

File: 70582-3152  
Owner: Costa Family Trust  
APN: 149-050-082 & 83  
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 **JOSEPH COSTA AND LYNN COSTA, HUSBAND AND WIFE, AND EACH OF THEM, A LIFE ESTATE IN A PORTION OF SAID LAND AND GLORIA PEREIRA AND LINDA COSTA, SUCCESSOR CO-TRUSTEES OF THE JOSE M. AND MARY G. COSTA FAMILY LIVING TRUST, EXECUTED OCTOBER 10, 1995**, 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 Thousand Five Hundred Dollars (\$100,500.00 rounded), the "Purchase Price", for the PROPERTY, which the parties agree includes:

- the sum of (\$34,500.00), fee title which includes all improvements;
- the sum of (\$12,000.00), Temporary Construction Easement;
- the sum of (\$54,000.00), 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 70582-1362, 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.

**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 [\$0.025] per square foot per month. 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. 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.

**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:**

Gloria Pereira & Linda Costa  
1721 East Kohn Ave  
Tulare, CA 93274

**13. 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.

**14. 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.

**15. GOVERNING LAW**

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

**16. 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.

**17. 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.

**18. 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.

This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

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

**OWNER:**

Joseph Costa  
Joseph Costa

Lynn Costa  
Lynn Costa

**JOSE M. AND MARY G.  
COSTA FAMILY TRUST**

\_\_\_\_\_  
Gloria Pereira, Trustee

\_\_\_\_\_  
Linda Costa, Trustee

Date: Dec 16, 2009

Mailing Address:  
Gloria Pereira & Linda Costa  
1721 East Kohn Ave.  
Tulare, CA 93274  
Telephone: (559) 967-2894

Recommended by:

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

**COUNTY OF TULARE**

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

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

Approved as to Form:  
County Counsel

By: Photo O. R. 3-10-10  
Deputy County Counsel

**EXHIBIT "A"**

That portion of the real property described in the Grant Deed to Joseph Costa and Lynn Costa, recorded August 10, 2005, as Document No. 2005-0086321, Tulare County Official Records, lying within the Southwest quarter of the Northwest quarter of Section 25, Township 19 South, Range 24 East, M.D.B.&M., in the County of Tulare, State of California, described as follows:

**COMMENCING** at the West quarter corner of said Section 25, thence South  $89^{\circ}41'44''$  East 59.00 feet along the South line of said Southwest quarter of the Northwest quarter, thence parallel with the West line of said Southwest quarter of the Northwest quarter, North  $00^{\circ}13'57''$  West, 25.00 feet to a point on the East line of the real property described in the Grant Deed to the County of Tulare, recorded on March 13, 1975 in Book 3230, Page 193, Tulare County Official Records, said point also being the **POINT OF BEGINNING**; thence along said East line, North  $00^{\circ}13'57''$  West 352.00 feet to a point on the North line of said real property to Joseph Costa and Lynn Costa; thence along said North line, North  $89^{\circ}46'03''$  East 31.00 feet to a point 90.00 feet offset, when measured perpendicular, from the West line of said Southwest quarter of the Northwest quarter; thence leaving said North line, South  $00^{\circ}13'57''$  East 318.68 feet parallel with and 90.00' East of the West line of said Southwest quarter of the Northwest quarter; thence South  $45^{\circ}13'57''$  East 47.01 feet to a point on the North line of said real property to the County of Tulare; thence along said North line, South  $89^{\circ}41'44''$  West 64.24 feet to the **POINT OF BEGINNING**.

Said description contains 11,465 square feet (0.2632 acres) more or less.

Robert C. Bangert 5-15-08  
Robert C. Bangert LS 5250 Date  
License Expiration Date: December 31, 2009

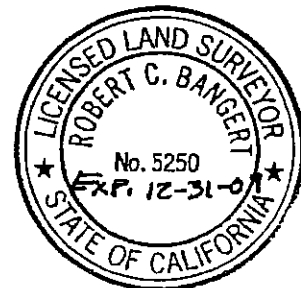


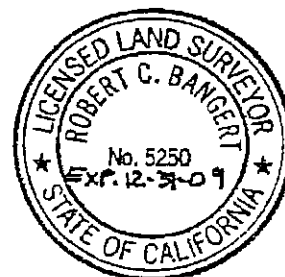
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**COMMENCING** at the West quarter corner of said Section 25, thence South  $89^{\circ}41'44''$  East 59.00 feet along the South line of said Southwest quarter of the Northwest quarter; thence parallel with the West line of said Southwest quarter of the Northwest quarter, North  $00^{\circ}13'57''$  West, 25.00 feet to a point on the East line of the real property described in the Grant Deed to the County of Tulare, recorded on March 13, 1975 in Book 3230, Page 193, Tulare County Official Records, thence along said East line, North  $00^{\circ}13'57''$  West 352.00 feet to a point on the North line of said real property to Joseph Costa and Lynn Costa; thence along said North line, North  $89^{\circ}46'03''$  East 31.00 feet to the **POINT OF BEGINNING**; thence continuing along said North line, North  $89^{\circ}46'03''$  East 10.00 feet; thence leaving said North line, South  $00^{\circ}13'57''$  East 231.29 feet; thence North  $89^{\circ}46'03''$  East 80.63 feet; thence South  $00^{\circ}18'18''$  East 109.55 feet; thence North  $89^{\circ}41'42''$  East 55.18 feet; thence South  $00^{\circ}18'18''$  East 11.00 feet to a point on the North line of said real property to the County of Tulare; thence along said North line, South  $89^{\circ}41'44''$  West 112.72 feet; thence leaving said North line, North  $45^{\circ}13'57''$  West 47.01 feet; thence North  $00^{\circ}13'57''$  West 318.68 feet to the **POINT OF BEGINNING**.

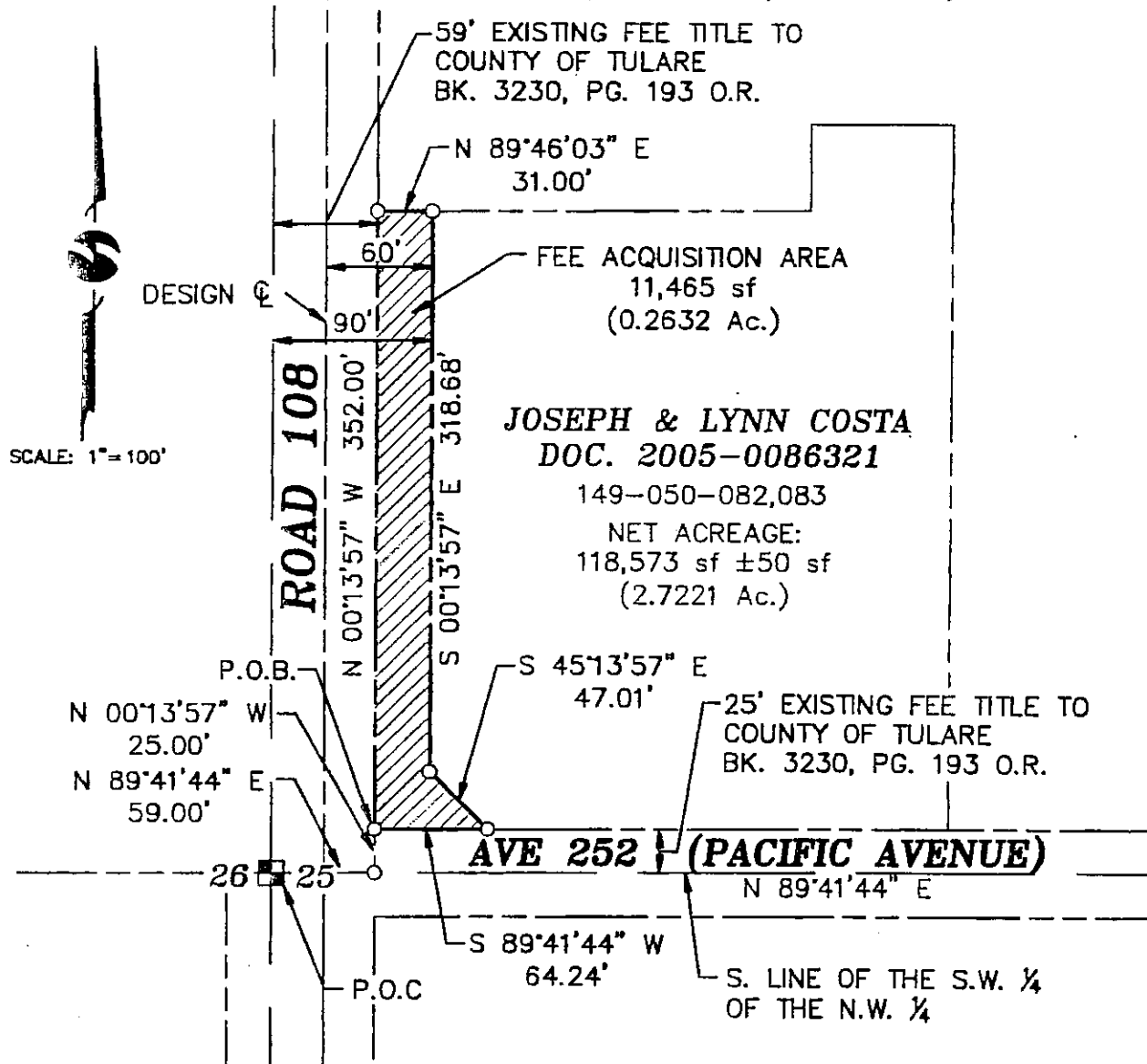
Said description contains 13,307 square feet (0.3055 acres) more or less.

Robert C. Bangert 6-3-08  
Robert C. Bangert LS 5250 Date  
License Expiration Date: December 31, 2009






# EXHIBIT 'B'

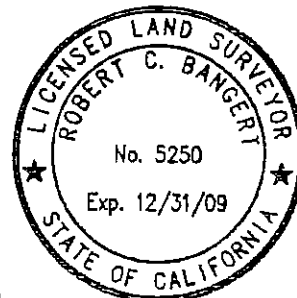
PORTION OF SECTION 25, T. 19 S., R. 24 E., M.D.B.&M.



## LEGEND

-  FEE AQUISITION AREA
-  PROPOSED R/W
- P.O.C POINT OF COMMENCEMENT
- P.O.B POINT OF BEGINNING
-  ¼ SECTION CORNER

*Robert C Bangert* 5-15-98  
ROBERT C. BANGERT LS 5250 DATE  
LICENSE EXPIRATION DATE: DECEMBER 31, 2009



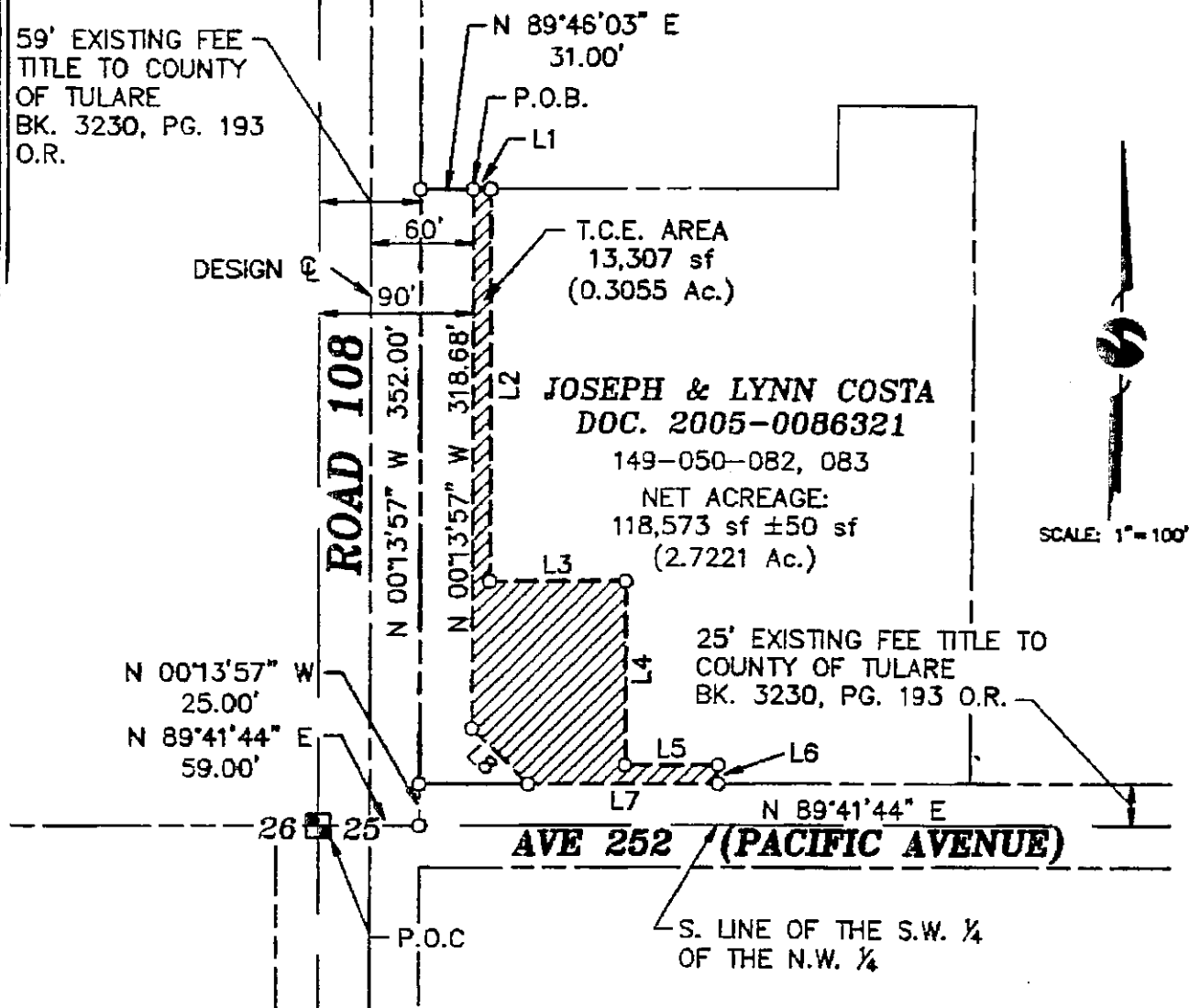
ROAD 108 PS&E  
FEE ACQUISITION



# EXHIBIT 'B' - 1

PORTION OF SECTION 25, T. 19 S., R. 24 E., M.D.B.&M.

59' EXISTING FEE  
TITLE TO COUNTY  
OF TULARE  
BK. 3230, PG. 193  
O.R.



SCALE: 1"=100'

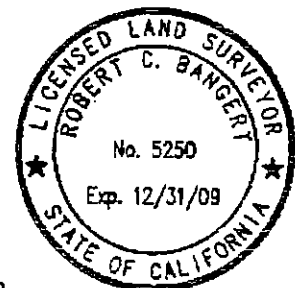
## LEGEND

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

*Robert C Bangert*

6-3-08

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



ROAD 108 PS&E

TEMP. CONSTRUCTION EASEMENT

SHT. 1 OF 2

# EXHIBIT 'B' - 1

| LINE TABLE |               |         |
|------------|---------------|---------|
| LINE       | BEARING       | LENGTH  |
| L1         | N 89°46'03" E | 10.00'  |
| L2         | S 00°13'57" E | 231.29' |
| L3         | N 89°46'03" E | 80.63'  |
| L4         | S 00°18'18" E | 109.55' |
| L5         | N 89°41'42" E | 55.18'  |
| L6         | S 00°18'18" E | 11.00'  |
| L7         | S 89°41'44" W | 112.72' |
| L8         | N 45°13'57" W | 47.01'  |

## LEGEND



FEE ACQUISITION AREA



PROPOSED R/W

P.O.C POINT OF COMMENCEMENT

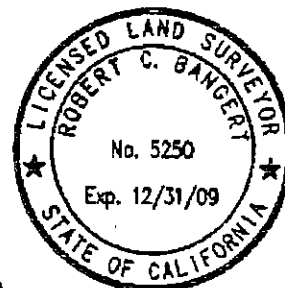
P.O.B POINT OF BEGINNING



1/4 SECTION CORNER

*Robert C. Bangert* 6-3-08

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



ROAD 108 PS&E

TEMP. CONSTRUCTION EASEMENT

SHT. 2 OF 2