



City of Sacramento City Council

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

Meeting Date: 6/7/2012

Report Type: Consent

Title: Exclusive Right to Negotiate a Lease of City-Owned Property

Report ID: 2012-00328

Location: District 2

Recommendation: Pass a motion authorizing the City Manager's Office to sign, on the City's behalf, an exclusive right to negotiate with Sacramento K, LLC for a lease of City-owned property at the Haggin Oaks Golf Complex. The ERN's term is 90 days, with an option for a 90 day extension at the discretion of the City Manager.

Contact: Sabrina Tefft, Project Manager, (916) 808-3789, Economic Development

Presenter: None

Department: Economic Development Dept

Division: Citywide Development

Dept ID:

Attachments:

- 1-Description/Analysis
- 2-ERN with Sacramento K LLC.pdf
- 3-Exhibit C to ERN with Sacramento K

City Attorney Review

Approved as to Form
 Joseph Cerullo
 5/31/2012 9:17:16 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
 Russell Fehr
 5/29/2012 12:09:57 PM

Approvals/Acknowledgements

Department Director or Designee: Jim Rinehart - 5/30/2012 3:53:36 PM

Description/Analysis

Issue: Staff recommends that the City Council authorize an exclusive-right-to-negotiate agreement (the “**ERN**”) with Sacramento K, LLC (“**Sacramento K**”) for the lease of approximately 2.956 acres of City-owned real property located adjacent to 3701 Fulton Avenue (i.e., the 5.119± parcel recently sold to Chrysler Group Realty Company, LLC). Sacramento K’s client, a high-volume auto dealership, has proposed a long-term lease of the property, with rent at the greater of—

- (a) the property’s fair-market value; or
- (b) complete coverage of the City’s debt service for the property (the City remediated the property using bond proceeds from the 2006 Community Reinvestment Capital Improvement Program).

The ERN’s term is 90 days, with an option for a 90-day extension at the discretion of the City Manager. The ERN will allow Sacramento K to conduct due diligence and determine whether to proceed with negotiating a lease. The City and Sacramento K will also negotiate the business terms for the lease. If Sacramento K decides to proceed and negotiations prove successful, then Staff will present the proposed lease to the City Council for consideration and possible approval.

Policy Considerations: This project is consistent with the Council’s direction to find a compatible and productive use for the subject property.

Environmental Considerations: The activities and recommendations described in this report constitute planning and feasibility studies that are exempt from environmental review under California Environmental Quality Act. (Cal. Code Regs., tit. 14, §15262.)

Sustainability: N/A

Commission/Committee Action: N/A

Rationale for Recommendation: The ERN enables Sacramento K to investigate the physical condition of the property and to determine whether the existing legal entitlements for the property and the City’s design requirements will accommodate the proposed automobile dealership. As a sales-tax generator, the proposed dealership would be a valuable addition to the City’s economy.

Financial Considerations: The proposed action has no financial impacts to the City. Sacramento K will be responsible for any cost it incurs during the term of this ERN.

Emerging Small Business Development (ESBD): N/A

Exclusive Right to Negotiate

This Exclusive Right to Negotiate (“ERN”), dated May 24, 2012, for purposes of identification, is between Sacramento K, LLC, a California limited-liability company (“Sac K”), and the City of Sacramento, a California municipal corporation (the “City”).

Background

The City owns in fee the real property described in Exhibit A, comprising approximately 2.956 acres (the “Property”). Until 2004, the Property was part of a 21-acre parcel, depicted in Exhibit B, that the City leased to the Sacramento Trapshooting Club, which for nearly 80 years used the parcel as a shooting range. After the club’s lease expired, the City remediated the 21-acre parcel (to remove lead, arsenic, and polynuclear aromatic hydrocarbons) in accordance with California law and subject to supervision by the County of Sacramento Environmental Management Department. The approved remediation plan required the City to excavate the contaminated soil from the entire parcel; to consolidate the excavated soil on the eastern side of the parcel; and to cap the consolidated soil with impermeable material. When the remediation was finished, the City and the County of Sacramento Environmental Management Department entered into a *Maintenance Agreement* for the cap (City Agreement No. 2008-1001) and a recorded *Covenant to Restrict Use of Property – Environmental Restriction* (City Agreement No. 2008-1002).

Concurrently with the remediation, the City developed the 21-acre parcel for commercial use by re-configuring it as two legal parcels, by changing the zoning designation to C-4 (Heavy Commercial Zone), and by approving a planned-unit development that allows the sale of new and used automobiles. Then the City leased the entire 21-acre parcel to Rapton Investment Group LLC (“Rapton”), which developed the northern half as a Honda Dealership (under City Agreement No. 2007-0555, dated June 5, 2007). In October 2010, Rapton relinquished its lease on the southern half of the 21-acre parcel, which includes the Property. In May 2011, the City sold the western 5.119 acres of the southern half to Chrysler Group Realty Company LLC (“Chrysler”), and, as of the effective date of this agreement, Chrysler is constructing an automobile dealership on the 5.119 acres.

Sac K desires to lease the Property, which is adjacent to the eastern side of Chrysler’s 5.119 acres, for the purposes of constructing and operating an automobile dealership together with ancillary uses such as retail selling of merchandise related to automobiles and maintaining, repairing, and painting automobiles. On May __, 2012, the Sacramento City Council authorized the City Manager to enter into an exclusive right to negotiate with Sac K on an agreement through which the City will lease the Property to Sac K.

With these background facts in mind, the City and Sac K hereby agree as follows:

1. **Exclusive Right to Negotiate.** During the term of this ERN the City shall negotiate exclusively and in good faith with Sac K on an agreement through which Sac K will lease the Property from the City.

2. **Feasibility.** During the term of this ERN, Sac K shall determine, in good faith, whether the physical condition of, and legal entitlements for, the Property are acceptable; whether the designs of Sac K's proposed buildings and other improvements on the Property are acceptable to the City; whether utilities of adequate capacity to serve Sac K's needs are available to the Property; whether the Property will satisfy Sac K's financial and competitive objectives in the trade area; and whether, in general, the Property is feasible for Sac K's proposed dealership, economically and otherwise. In making these determinations and in deciding whether to enter into an agreement to lease the Property, Sac K may consider its own interests alone and is not required to consider the effect of its determinations or its decision on the City.

3. **Right of Entry for Site Assessment.**

(a) *Site Assessment.* At no cost to the City, Sac K and its agents may enter upon the Property at reasonable times and make any surveys, studies, and environmental site assessments that Sac K determines to be appropriate. In performing surveys, studies, and environmental site assessments, Sac K and its agents shall comply with all applicable laws, regulations, and agreements, including but not limited to the use restrictions in Article IV of the recorded *Covenant to Restrict Use of Property – Environmental Restriction* described above in the Background, a copy of which is attached to this agreement as Exhibit C. Sac K shall provide the City, at no charge, with a copy of each report prepared in connection with an environmental site assessment, subject to the following: Sac K makes no representations or warranties as to the accuracy of the reports, and the City may not rely on the reports.

(b) *Restoration.* Sac K shall repair, at no cost to the City, any disturbance or damage caused to the Property by the activities of Sac K or its agents, so that the Property is restored to the same condition it was before those activities.

(c) *Indemnification.* In this Section 3(c), "**City Indemnitees**" means the City and its officers, employees, and agents. Sac K shall indemnify, protect, defend, and hold harmless the City Indemnitees from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through appeal, whether for outside counsel or the City Attorney) that arise in any way from Sac K's exercise of its rights under this Section 3.

(1) Sac K's obligation under this Section 3(c) does not cover liabilities, claims, demands, damages, and costs to the extent they arise from the negligence or wrongful conduct of the City Indemnitees.

(2) Sac K's obligation under this Section 3(c) does not cover liabilities, claims, demands, damages, and costs that arise solely from Sac K's mere discovery of hazardous materials on or under the Property or solely from Sac K's mere discovery of any defects in the Property.

(3) Sac K's obligation under this Section 3(c) will survive the expiration or termination of this ERN.

4. **No Obligation to Lease.** This ERN does not obligate the City to lease the Property to Sac K or enter into an agreement to that end, nor does it obligate Sac K to lease the Property from the City or enter into an agreement to that end, and it is not to be interpreted as imposing such an obligation. Any agreement for Sac K's lease of the Property will be effective only if approved by the Sacramento City Council in accordance with the Sacramento City Code.
5. **Assignment.** Sac K may not assign its rights under this ERN without the City's prior written consent, which the City may grant, withhold, or condition based on its own interests alone and without considering the effect of its decision on Sac K.
6. **Notices.** Any notice given under this ERN must be in writing and will be effective only when sent in the manner provided by this Section 6 to the persons identified below. Notices may be sent by personal delivery, by fax or e-mail, or by mail. Notices sent by personal delivery (including notices sent by overnight courier, e.g., FedEx, UPS) will be effective when delivered to the recipient. Notices sent by fax or e-mail will be effective when the recipient sends a fax or e-mail confirming delivery. Notices sent by mail will be effective on the third business day after deposit in the United States Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. As used in this Section 6, "**business day**" means any day the City's main offices located at 915 "I" Street, Sacramento, California, are open to the public. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this Section 6.

If notice is to the City:

City of Sacramento
Economic Development Department
915 I Street, Third Floor
Mail Station 18000
Sacramento, California 95814
Attention: Jim Rinehart, Director

with a copy to—

City of Sacramento
Facilities and Real Property Management
5730 24th Street, Bldg. 4
Sacramento, CA 95822
Attention: Asset Management

If notice is to Sac K:

Sacramento K, LLC
516 Gibson Drive, Suite 290
Roseville, California 95678
Attention: Carlos Hidalgo, CEO

with a copy to—

Kay & Merkle, LLP
100 The Embarcadero, Penthouse
San Francisco, CA 94105
Attention: Bruce Bercovich, Esq.

7. **Waiver.** A party's failure to insist on strict performance of this ERN or to exercise any right or remedy upon the other party's breach of this ERN will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any term or

provision in this ERN will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other term or provision. A waiver is binding only if set forth in writing and signed by the waiving party.

- 8. Interpretation.** Time is of the essence of this ERN, which is to be interpreted and applied in accordance with California law, except as follows: because the parties jointly drafted this ERN, the interpretive rule in California Civil Code section 1654 does not apply. Exhibits A, B, and C are part of this ERN.
- 9. Effective Date.** This ERN becomes effective when both parties have signed it, as indicated by the dates in the signature blocks below.
- 10. Term of ERN.** This ERN expires at 5:00 p.m. (California time) on the 90th day after the effective date unless, before that time and day, Sac K notifies the City that Sac K elects to extend this ERN for another 90 days. If Sac K timely elects to extend, then this ERN expires at 5:00 p.m. (California time) on the 180th day after the effective date. In either case, expiration will occur on the indicated day even if it is a Saturday, Sunday, or holiday.
- 11. Counterparts.** The parties may execute this ERN in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
- 12. Entire Agreement.** This ERN sets forth the parties' entire understanding regarding the matters set forth above and is intended to be their final, complete, and exclusive expression of those matters. It supersedes all prior or contemporaneous agreements, representations, and negotiations—written, oral, express, or implied—and may be modified only by a written agreement signed by both parties.

(Signature Page Follows)

City of Sacramento

By: _____
John Shirey, City Manager
Dated: May __, 2012

Recommended for Approval

By: _____
Rhonda Lake, Facilities and
Real Property Superintendent
Department of General Services

By: _____
James R. Rinehart, Director
Economic Development Department

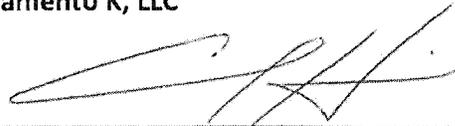
Approved as to Form
Sacramento City Attorney

By: _____
Joseph Cerullo Jr.
Senior Deputy City Attorney

Attest:
Sacramento City Clerk

By: _____

Sacramento K, LLC

By: 
Carlos Hidalgo, Chief Executive Officer
Dated: May 24, 2012

Approved as to Form

By: 
Attorney for Sacramento K, LLC

Exhibit A

**Exclusive Right to Negotiate
City of Sacramento & Sacramento K, LLC**

Property Description

The Property consists of the 2.956 acres described and depicted in the attached two documents as Area B-1:

- Document 1 is a two-page description of Area B-1
- Document 2 is a one-page depiction of Area B-1

Document 1

DESCRIPTION OF AREA B-1

Being a portion of Parcel B as shown and so designated on that certain Parcel Map entitled "Haggin Oaks" filed for record in Book 207 of Parcel Maps, at Page 9, Sacramento County Records situate in Sections 26 and 31 of Rancho Del Paso, City of Sacramento, County of Sacramento, State of California, said property being more particularly described as follows:

Commencing at a found 6" x 6" concrete highway monument marking the southeast corner of said Parcel B as shown on said Parcel Map; thence coincident with the south line of said Parcel B, from a radial line which bears South 26°29'08" East, 106.08 feet along the arc of a non-tangent 2750.00 foot radius curve to the right through a central angle of 02°12'37" to the True Point of Beginning; thence from said TRUE POINT OF BEGINNING continuing from a radial line which bears South 24°16'32" East, 363.78 feet along the arc of a non-tangent 2750.00 foot radius curve to the right through a central angle of 07°34'45" to a found 3/4 inch iron pipe with cap stamped L.S. 7944 marking an angle point in the westerly line of said Parcel B; thence leaving the south line of Parcel B, coincident with said westerly line of Parcel B, North 13°32'50" West a distance of 281.46 feet to a found 3/4 inch iron pipe with cap stamped L.S. 7944; thence coincident with the prolongation of said westerly line of Parcel B, North 13°32'50" West a distance of 47.73 feet to the centerline of private Raption Drive as shown on said Parcel Map; thence coincident with said centerline of private Raption Drive for the following 3 arcs, courses and distances:

1. from a radial line which bears South 16°10'02" East, 181.26 feet along the arc of a non-tangent 1965.00 foot radius curve to the left through a central angle of 05°17'07" to a found 1-1/2 inch long by 1/4 inch diameter mag nail tagged L.S. 7944 marking the point of compound curvature;
2. 88.30 feet along the arc of a tangent 365.00 foot radius curve to the left through a central angle of 13°51'42" to a found 1-1/2 inch long by 1/4 inch diameter mag nail tagged L.S. 7944; and
3. North 54°41'09" East a distance of 72.63 feet to a found 1-1/4 inch iron pipe with cap stamped L.S. 7944 marking the intersection with the east line of said Parcel B;

thence leaving said centerline of private Raption Drive, coincident with the east line of Parcel B, South 35°18'51" East a distance of 238.68 feet to the intersection with the multi-purpose easement line as shown on said Parcel Map; thence leaving said east line of Parcel B, coincident with the multi-purose easement line, South 11°31'43" West a distance of 143.22 feet to the Point of Beginning.

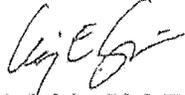
Containing 2.956 acres of land, more or less.

See Exhibit "B", plat to accompany description, attached hereto and made a part hereof.

The Basis of Bearings for this description is California State Plane Coordinate System, Zone 2, NAD'83, as measured between GPS Station "G3709", and GPS Station "G3810 as shown and so designated on that certain Record of Survey entitled "Record of Survey GPS Static Survey" filed

1518.007
05/05/10
CES

for record in Book 63 of Surveys, at Page 29, Sacramento County Records. Said bearing is North 61°25'55" East. Distances shown are ground based.



Craig E. Spiess P.L.S. 7944
Expires: December 31, 2011

Date: 5/6/10



PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

Document 2
Plat to Accompany
Description of Area B-1

HAGGIN OAKS
PORTION OF PARCEL B - 207 P.M. 9
CITY OF SACRAMENTO
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

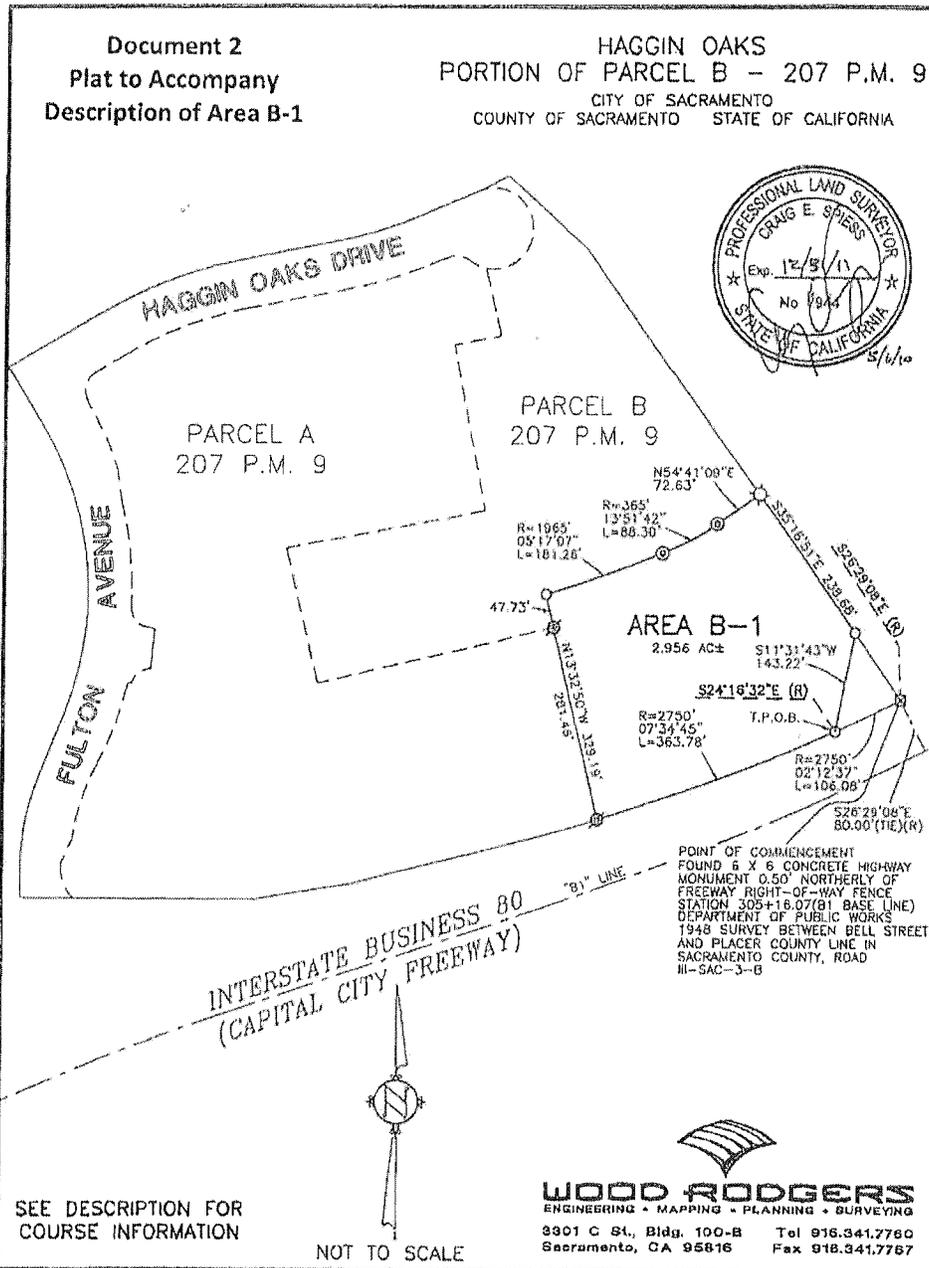


Exhibit B

Exclusive Right to Negotiate
City of Sacramento & Sacramento K, LLC

Plat of Original 21-Acre Parcel

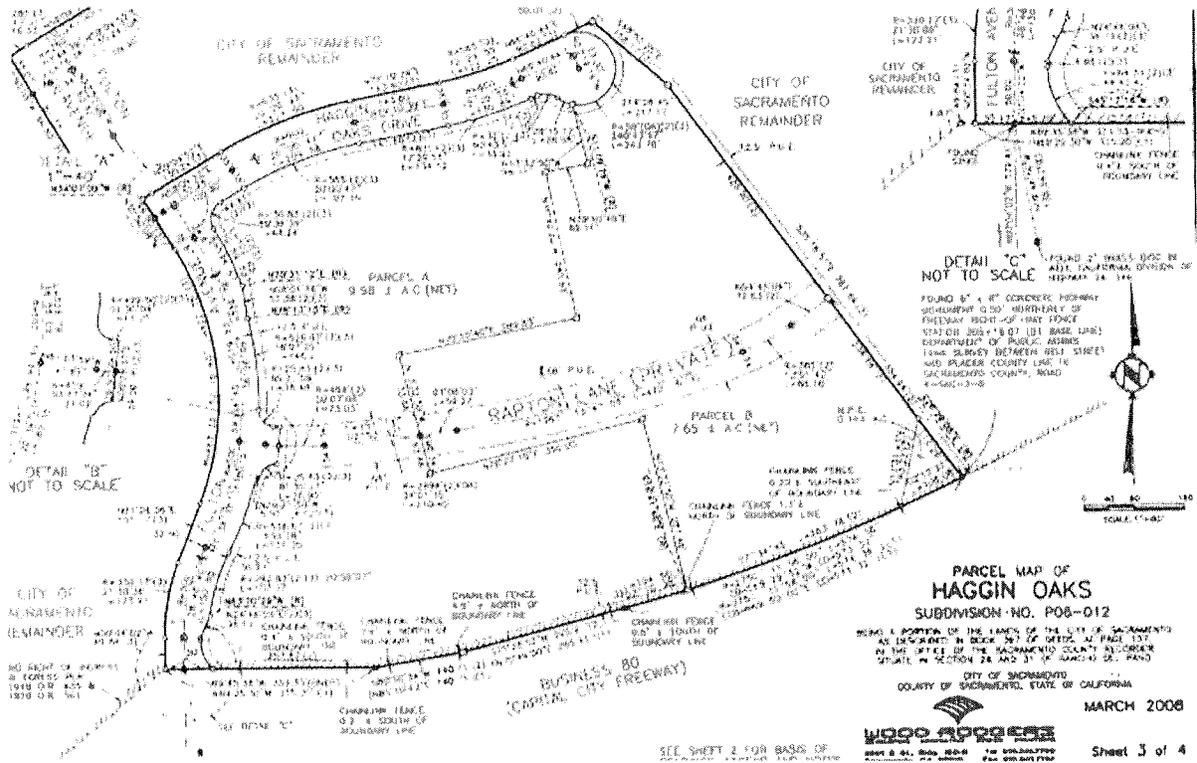


Exhibit C

**Exclusive Right to Negotiate
City of Sacramento & Sacramento K, LLC**

WHEN RECORDED MAIL TO

NAME *Dean Peckham*
City of Sacramento
MAILING *City Hall*
ADDRESS *915 I St, 3rd Fl*
CITY, STATE *Sacramento, CA*
ZIP CODE *95814*



Sacramento County Recorder
Frederick B. Garcia, Clerk/Recorder
BOOK **20081218** PAGE **0871**



Thursday, DEC 18, 2008 1:23:03 PM
Ttl Pd \$0.00 Nbr-0005680634
TMH/74/1-44

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

*No Fee per
Government Code 6103.9*

TITLE(S)

*Covenant to Restrict Use of Property Environmental Restriction
Portion of Property (APN 254-011-027) Identified as Parcel B*

RECORDING REQUESTED BY:
City of Sacramento
915 I Street, New City Hall, Fifth Floor
Sacramento CA 95814

WHEN RECORDED, MAIL TO:
County of Sacramento
Environmental Management Department
Site Assessment and Mitigation
8475 Jackson Road
2nd Floor - Suite 230/240
Sacramento, CA 95826-3913
Attention: Dana Booth, Environmental Program Manager I

**COVENANT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION
Portion of Property (APN 254-011-027) Identified as Parcel B**

This Covenant (this "Covenant") is between the **City of Sacramento** (the "Covenantor"), the current owner of certain real property situated in City of Sacramento, County of Sacramento, State of California, described in Exhibit "A" attached hereto, which is incorporated herein by this reference (the "Property"); and the **County of Sacramento** (the "County"), acting through its Environmental Management Department. In accordance with subdivision (c) of Civil Code section 1471, the County has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the Property of hazardous materials as defined in Health and Safety Code ("H&SC") section 25260. The Covenantor and the County (collectively the "Parties") therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health and safety and the environment.

**ARTICLE I
STATEMENT OF FACTS**

- 1.01 The Property, comprising approximately 7.7 acres, is a portion of County Assessor's Parcel No. 254-011-027 located at 3701 Fulton Avenue in the City of Sacramento, County of Sacramento, State of California. As shown on the attached Exhibit A, the Property has been divided into "Parcel A" and "Parcel B." Contaminated soils from Parcel A and an area just north of Parcel A were excavated and consolidated onto Parcel B, which is bounded by Parcel A to the west, a recreational golf complex to the north and east, and the Interstate 80 Business Loop to south.
- 1.02 Under the supervision and authority of the County, the Covenantor has completed planned remedial actions at the Property in accordance with the Final Response Plan dated 21 February 2007 and the Final Implementation Plan dated 14 March 2007 (other than actions required by the Risk Management Plan described in section 1.04 below).



The remedial actions were performed under chapter 6.8 of division 20 of the H&SC. Hazardous substances, as defined in H&SC section 25316, or hazardous materials, as defined in H&SC section 25260, remain in the excavated soil that has been consolidated on Parcel B. The hazardous substances include lead (up to 9,000 milligrams per kilogram; or mg/kg), arsenic (up to 49 mg/kg), and polynuclear aromatic hydrocarbons (with benzo[a]pyrene equivalent up to 14 mg/kg). The Final Response Plan includes implementation of a deed restriction to provide protection to the public and the environment from hazardous substances in excavated soil that has been consolidated on Parcel B.

- 1.03 The Covenantor prepared a draft environmental impact report for the remediation and development of the former leasehold on the Property pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.) for public review and comment. The Covenantor certified the environmental impact report on 16 January 2007.
- 1.04 The remedial activities performed at the Property consisted of (a) excavation and off-site disposal of clay pigeon debris as a non-hazardous waste to a permitted facility; (b) excavation of contaminated soil on Parcel A and consolidation of that soil onto Parcel B; and (c) capping of the consolidated material with four inches of asphalt concrete, four inches of aggregate base, twenty inches of clean fill soil, and a fabric membrane (collectively, the "Cap"). The Cap is to be maintained in accordance with the Risk Management Plan ("RMP") incorporated into the Maintenance Agreement between Covenantor and the County dated _____ 2008; the Maintenance Agreement is attached as Exhibit B hereto and is incorporated herein by reference. The RMP is contained in the Final Implementation Plan dated 14 March 2007.
- 1.05 The remedial actions performed at the Property prevent most possible receptors from exposure to contaminants in soil underneath Parcel B because the Cap acts as a barrier between users of Parcel B and contaminants in soil. However, utility or construction workers may be exposed during construction and maintenance activities involving subsurface excavations. The RMP provides guidance for future construction and maintenance activities while minimizing the risk of exposure. The RMP provides measures to be implemented to protect human health and the environment, and procedures for annual Cap maintenance and repairs, if necessary.

ARTICLE II

DEFINITIONS

- 2.01 **County.** "County" means the County of Sacramento, acting through its Environmental Management County, and includes its successor agencies, if any.
- 2.02 **Owner.** "Owner" means the Covenantor and all successors in interest of the Covenantor who at any time hold title to all or any portion of Parcel B.

- 2.03 **Occupant.** "Occupant" means the Owner and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of Parcel B. :
- 2.04 **Parcel B.** "Parcel B" means that portion of Assessor's Parcel Number 254-011-027 at 3701 Fulton Avenue in the City of Sacramento, California, designated as Parcel B in the attached Exhibit "A" and described in legal description in the attached Exhibit C, incorporated herein by reference.
- 2.05 **CAP.** "Cap" means the entirety of four inches of asphalt concrete, four inches of aggregate base, twenty inches of clean fill soil, and a fabric membrane.

ARTICLE III

GENERAL PROVISIONS

- 3.01 **Restrictions to Run with the Land.** This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively, the "Restrictions") that regulate how Parcel B and every portion of it may be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each of the Restrictions (a) runs with the land in accordance with subdivision (a)(1)(C) of H&SC section 25355.5 and Civil Code section 1471; (b) inures to the benefit of, and passes with, each portion of Parcel B; (c) is for the benefit of, and is enforceable by, the County; and (d) is imposed upon the entirety of Parcel B unless expressly stated to apply only to a specific portion of it.
- 3.02 **Binding upon Owners/Occupants.** In accordance with subdivision (a)(1)(C) of H&SC section 25355.5, this Covenant binds all owners of Parcel B (including the Owner); the heirs, successors, and assignees of the owners; and the agents, employees, and lessees of the owners, heirs, successors, and assignees. The intent of this section 3.02 is to state expressly that all successive owners of the Property are bound by this Covenant for the benefit of the County, so that the Restrictions run with Parcel B (see subdivision (b)(2) of Civil Code section 1471).
- 3.03 **Notice of Release of Hazardous Substances.** Before the sale, lease, or sublease of Parcel B, the Owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath Parcel B, as required by H&SC section 25359.7.
- 3.04 **Incorporation into Deeds and Leases.** The Restrictions must be incorporated by reference in each deed or lease for any portion of Parcel B.
- 3.05 **Conveyance of Parcel B.** The Owner shall provide notice to the County not later than 30 days after any conveyance of any ownership interest in Parcel B (excluding mortgages,

liens, and other non-possessory encumbrances). This Covenant does not authorize the County to approve, disapprove, or otherwise affect a proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

ARTICLE IV RESTRICTIONS

- 4.01 **Prohibited Uses.** Parcel B may not be used for any of the following purposes:
- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
 - (b) A hospital for humans.
 - (c) A public or private school for persons under 21 years of age.
 - (d) A day-care center for children.
- 4.02 **Soil Management.**
- (a) The Owner shall provide the County written notice at least 30 days prior to any planned activities on Parcel B that would disturb the soil underneath the Cap (e.g., building, trenching, filling, grading, mining, or excavating).
 - (b) Activities that will disturb the soil at or below two feet below grade (e.g., building, trenching, filling, grading, mining, or excavating) must be conducted in accordance with the RMP (including a Site-Specific Health and Safety Plan as required by the RMP) contained in the Final Implementation Plan.
 - (c) Any contaminated soils brought to the surface by building, trenching, filling, grading, mining, or excavating must be managed in accordance with all applicable provisions of state and federal law.
- 4.03 **Non-Interference with Cap.**
- (a) Activities that may disturb the Cap (e.g. building, trenching, filling, grading, mining, or excavating) are not permitted on Parcel B without prior review and approval by the County. This restriction does not apply to maintenance and repair of utility equipment within the utility corridors shown on the Additional Information Sheet attached to the recorded parcel map for the Fulton Avenue Development if that activity is not anticipated to cause a breach in the Cap (as defined in the RMP).

- (b) All uses and development of Parcel B must preserve the integrity of the Cap.
 - (c) The Cap may not be modified without the County's written approval.
 - (d) The Owner shall notify the County of each of (1) the type, cause, location, and date of any disturbance to the Cap that could affect the ability of the Cap to contain subsurface hazardous wastes or hazardous materials in Parcel B; and (2) the type and date of repair of such disturbance. Notification to the County must be made as provided below within 30 working days of both the discovery of any such disturbance and the completion of any repairs. Timely and accurate notification by any Owner or Occupant will satisfy this requirement on behalf of all other Owners and Occupants.
- 4.04 **Access for County.** The County is entitled to reasonable right of entry and access to Parcel B for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the County to protect the public health and safety and the environment.
- 4.05 **Access for Implementing Operations & Maintenance.** The entity or person responsible for implementing the Operation and Maintenance Agreement is entitled to reasonable right of entry and access to Parcel B for the purpose of implementing the Operation and Maintenance Agreement until the County determines that no further Operation and Maintenance is required.

ARTICLE V ENFORCEMENT

- 5.01 **Enforcement.** The Owner's failure to comply with any of the Restrictions specifically applicable to it will be grounds for the County to require that the Owner modify or remove any buildings, roads, driveways, and paved parking areas that are constructed or placed upon any portion of Parcel B in violation of the Restrictions. Violation of this Covenant will be grounds for the County to file civil or criminal actions as provided by law and to impose Administrative Enforcement Orders with penalties up to \$5,000 per day of violation.

ARTICLE VI VARIANCE, TERMINATION, AND TERM

- 6.01 **Variance.** Any aggrieved person (including the Owner) may apply to the County for a written variance from the provisions of this Covenant. The application must be made in accordance with H&SC section 25233. The Covenant remains unchanged and in full force and effect until the County approves the variance in writing.

6.02 **Termination.** Any aggrieved person (including the Owner) may apply to the County for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of Parcel B. The application must be made in accordance with H&SC section 25234. The Covenant remains unchanged and in full force and effect until the County approves the termination in writing.

6.03 **Term:** Unless terminated in accordance with section 6.02 above, by law, or by the County in the exercise of its discretion, this Covenant continues in effect in perpetuity.

ARTICLE VII MISCELLANEOUS

7.01 **No Dedication Intended.** Nothing set forth in this Covenant is to be construed as a gift or dedication, or an offer of a gift or dedication, of Parcel B or any portion of it to the general public or to anyone else for any purpose.

7.02 **County References.** All references to the County include successor entities of the County.

7.03 **Recordation.** The Covenantor shall record this Covenant, with all referenced exhibits, in the Sacramento County Clerk/Recorder's Office within ten days of the Covenantor's receipt of a fully subscribed original.

7.04 **Notices.** Whenever any person gives or serves any demand or other communication with respect to this Covenant (each, a "Notice"), the Notice must be in writing and addressed as indicated below, and it will be effective (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served; or (b) three business days after deposit in the mail, if mailed by United States Mail, postage paid, certified, return receipt requested:

To Owner: City of Sacramento
 Economic Development Department
 Citywide Development Division
 915 "I" Street, Third Floor
 Sacramento, CA 95814
 Attention: Dean Peckham, Citywide Senior Project Manager

ALL-PURPOSE ACKNOWLEDGEMENT

State of California
County of Sacramento

On 09/30/08 before me, Lori B. Gay, Notary Public, personally appeared John Dangberg who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he she/they executed the same in his her/their authorized capacity(ies), and that by his her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lori B. Gay (Seal)



OPTIONAL INFORMATION

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- Individual
- Corporate Officer

TITLE(S)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Guardian/Conservator
- Other

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

City of Sacramento

DESCRIPTION OF ATTACHED DOCUMENT

Covenant to restrict use of property
TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

OTHER

RIGHT THUMBPRINT OF SIGNER:

**AB 886 (Chapter 399) Notary Certificate Requirements
Effective January 1, 2008**

California All-Purpose Acknowledgment

Civil Code section 1189(a)(1) amended to provide that any certificate of acknowledgment taken within the State of California shall be in the following form:

State of California)
) SS
County of <u>Sacramento</u>)
On <u>Dec. 15, 2008</u> before me, <u>Sarah E. Crowl</u> <i>(here insert the name and title of the officer)</i> , personally appeared <u>Dana Booth</u> who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.	
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.	
Witness my hand and official seal.	
<u>Sarah E. Crowl</u> [Seal] (Signature)	

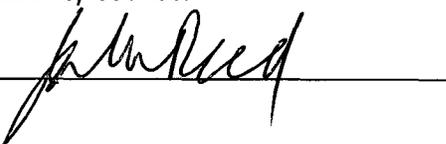
To County: County of Sacramento
Environmental Management Department
Site Assessment and Mitigation
8475 Jackson Road
2nd Floor - Suite 230/240
Sacramento, CA 95826-3913
Attention: Dana Booth, Environmental Program Manager

A party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05 **Partial Invalidity.** If any portion of this Covenant is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant will remain in full force and effect as if such portion found invalid had not been included in it.

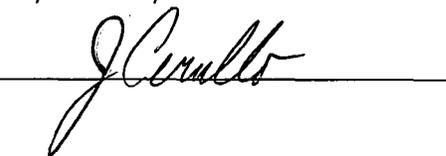
COUNTY OF SACRAMENTO

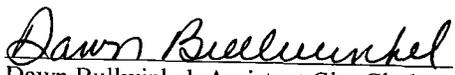

Dana Booth, Environmental Program Manager
Environmental Management Department
Site Assessment and Mitigation
Dated: 10/8, 2008

Approved as to Form
County Counsel


CITY OF SACRAMENTO


John Dangberg, Assistant City Manager
Dated: 9/30, 2008

Approved as to Form
City Attorney


Attest on: 10-28-08 (date)


Dawn Bullwinkel, Assistant City Clerk

**EXHIBIT A TO
COVENANT TO RESTRICT USE OF PROPERTY**

EXHIBIT A TO COVENANT TO RESTRICT USE OF PROPERTY

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS PARCEL MAP OF HAGGIN OAKS AND OFFER FOR DEDICATION AND DO HEREBY DEDICATE TO ANY AND ALL PUBLIC USES, FULTON AVENUE AND HAGGIN OAKS DRIVE SHOWN HEREON AND OFFER FOR DEDICATION AND DO HEREBY DEDICATE TO SPECIFIC PURPOSES THE FOLLOWING:

- A. EASEMENTS FOR PLANTING AND MAINTAINING TREES, INSTALLING AND MAINTAINING ELECTROLIERS, TRAFFIC CONTROL DEVICES, WATER PIPES, GAS PIPES, FIRE HYDRANTS, WATER METERS AND FOR UNDERGROUND WIRES AND CONDUITS FOR CABLE TELEVISION, ELECTRIC, AND TELEPHONE SERVICES TOGETHER WITH ANY AND ALL APPURTENANCES PERTAINING THERETO ON, OVER, UNDER AND ACROSS THOSE STRIPS OF LAND TWELVE AND ONE-HALF 12.5 FEET IN WIDTH LYING CONTIGUOUS TO FULTON AVENUE AND HAGGIN OAKS DRIVE SHOWN HEREON AND DESIGNATED "PUBLIC UTILITY EASEMENT" (12.5' P.U.E.).
B. EASEMENT FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING REPAIRING, AND MAINTAINING THEREON FREEWAY SIGNAGE, TOGETHER WITH ALL APPURTENANCES PERTAINING THERETO ON, OVER, UNDER AND ACROSS THE LAND HEREINAFTER SHOWN HEREON AND DESIGNATED "MULTI-PURPOSE EASEMENT" (M.P.E.).
C. EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF GAS AND FOR UNDERGROUND WIRES AND CONDUITS FOR ELECTRICAL, TELEPHONE AND TELEVISION SERVICES TOGETHER WITH ANY AND ALL APPURTENANCES PERTAINING THERETO ON, OVER, UNDER AND ACROSS THE LAND SHOWN HEREON ADJACENT TO THE SOUTH PROPERTY LINE OF PARCELS "A" AND "B" AND ADJACENT TO THE EAST PROPERTY LINE OF PARCEL "B" AND DESIGNATED "PUBLIC UTILITY EASEMENT" (P.U.E.).

CITY OF SACRAMENTO, A MUNICIPAL CORPORATION

BY: [Signature] DATE: 3-19-08
PRINT NAME: Martin Hannebaum
PRINT TITLE: Asst. City Manager

NOTARY'S ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF Sacramento
ON THE 19th DAY OF March, 2008, BEFORE ME, Lori B. Gay, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, Martin Hannebaum, Assistant City Manager, WHO PROVED TO ME ON THE BASIS SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND: [Signature]
PRINTED NAME: Lori B. Gay
MY PRINCIPAL PLACE OF BUSINESS IS THE:
COUNTY OF: Sacramento, CA
MY COMMISSION EXPIRES: March 12, 2009
MY COMMISSION NO.: 1563200



PARCEL MAP OF HAGGIN OAKS SUBDIVISION NO. P06-012

BEING A PORTION OF THE LANDS OF THE CITY OF SACRAMENTO AS DESCRIBED IN BOOK 397 OF DEEDS, AT PAGE 157, IN THE OFFICE OF THE SACRAMENTO COUNTY RECORDER SITUATE IN SECTION 26 AND 31 OF RANCHO DEL PASO.

CITY OF SACRAMENTO COUNTY OF SACRAMENTO, STATE OF CALIFORNIA



MARCH 2008

Sheet 1 of 4 1518.004

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES AT THE REQUEST OF THE CITY OF SACRAMENTO ON APRIL 27, 2007. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP. THE MONUMENTS SHOWN HEREON WILL BE OF THE CHARACTER AND OCCUPY THE POSITION INDICATED AND THAT THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



[Signature]
CRAIG E. SPIESS
P.L.S 7844 EXP. 12-31-09
WOOD RODGERS, INC.
MARCH 17, 2008
DATE

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS PARCEL MAP OF "HAGGIN OAKS" AND FIND IT TO BE SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP APPROVED BY THE CITY OF SACRAMENTO PLANNING COMMISSION AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND ALL APPLICABLE CITY ORDINANCES HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

I HEREBY APPROVE THIS PARCEL MAP OF "HAGGIN OAKS", AND ACCEPT, SUBJECT TO IMPROVEMENTS, ON BEHALF OF THE PUBLIC, THE EASEMENTS AND RIGHTS-OF-WAY HEREON OFFERED FOR DEDICATION.



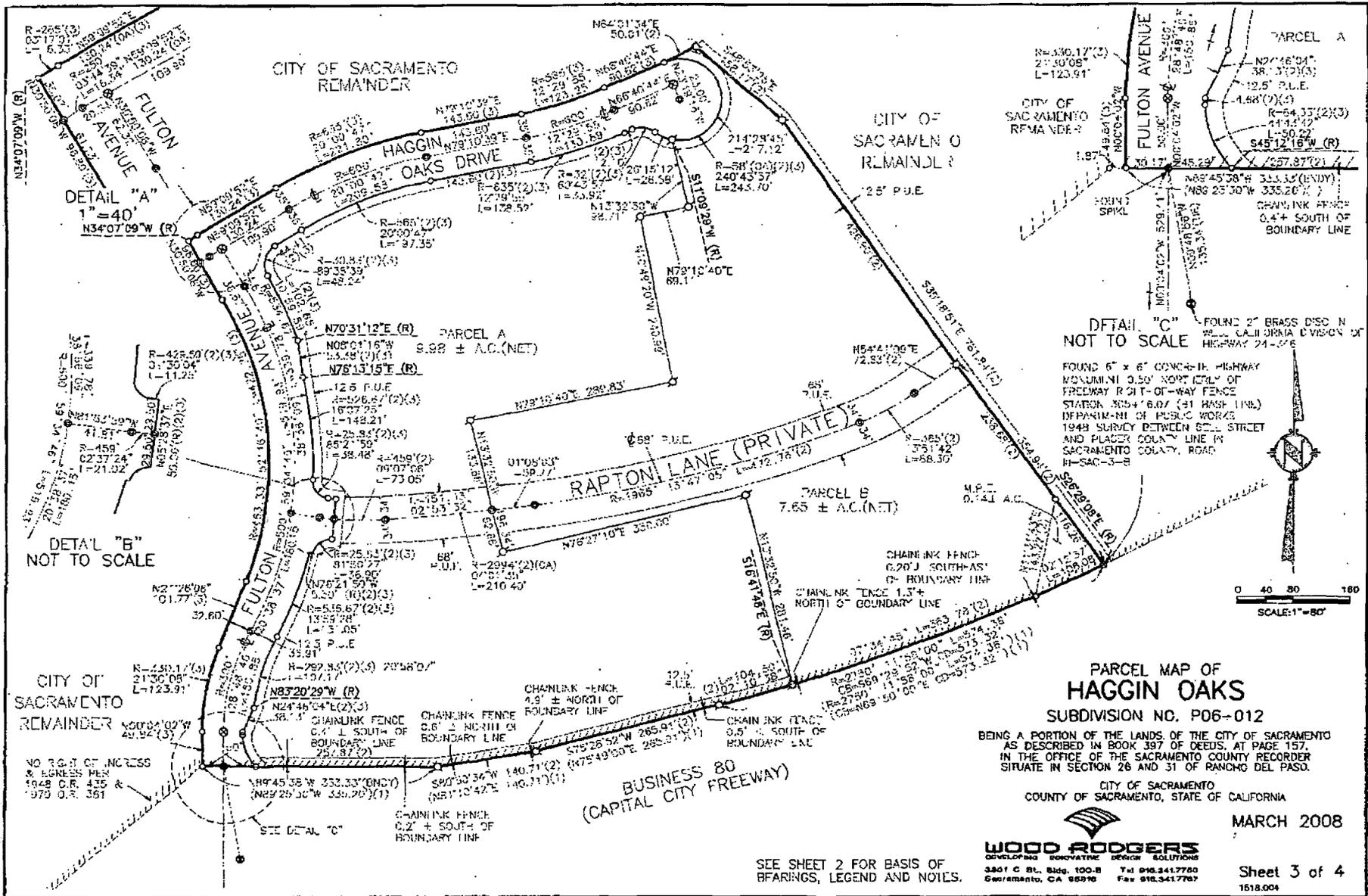
[Signature]
RONALD S. FONG, P.E. 28492
SUPERVISING ENGINEER
CITY OF SACRAMENTO, CALIFORNIA
EXPIRES: 03-31-08
3-18-08
DATE

CITY CLERK'S STATEMENT

I HEREBY ATTEST TO THE APPROVAL OF THIS PARCEL MAP OF "HAGGIN OAKS."
DATE: 3-20-08
[Signature]
CITY CLERK
CITY OF SACRAMENTO

RECORDER'S STATEMENT

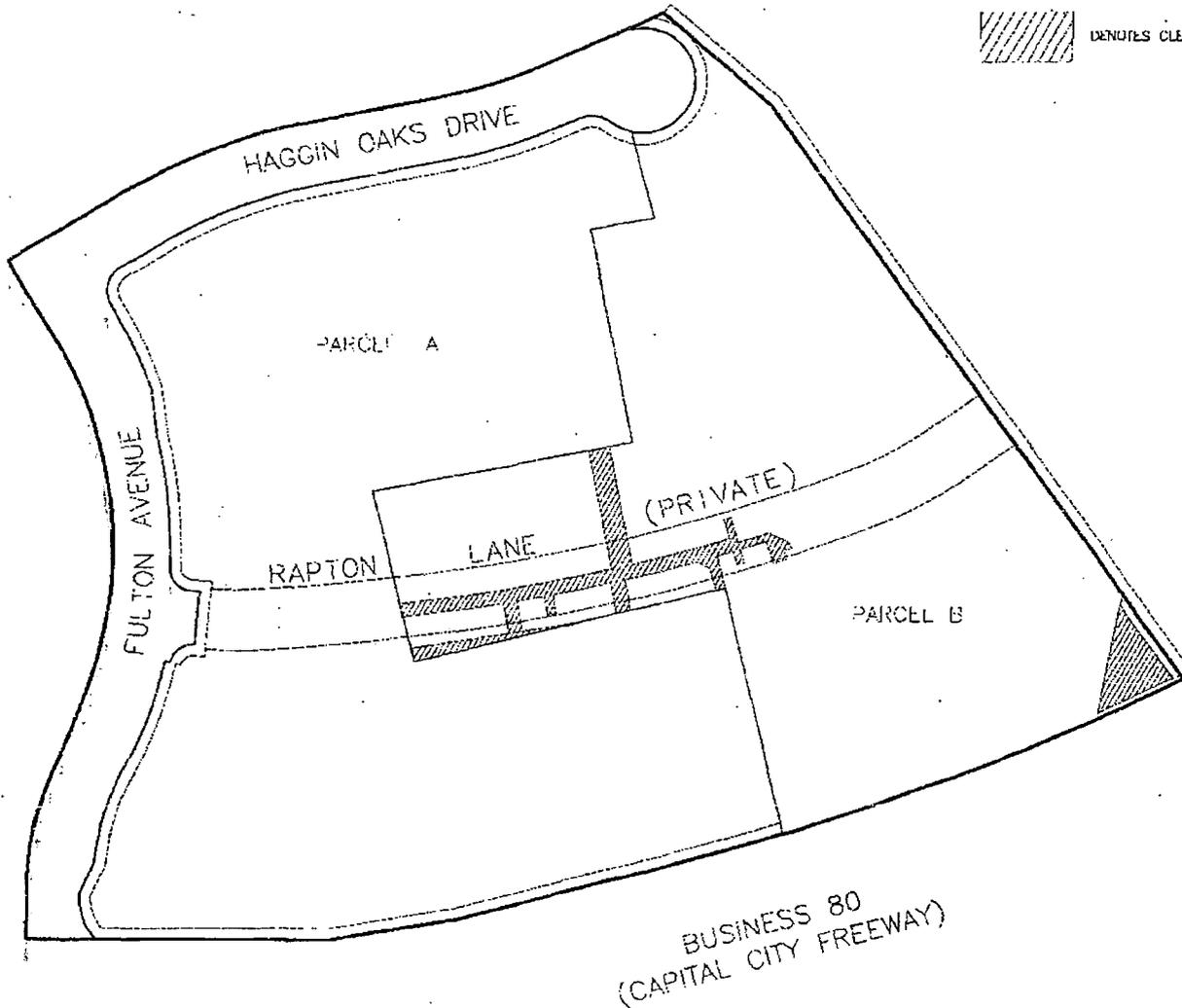
FILED THIS 8th DAY OF May, 2008, AT 8:58 A.M. IN BOOK 209 OF PARCEL MAPS AT PAGE 0009 AT THE REQUEST OF WOOD RODGERS, INC. TITLE TO THE LAND INCLUDED IN THIS PARCEL MAP BEING VESTED AS PER CERTIFICATE NO. 5457 ON FILE IN THIS OFFICE.
DOCUMENT NO.: 20080508 Page 10194 FEE: \$ 75.00
CRAIG A. KRAMER BY: [Signature]
COUNTY RECORDER DEPUTY



ADDITIONAL INFORMATION FOR INFORMATIONAL PURPOSE ONLY PURSUANT TO SECTION 66434.2 OF THE GOVERNMENT CODE.



DENOTES CLEAN UTILITY CORRIDOR WITHIN PARCEL B.



0 40 80 160

SCALE: 1"=80'

PARCEL MAP OF HAGGIN OAKS

SUBDIVISION NO. P06-012

BEING A PORTION OF THE LANDS OF THE CITY OF SACRAMENTO
AS DESCRIBED IN BOOK 397 OF DEEDS, AT PAGE 157,
IN THE OFFICE OF THE SACRAMENTO COUNTY RECORDER
SITUATE IN SECTION 26 AND 31 OF RANCHO DEL PASO.

CITY OF SACRAMENTO
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA



MARCH 2008

WOOD ROGERS
DEVELOPER INNOVATIVE DESIGN SOLUTIONS
2301 O St., Ste. 2025 Tel 916.344.7280
Sacramento, CA 95816 Fax 916.344.7287

Sheet 4 of 4
1518.004

SEE SHEET 2 FOR BASIS OF
BEARINGS, LEGEND AND NOTES.

**EXHIBIT B TO
COVENANT TO RESTRICT USE OF PROPERTY**

E. The Respondent has completed the remedial actions except for ongoing maintenance of the Cap. This agreement sets forth the Respondent's and the County's obligations with regard to maintaining the Cap.

With these background facts in mind, the parties hereby agree as follows:

1. *The Respondent's Obligations.*

1.1 *Implementation of Maintenance Plan.* The Respondent shall implement the RMP to protect human health and the environment from lead, arsenic, and polynuclear aromatic hydrocarbons in the soil consolidated at the Site. The Respondent shall not modify or disrupt the Cap and shall maintain the Cap until the County authorizes the Respondent in writing by certified mail to modify or disrupt the Cap.

1.2 *Modifications Proposed by the Respondent.* The Respondent shall give the County at least 30 days' advance written notice before modifying or disrupting the Cap. The notice must include (a) a description of the work to be done; (b) a map showing the approximate location of the proposed work; and (c) the reasons for modification or disruption. The Respondent may undertake the proposed modification or disruption in accordance with the RMP if, within 30 days after the County receives the Respondent's notice, the Respondent has not received from the County a written response to the proposed modification or disruption. To be effective, each notice given under this subsection 1.2 must be sent by certified mail to the County's contact person at the address set out in section 5 below.

1.3 *Five-Year Review.* The Respondent shall review and reevaluate the remedial actions described in the Background above after a period of five years from the completion of construction of the Cap and every five years thereafter. The review and reevaluation must be conducted in accordance with section 121(c) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") (42 U.S.C. 9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499). Within 30 days before the end of each five-year period, the Respondent shall submit a remedy-review work plan to the County for review and approval if additional environmental sampling will occur at the Site to evaluate the effectiveness of the remedial actions. Within 60 days after the Respondent's Project Coordinator receives County's written approval of the work plan, the Respondent shall implement the work plan and shall submit a comprehensive report of the results of the remedy review. The report must describe the results of all sample analyses, tests, and other data generated or received by Respondent and must evaluate the adequacy of the implemented remedial actions in protecting public health and safety and the environment. If no additional sampling will occur to determine the effectiveness of the remedial actions, then the Respondent shall submit the five-year remedy-review report to the County within 30 days after the end of the five-year review period. This remedy-review report must provide a summary of any and all Cap modifications and damage mitigations completed during the previous five years. Each submission or approval under this subsection 1.3 must be sent by certified mail to the County's Contact Person at address set forth in section 5 below.

1.4 *Response Action/Notification.* If, during the term of this agreement, the Cap is damaged

by any cause and the damage results in the release or threatened release of a hazardous substance, then the Respondent shall immediately take all reasonable and appropriate action to prevent, abate, or minimize the release or threatened release and shall notify the County immediately (but not more than seven days after the damage occurs). The Respondent shall take such action in consultation with the County and in accordance with all applicable provisions of this agreement as needed to protect public health and safety and the environment. Within 14 days after the damage occurs, the Respondent shall furnish a report to the County, signed by the Respondent's Project Coordinator, describing the damage and the measures taken in response. If the Respondent fails to respond appropriately and the County takes the action instead, then the Respondent will be liable to the County for all reasonable costs of the response action. Nothing in this section limits any other notification requirement to which the Respondent may be subject.

1.5 *Public Participation.* The Respondent shall work cooperatively with the County to see that the affected public and community continue to be involved in the County's decision-making process.

2. *The County's Obligations.* The County shall review and oversee the measures to be performed by the Respondent under this agreement.

3. *Respondent's Project Coordinator.* The responsibilities of the Respondent's Project Coordinator will be to receive and submit all notices, comments, approvals, and other communications from and to the County. As of the effective date of this agreement, the name and address of Respondent's Project Coordinator is as follows:

Dean Peckham, Citywide Senior Project Manager
Economic Development Department
915 "I" Street, Third Floor
Sacramento, CA 95814

The Respondent shall promptly notify the County of any change in the identity or address of the Project Coordinator.

4. *Project Engineer or Geologist.* All work that the Respondent performs under this agreement must be under the direction and supervision of a qualified professional engineer or geologist who is registered in the State of California and has expertise in cleaning up hazardous-substance sites. As of the effective date of this agreement, the name and address of the project engineer chosen by the Respondent is as follows:

Yane Nordhav, Professional Geologist
Baseline Environmental Consulting
5900 Hollis St, Suite "D"
Emeryville, CA 94608-2008

The Respondent shall promptly notify the County's Contact Person of any change in the identity or address of the Project Engineer or Geologist.

5. *County's Contact Person.* The Respondent shall send the County, by certified mail, all submittals and notifications that are required or permitted under this agreement, addressed to the County's Contact Person. As of the effective date of this agreement, the name and address of the County's Contact Person are as follows:

Dana Booth, Environmental Program Manager I
Charley Langer, Environmental Specialist III (2 copies)
County of Sacramento
Environmental Management Department
Site Assessment and Mitigation
8475 Jackson Road
Sacramento, California 95826-3904

The County shall promptly notify the Respondent's Project Coordinator, by certified mail, of any change in the identity or address of the County's Contact Person.

6. *Quality Control/Quality Assurance (QC/QA).* When conducting sampling and analysis under this agreement, the Respondent shall comply with QC/QA procedures submitted by the Respondent and approved by the County under this agreement.

7. *Communications.* The County of Sacramento Environmental Management Department shall communicate to the Respondent, by certified mail, all approvals and decisions of the County regarding the Respondent's submittals and notifications under this agreement. No informal advice, guidance, suggestions, or comments by the County regarding reports, plans, specifications, schedules, or any other writings by the Respondent will relieve the Respondent of the obligation to obtain such formal written approvals as may be required.

8. *County Review and Approval.*

8.1 *Modifications and Comments.* If the County determines that any report, plan, schedule, or other document submitted to the County for approval under this agreement fails to comply with this agreement or fails to protect public health or safety or the environment, then the County may (a) modify the document as deemed necessary and approve the document as modified; or (b) return comments to the Respondent by certified mail within 45 days, with recommended changes and a date by which the Respondent must submit to the County a revised document incorporating the recommended changes.

8.2 *Incorporation and Noncompliance.* Any modifications, comments, or other directive issued by County pursuant to section 8.1 above are incorporated into this agreement. Any voluntary noncompliance with these modifications or directives constitutes a failure or refusal to comply with this agreement.

9. *Stop Work Order.* If the County determines that any activity on the Site (whether or not pursued in compliance with this agreement) may pose an imminent or substantial danger to the health or safety of persons on the Site or in the surrounding area or to the environment, then

the County may order the Respondent to stop further implementation of this agreement for such time as is needed to abate the danger. If the County determines that any activities (whether or not pursued in compliance with this agreement) are proceeding without County authorization, then the County may order the Respondent to stop further implementation of this agreement or activities for such time as is needed to obtain the County's authorization, if such authorization is appropriate. Any deadline in this agreement that is directly affected by a Stop Work Order issued under this section will be extended for the duration of the Stop Work Order.

10. *County Required Modifications.* The County may require modification, replacement, or additions to the Cap if it is not protecting public health or safety or the environment, including those identified in the Final Implementation Plan approved for the Site.

11. *Compliance with Applicable Laws.* The Respondent shall carry out this agreement in compliance with all applicable local, state, and federal requirements, including but not limited to requirements to obtain permits, characterize waste material, and assure worker safety.

12. *The Respondent's Liabilities.* Nothing in this agreement constitutes a satisfaction or release from liability for any conditions or claims arising as a result of Respondent's past, current, or future operations on the Site. Nothing in this agreement limits the rights of any of the parties with respect to claims arising out of, or relating to, the deposit or disposal at any other location of substances removed from the Site. Nothing in this agreement limits or precludes the County from taking any action authorized by law to protect public health or safety or the environment and recovering the reasonable cost thereof. Notwithstanding compliance with this agreement, the Respondent may be required to take further actions as are necessary to protect public health and the environment from the substances in the soil consolidated on the Site.

13. *Site Access.* The Respondent shall provide the County's employees, contractors, and consultants with access to the Site at all reasonable times. Nothing in this section limits the right of entry or inspection that the County or any other agency may otherwise have by operation of any law. The County and its authorized representatives are entitled to enter and move freely at the Site at all reasonable times for any reasonable purpose, including but not limited to the following: inspecting records, operating logs, sampling and analytical data, and contracts relating to the Site; reviewing the progress of the Respondent in carrying out the terms of this agreement; conducting such tests as the County may deem necessary; and verifying the data submitted to the County by the Respondent. After the effective date of this agreement, the Respondent shall not convey title to the Site or grant an easement or other interest in the Site without incorporating the continued right of entry by the County.

14. *Sampling, Data, and Document Availability.* The Respondent shall permit the County and its authorized representatives to inspect and copy all sampling, testing, monitoring, or other data generated by the Respondent or on the Respondent's behalf that in any way pertain to work under this agreement. The Respondent shall submit all such data upon the County's written request. The Respondent shall notify the County at least seven days in advance of all field sampling under this agreement and shall allow the County and its authorized

representatives to take duplicates of any samples collected by the Respondent under this agreement. The Respondent shall maintain a central repository of the data, reports, and other documents prepared under this agreement.

15. *Record Retention.* The Respondent shall preserve all such data, reports, and other documents for a minimum of ten years after the conclusion of all activities under this agreement. If the County requests that some or all of these documents be preserved for a longer time, then the Respondent shall comply with that request, or deliver the documents to the County, or permit the County to copy the documents prior to destruction. The Respondent shall notify the County in writing at least six months prior to destroying any documents prepared pursuant to this agreement.

16. *Government Liabilities.* The County shall indemnify, defend, protect, and hold the Respondent harmless from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final resolution) to the extent they are caused by the tortious acts or omissions, in connection with this agreement, of the County or the County's officers, employees, or agents. The County is not liable for any injuries or damages to persons or property resulting from acts or omissions by the Respondent in carrying out activities under this agreement, nor is the County to be held as a party to any contract entered into by the Respondent or its agents in carrying out activities under this agreement.

17. *Additional Actions.* By entering into this agreement, the County does not waive the right to take any further actions authorized by law.

18. *Extension Requests.* If the Respondent is unable to perform any activity or submit any document within the time required under this agreement, then the Respondent may, prior to expiration of the time, submit a request for extension to the County. The extension request must include a justification for the delay.

19. *Extension Approvals.* If the County determines that good cause exists for an extension, it shall grant the request and, by certified mail, notify the Respondent's Project Coordinator of the new schedule.

20. *Cost Recovery.* The Respondent is liable for all of the County's reasonable costs incurred in responding to the contamination at the Site (including costs of overseeing response work performed by the Respondent) or reasonable costs to be incurred in the future. Cost recovery may also be pursued by the County under CERCLA, Health and Safety Code section 25360, or any other applicable state or federal statute or common law. The County will invoice the Respondent on a quarterly basis for the County's costs.

21. *Severability.* The requirements of this agreement are severable, and the Respondent shall comply with each provision of this agreement notwithstanding the effectiveness of any other provision.

22. *Incorporation of Plans, Schedules, and Reports.* All plans, schedules, reports, specifications, and other documents that the Respondent submits under this agreement are

incorporated in this agreement upon the County's approval or as modified pursuant to section 8 (County Review and Approval). The Respondent's voluntary failure to comply with the documents incorporated into this agreement will constitute a failure or refusal to comply with this agreement.

23... *Modification and Termination.* The Respondent may, by written notice to the County, request modification or termination of this agreement at any time.

24. *Time Periods.* Unless otherwise specified, time periods begin from the effective date of this agreement, and "days" means calendar days.

25. *Parties Bound.* This agreement applies to, and is binding upon, the Respondent and its successors and assignees and the County and any successor agency of the County that may have responsibility for and jurisdiction over the subject matter of this agreement.

26. *Effective Date.* The effective date of this agreement is the date on which it has been signed by both parties, as indicated in the signature blocks below.

27. *Representative Authority.* Each undersigned representative of the parties to this agreement certifies that she or he is fully authorized to enter into this agreement and to legally bind the party on whose behalf he or she signs.

28. *Enforcement.* The Owner's failure to comply with any of the Restrictions specifically applicable to it will be grounds for the County to require that the Owner modify or remove any buildings, roads, driveways, and paved parking areas that are constructed or placed upon any portion of Parcel B in violation of the Restrictions. Violation will be grounds for the County to file civil or criminal actions as provided by law and to impose Administrative Enforcement Orders with penalties up to \$5,000 per day of violation.

COUNTY OF SACRAMENTO

Dana Booth
Environmental Program Manager I
Environmental Management Department
Site Assessment and Mitigation
Dated: _____, 2008

Approved as to Form
County Counsel

CITY OF SACRAMENTO

John Dangberg,
Assistant City Manager
Dated: _____, 2008

Approved as to Form
City Attorney

**EXHIBIT A TO
MAINTENANCE AGREEMENT**

EXHIBIT A TO MAINTENANCE AGREEMENT

1518.004
7/11/08
CES

APPENDIX "F"

DESCRIPTION FOR MAINTENANCE AGREEMENT AND FINAL IMPLEMENTATION PLAN PARCEL B

Being a portion of the tract of land conveyed in the deed from T.A. Farrell to the City of Sacramento, a municipal corporation, recorded on February 28, 1914 in Book 397, of Deeds at Page 157, in the Office of the Sacramento County Recorder, and being a portion of that certain Record of Survey entitled "Map of Survey and Subdivision of Rancho Del Paso" filed for record in Book A of Surveys, at Page 94, Sacramento County Records situate in Sections 26 and 31 of Rancho Del Paso, City of Sacramento, County of Sacramento, State of California, said property being more particularly described as follows:

Beginning at a found 6" x 6" concrete highway monument marking a point on the northwesterly right-of-way line of Interstate Business 80, currently known as Capital City Freeway, from which station 305+16.07 on the "B1" base line of the Department of Public Works 1948 Survey between Bell Street and Placer County line in Sacramento County, District III, County of Sacramento, Route 3, Section B, Sheet 4 as filed for record on February 13, 1958 in Book 3 of State Highway Maps, at Page 268, Sacramento County Records bears South 26°29'08" East a distance of 80.00 feet; thence from said **POINT OF BEGINNING** along said northwesterly right-of-way line of Interstate Business 80, from a radial line which bears South 26°29'08" East, 469.86 feet along the arc of a non-tangent 2750.00 foot radius curve to the right through a central angle of 09°47'22", subtended by a chord which bears South 68°24'33" West for a distance of 469.28 feet; thence leaving said northwesterly right-of-way line of Interstate Business 80 for the following eleven (11) arcs, courses and distances:

1. North 13°32'50" West a distance of 281.46 feet;
2. South 76°27'10" West a distance of 350.00 feet;
3. North 13°32'50" West a distance of 196.34 feet;
4. North 79°10'40" East a distance of 289.83 feet;
5. North 10°49'20" West a distance of 240.99 feet;
6. North 79°10'40" East a distance of 69.11 feet;
7. North 13°32'50" West a distance of 98.71 feet to a point of curvature;
8. from a radial line which bears South 11°09'29" West, 217.12 feet along the arc of a non-tangent 58.00 foot radius curve to the left through a central angle of 214°28'45";
9. North 64°01'34" East a distance of 50.01 feet;
10. South 48°53'25" East a distance of 158.17 feet; and
11. South 35°18'51" East a distance of 781.84 feet to the Point of Beginning.

Containing 7.65 acres of land, more or less.

The Basis of Bearings for this description is California State Plane Coordinate System, Zone 2, NAD'83, as measured between GPS Station "G3709", and GPS Station "G3810 as shown and so designated on that certain Record of Survey entitled "Record of Survey GPS Static Survey" filed for record in Book 63 of Surveys, at Page 29, Sacramento County Records. Said bearing is North 61°25'55" East. Distances shown are ground based.



Craig E. Spiess P.L.S. 7944
Expires: December 31, 2009

Date: 7/11/08



PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

**EXHIBIT B TO
MAINTENANCE AGREEMENT**

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS PARCEL MAP OF HAGGIN OAKS AND OFFER FOR DEDICATION AND DO HEREBY DEDICATE TO ANY AND ALL PUBLIC USES, FULTON AVENUE AND HAGGIN OAKS DRIVE SHOWN HEREON AND OFFER FOR DEDICATION AND DO HEREBY DEDICATE TO SPECIFIC PURPOSES THE FOLLOWING:

- A. EASEMENTS FOR PLANTING AND MAINTAINING TREES, INSTALLING AND MAINTAINING ELECTROLIERS, TRAFFIC CONTROL DEVICES, WATER PIPES, GAS PIPES, FIRE HYDRANTS, WATER METERS AND FOR UNDERGROUND WIRES AND CONDUITS FOR CABLE TELEVISION, ELECTRIC, AND TELEPHONE SERVICES TOGETHER WITH ANY AND ALL APPURTENANCES PERTAINING THERETO ON, OVER, UNDER AND ACROSS THOSE STRIPS OF LAND TWELVE AND ONE-HALF 12.5 FEET IN WIDTH LYING CONTIGUOUS TO FULTON AVENUE AND HAGGIN OAKS DRIVE SHOWN HEREON AND DESIGNATED "PUBLIC UTILITY EASEMENT" (12.5' P.U.E.).
- B. EASEMENT FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING REPAIRING, AND MAINTAINING THEREON FREEWAY SIGNAGE, TOGETHER WITH ALL APPURTENANCES PERTAINING THERETO ON, OVER, UNDER AND ACROSS THE LAND HERINAFTER SHOWN HEREON AND DESIGNATED "MULTI-PURPOSE EASEMENT" (M.P.E.).
- C. EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF GAS AND FOR UNDERGROUND WIRES AND CONDUITS FOR ELECTRICAL, TELEPHONE AND TELEVISION SERVICES TOGETHER WITH ANY AND ALL APPURTENANCES PERTAINING THERETO ON, OVER, UNDER AND ACROSS THE LAND SHOWN HEREON ADJACENT TO THE SOUTH PROPERTY LINE OF PARCELS "A" AND "B" AND ADJACENT TO THE EAST PROPERTY LINE OF PARCEL "B" AND DESIGNATED "PUBLIC UTILITY EASEMENT" (P.U.E.).

CITY OF SACRAMENTO,
A MUNICIPAL CORPORATION

BY: Matt Han DATE: 3-19-08
PRINT NAME: Martin Handman
PRINT TITLE: Asst. City Manager

NOTARY'S ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF Sacramento
ON THE 19th DAY OF March, 2008, BEFORE ME, Lori B. Gay, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, Martin Handman, Assistant City Manager WHO PROVED TO ME ON THE BASIS SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND: Lori B. Gay
PRINTED NAME: Lori B. Gay
MY PRINCIPAL PLACE OF BUSINESS IS THE COUNTY OF: Sacramento, CA
MY COMMISSION EXPIRES: March 12, 2009
MY COMMISSION NO.: 1563200



**PARCEL MAP OF
HAGGIN OAKS**
SUBMISION NO. P06-012

BEING A PORTION OF THE LANDS OF THE CITY OF SACRAMENTO AS DESCRIBED IN BOOK 397 OF DEEDS, AT PAGE 157, IN THE OFFICE OF THE SACRAMENTO COUNTY RECORDER SITUATE IN SECTION 28 AND 31 OF RANCHO DEL PASO.

CITY OF SACRAMENTO
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS
3301 O St, Bldg. 100-B Tel 916.341.7780
Sacramento, CA 95816 Fax 916.341.7787

MARCH 2008

Sheet 1 of 4
1518.004

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES AT THE REQUEST OF THE CITY OF SACRAMENTO ON APRIL 27, 2007. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP. THE MONUMENTS SHOWN HEREON WILL BE OF THE CHARACTER AND OCCUPY THE POSITION INDICATED AND THAT THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



Craig E. Spiess
CRAIG E. SPIESS
P.L.S 7944 EXP. 12-31-09
WOOD RODGERS, INC.
MARCH 17, 2008
DATE

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS PARCEL MAP OF "HAGGIN OAKS" AND FIND IT TO BE SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP APPROVED BY THE CITY OF SACRAMENTO PLANNING COMMISSION AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND ALL APPLICABLE CITY ORDINANCES HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

I HEREBY APPROVE THIS PARCEL MAP OF "HAGGIN OAKS", AND ACCEPT, SUBJECT TO IMPROVEMENTS, ON BEHALF OF THE PUBLIC, THE EASEMENTS AND RIGHTS-OF-WAY HEREON OFFERED FOR DEDICATION.



Ronald S. Fong
RONALD S. FONG, P.E. 28492
SUPERVISING ENGINEER
CITY OF SACRAMENTO, CALIFORNIA
EXPIRES: 03-31-08
3-18-08
DATE

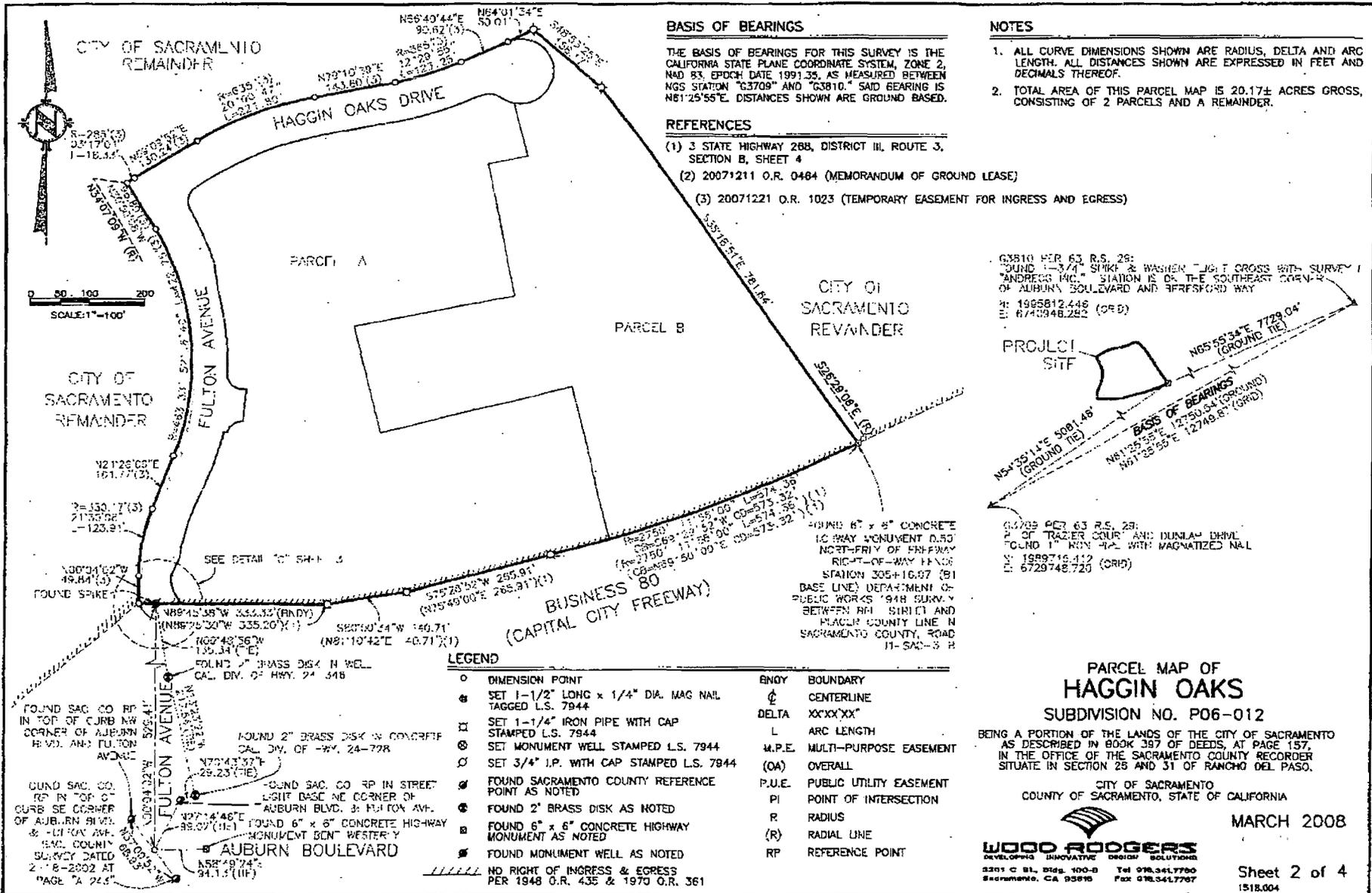
CITY CLERK'S STATEMENT

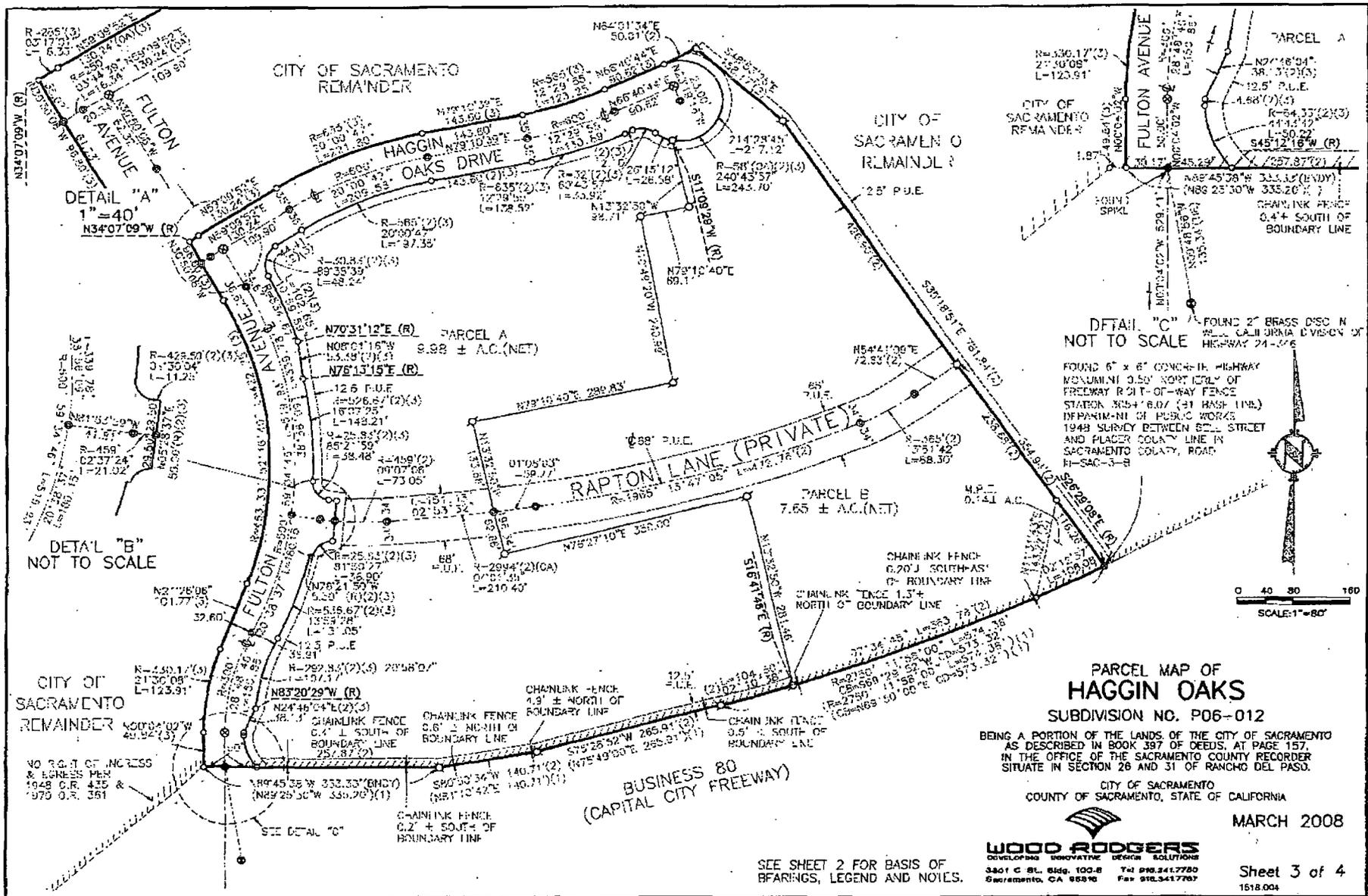
I HEREBY ATTEST TO THE APPROVAL OF THIS PARCEL MAP OF "HAGGIN OAKS."
DATE: 3-20-08
Shirley Goodwin
CITY CLERK
CITY OF SACRAMENTO

RECORDER'S STATEMENT

FILED THIS 24th DAY OF MAY, 2008, AT 8:58 A.M. IN BOOK 207 OF PARCEL MAPS AT PAGE 0009 AT THE REQUEST OF WOOD RODGERS, INC. TITLE TO THE LAND INCLUDED IN THIS PARCEL MAP BEING VESTED AS PER CERTIFICATE NO. 5457 ON FILE IN THIS OFFICE.
DOCUMENT NO.: Book 20080508 Page 0194 FEE: \$ 75.00
CRAIG A. KRAMER BY: Jenny
COUNTY RECORDER DEPUTY

EXHIBIT B TO MAINTENANCE AGREEMENT

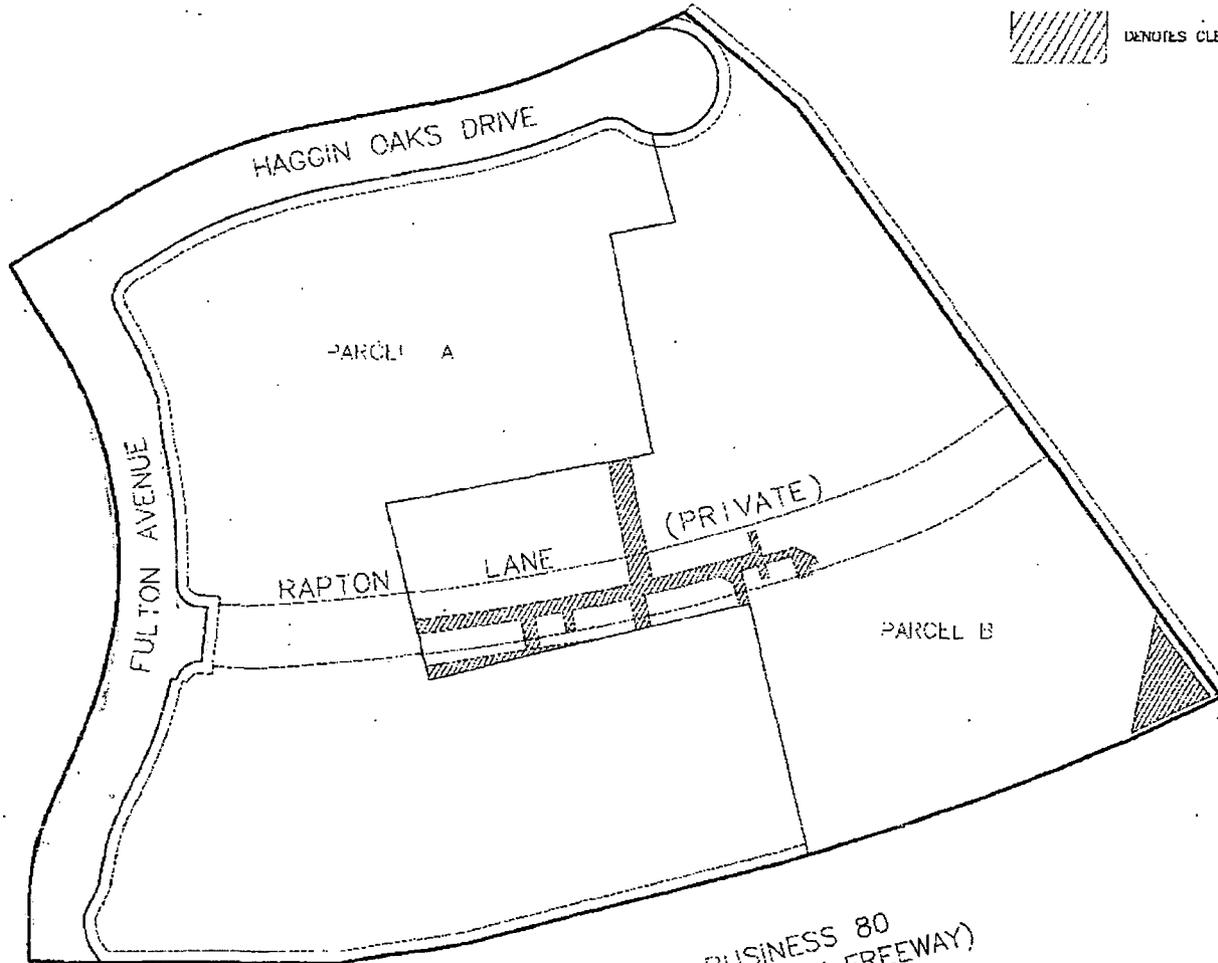




ADDITIONAL INFORMATION FOR INFORMATIONAL PURPOSE ONLY PURSUANT TO SECTION 66434.2 OF THE GOVERNMENT CODE.



INDICATES CLEAN UTILITY CORRIDOR WITHIN PARCEL B.



0 40 80 160

SCALE: 1"=80'

PARCEL MAP OF HAGGIN OAKS

SUBDIVISION NO. P06-012

BEING A PORTION OF THE LANDS OF THE CITY OF SACRAMENTO AS DESCRIBED IN BOOK 397 OF DEEDS, AT PAGE 157, IN THE OFFICE OF THE SACRAMENTO COUNTY RECORDER SITUATE IN SECTION 26 AND 31 OF RANCHO DEL PASO.

CITY OF SACRAMENTO
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

MARCH 2008



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Sheet 4 of 4
1516.004

SEE SHEET 2 FOR BASIS OF BEARINGS, LEGEND AND NOTES.

**EXHIBIT C TO
MAINTENANCE AGREEMENT**

**EXHIBIT C TO
MAINTENANCE AGREEMENT
RISK MANAGEMENT PLAN**

**SACRAMENTO
TRAPSHOOTING CLUB
3701 Fulton Avenue
Sacramento, California**

MARCH 2007

Prepared for:
**CITY OF SACRAMENTO
ECONOMIC DEVELOPMENT DEPARTMENT**

Y4368-B0

RISK MANAGEMENT PLAN

SACRAMENTO
TRAPSHOOTING CLUB
3701 Fulton Avenue
Sacramento, California

MARCH 2007

Prepared for:
CITY OF SACRAMENTO
ECONOMIC DEVELOPMENT DEPARTMENT

Y4368-B0

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RISK MANAGEMENT PLAN

Sacramento Trapshooting Club Site

3701 Fulton Avenue, Sacramento, California

1.0 INTRODUCTION

This Risk Management Plan (“RMP”) has been prepared by BASELINE Environmental Consulting (“BASELINE”) on behalf of the City of Sacramento for Assessor’s Parcel No. 254-011-027 at 3701 Fulton Avenue in Sacramento (“site”) (Figure 1). The parcel is 7.7 acres in size.

The purpose of this RMP is to provide risk management measures to be implemented following site remediation to ensure the health and safety of future construction and maintenance workers, the general public, and the environment. The risk management measures consist of both institutional and engineering controls.

Sacramento County Environmental Management Department (“County”) is the regulatory agency responsible for oversight of the site. The responsibility for implementation of the risk management measures lies with the owner of the site, which is currently City of Sacramento, or its lessees. Future property owners, if any, or their lessees would assume responsibility for implementing the risk management measures. This RMP is required as part of a deed restriction, recorded with the County Clerk, and enforced by the County.

2.0 BACKGROUND

The site was part of a larger (about 20 acres) parcel that was used as a trapshoot range since the early 1900s. The operation of the trapshoot range caused contamination of shallow soils with lead, arsenic, and polynuclear aromatic hydrocarbons (“PAHs”). The metal contamination was a result of lead shot being deposited on the ground and the PAHs originated from the clay pigeons, consisting of crushed limestone and petroleum pitch.

In 2004, 2005, and 2006 BASELINE collected samples on the trapshoot range to characterize the nature and extent of metals and PAH contamination. The results of those investigation defined the area of contamination and indicated that the upper one to two feet of soil was affected by elevated lead and arsenic concentrations that could potentially affect the public health and the environment. As a result, a Draft Response Plan was prepared and submitted to the County in March 2006. The Draft Response Plan identified a number of different response options that would be protective of public health and the environment. A preferred alternative was identified and approved by the County. The preferred response option consist of excavation and consolidation of contaminated soil from the area of contamination on to the site; the site, containing the consolidated contaminated material, will be capped with two feet of clean soil and asphalt (in areas not covered by building foundations), while the utility corridors will contain clean fill. The clay pigeon debris that had accumulated on the surface in the western portion of the area of contamination will be hauled off-site and disposed of at a permitted facility. This will result in one portion of the area of contamination (about eleven acres) being remediated for

unrestricted use, while another area, the site, will contain contaminated soil. The site containing the contaminated soil is subject to the requirements of this RMP.

3.0 RISK MANAGEMENT MEASURES –ENGINEERING CONTROLS

The purpose of risk management measures is to protect future construction and maintenance workers, the general public, and the environment. Below, is a discussion of specific engineering controls that must be implemented if the cap on the site is breached. A cap breach consists of any excavation below the asphalt cap and the two feet of clean soil under the asphalt cap. Whenever the capped is planned to be breached, the landowner or lessee must notify the County 30 days in advance. Following completion of construction or maintenance activities that have resulted in breaching of the cap, the landowner or lessee must provide the County with documentation on how the cap has been restored.

3.1 Health and Safety Plan

All work that involves the breaching of the cap will be undertaken in accordance with a site-specific Health and Safety Plan (HSP), prepared in accordance with Title 8 California Code of Regulations (CCR) Section 5192. This section requires that workers coming into contact with contaminated soils and/or groundwater must have Hazardous Waste Operations and Emergency Response (HAZWOPER) training and medical surveillance.

The HSP preparation and implementation is the responsibility of individual contractors engaged by the City of Sacramento or tenants; the HSP must be submitted to the County prior to any breaching of the cap. The HSP will include, as a minimum the following elements:

- **General Information.** This portion of the HSP will include the name of the preparer of the HSP. A description of the site location and the general hazards that are expected to be present that could affect the health and safety of construction and/or maintenance workers, the public, and the environment.
- **Key Personnel and Responsibilities.** The HSP will include the name of the safety officer who will be responsible for implementation of the provisions of the HSP. Furthermore, the HSP must include the responsibilities of all workers coming into contact with contaminated materials. The HSP must identify those personnel that should be HAZWOPER trained. All personnel that are in contact with contaminated soil, encountered during breaching of the cap must be HAZWOPER trained.
- **Site Information.** The HSP will describe the site history and the contaminants of potential concern “(COPCs”) that have been consolidated at the site or are likely to be encountered based on the site history.
- **Hazard Analysis.** The HSP will include a listing of all COPCs likely to be encountered at the site. The list must include description of the symptoms of exposure and regulatory exposure limits for each COPC. The HSP will describe the methods to be undertaken to eliminate exposure hazards (e.g., personal protective equipment).

- **Air Monitoring Approach.** The HSP will include an air monitoring strategy that will assist in identifying if construction and/or maintenance workers and the public may be exposed to COPCs above specific action levels. The HSP must identify the types of air monitoring instruments to be used, calibration of the equipment, monitoring points, and monitoring frequency. The HSP will also define action levels above which workers must don personal protective equipment, as well as levels above which work must be stopped or engineering or administrative controls employed to eliminate the exposure of workers or the public to COPCs.
- **Personal Protective Equipment.** The HSP will describe the types of personal protective equipment to be donned by workers that come into direct contact with contaminated soil and/or are exposed to dust. The types of appropriate personal protective equipment will be specified by the preparer of the HSP and relate to the specific COPCs that are present at the remediation area.
- **Work Zones and Site Security.** The HSP will identify the work zones where workers may come into direct contact with contaminated soil. The work zones will be delineated by tape, fencing, and/or definitive access controls. Outside the work zone(s), the support zones will be identified in the HSP. The support zone will be large enough to provide opportunities for decontamination of workers and equipment, including removal of dirt from truck tires prior to exiting the site.
- **Decontamination Procedures.** The HSP will identify the decontamination procedures to be employed for workers that have come into direct contact with contaminated soil and also decontamination of equipment (including sampling equipment). The HSP will also include provisions for management of clothes that have been in direct contact with COPCs.
- **Safe Work Practices.** The HSP will include a discussion of general safe work practices to be undertaken at the site. Such safe work practices must include restrictions of site access, tailgate meetings, eating and smoking restrictions, personal hygiene, warning signs, and other conditions that would be unique to the site.
- **Contingency/Emergency Plans.** The HSP will include a description of the procedures to be followed during emergencies. Specifically, the HSP will describe the locations of emergency equipment (including eyewash, first aid kit and fire extinguisher), and emergency routes to hospital(s), and emergency telephone numbers.
- **Medical Surveillance.** The HSP will include requirements for medical surveillance of those workers that will be involved in activities that involve “cleanup operations” or “hazardous substance removal work,” as defined in the California and federal regulations.

3.2 Dust Control Measures

Construction or maintenance activities that breach the cap may generate visible dust, especially during the dry season. Dust emissions may result from excavation and grading activities, vehicle or equipment movement, wind blowing across the site or over soil stockpiles, and loading or unloading of soil. Dust control would minimize worker exposure to dust containing

contaminants and reduce off-site migration of both contaminants and nuisance dust. The following dust control measures will be implemented during remediation activities:

- Dampen soil by spraying water over soil when performing dust-creating activities.
- Limit the number of soil disturbing activities being performed at one time.
- Minimize drop heights while loading or unloading soil.
- Cover all soil stockpiles when not being added to or removed. This measure will include providing an effective technique of ensuring that the cover is not blown off the stockpile (if generated) by the wind (e.g., sand bags, tires).
- Limit vehicle speeds in the remediation area to five miles-per-hour.
- Sweep paved roadways on-site and off-site near exit routes daily, or more frequently, if necessary.
- Cease soil disturbing activities when wind speed exceeds 25 miles per hour.

Additional dust control measures may be required if air monitoring or observation indicates that dust emissions from the site exceed levels defined in the HSP or exceed the legally permissible discharge limits, if any, established by state or local code.

3.3 Decontamination of Equipment and Vehicles

Construction equipment and vehicles used during the breach of the cap may have deposits of soil containing contaminants adhering to surfaces, particularly on the wheels and wheel wells. Removal of these soil deposits will be considered prior to the equipment or vehicles leaving the site. The following measures will be considered to minimize the potential for the contaminants to be transported outside the site on equipment or vehicles.

- Scraping or brushing equipment and vehicles to remove soil prior to leaving the remediation area.
- The use of gravel site exits to assist in the removal of soil from tires.

If necessary, high-pressure washing may be employed to remove soil. Water used in washing operations will be contained and managed in accordance with applicable federal, state, and local waste regulations.

3.4 Storm Water Pollution Controls

Storm water runoff from the site during a breach of the cap may contain sediment due to exposure of surface soils, excavations, and the modification of established drainage patterns. Construction sites one acre or larger are required to manage storm water in accordance with California's National Pollutant Discharge Elimination System (NPDES) General Construction

Permit. Contractors must file a Notice of Intent (NOI) with the state and have a Storm Water Pollution Prevention Plan (SWPPP). The General Construction Permit requires construction contractors to implement best management practices (BMPs) designed to reduce sediments in storm water runoff to the extent possible. Because of the potential for sediments in the soil to contain contaminants remediation activities must include development of a SWPPP and implementation of BMPs to control sediment in storm water discharge. The SWPPP must also satisfy the requirements of the City of Sacramento's Erosion And Sediment Control Plans. The SWPPP must be prepared by the City of Sacramento or lessee or the contractor prior to breaching the cap. The SWPPP must be submitted to the County prior to.

Selected BMPs should be based on the September 2004 California Stormwater Association, Stormwater Best Management Practice Handbook, Construction, and updates, such as the following:

- The use of silt fences around the perimeter of the site to impede off-site migration of sediment.
- Sediment basin or traps where sediments can settle out of storm water runoff.
- Gravel bag berms to control storm water flow directions
- Sandbag or straw bale barriers around storm drain inlets to prevent sediments from entering the storm drain system.
- Covering stockpiles with plastic sheeting and ensuring that stockpiles do not accumulate water.

In addition to sediment control, hazardous materials releases, such as any spills of oil, petroleum fuels, or hydraulic fluids must be considered. The SWPPP must contain procedures for responding to hazardous materials releases, such as use of absorbent material and proper management of the resultant waste.

If proposed construction involving the breaching of the cap is less than one acre in size, the contractor is not required to file an NOI or prepare a SWPPP; however, erosion and sediment control plans will still be prepared and implemented to ensure control of stormwater runoff from the area where the cap is breached. The plan must be prepared by the landowner or lessee or the contractor and submitted to the County prior to breaching the cap.

3.5 Management of Stockpiles, Soil Characterization, and Disposal

Future development of the site may include excavation and stockpiling of contaminated soil. The contaminated stockpiled soil may either be reused under the cap or characterized for off-site disposal. If the soil is reused on-site, it must be subsequently covered with two feet of clean soil and the asphalt cap.

The contaminated stockpiled soil must be managed separately from other soil generated during earthwork activities. The contaminated soil must be placed on 10-mil visquene or other impermeable material and then covered with secured visquene when not being actively worked

(i.e., added to or loaded onto vehicles for off-site disposal). Soil must be characterized prior to off-site disposal in accordance with disposal facility requirements.

Characterization of the soil must be conducted in accordance with EPA publication SW-846, entitled Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, third edition. The stockpile samples analytical results should be statistically evaluated to determine whether the soil is non-hazardous, Resource Conservation and Recovery Act (RCRA) hazardous, or non-RCRA hazardous waste based on Title 22 CCR criteria. The material must be disposed of at a permitted disposal facility.

3.6 Landscaping

Irrigation associated with landscaping may introduce water that could percolate through the consolidated contaminated material. The percolation of irrigation water through the material could increase leaching rate of contaminants downward toward the groundwater, located at a depth of more than 65 feet. To prevent downward leaching of contaminants, landscaping should preferably be in boxes above the cap. Landscaping that breaches the cap must be placed in planter boxes with an internal drainage that does not release water to areas below the planter boxes (e.g., drains to the storm sewer system); any drainage lines must be within utility corridors that consist of clean fill. Any landscaping plans that penetrate the cap must be submitted to the County for review.

3.7 Clean Fill

Clean fill can be imported onto the site and used in utility corridors and as part of the cap. The source of the fill must be from uncontaminated areas and the City must approve the source of the fill prior to importation.

3.8 Cap Inspections

The landowner is responsible for ensuring that an inspection of the integrity of the cap is conducted yearly. The inspection must be performed by a Professional Civil Engineer and will consist of visual inspections along longitudinal (north to south) traverses every 100 feet. Observations will be made as to cap cracking, erosional damage, settlement, sloughing, seepage, or other damage to the cap. Any deterioration of the cap will be noted and repairs must be implemented. An inspection report will be prepared, stamped by a Professional Civil Engineer, and submitted to the County annually in January.

4.0 RISK MANAGEMENT MEASURES – INSTITUTIONAL CONTROLS

The consolidation of consolidated material on the site requires certain land use restrictions to protect the public health. A deed restriction will be placed on the parcel to restrict the following land uses: single-family residences, hospitals for humans, public or private schools for persons under the age of 21, daycare center for children, un-capped park or open space that exposes contaminated soil.

**EXHIBIT C TO
COVENANT TO RESTRICT USE OF PROPERTY**

EXHIBIT C TO COVENANT TO RESTRICT USE OF PROPERTY

1518.004
7/11/08
CES

APPENDIX "F"

DESCRIPTION FOR MAINTENANCE AGREEMENT AND FINAL IMPLEMENTATION PLAN PARCEL B

Being a portion of the tract of land conveyed in the deed from T.A. Farrell to the City of Sacramento, a municipal corporation, recorded on February 28, 1914 in Book 397, of Deeds at Page 157, in the Office of the Sacramento County Recorder, and being a portion of that certain Record of Survey entitled "Map of Survey and Subdivision of Rancho Del Paso" filed for record in Book A of Surveys, at Page 94, Sacramento County Records situate in Sections 26 and 31 of Rancho Del Paso, City of Sacramento, County of Sacramento, State of California, said property being more particularly described as follows:

Beginning at a found 6" x 6" concrete highway monument marking a point on the northwesterly right-of-way line of Interstate Business 80, currently known as Capital City Freeway, from which station 305+16.07 on the "B1" base line of the Department of Public Works 1948 Survey between Bell Street and Placer County line in Sacramento County, District III, County of Sacramento, Route 3, Section B, Sheet 4 as filed for record on February 13, 1958 in Book 3 of State Highway Maps, at Page 268, Sacramento County Records bears South 26°29'08" East a distance of 80.00 feet; thence from said **POINT OF BEGINNING** along said northwesterly right-of-way line of Interstate Business 80, from a radial line which bears South 26°29'08" East, 469.86 feet along the arc of a non-tangent 2750.00 foot radius curve to the right through a central angle of 09°47'22", subtended by a chord which bears South 68°24'33" West for a distance of 469.28 feet; thence leaving said northwesterly right-of-way line of Interstate Business 80 for the following eleven (11) arcs, courses and distances:

1. North 13°32'50" West a distance of 281.46 feet;
2. South 76°27'10" West a distance of 350.00 feet;
3. North 13°32'50" West a distance of 196.34 feet;
4. North 79°10'40" East a distance of 289.83 feet;
5. North 10°49'20" West a distance of 240.99 feet;
6. North 79°10'40" East a distance of 69.11 feet;
7. North 13°32'50" West a distance of 98.71 feet to a point of curvature;
8. from a radial line which bears South 11°09'29" West, 217.12 feet along the arc of a non-tangent 58.00 foot radius curve to the left through a central angle of 214°28'45";
9. North 64°01'34" East a distance of 50.01 feet;
10. South 48°53'25" East a distance of 158.17 feet; and
11. South 35°18'51" East a distance of 781.84 feet to the Point of Beginning.

Containing 7.65 acres of land, more or less.

The Basis of Bearings for this description is California State Plane Coordinate System, Zone 2, NAD'83, as measured between GPS Station "G3709", and GPS Station "G3810 as shown and so designated on that certain Record of Survey entitled "Record of Survey GPS Static Survey" filed for record in Book 63 of Surveys, at Page 29, Sacramento County Records. Said bearing is North 61°25'55" East. Distances shown are ground based.



Craig E. Spiess P.L.S. 7944
Expires: December 31, 2009

Date: 7/11/08



PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA