

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Public Works *AKM*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE December 4, 2007

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Geer Road at Whitmore Avenue Intersection Project, Parcel Owners Roxie & Gwyneth R. Bavaro, APN: 018-055-002

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement for the subject acquisition.
2. Authorize the Chairman of the Board to execute the agreement.
3. Direct the Auditor-Controller to increase appropriations and estimated revenue for the Geer Road at Whitmore Avenue Intersection Improvement Project by \$16,500 per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$16,500, payable to Fidelity National Title Company, for the purchase amount of \$15,000 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total anticipated cost for this project is \$2,038,811. The \$16,500 for the purchase of this right-of-way is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$15,000 for the purchase of the road easement and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2007-941

On motion of Supervisor Mayfield, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: Mayfield, Grover, Monteith, DeMartini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

In January 2004, the Board of Supervisors approved the Public Works Department Traffic Congestion Relief Program. The Traffic Congestion Relief Program provides for the installation of traffic signals, left turn lanes and related improvements on selected roadways throughout the County, including the improvements to the Geer Road at Whitmore Avenue intersection.

In June 2004, the Board of Supervisors awarded a contract to RBF Consulting (RBF) for environmental and engineering services for the Traffic Congestion Relief Project "D". This project consists of intersection improvements at two intersections on Geer Road. The two intersections are Geer Road at Hatch Road and Geer Road at Whitmore Avenue. RBF completed the environmental documents and design for the Geer Road at Hatch Road Intersection and construction of this intersection improvement was completed on June 18, 2007.

The Geer Road at Whitmore Avenue project consists of proposed new traffic signals and additional through lanes and turn lanes that will improve traffic safety and enhance the flow of traffic through the Geer Road at Whitmore Avenue intersection. Installation of safety lighting and shoulder widening will also be completed.

On June 5, 2007, the Board of Supervisors approved the Initial Study/Mitigated Negative Declaration for the Geer Road at Whitmore Avenue Intersection Project.

To accomplish this project, the County will need to acquire additional right-of-way from the parcel on the south side of Whitmore Avenue east of Geer Road. This parcel is an "L" shaped parcel with a portion of the property adjacent to Geer Road. The County will also need to acquire additional right-of-way on the east side of Geer Road. The property owner has agreed to accept the following:

Property Owners	Amount of Compensation	Assessors Parcel Number	Right-of-Way Area
Roxie & Gwyneth R. Bavaro	\$15,000	018-055-002	8,569 s.f.

The amount of compensation has been determined to be within the range of just compensation by an independent appraiser hired by the County.

POLICY ISSUES:

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system.

STAFFING IMPACT:

There is no staffing impact associated with this item.

AUDITOR-CONTROLLER BUDGET JOURNAL



Balance Type	Budget	
Category	Budget - Upload	
Source		
Currency	USD	
Budget Name	LEGAL BUDGET	
Batch Name		BO#
Journal Name		
Journal description	Transfer budget to Geer Road at Whitmore project	
Period	JUL-07 to JUN-08	
Organization	Stanislaus Budget Org	

Line	Coding Structure						Debit		Credit		Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6	incr appropriations decr est revenue	decr appropriations incr est revenue			
1	1102	40310	72600	9708	0	0.0	16,500.00			R.O.W. purchase	
2	1102	40310	63280	0	0	0.0		16,500.00		from Bavaro	
3	1102	40310	46615	0	0	0.0	16,500.00				
4	1102	40310	46615	9708	0	0.0		16,500.00			
5						0.0					
6						0.0					
7						0.0					
8						0.0					
9						0.0					
10						0.0					
11						0.0					
12						0.0					
13						0.0					
14						0.0					
15						0.0					
16						0.0					
17						0.0					
18						0.0					
19						0.0					
20						0.0					
21						0.0					
22						0.0					
23						0.0					
24						0.0					
25						0.0					
Totals								33,000.00	33,000.00		

Transfer budget to Geer Road at Whitmore project

Requesting Department		CEO		Auditors Office Only	
Sharon Andrews				 Admin Approval (\$75K+)	
Signature		Signature			
11/7/07		11/20/07			
Date		Date		Prepared By Date	

Contact Person & Phone Number

AUDITOR-CONTROLLER STANDARD JOURNAL VOUCHER

BATCH SCREEN

Batch
 Period
 Description


JOURNAL SCREEN

Journal
 Category
 Balance Type A = Actual or E = Encumbrance
 Description
 Control Total

Line	Coding Structure							Debit	Credit	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6				
1	6400	64100	85850	0	0	0	0.0	16,500.00		R.O.W. Purchase
2	1102	40310	46615	9708	0	0	0.0		16,500.00	from Bavaro
3							0			
4							0			
5							0			
6							0			
7							0			
8							0			
9							0			
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19							0			
20							0			
21							0			
22							0			
23							0			
24							0			
25							0			
26							0			
27							0			
Totals								16,500.00	16,500.00	

Explanation: Transfer funds from RTIF to Project Account Geer Road at Whitmore ROW purchase from Bavaro

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS Prepared by 11/6/07 Date	 Supervisor's Approval 11/7/07 Date	 Prepared By 11/7/07 Date	Admin Approval (\$75K+) 11/7/07 Date

Project: Geer Road/Whitmore Avenue
Intersection
Grantor(s): Roxie & Gwyneth R. Bavaro
APN: 018-055-002 (portion of
Parcel 1 & 2)

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Roxie Bavaro and Gwyneth R. Bavaro, husband and wife (Grantors). This Agreement is expressly subject to approval by the County Board of Supervisors.

1. PROPERTY.

Grantors agree to sell to County, and County agrees to purchase from Grantors, on the terms and conditions set forth in this Agreement, the real property interest described in the Road Easement Exhibit attached hereto which is incorporated herein by this reference (the "Property").

2. DELIVERY OF DOCUMENTS/ESCROW.

All documents necessary for the transfer of easement rights to the Property shall be executed and delivered by Grantors to the County's designated Acquisition Agent.

This transaction shall be handled through an escrow with Fidelity National Title Company, 3425 Coffee Road #C, Modesto, California 95355 at (209) 529-0231.

3. PURCHASE PRICE AND TITLE.

The consideration to be paid by the County for easement rights to the Property is \$15,000.00 dollars (the "Purchase Price") and is segregated as follows:

\$ 15,000.00	Permanent Easement (on Parcel 1 and 2: 8,569 sq. ft.)
\$ N/A	Temporary Construction Easement
\$ -0-	Improvements
\$ -0-	Severance Damages
<u>\$15,000.00</u>	Total

County shall deliver the Purchase Price no later than 45 days after Board of Supervisors approval and after delivery and execution of all necessary transfer documents. Grantors shall convey by Road Easement to County good, marketable and insurable title to the Property interest free and clear of all liens, encumbrances, taxes, assessments and leases recorded and/or unrecorded.

Good, marketable and insurable title to the Property interest shall be evidence by an ALTA extended coverage owner's policy of title insurance ("Title Policy"), with survey

exception if County elects not to obtain an ALTA survey for the Property interest. The Title Policy shall be in the amount of the Purchase Price, showing title to the Property interest vested in County. It shall be a condition precedent to County's obligations under this Agreement that escrow holder is able to issue the Title Policy to County.

County shall pay all costs of any escrow, title insurance, and recording fees incurred in this transaction.

The Grantors agree that if claims are submitted by lien-holders, the County is hereby authorized to honor such claims and deduct the amount of said claims from the amount to be paid to the property owner. The County will notify the Grantors of any such claims prior to payment.

The Grantors acknowledge that this transaction is a negotiated settlement in lieu of condemnation and agree that the Purchase Price to be paid herein is in full settlement of any claims for compensation or damages that may have arisen, including, but not limited to, attorney fees, pre-condemnation damages, severance damages, business goodwill, or any other claim regarding the acquisition of the Property interest or construction of improvements thereon.

4. PRORATION OF TAXES.

- (a) Taxes shall be prorated in accordance with California Revenue and Taxation Code section 5081 et seq., as of the recordation of the Grant Deed conveying title to County, except that where County has taken possession of the Property, taxes shall be prorated as of the date of possession.
- (b) Grantors authorize County to deduct from the purchase price any amount necessary to satisfy any delinquent taxes, together with penalties and interest thereon, and any delinquent or non-delinquent assessments or bonds, which are to be cleared from the title to the Property.

5. POSSESSION.

Grantors agree that immediately upon approval of this Agreement by County, the County may enter upon and take possession of the Property.

6. HAZARDOUS WASTE MATERIAL.

The Grantors hereby represent and warrant that during the period of Grantor's ownership of the Property, there have been no disposals or releases of hazardous substances on, from, or under the Property. Grantors further represent and warrant that Grantors have no knowledge of any disposal or release of hazardous substances, on,

Agreement for Purchase

Roxie & Gwyneth R. Bavaro / APN: 018-055-002

Page 3 of 3

from, or under the Property which may have occurred prior to Grantors taking title to the Property interest.

The Purchase Price of the Property interest reflects the fair market value to the Property without the presence of contamination. If the Property is found to be contaminated by the presence of hazardous substances which requires mitigation under Federal or County law, the Count reserves the right to recover its clean-up costs from those who caused or contributed to the contamination.


IN WITNESS WHEREOF, the parties have executed this Agreement on 12/4/07
as follows:

COUNTY OF STANISLAUS

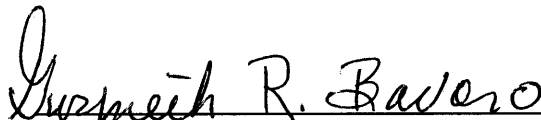
GRANTORS:



William O'Brien
Chairman of the Board of Supervisors



Roxie Bavaro


Gwyneth R. Bavaro

ATTEST:

Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By:


Deputy Clerk

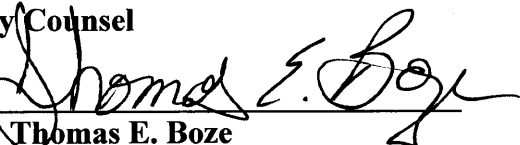
APPROVED AS TO CONTENT:
Department of Public Works



Matthew Machado, Director

APPROVED AS TO FORM:
Michael H. Krausnick
County Counsel

By:


Thomas E. Boze
Deputy County Counsel

NO FEE

RECORDING REQUESTED BY: BOARD OF SUPERVISORS

RETURN TO: STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS
1010 10th Street, Suite 3500
Modesto, CA 95354

Road Name: Geer Road/Whitmore Ave
APN: 018-055-002 (portion)

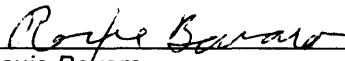
ROAD EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

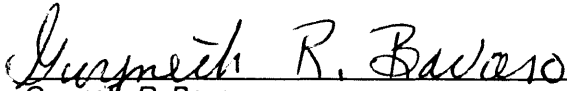
Roxie Bavaro and Gwyneth R. Bavaro, husband and wife, as joint tenants

does hereby grant to the COUNTY OF STANISLAUS an easement for public road and highway purposes in the real property in the County of Stanislaus, State of California described as:

SEE EXHIBIT "A"



Roxie Bavaro



Gwyneth R. Bavaro

Dated: 9-20-07

APPROVED as to description: _____ Dated: _____

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION


This is to certify that the interest in real property conveyed by the deed or grant dated: _____

from Roxie Bavaro and Gwyneth R. Bavaro to County of Stanislaus, a political corporation and/or governmental agency, is hereby accepted by the undersigned officer or agent on behalf of the Board of Supervisors of the County of Stanislaus, pursuant to authority conferred by resolution of the Board of Supervisors of the County of Stanislaus adopted on _____

in accordance with the provision of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

MATT MACHADO, Public Works Director

of Stanislaus County, State of California



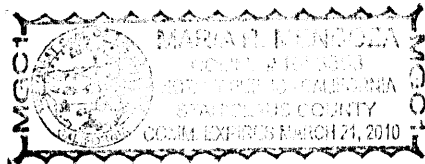
Dated: 11-6-07

GENERAL ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF STANISLAUS) ss.

On 9-20-07, before me, MARIA R. MENDOZA a Notary Public, personally appeared ROXIE BAVARO AND Gwyneth R BAVARO personally known to me (or 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.

WITNESS my hand and official seal.



Signature Maria R. Mendoza

(Seal)

EXHIBIT "A"

Revised May 1, 2007
February 22, 2007
JN 35-100395

LEGAL DESCRIPTION

**RIGHT OF WAY DEDICATIONS
APN 018-055-002**

Those certain portions of land situate in the Northwest Corner of Section 14, Township 4 South, Range 10 East of the Mt. Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:

PARCEL 1

COMMENCING at the Northwest Corner of said Section 14; thence along westerly section line of said Section 14 South 00°15'03" East 315.20 feet; thence leaving said section line South 89°44'57" West 25.00 feet to the **TRUE POINT OF BEGINNING**, said point also being the westerly corner of the lands of Barvaro as described in Book 1603 of Deeds Page 334, recorded in County Recorder's Office of said County; thence along the northerly boundary line of said lands of Bavaro (1603 D 334) North 89°44'57" East 10.00 feet; thence leaving said northerly boundary line South 00°15'03" East 74.96 feet to the southerly boundary line of said lands of Bavaro (1603 D 334); thence along said southerly boundary line North 89°46'55" West 10.00 feet to the westerly boundary line of said lands of Bavaro (1603 D 334); thence along the said westerly boundary line of said lands of Bavaro (1603 D 334) North 00°15'03" West 74.88 feet to the **TRUE POINT OF BEGINNING**.

CONTAINING 749 square feet

PARCEL 2

COMMENCING at the Northwest Corner of said Section 14; thence along northerly section line of said Section 14 South 89°33'23" East 320.24 feet; thence leaving said section line South 00°26'37" West 18.79 feet to the **TRUE POINT OF BEGINNING**, said point also being the northwesterly corner of the lands of Bavaro, as described in Book 1603 of Deeds Page 334, recorded in County Recorder's Office of said County; thence along northerly boundary line of said lands of Bavaro (1603 D 334) South 89°46'23" East 390.84 feet; thence leaving said northerly boundary line South 78°09'27" West 113.69 feet; thence North 89°33'23" West 279.48 feet to the westerly boundary line of the said lands of Bavaro (1603 D 334); thence along said westerly boundary line North 00°15'35" West 22.72 feet to the **TRUE POINT OF BEGINNING**.

CONTAINING 7,820 square feet

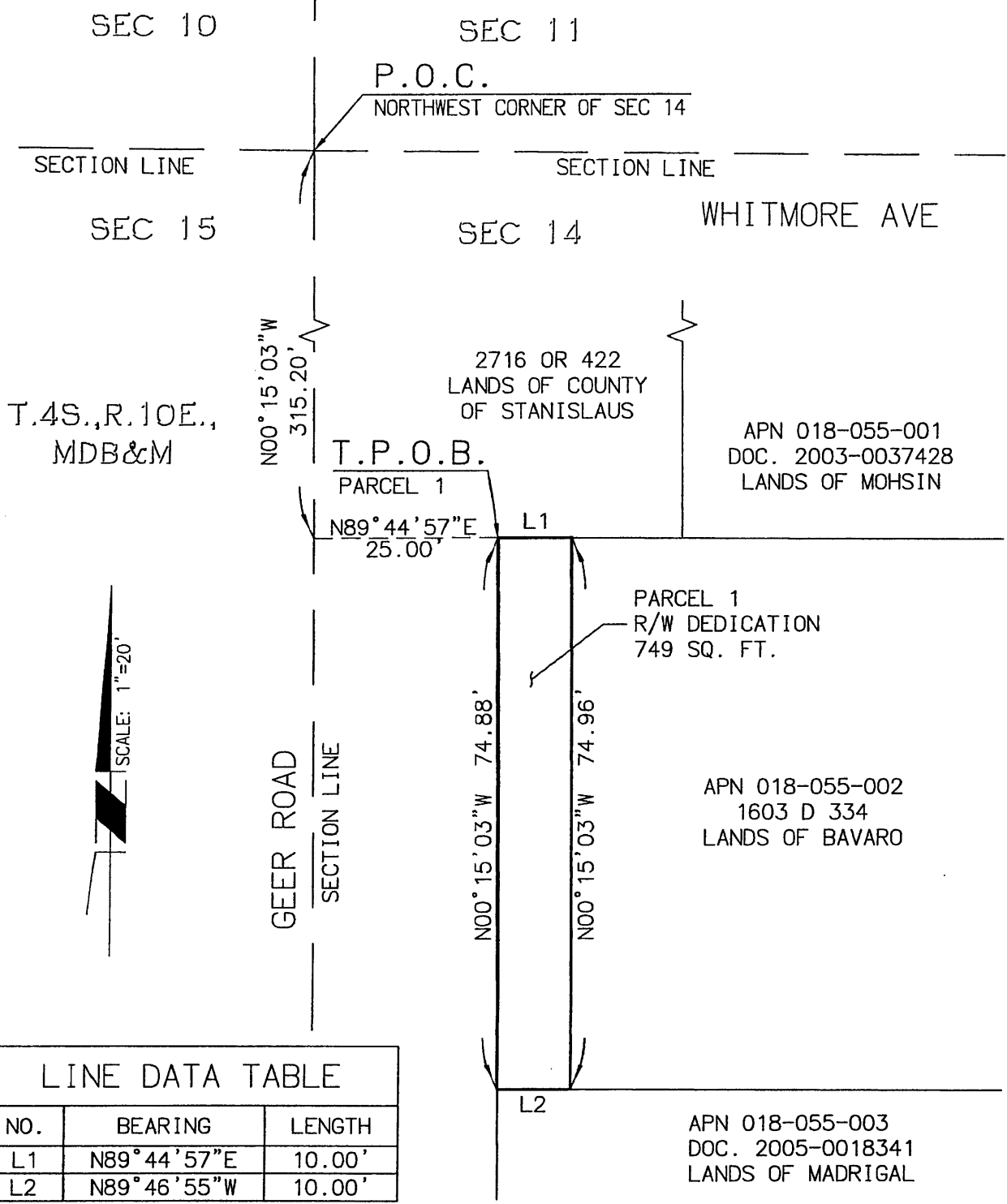
SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of record.

EXHIBIT "B" attached and by this reference made a part hereof.



Daniel W. Bustamante, P.L.S. 7030
License Expires September 30, 2008

RBF CONSULTING
500 Ygnacio Valley Road, Suite 270
Walnut Creek, California 94596



LINE DATA TABLE		
NO.	BEARING	LENGTH
L1	N89°44'57"E	10.00'
L2	N89°46'55"W	10.00'

EXHIBIT "B"

SKETCH TO ACCOMPANY A
LEGAL DESCRIPTION FOR
RIGHT OF WAY DEDICATION
APN: 018-055-002
STANISLAUS COUNTY

SHEET 1 OF 2 SHEETS



PLANNING ■ DESIGN ■ CONSTRUCTION

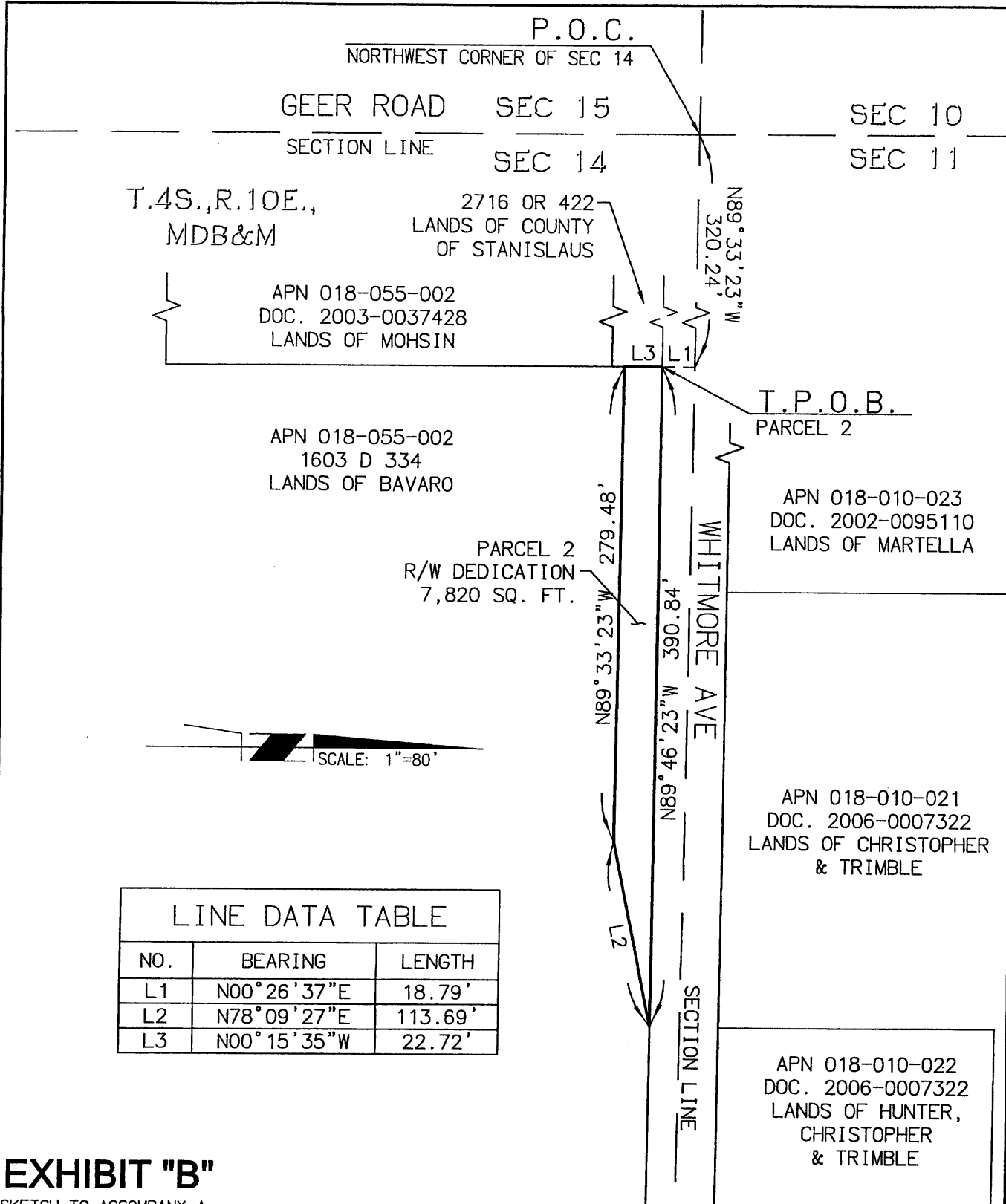
500 YGNACIO VALLEY ROAD, SUITE 270
WALNUT CREEK, CALIFORNIA 94598-3847
925.906.1460 • FAX 925.906.1465 • www.RBF.com

MAY 1, 2007

J.N. 35-100395

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LINE DATA TABLE		
NO.	BEARING	LENGTH
L1	N00° 26' 37" E	18.79'
L2	N78° 09' 27" E	113.69'
L3	N00° 15' 35" W	22.72'

EXHIBIT "B"
 SKETCH TO ACCOMPANY A
 LEGAL DESCRIPTION FOR
 RIGHT OF WAY DEDICATION
 APN: 018-055-002
 STANISLAUS COUNTY

APN 018-010-022
 DOC. 2006-0007322
 LANDS OF HUNTER,
 CHRISTOPHER
 & TRIMBLE

SHEET 2 OF 2 SHEETS



PLANNING ■ DESIGN ■ CONSTRUCTION

500 YGNACIO VALLEY ROAD, SUITE 270
 WALNUT CREEK, CALIFORNIA 94596-3847
 925.906.1460 • FAX 925.906.1465 • www.RBF.com

MAY 1, 2007

J.N. 35-100395