



# County of Santa Cruz

287

DEPARTMENT OF PUBLIC WORKS - REAL PROPERTY DIVISION

701 OCEAN STREET, ROOM 410. SANTA CRUZ, CA 950604070  
(631) 464-2331 FAX (631) 464-2366 TDD (631) 464-2123

**JOHN A. FANTHAM**  
DIRECTOR OF PUBLIC WORKS

**SCOTT C. LOICHINGER**  
CHIEF REAL PROPERTY AGENT

AGENDA: March 23, 1999  
March 11, 1999

SANTA CRUZ COUNTY BOARD OF SUPERVISORS  
701 Ocean Street  
Santa Cruz, California 95060

SUBJECT: HIGHLAND WAY SLIDE REPAIR PROJECT AT POST MILE 2.95  
28500 HIGHLAND WAY, LOS GATOS, CA  
BANKERS TRUST COMPANY OF CALIFORNIA, N.A. - APN 098-1 3 1-1 1

Members of the Board:

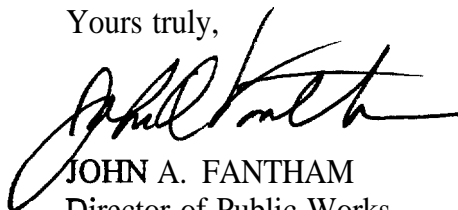
Included in the 1998/1999 Public Works budget are funds for the construction of slide repair and debris removal at PM 2.95 Highland Way. The project requires the acquisition of a temporary construction easement for slope stabilization from the above mentioned grantor. The funding for this acquisition is being provided by FEMA and the road fund.

This project was scheduled for construction in 1998 but was delayed due to the difficulty in acquiring property rights from the subject property. All other property rights needed on adjacent parcels were acquired in 1998. On January 26, 1999, your Board approved a Resolution Authorizing Eminent Domain Proceedings, however with additional negotiations the grantor has agreed to a settlement. Approval of this agreement will mean that no eminent domain action for this project is needed. Your approval will provide for the acquisition of a temporary construction easement over approximately 2.11 acres along the northeasterly boundary of the subject parcel required for the completion of the above mentioned project (see attached map). The property being acquired was appraised by the Real Property Division. The property owner has been offered the fair market value for the property rights being acquired.

It is therefore recommended that the Board of Supervisors take the following action:

1. Adopt the following Resolution approving and accepting the terms and conditions of the agreement and authorize the Director of Public Works to sign said document on the behalf of the County;
2. Approve payment of claim for the agreement.

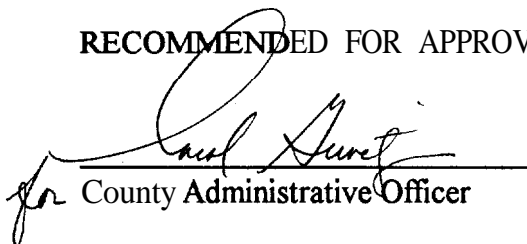
Yours truly,



JOHN A. FANTHAM  
Director of Public Works

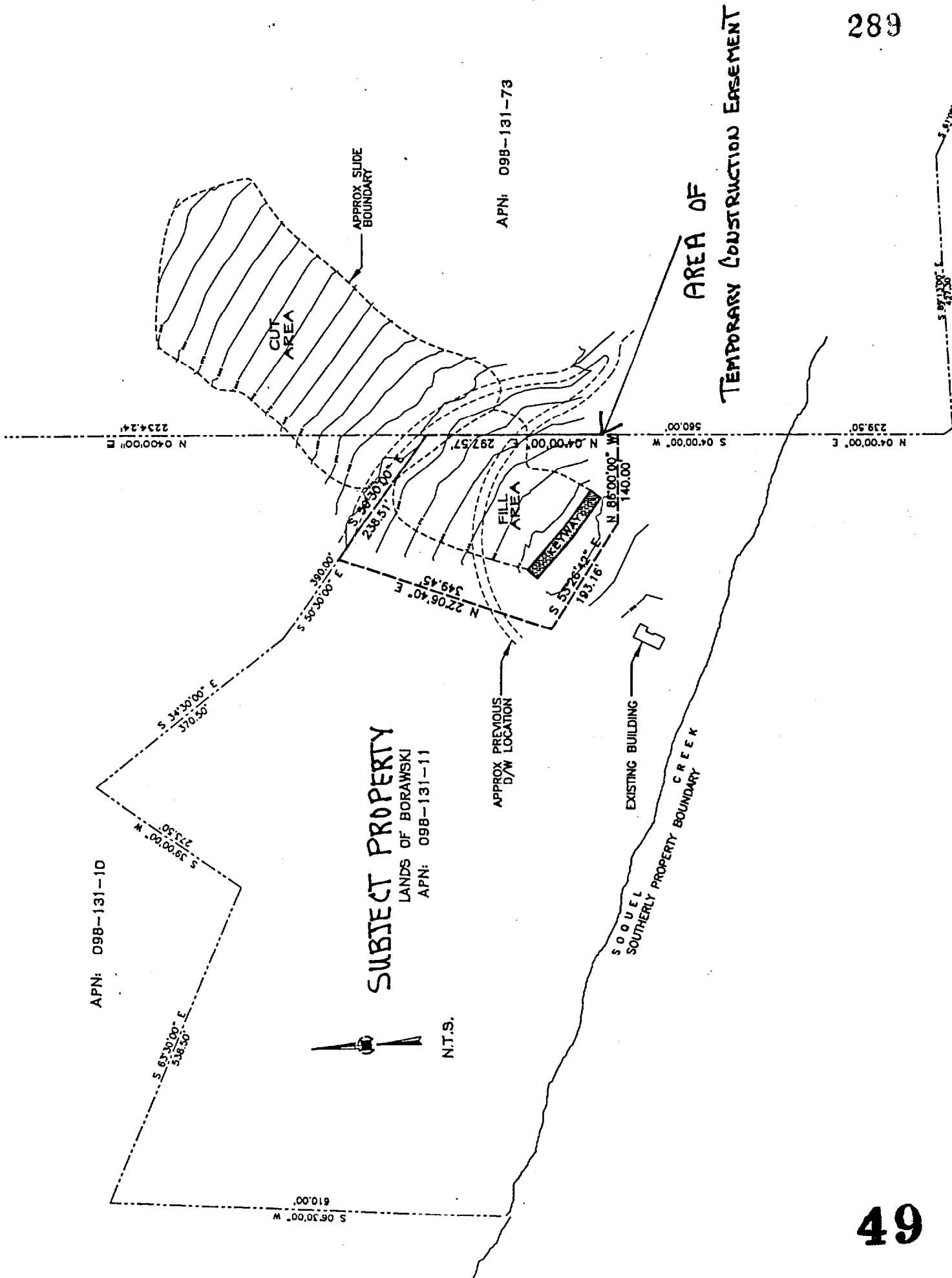
jsk  
Attachments

**RECOMMENDED FOR APPROVAL,:**



for Paul Sweet  
County Administrative Officer

copy to:   Public Works, Real Property Division  
               Public Works, Operations Division  
               County Counsel  
               Auditor-Controller



AREA OF  
TEMPORARY CONSTRUCTION EASEMENT

SUBJECT PROPERTY  
LANDS OF BORAWSKI  
APN: 098-131-11

APN: 098-131-10

APN: 098-131-73

Property No.: 1

290

APN: 098-131-11

Banker's Trust Company  
of California, N.A.  
(Sellers)

Project: Highland Way Slide  
Repair @ PM 2.95

CONTRACT  
COUNTY OF SANTA CRUZ

This contract is entered into this 5 day of March, 1998,  
by and between the COUNTY OF SANTA CRUZ, hereinafter called COUNTY, and  
BANKER'S TRUST COMPANY OF CALIFORNIA, N.A. hereinafter called SELLERS.  
The parties mutually agree as follows:

1. The parties herein set forth the whole of their agreement.  
The performance of this agreement constitutes the entire consideration for  
this transaction.

2. SELLERS agree to execute and deliver documents in the  
form of an **Temporary Construction Easement Deed and a Form W-9 (Request  
for Taxpayer Identification Number and Certification)** covering the  
property located at 28500 Highland Way in the County of Santa Cruz, more  
particularly described in Exhibit "A", attached hereto and made a part  
hereof,

Said documents will be delivered to JOHN KRIEGSMAN, Agent;  
Real Property Division of the COUNTY OF SANTA CRUZ, State of California.

3. The COUNTY shall:

(A) Pay the undersigned grantor(s) the sum of  
\$500.00 for the property or interest therein (including all improvements  
existing thereon unless removal is specifically authorized hereinafter in  
this Contract) as conveyed by **Easement Deed** within thirty (30) days after  
date title to said property vests in the COUNTY free and clear of all  
liens, encumbrances, assessments, easements and leases (recorded and/or  
unrecorded), and taxes, except:

1. Covenants, conditions restrictions and reservations  
of record, if any,
2. Easements or rights of way over said land for  
utility or street purposes, if any.

From the amount shown in Clause 3(A) above, the COUNTY is  
authorized to pay any delinquent taxes due, together with penalties and  
interest thereon; and delinquent or non-delinquent assessments or bonds.

(B) Pay all escrow and recording fees incurred in this  
transaction, and if Title Insurance is required by the COUNTY, the premium  
charge therefor, except that the payment of any reconveyance fees,  
trustee's fee, or forwarding fees for any full reconveyance of deed of  
trust or full release of mortgage shall be the responsibility of the  
SELLERS. This transaction will be handled through an internal escrow by  
the County of Santa Cruz, Department of Public Works, Real Property  
Division, 701 Ocean Street, Rm 410, Santa Cruz, CA 95060.

4: It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the COUNTY, its contractors and/or authorized agents have the right to enter upon the SELLERS property, where necessary, to construct the improvements for which the purpose of the deed is being granted. This shall include, but is not limited to, construction of a debris haul road to the base of the slide area and creation of a toe keyway, placement of loose debris, establishment of a debris curtain to protect the improvements, and seeding the finished deposit area to prevent erosion. It is understood and agreed that the premises will be left in a clean and orderly condition.

5. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the Subject Property by the COUNTY including the right to remove and dispose of improvements, shall commence on the date the COUNTY delivers said total amount shown in Clause 3(A) to the SELLERS, and that the amount shown in Clause 3(A) herein includes, but is not limited to, full payment for such possession, use, and interest from said date.

6. It is understood and agreed that the County of Santa Cruz, its contractors and/or authorized agents, do not accept any liability for loose material that might cause damage to structures. However the County does agree to the temporary construction of an industry standard debris curtain or curtains between the storm repair area and the private dwelling area at the base of the debris flow and the creek beyond as called for in the project's scope of work.

7. This CONTRACT is subject to the approval of the Santa Cruz County Board of Supervisors and cannot bind County until Board approval and consent has been received in writing and as required by law.

8. The provisions of this agreement shall inure to the benefit of and bind the respective successors, heirs, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed the day and year first above written.

RECOMMENDED FOR APPROVAL

By: Scott Loichinger  
SCOTT LOICHINGER  
Chief, Real Property Division

BANKER'S TRUST COMPANY OF  
~~ADVANTAGE MORTGAGE CORP.~~  
BY: BARR & ASSOCIATES, INC  
IT'S ATTORNEY IN FACT  
BY: [Signature]

APPROVED AS TO FORM:

By: S. Torres  
SAMUEL TORRES, JR. 3-9-99  
Chief Assistant County Counsel

COUNTY

By: \_\_\_\_\_  
JOHN A. FANTHAM  
Director of Public Works

(SELLERS)

# EXHIBIT "A"

Borawski  
APN 098-131-1 1

292

Situate in the county of Santa Cruz, State of California, and described as follows:

Being a portion of the land conveyed to James Robert Borawski by that deed recorded September 6, 1995 in Volume 5724 of Official Records of Santa Cruz County at Page 749, and more particularly described as follows:

## PARCEL "A"

Being an easement for temporary construction purposes over a portion of said lands of Borawski, and more particularly described as follows:

Beginning at a point on of the southern side of the County road known as Highland Way, being the southeast comer of the land conveyed to Ralph C. Marsh et ux., by that deed recorded January 15, 1952 in Volume 426 of Official Records of Santa Cruz County at Page 288, -and the northeast comer of said lands of Borawski; thence from said point of beginning along the easterly boundary of said lands of Borawski South 4°00' West 297.57 feet; thence leaving said easterly line North 86°00' West 140.00 feet; thence North 53°26'42" West 193.16 feet; thence North 22°06'40" East 349.45 feet to a point on the southernly boundary of said lands of Marsh and the northerly boundary of said lands of Borawski; thence along said boundaries South 50°30' East 238.5 1 feet to the point of beginning.

Containing 2.11 acres, more or less.

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA  
RESOLUTION NO. \_\_\_\_\_

On the motion of Supervisor  
duly seconded by Supervisor  
the following resolution is adopted:

HIGHLAND WAY SLIDE REPAIR PROTECT AT POST MILE 2.95  
BANKERS TRUST COMPANY OF CALIFORNIA, N.A. - APN 098-13 1-1 1

RESOLVED by the Board of Supervisors of the County of Santa Cruz, State of California:

WHEREAS, the County of Santa Cruz is desirous of acquiring the real property interests described in the agreement attached hereto and hereinafter referred to, and

WHEREAS, the owners of said real property interests have or will execute and deliver a document conveying said real property interests to County, upon condition that County acknowledge and approve Articles set forth in said agreement binding County to the performance of said Articles, and

WHEREAS, the Board of Supervisors of said County hereby finds the Articles of said agreement to be fair and reasonable consideration for the acquisition of said real property interests;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the County of Santa Cruz does hereby accept the terms of said agreement listed below:

(Portion of)		
A.P.N.	NAME	PAYMENT
098-13 1-1 1	Bankers Trust Company of California, N.A.	\$500.00

BE IT FURTHER ORDERED that the Auditor-Controller of the County of Santa Cruz is hereby authorized to approve payment of claim for the above listed agreement payable to the above listed Grantor in the amount indicated above out of the Public Works Internal Service Fund, charged against Index No. 933759, User Code **P00304**, for the purchase of said property interests AND TO DELIVER THE SAME TO THE CHIEF REAL PROPERTY DIVISION OF THE COUNTY OF SANTA CRUZ.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this \_\_\_\_ day of \_\_\_\_\_, 1999, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSENT: SUPERVISORS

\_\_\_\_\_  
CHAIR OF SAID BOARD

ATTEST: \_\_\_\_\_  
Clerk of said Board

Approved as to form:

  
\_\_\_\_\_  
Assistant County Counsel

Distribution: County Counsel  
Auditor-Controller  
Public Works  
Real Property

RSLUTN61.WPW