**PARCEL NO.: 034-421-034**
**PROJECT: TEMPLETON ROAD WIDENING**
**OWNER: HEILMANN**

# RIGHT OF WAY AGREEMENT
# (WITH ESCROW INSTRUCTIONS)

THIS AGREEMENT is made and entered into by and between

JILL CHRISTINE HEILMANN who acquired title as JILL CHRISTIE HEILMANN also known as JILL CHRISTIE HEILMANN BENNETT, as her sole and separate property,

hereinafter referred to as "Grantor", and

THE COUNTY OF SAN LUIS OBISPO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA

hereinafter referred to as "County."

An instrument in the form of a Public Road and Slope Easement Deed (hereinafter "Easement Deed") covering the property particularly described therein has been executed concurrently with this Agreement and delivered to County representatives.

In consideration of which, and other considerations hereinafter set forth, it is mutually agreed 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, grade or construction of the proposed public improvement, except as stated in Paragraphs 2.E. and 2.F. below.

2. The County shall:

A. PAYMENT - Pay to the order of the Grantor the sum of two thousand dollars ($2,000) as consideration in full for the herein real property interests, for the loss, replacement and moving of any improvements, and for entering into this Agreement. Said sum shall be paid upon the close of escrow, which shall occur when title to said real property has vested in County free and clear of all liens, encumbrances, assessments, easements and leases recorded or unrecorded, except for recorded public utility easements and public right of way.

B. RECORDATION OF INSTRUMENT - Accept the Easement Deed herein referenced and cause the same to be recorded in the office of the San Luis Obispo County Recorder at such time as when clear title can be conveyed.

C. MISCELLANEOUS COSTS - Pay all escrow, title insurance, and recording fees incurred in this transaction.

D. CLEARANCE OF BONDS, ASSESSMENTS, OR DELINQUENT TAXES - Have the authority to deduct and pay from the amount shown in Clause 2.A. above any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in

which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments which have become a lien at the close of escrow.

E. PROPERTY RESTORATION - Generally restore Grantor's remaining real property to the condition that existed prior to County's project construction, to the extent reasonably practical. Any property fence and/or irrigation improvements currently located within the area described in the Easement Deed that are damaged or removed as a result of the County's Project will be replaced in kind by the COUNTY, or its authorized agent, in a location adjacent to the boundary between the area described in the Easement Deed and GRANTOR's remaining property but entirely upon GRANTOR's remaining property. GRANTOR hereby grants permission to the COUNTY, or its authorized agent, to enter upon GRANTOR'S land, where necessary, for purposes of replacing or reconstructing said property fence or irrigation improvements. GRANTOR understands and agrees that upon completion of any such reconstructed property fencing and/or irrigation improvements, said fencing or irrigation improvements will become the sole property of GRANTOR and GRANTOR will be responsible for all future maintenance, repair, and replacement.

F. DRIVEWAY ENCROACHMENT - At no expense to the GRANTOR, and at the time of roadway construction, the County or its authorized agent will reconstruct an asphalt concrete drive approach way left of Engineer's Station 50+80 and left of Engineer's Station 51+89 as shown on Exhibit A attached hereto. It is understood and agreed that upon completion of said reconstruction, said asphalt concrete drive approach ways shall be considered as encroachments under a revocable permit upon the County road, and they are to 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. Upon completion of said reconstruction, GRANTOR shall defend, indemnify, and hold harmless the COUNTY from any and all claims, damages, costs, judgments, or liability arising from any use of the asphalt concrete drive approach ways as ingress or egress to or from Templeton Road.

G. INDEMNIFICATION - Defend, indemnify, and hold harmless Grantor from any and all claims, damages, costs, judgments, or liability caused by County or its officers, employees or agents specifically arising from County construction and restoration work on Grantor's real property.

3. The Grantor:

A. PAYMENT ON MORTGAGE OR DEED OF TRUST - Agrees that any or all monies payable under this Agreement up to and including the total amount of the unpaid principal and interest on the note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with the terms and conditions of said mortgage(s) or deed(s) of trust, shall upon demand(s) be made payable to the mortgagee(s) or beneficiary(s) entitled thereunder.

B. LEASE INDEMNIFICATION - Warrants there are no oral or written leases on all or any portion of the herein referenced real property exceeding a period of one month, or if there are such leases, Grantor agrees to hold the County harmless and reimburse County for any and all of its losses and expenses occasioned by reason of any lease of said property held by tenant of Grantor for a period exceeding one month.

C. PERMISSION TO ENTER - Grants to the County, its agents and contractors, permission to enter upon the subject lands prior to the close of escrow for the purposes of preparation for and construction of the County project, subject to all applicable terms and conditions contained in this Agreement and the associated Easement Deed.

4. The Parties agree:

A. ESCROW – At County's option, to open an escrow in accordance with this Agreement at First American Title Company. This Agreement constitutes the joint escrow instructions of County and Grantor, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this escrow in the shortest possible time.

As soon as possible after opening of escrow, County will deposit the executed Easement Deed by Grantor, with Certificate of Acceptance attached, with Escrow Agent on Grantor's behalf. County agrees to deposit the purchase price upon demand of Escrow Agent. County and Grantor agree to deposit with Escrow Agent all additional instruments as may be necessary to complete this transaction. All funds received in this escrow shall be deposited with other escrow funds in a general escrow fund account(s) and may be transferred to any other such escrow trust account in any state or national bank doing business in the state of California. All disbursements shall be made by check from such account.

Any taxes which have been paid by Grantor, prior to opening of this escrow, shall not be pro-rated between County and Grantor, but Grantor shall have the sole right after close of escrow, to apply to the County Tax Collector of said County for any refund of such taxes which may be due Grantor for the period after County's acquisition.

i) ESCROW AGENT DIRECTIVES - Escrow Agent is authorized to, and shall:

a) Pay and charge Grantor for any unpaid delinquent taxes and/or any penalties and interest thereon, and for any delinquent assessments or bonds against that portion of Grantor's property subject to this transaction as required to convey clear title.

b) Pay and charge County for any escrow fees, charges and costs payable under Paragraph 2.C. of this Agreement;

c) Disburse funds and deliver Deed when conditions of this escrow have been fulfilled by County and Grantor.

d) Following recording of Easement Deed from Grantor, provide County with a CLTA Standard Coverage Policy of Title Insurance in the amount of $2,000 issued by First American Title Company showing that title to the herein real property is vested in County, subject only to the following exceptions, and the printed exceptions and stipulations in said policy:

1) Real Property Taxes for the fiscal year in which escrow closes.

2) Items No. 1 through 8 of the preliminary title report issued by First American Title Company, dated December 1, 2011, referenced as File No. 4001-3907769.

ii) CLOSE OF ESCROW - The term "close of escrow", if and where written in these instructions, shall mean the date necessary instruments of conveyance are recorded in the office of the County Recorder. Recordation of instruments delivered through this escrow is hereby authorized.

B. JUDGMENT IN LIEU OF DEED - In the event Grantor is unable to deliver title in a reasonable time under the terms of the Agreement, the County may file an action in eminent domain to pursue the acquisition of the real property interests described in the referenced Easement Deed, and this Agreement shall constitute a stipulation which may be filed in said proceedings as final and conclusive evidence of the total amount of damages for the taking, including all of the items listed in Section 1260.230 of the Code of Civil Procedure, regarding said property rights.

C. ARTICLE HEADINGS - Article headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants and conditions of this Agreement.

D. COMPLETE UNDERSTANDING - This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements or understandings, written or oral. This Agreement may not be amended except in writing by the parties hereto or their successors or assigns.

E. COUNTY APPROVAL - This Agreement is subject to and conditioned upon approval and ratification by the County of San Luis Obispo. This Agreement is not binding upon the County until executed by the appropriate County official(s) acting in their authorized capacity.

**No Obligation Other Than Those Set Forth Herein Will Be Recognized.**

GRANTOR:

JILL CHRISTINE HEILMANN who acquired title as JILL CHRISTIE HEILMANN also known as JILL CHRISTIE HEILMANN BENNETT

Dated: 3-19-12

By Jill C. Christine Heilmann
Jill Christine Heilmann

GRANTOR'S MAILING ADDRESS:
3005 Templeton Road
Atascadero, CA 93422

**COUNTY OF SAN LUIS OBISPO**

_____
Chairperson of the Board of Supervisors
County of San Luis Obispo

Dated: _____, 2012

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:

WARREN R. JENSEN
County Counsel

By: _____
Deputy County Counsel
3/29/12

RECOMMENDED FOR APPROVAL:

Department of Public Works:
PAAVO OGREN
Public Works Director

By: _____
PHIL ACOSTA
Right of Way Agent