

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** April 1, 2004  
**Department:** Public Works  
**Department No.:** 054  
**Agenda Date:** April 13, 2004  
**Placement:** Departmental  
**Estimate Time:** 30 Minutes  
**Continued Item:** NO  
**If Yes, date from:**

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**TO:** Board of Supervisors

**FROM:** Phillip M. Demery, Director  
Public Works Department

**STAFF CONTACT:** Bret Stewart, Transportation Manager, 568-3232  
Jeff Havlik, Real Property, 568-3073  
Jennifer Klein, Deputy County Counsel, 568-2950

**SUBJECT:** Escrow Instructions & Maintenance Agreement; Sanja Cota Road (Portion)  
Third Supervisorial District  
Real Property File No. R-112

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## **Recommendation(s):**

That the Board of Supervisors:

- A. Execute the attached Escrow Instructions and Supplemental Escrow Instructions re: transferring ownership of a portion of Sanja Cota right-of-way from the Santa Ynez Band of Mission Indians and from Gainey Management LLC to the County; and
- B. Execute in duplicate the attached Road Maintenance Agreement between the Santa Ynez Band of Mission Indians and the County impacting a major portion of Sanja Cota Road, Bridge, and Creek Improvements.

## **Alignment with Board Strategic Plan:**

The recommendations are primarily aligned with Goal No. 2: A Safe and Healthy Community in Which to Live, Work, and Visit, and with actions required by law or by routine business necessity.

## **Executive Summary and Discussion:**

On September 9, 2003, the County and the Santa Ynez Band of Mission Indians (herein the "Tribe") executed an Intergovernmental Cooperative Agreement addressing the realignment of Sanja Cota Road, related bridge and streambed improvements and maintenance. Sanja Cota Road is located along the southeastern border of the Tribe's reservation, and provides access to State Highway 246 to the reservation and the Tribe's casino facility. Sanja Cota Road is located partially off-reservation and partially on-reservation. One goal of the Cooperative Agreement is to make Sanja Cota Road a public right-of-way in its entirety. To accomplish this, the County accepted two right-of-way Donation Agreements on September 9, 2003, one from the Tribe and one from Gainey Management, LLC, et. al., (herein "Gainey") for a major portion of Sanja Cota Road. The County also authorized submittal of an application to the Bureau of Indian Affairs, requesting the transfer of

Subject: Escrow & Road Maintenance Agreement; Sanja Cota Road (Portion)  
Third Supervisorial District  
Agenda Date: April 13, 2004  
Page: 2 of 3

### **Executive Summary and Discussion (Cont.):**

the remainder of the Sanja Cota right-of-way located on the Tribe's reservation land to the County. That right-of-way request is pending with the Bureau of Indian Affairs.

Execution of the Escrow Instructions will allow for the consummation of the terms of the Donation Agreements via the recordation of the previously executed quitclaims, grants of easement and acceptance documents.

The Escrow Amendments waive the County's right to require subordination of existing liens and easements to the new Sanja Cota right-of-way on the Gainey and Tribal lands. Subordination agreements are generally desirable to assure that the County's rights as buyer are superior to existing lien and easement rights. Preliminary title reports on the Gainey and Tribe parcels show no liens. The Santa Ynez River Water Conservation District ID #1 has a pipeline easement that is superior to and intersects the new Sanja Cota right-of-way. The District is unwilling to subordinate its easement to the new right-of-way. This is acceptable to Public Works as the overlap of the pipeline easement and the Sanja Cota right-of-way is very minor. Further, the District has informed County staff that their pipeline will be relocated away from the new right-of-way within the next year. Real Property staff will deliver the County's original executed Escrow Instructions and Amendments to the escrow officer who will record all the documents required to consummate the escrows and thus the Donation Agreements. Pursuant to the terms of the Donation Agreements, the Tribe has agreed to pay for all escrow and recordation related fees for the two donations.

Pursuant to the terms of the September 9, 2003 Cooperative Agreement, the County and the Tribe agreed to enter into a subsequent agreement governing maintenance of Sanja Cota Road, Bridge, and Creek Improvements. Public Works and County Counsel have worked with the Tribe's representatives to draft the attached proposed Maintenance Agreement for consideration by the County Board of Supervisors. When executed, the Road Maintenance Agreement will define the rights and responsibilities of the Tribe and the County in regards to the installation and maintenance of the new Sanja Cota Road, bridge and creek improvements.

The parties' primary obligations under the proposed Maintenance Agreement may be summarized as follows:

County agrees to: (1) permit the Tribe to construct the Sanja Cota Road, bridge, and creek improvements per plans approved by County; (2) issue encroachment permits for the construction of the improvements at no charge; (3) inspect the road, bridge, and creek improvements for compliance with approved plans and applicable standards; (4) determine the nature of needed maintenance or repair work pursuant to approved plans and applicable standards; and (5) submit to the Tribe an accounting of actual costs incurred in performing these tasks under the Maintenance Agreement for the purposes of reimbursement by the Tribe.

The Tribe agrees to: (1) provide to the County any and all plans and schematic drawings for the Sanja Cota Road improvements; (2) construct those improvements in accordance with plans reviewed and approved by the County; (3) provide notice to County of the date of completion of the improvements;

Subject: Escrow & Road Maintenance Agreement; Sanja Cota Road (Portion)  
Third Supervisorial District  
Agenda Date: April 13, 2004  
Page: 3 of 3

**Executive Summary and Discussion (Cont.):**

(4) conduct maintenance and repair work for Sanja Cota Road, Bridge and associated creek improvements per the terms of the Agreement; and (5) reimburse the County for its costs incurred per the terms of the Maintenance Agreement.

The Tribe has also agreed to provide to the County a limited waiver of sovereign immunity, to ensure that the Maintenance Agreement is legally enforceable.

Public Works approved plans for the Sanja Cota Road, Bridge, and Stream Improvements on April 1, 2004. These plans are attached to the proposed Maintenance Agreement as “Exhibit A”.

Staff anticipates the Tribal Council will consider and act on the Maintenance Agreement by April 15, 2004.

**Mandates and Service Levels:**

No change in programs or service levels.

**Fiscal and Facilities Impacts:**

The Tribe, under supervision of County Transportation staff is responsible for the design, construction and maintenance of the new Sanja Cota Road. The Tribe has agreed to pay for all County staff time associated with the real property transaction and supervision of the design and construction.

**Special Instructions:**

After Board action, please distribute as follows:

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|----|---|--------------------------------------|
| 1. | Original Escrow Instructions & Amendments           | Real Property Attn: Jeff Havlik      |
| 2. | Original <u>Road Maintenance Agreement</u>          | County Counsel, Attn: Jennifer Klein |
| 3. | DuplicateOriginal <u>Road Maintenance Agreement</u> | Clerk of the Board Files             |
| 4. | Copy of <u>Road Maintenance Agreement</u>           | Public Works, Attn: Jeff Havlik      |
| 5. | Minute Order  | Public Works, Attn: Jeff Havlik      |

**NOTE:** County Counsel will deliver the original, executed Road Maintenance Agreement to the Tribe. Real Property will deliver the executed Escrow Instructions and Amendments to the escrow officer who will record all the documents required to consummate the escrows.