

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

464



FROM: Department of Facilities Management and the Transportation Department **SUBMITTAL DATE:** May 16, 2008

SUBJECT: Resolution No. 2008-211, Authorization Regarding the Acquisition of 8035 Reche Canyon Road as Part of the Settlement of a Pending Lawsuit

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Resolution No. 2008-211, Authorization Regarding the Acquisition of 8035 Reche Canyon Road as part of the Settlement of a Pending Lawsuit;
2. Authorize the Director of the Department of Facilities Management, or his designee, to execute any and all documents and administer all actions necessary to complete this transaction;

(Continued)

Reviewed by
[Signature]
CIP TEAM

Christopher Hans

[Signature]

Juan C. Perez, Director
Transportation Department

[Signature]

Robert Field, Director
Department of Facilities Management

FINANCIAL DATA	Current F.Y. Total Cost:	\$668,550	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ -0-	Budget Adjustment:	No
	Annual Net County Cost:	\$ -0-	For Fiscal Year:	07/08

SOURCE OF FUNDS: TUMF Fees (100%)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY

[Signature]
Jennifer L. Sargent

County Executive Office Signature

FISCAL PROCEDURES APPROVED
ROBERT E. BYRD, Auditor-Controller
BY *[Signature]* SAMUEL U. N. G. Deputy

FORM APPROVED COUNTY COUNSEL
BY *[Signature]* GLENN R. BELTRAN
DATE 5/16/08

Dep't Recomm.: Policy Consent
Per Exec. Ofc.: Policy Consent

(Continued)

RECOMMENDED MOTION:

3. Authorize and direct the Clerk of the Board to certify acceptance of any and all documents running in favor of the county as part of this transaction;
4. Authorize the Chairman of the Board to execute the documents necessary to complete the purchase; and
5. Allocate the sum of \$650,000, to purchase the real property and \$18,550 to pay all related transaction costs.

BACKGROUND: Kenneth Mahle aka Kenneth J. Mahle ("Mahle"), owns a residence and land in an unincorporated area of Riverside County, California, that is commonly known as 8035 Reche Canyon Road, Colton, California and is presently designated as Riverside County Assessor's parcel Number 471-070-047 (the "Subject Property").

In connection with certain improvements and alterations that the county caused to be made to Reche Canyon Road prior to January 18, 2006, the county caused certain drainage facilities to be constructed and installed in the vicinity of the Subject Property.

On January 18, 2006, Mahle filed a lawsuit against the county that is known as Riverside County Superior Court Case No. RIC 443402 entitled, Kenneth Mahle vs. County of Riverside, et al. (the "Subject Lawsuit").

On March 10, 2006, the county filed a first amended answer to the complaint in the Subject Lawsuit (in which the county denied the material allegations of Mahle's complaint and asserted certain affirmative defenses to that complaint).

The Subject Lawsuit has been continuously pending since it was filed on January 18, 2006.

Mahle and the county have negotiated a written settlement agreement in which Mahle would convey good and clear fee simple ownership in the Subject Property to the county; in which Mahle would give a release of claims to the county; in which Mahle would dismiss the Subject Lawsuit with prejudice; and in which the county would pay a sum total of Six Hundred Fifty Thousand Dollars (\$650,000) to Mahle.

An appraiser hired by the county determined that the Subject Property had a fair market value of not- less-than \$650,000 as of May 16, 2007.

(continued)

BACKGROUND (continued): The terms of the settlement agreement between Mahle and the county provide that the county's acceptance of a conveyance of the Subject Property from Mahle (and the other terms of that agreement), will be consummated within sixty days after the approval of that agreement by the Board of Supervisors.

The Board of Supervisors approved the settlement agreement (between Mahle and the county) in closed session on April 22, 2008.

On May 6, 2008, the Board approved Item 3.16, Resolution No. 2008-210, Notice of Intention to Acquire 8035 Reche Canyon Road as Part of the Settlement of a Pending Lawsuit.

In addition to the above, the county is presently working on an anticipated future project to realign Reche Canyon Road. In a cooperative agreement that the county and many other agencies have entered into, the county is the one designated to take the lead on the realignment project. The county has initiated the necessary engineering and environmental work for that project. Preliminary geometrical analyses of a couple of potential realignments of Reche Canyon Road have been done to date. Each one of those potential realignments would require the county to acquire significant portions of the Subject Property. In summary, the settlement agreement between Mahle and the county (that is the subject of this requested Board action) is also expected to eliminate the need for the county to enter into future negotiations with Mahle in order to purchase significant portions of the Subject Property for the anticipated future realignment of Reche Canyon Road.

The Resolution has been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA: The following summarizes the funding that will be necessary to carry out the written settlement agreement between Mahle and the county:

Settlement Amount	\$650,000
Estimated Title, Escrow and Recording Charges	\$ 10,000
Preliminary Title Report	\$ 750
Appraisal Costs	\$ 4,800
DOFM Real Property Costs:	\$ 3,000
Total Estimated Acquisition Costs:	\$668,550

On May 6, 2008, the Board approved (Agenda Item 3.16) the Notice of Intent to Purchase which included the budget adjustment for related due diligence costs for the Department of Facilities Management for FY 2007/08. While Facilities Management will cover the cost for the due diligence services at the time of this property transaction, it is understood that the Transportation Department will reimburse Facilities Management for these costs. The remaining cost will be paid directly by the Transportation Department. All costs associated with this property acquisition are fully funded in the Transportation Department's budget for FY 07/08. Thus, no net county cost will be incurred as a result of this transaction.

2
3 Resolution No. 2008-211
4 Authorization Regarding the Acquisition of
5 8035 Reche Canyon Road
6 As Part of the Settlement of a Pending Lawsuit
7 Assessor's Parcel Number: 471-070-047

8 **WHEREAS**, Kenneth Mahle aka Kenneth J. Mahle ("Mahle") owns a residence
9 and land in unincorporated Riverside County, California that is commonly known as
10 8035 Reche Canyon Road, Colton, California; that is presently designated as
11 Riverside County Assessor's Parcel Number 471-070-047; and that is legally
12 described and pictorially depicted in the papers attached hereto as Exhibits "A" and "B"
13 and incorporated herein by this reference (the "Subject Property");

14 **WHEREAS**, in connection with certain improvements and alterations that the
15 County of Riverside (the "County") caused to be made to Reche Canyon Road prior to
16 January 18, 2006, the County caused certain drainage facilities to be constructed and
17 installed in the vicinity of the Subject Property;

18 **WHEREAS**, on January 18, 2006, Mahle filed a lawsuit against the county that
19 is known as Riverside County Superior Court Case No. RIC 443402 entitled Kenneth
20 Mahle vs. County of Riverside, et al. (the "Subject Lawsuit");

21 **WHEREAS**, on March 10, 2006, the county filed a first amended answer to the
22 complaint in the Subject Lawsuit (in which the County denied the material allegations
23 of Mahle's complaint and asserted certain affirmative defenses to that complaint);

24 **WHEREAS**, the Subject Lawsuit has been continuously pending since it was
25 filed on January 18, 2006;

WHEREAS, Mahle and the County have negotiated a written settlement
agreement in which Mahle would convey good and clear fee simple ownership in the

1 Subject Property to the County; in which Mahle would give a release of claims to the
2 County; in which Mahle would dismiss the Subject Lawsuit with prejudice; and in which
3 the County would pay a sum total of Six Hundred Fifty Thousand (\$650,000) to Mahle;

4 **WHEREAS**, an appraiser hired by the County determined that the Subject
5 Property had a fair market value of not less than Six Hundred Fifty Thousand
6 (\$650,000) as of May 16, 2007;

7 **WHEREAS**, the terms of the settlement agreement between Mahle and the
8 County provide that the County's acceptance of a conveyance of the Subject Property
9 from Mahle (and the other terms of that agreement) will be consummated within sixty
10 (60) days after the approval of that agreement by the Board of Supervisors;

11 **WHEREAS**, the Board of Supervisors approved the settlement agreement
12 (between Mahle and the County) in closed session on April 22, 2008; and

13 **WHEREAS**, the County's acquisition of the Subject Property from Mahle is
14 expected to eliminate the need for the County to enter into future negotiations with
15 Mahle in order to purchase significant portions of the Subject Property for an
16 anticipated future realignment of Reche Canyon Road.

17 Now, therefore, **BE IT RESOLVED AND ORDERED** as follows by the Board of
18 Supervisors of the County of Riverside, State of California, in regular session
19 assembled on June 3, 2008:

20 1. Notice of this Board's intention to accept a conveyance of the Subject
21 Property from Mahle (on the terms and conditions stated in the above-described
22 written settlement agreement between Mahle and the County) was duly published
23 once a week for three successive weeks in a newspaper of general circulation
24 published in the County of Riverside (pursuant to Government Code Section 6063).

Exhibit "A"

ALL THAT PORTION OF FRACTIONAL SECTION 18, TOWNSHIP 2 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF RECHE CANYON ROAD AND THE WESTERLY LINE OF A PARCEL OF LAND CONVEYED TO C. A. CANARA AND ANNA MAE CANARA BY DEED RECORDED IN BOOK 1200 PAGE 507 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00 DEGREES 58' 30" EAST, ALONG SAID WESTERLY LINE, 445.62 FEET;

THENCE SOUTH 82 DEGREES 03' 30" EAST, 509.63 FEET:

THENCE NORTH 73 DEGREES 44' 90" EAST, 131.10 FEET:

THENCE NORTH 17 DEGREES 07' 30" EAST, 226.78 FEET TO A POINT IN THE SOUTHERLY RIGHT OF WAY LINE OF RECHE CANYON ROAD:

THENCE NORTHWESTERLY ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE ALONG A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 1970.00 FEET THROUGH A CENTRAL ANGLE OF 09 DEGREES 16', A DISTANCE OF 318.62 FEET:

THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE NORTH 71 DEGREES 32' 00" EAST, 434.58 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF PROPERTY CONVEYED TO THE COUNTY OF RIVERSIDE, AS DESCRIBED IN EXHIBIT "A" AS RECHE CANYON ROAD, PARCEL NO. 0359-017, RECORDED APRIL 16, 2003 AS INSTRUMENT NO. 2003-268478, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

APN: 471-070-047-2

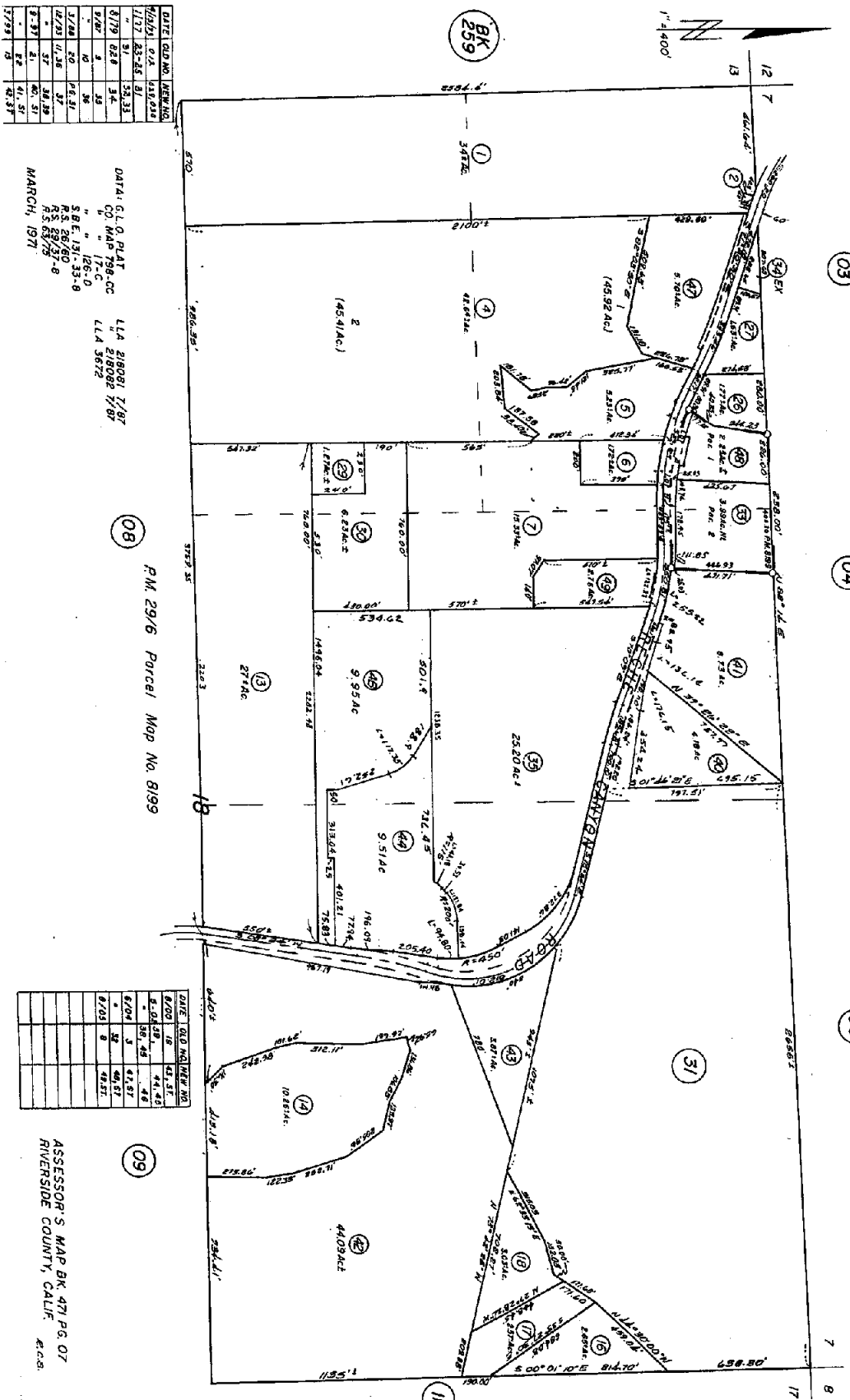
Exhibit "B"

471-07
12-40-2

T.R.A. 068-004

N 1/2 SEC. 18, T. 2S, R. 3W.

THIS MAP IS FOR
ASSESSMENT PURPOSES ONLY
AUG 09 2005



DATE	OLD NO.	NEW NO.
1/17	23-28	81
3/1	32-33	82
8/79	02-8	34
8/07	5	35
3/24	20	36
12/23	4, 16	37
8-31	21	38, 39
8-31	22	40, 41
8-31	23	42, 43
8-31	24	44, 45

DATA: C.L.O. PLAT
C.O. MAP 48, CC
" " 17-C
" " 126-0
S 8 E 131, 33-8
R 5 S 26/60
A 5 S 63/78
MARCH, 1977

LLA 218081 7/87
LLA 218082 7/87
LLA 56722

PM. 29/6 Parcel Map No. 8199

DATE	C.L.O. NUMBER	NO.
8/00	18	41, 42
8-01	19	43, 44
8-01	20	45, 46
8-01	21	47, 48
8-01	22	49, 50
8-01	23	51, 52
8-01	24	53, 54

ASSESSOR'S MAP BK. 471 PG. 07
RIVERSIDE COUNTY, CALIF.
A.C.G.