

SETTLEMENT OF EMINENT DOMAIN ACTION

County of Fresno v. Patrica A. Rogers, et al.
Case No. 20CECG01833

RECITALS

On June 25, 2020, plaintiff COUNTY OF FRESNO (“COUNTY”) filed a Complaint in Eminent Domain in the Fresno Superior Court (Case No. 20CECG01833, entitled *County of Fresno v. Patricia A. Rogers, et al.*) against defendants PATRICIA A. ROGERS; FARRAH MIRZAE; ANNA MIRZAE; ALPHA & OMEGA ROGERS FAMILY TRUST, LLC, a Texas Company; ALTA IRRIGATION DISTRICT; and DOES 1 through 25, inclusive (hereinafter “Condemnation Action”).

Through the Condemnation Action, COUNTY sought to acquire a permanent easement as a partial acquisition from a larger parcel located at 22603 East Lincoln Avenue, Reedley, California 93654 and further identified as APN 373-310-34, which is designated by COUNTY as Parcel 3 (hereinafter referred to as “PARCEL 3”).

ANNA MIRZAE and FARRAH MIRZAE are joint owners in fee of PARCEL 3. Title to PARCEL 3 is vested in the name of ANNA MIRZAE, a single woman and FARRAH MIRZAE, a single woman as to an undivided 1/3 interest, and in the name of PATRICIA A. ROGERS, an unmarried woman as to an undivided 2/3 interest.

This Settlement Agreement (“Agreement”) is entered into by ANNA MIRZAE and FARRAH MIRZAE (hereinafter collectively referred to as “Grantors”), as joint fee owners of PARCEL 3, and the COUNTY. The COUNTY and Grantors are referred to collectively herein as “the Parties”.

A legal description of the permanent easement is attached as **Exhibit “A”** and is incorporated into this Agreement by reference. A map portraying as far as practicable the location of the permanent easement is attached as **Exhibit “B”** and is incorporated into this Agreement by reference.

The partial acquisition of PARCEL 3 is needed to replace the Travers Creek Bridge, a wooden two-lane bridge on Lincoln Avenue, a public roadway in the County of Fresno, with a new two-lane box culvert bridge (hereinafter the “Project”).

The real property subject to COUNTY’S Condemnation Action is zoned a limited agricultural district, with a 20-acre minimum. There are no permanent plantings or building

improvements on PARCEL 3. As a result of COUNTY'S acquisition, there will be no damages to the remainder of PARCEL 3 not subject to the COUNTY'S acquisition. Landscaping in the form of ground cover will be affected by the COUNTY'S acquisition.

TERMS

1. Purchase Price and Title COUNTY shall pay Grantors a total of Two Thousand Five Hundred Dollars (\$2,500.00) for the condemnation of all rights and interests in the part to be acquired identified in PARCEL 3 and described in **Exhibit "A"**. The Parties agree that this amount is the fair value for COUNTY'S acquisition of the easement interests over PARCEL 3. Grantors agree that the payment of the amount specified above shall be the full payment to Grantors for COUNTY'S acquisition of the interests in PARCEL 3 as herein described, and for all damages of every kind and nature suffered, or to be suffered, by reason of COUNTY'S acquisition of the herein described interests to include, but not limited to, severance damages to the remainder from the part acquired, all cost to cure items, loss of income and profits, loss of goodwill, removal expenses, loss of fixtures and equipment, and pre-condemnation damages. This sum shall be paid by settlement draft as follows:

a. Payment of Settlement Draft COUNTY shall issue a settlement draft in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), payable to "ANNA MIRZAEI and FARRAH MIRZAEI" and mailed to FARRAH MIRZAEI at 4550 West 63rd Street, Los Angeles, California 90043. Upon receipt of the settlement draft in the amount of \$2,500.00, FARRAH MIRZAEI, will execute an Acknowledgment and Receipt of Settlement Draft to be prepared by COUNTY. The executed Acknowledgment and Receipt of Settlement Draft shall be delivered to the County of Fresno Office of County Counsel c/o Katwyn T. DeLaRosa, Deputy County Counsel, 2220 Tulare Street, Suite 500, Fresno, California 93721.

b. Warranty of Title and Interest Grantors warrant they possess lawful title and are authorized to sell the interest in the part to be acquired as described in **Exhibit "A"**.

c. Apportionment The total appraised value for the COUNTY'S acquisition of the easement interest is Seven Thousand Five Hundred Dollars (\$7,500.00). COUNTY shall pay exclusively to Grantors, the entire sum of the amount set forth in Paragraph 1a, representing Grantors' 1/3 interest in PARCEL 3. This sum shall constitute COUNTY'S entire monetary obligation to Grantors for the acquisition of the easement interest identified

in PARCEL 3, herein described in this Agreement.

2. **Delivery of Documents** For consideration paid as the agreed upon compensation for COUNTY'S acquisition of the interest in PARCEL 3 described in this Agreement, Grantors will execute a Grant of Easement Deed to the County of Fresno and a Right of Way Contract for PARCEL 3. The executed Easement Deed (notary required) and Right of Way Contract shall be delivered to the County of Fresno Office of County Counsel c/o Katwyn T. DeLaRosa, Deputy County Counsel, 2220 Tulare Street, Suite 500, Fresno, California 93721. A true and correct unexecuted copy of the Easement Deed for PARCEL 3 is attached as **Exhibit "C"** and is incorporated by reference. A true and correct unexecuted copy of the Right of Way Contract for PARCEL 3 is attached as **Exhibit "D"** and is incorporated by reference.

3. **Lease Warranty** Grantors warrant that there are no leases within the acquisition area described in Exhibit "A" on the subject property. Grantors further agree to hold COUNTY harmless and reimburse COUNTY for any and all of its losses and expenses occasioned by reason of any lease on acquisition areas of the subject property.

4. **Dismissal of Action in Eminent Domain** Grantors consent to be dismissed from the Condemnation Action without prejudice. Grantors also waive any and all claims to money that may be deposited with the State Treasurer as the amount of probable compensation. The COUNTY will file a request for dismissal of the Grantors from the Condemnation Action within fifteen (15) days after this Agreement and Right of Way Contract are fully executed. Grantors hereby agree that COUNTY'S dismissal of Grantors from the Condemnation Action does not constitute an abandonment. Grantors waive any claim for litigation expenses, including attorney's fees, and costs of suit in connection with the COUNTY'S dismissal of Grantors from the Condemnation Action.

5. **Authority to Enter Agreement** Each person signing this Agreement represents and warrants that they are voluntarily entering into this Agreement, and they have the authority to sign and execute this Agreement on behalf of the Party for which they sign.

6. **Enforcement of Agreement** The parties agree that the release of fees and costs set forth herein does not extend to any breach of this Agreement. If any action is required to enforce the terms of this Agreement, the prevailing party shall be entitled to all attorney's fees and costs incurred to enforce this Agreement.

7. **Full Agreement** This Agreement in conjunction with the Easement Deed and Right

of Way Contract, attached to this Agreement as Exhibits C and D, constitutes a full and complete compromise of all matters involving Grantors and the Condemnation Action. This Agreement along with the Easement Deed and Right of Way Contract, attached to this Agreement as Exhibits C and D, contain all of the terms and conditions relating to the subject matter of the settlement agreement reached in the action herein described and, except as expressly provided otherwise herein, shall supersede all other prior agreements, negotiations, correspondence, undertakings and communications of the parties, oral or written, concerning its subject matter.

8. **Successors** This Agreement shall be binding and enforceable against the successors, heirs, and assigns of the Parties.

9. **Amendment** Subject to applicable law, this Agreement may be amended, modified or supplemented only by a written agreement signed by the Parties.

10. **Governing Law** This Agreement shall be governed by, and construed in accordance with, the laws of the State of California applicable to contracts executed and to be performed in the state.

11. **Review of Agreement** Grantors warrant that they have completely read and reviewed this Agreement, that Grantors have had the opportunity to obtain legal advice from attorneys before signing the Agreement, and that Grantors understand the meaning and effect of the Agreement.

12. **Construction** This Agreement represents the wording selected by the Parties to define their agreement and no rule of strict construction shall apply against either party.

13. **Signatures in Counterparts** This Agreement may be executed by original and/or duplicate copies and in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

14. **Costs** Each party to this Agreement shall bear their own attorney's fees and costs related to the Condemnation Action and for reviewing and making this Agreement.

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GRANTOR(S) AND DEFENDANT(S)

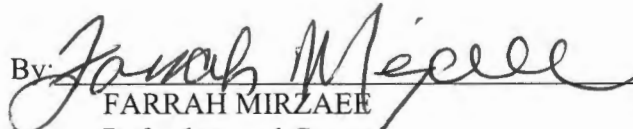
Dated: _____

2/28/21

By: _____

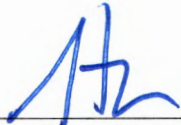
ANNA MIRZAEI
Defendant and Grantor

Dated: 2/28/21

By: 
FARRAH MIRZAEI
Defendant and Grantor

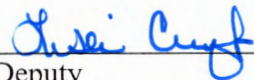
COUNTY OF FRESNO

Dated: 4/13/21

By: 
STEVE BRANDAU, Chairman
of the Board of Supervisors of the County of
Fresno

ATTEST:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: 
Deputy

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of LOS ANGELES)

On 02/28/2021 before me, O. ROBINSON, NOTARY PUBLIC,
(insert name and title of the officer)

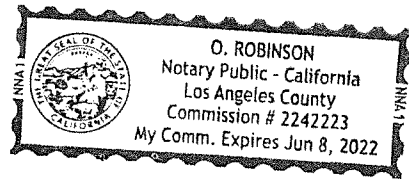
personally appeared Anna Mirzaee and Farrah Mirzaee,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~
subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in
~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



HBP – Travers Creek Bridge on
Lincoln Avenue

Parcel 3
Portion of APN 373-310-34

Exhibit A

That portion of Lot 87 of Mount Campbell Colony, according to the map thereof recorded in Book 2, Page 28 of Record of Surveys, Fresno County Records, in Section 8, Township 15 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, described as follows:

BEGINNING at a point at the Northwest corner of Lot 87, said point being the TRUE POINT OF BEGINNING; thence,

- 1) Along the North line of said Lot 87, North 90°00'00" East a distance of 179.65 feet; thence,
- 2) Leaving said North line of Lot 87, South 83°22'53" West, a distance of 130.14 feet; thence,
- 3) Parallel with the North line of the Northeast Quarter of Section 8, North 90°00'00" West, a distance of 21.65 feet; thence,
- 4) South 03°21'33" East, a distance of 45.35 feet; thence,
- 5) South 86°29'01" West, a distance of 32.77 feet to the West line of said Lot 87; thence,
- 6) Along said West line of Lot 87, North 01°13'18" East, a distance of 62.29 feet to the TRUE POINT OF BEGINNING

Containing 0.072 acres of land, more or less

For the purposes of this description it is assumed that the North line of said Lot 87 is 20.00 feet South of and parallel with the North line of the Northeast Quarter of Section 8.



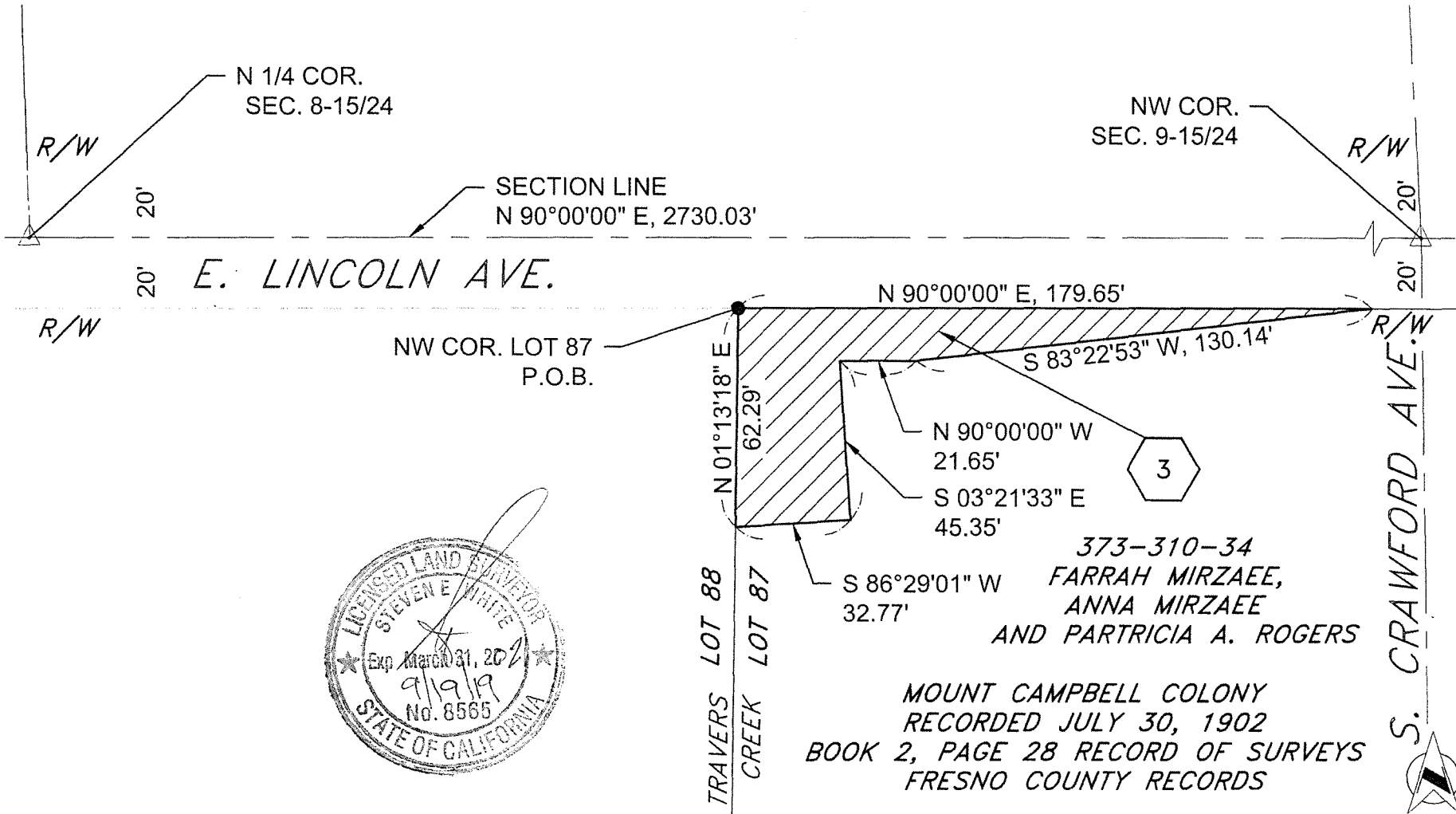
LEGEND



RIGHT OF WAY
ACQUISITION TO
COUNTY OF FRESNO

T. 15 S., R. 24 E., M.D.B.& M.

EXHIBIT B
PARCEL 3



NAME:	DATE:
DRAWN: J.D.	11/13/17
CHECKED: G.M.	11/15/17
REVISION: M.R.	09/18/19



DEPARTMENT OF PUBLIC WORKS AND PLANNING

BRIDGE REPLACEMENT

TRAVERS CREEK BRIDGE ON LINCOLN AVENUE

RIGHT-OF-WAY MAP

PROJECT NO. I11308

SHEET NO. 1

Recording Requested By:

County of Fresno
No Fee-Gov/t. Code Sections
6103 and 27383

When Recorded Mail To:

County of Fresno, Department
of Public Works and Planning
Design Division (Real Property)
2220 Tulare Street, 6th Floor
Fresno, CA 93721

GRANT OF EASEMENT

Travers Creek Bridge
Replacement
Lincoln Avenue
Parcel: 3
APN 373-310-34
Federal Project ID
NO.:BRLO-5942(226)

For value received,

FARRAH MIRZAEI and ANNA MIRZAEI,

hereby grant(s) to the COUNTY OF FRESNO, a political subdivision of the State of California, an easement for public road purposes, including the right of way, and together with all incidents and appurtenances to any roadway purposes, on, over and through that certain real property in said County of Fresno, State of California, described as follows:

See Exhibits A & B, attached hereto and made a part hereof.

Date

Farrah Mirzaee

Date

Anna Mirzaee

Exhibit D

GRANTOR:	<u>Farrah Mirzaee and Anna Mirzaee</u>	PROJECT:	<u>Travers Creek Bridge Replacement</u>
		LIMITS:	<u>Lincoln Avenue</u>
ADDRESS:	<u>22603 East Lincoln Avenue</u>	PARCEL:	<u># 3</u>
	<u>Reedley, CA 93654</u>	DATE:	
	<u>APN: 373-310-34</u>		<u>Federal Project ID No.: BRLO-5942(226)</u>

RIGHT OF WAY AGREEMENT

An easement deed to the County of Fresno from the Grantor(s) has been executed and delivered to the Design Division of the County of Fresno Department of Public Works and Planning.

In consideration of which, and the other consideration hereinafter set forth, County and Grantors mutually agree as follows:

1. Grantors have title to the property, described in Exhibit "A," and shown on Exhibit "B" attached, and incorporated by this reference ("Property"), and the full authority to sign the above-mentioned document.

2. The parties have set forth the whole of their agreement herein. The performance of this agreement constitutes the entire consideration for the easement deed, and shall relieve County of all further obligation or claims, or on account of the location, grade or construction of the proposed public improvement.

3. County shall pay the undersigned Grantor(s) the sum of \$2,500.00 for the property interest conveyed by the easement deed when title to the property interest vests in County. County shall pay all, if any, recording fees.

4. This transaction shall be handled through an internal escrow by the County of Fresno, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721.

5. County reserves the right to accept title to the property interest to be acquired by County herein subject to certain defects in any or all matters of record title to the Property. In return for Grantors receiving the total sum as stated in Section 3, the undersigned Grantors covenant and agree to indemnify and hold the County of Fresno harmless from any and all claims and demands third parties may make or assert and causes of action third parties may bring that arise out of or are in connection with any defects in title to Property. Grantors' obligation herein to indemnify and hold harmless County shall not exceed the amount paid to the Grantors under this Agreement.

6. The parties agree and confirm that, notwithstanding other provisions in this Agreement, the right of possession and use of the Property by County, including the right to remove and dispose of any improvements, shall commence thirty (30) days from execution of this Right of Way Contract or the date the easement deed is recorded, whichever occurs first ("Effective Date"), and that the compensation amount shown in Section 3 herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from the Effective Date.

7. Section 3, herein, may include payment for the replacement of improvements such as fencing and/or irrigation facilities that are within the area being acquired for this project and must be replaced in order to proceed with the construction of the project. If Grantors do not replace said items before the start of construction, County may install temporary fencing on Grantors' property lying immediately adjacent to the new right of way line, if necessary, to hold in livestock during construction of the road project, and/or plug the irrigation line(s) at Grantors' property line.

8. Grantors agree to hold the County harmless and reimburse County for any and all losses and expenses in regards to the Property being acquired hereunder, due to any lease of Property held by any tenant of Grantors.

9. The compensation amount set forth in Section 3, herein, includes full payment for the following: 0.072 acre road easement, spreading plants ground cover, and severance damages to the remainder, if any.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

GRANTOR(S):

Farrah Mirzaee

Anna Mirzaee

COUNTY OF FRESNO

By: _____
STEVE BRANDAU, Chairman
of the Board of Supervisors of the
County of Fresno

DATE: _____

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Deputy

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED