

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

DEPT: Public Works *MM*

BOARD AGENDA # *C-2

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 Improvement Project, Parcel Owner Turlock Irrigation District, APN: 018-010-024

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 \$67,500 per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$67,500, payable to Fidelity National Title Company, for the purchase amount of \$66,000 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total anticipated cost for this project is \$2,038,811. The \$67,500 for the purchase of this right-of-way is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$66,000 for the purchase of the road easement and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2007-942

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 in June 2007.

The proposed new traffic signal and additional through lanes and turn lanes at Geer Road and Whitmore Avenue will improve traffic safety and enhance the flow of traffic through this 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 Improvements.

To accomplish this project, the County will need to acquire additional right-of-way from the parcel on the northeast corner of Geer Road and Whitmore Avenue. The property owner has agreed to accept the following:

Property Owners	Amount of Compensation	Assessors Parcel Number	Right-of-Way Area
Turlock Irrigation District	\$66,000	018-010-024	9,398 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	
Journal Name	
Journal description	Transfer budget to Geer Road at Whitmore project
Period	JUL-07 to JUN-08
Organization	Stanislaus Budget Org
	BO#

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	67,500.00				
2	1102	40310	63280	0	0	0.0		67,500.00			
3	1102	40310	46615	0	0	0.0	67,500.00				
4	1102	40310	46615	9708	0	0.0		67,500.00			
5						0.0					
6						0.0					
7						0.0					
8						0.0					
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22						0.0					
23						0.0					
24						0.0					
25						0.0					
Totals							135,000.00	135,000.00			

Transfer budget to Geer Road at Whitmore project

Requesting Department	CEO	Auditors Office Only	
Sharon Andrews		Prepared By	
Signature	Signature	Date	Admin Approval (\$75K+)
11/6/07	11/20/07	11/6/07	
Date	Date	Date	Date

Contact Person & Phone Number

**AUDITOR-CONTROLLER
STANDARD JOURNAL VOUCHER**



BATCH SCREEN

Batch PW
 Period Nov-07
 Description _____

JOURNAL SCREEN

Journal PW SKA JV
 Category Transfer
 Balance Type A A = Actual or E = Encumbrance
 Description Transfer funds from RTIF to Project Account Geer Road at Whitmore
 Control Total 67,500.00

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	67,500.00		
2	1102	40310	46615	9708	0	0	0.0		67,500.00	
3							0.0			
4							0.0			
5							0.0			
6							0.0			
7							0.0			
8							0.0			
9							0.0			
10							0.0			
11							0.0			
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19							0.0			
20							0.0			
21							0.0			
22							0.0			
23							0.0			
24							0.0			
25							0.0			
26							0.0			
27							0.0			
Totals								67,500.00	67,500.00	

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

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS <i>[Signature]</i>	<i>[Signature]</i>		<i>[Signature]</i>
Prepared by	Supervisor's Approval	Prepared By	Admin Approval (\$75K+)
11/6/07	11/6/07		11/6/07
Date	Date	Date	Date

Project: Geer Road/Whitmore Avenue
Intersection
Grantor: Turlock Irrigation District
APN: 018-010-024

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Turlock Irrigation District, a Public Corporation (Grantor). This Agreement is expressly subject to approval by the County Board of Supervisors.

1. PROPERTY.

Grantor agrees to sell to County, and County agrees to purchase from Grantor, 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 Grantor 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 \$66,000.00 dollars (the "Purchase Price") and is segregated as follows:

\$ 66,000.00	Permanent Easement (9,398 sq. ft.)
\$ N/A	Temporary Construction Easement
\$ -0-	Improvements
\$ -0-	Severance Damages
\$66,000.00	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. Grantor 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 Grantor agrees 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 Grantor acknowledges 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) Grantor authorizes 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.

Grantor agrees 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 Grantor hereby represents and warrants 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. Grantor further represents and warrants that Grantor has no knowledge of any disposal or release of hazardous substances, on, from, or under the Property which may have occurred prior to Grantor taking title to the Property interest.

**Agreement for Purchase
Turlock Irrigation District / APN: 018-010-024
Page 3 of 3**

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.

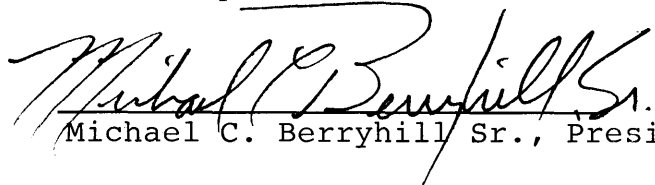
**IN WITNESS WHEREOF, the parties have executed this Agreement on _____
as follows:**

COUNTY OF STANISLAUS

GRANTOR:
TURLOCK IRRIGATION DISTRICT,
a Public Corporation



William O'Brien
Chairman of the Board of Supervisors



Michael C. Berryhill Sr., President

ATTEST:

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



Steven Boyd, Secretary

By:



Deputy Clerk

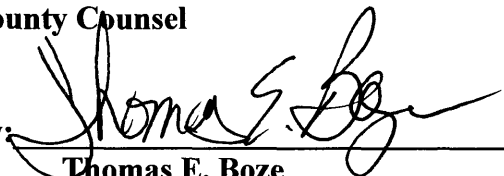
APPROVED AS TO CONTENT:
Department of Public Works



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: 018-010-024

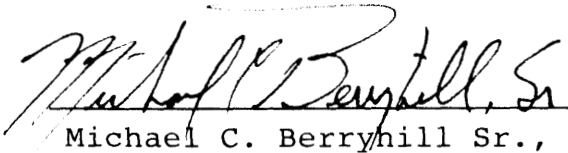
ROAD EASEMENT

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

Turlock Irrigation District, a Public Corporation,

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"


Michael C. Berryhill Sr., President


Steven Boyd, Secretary

Dated: October 9, 2007

October 9, 2007

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 Turlock Irrigation District 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.

MATTHEW MACHADO, Director, Department of Public Works
of Stanislaus County, State of California



Dated: 11-5-07

RESOLUTION NO. 2007-79

RESOLUTION APPROVING SALE OF PROPERTY
TO THE COUNTY OF STANISLAUS

WHEREAS, the Turlock Irrigation District (District) owns real property located at 2474 Geer Road, Hughson, California (Property), as described in attached Exhibits A and B; and

WHEREAS, the County of Stanislaus, Department of Public Works has requested the purchase of .21 acres of the District property; and

WHEREAS, the County of Stanislaus, Department of Public Works agreed to pay the sum of \$66,000 under terms and conditions specified in the attached "Agreement for Acquisition of Property"; and

WHEREAS, the District in 2006, renovated the Hughson Substation and constructed the existing fence lines to accommodate future ultimate right-of-ways for Geer Road.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Turlock Irrigation District as follows:

1. That the .21 acres located at 2474 Geer Road, Hughson California is not needed for the District operation of Hughson Substation.
2. That the District approves the sale for the amount specified in the Right-of-Way Contract.
3. That the President and Secretary of the Board will sign all documents and other papers necessary to complete the sale of this property.

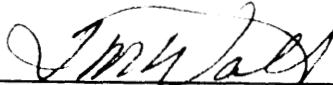
Moved by Director Crowell, seconded by Director Fernandes, that the foregoing resolution be adopted.

Upon roll call the following vote was had:

Ayes: Directors Short, Crowell, Fiorini, Fernandes, Berryhill
Noes: Directors None
Absent: Directors None

The President declared the resolution adopted.

I, Tami Wallenburg, Deputy Secretary of the Board of Directors of the TURLOCK IRRIGATION DISTRICT, do hereby CERTIFY that the foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of said Board of Directors held the 9th day of October, 2007.


Deputy Secretary of the Board of
Directors of the Turlock Irrigation District

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)

COUNTY OF Stanislaus)

On October 9, 2007 before me, TAMARA Walleburg, Notary Public,
date name of notary officer

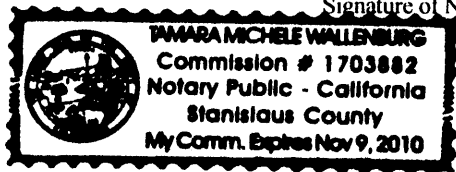
personally appeared Michael C. Berryhill, Sr. and
name(s) of signer(s)
Steve Boyd

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 of Notary



OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)

Title(s)

- PARTNER(S) LIMITED
- GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

SIGNER IS REPRESENTING:
Name of Person(s) or entity(ies)

OPTIONAL SECTION:

TITLE OR TYPE OF DOCUMENT: _____

DATA REQUESTED HERE IS NOT REQUIRED BY LAW.

NUMBER OF PAGES _____ DATE _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

EXHIBIT "A"

Revised May 1, 2007

February 22, 2007

JN 35-100395

LEGAL DESCRIPTION

RIGHT OF WAY DEDICATION

APN 018-010-024

That certain portion of land situate in the Southwest Corner of Section 11, Township 4 South, Range 10 East of the Mt. Diablo Base and Meridian, County of Stanislaus, State of California, described as follows:


COMMENCING at the Southwest Corner of said Section 11; thence along the westerly section line of said Section 11, North 00°14'38" West 19.80 feet; thence leaving said section line North 89°45'22" East 25.00 feet to the **TRUE POINT OF BEGINNING**, said point also being the southwest corner of the lands of Turlock Irrigation District as described in Book 1099 of Official Records Page 511, recorded in County Recorder's Office of said County; thence along the westerly boundary line of said lands of Turlock Irrigation District (1099 OR 511), North 00°14'38" West 198.05 feet to the northerly boundary line of said lands of Turlock Irrigation District (1099 OR 511); thence along said northerly boundary line South 89°44'54" East 16.00 feet; thence leaving said northerly boundary line South 00°14'38" East 140.46 feet; thence South 53°10'18" East 46.45 feet; thence South 89°33'23" East 56.94 feet to the easterly line of said lands of Turlock Irrigation District (1099 OR 511), said point also being on the westerly line of the Turlock Irrigation District as described in Doc. 2006-0056974, recorded in County Recorder's Office of said County; thence continuing South 89°33'23" East 100.01 feet to the easterly line of said lands of Turlock Irrigation District (Doc. 2006-0056974); thence along said easterly line of said lands of Turlock Irrigation District (Doc. 2006-0056974) South 00°14'38" East 29.11 feet to the southerly line of said lands of Turlock Irrigation District (Doc. 2006-0056974); thence along said southerly line of said lands of Turlock Irrigation District (Doc. 2006-0056974) North 89°46'23" West 100.00 feet to the easterly line of said lands of Turlock Irrigation District (1099 OR 511), said point also being on the westerly line of said lands of Turlock Irrigation District (Doc. 2006-0056974); thence continuing along southerly line of said lands of Turlock Irrigation District (1099 OR 511) North 89°46'23" West 100.00 feet to the **TRUE POINT OF BEGINNING**.

CONTAINING 9,398 square feet

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

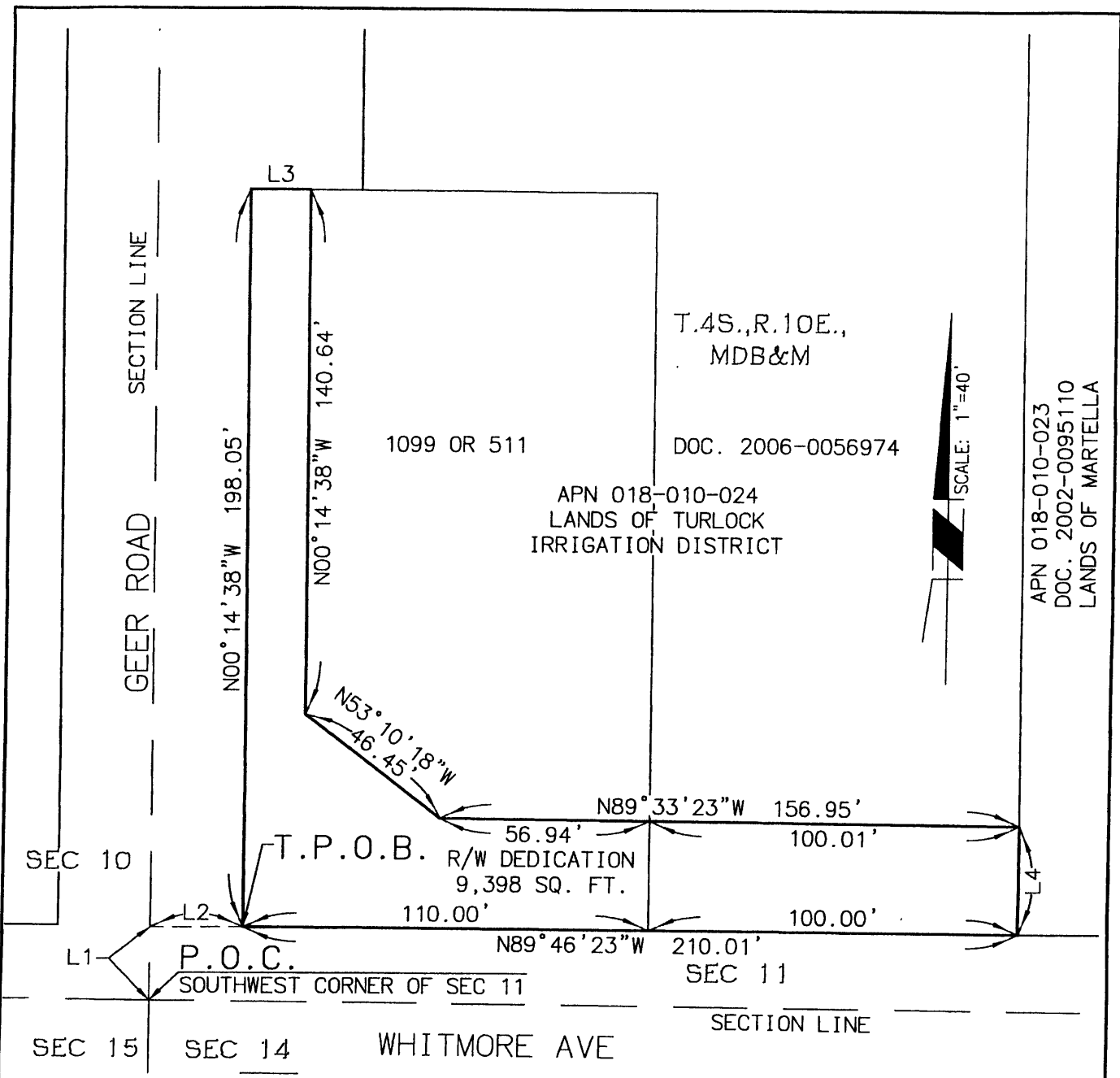
EXHIBIT "B" attached and by this reference made a part hereof.




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

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

H:\DATA\35100395\CADD\MAPPING\EXHIBITS\395EX008.DWG JFONG 5/1/07 1:14 pm



LINE DATA TABLE		
NO.	BEARING	LENGTH
L1	N00° 14' 38" W	19.80'
L2	N89° 45' 22" E	25.00'
L3	N89° 44' 54" W	16.00'
L4	N00° 14' 38" W	29.11'

EXHIBIT "B"
 SKETCH TO ACCOMPANY A
 LEGAL DESCRIPTION FOR
 RIGHT OF WAY DEDICATION
 APN: 018-010-024
 STANISLAUS COUNTY



SHEET 1 OF 1 SHEETS
 PLANNING ■ DESIGN ■ CONSTRUCTION
 500 YONACIO VALLEY ROAD, SUITE 270
 WALNUT CREEK, CALIFORNIA 94596-3847
 925.908.1460 • FAX 925.908.1465 • www.RBF.com

MAY 1, 2007

J.N. 35-100395