



# Joint Exercise of Powers Agency

City of Antioch City of Brentwood City of Oakley County of Contra Costa

## Board of Directors

Thursday, March 8, 2007

8:05 p.m.

Tri-Delta Transit Meeting Room  
801 Wilbur Avenue  
Antioch, California

1. Call to Order
2. Closed Session

A Conference with legal counsel - Existing Litigation (Gov. Code, §54956.9(a))

1. *State Route 4 Bypass Authority v. Anthony Marlan Massoni, Trustee, et al. C.C.C. Superior Court No. C05-01745*
2. *State Route 4 Bypass Authority v. Dianne Simoni, Trustee, et al. C.C.C. Superior Court No. C05-01769*
3. *State Route 4 Bypass Authority v. Immanuel Baptist Church of Antioch, et al. C.C.C. Superior Court No. C06-00002*
4. *State Route 4 Bypass Authority v. H. John Bloomfield, Trustee, et al., C.C.C. Superior Court No. C05-02371*

3. Public Comment
4. Consent Items

A. **APPROVE** Minutes of February 8, 2007 meeting.

B. It is recommended that the Board take the following actions:

1. **APPROVE** the Right of Way Contracts and **ACCEPT** the Grant Deeds and Grant of Easements listed below:

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Doris May Polari, Trustee Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees Loretta Oliveri and Christine Oliveri, Co-Trustees	59663 & 59664	3/07	Placer Title Company Escrow #615-7881 & 8016 981 N. Broadway #100 Walnut Creek, CA 94596	\$207,000.00

**Board of Directors:**  
Mary N. Piepho, Chair  
Donald P. Freitas, Vice Chair  
Robert Taylor  
Brad Nix

**Authority Staff Office:**  
Contra Costa County  
255 Glacier Drive  
Martinez, CA 94553  
(925) 686-0619

2. **AUTHORIZE** the Secretary or Designee to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority (Authority).
3. **APPROVE** payments as listed above for said property rights and **AUTHORIZE** the Auditor-Controller to issue checks in said amounts payable to listed payees, to be forwarded to the Real Property Division for delivery.
4. **DIRECT** the Real Property Division of Contra Costa County to deliver the above referenced Grant Deeds and Grant of Easements to the Placer Title Company for recording in the office of the Contra Costa County Recorder.

C. **REQUEST** Contra Costa County to notify property owner(s) to install improvements previously deferred under Deferred Improvement Agreement(s) for State Route 4 Bypass project, and **DIRECT** staff to take other appropriate action. (no attachment)

D. **APPROVE** the 2006-07 Mid-Year Work Plan and Budget.

E. **APPROVE** Contract Change Order No's 38S1, 69, and 70, with De Silva Gates Construction/FCI Constructors JV, for an estimated cost increase of \$467,400 for Segment 1, Package 2, and **AUTHORIZE** the Secretary or his designee to sign the change orders; and **APPROVE** an increase of \$1,013,351 in contingency funds to cover change order work and costs for the Bid Schedule C portion of the contract (Contra Costa County Flood Control and Water Conservation District work) and underground work at Jeffrey Way reimbursed by Ronald Nunn per an earlier agreement.

F. **APPROVE** Consulting Services Agreement amendment with Parsons Brinckerhoff (PB) in the amount of \$50,000 for a not-to-exceed contract amount of \$3,833,310 for on-call biological monitoring services related to burrowing owls during the construction of Segment 3 as directed by Authority staff, and **AUTHORIZE** the Secretary or his designee to sign the amendment.

#### 5. Determination Items

A. **RECEIVE** status report on Segment 1, Segment 3 and the Laurel Road Extension projects (*no staff report*).

B. **RECEIVE** status report on construction activities for Segment 1, Segment 3 and the Laurel Road Extension projects (*no staff report*).

#### 6. Board Member Comments

#### 7. Correspondence

A. E-Mail from "Mail@eastcountyyouropinioncounts.com."

B. Letter from Carol A. Jensen from the John Marsh Historic Trust, Inc.

#### 8. Adjournment

*The Authority will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Program Manager at least 24 hours before the meeting, at (925) 686-0619.*

**STATE ROUTE 4 BYPASS AUTHORITY**  
**Antioch - Brentwood - Oakley and Contra Costa County**

A JOINT EXERCISE OF POWERS AGENCY

MINUTES  
February 8, 2007

The STATE ROUTE 4 BYPASS AUTHORITY meeting was called to order in the Tri-Delta Transit Meeting Room, 801 Wilbur Avenue, Antioch, California by Chair Donald Freitas at 8:45 P.M.

**ROLL CALL**

PRESENT: Brad Nix (Oakley), Mary N. Piepho (Contra Costa County), Bob Taylor (Brentwood), and Chair Donald Freitas (Antioch)

ABSENT: None

STAFF: Dale Dennis, Program Manager

**CLOSED SESSION**

Chair Freitas adjourned into Closed Session at 8:45 P.M.

**Conference with Legal Counsel – Existing Litigation (Government Code § 54956.9(a))**

1. *State Route 4 Bypass Authority vs. Lopez-Nunn Ranch, et al., Contra Costa County Superior Court No. C05-01026*
2. *State Route 4 Bypass Authority vs. Bruna M. Del Chiaro, et al., Contra Costa County Superior Court No. C05-01129*
3. *State Route 4 Bypass Authority vs. Irwin Brent Pomeroy, et al., Contra Costa County Superior Court No. C05-01025*
4. *State Route 4 Bypass Authority vs. Immanuel Baptist Church, et al., Contra Costa County Superior Court No. C06-00002*
5. *State Route 4 Bypass Authority vs. H. John Bloomfield, Trustee, et al., Contra Costa County Superior Court No. C05-02371*
6. *State Route 4 Bypass Authority vs. Franklin Maggiore, et al., Contra Costa County Superior Court No. C05-01768*
7. *State Route 4 Bypass Authority vs. Anthony Marian Massoni, Trustee, et al., Contra Costa County Superior Court No. C05-01745*

Chair Freitas reconvened at 9:21 P.M. and advised that there was no reportable action from the Closed Session.

**PUBLIC COMMENT**

There was no public comment.

**CONSENT ITEMS**

Director Freitas requested that Items C and E be removed from the Consent Calendar.

Program Manager Dale Dennis removed Item B from the Consent Calendar.

On motion by Director Nix, seconded by Director Piepho, members of the Authority unanimously adopted the Consent Items, with the removal of Items B, C and E, as follows:

- A. APPROVED minutes of January 11, 2007 meeting
- B. THE BOARD WAS ASKED TO TAKE THE FOLLOWING ACTIONS:  
**[REMOVED FROM THE CONSENT CALENDAR]**
  - 1. APPROVE the Right of Way Contracts and ACCEPT the Grant Deeds and Grant of Easements listed below:
 

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Doris May Polari, Trustee Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees Loretta Oliveri and Christine Oliveri, Co-Trustees	59663/ 59664	02-07	Placer Title Co. Escrow #615-7881/8016 981 N. Broadway #100 Walnut Creek, CA 94596	\$207,000

    - a. AUTHORIZE the Secretary or designee to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority.
    - b. APPROVE payments as listed above for said property rights and AUTHORIZE the Auditor-Controller to issue checks in said amount payable to listed payees, to be forwarded to the Real Property Division for delivery.
    - c. DIRECT the Real Property Division of Contra Costa County to the above-referenced Grant Deeds and Grant of Easements delivered to Placer Title Company for recording in the office of the Contra Costa County Recorder.

- C. APPROVE Resolution No. 2007/02 accepting the Segment 1, Package 1 project as complete (Project No. 4460-6X4476-05) and DIRECT the Secretary or designee to sign the resolution on behalf of the Authority pursuant to Civil Code Section 3093. **[REMOVED FROM THE CONSENT CALENDAR]**
  
- D. APPROVED Right of Entry Agreement to enter onto Contra Costa County Flood Control and Water Conservation District (CCCFCWCD) land to complete construction of underground service points for the SR4 Bypass Segment 1 Project, and AUTHORIZED the Secretary or designee to sign the agreement on behalf of the Authority.
  
- E. APPROVE Consulting Services Agreement amendment with PB Americas (PB) in the amount of \$1,649,566 for a not-to-exceed contract amount of \$8,176,976 for continued construction management services for Segment 1, Packages 1 and 2, the Laurel Road Extension and Lindsey Detention Basin projects, and AUTHORIZE the Secretary or designee to sign the amendment on behalf of the Authority. **[REMOVED FROM THE CONSENT CALENDAR]**

The following items were removed from the Consent Calendar for discussion.

- C. APPROVE Resolution No. 2007/02 accepting the Segment 1, Package 1 project as complete (Project No. 4460-6X4476-05) and DIRECT the Secretary or designee to sign the resolution on behalf of the Authority pursuant to Civil Code Section 3093.

Director Freitas commented that he had a difficult time reading the material. For the project cost summary, he noted that the original award was \$5.6 million with \$1.1 million change order, an approximate 20 percent difference.

Mr. Dennis explained that the bulk of the change orders were additional scope of work. The contractor, Bay Cities Paving, was on board and the contractor had conducted additional efforts to prepare the site for the second package.

On motion by Director Piepho, seconded by Director Taylor, members of the Authority unanimously APPROVED Resolution 2007/02 accepting the Segment 1, Package 1 project as complete (Project No. 4460-6X4476-05) and DIRECTED the Secretary or designee to sign the resolution on behalf of the Authority pursuant to Civil Code Section 3093.

- E. APPROVE Consulting Services Agreement amendment with PB Americas (PB) in the amount of \$1,649,566 for a not-to-exceed contract amount of \$8,176,976 for continued construction management services for Segment 1, Packages 1 and 2, the Laurel Road Extension and Lindsey Detention Basin projects, and AUTHORIZE the Secretary or designee to sign the amendment on behalf of the Authority.

Director Freitas noted questions with regard to the February 1, 2007 letter from PB related to restaking.

Bart Littell, Parsons Brinckerhoff, responded to the questions and stated that the contractor would get one set of stakes and must protect and maintain those stakes. He noted that there had been stakes placed a number of times and the stakes had not been maintained. The contract allowed PB to back charge the contractor for restaking. While the restaking to date had been identified, he stated there could be more.

Mr. Littell explained that the second item related to Mark Thomas overruns. He stated that the contract was not specific but he thought that if the Authority may be able to recoup some of those restaking costs.

Mr. Littell added that at the end of the project a contractor would be sent a proposed final pay estimate with 30 days to respond to any issues or potential claims, which was when the restaking could come into play.

Director Freitas spoke to the original cost proposal that did not include construction management of the Laurel Road Extension.

Mr. Dennis described the original discussions when PB had been retained in 2004 to move Segment 1, Package 2 construction at the same time as the Laurel Road Extension project. Since Laurel Road was not ready to construct at the same time, the contractor had to perform the work sequentially rather than concurrently.

Director Freitas noted that was costing over \$468,000. He questioned the proposals and how the work was being put out to bid given the significant costs. He sought ways to minimize as much as possible future similar work.

Mr. Dennis noted the optimism with the approach which was considered to be the most cost effective. He described the cost effectiveness that had been attained.

Director Freitas referred to Page 4 on the utility design coordination which stated that "typically these issues are resolved prior to construction and are not included in PB's proposal." He noted that was a \$100,000 item.

While he emphasized the desire for the project to move forward and get built, Director Freitas had concern for a 20 percent premium on the contract. He expressed his hope that the methodology and exposure of risk for the next contract would be thoroughly evaluated. He was concerned with the cumulative impacts.

Director Nix agreed and stated that was a work in progress and the Board was attempting to speed things along and save more money. He recognized that there had been some savings and that the Authority's mission was to speed things up.

On motion by Director Taylor, seconded by Director Nix, members of the Authority unanimously APPROVED Consulting Services Agreement amendment with PB Americas (PB) in the amount of \$1,649,566 for a not-to-exceed contract amount of \$8,176,976 for continued construction management services for Segment 1, Packages 1 and 2, the Laurel Road Extension and Lindsey Detention Basin projects, and AUTHORIZED the Secretary or designee to sign the amendment on behalf of the Authority.

The following Determination Items were taken out of agenda order at this time to accommodate members of the audience.

- C. APPROVE Cost Proposal and Scope Description to Provide Survey Support Services During Segment 3 Construction by Contra Costa County Public Works Department, Right of Way Engineering Section, Estimated at \$42,000

On motion by Director Nix, seconded by Director Taylor, members of the Authority unanimously APPROVED Cost Proposal and Scope Description to provide survey support services during Segment 3 construction by the Contra Costa County Public Works Department, Survey Section, estimated at \$42,000.

- D. APPROVE Cost Proposal and Scope Description for Contra Costa County Public Works Department, Survey Section to Complete Right of Way Engineering Services for the Transfer of the SR4 Bypass (Segments 2 and 3) to Caltrans, Estimated at \$350,000

On motion by Director Taylor, seconded by Director Nix, members of the Authority unanimously APPROVED Cost Proposal and Scope Description for Contra Costa County Public Works Department, Survey Section to complete Right-of-way Engineering Services for the Transfer of the SR4 Bypass (Segments 2 and 3) to Caltrans, estimated at \$350,000.

#### **DETERMINATION ITEMS**

- A. RECEIVE Status Report on the Segment 1, Segment 3 and the Laurel Road Extension Projects

Program Manager Dennis highlighted the efforts remaining on the projects; continuing to move with right-of-way (ROW) acquisition and working with PG&E to get the service points in place to test the electrical equipment. He stated that there could be a need to bring in a generator to keep the work going, which would involve an expense.

Mr. Dennis explained that relocation as far as overhead lines was done and trench work was being coordinated with PG&E. He described some sensitive issues with respect to PG&E at this point.

Chair Freitas recommended Will Hardee of PG&E's Delta District as a contact to address those concerns. There was Authority consensus to seek his help on the sensitive issue.

For Segment 3, Mr. Dennis reported that construction was moving forward with the biggest coordination issue including PG&E relocations near the gas terminals. He noted that Veneco, the former Conoco Phillips, was also a factor, in that Veneco needed to relocate their pipeline prior to PG&E relocated its facilities. There had also been recent issues with the burrowing owl and squirrels in the ROW and the squirrel management program was continuing to mitigate the burrowing owl issue.

B. RECEIVE Status Report on Construction Activities for Segment 1, Segment 3 and the Laurel Road Extension Projects

Bart Littell of Parsons Brinckerhoff Construction Services presented updated construction photographs and characterized January as being very busy given the good weather. He stated that the plan for Segment 1 was to continue the bridge work during the winter although given the good weather the civil engineering work had also been continued. He stated that the columns for the Laurel Road overhead bridge at Neroly Road had been completed and soon the false work for the formwork superstructure of that bridge would span Neroly Road. The other bridge was also proceeding well. Weather permitting, the bridge stem and soffit would be poured next week. Joint trench work was ongoing on Laurel Road as well.

For Segment 1, Package 2, Mr. Littell described that work as 62 percent complete and 52 percent on time. Segment 3, Marsh Creek Road from Orchard Road to Walnut Boulevard had also gone well with line treatment, base rock and drainage installed. That area was now ready to be paved. He noted that as soon as the rains quit, the southerly side of Marsh Creek Road from Walnut west would be paved and would include the Walnut intersection.

Mr. Littell also reported that the pile driving for the Fairview Bridge had been completed this week and he had worked with the City of Brentwood to advise the Summerset Homeowners Association of that work. No complaints had been received. The bridge work was proceeding.

One of the detention basins on Marsh Creek Road near Hoffman had also been completed. Work was continuing with utility relocations.

**BOARDMEMBER COMMENTS**

There were no Boardmember comments.

**CORRESPONDENCE**

There was no correspondence.

**ADJOURNMENT**

With no further business to come before the State Route 4 Bypass Authority, Chair Freitas adjourned the meeting at 9:46 P.M. to the next meeting scheduled for March 8, 2007.

Respectfully submitted,

Anita L. Tucci-Smith  
Minutes Clerk

4B1

**STATE ROUTE 4  
BYPASS AUTHORITY**

**DATE:** March 8, 2007

**TO:** Board of Directors

**FROM:** Dale Dennis, Program Manager 

**SUBJECT:** State Route 4 Bypass Project, Segment 3. Brentwood Area.  
Project No.: 4660-6X4493      ACCT: 3540      TASK: ACQ

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**Recommendation:**

A. **APPROVE** the Right of Way Contract and **ACCEPT** the Grant Deeds and Grant of Easement listed below:

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Doris May Polari, Trustee Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees Loretta Oliveri and Christine Oliveri, Co-Trustees	59663 & 59664	3/07	Placer Title Company Escrow #615-7881 & 8016 981 N. Broadway #100 Walnut Creek, CA 94596	\$207,000.00

B. **AUTHORIZE** the Secretary or Designee to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority (Authority).

C. **APPROVE** payment as listed above and **AUTHORIZE** the Auditor-Controller to issue a check in said amount payable to listed payees, to be forwarded to the Real Property Division for delivery.

D. **DIRECT** the Real Property Division of Contra Costa County to deliver the above referenced Grant Deeds and Grant of Easement to the Placer Title Company for recording in the office of the Contra Costa County Recorder.

**Discussion:**

These property rights are required for the State Route 4 Bypass –Segment 3 project in accordance with approved plans and specifications. Payment totaling \$207,000.00 for the purchase of these property rights comes from State Route 4 Bypass funds.

If the Authority were not to acquire these property rights, the project will not have sufficient land rights to allow construction in accordance with the approved plans and specifications.

**ACTION OF BOARD ON** \_\_\_\_\_

**APPROVED AS RECOMMENDED** \_\_\_\_ **OTHER** \_\_\_\_

**VOTE OF DIRECTORS**

\_\_\_\_\_ UNANIMOUS (ABSENT \_\_\_\_\_)

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

**ATTESTED:** \_\_\_\_\_  
Secretary to the Authority

JE:tr  
G:\TransEng\2007\SR4BP\Staff Reports\Jan-March 2007\  
StaffReport-RP-February 08-07 Hoffner Polari\_.doc  
cc: Carmen Piña-Sandoval, Real Property  
PW Accounting

# RIGHT OF WAY CONTRACT -- STATE HIGHWAY

RW 8-3 (Rev. 6/95)

Page 1 of 7

\_\_\_\_\_, California  
\_\_\_\_\_, 2007

District	County	Route	Parcel #	Project #
4	CC	SR4 Bypass	59663 & 59664	4660- 6X4493

This Contract is entered into by and between State Route 4 Bypass Authority, a joint exercise of powers entity (hereinafter "Authority") and Doris May Polari, Trustee of the 2003 Doris May Polari Revocable Trust dated 12/5/03; Patricia Ann Hoffner and Frank Joseph Polari, Jr., Trustees under the will of Frank Joseph Polari, deceased; Loretta Olivieri and Christine Olivieri, successor co-trustees of the Olivieri Family Trust UDT dated 3/9/90 and successor co-trustees of the Olivieri Tax Credit Shelter Trust dated 3/9/90, (hereinafter "Grantors").

## RECITALS

- A. On November 1, 2006, Authority brought an eminent domain action against Grantors in Contra Costa County Superior Court, Case No. C06-02214 entitled *State Route 4 Bypass Authority v. Doris May Polari, Trustee, et al.*, seeking to acquire property rights upon, over, across, and in parcels of land to which Grantors own fee title for the purposes of constructing a public roadway and related improvements.
- B. The purpose of this Contract is to convey to Authority property interests necessary for the construction of the road project and related improvements.
- C. Both Authority and Grantors recognize the expense, time, effort, and risks to both parties in determining the compensation for the property by eminent domain litigation. In lieu of such litigation, the parties have agreed that Authority will pay Grantors compensation in exchange for the real property interests described below in resolution of any and all disputes arising from the eminent domain action pursuant to the terms contained herein. The parties have herein set forth the whole of their Contract. The performance of this Contract constitutes the entire consideration for said document and shall relieve the Authority of all further obligation or claims on this account, or on account of the location, grade or construction of the public improvements.

## AGREEMENT

**NOW THEREFORE,** in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

- Effective Date.** It is understood that this Contract is subject to approval by the Authority's Governing Board. This Contract is effective on the date approved by the Authority's Governing Board ("Effective Date"). This Contract will be submitted to Grantors first for approval, and thereafter to the Authority's Board of Directors.
- Public Purpose.** Authority requires the Grantors' Property described below for State highway purposes, a public use for which Authority has authority to exercise the power of eminent domain.
- Description of Property Interests to be Conveyed.** Grantors agree to convey to Authority

and Authority agrees to accept the following described property interests subject to the terms of this Contract.

(a) fee title to Parcel 1 (commonly known as APN#011-180-003), as more particularly described in Exhibit 1(A), and shown on Exhibit 1(B), attached hereto and incorporated herein by reference;

(b) fee title to a portion of the parcel having APN#011-180-044, hereinafter Parcel 3 (59663-3), as more particularly described in Exhibit 2(A), and shown on Exhibit 2(B), attached hereto and incorporated herein by reference;

(c) a utility easement affecting Parcel 4 (59663-4), as more particularly described in Exhibit 3(A), and shown on Exhibit 3(B), attached hereto and incorporated herein by reference;

(d) an aerial easement affecting Parcel 5 (59663-5), as more particularly described in Exhibit 3(A), and shown on Exhibit 3(B), attached hereto and incorporated herein by reference.

These real property interests are hereinafter collectively referred to as "Grantors' Property".

4. **Purchase Price.** The total consideration for the acquisition of Grantors' Property to Authority shall be payment of the sum of Two Hundred and Seven Thousand Dollars (\$207,000.00) to Grantors ("Purchase Price") under the terms and conditions set forth herein. The total consideration described herein includes consideration for the Authority's use and possession of all property referenced in the Order for Immediate Possession that was filed on November 3, 2006 in the aforementioned eminent domain action.

4.1 Authority shall deposit the Purchase Price in the amount of Two Hundred and Seven Thousand Dollars (\$207,000.00) into escrow to be delivered to Grantors at the Close of Escrow (as defined below).

4.2 All ad valorem real property taxes and any penalties and costs thereon, and all installments of any bond or assessment that constitutes a lien on the Grantors' Property shall be cleared and paid by Grantors as of the date title shall vest in Authority by the recordation of the deed herein pursuant to Sections 4986, 5082, and 5086 of the Revenue and Taxation Code of the State of California, if unpaid as of the date title vests.

5. **Conditions to Authority's Performance.** The Authority's obligation to perform under this Contract is subject to the following conditions:

5.1. Grantors' representations and warranties in this Contract being correct as of the date of this Contract and as of the Close of Escrow.

5.2. Grantors' performance of all obligations under this Contract.

5.3. The vesting of title to Parcels 1 and 3 (59663-3), in the Authority by grant deed in fee simple absolute, free and clear of all liens, encumbrances, assessments, leases (recorded and/or unrecorded), and taxes, except for the "Approved Exceptions" as described in Section 6.2 A and B herein, and to the easements affecting Parcel 4 (59663-4) and Parcel 5 (59663-5), as described in Exhibit 3(A).

If Authority determines that any of these conditions have not been met, Authority will have all rights and remedies allowed at law or in equity, including but not limited to specific performance.

6. **Escrow.** Two escrows have already been established (collectively "Escrow") by Placer Title Company ("Title Company"), 1981 N. Broadway, #100, Walnut Creek, California, for Parcels 1 and 3 (59663-3), consisting of Escrow No. 615-7881 for Parcel 1 and Escrow No. 615-8016 for Parcel 3 (59663-3). Grantors hereby authorize Authority to prepare and file escrow instructions with said Title Company, on behalf of Grantors, in accordance with this Contract. This includes authorization of the Title Company to withhold pro rata taxes, liens and assessments on the Grantors' Property to be conveyed to Authority.
- 6.1. **Fees and Title Insurance.** The Authority shall pay all escrow and recording fees incurred in the conveyance of Grantors' Property to Authority.
- 6.2. **Grantors' Deposit into Escrow.** On or before the Close of Escrow, Grantors will deliver into Escrow with the Title Company the following documents:
- A. A Grant Deed, in recordable form and properly executed on behalf of Grantors, in the form attached as Exhibit 1, conveying to Authority Parcel 1 described in Exhibit 1(A) in fee simple absolute, subject only to the following Approved Exceptions: 5, 6, 7, 8, 9, 11 and 12, as outlined in the Preliminary Title Report #615-7881 dated January 3, 2007 by Placer Title Company.
  - B. A Grant Deed, in recordable form and properly executed on behalf of Grantors, in the form attached as Exhibit 2, conveying to Authority Parcel 3 (59663-3) described in Exhibit 2(A) in fee simple absolute, subject only to the following Approved Exceptions: 4, 5, 6, 7, 8, 10, 15 as outlined in the Preliminary Title Report #615-8016 dated August 17, 2006 by Placer Title Company.
  - C. A Grant of Easement, in recordable form and properly executed on behalf of Grantors, in the form attached as Exhibit 3, conveying to Authority the utility and aerial easements affecting Parcel 4 (59663-4) and Parcel 5 (59663-5) as described in Exhibit 3(A).
- 6.3. **Deposit of Payment Into Escrow by Authority.** Prior to the Close of Escrow, Authority will deposit \$207,000.00 into Escrow with the Title Company.
- 6.4. **Close of Escrow.** Escrow shall close upon the conveyance of the Grantors' Property to the Authority and Authority's payment of the Purchase Price to Grantors ("Close of Escrow"). On the closing date, the Title Company shall close Escrow as follows:
- A. Record the Grant Deeds and Grant of Easements, marked for return to the County in care of Carmen Piña-Sandoval, Real Property Agent for the Authority (which shall be deemed delivery to the Authority);
  - B. Issue the title policies;
  - C. Prorate taxes, assessments, rents and other charges on the Grantors' Property as provided by this Contract;
  - D. Disburse to Grantors the final payment of \$207,000 in the following proportions, less prorated amounts and charges to be paid by or on behalf of Grantors:  
  
25% made payable to "Doris May Polari, Trustee of the 2003 Doris

Polari Revocable Trust";  
25% made payable to "Patricia Ann Hoffner and Frank Joseph Polari,  
Jr., Trustees under the will of Frank Joseph Polari"  
50% made payable to "Loretta Olivieri and Christine Olivieri, trustees of  
the Olivieri Family Trust and Olivieri Tax Credit Shelter Trust".

- E. Prepare and deliver to Authority and to Grantors one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify Authority and Grantors and retain all funds and documents pending receipt of further instructions from Authority and Grantors.

7. **Grantors' Representations and Warranties.** Grantors make the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by Authority. Grantors represent and warrant to Authority that as of the date of this Contract and as of the Close of Escrow:

7.1. **No Unapproved Exceptions.** The Grantors Property is clear of restrictions, leases, liens and other encumbrances, subject only to the Approved Exceptions. No leases, licenses, or other agreements allowing any third party rights to use the Grantors' Property are or will be in force unless prior consent has been given by the Authority in writing. Commencing with the full execution of this Contract by both parties and until the Close of Escrow, Grantors shall not permit any liens, encumbrances or easements to be placed on Grantors' Property other than the Approved Exceptions, nor shall Grantors enter into any agreement that would affect the Grantors' Property that would be binding on Authority after the Close of Escrow without the prior written consent of Authority.

7.2 **Other Matters Affecting Grantors' Property.** To the best of Grantors' knowledge, there are not presently any actions, suits, or proceedings pending (other than the condemnation action referenced herein) or, to the best of Grantors' knowledge, threatened against or affecting the Grantors' Property or the interest of Grantors in the Grantors' Property or its use that would affect Grantors' ability to consummate the transaction contemplated by this Contract. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of Grantors' Property. Grantors have no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes, on, from, or under Grantors' Property. Grantors shall promptly notify Authority of any of these matters arising in the future.

7.3 **Grantors' Authority.** That this Contract and all other documents delivered prior to or at the Close of Escrow have been properly authorized, executed, and delivered by Grantors; are binding obligations of Grantors; and are collectively sufficient to transfer all of Grantors' rights to Grantors' Property.

8. **Release.** Authority's payment of the consideration described in paragraph 4 above, constitutes full payment for all of the real property or interests in real property acquired by Authority from Grantors; for all landscaping and improvements; and for all costs, interest and damages of every kind and nature accruing by reason of the acquisition of Grantors'