

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

DEPT: Public Works *Abby*

BOARD AGENDA #           \*C-2          

Urgent       Routine

AGENDA DATE July 12, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval and Acceptance of the Proposed 30-Foot Access and Public Utility Easement along Elm Avenue as Shown on Volume 52 of Parcel Maps, Page 48

STAFF RECOMMENDATIONS:

1. Approve and accept the Access and Public Utility Easement along Elm Avenue as shown in Volume 52 of Parcel Maps, Page 48.
2. Accept the conditions as specified by the Department of Public Works, and requested by the City of Modesto and the Modesto Irrigation District.
3. Authorize the Director of Public Works to sign and cause to record the Certificate of Acceptance.

FISCAL IMPACT:

There is no fiscal impact associated with this item. This item is initiated by a request from the City of Modesto.

BOARD ACTION AS FOLLOWS:

No. 2011-421

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

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

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

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

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

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval and Acceptance of the Proposed 30-Foot Access and Public Utility Easement along Elm Avenue as Shown on Volume 52 of Parcel Maps, Page 48

**DISCUSSION:**

The City of Modesto, as part of their Emerald Sewer Trunk Relief Project, has asked the Stanislaus County Department of Public Works to help in verifying the easements along the proposed sewer line route. A portion of this route is along the westerly extension of Elm Avenue, west of Rosemore Avenue as shown in Volume 52 of Parcel Maps, Page 48 (Exhibit 1). This easement has already been utilized by the City of Modesto with the placement of a water line.

During the verification process, an issue with the signature blocks on the recorded Parcel Map was identified. The Department of Public Works' conditions of approval for this Parcel Map Application 2002-19 requested a 30-foot right-of-way and public utility easement. However the corresponding statements as written on the Parcel Map do not identify the easements properly. The offer in the Owners Statement and the Acceptance in the County Surveyor's Statement create some ambiguity as to what was offered and accepted on the Parcel Map. The Parcel Map consists of a single parcel (Parcel A) and a remainder parcel. To be consistent with the Conditions of Approval staff are requesting the easement as shown along the south 30-feet of Parcel "A" and the Remainder Parcel of said Parcel Map be re-accepted by the Department of Public Works and record a new Certificate of Acceptance (Exhibit 2). This action is being taken as a verification of the acceptance of the conditions of approval.

**POLICY ISSUES:**

The recommended actions are consistent with the Board's priority of striving for A Well Planned Infrastructure System by ensuring access and utility easements. Street and Highway Codes 940 - 951 grants the Board of Supervisors authority to accept easements.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

**CONTACT PERSON:**

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

**OWNER'S STATEMENT:**

WE, THE UNDERSIGNED, HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE, OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS MAP, AND WE CONSENT TO THE MAKING AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER OF STANISLAUS COUNTY, CALIFORNIA. WE ALSO OFFER FOR DEDICATION TO THE PUBLIC FOR PUBLIC USE ALL THE STREETS, AVENUES, EASEMENTS, AND OTHER PUBLIC PLACES AND DEDICATIONS AS SHOWN WITHIN THE EXTERIOR BOUNDARY OF THE LAND BEING DIVIDED, AND WE ALSO HEREBY IRREVOCABLY OFFER TO DEDICATE TO THE COUNTY OF STANISLAUS THE SOUTHERLY THIRTY (30) FEET OF PARCEL "A" FOR A PUBLIC ROAD EASEMENT.

DATED THIS 11<sup>th</sup> DAY September 2003  
 OWNERS by: Robert K. Best, its President  
Robert K. Best

**COUNTY RECORDER'S STATEMENT:**

FILED THIS 25 DAY OF SEPT, 2003, AT 09:30 O'CLOCK A.M.  
 IN BOOK 52 OF PARCEL MAPS, AT PAGE 48, STANISLAUS COUNTY RECORDS,  
 AT THE REQUEST OF PACIFIC LEGAL FOUNDATION.

INSTRUMENT NO. 2003-0164420  
 FEE 1600 PAID.  
 LEE LUNDGREN, COUNTY RECORDER  
 BY: Claudete Turback, DEPUTY.  
CLAUDETTE TURBACK  
 PRINT NAME

**ACKNOWLEDGMENT:**

STATE OF CALIFORNIA:  
 COUNTY OF Sacramento :  
 ON September 11<sup>th</sup> BEFORE ME, Cindy L. Thompson A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED,  
Robert K. Best, President, Pacific Legal Foundation  
 PERSONALLY KNOWN TO ME  OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THEIR AUTHORIZED CAPACITY AND THAT BY THEIR SIGNATURE ON THE INSTRUMENT THE PERSON OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.  
 WITNESS MY HAND.

Cindy L. Thompson, NOTARY PUBLIC  
 PRINT NAME: Cindy L. Thompson  
 COMMISSION EXPIRES: October 31, 2004 Commission No. 1282577  
 PRINCIPAL OFFICE LOCATION (COUNTY): Sacramento

**CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:**

THIS IS TO CERTIFY THAT THE OWNERS OF THE PROPERTY SHOWN ON THE ACCOMPANYING MAP HAVE FILED WITH THE BOARD OF SUPERVISORS: (CHECK ONE)  
 A. A BOND OR DEPOSIT APPROVED BY SAID BOARD TO SECURE THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH ARE AT THE TIME OF FILING THIS MAP, A LIEN AGAINST SAID PROPERTY OR ANY PART THEREOF.  
 B. RECEIPTED TAX BILL OR BILLS OR SUCH OTHER EVIDENCE AS MAY BE REQUIRED BY SAID BOARD SHOWING FULL PAYMENT OF ALL APPLICABLE TAXES

DATED THIS 18 DAY OF September 2003.  
 CHRISTINE FERRARO TALLMAN  
 CLERK OF THE BOARD OF SUPERVISORS.  
 STANISLAUS COUNTY

BY: Peggy Dominguez, DEPUTY.  
Peggy Dominguez  
 PRINT NAME



**TAX COLLECTOR'S CERTIFICATE:**

THIS IS TO CERTIFY THAT THERE ARE NO LIENS FOR ANY UNPAID STATE, COUNTY, SCHOOL, MUNICIPAL TAXES, OR SPECIAL ASSESSMENTS, EXCEPT SPECIAL ASSESSMENTS OR TAXES NOT YET PAYABLE AGAINST THE LAND SHOWN ON THE MAP.

APN: 007-087-018/007-087-015  
 DATED THIS 18<sup>th</sup> DAY September 2003  
 TOM WATSON, COUNTY TAX COLLECTOR.

BY: Sharon K. DeRose, DEPUTY.  
Sharon K. DeRose  
 PRINT NAME

**EASEMENT HOLDERS**

PURSUANT TO SECTION 66436 OF THE SUBDIVISION MAP ACT THE SIGNATURES OF THE FOLLOWING INTEREST HOLDERS HAVE BEEN OMITTED.

1. MODESTO IRRIGATION DISTRICT, POLE LINE EASEMENT, RECORDED IN BOOK 2286, PAGE 862 OF OFFICIAL RECORDS IN MARCH 27, 1969.
2. 25' WIDE SEWER EASEMENT TO THE CITY OF MODESTO, RECORDED IN BOOK 3444, PAGE 832 OF OFFICIAL RECORDS ON MAY 27, 1981.
3. ACCESS RIGHT RELEQUISHMENT TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 1882, PAGE 255 OF OFFICIAL RECORDS ON JUNE 12, 1963.
4. LAND CONSERVATION CONTRACT AND A NOTICE OF NON-RENEWAL RECORDED IN VOLUME 3587 OF OFFICIAL RECORDS, PAGE 303, ON AUGUST 20, 1983.

**AGRICULTURAL STATEMENT:**

"ALL PERSONS PURCHASING LOTS WITHIN THE BOUNDARIES OF THIS APPROVED MAP SHOULD BE PREPARED TO ACCEPT THE INCONVENIENCES ASSOCIATED WITH THE AGRICULTURAL OPERATIONS, SUCH AS NOISE, ODORS, FLIES, DUST OR FUMES. STANISLAUS COUNTY HAS DETERMINED THAT SUCH INCONVENIENCES SHALL NOT BE CONSIDERED TO BE A NUISANCE IF AGRICULTURAL OPERATIONS ARE CONSISTENT WITH ACCEPTED CUSTOMS AND STANDARDS.

**SURVEYOR'S STATEMENT**

THIS MAP CORRECTLY REPRESENT A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYOR'S ACT AT THE REQUEST OF PACIFIC LEGAL FOUNDATION IN JUNE 2003.

Felix J. Reichmuth  
 FELIX REICHMUTH, R.C.E. 20208  
 EXPIRES 08/30/05



**COUNTY SURVEYOR'S STATEMENT**

THIS IS TO CERTIFY THAT THE ACCOMPANYING MAP HAS BEEN EXAMINED, THAT IT IS SUBSTANTIALLY CONFORMS TO THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, THAT ALL PROVISION OF THE STATE SUBDIVISION MAP ACT, CHAPTER 2, AND TITLE 20, STANISLAUS COUNTY SUBDIVISION CODE HAVE BEEN COMPLIED WITH, AND THE MAP IS TECHNICALLY CORRECT.

I HEREBY ACCEPT ON BEHALF OF THE PUBLIC FOR PUBLIC USE AND OFFER OF DEDICATION OF THE 30 FOOT WIDE STRIP OF LAND FOR PUBLIC ACCESS ALONG THE SOUTH SIDE OF THE REMAINDER PARCEL, THE TEN FOOT WIDE DEDICATION ALONG ROSEMORE AVENUE, AND THE 30' WIDE IRREVOCABLE OFFER OF DEDICATION ALONG THE SOUTHERLY THIRTY FOOT OF PARCEL A.

DATED THIS 24<sup>th</sup> DAY OF Sept, 2003.

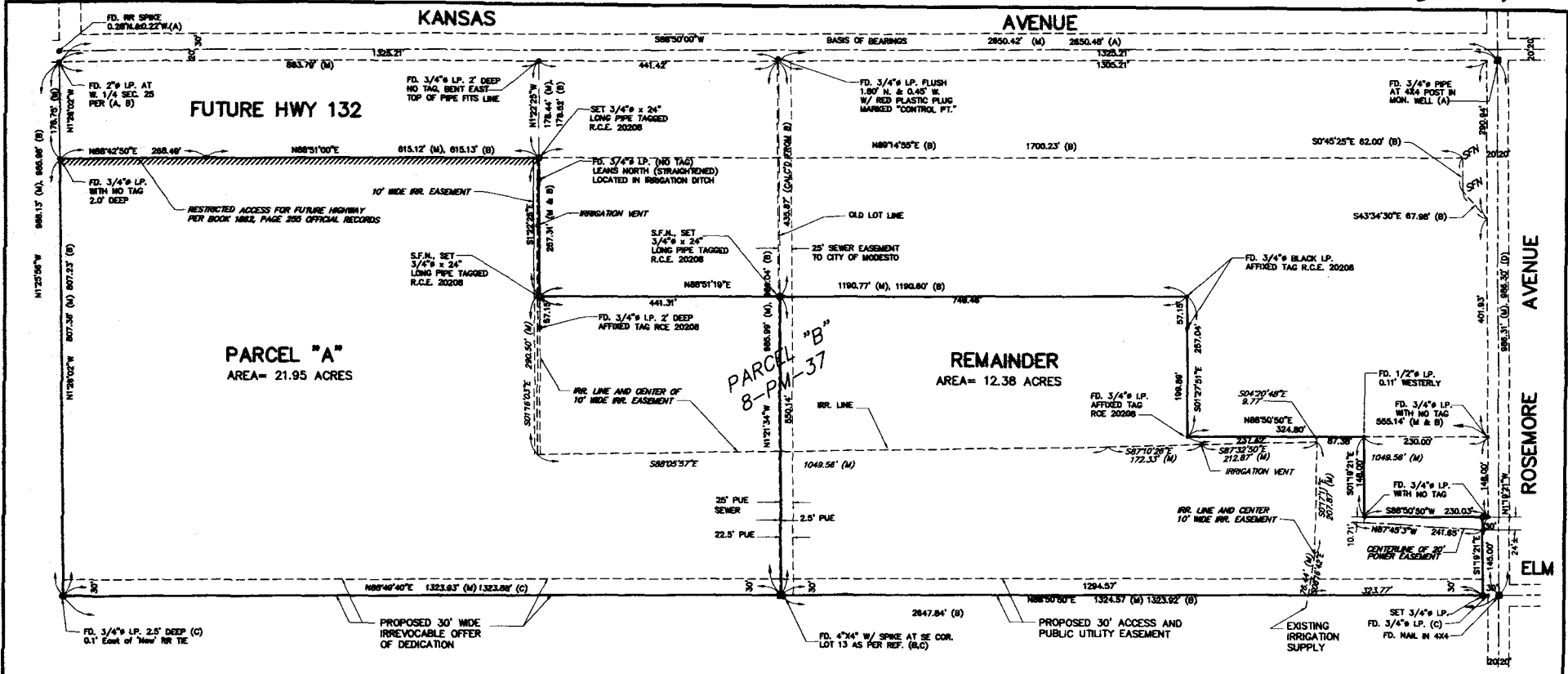
George W. Stillman  
 GEORGE W. STILLMAN, R.C.E. 25077  
 STANISLAUS COUNTY SURVEYOR  
 EXPIRES 12/31/05



**PARCEL MAP**

BEING A DIVISION OF PARCEL 'B' AS SHOWN IN BOOK 37 OF PARCEL MAPS AT PAGE 8, STANISLAUS COUNTY RECORDS, SECTION 25, T.3S., R8E, M.D.B. & M.

R.B. WELTY & ASSOCIATES, INC.  
 521 13TH STREET / P.O. BOX 1724  
 MODESTO, CALIFORNIA 95353-1724  
 (209) 526-1515 JOB NO. 70312



**REFERENCES :**

- (A) REFERS TO THE MAP OF THE DIABLO HILLS SUBDIVISION, VOL 30 OF PARCEL MAPS, PAGE 93 S.C.R.
- (B) REFERS TO THE MAP OF THE MAZE RANCH SUBDIVISION, VOL 8 OF PARCEL MAPS, PAGE 37 S.C.R.
- (C) REFERS TO VOL 48 OF PARCEL MAPS, PAGE 52 S.C.R.
- (D) REFERS TO VOL 4 OF MAPS, PAGE 18 S.C.R.

**LEGEND**

- INDICATES SET 3/4" x 24" LONG PIPE TAGGED R.C.E. 20208, SET ON THIS SURVEY
- INDICATES MONUMENT FOUND AS NOTED.
- (M) INDICATES MEASURED DISTANCE ON THIS SURVEY.

**ABBREVIATIONS :**

- S.C.R. INDICATES STANISLAUS COUNTY RECORDS
- S.F.N. INDICATES SEARCHED FOUND NOTHING
- P.M. INDICATES PARCEL MAP
- P.U.E. INDICATES PUBLIC UTILITY EASEMENT
- I.E. INDICATES IRRIGATION EASEMENT
- FD. INDICATES FOUND
- I.P. INDICATES IRON PIPE
- INST. NO. INDICATES INSTRUMENT NUMBER

**BASIS OF BEARINGS :**

THE BEARING OF SOUTH 88°50'00" WEST FOR THE SOUTH LINE OF KANSAS AVENUE, AS SHOWN ON THE MAP OF "DIABLO HILLS SUBDIVISION" FILED IN BOOK 30 OF MAPS AT PAGE 93 OF STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN ON THIS MAP.

SCALE: 1"=120'

**GENERAL NOTES :**

1. ALL BEARINGS AND DISTANCES ARE MEASURED UNLESS NOTED OTHERWISE.
2. ALL DISTANCES ARE MEASURED IN FEET AND DECIMALS THEREOF.

**PARCEL MAP**

BEING A DIVISION OF PARCEL 'B' AS SHOWN IN BOOK 8 OF PARCEL MAPS AT PAGE 37, STANISLAUS COUNTY RECORDS, SECTION 25, T.3S., R.8E, M.D.B. & M.

R.B. WELTY & ASSOCIATES, INC.  
 521 13TH STREET / P.O. BOX 1724  
 MODESTO, CALIFORNIA 95353-1724  
 (209) 526-1515 JOB NO. 70312

EXHIBIT 2

**CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION**

"This is to certify that the interest in real property as shown on that certain Parcel Map recorded in Volume 52 of Parcel Maps on September 25, 2003, as the proposed 30' Access and Public Utility easement, 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 Stanislaus County Board of Supervisor adopted on December 14, 2010, item C14, and the Board consents to recordation thereof by its duly authorized officer."

**Matt Machado, Road Commissioner**  
*Stanislaus County, State of California*

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

Recording Requested By:  
Stanislaus County  
Department of Public Works

When Recorded Mail To:  
Department of Public Works  
1716 Morgan Road  
Modesto, Ca. 95358



Stanislaus, County Recorder  
Lee Lundrigan Co Recorder Office  
**DOC- 2011-0069815-00**

Tuesday, AUG 23, 2011 15:02:26  
Ttl Pd \$0.00 Nbr-0003097929  
OVP/R2/1-10

Attn: Rich Brown

For recorders use only

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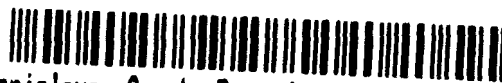
THIS DOCUMENT IS BEING RE-RECORDED TO CORRECT AN ERROR IN THE  
CERTIFICATE OF ACCEPTANCE STATEMENT OF THE COUNTY SURVYOR.

BOARD OF SUPERVISORS  
2011 OCT 12 A 8:13

(Below for deeds or instruments conveying title)  
MAIL TAX STATEMENTS TO PARTY SHOWN: \_\_\_\_\_

FILING REQUESTED BY:

Public Works



Stanislaus, County Recorder  
Lee Lundrigan Co Recorder Office  
DOC- 2003-0164420-00

Acct 109-Public Works  
Thursday, SEP 25, 2003 10:41:30  
Ttl Pd \$11.00 Nbr-0001314204  
ELM/R2/1-2

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**MAP FILING INFORMATION**

(Circle Map Type)

Cemetery Map = M    Subdivision Map = M    Survey Map = S    Parcel Map = PM

OWNER'S NAME/CEMETERY NAME:

PACIFIC LEGAL FOUNDATION

(Last Name First)

(Additional Owners)

NAME OF SUBDIVISION:

NAME OF SURVEYOR/ENGINEER:

FELIX REICHMUTH

DESCRIPTION:

SECTION 25, T. 3 S., R. 8 E., M.D.M.

(Stanislaus County Recorder's Office)

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# Parcel Map Guarantee

**Fidelity National Title Insurance Company**  
A Stock Company

**Guarantee Number**

27-192-78- 3134

## PARCEL MAP GUARANTEE

*SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY a corporation, herein called the Company,*

*GUARANTEES the Assured against loss, not exceeding \$1,000.00, which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public records, on the date stated in Schedule A,*

1. *The title to the herein described estate or interest was vested in the vestee named, subject to the matters shown as Exceptions herein, which Exceptions are not necessarily shown in the order of their priority; and*
2. *Had said Parcel Map been recorded in the office of the County Recorder of said county, such map would be sufficient for use as a primary reference in legal descriptions of the parcels within its boundaries.*

*IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY has caused this Guarantee to be signed and sealed as of the date of policy shown in Schedule A, the Guarantee to become valid when countersigned by an authorized signatory.*

**Fidelity National Title Insurance Company**



BY

President

ATTEST

Secretary

Countersigned: \_\_\_\_\_

Authorized Signature



FIDELITY NATIONAL TITLE INSURANCE COMPANY,  
a corporation  
Parcel Map Guarantee

SCHEDULE "A"

Order No.: 6011998 JP

Guarantee No.: 27-192-78-3134

Fee: \$300.00

ASSURED: County of Stanislaus

Effective as of September 23, 2003

That as shown by said records the only parties having any record title interest in said land, and whose signatures are necessary, under the requirements of the Subdivision Map Act, on the certificates consenting to the recordation of the Subdivision Map of said land and offering for dedication any streets, roads, avenues and other easements offered for dedication by said Subdivision Map are:

NAMES	NATURE OF INTEREST
Pacific Legal Foundation	Owner

Signatures of the following trustees or beneficiaries under Deeds of Trust are required under the provisions of Section 66436 (b) of the Subdivision Map Act:

NAMES	RECORDED	NATURE OF INTEREST
None	None	None

Signatures of the following named parties may be omitted under the provisions of Section 66436 (c) (1), (2) or (3) of the Subdivision Map Act if such signature is not required by the governing body. Each interest is such that it cannot ripen into a fee title.

NAMES	RECORDED	NATURE OF INTEREST
None	None	None

The land referred to in this guarantee is situated in the State of California, County of Stanislaus described as follows:

See attached EXHIBIT "ONE"

**EXHIBIT "ONE"**

**Parcel B as per Parcel Map filed February 17, 1970 in Book 8 of Parcel Maps, Page 37,  
Stanislaus County Records.**

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# FIDELITY NATIONAL TITLE INSURANCE COMPANY

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***Fidelity National Title Insurance Company***

17911 Von Karman Avenue, Suite 300  
Irvine, CA 92614-6253

**CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION**

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**Matt Machado, Road Commissioner**  
*Stanislaus County, State of California*

By  Dated: 7/18/11