

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

DEPT: Public Works

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE October 16, 2012

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 State Route 99/State Route 219 (Kiernan Avenue) Interchange Project, Parcel Owners Amarjit and Rupinder Dhaliwal, APN: 135-045-038

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement to acquire road right-of-way for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project, parcel owners Amarjit and Rupinder Dhaliwal, APN: 135-045-038.
2. Authorize the Chairman of the Board to execute the agreement.
3. Authorize the Director of Public Works to sign the Certificate of Acceptance and cause to record the Grant Deed on behalf of Stanislaus County as authorized by Board Resolution dated March 8, 2011 and Government Code 27281.

(Continued on Page 2)

FISCAL IMPACT:

The total estimated construction cost for the SR 99/SR 219 (Kiernan Avenue) Interchange project is approximately \$32,000,000. The \$17,400 for the purchase of this right-of-way is funded by the Regional Transportation Impact Fee Program (RTIF) and consists of \$15,400 for the purchase of the right-of-way, and \$2,000 for estimated escrow and title insurance fees, available in the current fiscal year Road Projects' budget.

BOARD ACTION AS FOLLOWS:

No. 2012-523

On motion of Supervisor Monteith, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini 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:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of Purchase Agreement to Acquire Road Right-of-Way for the State Route 99/State Route 219 (Kiernan Avenue) Interchange Project, Parcel Owners Amarjit and Rupinder Dhaliwal, APN: 135-045-038

STAFF RECOMMENDATIONS (continued):

4. Direct the Auditor-Controller to issue a warrant in the total amount of \$17,400 payable to First American Title Company, for the purchase amount of \$15,400 and \$2,000 for estimated escrow fees and title insurance.

DISCUSSION:

Stanislaus County, in cooperation with Caltrans District 10, proposes to reconstruct the SR 99/SR 219 (Kiernan Avenue) Interchange in the community of Salida. This project will help facilitate future growth, help alleviate traffic congestion, and will improve the operation of this interchange. Increasing the efficiency of the interchange will also encourage the free flow of goods and services for the region and the State. Two build alternatives and the no-build alternative were proposed and studied for this interchange. Alternative #1 was the preferred alternative and has been estimated to cost approximately \$46 million in total, for environmental, design, right-of-way acquisitions, utility relocations, and construction. The environmental, design, right-of-way phase, and utility relocations are funded by the Stanislaus County Public Facilities Fees and environmental mitigation fees. The SR 99 Bond Savings funds (\$37 million) allocated on June 27, 2012, will cover 100% the construction phase of the project.

The proposed interchange improvements include reconstruction of the existing interchange to provide improved operations for turning movements to and from State Route (SR) 99, as well as associated local road improvements at adjacent intersections.

The interchange is located in the north part of Stanislaus County and on the northern edge of the City of Modesto, providing access to commercial and residential properties in the community of Salida.

Stanislaus County Public Works has completed the planning, environmental, and design phases of the project, which were funded with contributions from developers in conjunction with the Salida Community Plan and the voluntary regional transportation contribution received from Kaiser Permanente.

To accomplish the SR 99/SR 219 (Kiernan Avenue) Interchange project, the County will need to acquire a sliver of the Amarjit and Rupinder Dhaliwal parcel along the westbound lanes of SR 219 (Kiernan Avenue), near the SR 99 northbound on-ramp. The property owner has agreed to accept the following compensation, which also includes compensation for the temporary construction easement and public utility easement:

Property Owner:	Amarjit and Rupinder Dhaliwal
Amount of Compensation:	\$15,400
Assessor's Parcel Number:	135-045-038
Right-of-Way Acquisition Area:	51 +/- SF
Temporary Construction Easement:	2,307 +/- SF
Public Utility Easement:	287 +/- SF

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The amount of compensation has been determined to be within the range of just compensation by an independent appraiser hired by the County.

At the completion of the construction phase of the project, the acquired right-of-way will be dedicated over to the State for the operation and maintenance of the improved facility.

POLICY ISSUES:

The SR 99/SR 219 (Kiernan Avenue) Interchange project supports the Board's priorities of providing A Safe Community, A Healthy Community and A Well-Planned Infrastructure System by reducing traffic congestion on the County road system.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: (209) 525-4130.

L:\ROADS\9207 - Hwy 99 @ Kiernan Interchange\PS&E\Right of Way\Dhaliwal\Board Report - Right of Way - Final.pdf

ATTACHMENTS AVAILABLE
FROM YOUR CLERK

District	County	Route	P.M.	E. A.	Caltrans Parcel No.	Federal Reference No.	Name	APN
10	STAN	Kiernan Ave. SR219	0.0/0.3	10-OL3309 BRI 10118	16520-1 16520-2		Amarjit S. Dhaliwal Rupinder K. Dhaliwal	135-045-038

Salida _____, California

July 12 _____, 2012

Amarjit S. Dhaliwal
Rupinder K. Dhaliwal
Grantors

COUNTY OF STANISLAUS RIGHT OF WAY CONTRACT

Document number 10-16520-1, in the form of a Grant Deed with attached Legal Description Granting to the County of Stanislaus (County) covering the property as delineated on the Appraisal Map, and particularly described in the above referenced Instrument and Plat Map labeled "Exhibit A" attached hereto and made a part hereof, Document number 16520-2 in the form of a Temporary Construction Easement (TCE) with attached Legal Description and Plat Map labeled "Exhibit B," along with Document number 16520-3 in the form of a Public Utility Easement (PUE) with attached Legal Description and Plat Map labeled "Exhibit C" have been executed and delivered to, Tom Ganyon, Senior Right of Way Agent, acting as Agent for the County of Stanislaus California, by Amarjit S. Dhaliwal and Rupinder K. Dhaliwal (Grantors).

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve County of all further obligations or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
 - (B) County requires said property described in Exhibits "A, B and C" for roadway and ancillary purposes, a public use for which the County has the authority to exercise the power of eminent domain. Grantors are compelled to sell, and County is compelled to acquire the property.
 - (C) 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 or construction of improvements thereon. Both Grantors and County recognize the expense, time, effort, and risk to both parties in determining the compensation for the property by eminent domain litigation. The compensation set forth herein for the property is in compromise and settlement, in lieu of such litigation.
2. County of Stanislaus shall:
 - A. Pay the undersigned Grantors the sum of **\$816.00** for the property or interests therein conveyed by the above referenced document number 10-16521-1, the sum of **\$4,592.00** for the property or interests therein conveyed o by the above referenced document number 10-16521-3, when title to said property vests in County free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded) and taxes, except:
 - a. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
 - b. Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
 - c. Easements or rights of way over said land for public or quasi-public utility or public street purposes, if any.

----- **No Obligation Other Than Those Set Forth Herein Will Be Recognized** -----

- B. Pay the undersigned Grantors the sum of **\$9,975.00** for the property or interests therein conveyed by the above referenced document number 10-16520-2 in the form of a Temporary Construction Easement.
 - C. Pay all escrow and recording fees for this transaction, and if title insurance in the amount of **\$5,400.00** is desired by County, the premium charged therefore. Said escrow and recording charges shall not, however, include documentary transfer tax. This transaction will be handled through an escrow with First American Title Company located at 1506 H Street, Modesto CA 95354, Escrow No. 5005-3918868.
 - D. Have the authority to deduct and pay from the amount shown on Clause 2(A) above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments which have become a lien at the close of escrow.
 - E. 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.
3. It is agreed and understood that County's valuation of the subject property located at 4617 Kiernan Avenue, situated within the limits of the Town of Salida, Stanislaus County, California further identified as APN 135-045-038 is based on a Market Approach to Value. The valuation including land and improvements is segregated as follows:

\$ 816.00	Fee Simple Land - 51± square feet (0.001± acre)
\$ 9,975.00	Temporary Construction Easement (TCE) - 2,307± square feet (0.05± acre)
<u>\$ 4,592.00</u>	Public Utility Easement (PUE) – 287± square feet (0.01± acre)
\$15,383.00	Total
\$15,400.00	Rounded

- 4. Any monies payable under this contract up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with terms and conditions of said trust deed(s) or mortgage(s), shall upon demand(s) be made payable to the mortgagee(s) or beneficiary(ies) entitled thereunder; said mortgagee(s) or beneficiary(ies) to furnish grantor with good and sufficient receipt showing said monies credited against indebtedness secured by said mortgage(s) or deed(s) of trust.
- 5. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by County, including the right to remove and dispose of improvements, shall commence on the date of the close of the escrow controlling this transaction or July 31, 2012 which ever event occurs first. It is further agreed and confirmed by the parties that the amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use, including all improvements on and to the property including those improvements described in the fair market value appraisal of the property.
- 6. Grantors warrant that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and the grantors agree to hold County harmless and reimburse County for any and all of its losses and expenses occasioned by reason of any lease of said property held by any Tenant of Grantors for a period exceeding one month. Grantors acknowledge that a quitclaim deed will be required from any lessee that has a lease term exceeding one month. Said quitclaim deeds are to be provided to Title Company's Escrow Agent by Grantors, prior to the close of escrow.
- 7. County agrees to indemnify and hold harmless the undersigned Grantors from any liability arising out of County's operations under this agreement. County further agrees to assume responsibility for any damages proximately caused by reason of County's operations under this agreement and County will, at its option, either repair or pay for such damage.
- 8. County agrees that Grantor's will have access to their remainder property during construction with said access maintained in such a way so that it does not impact or interfere with normal business operations. County will notify Grantor at least 30-days prior to start of construction.


-----**No Obligation Other Than Those Set Forth Herein Will Be Recognized**-----

9. Grantor's hereby represent and warrant 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. Grantors further represent and warrant that Grantor's have no knowledge of any disposal or release of hazardous substances, on, from, or under the Property which may have occurred prior to Grantor's taking title to the Property.
10. 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, County reserves the right to recover its clean-up costs from those who caused or contributed to the contamination.
11. It is further understood and agreed between the parties to this contract that any work required to restore and/or replace; existing property fencing, driveway approach (s) and or landscaping items removed or otherwise damaged by County's Roadway Contractor during the course of the project will be the responsibility of County, and will be performed under separate contract at County/Project expense.
12. Grantor understands and agrees that the compensation in the amount of \$15,400 offered in this Agreement is subject to and contingent upon approval of the Stanislaus County Board of Supervisors by adopting a Resolution authorizing the execution of the Agreement at their August 14, 2012 meeting. Should Grantor agree to sell to County, and County is unable to approve funding of the purchase of this property by December 31, 2012, this Agreement becomes null and void, and County shall have no further obligation to Grantor. If Grantor agrees to sell, and County approves funding by said date, all terms and condition of this Agreement apply. 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.
13. Escrow Agent shall deliver payment under this contract to Grantors when title to the property vests in County's name, free and clear of all liens, encumbrances, assessments, easements, leases (recorded and/or unrecorded), and taxes unless otherwise indicated in Escrow Instructions as executed by the parties and submitted to Escrow Agent.
14. It is understood and agreed by and between the parties hereto that this Agreement inures to the benefit of, and is binding on, the parties, their respective heirs, personal representatives, successors, and or assignees.

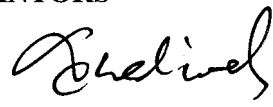

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IN WITNESS WHEREOF, the parties have executed this Agreement on 9-4-12, as follows:

COUNTY OF STANISLAUS

By: 
William O'Brien
Chairman of the Board of Supervisors

GRANTORS

By: 
Amarjit S. Dhaliwal
By: 
Rupinder K. Dhaliwal


ATTEST:

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

By: 
Deputy Clerk

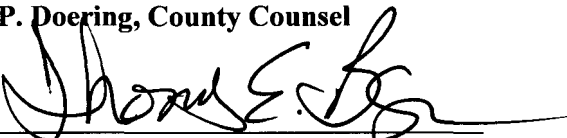
APPROVED AS TO CONTENT:

Department of Public Works

By: 
Matt Machado
Public Works Director

APPROVED AS TO FORM:

John P. Doering, County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

-----No Obligation Other Than Those Set Forth Herein Will Be Recognized-----

RECORDING REQUESTED BY

Fidelity National Title Co

WHEN RECORDED RETURN TO

FIRST AMERICAN TITLE
1506 H STREET X
MODESTO, CA 95354

Attn County Clerk Recorder

No Fee Document - per Government code 6103
No Document Transfer Tax - Per R&T Code 11922



Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2012-0107560-00

Acct 503-First American Title Co
Monday, DEC 03, 2012 08 00 00
Ttl Pd \$0.00 Rcpt # 0003302274
OAA/R3/1-6

Space above this line for Recorder's Use

GRANT DEED

Caltrans District	County	Route	Post Mile	Assessors' Parcel Number
10	Stanislaus	Kiernan Avenue SR 219	0 0/0 3	135-045-038

APN 135-045-038


Amarjit S and Rupinder K Dhaliwal (Grantors) do hereby GRANT to the County of Stanislaus, a California municipal corporation of the State of California (Grantee) all that real property in the City of Salida County of Stanislaus, State of California, described as

SEE EXHIBIT "A", LEGAL DESCRIPTION, AND EXHIBIT "^B~~A~~", PLAT ACCOMPANYING LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF.

The grantors further understand that the present intention of the grantee is to construct and maintain public roadway improvements and appurtenances on the lands hereby conveyed in fee and the grantors, for themselves, their successors and assigns, hereby waive any claims for any and all damages to grantor's remaining property (if applicable) contiguous to the property hereby conveyed by reason of the location, construction, landscaping or maintenance of said roadway

Date Sept. 4, 2012, 2012

By 
AMARJIT S DHALIWAL
Grantor

By 
RUPINDER K DHALIWAL
Grantor

WA

State of California
County of Stanislaus

On Sept 4, 2012 before me, Teddi Lowry, Notary Public, personally appeared Amarjits Dhallwal +
Rupinder K Dhallwal, 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

Teddi Lowry
Signature



(Seal)

Exhibit A Legal Description

Being a portion of the lands described in the deed to Dhaliwal filed on April 15, 2003 at Document No. 2003-0058792 situate in the County of Stanislaus and State of California and also being a portion of the Parcel 3 as said Parcel is shown on that certain Parcel Map filed for Record on August 12, 1974 in Book 19 of Parcel Maps, at Page 74 Official Records of said County in the northwest quarter of Section 3, Township 3 South, Range 8 East, M D B & M more particularly described as follows

Commencing at a 2" iron pipe with brass cap, in monument well, marking the North Quarter corner of said Section 3, from which the Northwest corner of said Section 3 bears South 89°33'45" West, a distance of 2,641 34 feet and is marked by a 2" iron pipe with Stanislaus County brass disk, in monument well, as both corners are shown on the Record of Survey filed in Book 27 of Surveys at Page 50, Stanislaus County Records,

Thence South 89°33'45" West, along the North line of the Northwest quarter of said Section 3, a distance of 725 03 feet to a point,

Thence leaving said line South 75°59'34" East a distance of 245 60 feet,

Thence South 21°03'29" East a distance of 53 70 feet to a point on the westerly line of lands granted to the State of California in the deed filed for record on August 1, 2007 at Document No 2007-0099280,

Thence along said westerly line South 47°01'07" West a distance of 336 18 feet to a point on the northerly line of Parcel 3 and the Point of Beginning

Thence continuing along said westerly line of the lands of the State of California as described the Final Order of Condemnation filed for record on July 22, 2009 at Document No 2009-0072621, South 47°01'07" West a distance of 68 64 feet,

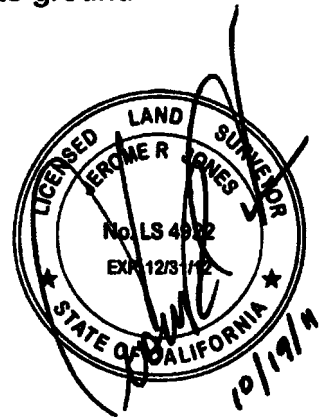
Thence leaving said westerly line, North 45°44'44" East a distance of 67 40 feet to the northerly line of said Parcel 3;

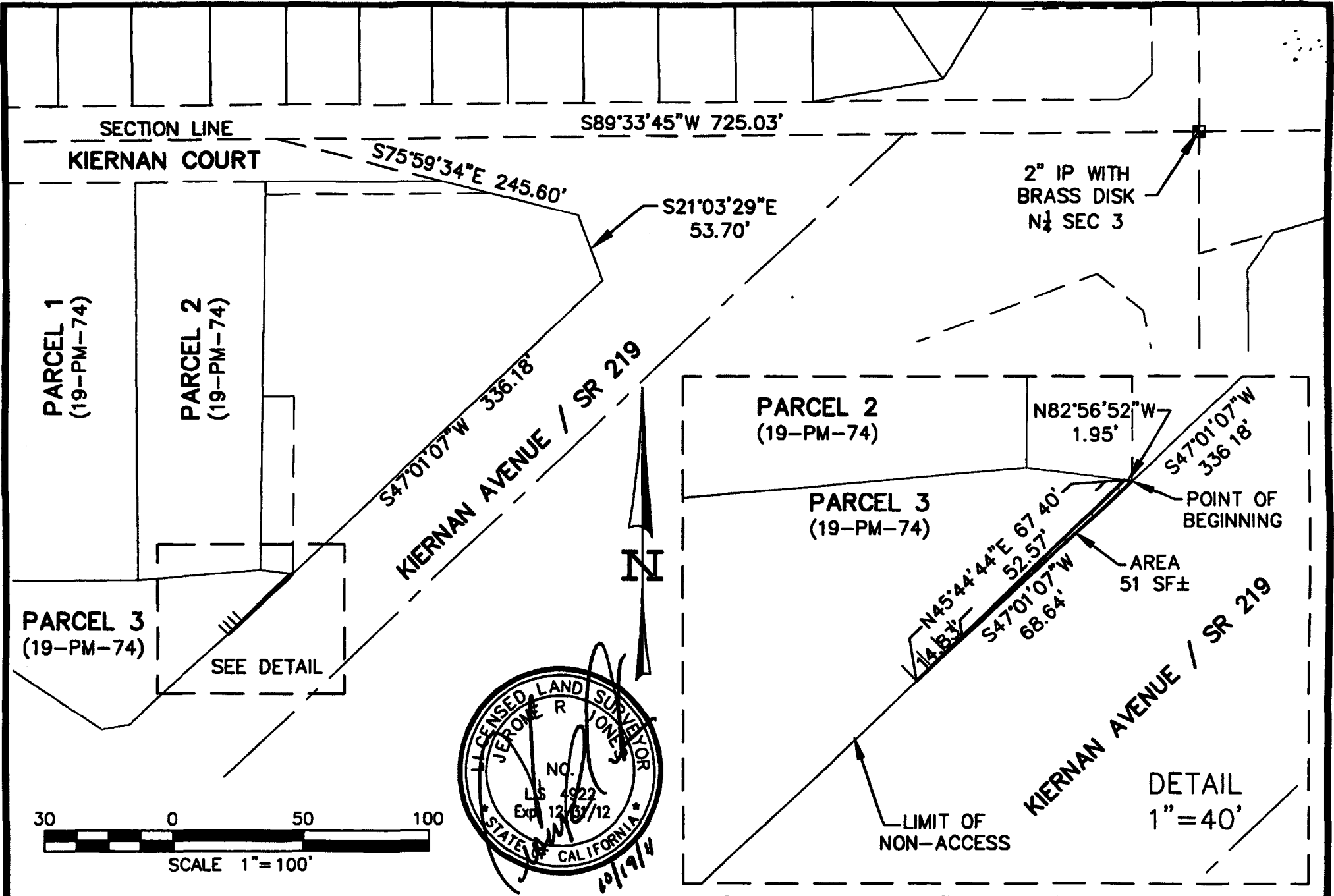
Thence along said northerly line South 82°56'52" East a distance of 1 95 feet to a point on the westerly line of the lands of the State of California and the Point of Beginning

Said Parcel contains 51± square feet of land, more or less

This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights including access rights, appurtenant to grantor's remaining property, in and to said freeway over and across the southwest 14 83 feet of that course above having a length of 67 40 feet

All bearings and distances used in this description are on the California Coordinate System of 1983, Zone 3 Multiply distances by 1.00006860 to convert to ground distances





NOLTE
BEYOND ENGINEERING

DATE _____ TIME _____
 NETWORK _____
 PATH _____
 DWG NAME _____
 PLOT VIEW _____
 DESIGNER _____ MGR _____

"EXHIBIT B"- PARCEL 16520-1
RIGHT OF WAY ACQUISITION
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

SHEET NUMBER

1

OF 1 SHEETS

JOB NUMBER
RARR110M

2405 HITCHCOCK PARK DRIVE, 4TH FLOOR, SACRAMENTO, CA 95833
 916.441.1071 916.441.1072 FAX WWW.NOLTE.COM


PREPARED FOR. COUNTY OF STANISLAUS

DATE SUBMITTED: 09/2011

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed to the County of Stanislaus, by the within instrument, the provisions of which are incorporated by this reference as though fully set forth in this Certification, is hereby accepted by the undersigned officer(s) on behalf of the County, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: 10/17/12

By: 
Matt Machado
Director of Public Works
Stanislaus County

Amarjit S. & Rupinder K. Dhaliwal
APN 135-045-038
Caltrans No 16520