

COUNTY OF TULARE
Department of Public Works
5961 So. Mooney Boulevard
Visalia, CA 93277

File: 76113-3152
Owner: Avalos
APN: 126-240-003
Project: Road 108 Widening

AGREEMENT FOR PURCHASE OF REAL PROPERTY (Fee)

THIS AGREEMENT is made and entered into by and between the **COUNTY OF TULARE**, hereinafter referred to as "COUNTY", and **TOMAS G. AVALOS AND MICAELA G. AVALOS, HUSBAND AND WIFE AS JOINT TENANTS**, hereinafter referred to as "OWNER".

The parties hereby agree as follows:

1. DEMISE OF PROPERTY

OWNER agrees to sell to COUNTY and COUNTY agrees to purchase from OWNER pursuant to the terms and conditions set forth in this AGREEMENT, the real property interests identified herein and collectively referred to as PROPERTY, whereas said PROPERTY is required for the construction of the Road 108 Widening Project, hereinafter referred to as "PROJECT", and such PROPERTY is further described and identified in Exhibits "A" and shown in Exhibits "B", which are attached hereto and made a part hereof.

2. PURCHASE PRICE AND ESCROW

COUNTY shall pay OWNER the sum of Two Hundred Seventy-Five Thousand Dollars (\$ 275,000), the "Purchase Price", for the PROPERTY, which the parties agree includes all improvements and severance damages. The Escrow Agent shall deliver the Purchase Price to OWNER when title to the PROPERTY vests in COUNTY free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases (recorded and/or unrecorded), and taxes unless otherwise indicated in the Escrow Instructions.

This transaction shall be handled through an escrow at Stewart Title of California, hereinafter "Escrow Agent", under Escrow Number 76113-3152, hereinafter "Escrow", located at 2439 W. Whitendale, Suite A, Visalia, Ca 93277.

3. DELIVERY OF DOCUMENTS/ESCROW

The Grant Deed and Escrow Instructions shall be executed and delivered by OWNER to COUNTY for the purpose of placing them into Escrow. COUNTY shall not be deemed to have accepted delivery of the PROPERTY until such time as the Grant Deed is recorded in the Official Records of County of Tulare, California. COUNTY shall pay all costs to close Escrow, including escrow fees, reconveyance fees, document preparation fees, delivery charges, and recording fees as may be incurred in this transaction.

4. PAYMENT OF MORTGAGE OR DEED OF TRUST.

Upon demand by a mortgagee under a mortgage, or a beneficiary under a deed of trust, recorded against the PROPERTY, made in writing to COUNTY prior to the close of Escrow, COUNTY may, through Escrow, make payable to the mortgagee or beneficiary entitled thereunder, an amount not to exceed the Purchase Price under this AGREEMENT.

If this section is made applicable by the demand above described, then the mortgagee or beneficiary shall, at the close of Escrow, furnish the OWNER with good and sufficient receipt showing the monies thus tendered through Escrow credited against the indebtedness secured by said mortgage or deed of trust.

5. POSSESSION

OWNER agrees and hereby grants to COUNTY and its authorized agents and contractors permission to enter upon the PROPERTY described herein for purposes of performing activities related to and incidental to the construction of the PROJECT, inclusive of the right to remove and dispose of any improvements, prior to the OWNER receiving the Purchase Price. Such possession and use of the PROPERTY by COUNTY may commence on the date of full execution of this agreement by all parties.

6. OWNER'S INDEMNIFICATION

OWNER covenants and agrees to indemnify and hold COUNTY harmless from any and all claims that third parties may make or assert with respect to the title to the PROPERTY and any improvements therein. The OWNER's obligation herein to indemnify COUNTY shall not exceed the Purchase Price.

7. LEASE WARRANTY

OWNER warrants there are no oral or written leases on any portion of the PROPERTY exceeding a period of one month, and OWNER 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 Land by any tenant of OWNER for a period exceeding one month.

8. COUNTY'S USE AND LIABILITY

COUNTY shall indemnify, defend, and hold harmless OWNER, its directors, officers, affiliates, agents, and employees from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees caused by COUNTY's activities allowed by this Agreement except and in proportion to the extent caused by an act or omission of OWNER or OWNER's agents, representatives, employees, consultants and/or contractors. The foregoing indemnity shall also be inapplicable to any adverse condition or defect on or affecting the PROPERTY not caused by COUNTY or its employees, agents, contractors, or subcontractors but discovered or impacted during their activities; provided, however, that COUNTY's indemnification obligations shall apply to the extent such adverse condition or defect is exacerbated by COUNTY's actions.

9. NOTICES

Any notice that either party may or is required to give the other shall be in writing, and shall be either personally delivered or sent by regular U.S. Mail, to the following address:

To County:

County of Tulare
Department of Public Works
Attention: Mr. Robert Newby
5961 So. Mooney Boulevard
Visalia, CA 93277

To Grantor:

Tomas & Micaela Avalos
10827 Avenue 272
Visalia, CA 93277

10. ATTORNEY'S FEES

In the event either party to this Agreement institutes legal action to interpret or enforce the terms of this agreement, or to obtain money damages, the prevailing party shall be entitled to recover from the other, in addition to costs and judgment as awarded by the court, its attorney's fees incurred in the matter. The prevailing party shall include without limitation a party who dismisses an action or proceeding for recovery hereunder in exchange for consideration substantially equal to the relief sought in the action or proceeding.

11. INDEMNITY AND HOLD HARMLESS CLAUSE RELATING TO HAZARDOUS SUBSTANCES

OWNER warrants that, to the best of OWNER's knowledge, the Property (including surface and subsurface soils, groundwater on and underneath the Property) is free of petroleum products, and other hazardous materials (including, without limitation, "hazardous substances," "hazardous materials," or "toxic substances" as defined by Section 311 of the Clean Water Act (33 U.S.C. section 1251, et seq.), Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.), and "Hazardous wastes and substances" as defined by Sections 25117 and 25316 of the California Health & Safety Code. COUNTY reserves the right, however, to require OWNER to remediate, and /or pay remediation costs relating to, hazardous substance which OWNER knew or should have known existed or were present at the Subject Property, and failed to disclose. OWNER agrees to indemnify and hold COUNTY harmless against any and all claims arising out of the existence of hazardous substances or hazardous wastes in the soil or groundwater.

12. SEVERABILITY

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being impaired.

13. GOVERNING LAW

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California.

14. PUBLIC PURPOSE

COUNTY requires the PROPERTY for the PROJECT, and COUNTY can seek to acquire the PROPERTY through the exercise of its power of eminent domain.

15. AUTHORITIES AND EXECUTION

This AGREEMENT, which is valid, only when executed by COUNTY, constitutes the complete understanding and agreement of the parties hereto and no oral representation shall in any manner vary the terms hereof or be binding.

16. ENTIRE AGREEMENT

The performance of this AGREEMENT constitutes the entire consideration for the conveyances from OWNER and shall relieve COUNTY of all further obligation or claim on this account, or on account of the location, grade or construction of the proposed public improvement and related facilities and/or structures.

No addition or modification of any term or provision shall be effective unless set forth in writing and signed by both OWNER and COUNTY.

This AGREEMENT shall bind the respective heirs, personal representatives, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as follows:

OWNER

Tomas G. Avalos
Tomas G. Avalos

Micaela G. Avalos
Micaela G. Avalos

Date 05/08/2009

Mailing Address:
10827 Avenue 272
Visalia, CA 93277
Telephone: 559-686-5181

Recommended by:

By: _____
Deryl L. Neal
Contract Right of Way Agent
(916) 978-4900

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to From:
County Counsel

By: U. L. IF 6-16-09
Deputy County Counsel 2009497

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

Date: _____

EXHIBIT "A"
LEGAL DESCRIPTION

The land referred to herein is situated in the State of California County of Tulare, and described as follows:

That portion of the following described property lying North and West of the Little Tulare Ditch, as said ditch existed February 25, 1958:

That portion of the Northwest quarter of the Northwest quarter of Section 13, Township 19 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the official plat thereof, described as follows:

Beginning 106.1 feet East of the Northwest corner of said Section 13 and running thence East on the section line 386.3 feet; thence South 820 feet; thence West 356.5 feet, and thence northwesterly to the point of beginning.

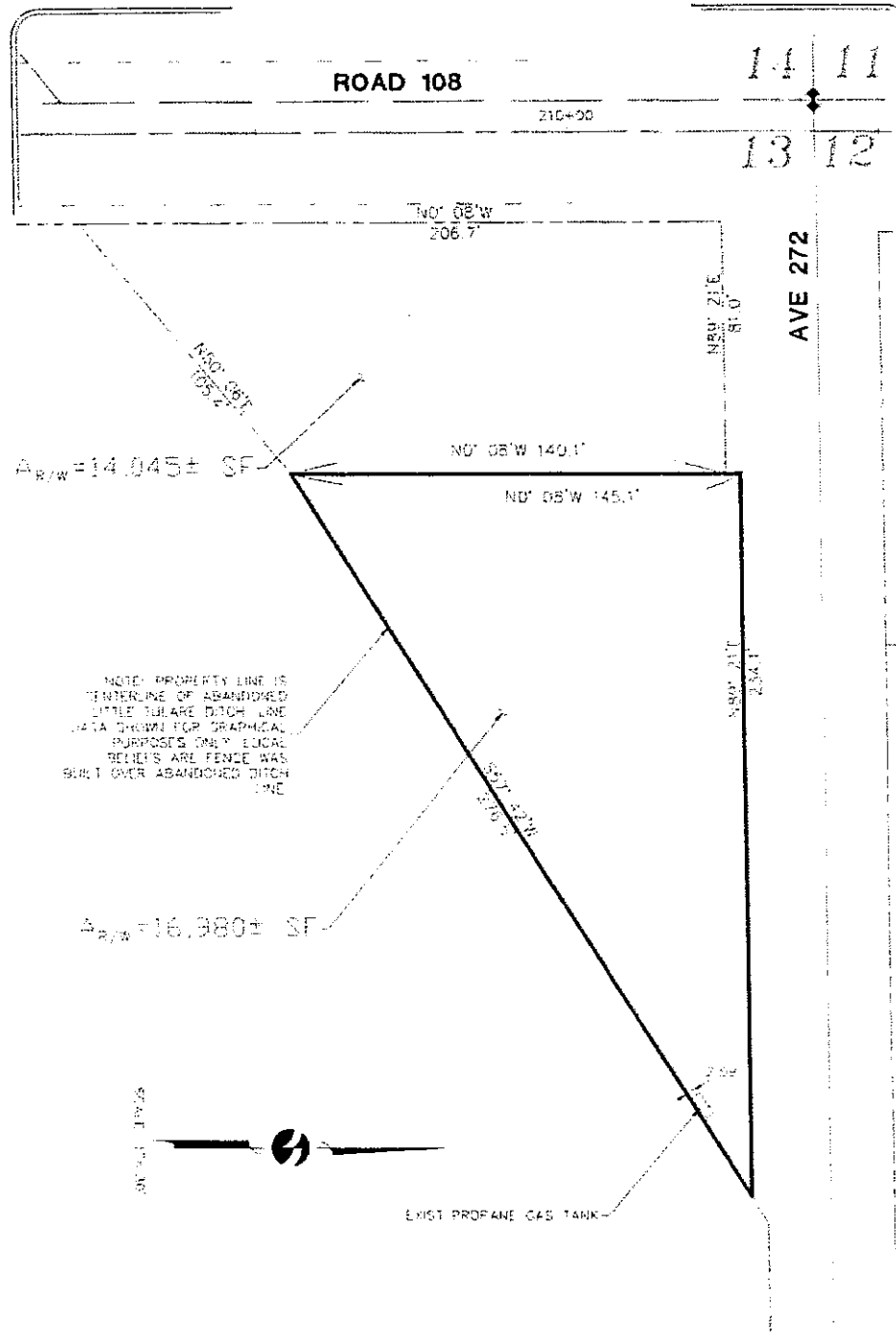
Excepting therefrom any portion lying within the West 120 feet of said Section 13.

Also excepting therefrom an undivided one-half interest in and to the one and one-half h.p. pump and well pressure tank located on said land, as granted to Jessie Bahruth, a widow, by deed recorded February 16, 1961 in Book 2245 Page 532 of Official Records.

EXHIBIT "B"

Appraisal Report - Avalos Property

30



RIGHT OF WAY ACQUISITION SPECIAL EXHIBIT

ROAD 108 WIDENING PROJECT

ENGINEER'S PLAT OF THE PROPERTY