

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

DEPT: Public Works *MM*

BOARD AGENDA # \*C-2

Urgent  Routine

AGENDA DATE October 15, 2013

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of a Purchase Agreement to Acquire Road Right of Way for the Claribel Road Widening Project, Grantor: Irrevocable Bavaro Family Trust April 7, 1992, and Revocable Bavaro Survivors Trust April 7, 1992; Assessor's Parcel Number 082-006-004 (Portion)

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement for the acquisition of the parcel identified as: Assessor's Parcel Number (APN) 082-006-004 (Portion)
2. Authorize the Chairman of the Board to execute the agreement.
3. Authorize the Director of Public Works to sign and cause to record the Grant Deed on behalf of Stanislaus County as authorized by Board Resolution No. 2011-141 executed on March 8, 2011

FISCAL IMPACT:

The total estimated cost for the Claribel Road Widening project is \$15,400,000. The \$267,508 for the purchase of this Right of Way (ROW) is funded 100% from the Public Facilities Fee-Regional Transportation Impact Fee program and consists of \$265,258 for the purchase of a portion of real property on the parcel and \$2,250 for estimated title insurance and escrow fees. Funding is available in the Fiscal Year 2013-2014 Public Works Road Projects Budget.

BOARD ACTION AS FOLLOWS:

No. 2013-508

On motion of Supervisor Withrow, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

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 a Purchase Agreement to Acquire Road Right of Way for the Claribel Road Widening Project, Grantor: Irrevocable Bavaro Family Trust April 7, 1992, and Revocable Bavaro Survivors Trust April 7, 1992; Assessor's Parcel Number 082-006-004 (Portion)

## **DISCUSSION:**

The Claribel Road Widening project proposes to widen Claribel Road from two lanes to four lanes from McHenry Avenue to Oakdale Road, construct a Class I bikeway, replace the Modesto Irrigation District Lateral No. 6 bridge with concrete pipe culverts, and signalize the intersection of Coffee Road at Claribel Road.

On May 22, 2012, the Board of Supervisors adopted the Mitigated Negative Declaration for the project. County Public Works staff is currently in the process of acquiring the ROW necessary to complete the project.

The County needs to acquire ROW from the property owner to accomplish this project. The property is located on the southern side of Claribel Road, on the southwest corner of the intersection of Coffee Road and Claribel Road, extending approximately 1,950 feet west. The property owner has agreed to accept the following as outlined in the Agreement for Acquisition of Property in Attachment 1:

- Property Owner: Pauline Bavaro, Trustee of the Irrevocable Bavaro Family Trust u/a/d April 7, 1992, as to an undivided one-half interest, and Pauline Bavaro, Trustee of the Revocable Bavaro Survivors Trust u/a/d April 7, 1992, as to an undivided one-half interest
- Amount of Compensation: \$265,258
- APN: 082-006-004, ROW: 1.88 Acres

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

ROW acquisition is required from seventeen parcels in order to construct the project. ROW is still being negotiated with the owners of four parcels.

## **POLICY ISSUES:**

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community, and A Well-Planned Infrastructure System by improving traffic safety and flow in this area of Stanislaus County.

## **STAFFING IMPACT:**

There is no staffing impact associated with this item.

Approval of a Purchase Agreement to Acquire Road Right of Way for the Claribel Road Widening Project, Grantor: Irrevocable Bavaro Family Trust April 7, 1992, and Revocable Bavaro Survivors Trust April 7, 1992; Assessor's Parcel Number 082-006-004 (Portion)

**CONTACT PERSON:**

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

AV:sn

L:\ROADS\9732 - Claribel Road Widening Project\Design\BOS\Bavaro - 082-006-004\10.15.13\_BOS Item\_9732\_Claribel Rd\_Bavaro ROW PA\_for AVerburg.doc

**"ATTACHMENT 1"**

Project: Claribel Road Widening  
Grantor: Irrevocable Bavaro Family Trust  
4/7/1992 and Revocable Bavaro  
Survivors Trust 4/7/1992  
APN: 082-006-004 (portion)

## AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the **County of Stanislaus** (County) and **Pauline Bavaro, Trustee of the Irrevocable Bavaro Family Trust u/a/d April 7, 1992, as to an undivided one-half (1/2) interest, and Pauline Bavaro, Trustee of the Revocable Bavaro Survivors Trust u/a/d April 7, 1992, as to an undivided one-half (1/2) interest** (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 Exhibit A, attached hereto which is incorporated herein by this reference (the "Property"), and improvements.

### 2. DELIVERY OF DOCUMENTS/ESCROW.

All documents necessary for the transfer of 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 First American Title Company, 1506 H Street, Modesto, CA 95354, at (209) 529-5000.

### 3. PURCHASE PRICE AND TITLE.

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

Land (Fee Simple: 1.88+/- Acres X \$40,000/Acre)	<u>\$ 75,200.00</u>
Temporary Construction Easement	<u>\$ N/A</u>
Cost to Cure (removal of 140 trees, irrigation, landscaping, access Road, sound wall crop losses)	<u>\$190,058.00</u>
Total	<u>\$265,258.00</u>

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

**Agreement for Purchase**

**Pauline Bavaro, Trustee**

**Page 2 of 4**

Good, marketable and insurable fee simple title to the Property shall be evidenced by a CLTA owner's policy of title insurance ("Title Policy"). The Title Policy shall be in the amount of \$75,200.00, showing 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, transfer taxes and recording fees incurred in this transaction.

The Grantor agrees that if claims are submitted by lien-holders against Grantor and not against the County or arising out of the County's work on the Property prior to transfer of title, 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 or construction of improvements thereon. Notwithstanding the foregoing, the County agrees to indemnify, defend and hold harmless Grantor and the Grantor's trustees, families, beneficiaries, employees, agents, successors and assigns from and against any cost, claim, liability, damage or injury arising from the Property or ownership thereof after title to the Property is transferred to the County, except to the extent such cost, claim, liability, damage or injury is due to the gross negligence or intentional act of any of the indemnified parties listed above.

**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. LEASE WARRANTY**

Grantor represents and warrants to County that there are no oral or written leases on all or any portion of property exceeding a period of one month, and Grantor further agrees 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 Grantor for a period exceeding one month, except: Bavaro Ranches, Inc.

5. **POSSESSION.**

Grantor agrees that immediately upon approval of this Agreement by County, the County may enter upon and take possession of the Property.

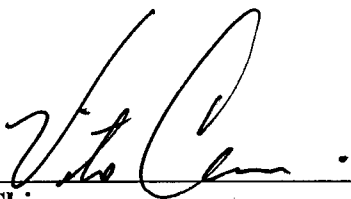
6. **HAZARDOUS WASTE MATERIAL.**

The Grantor hereby represents and warrants, to the best of Grantor's knowledge, 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, except for standard herbicides, pesticides and fertilizers commonly used for farming in the area. 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 (other than standard herbicides, pesticides and fertilizers commonly used for farming in the area).

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. Other than Grantor's representations expressly included in this Agreement, the County acknowledges and agrees that it is purchasing the Property in its "as is" and "with all defects" condition, and Grantor specifically disclaims any representations or warranties about the Property's marketability or fitness for the County's intended purposes.

IN WITNESS WHEREOF, the parties have executed this Agreement on October 15, 2013 as follows:

**COUNTY OF STANISLAUS**



**Vito Chiesa**  
**Chairman of the Board of Supervisors**

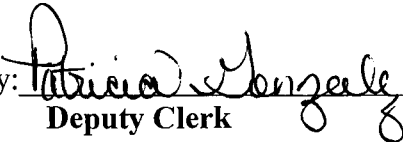
**GRANTOR:**

**Pauline Bavaro, Trustee of the**  
**Irrevocable Bavaro Family Trust u/a/d**  
**April 7, 1992, as to an undivided one-half**  
**(1/2) interest**

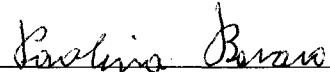
By:   
**Pauline Bavaro, Trustee**

ATTEST:

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

By:   
Deputy Clerk

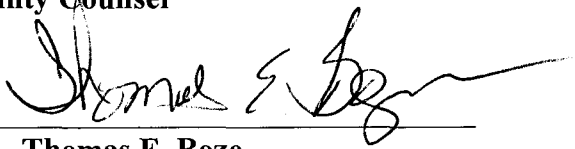
**Pauline Bavaro, Trustee of the Revocable  
Bavasro Survivors Trust u/a/d April 7,  
1992, as to an undivided one-half (1/2)  
interest**

BY:   
Pauline Bavaro, Trustee

APPROVED AS TO CONTENT:  
Department of Public Works

By:   
Matt Machado, Director

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

By:   
Thomas E. Boze  
Deputy County Counsel



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**CLARIBEL ROAD & COFFEE ROAD RIGHT OF WAY WIDENING**  
**A.P.N. 082-006-004**

All that certain piece or parcel of land situate in the County of Stanislaus, State of California, lying within the Northeast quarter of Section 4, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:


ALL that portion of that certain parcel of land conveyed to Pauline Bavaro, Trustee of the Irrevocable Bavaro Family Trust under instrument dated April 7, 1992, as to an undivided one-half (1/2) interest, and Pauline Bavaro, Trustee of the Revocable Bavaro Survivors Trust under instrument dated April 7, 1992, as to an undivided one-half (1/2) interest by Grant Deed filed in the Office of the Recorder of the County of Stanislaus on August 19, 1993 as Document No. 93-0085042, being more particularly described as follows:

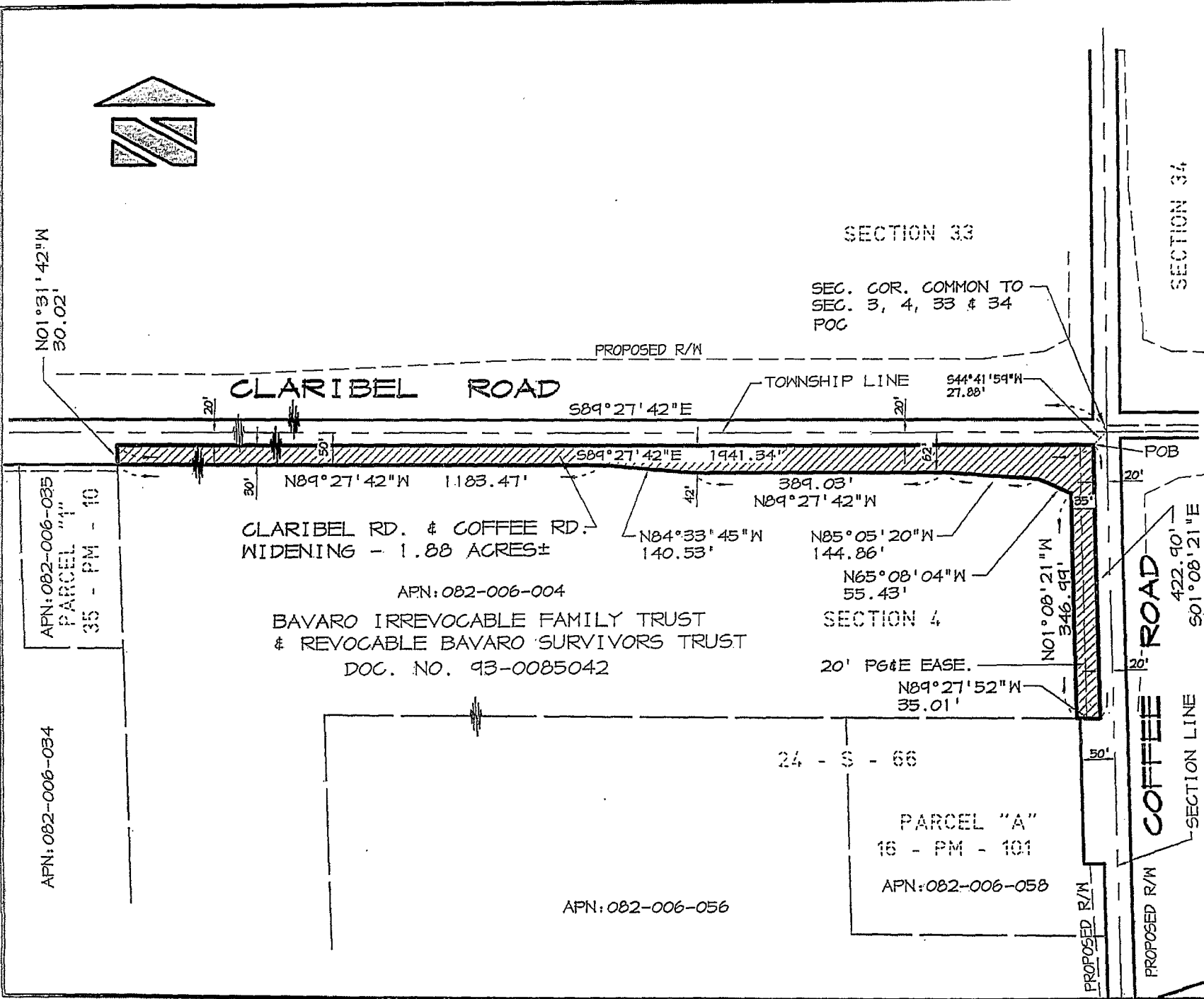
COMMENCING at the Northeast corner of said Section 4; thence South  $44^{\circ}41'59''$  West, a distance of 27.88 feet to the point of intersection of the South right of way line of a 40.00 foot wide County Road known as Claribel Road and the West right of way line of a 40.00 foot wide County Road known as Coffee Road and being the TRUE POINT OF BEGINNING this description: thence South  $01^{\circ}08'21''$  East along last said West right of way line, a distance of 422.90 feet to an angle point in said right of way line also being a point on the South line of said Bavaro parcel; thence North  $89^{\circ}27'52''$  West along the right of way line of Coffee Road and the South line of said Bavaro parcel, a distance of 35.01 feet to a point which lies 55.00 feet perpendicular to and West of the East line of said Northeast quarter of Section 4; thence North  $01^{\circ}08'21''$  West, 55.00 feet West of and parallel with last said East line of the Northeast quarter, a distance of 346.99 feet to an angle point; thence North  $65^{\circ}08'04''$  West, a distance of 55.43 feet to an angle point: thence North  $85^{\circ}05'20''$  West, a distance of 144.86 feet to a point which lies 62.00 feet perpendicular to and South of the North line of the Northeast quarter of said Section 4; thence North  $89^{\circ}27'42''$  West, 62.00 feet South of and parallel with last said North line of the Northeast quarter, a distance of 389.03 feet; thence North  $84^{\circ}33'45''$  West, a distance of 140.53 feet to a point which lies 50.00 feet perpendicular to and South of the North line of said Northeast quarter of Section 4; thence North  $89^{\circ}27'42''$  West, 50.00 feet South of and parallel with last said North line of the Northeast quarter, a distance of 1183.47 feet to a point on the West line of said Bavaro parcel and being an angle point in the South right of way line of Claribel Road; thence North  $01^{\circ}31'42''$  West along last said line, a distance of 30.02 feet to an angle point in said Claribel Road and being a point which lies 20.00 feet perpendicular to and South of the North line of the Northeast quarter of said Section 4; thence South  $89^{\circ}27'42''$  East along last said South right of way line and 20.00 feet South of and parallel with last said North line of the Northeast quarter, a distance of 1941.34 feet to the point of beginning of this description.

CONTAINING 1.88 Acres more or less.

SUBJECT to all easements and/or rights of way of record.



  
Dave Skidmore, P.L.S. 7126  
11/15/12



$N01^{\circ}31'42''W$   
30.02'

SECTION 33

SEC. COR. COMMON TO  
SEC. 3, 4, 33 & 34  
POC

CLARIBEL ROAD

TOWNSHIP LINE

$S44^{\circ}41'59''W$   
27.88'

PROPOSED R/W

$S89^{\circ}27'42''E$

$N89^{\circ}27'42''W$  389.03'

CLARIBEL RD. & COFFEE RD.  
WIDENING - 1.88 ACRES±

$N84^{\circ}33'45''W$   
140.53'

$N85^{\circ}05'20''W$   
144.86'

SECTION 4

20' PG&E EASE.

$N89^{\circ}27'52''W$   
35.01'

$N01^{\circ}08'21''W$   
346.99'

COFFEE ROAD

$S01^{\circ}08'21''E$   
422.90'

SECTION LINE

SECTION 34

APN: 082-006-035  
PARCEL "1"  
35 - PM - 10

APN: 082-006-034

APN: 082-006-004  
BAVARO IRREVOCABLE FAMILY TRUST  
& REVOCABLE BAVARO SURVIVORS TRUST  
DOC. NO. 93-0085042

APN: 082-006-056

PARCEL "A"  
16 - PM - 101  
APN: 082-006-058



ASSOCIATED  
ENGINEERING  
GROUP

4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356  
PHONE: (209) 545-3390 FAX: (209) 545-3875 WWW.ASSOCENG.COM

EXHIBIT "B"

APN: 082-006-004

DRAWN: DLS
DATE: 10/18/12
SCALE: 1"=200'
JOB #: T84-10
DWG: 1d_plats

NO FEE  
RECORDING REQUESTED BY:  
BOARD OF SUPERVISORS

RETURN TO:  
STANISLAUS COUNTY  
DEPARTMENT OF PUBLIC WORKS  
1716 MORGAN ROAD  
MODESTO, CA 95358

WE HEREBY CERTIFY THIS TO BE A TRUE  
AND CORRECT COPY OF THE ORIGINAL.

RECORDED ON 10-30-13

INSTRUMENT NO. 2013-0090560  
FIRST AMERICAN TITLE INSURANCE CO.

BY \_\_\_\_\_

Road Name: CLARIBEL ROAD

APN: 082-006-004 (portion)

## GRANT DEED

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

**Pauline Bavaro, Trustee of the Irrevocable Bavaro Family Trust u/a/d April 7, 1992, and Pauline Bavaro, Trustee of the Revocable Bavaro Survivors Trust u/a/d April 7, 1992**

does hereby grant to the COUNTY OF STANISLAUS, a political subdivision of the State of California all that real property in the County of Stanislaus, State of California described as:

SEE EXHIBIT "A" and "B"

(sign) Pauline Bavaro

(print) Pauline Bavaro

Dated: 8.26.13

APPROVED as to description: LSF

Dated: 8/28/2013

### 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 Pauline Bavaro, Trustee of the Irrevocable Bavaro Family Trust u/a/d April 7, 1992, and Pauline Bavaro, Trustee of the Revocable Bavaro Survivors Trust u/a/d April 7, 1992 to County of Stanislaus a political subdivision of the State of California, 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 March 8, 2011 in accordance with the provisions of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

**Matt Machado, Director of Public Works**  
of Stanislaus County, State of California

By Matt Machado

Dated: 8/28/13

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

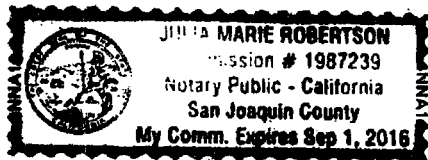
State of California

County of San Joaquin

On 8-26-13 before me, Julia Marie Robertson, Notary Public

personally appeared Paulina Bauvato

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: Julia Marie Robertson

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Grant Deed

Document Date: Number of Pages:

Signer(s) Other Than Named Above: n/a

Capacity(ies) Claimed by Signer(s)

Signer's Name: Signer's Name:

- Corporate Officer - Title(s):
Individual
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

Signer Is Representing: Herself

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**CLARIBEL ROAD & COFFEE ROAD RIGHT OF WAY WIDENING**  
**A.P.N. 082-006-004**

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CONTAINING 1.88 Acres more or less.

SUBJECT to all easements and/or rights of way of record.



  
Dave Skidmore, P.L.S. 7126  
11/15/12



N01°31'42"W  
30.02'

APN: 082-006-035  
PARCEL "A"  
35 - PM - 10

APN: 082-006-034

CLARIBEL ROAD

SECTION 33

SEC. COR. COMMON TO  
SEC. 3, 4, 33 & 34  
POC

PROPOSED R/W

TOWNSHIP LINE

S44°41'59"W  
27.88'

S89°27'42"E

S89°27'42"E

1941.34'

389.03'  
N89°27'42"W

CLARIBEL RD. & COFFEE RD.  
WIDENING - 1.88 ACRES±

APN: 082-006-004

BAYARO IRREVOCABLE FAMILY TRUST  
& REVOCABLE BAYARO SURVIVORS TRUST  
DOC. NO. 93-0085042

N84°33'45"W  
140.53'

N85°05'20"W  
144.86'

N65°08'04"W  
55.43'

SECTION 4

20' P&E EASE.

N89°27'52"W  
35.01'

N01°08'21"W  
346.49'

422.90'  
S01°08'21"E

COFFEE ROAD

SECTION LINE

SECTION 34

24 - S - 66

PARCEL "A"  
16 - PM - 101

APN: 082-006-058

APN: 082-006-056

ASSOCIATED  
ENGINEERING  
GROUP



4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356  
PHONE: (209) 545-3390 FAX: (209) 545-3875 www.aasoceng.com

EXHIBIT "B"

APN: 082-006-004

DRAWN: DLS

DATE: 10/18/12

SCALE: 1" = 200'

JOB #: T84-10

DWG: 1d\_plats