

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

DEPT: Public Works *albj*

BOARD AGENDA # *C-2

Urgent Routine

AGENDA DATE April 21, 2009

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 Hatch Road at Santa Fe Avenue Intersection Improvement Project, Parcel Owners Duarte Properties, Inc., APN: 018-065-007

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 \$42,075, payable to Fidelity National Title Company, for the purchase amount of \$40,575 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total estimated cost for this project is \$2,257,000. The \$42,075 for the purchase of this right-of-way is funded 100% from the Regional Transportation Impact Fee program and consists of \$40,575 for the purchase of the grant deed and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2009-247

On motion of Supervisor DeMartini, Seconded by Supervisor Grover

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) 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 Hatch Road at Santa Fe Avenue Intersection Improvement Project, Parcel Owners Duarte Properties, Inc., APN: 018-065-007

DISCUSSION:

In January 2004, the Board of Supervisors approved the Public Works Road Congestion Relief Program. One of the projects approved under this program was the improvement of the Hatch Road at Santa Fe Avenue intersection. The proposed improvements consist of traffic signals, installation of left turn lanes, dedicated right turn lanes, upgrade of the railroad signals, pavement widening, traffic striping, and expansion of the existing bridge on Santa Fe Avenue near Hatch Road.

In May 2004 the Board of Supervisors awarded a contract to Bkf Engineers for engineering services for the Geer Road at Santa Fe Avenue and Hatch Road at Santa Fe Avenue intersection improvement projects.

In June 2006, the Board of Supervisors approved Amendment No. 1 with Bkf Engineers to add additional engineering services for the design of the bridge on Santa Fe Avenue at Hatch Road and preparation of environmental clearance documents.

In July 2007, the Board of Supervisors approved Amendment No. 2 with Bkf Engineers to add additional engineering services for the improvements at the Geer Road at Santa Fe Avenue and Hatch Road at Santa Fe Avenue intersections. These additional engineering services included the preparation of individual specifications and plans for each intersection and plans and specifications for the bridge on Santa Fe Avenue.

On August 28, 2007, the Board of Supervisors adopted the Mitigated Negative Declaration for the Stanislaus County intersection improvements at Geer Road at Santa Fe Avenue and Hatch Road at Santa Fe Avenue.

On July 22, 2008, the Board of Supervisors approved and adopted the plans and specifications for the Stanislaus County Intersection Improvements - Phase 2: Santa Fe Avenue Bridge Widening and Retrofit Project and directed the Clerk to publish the notice inviting bids.

On September 9, 2008, the Board of Supervisors authorized the Director of Public Works to sign the Consent to Common Use Agreement with the Turlock Irrigation District for the Phase 2: Santa Fe Avenue Bridge Widening and Retrofit Project.

On October 21, 2008, the Board of Supervisors awarded a contract for the construction of the Phase 2: Santa Fe Avenue Bridge Widening and Retrofit Project to Agee Construction Corporation of Clovis, California.

On December 16, 2008, the Board of Supervisors amended the contract with Agee Construction Corporation for the Phase 2: Santa Fe Avenue Bridge Widening and Retrofit Project.

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Hatch Road at Santa Fe Avenue Intersection Improvement Project, Parcel Owners Duarte Properties, Inc., APN: 018-065-007

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

To accomplish this project, the County will need to acquire additional right-of-way from the parcel on the east side of Santa Fe Avenue approximately 750 feet north of the intersection. The property owners have agreed to accept the following:

Property Owner(s): Duarte Properties Inc.

Amount of Compensation: \$40,575

Assessor's Parcel Number: 018-065-007; Right-of-Way Area: 0.127 acres

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.

BM:la

L:\ROADS\9208 - Hatch Road at Santa Fe Ave\Design Division\Board Items\Right of Way - Duarte.pdf

**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 the Hatch Road @ Santa Fe Avenue Intersection Improvement Project
Period	JUL-08 to JUN-09
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	9208	0	0.0	42,075.00			
2	1102	40310	63280	0	0	0.0		42,075.00		
3	1102	40310	46615	0	0	0.0	42,075.00			
4	1102	40310	44615	9208	0	0.0		42,075.00		
5						0				
6						0				
7						0				
8						0				
9						0				
10						0				
11						0				
12						0				
13						0				
14						0				
15						0				
16						0				
17						0				
18						0				
19						0				
20						0				
21						0				
22						0				
23						0				
24						0				
25						0				
Totals							84,150.00	84,150.00		

Transfer Budget to the Hatch Road @ Santa Fe Avenue Intersection Improvement Project

Requesting Department		CEO		Auditors Office Only	
Sharon Andrews					
Signature		Signature		Prepared By	
4/7/09		09/14/09		Admin Approval (\$75K+)	
Date		Date		Date	

Contact Person & Phone Number

**AUDITOR-CONTROLLER
STANDARD JOURNAL VOUCHER**



BATCH SCREEN

Batch: PW

Period: Apr-09

Description: _____

JOURNAL SCREEN

Journal: PW SKA JV

Category: Transfer

Balance Type: A A = Actual or E = Encumbrance

Description: Transfer funds from RTIF to Santa Fe @ Hatch Road Intersection Improvement Project

Control Total: 42,075.00

Line	Coding Structure							Debit	Credit	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6				
1	1102	40310	85850	0	0	0	0.0	42,075.00		Transfer out
2	1102	40310	46615	9208	0	0	0.0		42,075.00	Transfer in
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			
12							0.0			
13							0.0			
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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			
26							0.0			
27							0.0			
Totals								42,075.00	42,075.00	

Explanation: Transfer funds from RTIF to Santa Fe @ Hatch Road Intersection Improvement Project

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS <i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
Prepared by	Supervisor's Approval	Prepared By	Admin Approval (\$75K+)
4/7/09	4/7/09		4/7/09
Date	Date	Date	Date

Project: Santa Fe Avenue/Hatch Road Intersection
Improvement Project
Grantor(s): Duarte Properties Inc.
APN: 018-065-007-000

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Duarte Properties Inc., a California 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 described in the Exhibits attached hereto which are incorporated herein by this reference (the "Property").

2. **DELIVERY OF DOCUMENTS/ESCROW.**

All documents necessary for the transfer of the Property shall be executed and delivered by Grantor(s) to the County's designated Acquisition Agent.

This transaction shall be handled through an escrow with Chicago Title Company at 1700 Standiford Avenue, Suite 110, Modesto CA. 95350. Telephone 209 571-6300 Escrow # 08-51111799-SB

3. **PURCHASE PRICE AND TITLE.**

The consideration to be paid by the County for the Property is FORTY THOUSAND FIVE HUNDRED AND SEVENTY FIVE DOLLARS (\$ 40,575.00) (the "Purchase Price").

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(s) shall convey good, marketable and insurable title to the Property free and clear of all liens, encumbrances, taxes, assessments and leases recorded and/or unrecorded.

Good, marketable and insurable roadway easement title to the Property shall be evidenced 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. The Title Policy shall be in the amount of the Purchase Price, showing roadway easement title to the Property 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. County shall pay for all costs associated with acquiring an ALTA extended coverage owner's policy of title insurance.

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 Grantor of any such claims prior to payment.

The Grantor acknowledge that this transaction is a negotiated settlement in lieu of condemnation and agrees 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 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 Road Easement 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(s) 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.

The Purchase Price of the Property reflects the fair market value of 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 County 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

APR 21 2009 **as follows:**

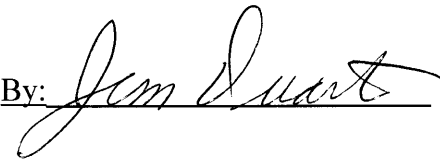
COUNTY OF STANISLAUS

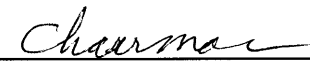
GRANTOR

Duarte Properties Inc. a California Corporation



Jim DeMartini
Chairman of the Board of Supervisors

By: 



Title

ATTEST:

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

By: 

Deputy Clerk

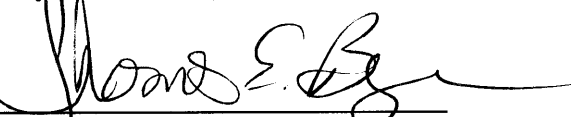
APPROVED AS TO CONTENT:
Department of Public Works



Matt Machado, Director

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 

Thomas E. Boze
Deputy County Counsel

WHEN RECORDED RETURN TO:

Stanislaus County
Department of Public Works
1010 10th Street, Suite 3500
Modesto, CA 95354

Record without Fee Govt. Code SEC. 6103

THIS SPACE FOR RECORDERS USE ONLY

**Project: Santa Fe Avenue/Hatch Road Intersection
Improvement Project
APN: 018-065-007-000**

**STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS**

GRANT DEED

Duarte Properties Inc., a California corporation, does hereby grant to Stanislaus County, a municipal corporation of the State of California, for the purpose of a Public Highway or Road, and all the necessary utilities, that certain real property in the County of Stanislaus, State of California, bounded and described as follows:

See Exhibits "A" and Exhibit "B" attached hereto and made a part hereof

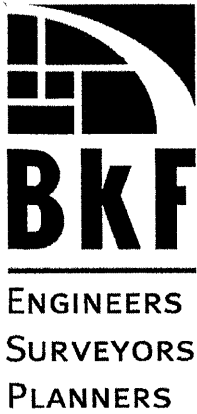
Dated this 12 day of March 2009

GRANTOR:

Duarte Properties Inc., a California Corporation

By: *Jim Duarte*

Chauna
Title



January 16, 2009
BKF Job No.: 20045040-11

EXHIBIT "A"
PARCEL 6-01-1
RIGHT OF WAY DEDICATION

All that certain real property situate in the southeast quarter of Section 5, Township 4 South, Range 10 East, Mount Diablo Base and Meridian, County of Stanislaus, State of California, and described as follows:

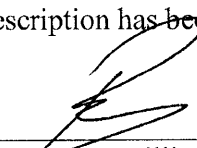
BEING a portion of the lands described in the Corporation Grant Deed to Duarte Properties, Inc., a California corporation, recorded December 26, 1990, as Instrument Number 90-106318, Official Records of Stanislaus County, said portion being more particularly described as follows:

BEGINNING at the most southerly corner of said lands (90-106318) on the northeasterly right of way line of Santa Fe Avenue (right of way varies); **THENCE** northwesterly along said northeasterly right of way line North $44^{\circ}58'51''$ West 276.05 feet; **THENCE** leaving said northeasterly right of way line North $45^{\circ}01'09''$ East 20.00 feet to a point on a line parallel with, and distant 20.00 feet northeasterly, when measured at right angles, from said northeasterly right of way line; **THENCE** southeasterly along said parallel line South $44^{\circ}58'51''$ East 275.61 feet to the southeasterly line of said lands (90-106318); **THENCE** along said southeasterly line South $43^{\circ}45'09''$ West 20.00 feet to the **POINT OF BEGINNING**.

Containing an area of 5,517 square feet, more or less.

A plat showing the above described dedication is attached hereto and made a part hereof as Exhibit "B".

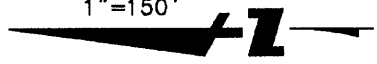
This description has been prepared from record data for BKF.

By: 
Barry T. Williams, P.L.S. No. 6711
License Expires: 06/30/10

Dated: 1/16/09



1"=150'



GRAPHIC SCALE



7-01

018-065-006

MASELLIS
86-047051 O.R.

PORTION OF SECTION 5,
T.4S., R.10E., M.D.B.&M.

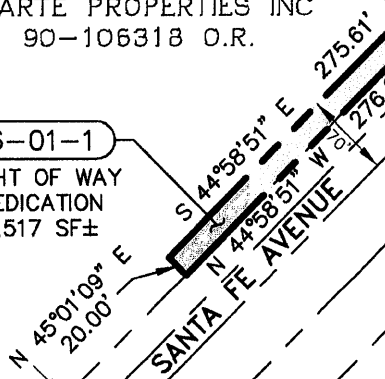
6-01

018-065-007

DUARTE PROPERTIES INC
90-106318 O.R.

6-01-1

RIGHT OF WAY
DEDICATION
5,517 SF±



11-02

018-065-004

SIKH TEMPLE (GURDWARA)
MODESTO/CERES
89-095266 O.R.

LEGEND:

- O.R. OFFICIAL RECORDS
- P.O.B. POINT OF BEGINNING
- RR RAILROAD
- R/W RIGHT OF WAY

COUNTY OF STANISLAUS
CALIFORNIA

EXHIBIT "B"



2737 NORTH MAIN STREET
SUITE 200
WALNUT CREEK, CA 94596
925-940-2200
925-940-2299 (FAX)

Subject PLAT TO ACCOMPANY
6-01-1 RIGHT OF WAY DEDICATION
Job No. 20045040-11
By MLM Date 01/16/09 Chkd. BTW
SHEET 1 OF 1

CALIFORNIA ALL PURPOSE

ACKNOWLEDGMENT

State of California

County of STANISLAUS

On 3/12/09 before me, WAYNE L. MILLER, Notary Public,
(here insert name and title of the officer)

Personally appeared JIM DUARTE

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature], Notary Public

(Seal)

