

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT General Services		(2) MEETING DATE July 25, 2006		(3) CONTACT/PHONE Duane P. Leib (805) 781-5200		cm/rn
(4) SUBJECT Resolution of Necessity for the San Luis Obispo County Regional Airport Runway 11-29 Extension Project including Land for Temporary Construction Easement (TCE) Purposes. Approval of a Land Purchase in the amount of \$98,517* and \$34,483 for a TCE from San Luis Obispo County Regional Airport Enterprise Fund Cost Center 4250500000. (*rounded)						
(5) SUMMARY OF REQUEST Approval of the Resolution of Necessity will allow the County to acquire necessary real property and a temporary construction easement (TCE) through eminent domain proceedings for the purpose of extending Runway 11-29 at the San Luis Obispo County Regional Airport and the re-alignment of Santa Fe Road. Approval of the Land Purchase and TCE will authorize the necessary funds in the amount of \$133,000 from the Airports Enterprise Fund Cost Center 4250500000 to be used for said purchase.						
(6) RECOMMENDED ACTION It is recommended that your Board conduct the public hearing and approve the subject Resolution of Necessity by a 2/3's vote of the full Board. In addition, it is recommended your Board approve by a 4/5's vote the land and TCE purchase in the amount of \$133,000, and that the Auditor-Controller be directed to issue a check to the Superior Court of the State of California for said amount for said purchase.						
(7) FUNDING SOURCE(S) Airports Enterprise Fund Cost Center 4250500000		(8) CURRENT YEAR COST \$133,000		(9) ANNUAL COST		(10) BUDGETED? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): County Counsel, Auditor-Controller, County Clerk-Recorder						
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____						
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input checked="" type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input type="checkbox"/> All			(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board	
(16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. 30 min) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(17) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A			
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A			(19) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input checked="" type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A			
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____			(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input type="checkbox"/> N/A Date _____	
23) ADMINISTRATIVE OFFICE REVIEW <i>Vincent Morris</i> 7-25-06 C-2						



COUNTY OF SAN LUIS OBISPO

department of general services

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200
DUANE P. LEIB, DIRECTOR

TO: BOARD OF SUPERVISORS
D. Leib
FROM: DUANE P. LEIB, GENERAL SERVICES DIRECTOR
DATE: JULY 25, 2006
SUBJECT: RESOLUTION OF NECESSITY FOR THE SAN LUIS OBISPO COUNTY REGIONAL AIRPORT RUNWAY 11-29 EXTENSION PROJECT INCLUDING LAND FOR TEMPORARY CONSTRUCTION EASEMENT PURPOSES, SUPERVISORIAL DISTRICT NO. 3

APPROVAL OF A LAND AND TEMPORARY CONSTRUCTION EASEMENT (TCE) PURCHASE IN THE AMOUNT OF \$133,000 FROM SAN LUIS OBISPO COUNTY REGIONAL AIRPORT ENTERPRISE FUND COST CENTER 4250500000

RECOMMENDATION

It is recommended that your Board conduct the public hearing and approve the subject Resolution of Necessity by a 2/3's vote of the full Board. In addition, it is recommended that your Board approve by a 4/5's vote the land and TCE purchase in the amount of \$133,000, and that the Auditor-Controller be directed to issue a check to the Superior Court of the State of California for said amount for said purchase.

DISCUSSION

The San Luis Obispo County Regional Airport Runway 11-29 Extension Project involves securing property rights from various parcels for the purposes of extending the runway, Santa Fe Road realignment, runway approach protection and for related public uses and purposes. Negotiations are at an impasse with one of the property owners for the purchase of a temporary construction easement (TCE) and portion of real property from APN 076-371-016. The proposed runway extension project including the Santa Fe Road re-alignment is planned for summer construction. Before the project can begin, all necessary real property interests must be obtained. State guidelines provide the County the right to implement eminent domain proceedings to secure the necessary real property rights, under the authority of Government Code sections 25350.5, 26060 and 50470.

Pursuant to Code of Civil Procedure 1240.030, your Board must consider all of the relevant issues before allowing the power of eminent domain to be exercised. Your Board is requested to make the following findings:

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- a. Whether the public interest and necessity require the proposed project;
- b. Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the property sought to be acquired by eminent domain and described in the Resolution of Necessity is necessary for the proposed project.
- d. Whether the offer required by Govt. Code §7267.2(a), together with the accompanying statement and summary of the basis for the amount established as just compensation, was actually made to the property owners and whether said offer and statement/summary were in a form and contained all of the factual information required by Govt. Code §7267.2(a), a copy of which is attached hereto.
- e. Whether the County has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to acquire the property described herein, as well as any other matter regarding the right to take said property by eminent domain.
- f. Whether the County has statutory authority to acquire the property by eminent domain.
- g. Whether the County has fully complied with the California Environmental Quality Act for the proposed project.

Hearing time has been reserved on behalf of the property owner and/or his representative to allow an opportunity to speak to these relevant issues. The subject of compensation is not an issue that is being addressed at this hearing. The Department of General Services will continue the real property negotiations with the property owner through any legal proceedings.

Code of Civil Procedure 1245.240 requires a 2/3's vote of the full Board for the adoption of this resolution. Pursuant to Federal Aviation Administration requirements, a professional real property appraisal firm appraised the subject parcel. Additionally, an appraiser independent of the appraisal firm hired by the County performed a review appraisal. The County has prepared to contract for the specialized legal services of Daley & Heft Legal Offices, for the purpose of acquiring in the County's name, said property by eminent domain proceedings. As part of these proceedings, it is necessary for your Board to direct the Auditor-Controller issue a check to the Superior Court of the State of California pending possession of the property.

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OTHER AGENCY INVOLVEMENT

County Counsel has reviewed and approved the subject resolution. Upon adoption of the resolution, a certified copy will be filed together with the appropriate legal documents within the Superior Court of the State of California.

FINANCIAL CONSIDERATIONS

The land acquisition in the amount of \$98,517* and a TCE in the amount of 34,483 are funded by the Federal Aviation Administration (95%) and Passenger Facility Charges (5%). Your Board approved the budget and funding source for the project during the 04-05-budget process. By direction from your Board, the funds for purchase of the land and TCE will be withdrawn from the San Luis Obispo County Regional Airport Enterprise Fund Cost Center 4250500000. Estimated cost of the real property and TCE is \$133,000. (*rounded)

RESULTS

Approval of the Resolution of Necessity will allow the County to acquire through eminent domain proceedings, the real property rights necessary for the Runway 11-29 Extension Project and re-alignment of Santa Fe Road. The action of your Board will ensure a safe, livable and prosperous community.

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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ DAY OF _____, 2006

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION OF NECESSITY FOR THE SAN LUIS OBISPO
COUNTY AIRPORT RUNWAY 11-29 EXTENSION PROJECT
SUPERVISORIAL DISTRICT NO. 3**

The Board of Supervisors of the County of San Luis Obispo, State of California,
does hereby resolve as follows:

1. The County of San Luis Obispo desires to acquire certain real property described below for public by its exercise of the power of eminent domain.
2. The County of San Luis Obispo intends to construct a project that includes the extension of San Luis Obispo County Airport Runway 11-29 and related public uses and purposes; to implement the public improvements identified in the Final Airport Master Plan for the County of San Luis Obispo Regional Airport as adopted in Resolution number 2006-195 on May 23, 2006; and, to carry out and make effective the principal purposes of said project pursuant to Code of Civil Procedure section 1240.120(a).
3. The County of San Luis Obispo is authorized to acquire the property described herein and to exercise the power of eminent domain for the public use set forth herein in accordance with the California Constitution and the California Eminent Domain Law, Code of Civil Procedure section 1230.010 et seq. and pursuant to inter alia, sections 1240.010, 1240.110, 1240.120, 1240.510, 1240.610 and 1255.410 of the California Code of Civil Procedure, and pursuant to the authority granted in Government Code sections 25350.5, 26020 and 50470.
4. Pursuant to Code of Civil Procedure section 1245.235, written notice of the intent to consider the adoption of this resolution of necessity was sent on July 12, 2006, to the owners of record of said property. Said Notice of Hearing was also mailed to all persons whose names appear on the last equalized County Assessment Roll as having an interest in the subject real property to the address appearing on said Roll. Said Notice of Hearing advised said persons of their right to be heard on the matters referred to therein, pursuant to and consistent with Code of Civil Procedure sections 1240.030 and 1245.230, on the date and at the time and place stated

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therein. Said notice also advised the property owners that time had been reserved on the Agenda so that they and/or their representative could speak regarding the adoption of this resolution.

5. The portion of real property to be acquired is described as:
 - a) The fee acquisition of the Southerly 6,813 square feet of the parcel (portion of APN 076-371-016) fronting Santa Fe Road. (See Exhibit "A")
 - b) The temporary construction easement consisting of 40,096 square feet of land adjacent to the permanent fee acquisition for a period of 12 months. This land includes parking lot, driveway, landscaping, and leach field area. (See Exhibit "E")

A map generally depicting this property is attached hereto and marked as Exhibit A and E. This property is also generally described as a portion of Assessor's Parcel No. 076-371-016. Said real property is located entirely within the County of San Luis Obispo, State of California.

6. The Board of Supervisors of the County of San Luis Obispo has determined that all requirements of the California Environmental Quality Act and the Public Resources Code have been met. The Final Environmental Assessment/Environmental Impact Report (FEA/EIR) (ED No. 05-404) issued for the San Luis Obispo County Regional Airport Master Plan Update had been previously certified by Resolution number 2006-194 adopted May 23, 2006, which FEA/EIR is incorporated herein by reference.
7. The hearing set out in said Notice of Hearing was held on July 25, 2006, at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was then closed.

Based upon the evidence presented, **IT IS HEREBY FOUND AND**

DETERMINED by at least a two-thirds vote of this entire Governing Board that:

1. The public interest and necessity require this proposed project, as above described.
2. The proposed project is planned and located in the manner that is most compatible with the greatest public good and the least private injury.
3. The property described hereinabove and generally depicted on the map shown on Exhibit A and B attached hereto and made a part hereof is necessary for the proposed project.
4. The offer required by section 7267.2(a) of the Government Code, together with the accompanying statement of and summary of the basis for the amount established as just compensation, was made to the owner or owners of record, which offer and accompanying statement/summary were in a form and contained all of the factual disclosures provided by Government Code section 7267.2(a).

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5. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the County of San Luis Obispo.
6. The County of San Luis Obispo hereby further finds and declares that the acquisition by condemnation action of the subject property is in conformity with the Final Airport Master Plan for the County of San Luis Obispo Regional Airport as adopted by Resolution number 2006-195 on May 23, 2006, which Plan is incorporated herein by reference.
7. The County of San Luis Obispo hereby further finds and declares that the acquisition by condemnation of the subject property and the project design is in conformity with the FEA/EIR certified by Resolution number 2006-194 adopted May 23, 2006. The effects of the condemnation were examined at a sufficient level of detail in the Airport Master Plan FEA/EIR that no subsequent or supplemental environmental document is needed in order to measure or mitigate the environmental effects.
8. The use for which the subject property is to be taken is a more necessary public use than that to which the property is currently appropriated and the taking is for either a compatible or more necessary public use consistent with and authorized by Code of Civil Procedure sections 1240.510 and 1240.610.
9. The County Counsel of the County of San Luis Obispo, and/or its special legal counsel Daley & Heft, LLP, are hereby AUTHORIZED and EMPOWERED:
 - a) To acquire in the name of the County of San Luis Obispo, by condemnation, the property and temporary construction easement described hereinabove and generally depicted on the map shown on Exhibit A and B and incorporated herein by this reference in accordance with the provisions of the California Eminent Domain Law and the Constitution of California;
 - b) To acquire the property in fee simple absolute;
 - c) To acquire the temporary construction easement;
 - d) To prepare or have prepared and to prosecute in the name of the County of San Luis Obispo such proceedings in the proper court as are necessary for such acquisition;
 - e) To deposit the probable amount of compensation, based on appraisal, and to apply to said court for an order permitting the County of San Luis Obispo to take immediate possession and use of said property for said public uses and purposes.
10. The Director of General Services is hereby authorized and directed to execute all documents and papers necessary for the initiation, processing and completion of an eminent domain proceeding for the acquisition of the

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A

real property described hereinabove and generally depicted on the map shown in Exhibit A and E, attached hereto.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

By: _____ Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:
JAMES B. LINDHOLM, JR.
County Counsel

By: 
Deputy County Counsel

DATED: 7/12/06

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EXHIBIT A

LEGAL DESCRIPTION

C. B. & I. TO THE COUNTY OF SAN LUIS OBISPO

All that real property in the State of California, County of San Luis Obispo, described as follows:

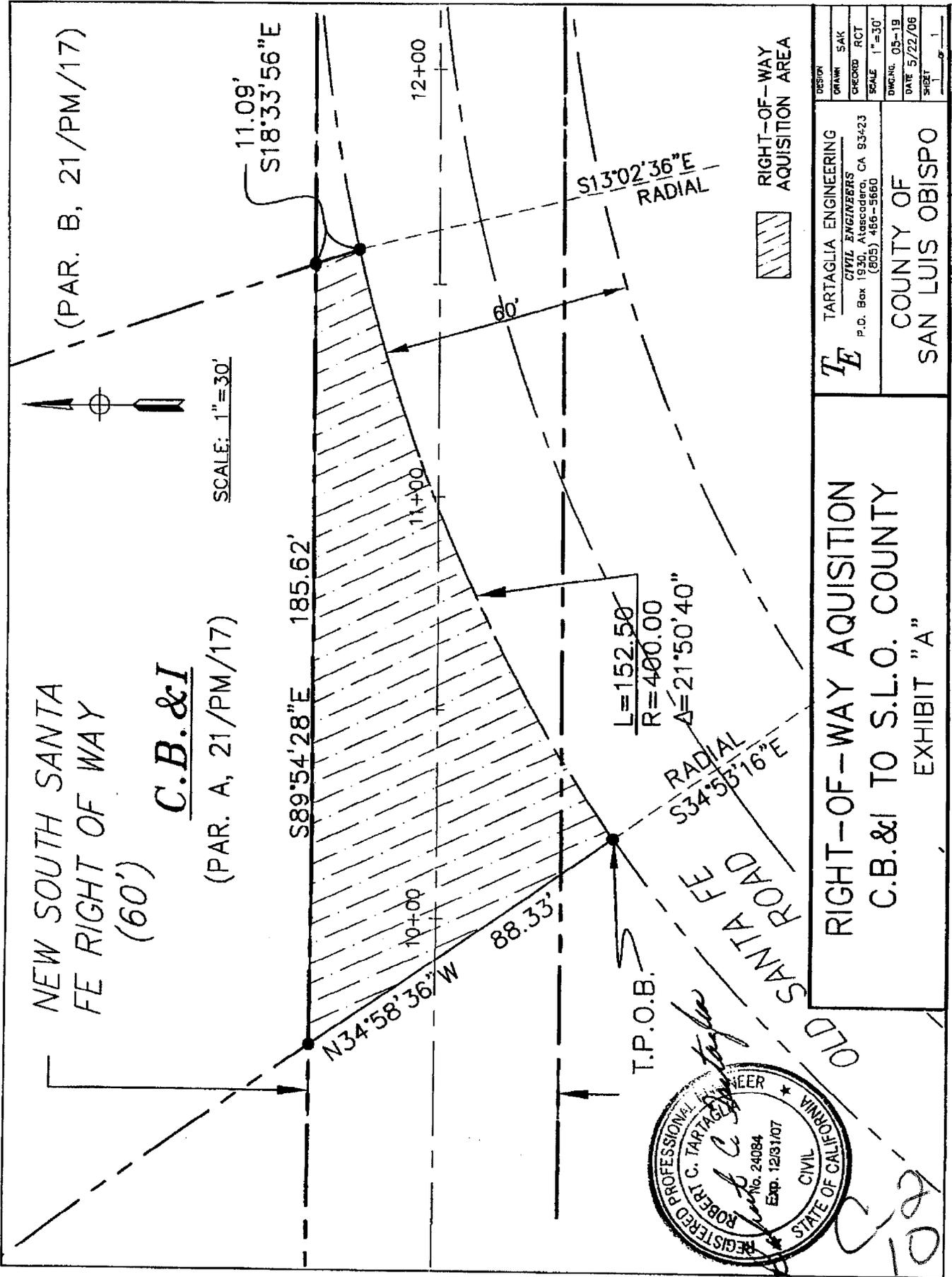
That portion of Parcel A of Parcel Map CO-75-434 as recorded in Book 21 of Parcel Maps, Page 17, San Luis Obispo County records being more particularly described as follows:

Beginning at the southwest corner of said Parcel A, said POINT OF BEGINNING being the intersection of the northwesterly existing right-of-way line of Santa Fe Road and the westerly line of Parcel A; thence along the westerly line of Parcel A, N 34° 58' 36" W, 88.33 feet; thence leaving said westerly parcel line, S 89° 54' 28" E, 185.62 feet to a point on the easterly line of said Parcel A; thence along the easterly line of Parcel A, S 18° 33' 56" E, 11.09 feet to a point on existing northerly right-of-way of Santa Fe Road, said point being on the curve of the existing right-of-way and having a radial bearing of S 13° 02' 36" E; thence along said right-of-way curve to the left having a radius of 400.00 feet, a central angle of 21° 50' 40" and a length of 152.50 feet to the TRUE POINT OF BEGINNING.

Containing 6,813 square feet, more or less.

J.N. 05-19
5/22/06

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NEW SOUTH SANTA
FE RIGHT OF WAY
(60')

C.B.&I

(PAR. A, 21/PM/17)

SCALE: 1"=30'

(PAR. B, 21/PM/17)

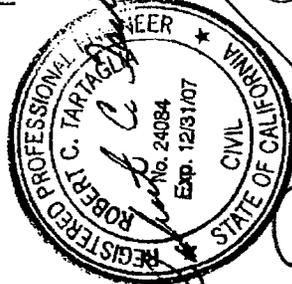
RIGHT-OF-WAY
ACQUISITION AREA

RIGHT-OF-WAY ACQUISITION
C.B.&I TO S.L.O. COUNTY
EXHIBIT "A"

TARTAGLIA ENGINEERING

CIVIL ENGINEERS
P.O. Box 1930, Atascadero, CA 93423
(805) 466-5660

COUNTY OF
SAN LUIS OBISPO



DESIGN	DRAWN	SAK
CHECKED	RCT	
SCALE	1"=30'	
DWG. NO.	05-19	
DATE	5/22/06	
SHEET	1	

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EXHIBIT E

LEGAL DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT

C. B. & I. TO THE COUNTY OF SAN LUIS OBISPO

A Temporary Construction Easement for the purposes of reconstructing and modifying driveway access improvements, drainage improvements, sanitary sewer improvements and utilities over and across that portion of real property in the State of California, County of San Luis Obispo, described as follows:

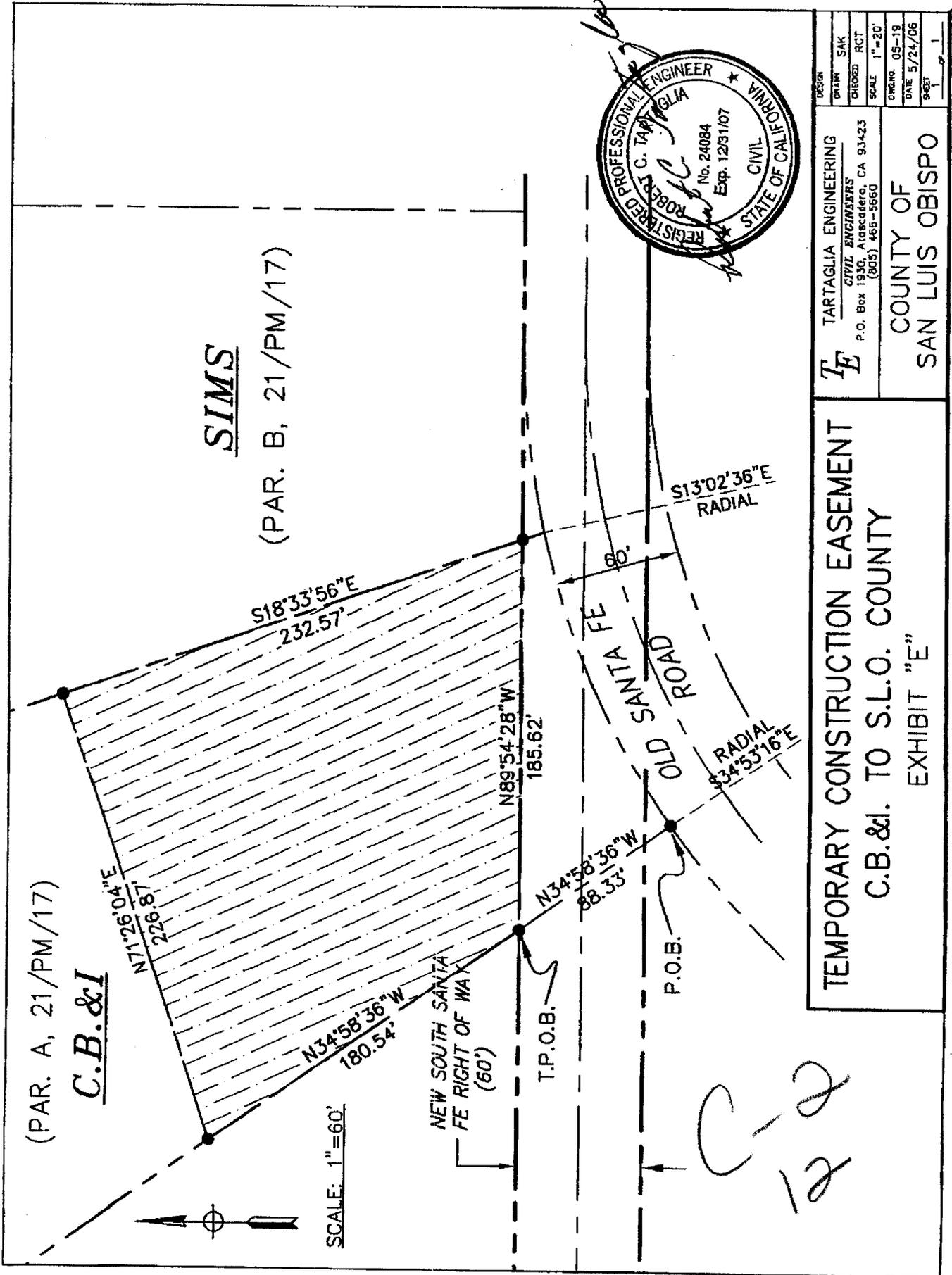
That portion of Parcel A of Parcel Map CO-75-434 as recorded in Book 21 of Parcel Maps, Page 17, San Luis Obispo County records being more particularly described as follows:

Beginning at the southwest corner of said Parcel A, said point of beginning being the intersection of the northwesterly, existing right-of-way line of Santa Fe Road and the westerly line of Parcel A; thence along the westerly line of Parcel A, N 34° 58' 36" W, 88.33 feet to the TRUE POINT OF BEGINNING; thence continuing along the westerly line of Parcel A, N 34° 58' 36" W, 180.54 feet; thence leaving said westerly line of Parcel A, N 71° 26' 04" E, 226.87 feet to a point on the easterly line of said Parcel A; thence along the easterly line of Parcel A, S 18° 33' 56" E, 232.57 feet to a point of the future right-of-way line of Santa Fe Road; thence along said future Santa Fe right-of-way line N 89° 54' 28" W, 185.62 feet to the TRUE POINT OF BEGINNING.

Containing 40,096 square feet, more or less.

J.N. 05-19
5/24/06

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DESIGN	DR/IM	SAK
	CHECKED	RCT
	SCALE	1"=20'
	OWNER	05-19
	DATE	5/24/06
	SHEET	1

TARTAGLIA ENGINEERING
 CIVIL ENGINEERS
 P.O. Box 1930, Arcadadero, CA 93423
 (805) 486-5650

COUNTY OF
 SAN LUIS OBISPO

TEMPORARY CONSTRUCTION EASEMENT
 C.B.&I. TO S.L.O. COUNTY
 EXHIBIT "E"

Handwritten initials: C & I