

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

DEPT: Public Works *Monteith*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE October 6, 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 Easement for the Hatch Road Channelization Project, Parcel Owner Harold O. Miller & Sons, a California Limited Partnership, APN: 018-062-002

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 make the necessary budget adjustments per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$36,500, payable to Chicago Title Company, for the purchase amount of \$35,000 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The Engineer's estimated cost for construction of this project is \$2,130,000. The \$36,500 for the purchase of the right-of-way easement is funded 100% by City/County Public Facility Fees and consists of \$35,000 for the purchase of the road easement and \$1,500 for estimated escrow and title insurance fees.

BOARD ACTION AS FOLLOWS:

No. 2009-678

On motion of Supervisor Monteith, 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 Easement for the Hatch Road Channelization Project, Parcel Owner Harold O. Miller & Sons, a California Limited Partnership, APN: 018-062-002

DISCUSSION:

In January 2004, the Board of Supervisors approved the Department of Public Works Road Congestion Relief Program. The Road Congestion Relief Program provides for improvements to select roadways throughout Stanislaus County, including the improvements to Hatch Road.

The proposed improvements consist of left turn lanes on Hatch Road at Faith Home Road, Gilbert Road, Parks Road, Washington Street, and Clinton Road. Additional pavement will be constructed on the north side of Hatch Road to allow for the installation of the left turn lanes. These improvements will improve traffic safety and enhance the flow of traffic through these intersections. In order to construct the additional pavement, including shoulders, and provide adequate space for traffic to pull off the roadway, the County will need to acquire right-of-way easements from parcels along Hatch Road.

On January 23, 2006, the County hired Cogdill & Giomi to prepare appraisals for the right-of-way easements. The appraisals were completed on April 25, 2006 and submitted to the County.

This property is held by a general partnership. During the negotiations with the Harold O. Miller & Sons General Partnership, Mrs. Miller, one of the General Partners passed away. The County's Title Company, Chicago Title, asked Mr. Miller to grant the County an exception to the Title, in that he is the sole owner of the General Partnership. Mr. Miller refused the County this exception and refused County Counsel access to the terms of his General Partnership. Because the condemnation process would cost the County more than having to pay a potential future claimant on the property of the General Partnership the full purchase value of \$35,000, staff determined that the county's risk is limited. Therefore, staff's recommendation is to execute the right-of-way easement with the County accepting the exception to the Title Insurance that Mr. Miller may or may not be the sole beneficiary of the General Partnership of Harold O. Miller & Sons.

On August 31, 2009, Harold O. Miller & Sons accepted the County's offer for the right-of-way easement and agreed to the following:

Property Owner: Harold O. Miller & Sons
Amount of Compensation: \$35,000
Assessors Parcel Number: 018-062-002
Right-of-Way Easement Area: 0.47 acres

The amount of compensation has been determined to be within the range of just compensation by Cogdill & Giomi and County staff.

Approval of Purchase Agreement to Acquire Road Right-of-Way Easement for the Hatch Road Channelization Project, Parcel Owner Harold O. Miller & Sons, a California Limited Partnership, APN: 018-062-002

The amount of compensation has been determined to be within the range of just compensation by Cogdill & Giomi and County staff.

On December 12, 2006, the Board of Supervisors approved the Initial Study/Mitigated Negative Declaration for the Hatch Road Channelization Project.

The project is tentatively scheduled to start construction in June 2010 and be completed by August 2010.

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.

PS:jg
L:\ROADS\9423 - Hatch Rd (PFF Left Turn Channelization)\BOARD ITEMS\Miller\9423_Right of Way Acquisition Miller.doc

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 Hatch Road Channelization Project	
Period	JUL-09 to JUN-10	
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	9423	0	0	0.0	36,500.00				
2	1102	40310	63280	0	0	0	0.0		36,500.00			
3	1102	40310	46615	0	0	0	0.0	36,500.00				
4	1102	40310	46615	9423	0	0	0.0		36,500.00			
5							0					
6							.0					
7							.0					
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21							.0					
22							.0					
23							.0					
24							.0					
25							.0					
Totals								73,000.00	73,000.00			

Transfer Budget to Hatch Road Channelization Project

Requesting Department		CEO		Auditors Office Only	
Sharon Andrews					
Signature		Signature		Prepared By	Admin Approval (\$75K+)
9/29/09		10/11/09		9/20/09	
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	6401	64100	85850	0	0	0.0	36,500.00			
2	1102	40310	46615	9423	0	0.0		36,500.00		
3						0				
4						0				
5						0				
6						0				
7						0				
8						0				
9						0				
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21						0				
22						0				
23						0				
24						0				
25						0				
26						0				
27						0				
Totals								36,500.00	36,500.00	

Explanation: Transfer funds from RTIF to Hatch Road Channelization Project

Departments Outside Auditors' Office		Auditors Office Only	
SHARON ANDREWS			
Prepared by	Supervisor's Approval	Prepared By	Admin Approval (\$75K+)
9/29/09	9/29/09	9/30/09	9/30/09
Date	Date	Date	Date

Project: Hatch Rd/PFF-Left Turn
Channelization
Grantor: Harold O. Miller & Sons
APN: 018-062-002

AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Harold O. Miller & Sons, a California Limited Partnership (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 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 Chicago Title Company, 1473 East "G" Street, Building 1, Suite A, California 95361 at (209) 848-1315.

3. PURCHASE PRICE AND TITLE.

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

Permanent Easement (20,485 sq. ft. x\$0.69/sq.ft.)	\$14,135.00
Loss of trees on remainder property	\$20,000.00
Improvements (mailbox relocation/300sf asphalt paving)	\$ 1,150.00
Severance Damages	\$ N/A
Total (rounded)	\$35,000.00

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 easement rights to the Property 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 a CLTA owner's policy of title insurance ("Title Policy"). 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

*J. N. M.
9/31/09*

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 Grantor of any such claims prior to payment.

The Grantor acknowledges 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 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.

J. N. M.
9/31/09

IN WITNESS WHEREOF, the parties have executed this Agreement on OCT 03 2009
as follows:

COUNTY OF STANISLAUS

GRANTOR: HAROLD O. MILLER &
SONS, a California Limited Partnership

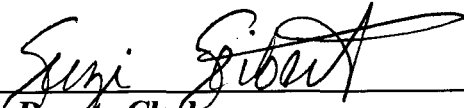


Jim DeMartini
Chairman of the Board of Supervisors

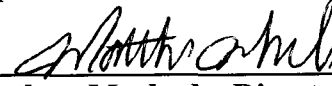
By: 

HAROLD O. MILLER, General Partner

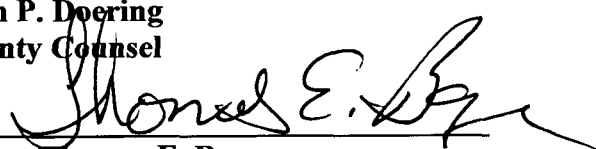
ATTEST:
Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By: 

Suzi Gibart
Deputy Clerk

APPROVED AS TO CONTENT:
Department of Public Works


Matthew Machado, Director

APPROVED AS TO FORM:
John P. Doering
County Counsel
By: 

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: Hatch Road
APN: 018-062-002

ROAD EASEMENT

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

Harold O. Miller & Sons, a California Limited Partnership,

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"

By Harold O. Miller
Harold O. Miller, General Partner

Dated: 8-31-09

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 Harold O. Miller & Sons 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 September 26, 2006 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: _____

EXHIBIT "A"

**Legal Description
(Hatch Road Right of Way)
A.P.N. 18-62-02 (Miller & Sons property)**

The South 10 feet of the south 43 feet of the following described property:

All that portion of the Southwest quarter of Section 6, Township 4 South, Range 10 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the Southwesterly corner of Section 6, Township 4 South, Range 10 East, Mount Diablo Base and Meridian; running thence North on the range line, 26 chains (1716 feet); thence South 87° East, 14.82 chains (978.12 feet); thence North 81 1/2° East, 14 Chains (924 feet); thence South 77 1/4° East, 2.60 chains (171.60 feet); thence South 26.75 chains (1765.50 feet) to section line, being South line of said Section 6; thence West on section line, 31.19 chains (2058.54 feet) to the point of beginning.

Excepting therefrom, the following described parcel:

Beginning at a point 33 feet North of the Southwest corner of said Section 6; thence East 10 feet; thence North on a line parallel to and 10 feet distant from the West line of said Section 6, a distance of 1335 feet; thence North 2°40' East, a distance of 381 feet to an intersection with the U.S. Meander line; thence North 87°30' West along said Meander line to the Meander Corner on the West line of said Section 6; thence South to the point of beginning.

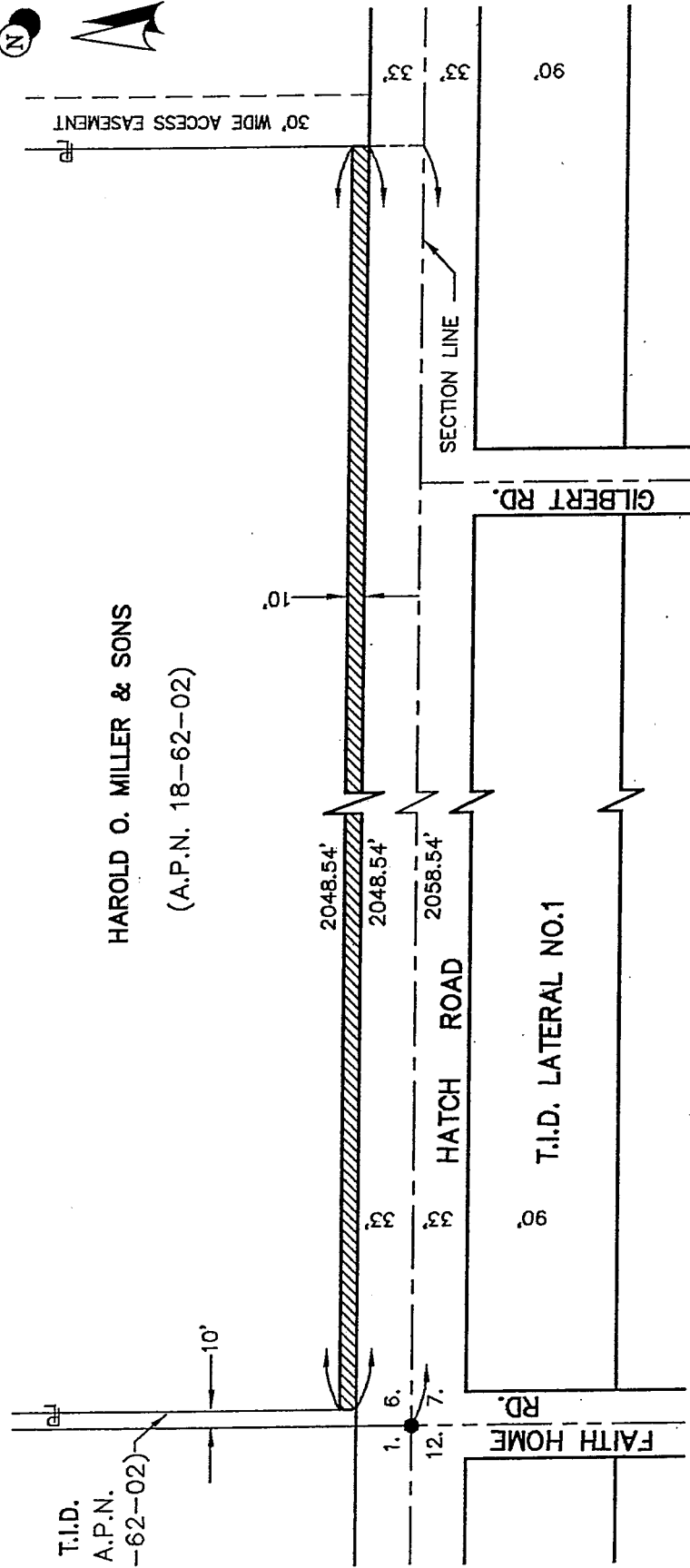
The north line of the south 10 feet being 43 feet north of and parallel with the centerline of Hatch Road said centerline also being the south line of said section 6.

Contains 20,485 square feet (0.47 acres), more or less.



HAROLD O. MILLER & SONS
(A.P.N. 18-62-02)

T.I.D.
A.P.N.
(18-62-02)



hatch@clinton.dwg

Stanislaus County
Dept. of Public Works

Por. Sec. 5, T.4 S., R.10 E., M.D.M.

Date: 10-25-2005 Scale: 1"=100'