

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

DEPT: Public Works *AM*

BOARD AGENDA # \*C-3

Urgent  Routine

AGENDA DATE January 27, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Purchase Agreement to Acquire Road Right-of-way Through a Roadway Easement for the Ladd Road at McHenry Avenue Intersection Project, Parcel Owner Steven F. Sbragia and Charlotte D. Sbragia, APN: 074-002-021 and 074-002-031

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement for the subject acquisition.
2. Authorize the Chairman of the Board to execute the agreement.
3. Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$72,500, payable to Fidelity National Title Company, for the purchase amount of \$71,000 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total estimated cost for this project is \$2,389,700. The \$72,500 for the purchase of this roadway easement is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$71,000 for the purchase of the roadway easement and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2009-80

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of Purchase Agreement to Acquire Road Right-of-way Through a Roadway Easement for the Ladd Road at McHenry Avenue Intersection Project, Parcel Owner Steven F. Sbragia and Charlotte D. Sbragia, APN: 074-002-021 and 074-002-031

#### DISCUSSION:

In January 2004, the Board of Supervisors approved the Public Works Department Traffic Congestion Relief Program. The Traffic Congestion Relief Program provides for the installation of traffic signals, left turn lanes and related improvements on selected roadways throughout the County, including the improvements to the Ladd Road at McHenry Avenue intersection.

In June 2004, the Board of Supervisors awarded a contract to Wood Rodgers for environmental and engineering services for the Ladd Road and McHenry Avenue Intersection Improvements.

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

On July 24, 2007, the Board of Supervisors approved the Initial Study/Mitigated Negative Declaration for the Ladd Road at McHenry Avenue Intersection Project.

To accomplish this project, the County will need to acquire additional right-of-way through a roadway easement from the parcel on the northeast corner of Ladd Road and McHenry Avenue. The property owner has agreed to accept the following:

Property Owners: Steven F. and Charlotte D. Sbragia  
Amount of Compensation: \$71,000  
Assessor's Parcel Number: 074-002-021; Right-of-Way Area: 0.696 acres  
Assessor's Parcel Number: 074-002-031; Right-of-Way Area: 0.207 acres

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

The easement to be acquired is subject to a lease by Plant Sciences Inc., but they have been paid compensation under the terms of their lease and have provided the County with a waiver of additional compensation. The waiver has been included for reference.

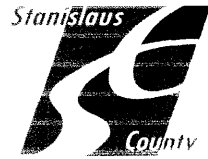
#### POLICY ISSUES:

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

#### STAFFING IMPACT:

There is no staffing impact associated with this item.

# AUDITOR-CONTROLLER BUDGET JOURNAL



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

Line	Coding Structure						Debit		Credit		Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6	incr appropriations decr est revenue	decr appropriations incr est revenue			
1	1102	40310	72600	9709	0	0.0	72,500.00				
2	1102	40310	63280	0	0	0.0		72,500.00			
3	1102	40310	46615	0	0	0.0	72,500.00				
4	1102	40310	46615	9709	0	0.0		72,500.00			
5						0					
6						.0					
7						.0					
8						.0					
9						.0					
10						.0					
11						.0					
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18						.0					
19						.0					
20						.0					
21						.0					
22						.0					
23						.0					
24						.0					
25						.0					
<b>Totals</b>							<b>145,000.00</b>	<b>145,000.00</b>			

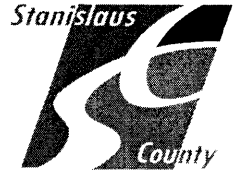
Transfer budget to Ladd Rd @ McHenry Intersection Project

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<b>Requesting Department</b>	<b>CEO</b>	<b>Auditors Office Only</b>
Sharon Andrews		
Signature	Signature	Prepared By
1/13/09	01/20/09	1/13/09
Date	Date	Date

Contact Person & Phone Number

**AUDITOR-CONTROLLER  
STANDARD JOURNAL VOUCHER**



**BATCH SCREEN**

Batch   
 Period   
 Description

**JOURNAL SCREEN**

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

Line	Coding Structure						Debit	Credit	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6			
1	2400	61270	85850	0	0	0.0	72,500.00		
2	1102	40310	46615	9709	0	0.0		72,500.00	ROW
3						0			
4						.0			
5						.0			
6						.0			
7						.0			
8						.0			
9						.0			
10						.0			
11						.0			
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20						.0			
21						.0			
22						.0			
23						.0			
24						.0			
25						.0			
26						.0			
27						.0			
Totals							72,500.00	72,500.00	

Explanation: Transfer funds from RTIF to Ladd Rd @ McHenry Intersection Project

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS			
Prepared by	Supervisor's Approval	Prepared By	Admin Approval (\$75K+)
1/13/09	1/13/09	1/13/09	1/13/09
Date	Date	Date	Date

Project: McHenry Avenue/Ladd Road  
Road Widening Project  
Grantor: Steven F. Sbragia & Charlotte  
D. Sbragia  
APN: 074-002-021 & 074-002-031

## AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Steven F. Sbragia & Charlotte D. Sbragia. (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(s) to the escrow agent identified below. Close of Escrow shall occur when all documents and funds required hereunder have been deposited into Escrow. This transaction shall be handled through an escrow with Fidelity National Title Company, 1700 Standiford Avenue, Suite 110, Modesto, CA 95350.

### 3. DUE DILIGENCE

Commencing on the Agreement Date and continuing through Close of Escrow, County and County's representatives, agents, consultants and contractors shall have the right to enter upon, inspect and investigate the Property to determine if the property is suitable for County's intended use. County's investigation of the Property shall be at County's sole cost and expense. County shall keep confidential the information obtained during such investigation and shall return any materials obtained from Grantor or Grantor's agents during such investigation if, for any reason, County does not purchase the Property.

### 4. DISCLAIMER OF WARRANTY.

Except as otherwise provided herein, Grantor hereby specifically disclaims any warranty or representation, oral or written, past, present or future, of, as to or concerning (i) the nature and condition of the Property, including, but not by way of limitation, the water, soil, geology, environmental conditions (including the presence or absence of any Hazardous Materials), and the suitability thereof for any and all activities and uses which County may elect to conduct thereon; (ii) the nature and extent of any right-of-way, lease, possessory interest, lien, encumbrance, license, reservation, condition or otherwise; and (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other body.

5. PURCHASE PRICE AND TITLE

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

Land	(39,332 sq. ft x \$ 1.72/sq. ft.)	\$67,651
Damages:	(New Agricultural Lane)	2,500
Temporary Construction Easement		990
	Total	<u>\$71,141</u>
Total:	(Rounded)	<b>\$71,000</b>

The price reflected above assumes no removal or destruction of any buildings, landscaping or any other improvements located on Grantor(s)'s property. In the event of such removal or destruction, County agrees to fully reimburse Grantor(s) for that loss over and above the amount referenced herein. County further agrees, at County's own expense, to move and replace the existing levees and agricultural lanes along Ladd Road and McHenry Avenue.

**NOTE: County acknowledges and understands that the amount of compensation referenced in this paragraph 5 represents the amount to be paid to Grantor solely for Grantors fee simple reversionary interest subject to the existing leasehold interest held by Plant Sciences, Inc. ("Plant Sciences") Any payments made to Plant Sciences as compensation for loss of revenue shall be by way of separate negotiation and agreement between County and Plant Sciences.**

5.1 Delivery. 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(s) 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 except for those which are approved by County during County's due diligence.

5.2. Title Insurance.  Title insurance is not required; or  Good, marketable and insurable fee simple title to the Property shall be evidenced by an ALTA extended coverage owner's policy of title insurance ("Title Policy"), with survey exception if County elects not to obtain an ALTA survey for the Property. The Title Policy shall be in the amount of the Purchase Price, showing title to the Property interest vested in County. It shall be a condition precedent to County's obligations under this Agreement that escrow holder is able to issue the Title Policy to County. County shall pay all costs of any escrow, title insurance, and recording fees incurred in this transaction.

5.3. Lien Removal. The Grantor(s) agree 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 upon Grantor's approval of said payment. The County

will notify the Grantor(s) of any such claims prior to payment. Grantor shall have five (5) business days after the receipt of such notification to inform the County of Grantors intent to remove said lien. In the event Grantor elects not to remove the affected lien, County will have the right to either complete the purchase subject to the lien or cancel this agreement

5.4 Full Payment. The Grantor(s) acknowledge that this transaction is a negotiated settlement in lieu of condemnation and agree(s) that the Purchase Price to be paid herein is in full settlement of any claims for compensation or damages that may have arisen, including, but not limited to, attorney fees, pre-condemnation damages, severance damages, business goodwill, or any other claim regarding the acquisition of the Property or construction of improvements thereon. Notwithstanding anything contained herein to the contrary, should the activities conducted by County result in the taking of additional real property or the destruction of any landscaping or improvements owned by Grantor, the County shall compensate Grantor in a manner consistent with the terms and conditions contained herein.

**6. PRORATION OF TAXES.**

6.1. 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.

6.2 Grantor(s) 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.

**7. POSSESSION.**

Grantor(s) agrees that immediately upon approval of this agreement by County, the County may enter upon and take possession of the Property. County agrees to indemnify Grantor for any activities conducted on the Property by County prior to Close of Escrow in accordance with section 9 below.

**8. HAZARDOUS WASTE MATERIAL.**

The Grantor(s) hereby represent(s) and warrant(s) that during the period of Grantor(s)'s ownership of the Property, there have been no disposals or releases of hazardous substances on, from, or under the Property except as may have been released during normal and customary agricultural operations conducted thereon. Grantor(s) further represent(s) and warrant(s) that Grantor(s) has no knowledge of any disposal or release of hazardous substances on, from, or under the Property which may have occurred prior to Grantor(s) taking title to the Property except as noted above.

The Purchase Price of the Property reflects the fair market value of the Property without the presence of contamination. If the Property is found to be contaminated by the presence

of hazardous substances which requires mitigation under Federal or County law, the County reserves the right to recover the clean-up costs from those who caused or contributed to the contamination, subject to the indemnification provisions contained in the preceding paragraph.

## 9. INDEMNITY

County shall indemnify, protect and defend (with counsel reasonably acceptable to Grantor) and hold harmless Grantor for, from and against any and all claims, damages, costs, liabilities and losses (including mechanics' liens) and expenses (including, without limitation, attorneys' fees) (collectively, "Claims") arising out of County's investigation of the property or any activities carried out on the Property prior to the Close of Escrow which is carried out by County, its agents, representative, consultants or contractors. County agrees to procure a mechanic's lien release bond equal to or greater than the amount of any mechanics' liens placed against the Real Property as a result of any County's Inspections. The indemnity obligations contained in this Section 9 shall survive Close of Escrow or any termination of this Agreement.

## 10. GENERAL PROVISIONS

10.1. Successors and Assigns. This Agreement shall be binding upon the heirs, executors, administrator, and successors and assigns of Grantor and County. Neither party may assign its rights and obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned. Any assignment is to be by written instrument, which instrument must provide that the assignee (i) assumes and agrees to perform all of the obligations of assignor under this Agreement and (ii) makes the warranties and representations required of assignor under this Agreement. No assignment shall result in assignor being released from any obligations of assignor under this Agreement for the period after the assignment.

10.2 Entire Agreement. This Agreement contains all of the covenants, conditions and agreements between the parties and shall supersede all prior correspondence, agreements and understandings, both oral and written. No other agreement, statement, correspondence, or promise made by any party to any employee, officer, or agent of a party to this Agreement, or any other person, that is not in writing and signed by all the parties to this Agreement shall be binding upon them. Any amendment including oral modifications, must be reduced to writing and signed by both parties to be effective.

10.3 Attorneys' Fees. Should either party employ attorneys to enforce any of the provisions of this Agreement or to protect its interest in any manner arising under this Agreement, or to recover damages for breach of this Agreement, or to enforce any judgment relating to this Agreement and the transaction contemplated hereby, the prevailing party shall be entitled to reasonable attorneys' fees and court costs.

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



10.5 Further Assurances. Grantor and County shall promptly perform, execute and deliver or cause to be performed, executed and/or delivered at or after Close of Escrow any and all acts, deeds and assurances, including the delivery of any documents, as either party or Title Company may reasonably require in order to carry out the intent and purpose of this Agreement.

10.6 Severability. In case any one (1) or more of the provisions contained in this Agreement for any reason is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

10.7 Notices.

10.7.1 Means/Receipt. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, national overnight courier service (next business day delivery) or by facsimile, and shall be deemed received upon the earlier of (i) if mailed, three (3) business days after the posting by a U.S. Post Office; (ii) if personally delivered, the date of delivery to the address of the person to receive such notice; (iii) if sent by national overnight courier service (next business day delivery), one (1) business day after delivery to such courier service; or (iv) if given by facsimile, upon electronic evidence of receipt.

10.8 Counterparts. This Agreement may be executed in one (1) or more counterparts, and all the counterparts shall constitute but one (1) and the same agreement, notwithstanding that all parties hereto are not signatory to the same or original counterpart.

10.9 Time. Time is of the essence of every provision contained in this Agreement.

10.10 Captions. Section titles or captions contained in this Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement.

10.11 Exhibits. All exhibits attached hereto shall be incorporated herein by reference as if set out herein in full.

10.12 Construction. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal 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 or any amendment or exhibits hereto.

10.13 Confidentiality. Neither County nor Grantor shall make any public announcement or disclosure of any information related to this Agreement to outside brokers or third parties, before or after the Close of Escrow, without the specific prior written consent of the other.

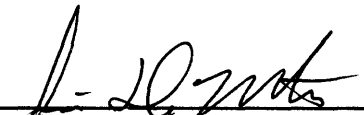
10.14 No Joint Venture or Partnership. Nothing contained herein shall be construed to create, either explicitly or by implication, any manner of co-ownership, partnership or joint venture, between County and Grantor. Any and all responsibility, liability, cost or expense attendant to County's proposed development of the Property shall rest exclusively with County and County agrees to hold harmless, indemnify, defend and protect Grantor from and against any loss, damage claim or liability arising therefrom, including, but not limited to reasonable attorneys fees.


10.15 Computation of Time: Any time period to be computed pursuant to this Agreement shall be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday, or holiday, the last day shall be extended until the next business day that the escrow holder is open for business, but in no case will the extension be for more than three (3) days.

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

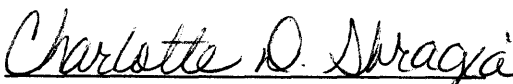
COUNTY OF STANISLAUS

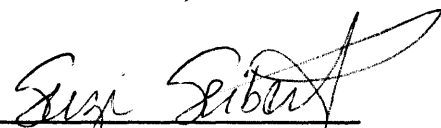
GRANTOR(S)

  
\_\_\_\_\_  
Jim DeMartini  
Chairman of the Board of Supervisors

  
\_\_\_\_\_  
Steven F. Sbragia

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

  
\_\_\_\_\_  
Charlotte D. Sbragia

By:   
\_\_\_\_\_  
Deputy Clerk

APPROVED AND CONSENT:  
Department of Public Works


  
\_\_\_\_\_  
Matt Machado, Director

(Signatures Continued on Following Page)

APPROVED AS TO FORM:

John P. Doering  
County Counsel

By: \_\_\_\_\_

  
Thomas E. Boze  
Deputy County Counsel

NO FEE  
RECORDING REQUESTED BY: BOARD OF SUPERVISORS  
RETURN TO: STANISLAUS COUNTY  
DEPARTMENT OF PUBLIC WORKS  
1716 MORGAN ROAD  
MODESTO, CA 95358



Road Name: Ladd/McHenry Project  
APN: 074-002-021 (portion)  
APN: 074-002-031 (portion)

## ROAD EASEMENT

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

Steven F. Sbragia & Charlotte D. Sbragia

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

**SEE EXHIBIT "A"**

\_\_\_\_\_  
Steven F. Sbragia

\_\_\_\_\_  
Charlotte D. Sbragia

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

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 Steven F. Sbragia & Charlotte D. Sbragia to County of Stanislaus, a political corporation  
and/or governmental agency, is hereby accepted by the undersigned officer or agent on behalf of  
the Board of Supervisors of the County of Stanislaus, pursuant to authority conferred by  
resolution of the Board of Supervisors of the County of Stanislaus adopted on \_\_\_\_\_, 2008  
in accordance with the provisions of Government Code 27281, and the grantee consents to  
recordation thereof by its duly authorized officer.

**MATT MACHADO, Public Works Director  
Of Stanislaus County, State of California**

\_\_\_\_\_  
Dated: \_\_\_\_\_

**EXHIBIT "A"**

**McHenry-Ladd Intersection Project  
Roadway Easement  
Sbragia -- APN 074-002-021**

**Legal Description**

In the County of Stanislaus, State of California, being a portion of the Northwest Quarter of Section 28, Township 2 South, Range 9 East, Mount Diablo Meridian, being more particularly described as follows:

**Commencing** at the west quarter corner of said Section 28, thence North 00° 37' 48" West, 1300.10 feet along the west line of said Section 28;  
thence North 89° 22' 12" East, 25.00 feet to the east line of McHenry Avenue;  
thence North 89° 22' 12" East, 30.00 feet;  
thence South 00° 37' 48" East, 81.53 feet;  
thence South 00° 09' 37" West, 231.73 feet to the northerly line of that property described in Document No. 2003-0065066, Stanislaus County Records, being the **Point of Beginning**;  
thence South 00° 09' 37" West, 638.36 feet;  
thence South 00° 37' 48" East, 279.90 feet;  
thence South 45° 01' 36" East, 34.98 feet;  
thence South 89° 25' 25" East, 468.82 feet;  
thence South 00° 34' 35" West, 20.00 feet to the north line of Patterson Road;  
thence along said north line of Patterson Road North 89° 25' 25" West, 510.89 feet to the east line of McHenry Avenue;  
thence along the east line of McHenry Avenue North 00° 37' 48" West, 962.79 feet to said northerly line of that property described in Document No. 2003-0065066;  
thence along said southerly line South 89° 35' 56" East, 26.81 feet to the **Point of Beginning**.

Containing 30,311 square feet, more or less.



Michael E. Long, PLS 6815  
Expires September 30, 2008

Date: 2/15/08



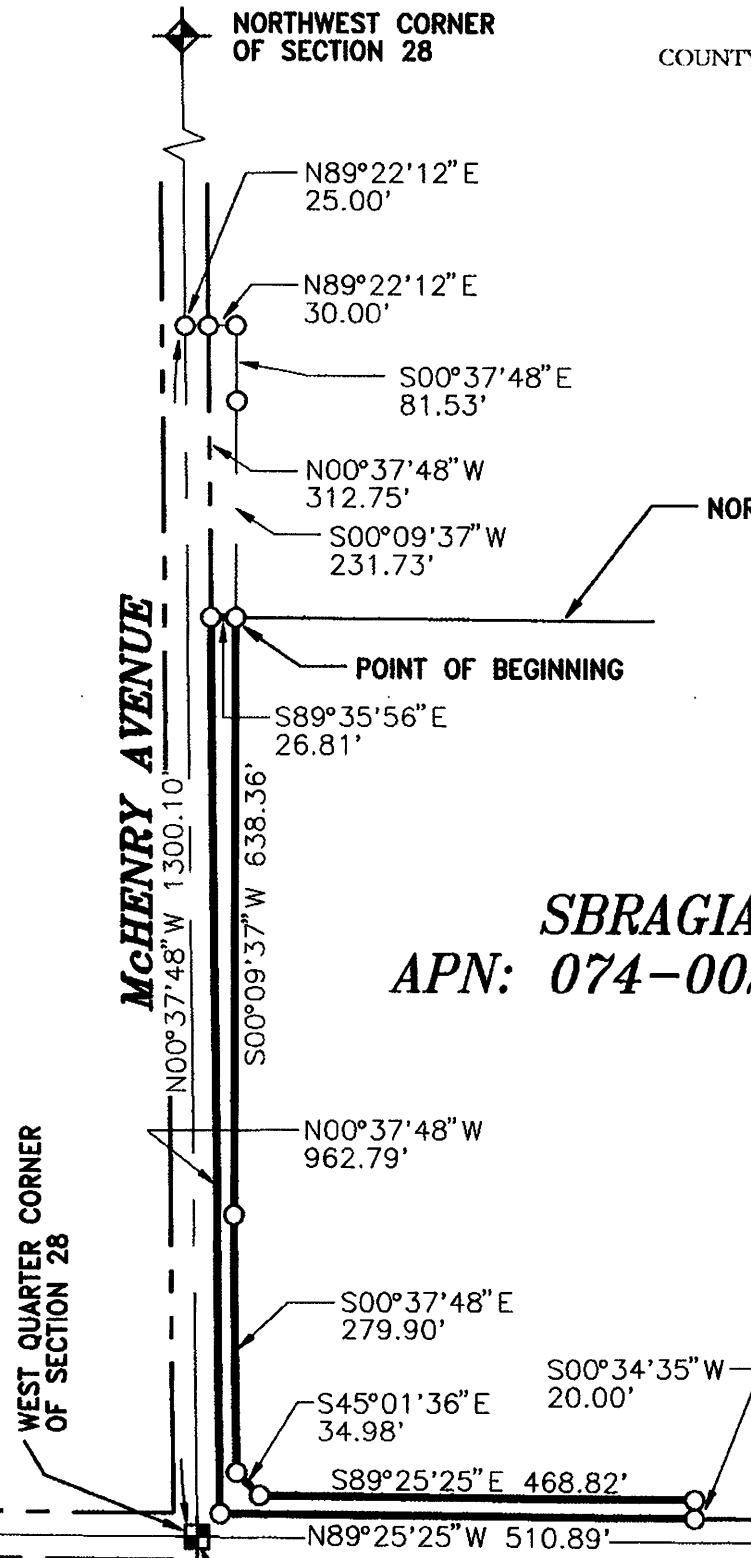
PREPARED BY WOOD RODGERS, INC  
MODESTO, CALIFORNIA

McHENRY-LADD INTERSECTION PROJECT  
ROADWAY EASEMENT

COUNTY OF STANISLAUS, STATE OF CALIFORNIA



2/5/08



NORTH LINE OF 2003-0065066

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

**SBRAGIA**  
**APN: 074-002-021**



SCALE: 1"=200'  
8088.001

WEST QUARTER CORNER  
OF SECTION 28

**McHENRY AVENUE**

**PATTERSON ROAD**

SEE DESCRIPTION FOR  
COURSE INFORMATION

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
1012 11th St., Suite 300 Tel 209.549.7060  
Modesto, CA 95354 Fax 209.549.7064

**EXHIBIT "A"**

**McHenry-Ladd Intersection Project  
Roadway Easement  
Sbragia – APN 074-002-031**

**Legal Description**

In the County of Stanislaus, State of California, being a portion of the Northwest Quarter of Section 28, Township 2 South, Range 9 East, Mount Diablo Meridian, being more particularly described as follows:

**Commencing** at the west quarter corner of said Section 28, thence North 00° 37' 48" West, 1300.10 feet along the west line of said Section 28;  
thence North 89° 22' 12" East, 25.00 feet to the east line of McHenry Avenue, being the **Point of Beginning**;  
thence North 89° 22' 12" East, 30.00 feet;  
thence South 00° 37' 48" East, 81.53 feet;  
thence South 00° 09' 37" West, 231.73 feet to the northerly line of that property described in Document No. 2006-0065066, Stanislaus County Records;  
thence along said northerly line North 89° 35' 56" West, 26.81 feet to the west line of McHenry Avenue;  
thence along the west line of McHenry Avenue North 00° 37' 48" West, 312.75 feet to the **Point of Beginning**.

Containing 9,021 square feet, more or less.



Michael E. Long, PLS 6815  
Expires September 30, 2008

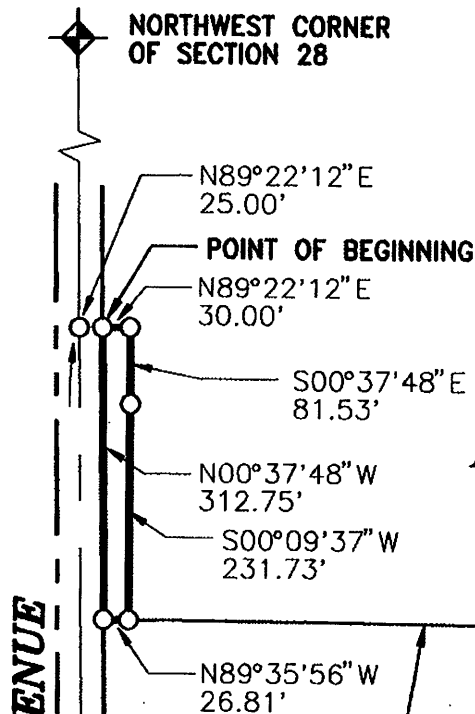
Date: 2/5/08



PREPARED BY WOOD RODGERS, INC  
MODESTO, CALIFORNIA

McHENRY-LADD INTERSECTION PROJECT  
ROADWAY EASEMENT

COUNTY OF STANISLAUS, STATE OF CALIFORNIA



**SBRAGIA**  
**APN: 074-002-031**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

NORTHERLY LINE OF  
2003-0065066



2/5/08



SCALE: 1"=200'  
8088.001

WEST QUARTER CORNER  
OF SECTION 28

McHENRY AVENUE

N00°37'48" W 1300.10'

**PATTERSON ROAD**

POINT OF COMMENCEMENT

SEE DESCRIPTION FOR  
COURSE INFORMATION

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

1012 11th St., Suite 300 Tel 209.549.7060  
Modesto, CA 95354 Fax 209.549.7064



**WAIVER OF RIGHT  
TO  
SEEK ADDITIONAL COMPENSATION**

This Waiver of Right to Seek Additional Compensation ("Waiver") is executed by and between STEVEN F. SBRAGIA and CHARLOTTE D. SBRAGIA, Trustees of the SBRAGIA 1995 REVOCABLE TRUST u.i.d. October 25, 1995 (identified herein as "Lessor") and PLANT SCIENCES, INC. (identified herein as "Lessee"). Lessee and Lessor may be referred to herein individually as "Party" and collectively as "Parties"

**RECITALS**

- A. WHEREAS the parties entered into that certain Farming Lease dated June 1, 2005 and subsequently amended on or about June 7, 2006, (collectively the "Lease") by which Lessee leased from Lessor that certain real property located in Stanislaus County and identified as Assessor's Parcel Numbers 074-020-21, 074-020-29, 074-020-030 and 074-020-31 (the "Property");
- B. WHEREAS the Lease contains specific provisions regarding the amount of rent reimbursement due to Lessee should a portion of the property be the subject of a Partial Condemnation;
- C. WHEREAS Stanislaus County (the "County") has, in lieu of condemnation, entered into negotiations with Lessor regarding the purchase of a small area of the Property for purposes of road expansion at the intersection of McHenry Avenue and Ladd Road, as shown on the attached Exhibits A & B (the "Condemned Area");
- D. WHEREAS the Parties desire to fully and finally resolve any issues relating to the amount of compensation due to Lessee stemming from County's purchase of the Condemned Area.

Now, therefore, the parties hereby AGREE as follows;

**AGREEMENT**

1. No Negative Impact On Lease. The Parties agree that the size and location of the Condemned Area is of a sufficiently *de minimus* nature that it will not negatively impact the remainder of the Property for the purposes permitted under the Lease.
2. Rent Credit to Lessee. Lessee agrees that, in accordance with the express terms of the Lease, the total compensation they will receive from Lessor, based upon the County's purchase of the Condemned Area, shall be the sum of \$900. This figure is based upon the per acre credit of \$300 multiplied by the size of the Condemned Area (39,332

sq. ft. acres rounded up to 1.0 acres) multiplied by the number of years remaining under the Lease (3).

3. Waiver of Additional Compensation. Lessee waives any right and/or claim to any additional compensation from either Lessor or the County stemming from the County's purchase of the Condemned Area, including, but not limited to, damages based upon lost production and/or lost profits.

4. Severability. If any term, provision, condition or covenant of this Waiver or its application to any party or circumstance shall be held, to any extent, invalid or unenforceable, then the remainder of this Waiver, or the application of such term, provision, condition or covenant to any party or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be effected and shall be valid and enforceable to the fullest extent permitted by law.

5. Governing Law. This Agreement shall be interpreted, enforced and governed under the laws and judicial decisions of the State of California.

6. Incorporation. The recitals set forth at the beginning of this Waiver and the exhibits attached hereto and referred to herein are incorporated into this Waiver.

7. Counterparts. This Waiver may be executed in counterparts, all of which shall constitute one instrument.

8. Entire Agreement. This Waiver is intended by Lessor and Lessee as the final expression and the complete and exclusive statement of their agreement with respect to the terms included in this Waiver and any prior or contemporaneous agreements or understandings, oral or written, which may contradict, explain or supplement these terms are superseded and shall not be admissible or effective for any purpose.

"LESSOR"

"LESSEE"


SBRAGIA 1995 REVOCABLE  
TRUST u.i.d. October 25, 1995

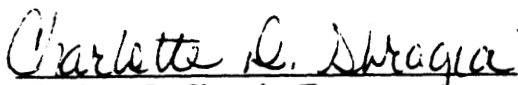
PLANT SCIENCES, INC.

Date 7-1-08

Date: 7/23/08

  
Steven F. Sbragia, Trustee

  
Richard D. Nelson, President

  
Charlotte D. Sbragia, Trustee