described in Clause 3 above and that they have the exclusive right to grant this Temporary Easement.
6. In case of unpredictable delays in construction, upon written notification, the expiration date of the Temporary Easement may be extended one month at a time at \$50 per month. Said amount will be paid to the grantors in a lump sum within sixty (60) days after County has determined the easement is no longer required.

RIGHT OF WAY CONTRACT -- STATE HIGHWAY- TEMPORARY EASEMENT

RW 8-4 (6/95)

In Witness Whereof, the Parties have executed this agreement the day and year first above written.

GRANTEE
CONTRA COSTA COUNTY

GRANTOR
MT. DIABLO UNIFIED SCHOOL DISTRICT

By _____
Julia R. Bueren
Public Works Director

By _____
Dr. Nellie Meyer
Superintendent

Date: _____
(Date of Approval)

Date: _____
(Date signed by Grantor)

Recommended for Approval:

By _____
Olivia D. Reynolds
Senior Real Property Agent

By _____
Karen Laws
Principal Real Property Agent

Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

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Parcel Five – Slope Easement

Commencing at the southwest corner of said MDUSD parcel (2008 OR 489), said point being on the northerly Right of Way line of Pacifica Avenue; thence along the westerly line of said MDUSD parcel north 00°43'42" east (said bearing being taken for purposes of this description), 10.00 feet to the northerly line of an existing slope and drainage easement to Contra Costa County, recorded June 15, 1956 in Book 2788 of Official Records, at Page 367; thence along said line south 89°51'35" east, 60.00 feet to the Point of Beginning; thence from said Point of Beginning, north 00°43'42" east, 6.95 feet; thence south 63°11'10" east, 20.37 feet; thence south 89°54'24" east, 101.66 feet; thence south 00°43'42" west, 2.89 feet to the northerly line of said slope and drainage easement (2788 OR 367); thence along said line north 89°51'35" west, 95.00 feet; thence north 78°30'19" west, 25.40 feet to the Point of Beginning.

Containing an area of 362 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 9/10/13



EXHIBIT "A"

Real property in an unincorporated area of the County of Contra Costa, State of California, being a portion of the Southeast ¼ of the Northeast ¼ of Section 9, Township 2 North, Range 1 West, Mount Diablo Meridian, and being a portion of the property described in the deed to Mt. Diablo Unified School District (MDUSD), recorded October 16, 1952 in Book 2008 Official Records Page 489, Contra Costa County Records, described as follows:

Parcel Six – Drainage Easement

Commencing at the southwest corner of said MDUSD parcel (2008 OR 489), said point being on the northerly Right of Way line of Pacifica Avenue; thence along the westerly line of said MDUSD parcel north 00°43'42" east (said bearing being taken for purposes of this description), 10.00 feet to the northerly line of an existing slope and drainage easement to Contra Costa County, recorded June 15, 1956 in Book 2788 of Official Records, at Page 367; thence along said line south 89°51'35" east, 10.00 feet to the Point of Beginning; thence from said Point of Beginning, north 00°43'42" east, 20.00 feet; thence south 89°51'35" east, 31.91 feet; thence south 25°58'32" east, 5.31 feet; thence south 61°55'29" east, 17.67 feet; thence south 00°43'42" west, 6.95 feet to the northerly line of said slope and drainage easement (2788 OR 367); thence along said line north 89°51'35" west, 50.00 feet to the Point of Beginning.

Containing an area of 854 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 8/10/13



Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

EXHIBIT "A"

Real property in an unincorporated area of the County of Contra Costa, State of California, being a portion of the Southeast ¼ of the Northeast ¼ of Section 9, Township 2 North, Range 1 West, Mount Diablo Meridian, and being a portion of the property described in the deed to Mt. Diablo Unified School District (MDUSD), recorded October 16, 1952 in Book 2008 Official Records Page 489, Contra Costa County Records, described as follows:

Parcel Seven – Temporary Construction Easement to expire December 31, 2014

Commencing at the southwest corner of said MDUSD parcel (2008 OR 489), said point being on the northerly Right of Way line of Pacifica Avenue; thence along the westerly line of said MDUSD parcel north 00°43'42" east (said bearing being taken for purposes of this description), 10.00 feet to the northerly line of an existing slope and drainage easement to Contra Costa County, recorded June 15, 1956 in Book 2788 of Official Records, at Page 367, also being the Point of Beginning; thence from said Point of Beginning continuing along said line north 00°43'42" east, 30.00 feet; thence south 89°51'35" east, 60.00 feet; thence south 00°43'42" west, 23.05 feet; thence north 61°55'29" west, 17.67 feet; thence north 25°58'32" west, 5.31 feet; thence north 89°51'35" west, 31.91 feet; thence south 00°43'42" west, 20.00 to the northerly line of said slope and drainage easement (2788 OR 367); thence along said line north 89°51'35" west, 10.00 feet to the Point of Beginning.

Containing an area of 946 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department



Date: 9/10/13

Recorded at the request of:
Contra Costa County

Return to:
Contra Costa County
Public Works Department
Real Estate Division
255 Glacier Drive
Martinez, CA 94553
Attn: Olivia D. Reynolds

Assessor's Parcel No.: 098-200-100 (portion of)

GRANT OF EASEMENT

THIS INDENTURE, made by and between the MT. DIABLO SCHOOL DISTRICT OF CONTRA COSTA COUNTY, a political subdivision, hereinafter called the GRANTOR, and CONTRA COSTA COUNTY, a political subdivision of the State of California, hereinafter called the GRANTEE,

That the GRANTOR, for value received, hereby grants to the GRANTEE and to its successors and assigns a perpetual easement and right of way for the purpose of constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using as the GRANTEE may see fit, for roadway embankments and slopes and all necessary appliances for use in connection therewith or appurtenant thereto, and a perpetual easement and right of way for the purposes of laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using, as the GRANTEE may see fit, for the transmission of drainage water, a pipe or pipe lines, culverts or ditches, and all necessary braces, connections, fastenings and other appliances and fixtures for use in connection therewith or appurtenant thereto, in, under, along, and across that certain real property in the County of Contra Costa, State of California, described as follows:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The easement herein granted shall included the right by said GRANTEE, its officers, agents and employees, and by persons under contract with it and their employees whenever and wherever necessary for slope and drainage purposes, to enter upon said land with personnel, vehicles and equipment, to remove all trees, vegetation and structures thereon that interfere with the purpose for which the easement herein is granted.

It is understood that GRANTEE is not responsible for repairing or replacing any of GRANTOR's improvements within the area described in Exhibit "A" herein.

TO HAVE AND TO HOLD, all and singular, the rights above described unto the GRANTEE and the GRANTEE's successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR has executed this indenture this _____ day of _____ 2013.

Dr. Nellie Meyer
Superintendent

ABOVE SIGNATURES MUST BE NOTARIZED

EXHIBIT "A"


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Containing an area of 362 square feet of land, more or less.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: 

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 9/10/13



Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

EXHIBIT "A"

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Signature: *James A. Stein*

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 8/10/13



Pacifica Avenue (Road No. 5094B)
Portion of APN 098-200-001
MT. DIABLO UNIFIED SCHOOL DISTRICT
Drawing No. RW-5094B-2013

EXHIBIT "A"

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Parcel Seven – Temporary Construction Easement to expire December 31, 2014

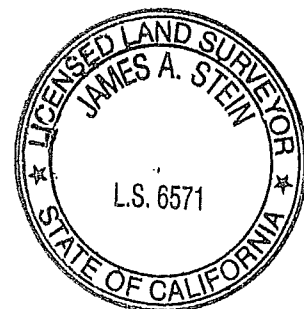
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Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department



Date: 9/10/13

APPRAISAL SUMMARY STATEMENT

AND

SUMMARY OF THE BASIS FOR JUST COMPENSATION

Date: October 9, 2013

Public Agency: Contra Costa County

Project: Pacifica Avenue Sidewalk Project

Owner: Mt. Diablo Unified School District

Parcel: 098-200-001 (portion of)

Each property owner from whom a public agency purchases real property or an interest therein, or each tenant owning improvements on said property, is provided with a statement summarizing the transaction PURSUANT TO Government Code Section 7267.2. In this connection the following summary is provided to you:

Your property; or a portion thereof, is required for the Pacifica Avenue Sidewalk Project.

Attached hereto is a map identifying the real property to be acquired with the interest to be acquired indicated thereon.

This summary of the basis of the amount offered as just compensation, as required by Code of Civil Procedure §1255.010 has been derived from an appraisal prepared by a qualified appraiser in accordance with accepted appraisal principles and procedures; said appraisal was prepared for and reviewed by the public agency.

Pursuant to Code of Civil Procedure Section 1263.025 should you, as the owner(s) of the property elect to obtain an independent appraisal, the Agency will pay for the actual reasonable costs of the appraisal up to \$5,000 subject to the following conditions;

- a.) You, not the Agency, must order the appraisal. Should you enter into a contract with the selected appraiser; the Agency will not be a party to the contract.
- b.) The selected appraiser must be licensed with the Office of Real Estate Appraisers (OREA).
- c.) Appraisal cost reimbursement requests must be made in writing, and submitted to the Public Works Department, Real Estate Division, Attn: Principal Real Property Agent, 255 Glacier Drive, Martinez, CA 94553, within 90 days of the earliest of the following dates: (1) the date the selected appraiser requests payment from you for the appraisal; or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal. Copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the Agency concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.

It is understood that all buildings, structures, and other improvements affixed to the real property being acquired and owned by the grantor(s) herein, are being conveyed unless other disposition of these improvements has been made.

This offer includes payment for the following:

Parcel Five - Slope Easement:
 362sf x \$3.50/sf = \$1,267 x 70%\$ 888.90

Parcel Six – Drainage Easement
 854/sf x \$3.50/sf = \$2,989 x 90%\$2,690.10

Parcel Seven - Temporary Construction:
 [(946/sf x \$3.50/sf) x 10%] = \$331.10 ÷ 12 = \$27.59/mo x 6 mos =\$ 165.54 (nominal)

Improvements and Landscaping to be acquired are as follows:

Landscaping/Improvement Value.....\$4,415.00
 Small Trees (3 x \$95)\$ 285.00
 Medium Trees (5 x \$410)\$2,050.00
 Large Trees (2 x \$1,040)\$2,080.00

Severance Damages (describe)\$N/A

Benefits (describe)\$N/A

Just Compensation for Acquisition Rounded:\$8,200.00

COMPARABLE SALES:

No.	Address/APN	Date	Size	Zoning/GP	Price	\$/S.F. Unadjusted
1.	112 Solano Ave., Bay Point APN: 096-043-034	7-18-13 013-179595	6,190/sf	P-1 SH	\$55,000	\$9/sf
2.	1669 Barrus, Pittsburg APN: 073-124-003	8-8-13 013-197373	5,750/sf	RS-5 Low Density Res.	\$26,000	\$4.52/sf
3.	4373 Rose Ln., Concord APN: 134-070-009	8-7-13 013-196892	20,000/sf	RR	\$225,000	\$11.25/sf

BASIS OF APPRAISAL

BASIC PROPERTY DATA

Interest Valued: Slope Easement, Drainage Easement and Temporary Construction Easement

Date of valuation: September 27, 2013

Applicable zoning: P-1 (Public Unit District)

Area to be acquired: Parcel Five – 362 sf Slope Easement
 Parcel Six – 854 sf Drainage Easement
 Parcel Seven – 946 sf Temporary Construction Easement

Highest and best use: Present Use

Current use: Public School

1. The market approach is based on the consideration of comparable sales which sold within a reasonable time at a value range of \$4.52/sf to \$11.25/sf (unadjusted).
2. The cost approach is based in part on a replacement cost new of improvements less depreciation.
3. The income approach is based on a consideration of comparable properties that have an income stream. This property is a personal residence and does not provide an income stream.

The principal appraisal technique used in appraising your property was the market approach which consists of the comparison of similar parcels to the subject and utilize the price per square foot as the unit of comparison.

This summary of the basis of the amount established as just compensation is presented in compliance with Federal and State law and is based on a fair market appraisal prepared according to accepted appraisal procedures.

This amount:

1. Is the full amount believed by the Public Agency to be just compensation for the property and is not less than the fair market value of the property as determined on the basis of the appraisal(s);
2. Disregards any increase or decrease in the fair market value of the property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner; and
3. Does not reflect any relocation payments or other relocation assistance which you may be entitled to receive.

California Code of Civil Procedure Section 1263.320 defines fair market value as follows:

- a.) Fair market value is defined as the highest price that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for doing so, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for doing so, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
- b.) The fair market value of property taken for which there is no relevant market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

Full consideration is given to zoning, development potential, and the income the property is capable of producing.

It is understood that you are entitled to receive full payment prior to vacating the real property being purchased or, you are entitled to have the public agency deposit with the proper Court an amount of money sufficient to secure said real property upon issuance of an order of immediate possession.

It is understood that the public agency has made you an offer to purchase any remnant considered by the agency to be an uneconomic unit which is owned by you and which is contiguous to the land being conveyed.

The public agency shall pay all escrow and recording fees incidental to this transaction.






It is understood that you are entitled to provide any information as to the value of the property to be acquired should you differ with the established fair market value.

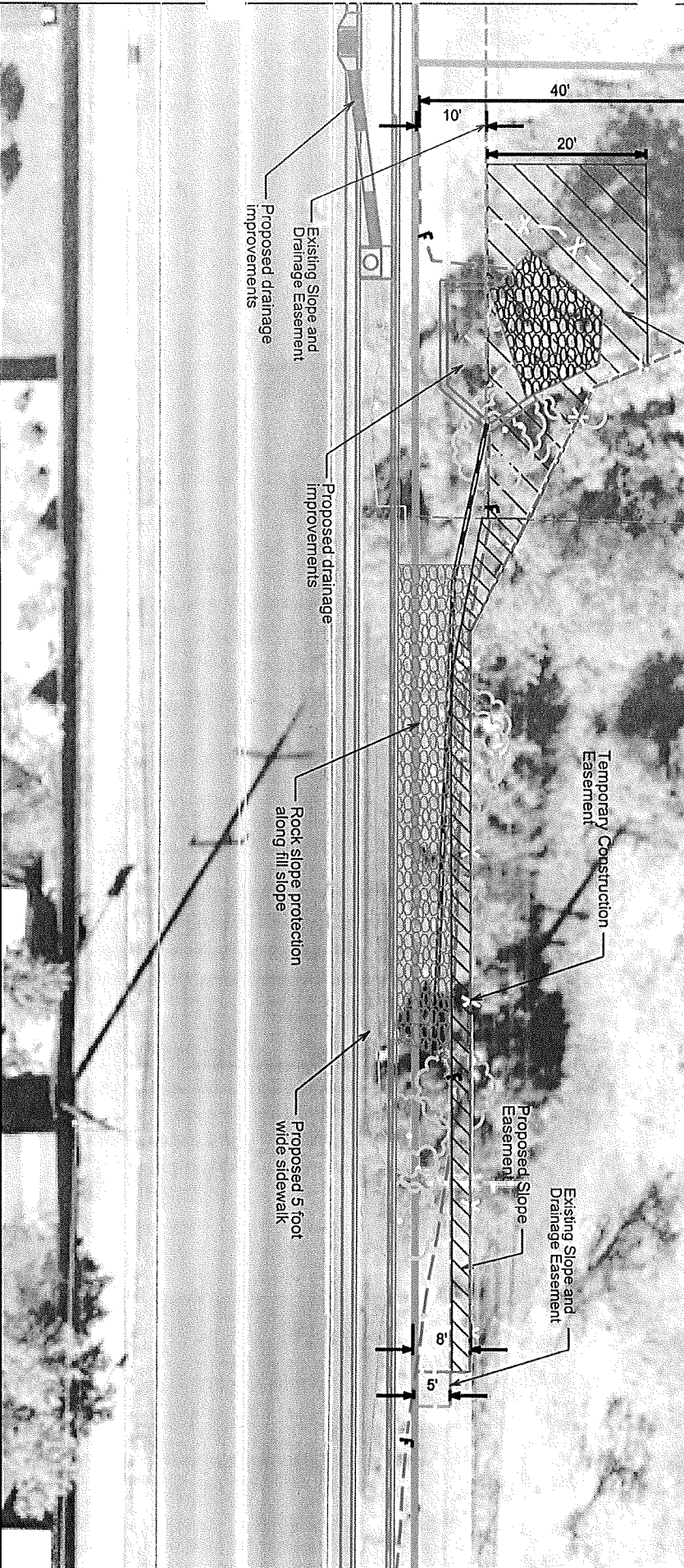
If you ultimately elect to reject the Agency's offer for your property, you are entitled to have the amount of compensation determined by a Court of law in accordance with the laws of the State of California.

Copy mailed on _____ By _____

Not to Scale
DRAFT

APN 098-200-001
 MDUSD
 Shore Acres Elementary School

LEGEND	
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255 GLACIER DRIVE MARTINEZ, CALIFORNIA 94553 PH: (925) 313-2000 FAX: (925) 313-2333



Contra Costa County
Public Works
 Department

PROPERTY MAP

Pacifica Avenue Sidewalk
 Inlet Drive to Mariner's Cove Drive

DB: BS CB: _____ DATE: August 2013 SHEET 1 OF 1

RIGHT OF ENTRY

Contra Costa County
Public Works Department
Real Estate Division
255 Glacier Drive
Martinez, CA 94553

Project: Pacifica Avenue Sidewalk Project
Project No.: 0662-6R4026
Parcel: 098-200-001

Permission is hereby granted to Contra Costa County a political subdivision of the State of California, its contractors, agents or assigns, to enter upon our land, as outlined on the map attached hereto and made a part hereof, for the purpose of constructing or improving the pedestrian facilities along a segment on the North side of Pacifica Avenue between Mariners Cove Drive and Inlet Drive and accomplishing all necessary incidents thereto.

It is understood that this permission is not a waiver in any way of the right to compensation for such land or of any remedy authorized by law to secure payment therefor.

This permission is granted on the understanding that the County will hereafter without unnecessary delay negotiate with the undersigned, and any other person, if any, having any right, title or interest in said property, to agree upon terms of compensation, and that, if any agreement cannot be reached, the County will promptly commence eminent domain proceedings to have such compensation determined.

This permission is granted in consideration of the location, improvement and construction of such improvements and incidents thereto, which it is understood is required by the Contra Costa County Public Works Department, and shall continue in effect until all property rights required for the project have been acquired or until a reasonable time after the County has been requested by the undersigned to commence eminent domain proceedings.

Section 1245.235 of the Code of Civil Procedures requires the Contra Costa County Board of Supervisors to give each person whose property is to be acquired by eminent domain notice and a reasonable opportunity to appear before the Board of Supervisors and be heard on the matters referred to in Section 1240.030, 1240.510 and 1240.610 of the Code of Civil Procedure, which provides that the power of eminent domain may be exercised to acquire property for a proposed project only if all of the following are established:

- (a) The public interest and necessity require the project.
- (b) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (c) The property sought to be acquired is necessary for the project.
- (d) The offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record.

- (e) And, where some of the property to be acquired is appropriated to a public use, that the proposed use is a more necessary use than the use to which the property is now put, or a compatible public use.

By granting this right of entry to the County, Christopher T. and Susie A. Akers hereby waives its right to appear and be heard on the foregoing matters. Christopher T. and Susie A. Akers agree that the County can establish the truth of the above quoted matters, and will not contest the adoption of a Resolution of Necessity by the County's Board of Supervisors (under Section 1245.255 of the Code of Civil Procedure). It is understood that the issues which will be determined in any subsequent eminent domain proceeding will be limited to those of just compensation as they relate to the property covered by this agreement and no issues will be raised therein or in preliminary proceedings thereto challenging the public use of necessity of the project, or the utilization of the property covered by this right of entry.

It is understood that the County will pay interest on the just compensation paid from the date of possession by the County. The rate of interest will be the rate of earnings of the Surplus Money Investment Fund and computation will be in accordance with Section 1268.350 of the Code of Civil Procedure. Interest will be computed to and including the date of deposit of compensation.

Very truly yours,

Jeff McDaniel, Director
Maintenance and Operations
Mt. Diablo Unified School District

RECOMMENDED FOR APPROVAL

BY _____
Debra L. Baker
Supervising Real Property Agent

ACCEPTED:

CONTRA COSTA COUNTY
Public Works Department

By _____
Julie Bueren
Public Works Director

Dated: _____

OR:
G:\realprop\Olivia\Pacifica Avenue Sidewalk Project\mdusd\PR.01 Right of Entry - mdusd.doc