

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

DEPT: Public Works *AMM*

BOARD AGENDA # \*C-5

Urgent  Routine

AGENDA DATE December 18, 2007

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Geer Road at Whitmore Avenue Intersection Project, Parcel Owner Grace B. Rixin Trusts, APN: 018-026-006

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 make the necessary budget adjustments per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$88,500, payable to Fidelity National Title Company, for the purchase amount of \$87,000 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total anticipated cost for this project is \$2,038,811. The \$88,500 for the purchase of this right-of-way is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$87,000 for the purchase of the road easement and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2007-1009

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.

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Geer Road at Whitmore Avenue Intersection Project, Parcel Owner Grace B. Rexin Trusts, APN: 018-026-006

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 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.

The proposed new traffic signal and additional through lanes and turn lanes will improve traffic safety and enhance the flow of traffic through these intersections. Installation of safety lighting and shoulder widening will also be completed.

On June 5, 2007, the Board of Supervisors approved the adoption of the Mitigated Negative Declaration for intersection improvements at Geer Road and Whitmore Avenue.

To accomplish this project, the County will need to acquire additional right-of-way from the parcel on the northwest 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
Grace B. Rexin Trusts	\$87,000	018-026-006	27,546 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	88,500.00				
2	1102	40310	63280	0	0	0.0		88,500.00			
3	1102	40310	46615	0	0	0.0	88,500.00				
4	1102	40310	46615	9708	0	0.0		88,500.00			
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					
<b>Totals</b>							<b>177,000.00</b>	<b>177,000.00</b>			

Transfer Budget to Geer Road At Whitmore Project

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<b>Requesting Department</b>	<b>CEO</b>	<b>Auditors Office Only</b>	
Sharon Andrews			
Signature 12/4/07	Signature 12/12/07		
Date	Date	Date	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	88,500.00			
2	1102	40310	44615	9708	0	0.0		88,500.00		
3						0				
4						0				
5						0				
6						0				
7						0				
8						0				
9						0				
10						0				
11						0				
12						0				
13						0				
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16						0				
17						0				
18						0				
19						0				
20						0				
21						0				
22						0				
23						0				
24						0				
25						0				
26						0				
27						0				
Totals								88,500.00	88,500.00	

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

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS			
Prepared by	Supervisor's Approval	Prepared By	Admin Approval (\$75K+)
12/4/2007	12-4-07	12/5/07	
Date	Date	Date	Date

Project: Geer Road/Whitmore Avenue  
Intersection  
Grantor(s): Grace B. Rexin Trusts (A-B)  
APN: 018-026-006

### **AGREEMENT FOR ACQUISITION OF PROPERTY**

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Grace B. Rexin, as Trustee of Trust A of the Alton W. Rexin and Grace B. Rexin 1995 Trust, pursuant to Declaration of Trust dated November 21, 1995, as to an undivided one-half interest, and Grace B. Rexin, as Trustee of Trust B of the Alton W. Rexin and Grace B. Rexin 1995 Trust, pursuant to Declaration of Trust dated November 21, 1995, as to an undivided one-half interest (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 \$87,000.00 dollars (the "Purchase Price") and is segregated as follows:

\$47,428.00	Permanent Easement (27,546 sq. ft.)
\$ N/A	Temporary Construction Easement
\$ 39,572.00	Improvements (concrete pipeline & gates/fence posts/landscaping)
<u>\$ -0-</u>	Severance Damages
\$87,000.00	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. 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.

**Agreement for Purchase**

**Grace B. Rexin Trusts (A-B) / APN: 018-026-006**

**Page 2 of 3**

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

**Agreement for Purchase  
Grace B. Rexin Trusts (A-B) / APN: 018-026-006  
Page 3 of 3**

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, 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 \_\_\_\_\_  
as follows:**

COUNTY OF STANISLAUS

GRANTORS:

\_\_\_\_\_  
**William O'Brien  
Chairman of the Board of Supervisors**

By Grace B. Rexin Trustee  
**Grace B. Rexin, as Trustee of Trust A  
of the Alton W. Rexin and Grace B. Rexin  
1995 Trust, pursuant to Declaration of  
Trust dated November 21, 1995**

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

By Grace B. Rexin Trustee  
**Grace B. Rexin, as Trustee of Trust B  
of the Alton W. Rexin and Grace B. Rexin  
1995 Trust, pursuant to Declaration of  
Trust dated November 21, 1995**

By: \_\_\_\_\_  
**Deputy Clerk**

APPROVED AS TO CONTENT:  
**Department of Public Works**

Matthew Machado  
**Matthew Machado, Director**

APPROVED AS TO FORM:  
**Michael H. Krausnick  
County Counsel**

By: Thomas E. Boze  
**Thomas E. Boze  
Deputy County Counsel**

EXHIBIT

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: 018-026-006

**ROAD EASEMENT**

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

Grace B. Rixin, as Trustee of Trust A of the Alton W. Rixin and Grace B. Rixin 1995 Trust, pursuant to Declaration of Trust dated November 21, 1995, and Grace B. Rixin, as Trustee of Trust B of the Alton W. Rixin and Grace B. Rixin 1995 Trust, pursuant to Declaration of Trust dated November 21, 1995

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"

\_\_\_\_\_  
Grace B. Rixin, as Trustee of Trust A

\_\_\_\_\_  
Grace B. Rixin, as Trustee of Trust B

Dated: \_\_\_\_\_

\_\_\_\_\_

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 Grace B. Rixin, as Trustee 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

\_\_\_\_\_  
*Matthew Machado*

Dated: 12-5-07



EXHIBIT "A"

Revised May1, 2007  
February 28, 2007  
JN 35-100395

LEGAL DESCRIPTION  
RIGHT OF WAY DEDICATION  
APN 018-026-006

That certain portion of land situate in the Southeast Corner of Section 10, 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 Southeast Corner of said Section 10; thence along the easterly section line of said Section 10 North 00°14'38" West 20.36 feet; thence leaving said easterly section line South 89°45'22" West 25.00 feet to the **TRUE POINT OF BEGINNING**, said point also being the southeast corner of the lands of Rexin as described in Doc. 1997-0052534, recorded in County Recorder's Office of said County; thence along the southerly boundary line of the lands of Rexin (Doc. 1997-0052534) North 89°24'53" West 624.71 feet; thence leaving said southerly boundary line North 79°16'31" East 101.98 feet; thence South 89°24'53" East 448.69 feet to the beginning of a tangent curve concave northwesterly and having a radius of 50.00 feet; thence along said curve easterly and northerly 79.26 feet through a central angle of 90°49'45"; thence tangent from said curve North 00°14'38" West 569.34 feet to the northerly boundary line of said lands of Rexin (Doc. 1997-0052534); thence along said northerly boundary line South 89°24'53" East 25.00 feet to the easterly boundary line of said lands of Rexin (Doc. 1997-0052534); thence along said easterly boundary line South 00°14'38" East 640.07 feet to the **TRUE POINT OF BEGINNING**.

**CONTAINING** 27,546 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:\PDATA\35100395\CADD\MAPPING\EXHIBITS\395EX012.DWG JFONG 5/1/07 1:17 pm

APN 018-052-040

APN 018-052-039

APN 018-052-038

SECTION LINE

WHITMORE AVE

N89°24'53"W 624.71'

N89°24'53"W 448.69'



SCALE: 1"=120'

T.4S., R.10E.,  
MDB&M

LINE DATA TABLE

NO.	BEARING	LENGTH
L1	N00°14'38"W	20.36'
L2	N89°45'22"E	25.00'
L3	N79°16'31"E	101.98'
L4	N89°24'53"W	25.00'

CURVE DATA TABLE

NO.	DELTA	RADIUS	LENGTH	TANGENT
C1	90°49'45"	50.00'	79.26'	50.73'

APN 018-026-005  
DOC. 2001-0130752  
LANDS OF PATERSON

APN 018-026-006  
DOC. 1997-0052534  
LANDS OF REXIN

R/W DEDICATION  
27,546 SQ. FT.

SEC 10

SEC 15

P.O.B.

N00°14'38"W 569.34'

L2

N00°14'38"W 640.07'

P.O.C.

GEER ROAD

SECTION LINE

SOUTHEAST  
CORNER OF  
SEC 10

1099 OR 511

APN 018-010-023  
DOC. 2002-0095110  
LANDS OF MARTELLA

SEC 14

APN 018-010-024  
LANDS OF TURLOCK  
IRRIGATION  
DISTRICT

DOC. 2006-0056974

**EXHIBIT "B"**

SKETCH TO ACCOMPANY A  
LEGAL DESCRIPTION FOR  
RIGHT OF WAY DEDICATION

APN: 018-026-006  
STANISLAUS COUNTY

SHEET 1 OF 1 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