

File:  
Owner: Evangeline Ltd  
APN: 149-210-003 & 004  
Project: Road 108 Widening

**AGREEMENT FOR PURCHASE  
OF REAL PROPERTY  
(Fee, TCE)**

THIS AGREEMENT is made and entered into by and between the **COUNTY OF TULARE**, hereinafter referred to as "COUNTY", and **EVANGELINE LIMITED PARTNERSHIP, A WASHINGTON LIMITED PARTNERSHIP**, 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 One Hundred Seventy-Nine Thousand Nine Hundred Dollars (\$179,900.00 rounded), the "Purchase Price", for the PROPERTY, which the parties agree includes:

- the sum of (\$23,297.00), fee title which includes all improvements;
- the sum of (\$272.00), Temporary Construction Easement;
- the sum of (\$156,318.00), 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 76105-3152, hereinafter "Escrow", located at 296 West Henderson, Porterville, CA 93257.

**3. DELIVERY OF DOCUMENTS/ESCROW**

The Grant Deed, Temporary Construction Easement 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. The Temporary Construction Easement, if used, may or may not be recorded, as determined by COUNTY. 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.

EXCEPT IRRIGATION WATER WELL AND PIPING

**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. OPTION TO EXTEND TEMPORARY CONSTRUCTION EASEMENT**

OWNER agrees that upon the expiration of the Temporary Construction Easement, hereinafter "TCE", if any, COUNTY has the option to extend the term of the TCE as to the entire TCE area, or any portion thereof, for up to 12 months. The rate for the extended use of the TCE area shall be \$7.56 per month for the entire TCE area outlined in Exhibit "B". COUNTY shall provide OWNER with the written notice of its intent to extend the term of the TCE at least thirty (30) days prior to the expiration of the TCE.

**8. RESTORATION OF TEMPORARY CONSTRUCTION EASEMENT AREA**

Upon completion of the project, COUNTY shall restore, replace or cause to be replaced said TCE are to a similar or like condition to that existing on the date of this Agreement. COUNTY agrees to coordinate its construction activities in a way that minimized interference with OWNER'S operations on OWNER'S real property outside the FEE and TCE area (Remainder).

**9. RECONSTRUCTION OF OWNER'S REMAINDER PROPERTY**

COUNTY and its authorized agents and contractors are hereby granted permission to enter onto OWNER's Remainder Property to reconstruct OWNER's driveways, walkways, lawn and landscaped areas ("Remainder") as necessary to conform same to the PROJECT, including re-grading and replanting any affected lawn and landscaped areas. The cost of such reconstruction of the Remainder shall be borne by COUNTY, at no expense to OWNER.

**10. LEASE WARRANTY**

OWNER warrants there are no oral or written leases on any portion of the PROPERTY exceeding a period of one month except for a lease to F & F Dairy dated September 1, 1998. OWNER further agrees to hold COUNTY harmless and reimburse COUNTY for any and all of its losses and expenses occasioned by reason of any other lease of said Land by any tenant of OWNER for a period exceeding one month.

**11. 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.

Furthermore, COUNTY agrees to assume responsibility for any damages to OWNER's Remainder Property caused by reason of COUNTY's use of the PROPERTY under this AGREEMENT, and will, at COUNTY's option, either repair or pay for such damage.

**12. 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:**  
Evangeline Limited Partnership  
Attn: Mark Guidry  
13002 Sunrise Drive NE  
Bainbridge Island, WA 98110

### 13. SPECIAL PROVISIONS

- A. It is understood and agreed that included in the amount payable under Clause 2 above is payment in full to compensate OWNER for miscellaneous landscaping.
- B. It is further understood and agreed that included in the amount payable under Clause 2 above is payment in full to compensate OWNER for the expense to replace the irrigation stand pipe and reconfigure the irrigation pipeline on the remainder property.
- C. It is further agreed that payment in Clause 2 includes the sum of One Hundred Twenty-Eight Thousand Five Hundred Ten Dollars (\$128,510.00), as the cost to OWNER for drilling of replacement water well on OWNER's remaining property, and that sum is based on the bid obtained from Myers Well Drilling Inc. It is also agreed that if the cost for drilling said replacement water well are more or less than the amount stated above, this agreement shall be revised to reflect the actual cost of said replacement well.

It is further agreed that it is the intent of the parties hereto that OWNER be reimbursed by the COUNTY for the drilling of a well that will produce a quantity of water equal to, or greater than, that produced by the existing well. The quantity of water produced by the old well and the new well shall be ascertained by standard orifice tests to be secured by OWNER and complete copies of the results of the tests supplied to the COUNTY.

If OWNER has one well drilled to a depth as deep as or deeper than the existing well, which fails to produce a satisfactory water supply, the COUNTY may, at its option, elect to use either or both of the following alternatives:

1. Amend this Contract to provide additional monies and authorization to OWNER to proceed with other attempts to produce a satisfactory water supply on OWNER's remaining property.
2. Withhold authorization to the OWNER to proceed with further attempts to produce water and enter into an Amended Contract for the purpose of reimbursing the OWNER for the loss or depreciation in market value to the remaining property served by the water supply resulting from the lack of, or decreased quantity of, water available. If the amount of such loss or depreciation in the market value cannot be determined by agreement between OWNER and COUNTY, the COUNTY will then bring appropriate legal proceedings for the purpose of ascertaining the same, and will pay the amount ascertained by such legal proceedings, together with the OWNER's legal costs in such proceedings.

It is further agreed that if the COUNTY is not notified in writing within thirty (30) days after the failure of said new well on OWNER's remaining property to produce a quantity of water equal to, or greater than, that produced by the existing well, the payment of said sum of \$128,510.00 shall be considered as full payment by COUNTY for the existing well and OWNER waives any and all future claim for compensation.

**14. 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.

**15. 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.

**16. GOVERNING LAW**

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

**17. 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.

**18. AUTHORITY 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.

**19. 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:  
EVANGELINE LIMITED PARTNERSHIP**

Mark R. Guidry  
By: Mark R. Guidry  
Its: General Partner

Date: 1 Dec 2009

**COUNTY OF TULARE**

By: \_\_\_\_\_  
Chairman, Board of Supervisors

Date: \_\_\_\_\_

Mailing Address:  
13002 Sunrise Drive NE  
Bainbridge Island, WA 98110  
Telephone: 206-780-9133

Recommended by:  
Deryl L. Neal  
By: Deryl L. Neal  
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 Form:  
County Counsel

By: Chet O. Smith 1-15-10  
Deputy County Counsel

EXHIBIT "A"-1

That portion of real property described in the Grant Deed to Evangeline Limited Partnership, a Washington Limited Partnership recorded February 1, 1999 as Document No. 1999-0007761, Tulare County Official Records, lying within the Northeast quarter of the Southeast quarter of Section 23, Township 19 South, Range 24 East, M.D.B.&M., in the County of Tulare, State of California, described as follows:

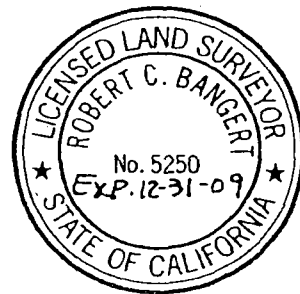
**BEGINNING** at the Northeast corner of the Northeast quarter of the Southeast quarter of said Section 23; thence South  $00^{\circ}13'49''$  East 1318.17 feet to the Southeast corner of said real property to Evangeline Limited Partnership; thence along the South line of said real property to Evangeline Limited Partnership, South  $89^{\circ}48'47''$  West 38.55 feet; thence leaving said South line, North  $01^{\circ}28'08''$  West 291.91 feet to the beginning of a curve to the right, having a radius of 18060.00 feet; thence 545.48 feet along said curve through a central angle of  $01^{\circ}43'50''$ ; thence North  $00^{\circ}15'42''$  East 480.91 feet to a point on the North line of said Northeast quarter of the Southeast quarter of Section 23; thence along said North line, North  $89^{\circ}48'37''$  East 44.29 feet to the **POINT OF BEGINNING**.

Said description contains 60,646 square feet (1.3922 acres) more or less.

[Fee Acquisition: 27,692 square feet (0.6357 acres) more or less.]

[Underlying Fee Area: 32,954 square feet (0.7565 acres) more or less.]

Robert C. Bangert 6-9-08  
Robert C. Bangert LS 5250 Date  
License Expiration Date: December 31, 2009





# EXHIBIT 'B'

PORTION OF SECTION 23, T. 19 S., R. 24 E., M.D.B.&M.

EVANGELINE LIMITED  
PARTNERSHIP DOC.

1999-0007761

149-210-003 & 004

NET ACREAGE:

1,707,998 sf  $\pm$  500 sf

(39.2102 Ac.)

FEE ACQUISITION AREA

27,692 sf

(0.6357 Ac.)

$\Delta=1^{\circ}43'50''$

$R=18,060.00'$

$L=545.48'$

25' PUBLIC ROAD EASEMENT  
TO COUNTY OF TULARE  
5/RW DEEDS/391

SCALE: 1"=100'

## LEGEND

P.O.C POINT OF COMMENCEMENT

P.O.B POINT OF BEGINNING

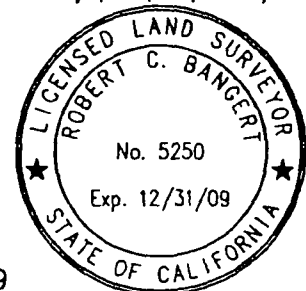
▣  $\frac{1}{4}$  SECTION CORNER

UNDERLYING FEE AREA

32,954 sf

(0.7565 Ac.)

$S 89^{\circ}48'47'' W$   
38.55'



*Robert C. Bangert* 6-9-08

ROBERT C. BANGERT LS 5250 DATE

LICENSE EXPIRATION DATE: DECEMBER 31, 2009

ROAD 108 PS&E  
FEE ACQUISITION

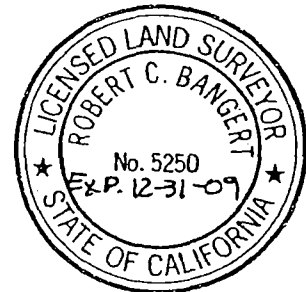
EXHIBIT "A" - 2

That portion of real property described in the Grant Deed to Evangeline Limited Partnership, a Washington Limited Partnership recorded February 1, 1999 as Document No. 1999-0007761, Tulare County Official Records, lying within the Northeast quarter of the Southeast quarter of Section 23, Township 19 South, Range 24 East, M.D.B.&M., in the County of Tulare, State of California, described as follows:

**COMMENCING** at the Northeast corner of the Northeast quarter of the Southeast quarter of said Section 23; thence South  $89^{\circ}48'37''$  West 44.29 feet along the North line of said Northeast quarter of the Southeast quarter of Section 23, to the **POINT OF BEGINNING**; thence leaving said North line South  $00^{\circ}15'42''$  West 480.91 feet to the beginning of a curve to the left, having a radius of 18,060.00 feet; thence 545.48 feet along said curve through a central angle of  $01^{\circ}43'50''$ ; thence South  $01^{\circ}28'08''$  East 291.91 feet to a point on the South line of said real property to Evangeline Limited Partnership; thence along said South line, South  $89^{\circ}48'47''$  West 10.00 feet; thence leaving said South line, North  $01^{\circ}28'08''$  West 291.69 feet to the beginning of a curve to the right, having a radius of 18,070.00 feet; thence 545.78 feet along said curve through a central angle of  $01^{\circ}43'50''$ ; thence North  $00^{\circ}15'42''$  East 480.83 feet to a point on said North line of the Northeast quarter of the Southeast quarter of Section 23; thence along said North line, North  $89^{\circ}48'37''$  East 10.00 feet to the **POINT OF BEGINNING**.

Said description contains 13,183 square feet (0.3026 acres) more or less.

Robert C. Bangert 6-9-08  
Robert C. Bangert LS 5250 Date  
License Expiration Date: December 31, 2009



# EXHIBIT 'B'-2

PORTION OF SECTION 23, T. 19 S., R. 24 E., M.D.B.&M.

S89°48'37"W 44.29'

EVANGELINE LIMITED  
PARTNERSHIP DOC.

1999-0007761

149-210-003 & 004

NET ACREAGE:  
1,707,998 sf ±500 sf  
(39.2102 Ac.)

T.C.E. AREA  
13,183 sf  
(0.3026 Ac.)

SCALE: 1"=100'

## LEGEND

P.O.C POINT OF COMMENCEMENT  
P.O.B POINT OF BEGINNING  
¼ SECTION CORNER

25' PUBLIC ROAD EASEMENT  
TO COUNTY OF TULARE  
5/RW DEEDS/391

S89°48'47"W  
10.00'

N89°48'37"E  
10.00'

10'

N00°15'42"E  
480.83'

S00°15'42"W  
480.91'

Δ=1°43'50"  
R=18,060.00'  
L=545.48'

Δ=1°43'50"  
R=18070.00'  
L=545.78'

291.69'

N01°28'08"W  
291.91'

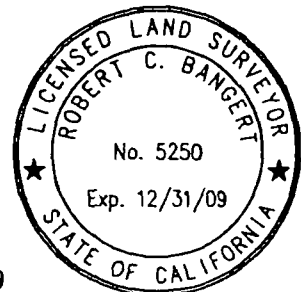
S01°28'08"E  
291.91'

DESIGN Q

ROAD 108

*Robert C Bangert 6-9-08*

ROBERT C. BANGERT LS 5250 DATE  
LICENSE EXPIRATION DATE: DECEMBER 31, 2009



ROAD 108 PS&E

TEMPORARY CONSTRUCTION EASEMENT

