



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

7

Meeting Date: 4/26/2012

Report Type: Consent

Title: Agreement: Freeport Shores Bikeway Project

Report ID: 2012-00320

Location: South of Meadowview Road along Freeport Boulevard, District 7

Recommendation: Pass a Motion approving a Project Agreement with the State of California Department of Parks and Recreation (State) in which the City accepts from the State a conveyance of easement and agrees to purchase \$50,000 in railroad crossing equipment and material for the State to construct the Freeport Shores Bikeway Project.

Contact: Tim Mar, Supervising Engineer, (916) 808-7531; Nicholas Theocharides, Engineering Services Manager, (916) 808-5065, Department of Transportation

Presenter: None

Department: Transportation Department

Division: Civil & Electrical Design

Dept ID: 15001131

Attachments:

- 1 -Description/Analysis
- 2 - Background Information
- 3 - Exhibit A - Location Map
- 4 - Agreement with State of California Department of Parks and Recreation

City Attorney Review

Approved as to Form
Gerald Hicks
4/18/2012 11:53:37 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
4/10/2012 3:12:41 PM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 4/16/2012 5:05:03 PM



Description/Analysis

Issue: The Freeport Shores Bikeway Project (K15000000) will close a bikeway gap by extending a bike and pedestrian trail from its current terminus on the Sacramento River levee to the Bill Conlin Youth Sports Complex. City Council approval of the Project Agreement and acceptance of the conveyance of easement from the State enables the City to move forward with construction.

Policy Considerations: This project is consistent with the City of Sacramento Strategic Plan goals of improving the transportation system and achieving enhanced safety and neighborhood livability.

Environmental Considerations:

California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA): On July 22, 2004, the City Council approved a Mitigated Negative Declaration and adopted the Mitigation Reporting Plan for the Freeport Shores Bikeway Project (K15000000) pursuant to the requirements of the California Environmental Quality Act (CEQA). The improvements to be constructed by the project were identified, studied, and environmentally cleared in the above referenced document.

As the project is funded with federal funds, the Project is also subject to the National Environmental Policy Act (NEPA). It was determined that the project is exempt and a Categorical Exclusion was determined and approved by Caltrans on July 20, 2004.

There is no substantial evidence that the Project with the adoption of the mitigation measures identified will have a significant effect on the environment.

Sustainability Considerations: This project is consistent with the City's Sustainability Master Plan. It will add and enhance existing bicycle and pedestrian facilities and promote alternative modes of travel.

Other: None.

Commission/Committee Action: None.

Rationale for Recommendation: An easement from the State is needed to proceed with construction. Approval of the agreement also provides the State with \$50,000 in railroad crossing equipment and materials to construct a bike/pedestrian crossing of the railroad track.

Financial Considerations: This grant of easement from the State to the City is at no cost. The current project budget is \$569,708 and has an unobligated balance of \$93,649 which is sufficient to cover the \$50,000 of costs in this agreement and complete final design. At City Council contract award, additional federal construction funds and City match will be added to the project.

There are no additional general funds planned or allocated for this project.

Emerging and Small Business Enterprise (E/SBE): Not applicable as no goods or services are being purchased by this action.



Background Information:

The Freeport Shores Bikeway Project (K15000000) will close a bikeway gap by extending a bike and pedestrian trail from its current terminus on the Sacramento River levee to the Bill Conlin Youth Sports Complex. The new trail will be extended down the levee along a joint use road, cross a State Parks railroad track, cross Freeport Boulevard via a new pedestrian signal and traverse the east side of Freeport Boulevard ending at the Bill Conlin Youth Sports Complex.

In order to construct a project, a bicycle and pedestrian easement is required from the State. After many years of discussion, the State has agreed to grant the City the easement necessary to construct the project. Through the City/State Agreement, the City will purchase \$50,000 in railroad crossing equipment and materials for the State to construct a bike/pedestrian crossing of the State's railroad track.

The project is federally funded by Congestion Mitigation and Air Quality (CMAQ) funds. Additional federal construction funds and City match will be allocated to the project at contract award.

The project is scheduled for bid advertising in Summer 2012 and be completed by Fall 2012.



Location Map for
Freeport Shores Bike & Pedestrian Trail
(K15000000)



Map Date: FEB/12; Map Contact: S. Tobin



Project: Freeport Shores Bike Trail
APNs.: Portion of 031-0010-005 & 010
RESS WO/File: 1979949/ACOE-11-29-01
State DPR File: _____
Escrow #: 5005318 for APNs 031-0010-005 & 010
Title Co: Fidelity National Title

**PROJECT AGREEMENT AND CONVEYANCE OF EASEMENT
BETWEEN THE CITY OF SACRAMENTO and THE STATE OF CALIFORNIA
for the
FREEPORT SHORES BIKE TRAIL PROJECT (K15000000)**

This agreement ("Agreement") is made and entered into this ____ day of _____ 2012, by and between the STATE OF CALIFORNIA, acting by and through California State Parks ("State"), and the CITY OF SACRAMENTO, a municipal corporation ("City").

RECITALS

- A) The City has undertaken a public works project known as the Freeport Shores Bike Trail Project, referred to in this Agreement hereafter as the "Project" and located near Freeport Boulevard just south of the I-5 crossing, and has filed a Notice of Determination, dated July 27, 2004; and
- B) The State owns the real property, identified as County of Sacramento Assessor parcel Nos. (APN) 031-0010-005 & 010, that encompasses portions of the land upon which the Project will be developed ("Project Area"), which parcel is shown on the attached Exhibit A; and
- C) The City is undertaking construction of the Project which will connect the Sacramento River Bike Trail with the Bill Conlin Youth Sports Complex near the town of Freeport; and
- D) The State owns, operates and maintains an interpretive railroad together with a fee title property collectively known as the Sacramento Southern Railroad ("Railroad"), that traverses a portion of the Project area; and
- E) Construction of the Project as planned and designed will require the Project to cross the Railroad at grade, and run along the west side of the Railroad that currently does not host train movements, but is planned to host trains in the future; and
- F) In order to facilitate development of the Project, the City has requested permission from the State for a public at-grade crossing of the Railroad, and a concurrence letter for the crossing to be provided by the State to the California Public Utilities Commission (CPUC); and
- G) The State is amenable to accommodating the City's request to locate the Project within an easement ("Project Easement") to be provided to the City at no cost, and to coordinate with and cooperate in the City's application for an at-grade public crossing to enable the Project's development, on the condition that the Project does not interfere with or adversely affect the Railroad and its future operation; and

- H) The Project Area has been encumbered by a City Department of Utilities facility related to its Sump 28 storm drain facility ("Sump 28 facilities"). The City desires and the State is receptive to granting an easement ("DOU Easement") to the City to perfect the City's interest in the Project Area related to the Sump 28 facilities; and
- I) City owns that real property located at the southwest corner of the intersection of Pocket Road/Meadowview Road and Freeport Blvd. identified as APN 031-0010-004, hereafter referred to as "Fee Parcel", which parcel is shown on the attached Exhibit B; and
- J) The City is willing to provide to the State, at no cost, fee title to the Fee Parcel that State is desirous of acquiring, subject to State's property acquisition process, for its future use in connection with the Railroad. The terms and conditions of such transfer are to be defined in a separate Agreement for Transfer of Real Property, also known as a Property Acquisition Agreement to be executed between City and State; and
- K) Whereas, both parties recognize and acknowledge that certain phases of construction activity may require reconstruction and/or removal and replacement of portions of the Railroad for limited durations, and that any such reconstruction, removal and replacement will be performed by the City and City will restore the Railroad to a condition that is comparable to or better than its present condition, subject to review and approval of the State; and

NOW THEREFORE, in consideration of the terms and conditions set forth herein, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. **Purpose & Intent:**

A. City and State are desirous of cooperating in good faith to ensure the Project may move forward to fruition as planned and designed, and that the Railroad is not adversely affected or harmed as a result of the Project. It is recognized and acknowledged that development and construction of the Project will require an easement on State property immediately adjacent to the Railroad, and also a public at-grade bike crossing of the Railroad. The Project Area, the Project, and the Railroad are illustrated on a map attached as Exhibit 'C'.

B. City and State are desirous of cooperating in good faith to ensure City transfers title, at no cost to State, to that certain Fee Parcel. The terms and conditions of such transfer are to be defined in a separate Agreement for Transfer of Real Property, also known as Property Acquisition Agreement to be executed between City and State, subject to State's property acquisition approvals.

- 2. **Term of Agreement:** This Agreement shall commence on the effective date stated above and shall continue in full force and effect through December 31, 2013, unless earlier terminated.
- 3. **Consideration:** No monetary consideration except for equipment purchased for the at grade rail crossing of the Project shall be paid or received by either the State or the City in connection with this Agreement.
- 4. **Exhibits:** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.
- 5. **Project Requirements:** Work pertaining to the Project will require the following tasks:

- A) Preparing final plans, specifications and estimate for the Project.
 - B) Preparing and obtaining plats and legal descriptions Easement 1 and 2.
 - C) Obtaining a CPUC GO-88 that allows construction of the Project.
 - D) Obtaining federal funding for the Project.
 - E) Advertising, awarding and construction of the Project.
6. **Bike Trail (Project) Easement:** The State shall grant to the City, at no cost, a non-exclusive easement for the benefit of the Project ("Project Easement"), together with the right to construct, reconstruct, inspect, maintain, repair, remove, operate and use the bike trail over, on, and across the Project Area. An Agreement and Grant of Easement for Public Bicycle and Pedestrian Trail, in the form of which is attached as Exhibit D, shall be signed and executed by the parties and delivered to Escrow Holder for recording through escrow, within 60 days from the date stated above in this Agreement.
7. **DOU Easement:** To perfect the City Department of Utilities existing facility related to its Sump 28 storm drain facility ("Sump 28 facilities"), State is willing to grant City an easement ("DOU Easement"), together with the right to construct, reconstruct, inspect, maintain, repair, replace, remove, operate and use said storm drain facilities. An Agreement and Grant of Easement for this Sump 28 facility, in the form of which is attached as Exhibit E, shall be executed by the parties and delivered to the City for recording through escrow, within 60 days from the date stated above in this agreement.
8. **Reservation of Rights:** The State, for public benefit, reserves the right to grant easements and access to other entities in the Project's vicinity, within and adjacent to the two easements described herein.
9. **Execution and Delivery of Easement Deeds:** An escrow account has been opened with Fidelity National Title Company, 8950 Cal Center Drive, Bldg 3, Suite 100, Sacramento, CA 95826, (916) 364-4070, Escrow Number 5005318 (hereafter referred to as the "Escrow Holder"). City shall sign said Agreement and Grant of Easement (s) and deliver to State, with execution of same by State to follow forthwith. Upon execution of this Agreement, the Project Easement and DOU Easement (collectively referred to as "the Easement Deeds"), the Agreement and deeds shall be delivered to the escrow holder for recording.
10. **Possession and Use of the Project Easement:** The City shall have the right of possession and use of the Project Easement area including the right to remove and dispose of improvements and construct the above-named Project commencing on the date that this Agreement is executed by both parties; provided that City makes no representation that the Project shall be constructed, and no liability or obligation whatsoever shall be incurred by City by reason of any failure to construct the Project for any reason. If the Project Easement is subsequently not acquired by City for any reason, City shall restore the Project Area to the condition existing prior to the City's possession or use hereunder, unless otherwise agreed by the parties.
11. **Escrow:** Unless extended by the mutual agreement of both parties, the escrow shall close within sixty (60) days after execution of this Agreement by both parties.

Upon the close of escrow, the Escrow Holder shall record the Easement Deeds in the Recorder's Office for Sacramento County. Title to the Easement Deeds shall pass to the City immediately upon close of escrow.

The issuance of escrow instructions shall be the responsibility of the City. Both parties agree to execute such additional documents as may be reasonably necessary to consummate the transaction herein contemplated.

12. **Title Insurance:** City may obtain a CLTA/ALTA owner's policy of title insurance, at its own expense, insuring that clear title to the property is vested properly upon recording of the deeds.
13. **Fees:** City shall pay for the escrow, recording and title insurance fees incurred in this transaction.
14. **Temporary Removal (and/or Reconstruction) of the Railroad (Track):** The City, at its sole cost and expense, shall furnish, or cause to be furnished, all engineering design, materials, equipment, labor, construction supervision and contract administration for removal, reinstallation, reconstruction, and/or construction of work around the railroad, if the Project requires said removal or reconstruction. All such work shall be developed in conjunction with the State.
15. **Construction of the Project:** The City, at its sole cost and expense, shall furnish, or cause to be furnished, all engineering design, materials, equipment, labor, construction supervision and contract administration for the construction of all project features, including a new public at-grade Pedestrian/Railroad Crossing. This crossing shall be permitted and approved by the CPUC prior to construction of said pedestrian/railroad crossing. The City shall purchase and deliver to the State railroad crossing equipment and material for the Project in the amount not to exceed \$50,000. State shall identify equipment and material for the City to be incorporated into the plans and specifications.
16. **Construction Plans & Specifications:**
 - A. State's Specifications: The State, at its sole cost and expense, shall provide the City with technical specifications for crossing equipment and material (as noted in Section 15, above) within 30 calendar days from the date of this Agreement, stated above.
 - B. Plans: The City, at its sole cost and expense, shall submit to the State's Representative the construction plans and technical specifications of all proposed work in the Project, including the Pedestrian/Railroad Crossing.
 - C. Plan Review: The State, at its sole cost and expense, shall review said construction plans and technical specifications for adequacy and completeness. If the plans and specifications are deemed acceptable, the State shall approve said plans and specifications and will authorize the City to commence with the work.
17. **State's Coordination with Project Work:** The State shall cooperate with the City to coordinate any maintenance or other activities that could affect Project work or activities. On a weekly basis, the State shall provide the City with a schedule listing the dates and approximate times of any planned inspections or maintenance that it will be conducting in the Project vicinity.
18. **City's Coordination with Railroad Operations:** The City shall cooperate with the State to coordinate Project work or activity that may adversely affect or potentially affect the Railroad operation. Said coordination shall be required only if train operations resume within the Project area during the timeframe covered by this Agreement.
19. **Project Maintenance:**
 - A. City: The City, at its sole cost and expense, shall assume responsibility for maintaining the surface of all Project features, including any Pedestrian/Railroad Crossings developed as part of the Project. Maintenance shall include cleaning, trash, debris and rock removal, grease and oil removal, and keeping precast concrete panels or other suitable crossing surfaces and materials abutting the Track rails in good condition and

repair.

- B. State: The State, at its sole cost and expense, shall accept delivery and storage of all equipment and materials for the crossing as described in Section 15 above, and assume responsibility for ownership and future installation of said equipment and materials. Such maintenance shall include repair and replacement of all components of the Track and Signal Warning Systems. The parties understand and agree that signal warning systems are not required for the bike/pedestrian crossing as of the date of this agreement, nor are they anticipated to be required until such time as train operations resume along this section of the Railroad in the future.

20. Landscape Management & Maintenance:

- A. City: The City shall be solely responsible for managing and maintaining all landscaping within the Project Easement and DOU Easement areas. The City shall prevent any and all surface drainage, including both irrigation and precipitation, from congregating on or immediately adjacent to, the railroad right of way.
- B. State: The State shall be solely responsible for managing and maintaining any landscaping installed on its property but located outside of the two easements described herein. However nothing herein shall preclude State from taking action to control/maintain said landscaping features, should they pose safety or environmental hazards.

21. **Agreement Subject to Existing Rights and Claims:** This Agreement is subject to any and all existing contracts, permits, licenses, encumbrances and claims which may affect the Project Area and/or the two easements described herein.
22. **Notice of Work:** Prior to commencing any work or activity covered by this Agreement, each party shall notify the other party by written notice at least 48 hours in advance of commencing any such work or activity. The officials to be notified are identified in section 23, below.
23. **Notices:** All notices which may be given by either party to the other, shall be deemed to have been given when made in writing and sent either electronically (email) or via the U.S. Postal Service (regular mail). Notices shall be addressed as follows:

To the City:
Economic Development
915 'I' Street, 3rd Floor
Sacramento, CA 95814
Attn: Leslie Fritzsche
lfritzsche@cityofsacramento.org

To City Real Estate Services Section:
Dept of General Services
Facilities & Real Property Mgmt
5730 24th St, Bldg 4
Sacramento, CA 95822
Attn: Marianne Wetzel
mwetzel@cityofsacramento.org

mailto:
To the State:
Capital District
111 'I' Street
Sacramento, CA 95814
Attn: Paul Hammond
phammond@parks.ca.gov

To State Railroad Operations:
Sacramento Southern RR
111 "I" Street
Sacramento, CA 95814
Attn: Alan Hardy
ahardy@parks.ca.gov

24. **State's Representative:** The person charged with the administration of this Agreement on behalf of the State is the Capital District Superintendent, Ms. Catherine Taylor, or her designee or replacement. The District Superintendent is the initial contact for information,

application, approvals, and problems that may arise in the exercise and operation of this Agreement. Ms. Taylor's phone number is (916) 324-7815.

25. **City's Representative:** The person charged with the administration of this Agreement on behalf of the City is the Project Manager, Ms. Leslie Fritzsche, or her designee or replacement. The Project Manager is the initial contact for information, application, approvals, and problems that may arise in the exercise and operation of this Agreement. Ms. Fritzsche's phone number is (916) 808-5450.
26. **Contracting:** Both the City and the State shall incorporate all the applicable terms, conditions, and requirements contained herein in any and all contracts when hiring out any portion of the work or activity covered by this Agreement. The City and the State shall be equally and individually responsible for ensuring all contractors and subcontractors comply with the applicable terms and conditions contained herein. Failure by contractors or subcontractors hired by either party to abide by the applicable terms and conditions contained herein shall constitute a default by the party to which the contractor was working for.
27. **Indemnification:**
 - A. **City:** The City shall indemnify, defend and hold harmless the State, its officers, agents, and employees from and against any and all losses, costs, damages, expenses, claims, actions, suit demands and/or liability of any kind or character, including but not limited to attorney fees arising from or related to any act, omission, or negligence of the City, its officers, agents, employees, contractors and subcontractors in the performance of, or otherwise in connection with the work or activities covered by this Agreement. In addition, City shall cause all contractors and subcontractors performing work within the Project Area, on the two easements described herein, or elsewhere on State's property, to carry policies of insurance meeting the requirements as set forth in Exhibit D & E.
 - B. **State:** The State shall indemnify, defend and hold harmless the City, its officers, agents, and employees from and against any and all losses, cost damages, expenses, claims, actions, suit demand and/or liability of any kind or character, including but not limited to attorney fees arising from or related to any act, omission, or negligence of the State, its officers, agents, or employees in the performance of, or otherwise in connection with the work or activities covered by this Agreement.
28. **Restoration of Railroad Right of Way:** The City shall be solely responsible for restoring the Railroad Right of Way to an orderly, firm, evenly-graded, clean and safe condition following completion of the Project and/or abandonment thereof. Restoration includes, but is not limited to, repairs and/or replacement of any and all damaged property.
29. **Right to Halt Access:** The State reserves the right to temporarily halt and suspend the City's use of the Railroad Right of Way in the event the State determines that any material provision contained herein is violated or any threat to the health and safety of any individual on the Railroad Right of Way arises. Such action may occur with or without prior notice being given to the City.
30. **Default:** In the event of material breach by either party of any of the terms or conditions set forth in this Agreement, the injured party may at any time thereafter, without limiting itself in the exercise of any right of remedy at law or in equity which it may have by reason of such breach, maintain this Agreement in full force and effect and recover monetary damages incurred by reason of the breach, including any amount necessary to compensate it for all the detriment proximately caused by the other party's failure to perform its obligations under this Agreement or which in the ordinary course of events would be likely to result therefrom.

31. **Parties Rights to Cure Default:** At any time, after the either party is in material breach of this Agreement, the injured party may, but is not required to, cure such breach at the breaching party's cost. If either party, at any time, by reason of such breach, pays any sum or does any act that requires the payment of any sum, the reasonable sums paid by the party shall be due from the other party within 15 days after the sum is paid.
32. **Authorization, Approvals, Binding Nature:** This Agreement has no force and effect and is not binding on the City until and unless it is authorized by the City Council at a duly noticed public meeting.
33. **Entire Agreement:** The parties further declare and represent that no inducement, promise or agreement not herein expressed has been made to them and this Agreement contains the entire agreement of the parties, and that the terms of this agreement are contractual and not a mere recital.
34. **Voluntary Execution and Independence of Counsel:** By their respective signatures below each party hereto affirms that they have read and understood this Agreement and have received independent counsel and advice from their attorneys with respect to the advisability of executing this Agreement.
35. **Assignment:** This Agreement shall not, nor shall any interest herein be assigned, mortgaged, hypothecated, or transferred by either party, whether voluntary or involuntary or by operation of law, nor shall City let or sublet or grant any license with respect to the use and occupancy of the Railroad Right of Way or any portions thereof, without the written consent of the State first had and obtained.
37. **Time is of the Essence:** Each party hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and non-curable (but waivable) default under this Agreement by the party so failing to perform.
38. **Authority:** Each party to this Agreement warrants to the other that it is duly organized and existing and each signatory hereto represents to the other parties that it has full right and authority to enter into and consummate this Agreement.

39. **Counterparts:** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

City
City of Sacramento, a municipal corporation

State
California State Parks, Department of Parks and Recreation

By: _____

Catherine A. Taylor
District Superintendent

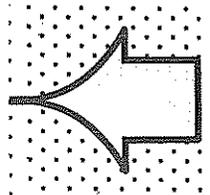
By: _____
Jerry Way
Director, Department of Transportation

By: _____
Stephen R. Lehman
Deputy Director
Acquisition and Development Division

RECOMMENDED FOR APPROVAL:

By: _____
Supervisor, Real Estate Service Section
Department of General Services

By: _____
Supervising Engineer
Department of Transportation



APPROVED AS TO FORM:

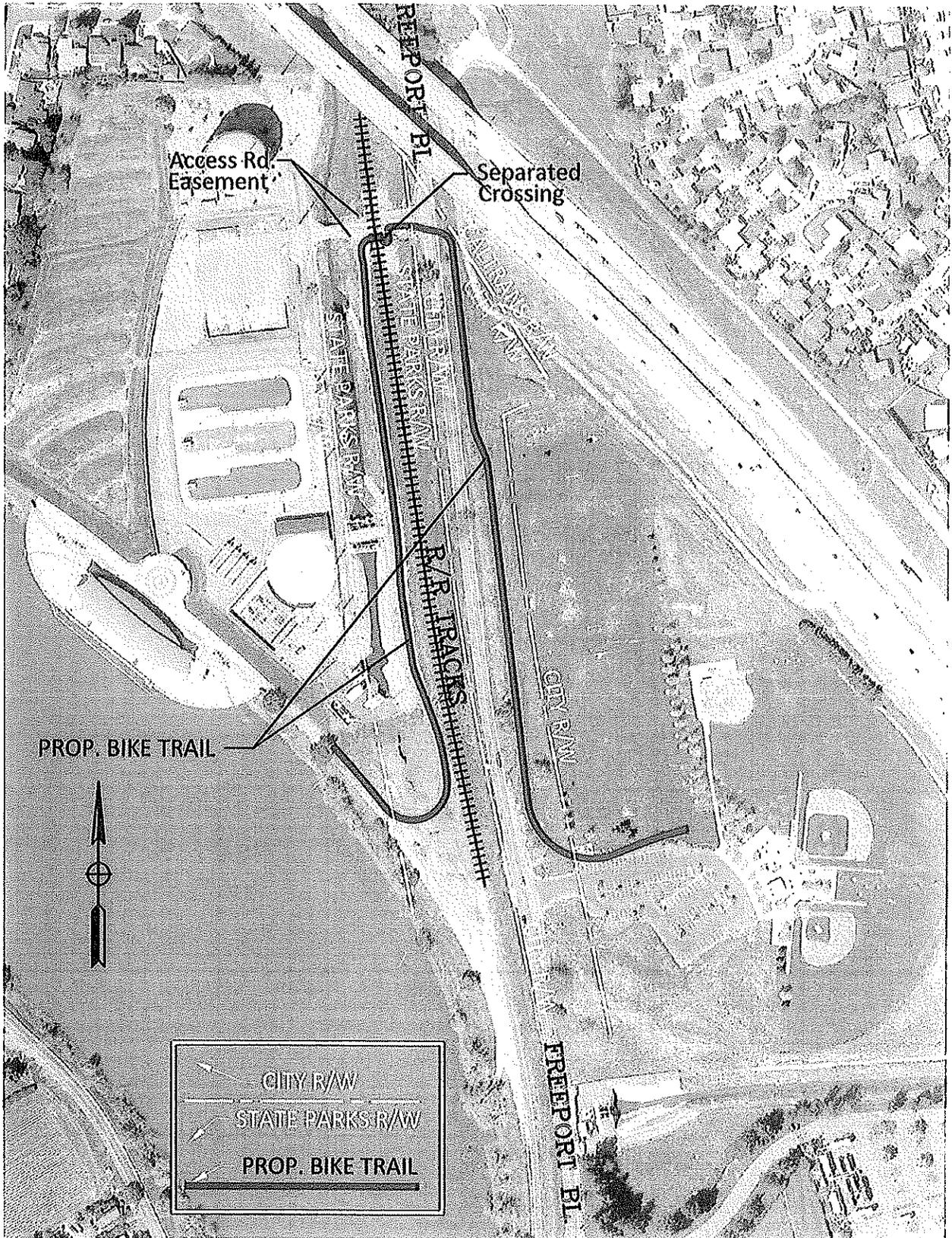
By: *[Handwritten Signature]*
Senior Deputy City Attorney

ATTEST:

By: _____
City Clerk

Date: _____

Exhibit A



FREEPORT SHORES BIKE & PEDESTRIAN TRAIL

Exhibit B

RAILROADS, CANALS, PIPELINES & TOLLROADS

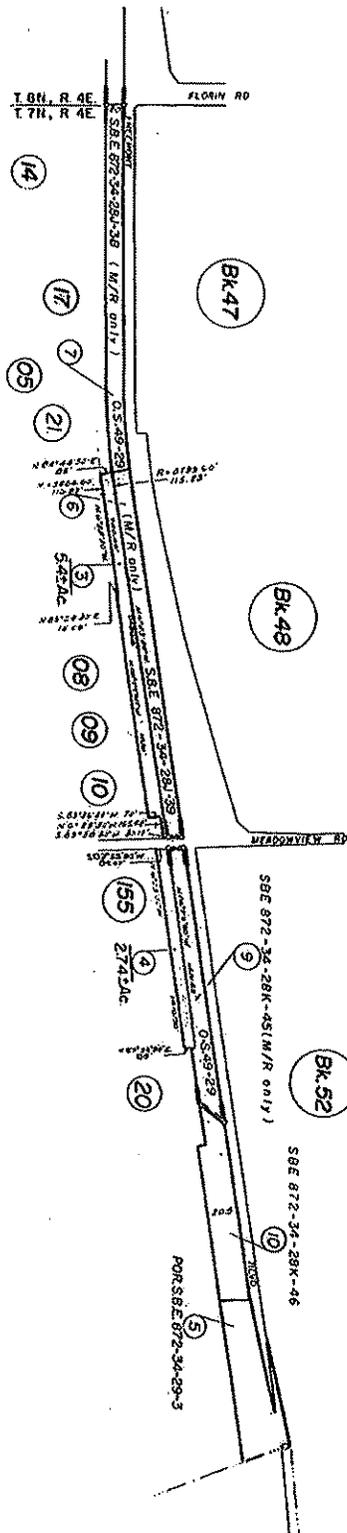
Tax Area Code

31-01

SEP - 9 2008



Bk.29



Bk.47

Bk.48

Bk.52

O.S. Bk.49, Pg.29 (11-25-91)

NOTE—Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

CITY OF SACRAMENTO
Assessor's Map Bk. 31-Pg.01
County of Sacramento, Calif.



Exhibit C

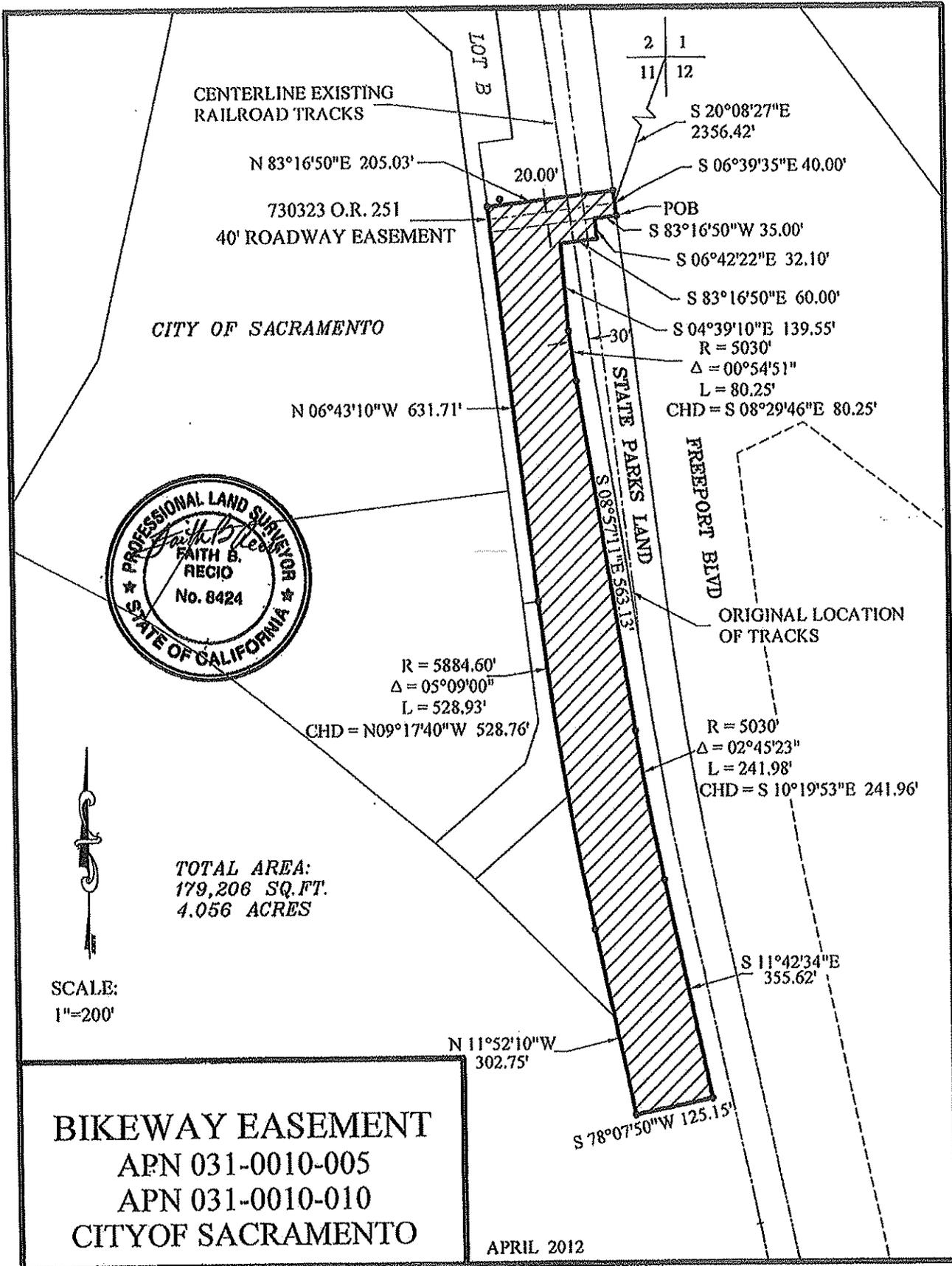


Exhibit D

WHEN RECORDED MAIL TO:

[City of Sacramento Real Estate Services Division 915 I Street, Room #301 Sacramento, CA 95814]
L		J

SPACE ABOVE THIS LINE FOR RECORDER'S USE

<p>AGREEMENT AND GRANT OF EASEMENT</p> <p>Public Bicycle and Pedestrian Trail</p>	Agency: Department of Parks and Recreation Project: Freeport Shores Public Bicycle and Pedestrian Trail File: 372-2012-016221				
Assessor Parcel No.: Ptn. 031-0010-005, -010, Sacramento County					
<p>For valuable consideration, this AGREEMENT AND GRANT OF EASEMENT is made and entered into by and between the STATE OF CALIFORNIA, acting by and through the DEPARTMENT OF PARKS AND RECREATION, hereinafter called State, and CITY OF SACRAMENTO, a Municipal Corporation, hereinafter called Grantee.</p> <p>State, pursuant to the provisions of Public Resources Code §5012, hereby grants unto Grantee, its successors forever, beginning on the date of recordation of this instrument, a non-exclusive easement to locate, relocate, construct, reconstruct, alter, use, maintain, inspect, repair and remove a paved restricted roadway for maintenance and emergency vehicles; and otherwise, for public bicycle and pedestrian trail over, on, and across that certain real property situated in the City of Sacramento, County of Sacramento, State of California as described the attached Exhibit "A & B", consisting of 3 pages, and by this reference made a part hereof.</p> <p style="text-align: center;">THE PROVISIONS ON THE ATTACHED FOUR (4) PAGES CONSTITUTE A PART OF THIS AGREEMENT</p> <p>Dated _____</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> GRANTOR: STATE OF CALIFORNIA Department of Parks and Recreation </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> GRANTEE: CITY OF SACRAMENTO, A Municipal Corporation </td> </tr> </table> <table style="width: 100%; border: none; margin-top: 10px;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> By _____ Name: Stephen R. Lehman Title: Deputy Director, Acquisition and Development Division </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> By _____ Name: Title: </td> </tr> </table>		GRANTOR: STATE OF CALIFORNIA Department of Parks and Recreation	GRANTEE: CITY OF SACRAMENTO, A Municipal Corporation	By _____ Name: Stephen R. Lehman Title: Deputy Director, Acquisition and Development Division	By _____ Name: Title:
GRANTOR: STATE OF CALIFORNIA Department of Parks and Recreation	GRANTEE: CITY OF SACRAMENTO, A Municipal Corporation				
By _____ Name: Stephen R. Lehman Title: Deputy Director, Acquisition and Development Division	By _____ Name: Title:				

I hereby certify that all conditions for exemption have been complied with and this document is exempt from the Department of General Services approval.

By: _____
 Name: Stephen R. Lehman
 Title: Deputy Director, Acquisition and Development Division

PROVIDED, this Grant of Easement is subject to the following provisions, terms and conditions:

1. This Grant is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect said real property and the use of the word "Grant" herein shall not be construed as a covenant against the existence of any thereof.
2. Grantee waives all claims against State, its officers, agents, and employees for loss or damage caused by, arising out of, or in any way connected with the exercise of this Easement, and Grantee agrees to protect, save harmless, indemnify, and defend State, its officers, agents and employees, from any and all loss, damage or liability, including, without limitation, all legal fees, expert witness or consultant fees and expenses related to the response to, settlement of, or defense of any claims or liability, which may be suffered or incurred by State, its officers, agents and employees caused by, arising out of, or in any way connected with exercise by Grantee of the rights hereby granted, except those arising out of the sole negligence of State. Grantee will, further, cause such indemnification and waiver of claims in favor of the State to be inserted in each contract for the provision of services which will cause the exercise of the rights granted herein by such contractors.
3. State reserves the right to use said real property in any manner, provided such use does not unreasonably interfere with Grantee's rights hereunder.
4. State reserves the right to require Grantee, at State expense, to remove and relocate all improvements placed by Grantee upon said real property, upon determination by State that the same interfere with future development of State's property. Within 180 days after State's written notice and demand for removal and relocation of the improvements, Grantee shall remove and relocate the improvements to a feasible location on the property of State, as designated by State, and State shall furnish Grantee with an easement in such new location, on the same terms and conditions as herein stated, all without cost to Grantee, and Grantee hereupon shall reconvey to State the easement herein granted.
5. This Easement shall terminate in the event Grantee fails for a continuous period of 18 months to use this Easement for the purposes herein granted. Upon such termination, Grantee shall forthwith upon service of written demand, deliver to State a quitclaim deed, to its right, title and interest hereunder, and shall, on State request, without cost to State, and within 90 days from written demand by State, remove all property placed by or for Grantee upon said real property and restore said premises as nearly as possible to the same condition they were in prior to the execution of this Easement. In the event Grantee should fail to restore the premises in accordance with such request, State may do so at the risk of Grantee, and all costs of such removal and restoration shall be paid by Grantee upon demand.
6. In making any excavation on said property of State, Grantee shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as they were prior to such excavation as is practicable.
7. Grantee understands that said Easement is within Old Sacramento State Historic Park, a state park, and Grantee agrees to abide by certain regulations and restrictions concerning Grantee's access to said Easement:
 - a. Except in the case of emergencies, prior to any entry upon said land for any of the purposes herein set forth, Grantee shall notify State by written or oral notice to the authorities in charge of said park.
 - b. Grantee shall restrict travel to such roads or routes within said park as said authorities in charge may reasonably designate.

- c. Use of said roads or routes by Grantee shall be restricted to that use reasonably necessary in connection with the construction, operation, maintenance and repair of said Public Bicycle and Pedestrian Trail.
 - d. Grantee shall not consent to the use of any of said roads or routes by members of the public without approval of State.
8. In making any excavation on said property of State, Grantee shall make all excavation activities available to the State archaeologist for observation and monitoring. During excavation the State archaeological monitor may observe and report to the State on all excavation. State archaeological monitor shall be empowered to stop construction activities in the event the monitor determines that significant cultural resource values are being disturbed. In the event that significant cultural resource values are being disturbed, all work within thirty feet (30') of the find shall be immediately halted.
 9. Should Grantee or its contractors find any cultural or historical resources in the absence of a State archaeologist, Grantee covenants to halt all work within thirty feet (30') of the find and immediately notify the State Park Archaeologist or State Park Ranger. Grantee further covenants that work shall not resume in the area of the find until authorized by the State Park Archaeologist. Should human bone or bones of questionable appearance be disturbed during excavation, Grantee agrees to halt ALL excavation until the County Coroner and a representative of the local Native American community have examined the remains and determined redispotion. The archaeological conditions shall comply with State Parks directives, Public Resources Code §5024 and §5097 which outlines procedures should Native American remains be found. Work shall not resume in the area of the find until authorized by the State Park Archaeologist. The Grantee will be responsible for providing all qualified monitors. All finds will become the property of the Grantor.
 10. The contractor shall provide a work schedule to State so that the State archaeological monitor can arrange to be on site on the necessary days; Grantee agrees to include the State archaeologist in any preconstruction meetings with the prime or subcontractors. The archaeologist should be provided at least two weeks advanced notice of the start date.
 11. Grantee shall comply with the mitigation measures adopted for this project pursuant to the certified Environmental Impact Report or Negative Declaration.
 12. This Agreement and Grant of Easement will be governed and construed by the laws of the State of California.
 13. If any party brings an action to enforce or interpret the terms of this Agreement and Grant of Easement or to declare rights under this Agreement and Grant of Easement, including any action in bankruptcy court, and together with the appeal of any such action, the prevailing party will be entitled to its reasonable attorneys' fees and costs as fixed by the court.
 14. In the event of termination of this Agreement and Grant of Easement pursuant to Clause 5 herein, title to all improvements constructed on the Easement area shall vest in State. No sums whatsoever shall be paid to Grantee or any other person upon termination. However, at the State's option, Grantee shall upon State's request remove all improvements placed by or for Grantee upon the described real property and restore said premises as nearly as possible to the same condition they were in prior to the execution of this Agreement and Grant of Easement at no cost to State and within 90 days from written demand by State. In the event Grantee should fail to restore the premises in accordance with such a request by State, State may do so at the risk of Grantee, and all costs of such removal and restoration shall be paid by Grantee upon demand.
 15. Grantee expressly agrees at all times during the term of this Agreement and Grant of Easement, to maintain the restricted paved roadway and public bicycle and pedestrian trail in good condition and operate the trail for public benefit at Grantee's sole cost and expense. Maintenance

- activities shall include adjacent areas to a distance of not less than five (5) feet on either side of the trail and be kept in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind and in compliance with any and all present and future laws, general rules, or regulations of any governmental authority now or at any time during the term of this Agreement in force relating to sanitation or public health, safety, or welfare. Grantee shall at all times faithfully obey and comply with all laws, rules, and regulations applicable thereto, adopted by Federal, State, or other governmental bodies or departments or officers thereof. Grantee shall remedy without delay any defective, dangerous, or unsanitary conditions.
16. No signs, names, placards or advertising matter, including trail maps and brochures, shall be inscribed, painted or affixed upon the property without written consent of State.
 17. No construction except emergency repairs shall be performed by Grantee without the prior written approval of Grantee's construction plans by State's Park District Superintendent or his or her authorized representative, which approval shall not be unreasonably withheld. If Grantee does not receive written response from State's representative within sixty (60) calendar days after submission of the construction plans, then said plans shall be considered to have been approved by State and Grantee may thereafter commence construction as shown on said plans. All approvals by State as provided herein are solely for the purpose of determining and approving the scope and quality of the work proposed and conformance with the minimum standards and policies and objectives of the State in connection with the operation of the facility as a unit of the State Park System. In no event shall such approvals or right to approval be deemed to instill in State a right to control or oversee the administration and management of the work and/or the Grantee, its contractors, employees, representatives or agents. By reason of such approval, Grantee shall in no way be relieved of its responsibilities and duties for the accuracy and completeness of all plans, specifications and drawings, and to design, perform and complete the work, including operation and maintenance of the facilities, in accordance with (1) generally accepted industry standards and (2) in accordance with all codes, laws, regulations, or other requirements, legal or otherwise, including but not limited to any standards contained or implied in this agreement.
 18. By accepting this easement and these conditions, and taking possession of said property for the purposes granted herein, Grantee accepts the property "AS IS", in the condition that the property exists as of the date hereof with any and all faults, and acknowledges that it has had adequate opportunity to inspect and test the property to the extent Grantee has deemed to be appropriate. Grantee acknowledges that State has not made any representations or warranties concerning the condition of the property or its suitability for the uses permitted herein, or any other use, and that State shall have no duty to inspect the property and no duty to warn the Grantee or any other person of latent or patent defects, conditions or risks, if any, relating to the property.
 19. State reserves the right to patrol said trail for any purpose it deems necessary provided such patrol does not unreasonably interfere with Grantee's rights hereunder.
 20. The Grantee, at its sole cost and expense, shall be responsible for maintaining the surface of all Public Bicycle and Pedestrian Trail features, including any Pedestrian/Railroad Crossings developed as part of this Easement. Maintenance shall include cleaning, trash, debris and rock removal, grease and oil removal, and keeping precast concrete panels or other suitable crossing surfaces and materials abutting the Railroad Track rails in good condition and repair.
 21. The Grantee shall be solely responsible for managing and maintaining all landscaping within the Easement. The Grantee shall prevent any and all surface drainage, including both irrigation and precipitation, from congregating on, or immediately adjacent to, the railroad right of way.
 22. The Grantee shall be solely responsible for restoring the Railroad Right of Way to an orderly, firm, evenly-graded, clean and safe condition following completion of the Public Bicycle and Pedestrian Trail Project and/or abandonment thereof. Restoration includes, but is not limited to, repairs and/or replacement of any and all damaged property.
 23. This Easement shall not, nor shall any interest herein be assigned, mortgaged, hypothecated, or transferred by either party, whether voluntary or involuntary or by operation of law, nor shall

Grantee let or sublet or grant any license with respect to the use and occupancy of the Railroad Right of Way or any portions thereof, without the written consent of the State first had and obtained.

EXHIBIT "A"
BIKEWAY EASEMENT
LEGAL DESCRIPTION
Page 1 of 2



All that certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of Section 11, Township 7 North, Range 4 East, Mount Diablo Meridian and Baseline and also being a portion of Parcel 1-1 and Parcel 1-2 granted by the Southern Pacific Transportation Company to the State of California on May 10, 1988 and recorded in Book 880624 of Official Records, Page 1181, in the office of the Recorder of said County and being more particularly described as follows:

Beginning at the southeasterly corner of that certain private roadway easement granted by the Southern Pacific Transportation Company to the City of Sacramento on March 7, 1973 and recorded in Book 730323 of Official Records, Page 251, filed in said county which bears the following two (2) courses:

- (1) North $06^{\circ}39'35''$ West, 20.00 feet along the easterly right of way of the State of California property as described in Book 880624 of Official Records, Page 1181, in said County, said easterly line also being the westerly line of Freeport Boulevard;
- (2) North $20^{\circ}08'27''$ East, 2356.42 feet to the northeast corner of said Section 11;

Thence from said Point of Beginning, South $83^{\circ}16'50''$ West, 35.00 feet along the southerly line of said roadway easement; thence South $06^{\circ}42'22''$ East, 32.10 feet; thence along a line parallel with the southerly line of said roadway easement, South $83^{\circ}16'50''$ West, 60.00 feet; thence to a point which lies 30.00 feet westerly of the centerline of the railroad tracks, measured at right angles, South $04^{\circ}39'10''$ East, 139.55 feet; thence along a line parallel with and 30 feet westerly, measured at right angles, of the centerline of said tracks the following four (4) courses and distances:

- 1) Along a tangent curve to the left, concave easterly, having a radius of 5,030 feet, subtended by a chord bearing South $08^{\circ}29'46''$ East, 80.25 feet;
- 2) South $08^{\circ}57'11''$ East, 563.13 feet;
- 3) Along a tangent curve to the left, concave easterly, having a radius of 5,030 feet, subtended by a chord bearing , South $10^{\circ}19'53''$ East, 241.96 feet;

- 4) South $11^{\circ}42'34''$ East, 355.62 feet;

Thence leaving said parallel line South $78^{\circ}07'50''$ West, 125.15 feet to the west line of said Parcel 1-2; thence along said west line of said Parcel 1-2 the following three (3) courses and distances:

- 1) North $11^{\circ}52'10''$ West, 302.75 feet;
- 2) Along a tangent curve to the right, concave easterly, having a radius of 5884.60 feet, subtended by a chord bearing , North $09^{\circ}17'40''$ West, 528.76 feet;
- 3) North $06^{\circ}43'10''$ West, 631.71 feet to the north line of said private roadway easement;

Thence North $83^{\circ}16'50''$ East, 205.03 feet along the north line of said private roadway easement to said westerly line of Freeport Boulevard; thence along said westerly line of Freeport Boulevard, South $06^{\circ}39'35''$ East, 40.00 feet to the Point of Beginning, containing 179,206 square feet, more or less.

Basis of Bearings:

The Basis of Bearings for this description was established by found Highway Monuments No. 24-602 and 24-601 as shown and so designated on that certain Record of Survey filed in Book 49 of Surveys at Page 29, in said County, the bearing being North $89^{\circ}39'41''$ East.

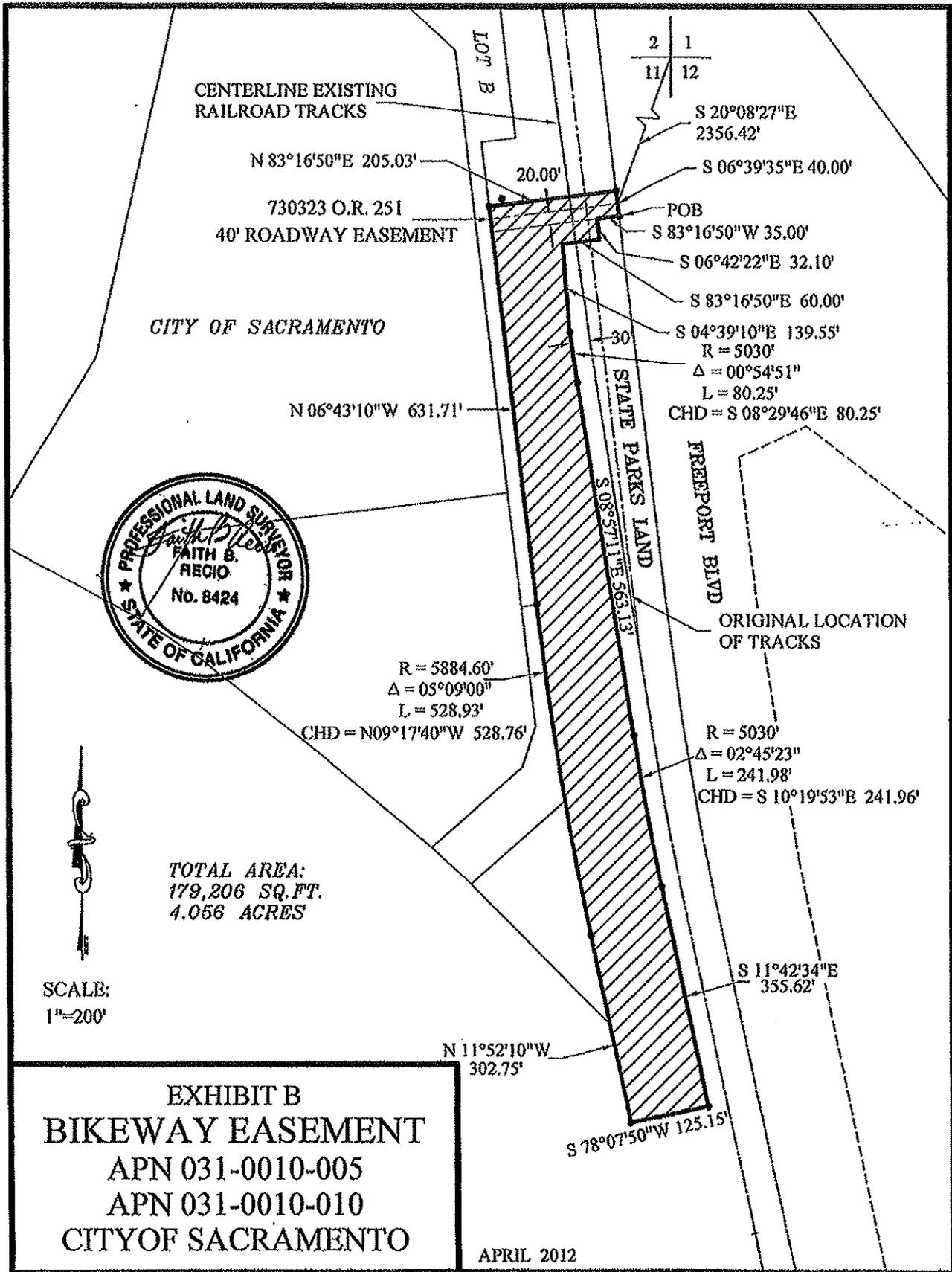


Exhibit E

WHEN RECORDED MAIL TO:

[City of Sacramento]
[Real Estate Services Division]
[915 I Street, Room #301]
[Sacramento, CA 95814]

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT AND GRANT OF EASEMENT Storm Drain and Drainage Channel	Agency: Department of Parks and Recreation Project: City of Sac DOU Easement File: 372-2012-016221B				
Assessor Parcel No.: Pln. 031-0010-005, -010, Sacramento County					
<p>For valuable consideration, this AGREEMENT AND GRANT OF EASEMENT is made and entered into by and between the STATE OF CALIFORNIA, acting by and through the DEPARTMENT OF PARKS AND RECREATION, hereinafter called State, and CITY OF SACRAMENTO, a Municipal Corporation, hereinafter called Grantee.</p> <p>State, pursuant to the provisions of Public Resources Code §5012, hereby grants unto Grantee, its successors forever, beginning on the date of recordation of this instrument, a non-exclusive easement to locate, relocate, construct, reconstruct, alter, use, maintain, inspect, repair and remove a STORM DRAIN and DRAINAGE CHANNEL for the purpose of facilitating water drainage over, on, and across that certain real property situated in the City of Sacramento, County of Sacramento, State of California as described the attached Exhibit "A & B", consisting of 3 pages, and by this reference made a part hereof.</p> <p style="text-align: center;">THE PROVISIONS ON THE ATTACHED THREE (3) PAGES CONSTITUTE A PART OF THIS AGREEMENT</p> <p>Dated _____</p> <table><tr><td>GRANTOR: STATE OF CALIFORNIA Department of Parks and Recreation</td><td>GRANTEE: CITY OF SACRAMENTO, A Municipal Corporation</td></tr></table> <table><tr><td>By _____ Name: Stephen R. Lehman Title: Deputy Director, Acquisition and Development Division</td><td>By _____ Name: Title:</td></tr></table>		GRANTOR: STATE OF CALIFORNIA Department of Parks and Recreation	GRANTEE: CITY OF SACRAMENTO, A Municipal Corporation	By _____ Name: Stephen R. Lehman Title: Deputy Director, Acquisition and Development Division	By _____ Name: Title:
GRANTOR: STATE OF CALIFORNIA Department of Parks and Recreation	GRANTEE: CITY OF SACRAMENTO, A Municipal Corporation				
By _____ Name: Stephen R. Lehman Title: Deputy Director, Acquisition and Development Division	By _____ Name: Title:				

I hereby certify that all conditions for exemption have been complied with and this document is exempt from the Department of General Services approval.

By: _____
Name: Stephen R. Lehman
Title: Deputy Director, Acquisition and Development Division

PROVIDED, this Grant of Easement is subject to the following provisions, terms and conditions:

1. This Grant is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect said real property and the use of the word "Grant" herein shall not be construed as a covenant against the existence of any thereof.
2. Grantee waives all claims against State, its officers, agents, and employees for loss or damage caused by, arising out of, or in any way connected with the exercise of this Easement, and Grantee agrees to protect, save harmless, indemnify, and defend State, its officers, agents and employees, from any and all loss, damage or liability, including, without limitation, all legal fees, expert witness or consultant fees and expenses related to the response to, settlement of, or defense of any claims or liability, which may be suffered or incurred by State, its officers, agents and employees caused by, arising out of, or in any way connected with exercise by Grantee of the rights hereby granted, except those arising out of the sole negligence of State. Grantee will, further, cause such indemnification and waiver of claims in favor of the State to be inserted in each contract for the provision of services which will cause the exercise of the rights granted herein by such contractors.
3. State reserves the right to use said real property in any manner, provided such use does not unreasonably interfere with Grantee's rights hereunder.
4. State reserves the right to require Grantee, at State expense, to remove and relocate all improvements placed by Grantee upon said real property, upon determination by State that the same interfere with future development of State's property. Within 180 days after State's written notice and demand for removal and relocation of the improvements, Grantee shall remove and relocate the improvements to a feasible location on the property of State, as designated by State, and State shall furnish Grantee with an easement in such new location, on the same terms and conditions as herein stated, all without cost to Grantee, and Grantee hereupon shall reconvey to State the easement herein granted.
5. This Easement shall terminate in the event Grantee fails for a continuous period of 18 months to use this Easement for the purposes herein granted. Upon such termination, Grantee shall forthwith upon service of written demand, deliver to State a quitclaim deed, to its right, title and interest hereunder, and shall, on State request, without cost to State, and within 90 days from written demand by State, remove all property placed by or for Grantee upon said real property and restore said premises as nearly as possible to the same condition they were in prior to the execution of this Easement. In the event Grantee should fail to restore the premises in accordance with such request, State may do so at the risk of Grantee, and all costs of such removal and restoration shall be paid by Grantee upon demand.
6. In making any excavation on said property of State, Grantee shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as they were prior to such excavation as is practicable.
7. Grantee understands that said Easement is within Old Sacramento State Historic Park, a state park, and Grantee agrees to abide by certain regulations and restrictions concerning Grantee's access to said Easement:
 - a. Except in the case of emergencies, prior to any entry upon said land for any of the purposes herein set forth, Grantee shall notify State by written or oral notice to the authorities in charge of said park.
 - b. Grantee shall restrict travel to such roads or routes within said park as said authorities in charge may reasonably designate.

- c. Use of said roads or routes by Grantee shall be restricted to that use reasonably necessary in connection with the construction, operation, maintenance and repair of said Storm Drain and Drainage Channel.
 - d. Grantee shall not consent to the use of any of said roads or routes by members of the public without approval of State.
8. In making any excavation on said property of State, Grantee shall make all excavation activities available to the State archaeologist for observation and monitoring. During excavation the State archaeological monitor may observe and report to the State on all excavation. State archaeological monitor shall be empowered to stop construction activities in the event the monitor determines that significant cultural resource values are being disturbed. In the event that significant cultural resource values are being disturbed, all work within thirty feet (30') of the find shall be immediately halted.
9. Should Grantee or its contractors find any cultural or historical resources in the absence of a State archaeologist, Grantee covenants to halt all work within thirty feet (30') of the find and immediately notify the State Park Archaeologist or State Park Ranger. Grantee further covenants that work shall not resume in the area of the find until authorized by the State Park Archaeologist. Should human bone or bones of questionable appearance be disturbed during excavation, Grantee agrees to halt ALL excavation until the County Coroner and a representative of the local Native American community have examined the remains and determined redispotion. The archaeological conditions shall comply with State Parks directives, Public Resources Code §5024 and §5097 which outlines procedures should Native American remains be found. Work shall not resume in the area of the find until authorized by the State Park Archaeologist. The Grantee will be responsible for providing all qualified monitors. All finds will become the property of the Grantor.
10. The contractor shall provide a work schedule to State so that the State archaeological monitor can arrange to be on site on the necessary days; Grantee agrees to include the State archaeologist in any preconstruction meetings with the prime or subcontractors. The archaeologist should be provided at least two weeks advanced notice of the start date.
11. This Agreement and Grant of Easement will be governed and construed by the laws of the State of California.
12. If any party brings an action to enforce or interpret the terms of this Agreement and Grant of Easement or to declare rights under this Agreement and Grant of Easement, including any action in bankruptcy court, and together with the appeal of any such action, the prevailing party will be entitled to its reasonable attorneys' fees and costs as fixed by the court.
13. In the event of termination of this Agreement and Grant of Easement pursuant to Clause 5 herein, title to all improvements constructed on the Easement area shall vest in State. No sums whatsoever shall be paid to Grantee or any other person upon termination. However, at the State's option, Grantee shall upon State's request remove all improvements placed by or for Grantee upon the described real property and restore said premises as nearly as possible to the same condition they were in prior to the execution of this Agreement and Grant of Easement at no cost to State and within 90 days from written demand by State. In the event Grantee should fail to restore the premises in accordance with such a request by State, State may do so at the risk of Grantee, and all costs of such removal and restoration shall be paid by Grantee upon demand.
14. Grantee expressly agrees at all times during the term of this Agreement and Grant of Easement, to maintain the drainage channel in good condition and operate for public benefit at Grantee's sole cost and expense. Maintenance activities shall include adjacent areas to a distance of not less than five (5) feet on either side of the trail and be kept in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind and in compliance with any and all present and future laws, general rules, or regulations of any governmental authority now

- or at any time during the term of this Agreement in force relating to sanitation or public health, safety, or welfare. Grantee shall at all times faithfully obey and comply with all laws, rules, and regulations applicable thereto, adopted by Federal, State, or other governmental bodies or departments or officers thereof. Grantee shall remedy without delay any defective, dangerous, or unsanitary conditions.
15. No signs, names, placards or advertising matter, including trail maps and brochures, shall be inscribed, painted or affixed upon the property without written consent of State.
 16. No construction except emergency repairs shall be performed by Grantee without the prior written approval of Grantee's construction plans by State's Park District Superintendent or his or her authorized representative, which approval shall not be unreasonably withheld. If Grantee does not receive written response from State's representative within sixty (60) calendar days after submission of the construction plans, then said plans shall be considered to have been approved by State and Grantee may thereafter commence construction as shown on said plans. All approvals by State as provided herein are solely for the purpose of determining and approving the scope and quality of the work proposed and conformance with the minimum standards and policies and objectives of the State in connection with the operation of the facility as a unit of the State Park System. In no event shall such approvals or right to approval be deemed to instill in State a right to control or oversee the administration and management of the work and/or the Grantee, its contractors, employees, representatives or agents. By reason of such approval, Grantee shall in no way be relieved of its responsibilities and duties for the accuracy and completeness of all plans, specifications and drawings, and to design, perform and complete the work, including operation and maintenance of the facilities, in accordance with (1) generally accepted industry standards and (2) in accordance with all codes, laws, regulations, or other requirements, legal or otherwise, including but not limited to any standards contained or implied in this agreement.
 17. By accepting this easement and these conditions, and taking possession of said property for the purposes granted herein, Grantee accepts the property "AS IS", in the condition that the property exists as of the date hereof with any and all faults, and acknowledges that it has had adequate opportunity to inspect and test the property to the extent Grantee has deemed to be appropriate. Grantee acknowledges that State has not made any representations or warranties concerning the condition of the property or its suitability for the uses permitted herein, or any other use, and that State shall have no duty to inspect the property and no duty to warn the Grantee or any other person of latent or patent defects, conditions or risks, if any, relating to the property.
 18. State reserves the right to patrol said real property for any purpose it deems necessary provided such patrol does not unreasonably interfere with Grantee's rights hereunder.
 19. The Grantee, at its sole cost and expense, shall be responsible for maintaining the surface of all Easement features, including any Pedestrian/Railroad Crossings developed as part of this Easement. Maintenance shall include cleaning, trash, debris and rock removal, grease and oil removal, and keeping precast concrete panels or other suitable crossing surfaces and materials abutting the Railroad Track rails in good condition and repair.
 20. The Grantee shall be solely responsible for managing and maintaining all landscaping within the Easement. The Grantee shall prevent any and all surface drainage, including both irrigation and precipitation, from congregating on, or immediately adjacent to, the railroad right of way.
 21. The Grantee shall be solely responsible for restoring the Railroad Right of Way to an orderly, firm, evenly-graded, clean and safe condition following abandonment thereof. Restoration includes, but is not limited to, repairs and/or replacement of any and all damaged property.
 22. This Easement shall not, nor shall any interest herein be assigned, mortgaged, hypothecated, or transferred by either party, whether voluntary or involuntary or by operation of law, nor shall Grantee let or sublet or grant any license with respect to the use and occupancy of the Railroad Right of Way or any portions thereof, without the written consent of the State first had and obtained.

EXHIBIT "A"
UTILITY EASEMENT
LEGAL DESCRIPTION
Page 1 of 2



All that certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of Section 11, Township 7 North, Range 4 East, Mount Diablo Meridian and Baseline and also being a portion of Parcel 1-1 and Parcel 1-2 granted by the Southern Pacific Transportation Company to the State of California on May 10, 1988 and recorded in Book 880624 of Official Records, Page 1181, in the office of the Recorder of said County and being more particularly described as follows:

Beginning at the southeasterly corner of that certain private roadway easement granted by the Southern Pacific Transportation Company to the City of Sacramento on March 7, 1973 and recorded in Book 730323 of Official Records, Page 251, filed in said county which bears the following two (2) courses:

- (1) North 06°39'35" West, 20.00 feet along the easterly right of way of the State of California property as described in Book 880624 of Official Records, Page 1181, in said County, said easterly line also being the westerly line of Freeport Boulevard;
- (2) North 20°08'27" East, 2356.42 feet to the northeast corner of said Section 11;

Thence from said Point of Beginning, South 83°16'50" West, 93.31 feet along the southerly line of said roadway easement; thence leaving the southerly line of said roadway easement along a non-tangent curve to the left, concave southeasterly, having a radius of 23.00 feet, subtended by a chord bearing South 16°11'49" West, 16.97 feet; thence, South 05°27'06" East, 81.88 feet to a point which lies 30.00 feet westerly of the centerline of the railroad tracks, measured at right angles; thence along a line parallel with and 30.00 feet westerly, measured at right angles, of the centerline of said tracks the following five (5) courses and distances:

- 1) South 08°02'20" East, 74.09 feet;
- 2) Along a tangent curve to the left, concave easterly, having a radius of 5,030 feet, subtended by a chord bearing South 08°29'46" East, 80.25 feet;
- 3) South 08°57'11" East, 563.13 feet to the beginning of a tangent curve to the left having a radius of 5,030 feet;

- 4) Along a tangent curve to the left, concave easterly, having a radius of 5,030 feet, subtended by a chord bearing, South 10°19'53" East, 241.96 feet;
- 5) South 11°42'34" East, 355.62 feet;

Thence leaving said parallel line, South 78°07'50" West, 125.15 feet to the west line of said Parcel 1-2; thence along said west line of said Parcel 1-2 the following three (3) courses and distances:

- 1) North 11°52'10" West, 302.75 feet;
- 2) Along a tangent curve to the right, concave easterly, having a radius of 5884.60 feet, subtended by a chord bearing, North 09°17'40" West, 528.76 feet;
- 3) North 06°43'10" West, 631.71 feet to the north line of said private roadway easement;

Thence North 83°16'50" East, 205.03 feet along the north line of said private roadway easement to said westerly line of Freeport Boulevard; thence along said westerly line of Freeport Boulevard, South 06°39'35" East, 40.00 feet to the Point of Beginning, containing 176,673 square feet, more or less.

Basis of Bearings:

The Basis of Bearings for this description was established by found Highway Monuments No. 24-602 and 24-601 as shown and so designated on that certain Record of Survey filed in Book 49 of Surveys at Page 29, in said County, the bearing being North 89°39'41" East.

