



**THOMAS L. BOLICH**  
DIRECTOR OF PUBLIC WORKS

# County of Santa Cruz

## DEPARTMENT OF PUBLIC WORKS - REAL PROPERTY DIVISION

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 95060-4070  
(831) 454-2331 FAX (831) 454-2385 TDD (831) 454-2123

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

**AGENDA: FEBRUARY 12, 2002**

February 6, 2002

### SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street  
Santa Cruz, California 95060

**SUBJECT: SOQUEL DRIVE (BARGETTO) BRIDGE REPLACEMENT AND  
STREETSCAPE PROJECT  
TOUSTO - APN: 30-082-38**

#### Members of the Board:

Included in the 2001/2002 Public Works Road and Redevelopment Agency budgets are funds for the construction of a new bridge over Soquel Creek at Soquel Drive and road and streetscape improvements to Soquel Drive in the Soquel Village area and for the acquisition of the required right-of-way. This project is now underway and is being constructed with federal funds and a local funding share provided by the Redevelopment Agency. The Porter Street right turn lane and Soquel Drive streetscape portion of the project is being constructed with Redevelopment Agency funds and developer fees.

The attached contract provides for the acquisition of the necessary road right-of-way and easements along the front of the subject parcel required for the completion of the above mentioned bridge and road project. The required take areas are located along the frontage of the subject parcel and will allow for the construction of a new right turn lane on Soquel Drive (see attached map). The settlement amount for the property interests acquired is shown in the attached Resolution and is based on a combination of a departmental appraisal and a negotiated settlement. This amount is considered fair and reasonable for the real property interests being acquired and represents the fair market value for such property interests.

The funding for this acquisition is being provided by the County's Redevelopment Agency. Redevelopment funds are being used because it has been determined that the improvements are of benefit to the project area, that no other reasonable means of financing the improvements are available to the community, that the project will assist in the elimination of blight, and that the project is consistent with the Redevelopment Agency's five year implementation plan. The Board of Directors of the Redevelopment Agency previously approved financing for this acquisition.

## SANTA CRUZ COUNTY BOARD OF SUPERVISORS

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The Redevelopment Agency has a letter to the Board of Directors of the Redevelopment Agency on today's agenda requesting authorization for the expenditure of funds necessary for this acquisition.

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

1. Make findings that the acquisitions are of benefit to the project area or the immediate area in which the work is located, that no other reasonable means of financing the work are available to the community, that the work will assist in the elimination of blight, and that the project is consistent with the Redevelopment Agency's five year implementation plan;
2. Adopt Resolution approving and accepting the terms and conditions of the contract and authorize the Director of Public Works to sign said document on behalf of the County;
3. Approve payment of claim for the contract.

Yours truly,



Thomas L. Bolich  
Director of Public Works

pap

Attachments

RECOMMENDED FOR APPROVAL:



County Administrative Officer

Copy to: Public Works Department  
Redevelopment Agency

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:

RESOLUTION FOR RIGHT-OF-WAY ACQUISITION  
SOQUEL DRIVE (BARGETTO) BRIDGE REPLACEMENT AND STREETScape PROJECT

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 contract documents attached hereto and hereinafter referred to, and

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

WHEREAS, the Board of Supervisors of said County hereby finds the Articles of said contract to be fair and reasonable consideration for the acquisition of said real property interests, and County also agrees to pay to the property owner up to an additional \$1,000.00 for asphalt sealing and restriping of the subject parking lot. To the extent the cost of such work exceeds this sum, the property owner, Louis Tuosto, shall pay and be responsible for any remaining amounts due at the same rate as charged by the contractor to the County;

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

<u>A.P.N.</u>	<u>NAME</u>	<u>PAYMENT</u>
030-082-38	Louis Tuosto	\$110,600.00
030-082-38	Louis Tuosto	\$ 1,000.00

BE IT FURTHER ORDERED that the Auditor-Controller of the County of Santa Cruz is hereby authorized to approve payment of the claim for the above listed contract payable to Santa Cruz Title Company, as escrow agent for this transaction, in the amounts indicated above, out of the from County Redevelopment funds, charged against Index No. 611173, Work Authorization No. 66018, for the purchase of said property interests and asphalt sealant costs and to deliver the same to the Chief, Real Property Division of the County of Santa Cruz, and

BE IT FURTHER ORDERED that said Chief, Real Property Division, deliver said warrants to Santa Cruz Title Company for disbursement to the grantors.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2002, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSENT: SUPERVISORS

\_\_\_\_\_  
Chairperson of said Board

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

Approved as to form:

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

Distribution: Real Property Division  
County Counsel  
Auditor-Controller  
Public Works



Louis Tuosto  
(SELLERS)

**Property No.: 1**  
**APN: 030-082-38**  
**Project: BARGETTO-SOQUEL DRIVE**  
**BRIDGE PROJECT**

**CONTRACT, RELEASE, AND SETTLEMENT IN FULL OF ALL CLAIMS AND RIGHTS  
BETWEEN LOUIS TUOSTO AND COUNTY OF SANTA CRUZ**

This contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 2002, by and between the COUNTY OF SANTA CRUZ, hereinafter called **COUNTY**, and LOUIS TUOSTO, 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 a document in the form of a Deed covering a portion of the property located at 4701 Soquel Drive in the County of Santa Cruz (APN 030-082-38), more particularly described in Exhibit "A", attached hereto and made a part hereof and a W-9 Form, Request for Taxpayer Identification Number and Certification. Said documents shall be delivered to Scott Loichinger, Chief, Real Property Division of the COUNTY, State of California,

3. The COUNTY shall:

(A) Pay the undersigned SELLERS the sum of **\$110,600.00** for the property interest therein (including all improvements that existed on said property) as conveyed by said Deed within thirty (30) days after date title to said property interest 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.

(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 escrow with Santa Cruz Title Company, escrow number is 09460903- YOB.

(C) Pay to SELLERS up to \$1,000.00 additional for asphalt sealing and restriping of the subject parking lot. To the extent the cost of such work exceeds this sum, Louis Tuosto shall pay and be responsible for any remaining amounts due at the same rate as charged by the contractor to the COUNTY.

4. SELLERS agree to indemnify, defend, and hold harmless the COUNTY from and against any claim, action, suit, proceeding, loss, cost, damage, deficiency, fine, penalty, liability, or expense (including without limitation, attorney's fees), arising out of any of the following matters in, on, or about the Property occurring during SELLERS' ownership of the Property:

(A) The release, use, generation, discharge, storage, disposal, or transportation of any Hazardous Materials, or

(B) The violation of any statute, ordinance, order, rule, regulation, permit, judgement, or license relating to the release, use, generation, discharge, storage, disposal, or transportation of any Hazardous Materials.

The term "Hazardous Materials" shall mean any substance, material, or waste which is regulated by any governmental authority, including, but not limited to, any material or substance which is defined as a "hazardous substance", "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" in the California Health and Safety Code.

The purchase of the property interest shall not be construed as limiting SELLERS responsibility and/or the COUNTY'S rights concerning hazardous materials discovered before or after purchase of said property interests.

5. SELLERS warrants that there are no oral or written leases on any portion of the real property described in Exhibit "A", exceeding a period on one month, and SELLERS further agrees to hold harmless and reimburse the COUNTY for any and all losses or expenses resulting or arising from any lease on the property exceeding a period of one month.

6. COUNTY to dismiss the eminent domain action against the SELLERS involving the subject property and SELLERS waive any and all claims to any monies that may now be on deposit in such action. SELLERS consents to the dismissal thereof and will sign a standard release. Each side to pay its own fees and costs. The COUNTY waives any and all claims for recovery of the costs of improvements made to the SELLERS property.

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

8. For and in consideration of the performance of the obligations set forth above and except for the performance of those obligations, the undersigned does hereby release and forever discharge the each other and their employees, officers, and agents from any and all actions, claims, causes of actions, rights, liabilities, and demands, known and unknown, including, but not limited to, claims for personal injuries and/or property damage arising out of an accident, incident, or event occurring as a result of the County's Bargetto Bridge Replacement and Soquel Drive Road Improvement Project started on about April 1, 2001, and any and all claims which are stated or which could have been brought in the eminent domain action now pending between the parties.

9. This Release and Settlement Agreement expresses a full and complete settlement of a liability claimed and denied, regardless of the adequacy of the above consideration. The acceptance of this Release shall not operate as an admission of liability on the part of either party.

10. The undersigned expressly agrees that, except for the performance of the obligations set forth herein, this Release and Settlement Agreement extends to all claims of every nature and kind, known and unknown, suspected or unsuspected, vested or contingent, past, present or future arising from or attributable to Louis Tuosto, the County of Santa Cruz, their employees, officers and agents occurring before the execution of this Release and Settlement Agreement, notwithstanding Section 1542 of the California Civil Code which provides as follows:

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

Thus, the undersigned hereby expressly relinquishes and waives the provisions of Section 1542 of the California Civil Code. The undersigned understands and acknowledges the significance of the specific waiver of the provisions of Section 1542 and hereby assumes full responsibility for any damage, loss or liability which the undersigned hereinafter incurs by reason of such waiver.

11. The execution of this Release and Settlement Agreement constitutes the compromise of a doubtful claim and is not to be construed as an admission of liability on the part of Louis Tuosto or the County of Santa Cruz, its employees, officers, or agents.

12. The undersigned shall immediately abandon the prosecution of any and all causes of action arising out of accident, incident, or event described in paragraph one, above.

13. Louis Tuosto hereby represents and warrants that no claim has been made against his employers' insurance carrier under State Workers' Compensation laws for injuries arising from the accident, incident or event described in paragraph one.

14. The undersigned acknowledges that this document was executed voluntarily and with the understanding that it constitutes the complete and exclusive statement of the terms of this Release and Settlement Agreement relating to the rights granted by it and the obligations assumed under it. This agreement supersedes any previous oral agreement or understanding between the parties regarding any matter contained in it.

I HAVE READ THE FOREGOING RELEASE AND SETTLEMENT AGREEMENT AND I UNDERSTAND THE CONTENTS OF IT **AND** HAVE HAD THE OPPORTUNITY, IF I SO CHOSE, TO REVIEW ITS CONTENTS WITH MY ATTORNEY. BY MY SIGNATURE BELOW I AGREE TO ABIDE BY THE TERMS AND CONDITIONS HEREIN.

IN WITNESS WHEREOF, the COUNTY has caused this contract to be duly executed as of the \_\_\_\_ day of \_\_\_\_\_, 2002; and the SELLERS have executed this agreement as of the \_\_\_\_ day of \_\_\_\_\_ '2002.

RECOMMENDED FOR APPROVAL

By: Scott Loichinger  
SCOTT LOICHINGER  
Chief, Real Property Division

\_\_\_\_\_  
Louis Tuosto

APPROVED AS TO FORM:

By: Dana McRae  
DANA McRAE  
Chief Assistant County Counsel

COUNTY

3y: \_\_\_\_\_  
THOMAS L. BOLICH  
Director of Public Works

\_\_\_\_\_  
(SELLERS)



# EXHIBIT "A"

0275

**WEBER**

**APN 030-082-38**

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

Being a portion of the land conveyed to Bill Weber and Suzanne Weber by that deed recorded May 26, 1998, in Document Number 1998-0029658 of Official Records of Santa Cruz County, and more particularly described as follows:

## **Parcel A**

Beginning at the southeasterly corner of said land of Weber on the northerly line of Soquel Drive; thence from said point of beginning leaving said northerly line along the easterly boundary of said land of Weber North 17°12' West 14.24 feet; thence leaving said easterly boundary South 66°43' West 68.46 feet; thence along a tangent curve to the right with a radius of 31.81 feet through a central angle of 84°22'03" an arc distance of 46.84 feet to a point on the projected easterly line of Porter Street; thence along said projected easterly line South 00°32' West 47.01 feet to its intersection with the projected northerly line of Soquel Drive; thence leaving said projected easterly line along the northerly line of Soquel Drive and the projection thereof North 66°43' East 122.16 feet to the point of beginning.

Excepting therefrom the lands described in the deeds to County of Santa Cruz recorded August 31, 1972 in Volume 2235 of Official Records of Santa Cruz County at Page 626, and recorded October 11, 1961 in Volume 1429 of Official Records of Santa Cruz County at Page 632.

Containing 1,407 square feet, more or less.

## **Parcel B**

Being an easement for sidewalk, utility, and sign purposes over a portion of said land of Weber, and more particularly described as follows:

Beginning at the northeasterly corner of the above described Parcel A, on the easterly boundary of said land of Weber; thence from said point of beginning along said easterly boundary North 17°12' West 6.56 feet; thence leaving said easterly boundary South 69°55'12" West 3.04 feet; thence South 43°26' West 2.43 feet; thence South 66°43' West 14.05 feet; thence West 2.49 feet; thence South 66°43' West 19.40 feet; thence South 43°26' West 2.49 feet; thence South 66°43' West 30.44 feet; thence along a tangent curve to the right with a radius of 26.25 feet through a central angle of 102°57'15" an arc distance of 47.16 feet; thence North 12°29'26" East 2.45 feet; thence North 00°39'53" East 22.50 feet; thence North 32°20'02" West 4.57 feet to the easterly line of Porter Street; thence along said easterly line and the projection thereof South 00°32' West 39.44 feet to the northwesterly corner of the above described parcel A; thence along the northerly boundary of said Parcel A to the point of beginning.

Excepting therefrom the lands described in the deeds to County of Santa Cruz

# EXHIBIT "A"

0276

recorded August 31, 1972 in Volume 2235 of Official Records of Santa Cruz County at Page 626, and recorded October 11, 1961 in Volume 1429 of Official Records of Santa Cruz County at Page 632.

Containing 767 square feet, more or less.

ABT:abt

# EXHIBIT "A"

0277

**WEBER**

**APN 030-082-38**

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

Being a temporary construction easement over a portion of the land conveyed to Bill Weber and Suzanne Weber by that deed recorded May 26, 1998, in Document Number 1998-0029658 of Official Records of Santa Cruz County, and more particularly described as follows:

Being the entire said land of Weber except the area described as follows:

Beginning at the northeasterly corner of said land of Weber; thence from said point of beginning along the northerly boundary of said land of Weber North  $89^{\circ}03'$  West 49.88 feet; thence leaving said northerly boundary South 34.60 feet; thence East 60.33 feet to a point on the easterly boundary of said land of Weber; thence along said easterly boundary North  $17^{\circ}12'$  West 35.35 feet to the point of beginning.

Containing 7,997 square feet, more or less.

ABT:abt