

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

10/1/96 Policy
Policy: 9/17/96 - 2/24/96 - 10/9/96 96-416
AGENDA DATA: 09/10/96
AGENDA ITEM NO.: Policy B

DEPARTMENT: Public Works

By: David L. Tucker

Phone: 966-5356

4-A

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes No)

Notice of Intent to Condemn and Resolution of Intention to Purchase Real Property for the Mariposa Pines Wastewater Treatment Plant Rehabilitation Project.

Approve sending a letter to "Jack" Eustice Lytton Hall advising of the Board of Supervisors' intent to purchase and condemn, as necessary, a portion of his real property in Mariposa Pines (Attachment #1). Pass and adopt the attached Resolution (Attachment #2) which establishes a public hearing date of Tuesday, October 9, 1996 to inform the public that the Board intends to purchase real property. The subject property is located within the site of the proposed new leach field disposal area for the Mariposa Pines wastewater treatment plant.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On February 21, 1995, the Water Agency committed \$35,000 for a wastewater treatment upgrade project at the Mariposa Pines Sewer Zone. On May 2, 1995, the Board conducted a public hearing and approved Res. No. 95-179, authorizing execution of a Grant Agreement for funding (\$168,000) from the State CDBG program for Mariposa Pines wastewater system rehabilitation. On December 12, 1995, the Board adopted Res. No. 95-526, certifying a Notice of No Significant Impact on the Environment and authorized preparation of a Negative Declaration on the Mariposa Pines wastewater system rehabilitation project. On January 16, 1996, the Board adopted Res. No. 96-20, authorizing execution of a contract for appraisal of the Hall property by Yaley & Associates of Mariposa. On February 13, 1996, the Board adopted Res. No. 96-56 that approved appropriating unanticipated revenue in the CIP budget for the Mariposa Pines wastewater system rehabilitation project from CDBG funds (\$168,500)

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

N/A. The Board has previously determined that it is in the public's interest to purchase the subject property.

COSTS: () Not Applicable	
A. Budgeted current FY>	\$ 168,500.00
B. Total anticipated Costs>	\$ 40,000.00
C. Required additional funding>	\$ _____
D. Internal transfers>	\$ _____

COSTS: (XX) 4/5th Vote Required	
A. Unanticipated revenues>	\$ _____
B. Reserve for contingencies>	\$ _____
C. Source description: >	_____

Balance in Reserve Contingencies, If Approved:
\$ _____

SPECIAL INSTRUCTIONS:

- List the attachments and number the pages consecutively:
1. Draft letter from Board to Hall
 2. Resolution of Intention to Purchase
 3. Agreement for Sale
 4. Grant Deed
 5. Notice of Hearing
 6. Summary Statement Relating to Purchase
 7. Map showing parcel to be acquired

CLERK'S USE ONLY

Res. No.: 96-416 Ord. No.: _____

Vote - Ayes: 5 Noes: _____

Absent: _____ Abstained: _____

Approved Denied

Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office

Date: _____

ATTEST: _____

MARGIE WILLIAMS, Clerk of the Board

By: _____

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

- Recommended
- Not Recommended
- For Policy Determination
- Submitted for Comment
- Returned for Further Action

Comment: _____

A.O. Initials: AW

**RESOLUTION OF INTENTION
TO PURCHASE REAL PROPERTY**

WHEREAS, Government Code section 25350 requires the Board of Supervisors to notice and hold a public hearing of the intention of the Board of Supervisors to purchase real property in excess of \$25,000, and

WHEREAS, the Board of Supervisors has determined that it is in the public interest to purchase real property located in Mariposa Pines, APN 009-060-041, for the reason that the real property is located adjacent to the existing Mariposa Pines waste water treatment plant, which is being rehabilitated, and

WHEREAS, the owner of the property, Eustice Lytton Hall, has agreed to sell the property to the County, and

WHEREAS, during budget deliberations, the Board of Supervisors reserved a sum in excess of \$40,000 in order to purchase the property if terms could be arranged with the seller;

NOW, THEREFORE, BE IT RESOLVED that the Mariposa County Board of Supervisors hereby gives notice of its intention to purchase a portion of the real property owned by Eustice Lytton Hall, located at 7025 Scott Road, Mariposa, California (APN 009-060-041), upon the terms and conditions contained in Exhibit "A" attached hereto, and by reference incorporated herein.

BE IT FURTHER RESOLVED that prior to the consummation of the purchase, a public hearing shall be scheduled on Tuesday, October 1, 1996 at 9:15 a.m. in the Board of Supervisors' meeting room.

**RESOLUTION OF INTENTION
TO PURCHASE REAL PROPERTY**

BE IT FURTHER RESOLVED that this notice of intention shall be published in a newspaper of general circulation in the County of Mariposa at least three weeks prior to the time the Board meets to consummate the purchase, pursuant to Government Code Section 6063.

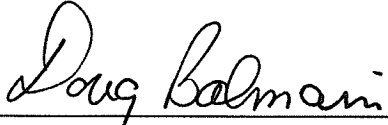
PASSED AND ADOPTED this 8th day of October, 1996 by the Mariposa County Board of Supervisors by the following vote:

AYES: Reilly, Balmain, Stewart, Parker, and Pickard

NOES: None


ABSENT: None

ABSTAINED: None



DOUG BALMAIN, CHAIRMAN
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS
Clerk of the Board

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



JEFFREY G. GREEN
County Counsel

EXHIBIT "A"

Terms and Conditions of the **agreement** for the sale of real property to be entered into by and between the County of Mariposa, a political subdivision of the State of California, hereinafter referred to as "**County**", and Eustice Lytton Hall, Trustee of the Eustice Lytton Hall Living Trust, hereinafter referred to as "**Grantor**".

1. The purchase price shall be \$40,000 cash;
2. Clear, unencumbered title shall pass to **County** at close of escrow.
3. Subsequent to close of escrow herein and up to and including the date **County** obtains physical possession of the **Property**, **Grantor** shall be responsible for paying all taxes, utilities, assessments, maintenance, and repairs of the **Property**. **Grantor** shall keep the **Property** in a like condition as the **Property** is at close of escrow.
4. In the event that the Grantor should apply to the County for a development permit on the remainder of Grantor's real property at 7025 Scott Road, Mariposa, California (APN 009-060-041), and should the conditions placed on that development necessitate expansion of the existing waste water treatment plant, then the County shall act as an advocate on behalf of said Grantor, when applying to the California Regional Water Quality Control Board, for recertification of the capacity of said waste water treatment plant, and an increase in the leach field disposal area.
5. The County shall indemnify the Grantor from any liability arising from the County's possession and use of the easement portion of the aforementioned Grant Deed and Easement.
6. The Grantor(s) shall retain possession of the property conveyed up to and including the date of recording of the deed conveying title to the County upon compliance by the Grantor(s) with the condition of this contract. Grantor(s) allow an immediate right of entry on the subject property for the purpose of constructing an underground leach field for waste water disposal.
7. The Grantor(s) warrant(s) that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and the grantor(s) further agree(s) to hold the County harmless and reimburse the County for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of grantor(s) for a period exceeding one month.
8. The Grantor(s) hereby agree(s) and consent(s) to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waive(s) any and all claims to any money that may now be on deposit in said action.
9. The Grantor(s) hereby represent(s) and warrant(s) that during the period of Grantor's ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous wastes on, from, or under the property. Grantor(s) further represent(s) and warrant(s) that Grantor(s) have/has no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes, on from, or under the property which may have occurred prior to Grantor(s) taking title to property.

EXHIBIT "A"

The acquisition price of the property being acquired in this transaction reflects the fair market value of the property without the presence of contamination. If the property being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, the County may elect to recover its cleanup costs from those are subject to contribution by law.

10. The Grantor(s), his/their heirs and assigns forever shall be prohibited from building, erecting or creating any structure or improvement within the easement area, or permitting the building, erection, or creation thereof. Additionally, the Grantor(s), his/their heirs and assigns forever shall be prohibited from taking wood or timber from the easement area, with the exception of tree thinning under an approved forest plan, additionally approved by the Mariposa County Director of Public Works.
11. The Grantors, their heirs and assigns forever agree that the approximately one and one-half acre easement area shall be included within the County acquired parcel for the leachfield for purposes of determining set back requirements for the County developed community leachfield; i.e., the 50 foot setback requirement from a property line, Pursuant to 13.08.090 Mariposa County Code, shall be considered one and the same as the 50 foot width of said approximately one and one-half acre easement area.