

**RIGHT OF WAY AGREEMENT**

(Rev 01-10-2013)

Right-of-Way: Branch Mill Road Bridge Replacement Project  
WBS #300385, Parcel No. 13-06

**THIS AGREEMENT** entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Brother's Investment Company, a General Partnership, hereinafter referred to as GRANTORS and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, hereinafter referred to as COUNTY;

**WITNESSETH:**

**WHEREAS**, COUNTY needs to obtain certain property interests from GRANTORS for the Branch Mill Road Bridge Replacement Project ("Project"); and

**WHEREAS**, an easement deed in the form of Public Road And Slope Easement Deed No. 13-06 ("Easement Deed") covering the property particularly described therein (the "Subject Property"), has been executed and delivered to Phil Acosta, Right of Way Agent for COUNTY.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions, promises and agreements herein set forth, it is mutually agreed by and between GRANTORS and COUNTY as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve the COUNTY of all further obligation or claims on this account or on account of the location, or construction, of the proposed public improvement, except as set forth herein.

2. The COUNTY shall:

a. Pay the undersigned GRANTORS the sum of \$37,000.00 for the property interests as conveyed herein and by Easement Deed No. 13-06 when title to said property vests in the COUNTY free and clear of all liens, encumbrances, assessments, easements, leases (recorded and/or unrecorded), and all taxes, except:

1. Taxes for the fiscal year in which this Agreement is entered which shall be cleared and paid in the manner specified under Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code, if unpaid at time Agreement is entered.

2. Easements or rights of way over said land for public, public utility or quasi-public utility purposes, if any.

b. Pay any escrow and recording fees incurred in this transaction, and if title insurance is desired by the COUNTY, the premium charged therefor.

c. Have the authority to deduct and pay from the amount shown in Paragraph 2 (a) above, any amount necessary to satisfy any delinquent taxes due in any fiscal year

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except the fiscal year in which this escrow closes, together with penalties and interest thereon, and/or delinquent or non-delinquent assessments or bonds except those which title is to be taken subject to, in accordance with the terms of this agreement.

3. GRANTOR hereby warrants and represents that the GRANTOR has no reason to believe that any hazardous waste, extremely hazardous waste, or hazardous substance (as those terms are defined in sections 25117, 25115, and 25316 of the California Health and Safety Code) has come to be located on, beneath or within any of the real property covered by the above referenced Easement Deed or this Agreement. If GRANTOR ever becomes aware of the presence of any hazardous waste, extremely hazardous waste, or hazardous on, beneath or within these areas, GRANTOR shall immediately so advise COUNTY.

4. GRANTOR hereby warrants and represents that (1) GRANTOR has sufficient title in the Subject Property to fully convey to the COUNTY all of the property rights and interests described in the Deed, and (2) that GRANTOR's title in the Subject Property shall not be compromised or transferred by any voluntary or involuntary transfer of any property interest, or the voluntary or involuntary creation of any lien, in the Subject Property to someone other than the COUNTY prior to close of escrow.

5. At no expense to the GRANTOR, and at the time of roadway construction, the COUNTY or its authorized agent will construct a hot-mix asphalt and compacted soil drive approach way left of Engineer's Station 10+36 "B" as shown on the DRIVEWAY RECONSTRUCTION EXHIBIT (Parcel 13-06) attached hereto and made a part hereof.

6. GRANTOR hereby grants permission to the COUNTY, or its authorized agent, to enter upon GRANTOR'S land, where necessary, for purposes of reconstructing and conforming GRANTOR'S driveway as described in the previous section (Section 5).

7. It is understood and agreed that upon completion of the work indicated in Sections 5 and 6 of this Agreement, the portion(s) of said hot-mix asphalt drive approach way lying within the COUNTY easement areas shall be considered an encroachment under permit upon the County road, and shall be maintained, repaired, and operated as such by GRANTOR, in accordance with, and subject to pertinent County and State law, and San Luis Obispo County Department of Public Works Standard Encroachment Permit Provisions. GRANTOR further understands and agrees that upon completion of the work indicated in Sections 5 and 6 of this Agreement, the portion(s) of said drive approach way located upon GRANTOR'S land shall be considered as the sole property of the GRANTOR; the maintenance and repair of said property to be that of the GRANTOR.

8. All work done on GRANTOR'S property under this Agreement shall conform to all applicable building, fire and sanitary laws, ordinances, and regulations relating to such work, and shall be done in a good workmanlike manner. All structures, improvements or other facilities, when removed, relocated, reconstructed, or protected in place by the COUNTY in connection with the Project, shall be left in as good condition as found at the commencement of the Project.

9. The COUNTY shall defend and indemnify GRANTORS from any and all claims

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damages, costs, judgments, or liability arising from any culpable negligence of the COUNTY or its officers, employees or agents during the COUNTY'S construction activities conducted upon GRANTOR'S real property.

10. It is agreed and confirmed by the parties hereto that, notwithstanding other provisions of this Agreement, COUNTY shall have the right to possess and use the property described in said Easement Deed 13-06 commencing on January 01, 2015 or upon the close of escrow, whichever shall occur first and that the amount shown in Paragraph 2.a. herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.

11. The undersigned GRANTOR hereby agrees and consents to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waives any and all claims to attorneys fees' or other legal costs in connection with such dismissal. In addition, GRANTOR waives any and all claim to any money that may now be on deposit in said action, and will sign a stipulation for release of deposit in a form approved by COUNTY.

**12. TEMPORARY CONSTRUCTION EASEMENT**

Permission is hereby granted by GRANTOR to COUNTY or its authorized agent to enter upon GRANTORS' land where necessary within that certain area titled Temporary Construction Easement ("TCE") as further described and depicted in Exhibit "A-3" attached hereto and made a part hereof ("TCE Area"), for the purpose of construction and construction support activities related to the Project including, but not limited to, the storage and stockpiling of materials, soil and equipment, the movement of Project related vehicles and equipment, emergency vehicles, and for the movement of local agricultural equipment, and related personnel and their support vehicles. Agricultural equipment is defined as machines utilized for tillage, planting, cultivation, and harvesting of crops.

GRANTOR understands and agrees that a portion of said TCE Area will be surfaced with an estimated one hundred eighty one (181) cubic yards of "Class II Aggregate Base Material" (hereafter, the "ABM") for the purpose of facilitating the movement of the vehicles and equipment referenced above while the Project is in construction. Upon the COUNTY'S completion of Project, said ABM will be removed from the TCE Area. GRANTOR hereby agrees to accept said ABM, upon its' removal, for stockpiling upon land owned, managed, or otherwise controlled by GRANTOR identified as Assessor's Parcel Number 047-161-012 and as more specifically identified and depicted on the POST CONSTRUCTION ABM STOCKPILE LOCATION MAP attached hereto. GRANTOR hereby grants permission to the COUNTY, or its authorized agent, to enter upon GRANTOR'S land, using existing farm access roads, for stockpiling of said ABM in the indicated location. Any removed ABM delivered to GRANTOR in accordance with this provision shall be considered as the sole property of the GRANTOR, and the GRANTOR'S sole responsibility.

The TCE shall commence thirty (30) days following the issuance of a written notice

of construction commencement issued by COUNTY to GRANTOR via U.S. Mail. Subject to the COUNTY'S right to extend the term of the TCE as set forth below, the TCE shall be for a term of three hundred sixty-five (365) days or until the COUNTY'S issuance of a written notice of construction completion, whichever is shorter.

The amount shown in Paragraph 2.a. herein includes, but is not limited to, full consideration for said TCE, including severance damages, if any, from said date. If use of this Temporary Construction Easement is required for more than three hundred sixty-five (365) days following the commencement, COUNTY shall have the unilateral right to extend the TCE in six month increments, upon thirty (30) days advance written notice prior to the termination of the initial three hundred sixty-five (365) day term or any extension thereof, and upon payment of an additional \$6,510.00 to GRANTOR for every six month extension period, provided that in no event shall this TCE extend beyond December 31, 2018. Upon completion of construction of the COUNTY Project, the TCE area shall be generally restored to the condition that existed prior to construction, to the extent reasonably practical.

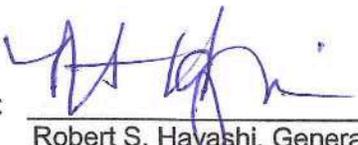
The COUNTY shall include in its construction contract with its Contractor that the Contractor shall maintain lockable gates at the east and west termini of the TCE Area with Branch Mill Road to control use of the TCE Area. Said gates shall be locked during non-work hours or when no responsible COUNTY personnel or construction personnel are present within the Project area. The COUNTY shall provide a key or lock code for said lockable gates to the appropriate emergency personnel, and shall provide twelve (12) keys or a lock code to GRANTOR for GRANTORS' use and for GRANTORS' distribution to local agricultural property owners at GRANTORS' discretion.

**IN WITNESS WHEREOF**, GRANTORS and COUNTY have executed this Agreement the day and year first above written. (As used above the term GRANTOR shall include the plural as well as the singular number as the case may be.)

**GRANTOR: Brother's investment Company, a General Partnership**

By:   
John H. Hayashi, General Partner

By:   
Haru Hayashi, General Partner

By:   
Robert S. Hayashi, General Partner

COUNTY OF SAN LUIS OBISPO – DEPARTMENT OF PUBLIC WORKS  
**RIGHT OF WAY AGREEMENT**

(Rev 01-10-2013)

**COUNTY OF SAN LUIS OBISPO**

\_\_\_\_\_  
Chairperson of the Board of Supervisors  
County of San Luis Obispo

Dated: \_\_\_\_\_, 20\_\_

ATTEST:  
Julie L. Rodewald County Clerk-Recorder  
and Ex-Officio Clerk of the Board of Supervisors  
County of San Luis Obispo

\_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
\_\_\_\_\_  
Deputy County Counsel

RECOMMENDED FOR APPROVAL:

Department of Public Works:  
PAAVO OGREN  
Public Works Director

By:   
\_\_\_\_\_  
PHIL ACOSTA  
Right of Way Agent

V: PWA\Small Projects\Branch Mill Rd\Brother's Inv RW Agmt

## EXHIBIT A-3

A portion of Lot L of the J. F. Branch Homestead Tract in the County of San Luis Obispo, State of California as shown on map recorded in Book B of Maps, at Page 106 in the office of the County Recorder of Said County, and as described in deed recorded December 01, 2009 as Document No. 2009066263 in the office of said County recorder. Said portion of Lot L also being shown on the "Plans for Construction; Tar Spring Creek Bridge on Branch Mill Road, Bridge No. 49C-0459, Federal Aid Bridge Replacement Project #BRLO-5949 (116), County Contract No. 300385" on file in the Department of Public Works of said County, being more particularly described as follows:

Beginning at a one inch iron pipe with plastic plug stamped "L.S. 7618", said pipe being a point on the deed line, 9.00 feet southeast of the true corner of that parcel of land described in that deed recorded as Document No. 2002107285 in the office of said County Recorder, and as shown on map recorded in Book 90 of Surveys, at Page 36 in the office of said County Recorder;

Thence, South  $20^{\circ}15'38''$  West 526.69 feet to a 2-inch iron pipe with brass tag Stamped "JDM RE 4338" at the west corner of a parcel of land described in that deed recorded in Book 375 of Official Records, at Page 357 in the office of Said County Recorder, and as shown on said Survey Map;

Thence, South  $30^{\circ}07'22''$  East 1990.97 feet to the **TRUE POINT OF BEGINNING**, being a point 25.00 feet left of Engineer's Station -0+08.24 of said Plans, said point also being a point on the north right-of-way of said Branch Mill Road, as said right-of-way existed and was declared a public highway per the San Luis Obispo County Board of Supervisor's action as declared in Board meeting minutes of said Board dated November 9, 1876, and recorded in Book C of said Board minutes, at Page 489;

Thence, leaving said right-of-way North  $23^{\circ}25'34''$  West 83.26 feet to a point 108.26 feet left of Engineer's Station -0+08.24, of said Plans;

Thence, North  $12^{\circ}18'00''$  East 210.30 feet to a point 278.98 feet left of Engineer's Station 1+14.56, of said Plans;

Thence, South  $80^{\circ}19'41''$  East 242.03 feet to a point 165.67 feet left of Engineer's Station 2+65.92, of said Plans;

Thence, North  $84^{\circ}50'05''$  East 233.07 feet to a point 234.39 feet left of Engineer's Station 3+79.19, of said Plans;

Thence, South  $76^{\circ}34'07''$  East 151.28 feet to a point 231.16 feet left of Engineer's Station 8+49.40, of said Plans;

Thence, North  $90^{\circ}00'00''$  East 224.66 feet to a point 73.92 feet left of Engineer's Station 10+09.85, of said Plans;

Thence, North  $29^{\circ}29'31''$  East 39.30 feet to a point 84.81 feet left of Engineer's Station 10+47.61, of said Plans;

Thence, South  $60^{\circ}30'29''$  East 25.73 feet to a point 60.03 feet left of Engineer's Station 10+55.52, of said Plans;

Thence, North  $83^{\circ}41'03''$  East 32.73 feet to a point 38.92 feet left of Engineer's Station 10+82.79, of said Plans; said point also being the beginning of a non-tangent curve concave to the

APN 047-161-005  
Pcl #2013-06-03  
Page 1 of 4

## EXHIBIT A-3

northwest, and having a radius of 361.00 feet, and to which point a radial bears South 44°25'50" East;

Thence, northerly along said curve 114.65 feet through a central angle of 18°11'48" to the end of said non-tangent curve, being a point 38.76 feet left of Engineer's Station 12+05.07 of said Plans, and to which point a radial bears South 62°37'38" East;

Thence, South 61°02'24" East 9.14 feet to a point 29.63 feet left of Engineer's Station 12+05.34, of said Plans;

Thence, North 28°57'36" East 84.03 feet to a point 29.91 feet left of Engineer's Station 12+90.15, of said Plans;

Thence, South 61°02'24" East 5.00 feet to a point 24.91 feet left of Engineer's Station 12+90.15, of said Plans;

Thence, South 28°57'36" West 94.03 feet to a point 24.27 feet left of Engineer's Station 11+95.06, of said Plans;

Thence, North 61°02'24" West 4.00 feet to a point 28.27 feet left of Engineer's Station 11+94.88, of said Plans, said point also being the beginning of a tangent curve concave to the northwest, and having a radius of 371.00 feet;

Thence, southerly along said curve 137.98 feet through a central angle of 21°18'33" to a point of reverse curvature, having a radius of 629.00 feet, being a point 31.12 feet left of Engineer's Station 10+50.23, of said Plans;

Thence, southerly along said reverse curve 61.74 feet through a central angle of 05°37'27" to a point 33.15 feet left of Engineer's Station 9+88.42, of said Plans, and to which point a radial bears South 45°21'18" East;

Thence, South 75°14'38" West 62.34 feet to a point 64.00 feet left of Engineer's Station 9+34.25, of said Plans;

Thence, North 90°00'00" West 184.67 feet to a point 193.25 feet left of Engineer's Station 8+02.35, of said Plans;

Thence, North 76°34'07" West 148.52 feet to a point 179.27 feet left of Engineer's Station 3+95.47, of said Plans;

Thence, South 84°50'05" West 231.06 feet to a point 105.74 feet left of Engineer's Station 2+60.96, of said Plans;

Thence, North 80°19'41" West 192.54 feet to a point 197.43 feet left of Engineer's Station 1+29.81, of said Plans;

Thence, South 12°18'00" West 133.65 feet to a point 88.92 feet left of Engineer's Station 0+51.76, of said Plans;

Thence, South 23°25'34" East 63.92 feet to a point 25.00 feet left of Engineer's Station 0+51.76, of said Plans;

Thence, South 66°34'26" West 60.00 feet to the **TRUE POINT OF BEGINNING**.

# EXHIBIT A-3

End of description.

The description above is shown graphically on the attached Exhibits B, B1 and B2.



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Pcl #2013-06-03  
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# EXHIBIT A-3

**LEGEND**  
 R1 DENOTES CONSTRUCTION PLANS FOR THE TAR SPRING CREEK BRIDGE NO. 49C-0459; ON FILE IN THE SAN LUIS OBISPO COUNTY PUBLIC WORKS DEPT.

RAD DENOTES RADIAL  
 PBOB DENOTES POINT OF BEGINNING  
 TPOB DENOTES TRUE POINT OF BEGINNING  
 TCE DENOTES TEMPORARY CONSTRUCTION EASEMENT  
 ROW DENOTES RIGHT OF WAY  
 B-LINE DENOTES NEW CENTERLINE PER R1  
 COA DENOTES STATE WATER LINE EASEMENT NO.

Pci #2013-06-03 APN 047-161-005 COA-555  
 DENOTES CENTERLINE WELL MONUMENT PER R1

① DENOTES TCE ANGLE POINT # (SEE EXHIBIT B2)

APN 047-161-005 BROTHERS INVESTMENT CO. PORTION LOTS L & K B-MB-106

Pci #2013-06-03 1.51 ac  
 N90°00'00"E 224.66'  
 N90°00'00"W 184.67'

TEMPORARY CONSTRUCTION EASEMENT  
 N76°34'07"E 151.28'  
 N76°34'07"W 148.52'

TEMPORARY CONSTRUCTION EASEMENT  
 N43°24'44"E 246.93'  
 N43°24'44"E 246.93'

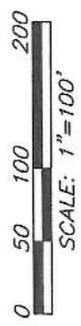
APN 047-151-010 ROBERT HAYASHI PORTION LOT M B-MB-106

APN 047-161-005 BROTHERS INVESTMENT CO. PORTION LOTS L & K B-MB-106

APN 047-161-019 ROBERT HAYASHI PORTION LOT L B-MB-106

LINE	BEARING	DIST
L1	N23°25'34"W	83.26
L2	N29°29'31"E	39.30
L3	S60°30'29"E	25.73
L4	N83°41'03"E	32.73
L5	S61°02'24"E	9.14
L6	N28°57'36"E	84.03
L7	S61°02'24"E	5.00
L8	S28°57'36"W	94.03
L9	N61°02'24"W	4.00
L10	S75°14'38"W	62.34
L11	S23°25'34"E	63.92
L12	S66°34'26"W	60.00

CURVE	RADIUS	DELTA	LENGTH
C1	361.00'	Δ=18°11'48"	114.65'
C2	371.00'	Δ=21°18'33"	137.98'
C3	629.00'	Δ=5°37'27"	61.74'

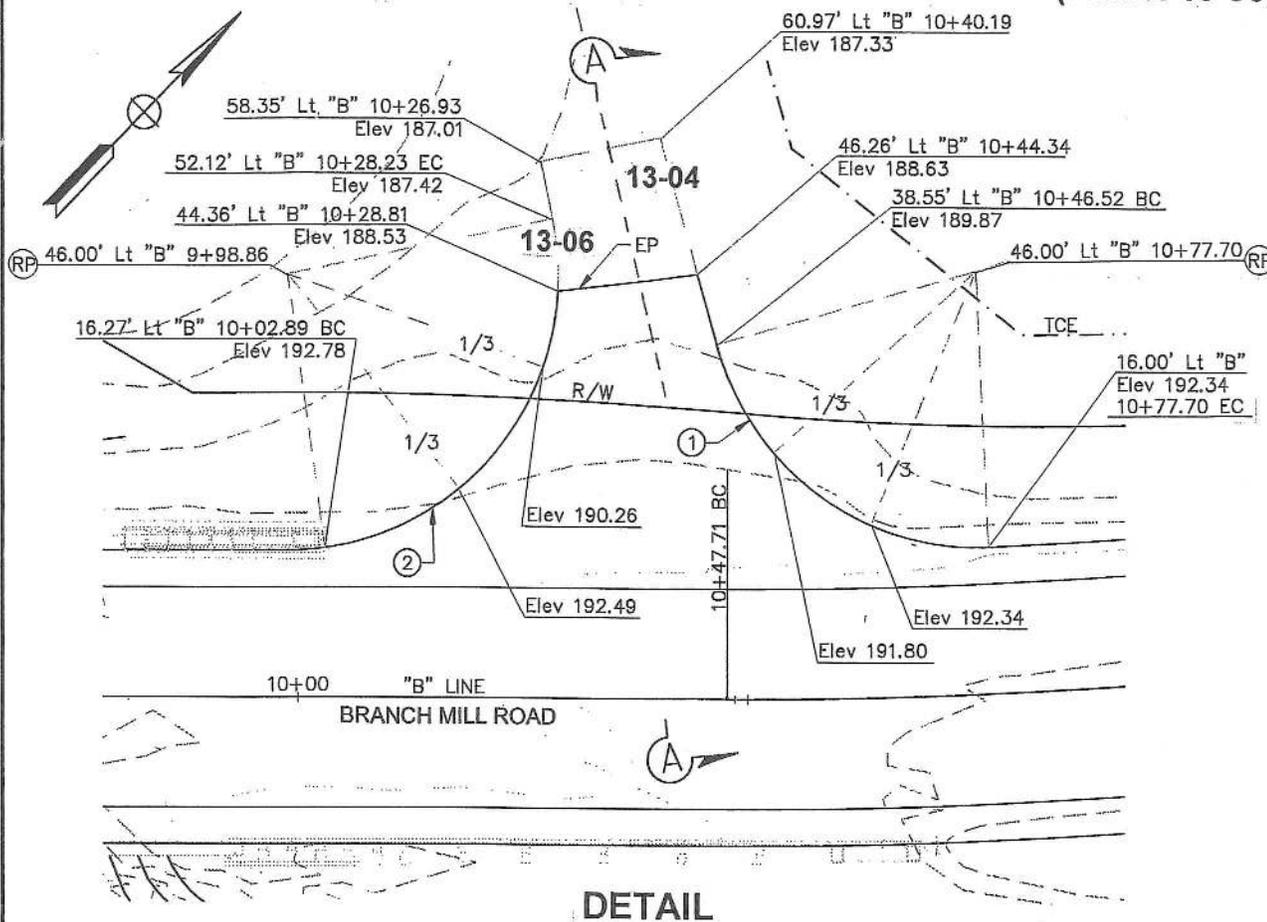


**McMillan**  
 LAND SURVEYS  
 2306 BROAD STREET  
 SAN LUIS OBISPO, CA 93401  
 805-541-1663 FAX 541-1664  
 DATE: 01-31-14 JOB #342-06

DENOTES EXISTING 50' WIDE ROW BASED ON EXISTING PAVED ROAD.

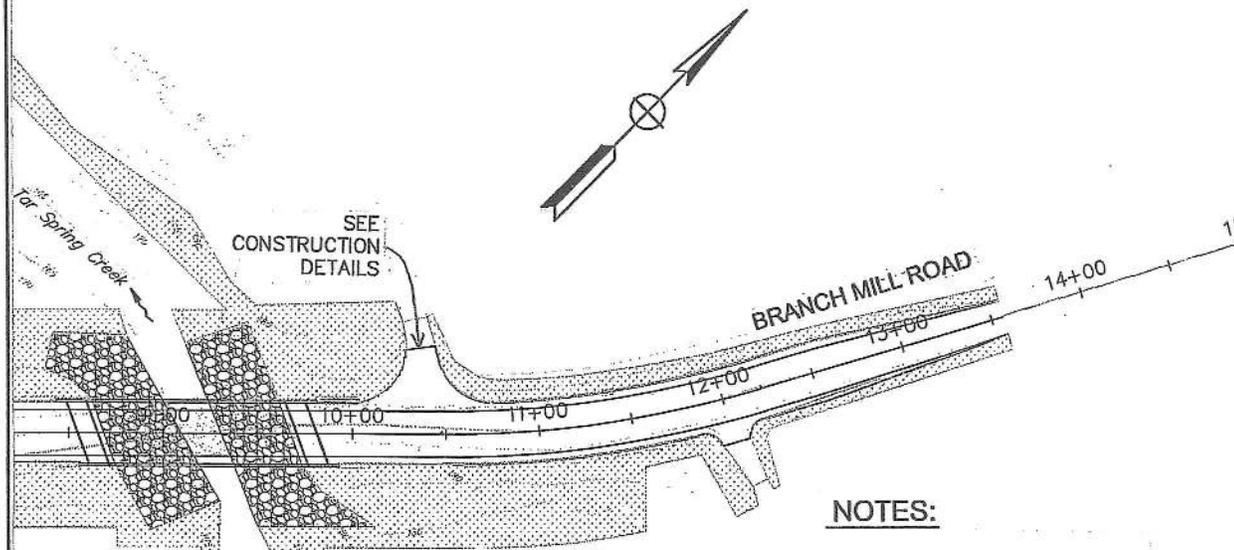
DENOTES PROPOSED TCE PER R1

# DRIVEWAY RECONSTRUCTION EXHIBIT (Parcel 13-06)



## DETAIL

## LOCATION WITHIN PROJECT



### NOTES:

1. THIS PLAN ACCURATE FOR EROSION CONTROL WORK ONLY.

### LEGEND:

-  EROSION CONTROL (HYDROSEED)
-  ROCK SLOPE PROTECTION

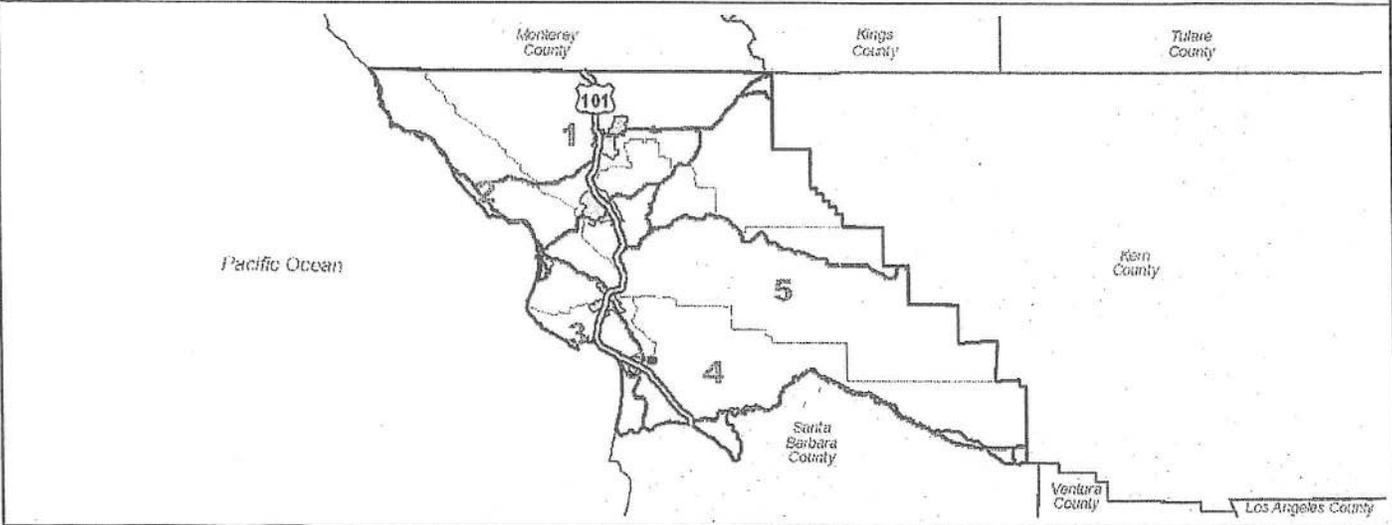
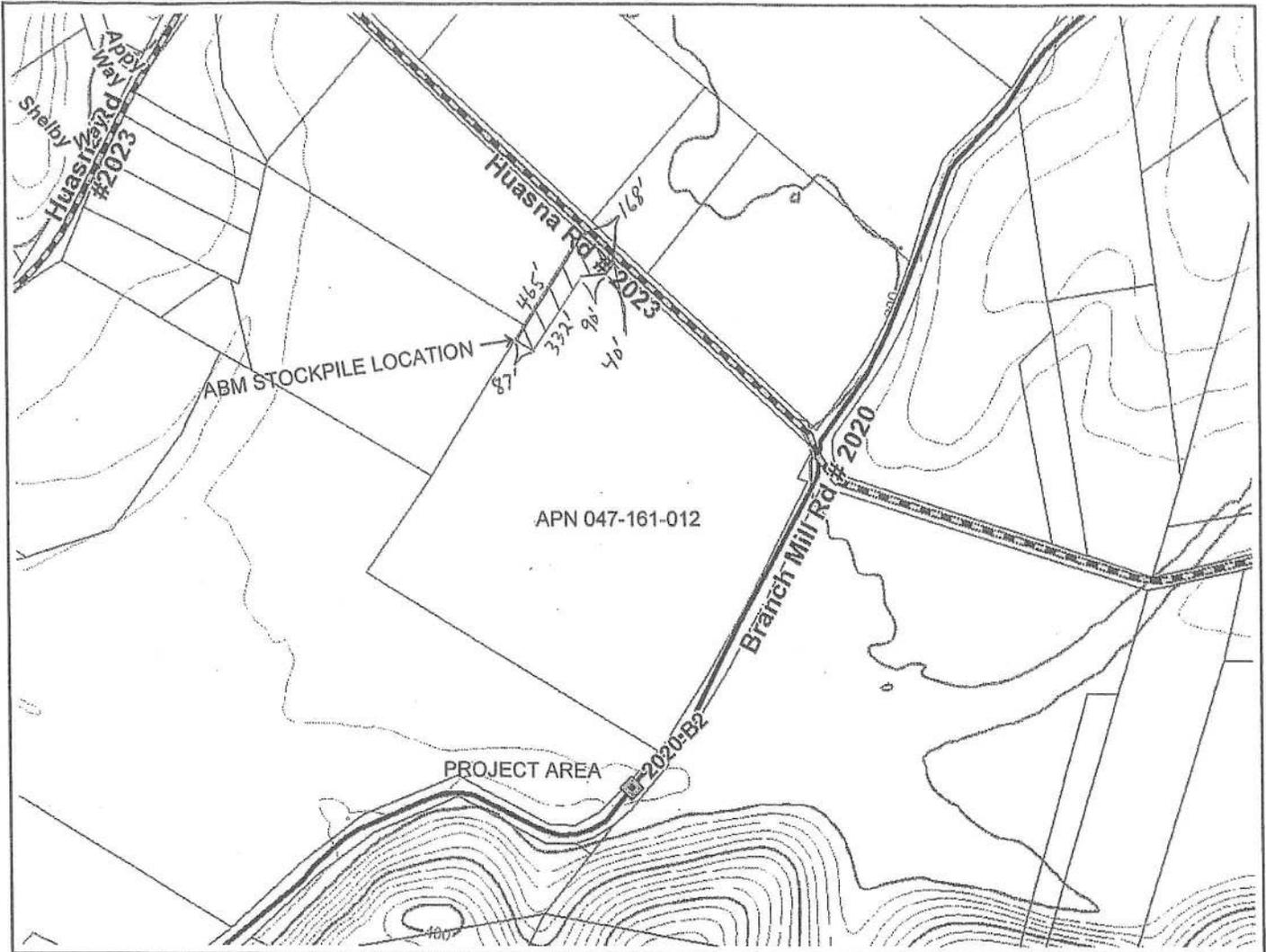
DATE	
BY	
DESIGN	
DRAWN	
SCALE:	1"=50'

**SAN LUIS OBISPO COUNTY**  
 DEPARTMENT OF PUBLIC WORKS  
 1050 Monterey Street  
 San Luis Obispo, CA 93408  
 Phone: (805) 781-5252 FAX: (805) 781-1229

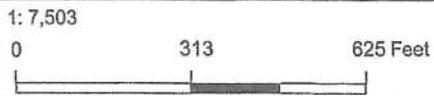


TAR SPRING CREEK BRIDGE ON BRANCH MILL ROAD

Parcel No.  
13-06



**LOCATION MAP**  
**POST CONSTRUCTION ABM STOCKPILE LOCATION**  
**N. CORNER APN 047-161-012**  
 COUNTY OF SAN LUIS OBISPO DEPARTMENT OF PUBLIC WORKS



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