

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

DEPT: Public Works *mlm*

BOARD AGENDA # *C-6

Urgent Routine

AGENDA DATE June 3, 2008

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 Ladd Road at McHenry Avenue Intersection Project, Parcel Owner Berberian Properties, LLC, APN: 004-076-007

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 increase appropriations and estimated revenue for the Ladd Road at McHenry Avenue Intersection Improvement Project by \$116,073 per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$116,073, payable to Fidelity National Title Company, for the purchase amount of \$114,573 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total estimated cost for this project is \$1,793,254. The \$116,073 for the purchase of this right-of-way is funded 100% by the Regional Transportation Impact Fee Program (RTIF) and consists of \$114,573 for the purchase of the road easement, \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2008-405

On motion of Supervisor Monteith, Seconded by Supervisor O'Brien

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: Grover

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 Ladd Road at McHenry Avenue Intersection Project, Parcel Owner Berberian Properties, LLC, APN: 004-076-007

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 Ladd Road at McHenry Avenue intersection.

In June 2004, the Board of Supervisors awarded a contract to Wood Rodgers for environmental and engineering services for the Ladd Road and McHenry Avenue Intersection Improvements.

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.

On July 24, 2007, the Board of Supervisors approved the Initial Study/Mitigated Negative Declaration for the Ladd Road at McHenry Avenue Intersection Project.

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

Property Owners: Berberian Properties, LLC
Amount of Compensation: \$114,573
Assessors Parcel Number: 004-076-007
Right-of-Way Area: 1.32 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.

CB:sr

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**COUNTY OF STANISLAUS
AUDITOR - CONTROLLER
STANDARD JOURNAL VOUCHER**



BATCH SCREEN

Batch PW JAS
 Period MAY-08
 Description _____

JOURNAL SCREEN

Journal PW JAS JV
 Period MAY-08
 Category TRANSFER
 Balance Type A A = Actual, B = Budget, E = Encumbrance
 Description Transfer funds from RTIF to project account (McHenry @ Ladd Intersection Improvements)
 Control Total 116,073.00

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	116,073.00		
2	1102	40310	46615	9709	0	0	.0		116,073.00	
3							.0			
4							.0			
5							.0			
6							.0			
7							.0			
8							.0			
9							.0			
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18							.0			
19							.0			
20							.0			
21							.0			
22							.0			
23							.0			
24							.0			
25							.0			
Totals								116,073.00	116,073.00	

Explanation:

Transfer funds from RTIF to project account (McHenry @ Ladd Intersection Improvements)

JULIE A. SERRANO Prepared by 5/27/2008 Date	 Supervisor's Approval 5/27/2008 Date	Prepared by Admin Approval >75,000 5/27/08 Date
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AUDITOR-CONTROLLER BUDGET JOURNAL



Balance Type	Budget	
Category	Budget - Upload	
Source		
Currency	USD	
Budget Name	LEGAL BUDGET	
Batch Name	PW JAS	BO#
Journal Name	PW JAS	
Journal description	Transfer budget to McHenry @ Ladd Intersection Improvements	
Period	May-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	9709	0	0.0	116,073.00				
2	1102	40310	63280	0	0	0.0		116,073.00			
3	1102	40310	46615	0	0	0.0	116,073.00				
4	1102	40310	46615	9709	0	0.0		116,073.00			
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							232,146.00	232,146.00			

Explanation: Transfer budget to McHenry @ Ladd Intersection Improvements

Requesting Department	CEO	Auditors Office Only	
Signature	Signature	Prepared By	Admin Approval (\$75K+)
5/27/2008	05/27/08	5/27/08	5/27/08
Date	Date	Date	Date

JULIE A. SERRANO - 896-6431
Contact Person & Phone Number

Project: Ladd Road at McHenry Avenue
Intersection Improvements
Grantor(s): Berberian Properties, LLC
APN.: 004-076-007

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Berberian Properties., LLC, a California limited liability company (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, Grantor's interest in the real property described in the Exhibits attached hereto which are incorporated herein by this reference (the "Property"). County represents and agrees that access, ingress and egress to Grantor's remaining property from Ladd Road and McHenry Avenue shall be unaffected by the sale hereunder or the subsequent improvement of the Property.

2. DELIVERY OF DOCUMENTS/ESCROW.

All documents necessary for the transfer of the Property shall be executed and delivered by Grantor to the escrow holder for recordation and/or delivery to the County's designated Acquisition Agent.

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

3. PURCHASE PRICE AND TITLE.

The consideration to be paid by the County for the Property is as follows:

Land (57,413sq. ft X \$1.72/sq. ft.)	\$98,750
Damages	\$15,823
Benefits	\$0
Total	\$114,573

County shall deliver the Purchase Price no later than 45 days after Board of Supervisors approval and upon delivery and execution of all necessary transfer documents. The Purchase Price shall be delivered to Grantor net of any deductions so that Grantor shall receive the full \$114,573. Grantor shall convey its interest in the Property, in its "AS-IS", "WHERE IS" condition. If the transaction described in this Agreement does not close by August 1, 2008, either party may cancel this Agreement.

**Agreement for Purchase
Berberian Properties, LLC Page 2 of 3**

Grantor makes no warranties or representations regarding the physical condition or title to the Property. Accordingly, County shall rely on 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 paid for by County and 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, transfer taxes, recording fees and other closing costs incurred in this transaction.

Grantor and County 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 or construction of improvements thereon.

4. PRORATION OF TAXES.

Real property taxes shall be prorated as of the recordation of the 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.

5. POSSESSION.

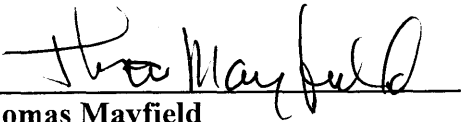
Grantor agrees that immediately upon approval of this agreement by County, the County may, upon giving Grantor written notice, enter upon and take possession of the Property. County shall be responsible for any losses or claims resulting from or related to its taking possession of the Property.

6. HAZARDOUS WASTE

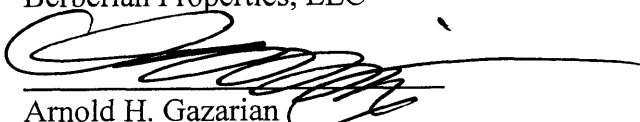
Grantor makes no warranties or representations whatsoever regarding disposals or releases of hazardous substances on, from, or under the Property. County is advised to investigate.

IN WITNESS WHEREOF, the parties have executed this Agreement on 6/3/08 as follows:

COUNTY OF STANISLAUS


Thomas Mayfield
Chairman of the Board of Supervisors

GRANTOR
Berberian Properties, LLC


Arnold H. Gazarian

**Agreement for Purchase
Berberian Properties, LLC Page 3 of 3**

ATTEST:

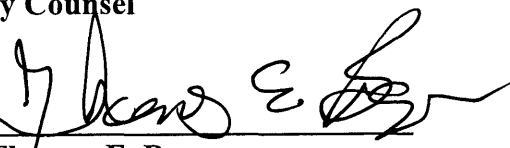
**Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California**

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