

**FIRST AMENDMENT TO IMPLEMENTATION AGREEMENT NO. 3  
BETWEEN THE NATOMAS BASIN CONSERVANCY AND  
THE SACRAMENTO AREA FLOOD CONTROL AGENCY  
REGARDING THE NATOMAS LEVEE IMPROVEMENT PROGRAM  
PAPPA-ROSA PROPERTY**

THIS FIRST AMENDMENT TO IMPLEMENTATION AGREEMENT NO. 3 ("Amendment 1") is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between THE NATOMAS BASIN CONSERVANCY, a California nonprofit public benefit corporation ("TNBC"), and the SACRAMENTO AREA FLOOD CONTROL AGENCY, a joint powers authority established pursuant to the laws of the State of California ("SAFCA"). TNBC and SAFCA, and each of their respective successors and assigns, are sometimes hereinafter referred to collectively as "Parties" and individually as "Party."

**RECITALS**

A. TNBC and SAFCA have executed that certain Master Agreement dated March 9, 2009 (the "Master Agreement"), in connection with the Natomas Levee Improvement Program ("NLIP") (as defined in the Master Agreement) setting forth the general agreement between the Parties regarding TNBC's involvement with the NLIP and its management of HCFs (as defined in the Master Agreement).

B. SAFCA has acquired Sacramento County Assessor's Parcel Nos. 201-0270-077, -078, -079 and -080 (the "Pappa-Rosa Property") for construction of levee improvements and to provide land for the mitigation of the impacts of its levee improvement activities on habitats suitable for Swainson's hawk nesting and foraging.

C. In pursuit of the goals and objectives of the Master Agreement, SAFCA and TNBC have entered into Implementation Agreement No. 3 dated April 3, 2013 pursuant to which TNBC has agreed to operate, manage and maintain the agricultural area of the Pappa-Rosa Property in accordance with the agreement.

D. The third Recital of Implementation Agreement No. 3 contemplated that SAFCA would convey the portion of the Pappa-Rosa Property shown as Area X on Exhibit B to the agreement, consisting of approximately 10.00 +/- acres of land, to RD 1000. However, SAFCA and RD 1000 subsequently determined that RD 1000 would acquire only 3.01 +/- acres of land, thus reducing the size of Area X and Area R, and increasing the size of Area A, all as shown on Exhibit B to the agreement.

E. Paragraph 2 of Implementation Agreement No. 3 discussed the potential for SAFCA to use the Pappa-Rosa Property for its NLIP mitigation needs. SAFCA has concluded that it will need to use the property for these purposes.

## EXHIBIT A

F. Paragraph 5.2 of Implementation Agreement No. 3 discussed development of a finance model tailored to the particulars of TNBC's management of SAFCA's mitigation lands. TNBC and SAFCA have worked with their consultant and have developed the SAFCA Finance Model that will be used to determine annual payments under the Agreement.

G. Paragraph 5.3 of Implementation Agreement No. 3 discussed the potential need for an endowment to fund TNBC's costs to forever manage the Pappa-Rosa Property from calendar year 2037 and beyond, should SAFCA determine that the property would be used for NLIP mitigation. As discussed in Recital E above, SAFCA has concluded that it will need to use the property for these mitigation purposes. In determining the amount of the endowment, SAFCA also desires that the calculation consider the formation of SAFCA's Natomas Basin Local Assessment District (NBLAD), which is able to fund TNBC's annual maintenance costs through 2054, at which time the endowment funds would be utilized.

H. In acquiring the Pappa-Rosa Property, SAFCA was required to re-establish a sanitary sewer easement that existed on the property prior to the acquisition. This easement is not currently in use but serves as a backup septic system area for a property on the waterside of the Sacramento River east levee. The Septic Tank portion of the re-established easement extends into Area A.

I. SAFCA and TNBC now wish to revise Implementation Agreement No. 3 to reflect these updates.

### AGREEMENT

**NOW, THEREFORE,** the Parties agree as follows:

1. The existing Exhibit B to Implementation Agreement No. 3 shall be deleted and replaced with the new Exhibit B attached hereto.
2. The existing paragraph 2. of Implementation Agreement No. 3 shall be deleted and replaced with the following:

**"2. Recordation of Conservation Easement. As soon as practical, SAFCA and TNBC will execute and record a conservation easement against a portion of the Pappa-Rosa Property. SAFCA and TNBC will determine the extent and proper form of such easement, which form shall be as approved by TNBC's Director or his designee and SAFCA's Executive Director or his designee."**

3. The existing paragraph 5.2 of Implementation Agreement No. 3 shall be deleted and replaced with the following:

**"5.2 Funding for 2014 through 2054. In accordance with Section 8 of the Master Agreement, commencing as of January 1, 2014 and continuing through 2054, SAFCA shall pay TNBC an amount sufficient to cover TNBC's annual costs to manage, operate, and maintain the Pappa-Rosa Property. These costs shall be calculated in accordance with the SAFCA Finance Model, as such model is updated and modified to reflect TNBC's management of several of SAFCA's mitigation lands. Such costs shall reflect the income received for lease/rental of the Pappa-Rosa Property for agricultural activities."**

4. The existing paragraph 5.3 of Implementation Agreement No. 3 shall be deleted and replaced with the following:

**"5.3 Funding of Endowment for 2054 and Beyond. SAFCA agrees that it will provide TNBC with an endowment sufficient in amount to cover TNBC's projected costs to forever manage the Pappa-Rosa Property from calendar year 2054 and beyond. The endowment shall be calculated in accordance with the SAFCA Finance Model; it shall be subject to adjustment as provided in Section 10.1 of the Master Agreement; and it shall be invested as provided in Section 10.2 of the Master Agreement."**

5. A new paragraph 8 shall be added as follows:

**"8. Sanitary Sewer Easement. TNBC recognizes the presence of the easement for the construction, operation and maintenance of a septic system within a portion of Area A, as said easement is described in the document attached hereto as Exhibit D. SAFCA and TNBC acknowledge that should the holder of the easement exercise such rights, TNBC's management of Area A may be more complicated, including the ability to conduct agricultural operations in the area. These complications will be reflected in TNBC's estimate of annual costs as provided for in Section 5.2."**

6. In all other respects, Implementation Agreement No. 3 shall remain in full force and effect.

**EXHIBIT A**

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be duly executed as of the day and year first written above.

**TNBC:**

**THE NATOMAS BASIN  
CONSERVANCY**, a California nonprofit  
mutual benefit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**SAFCA:**

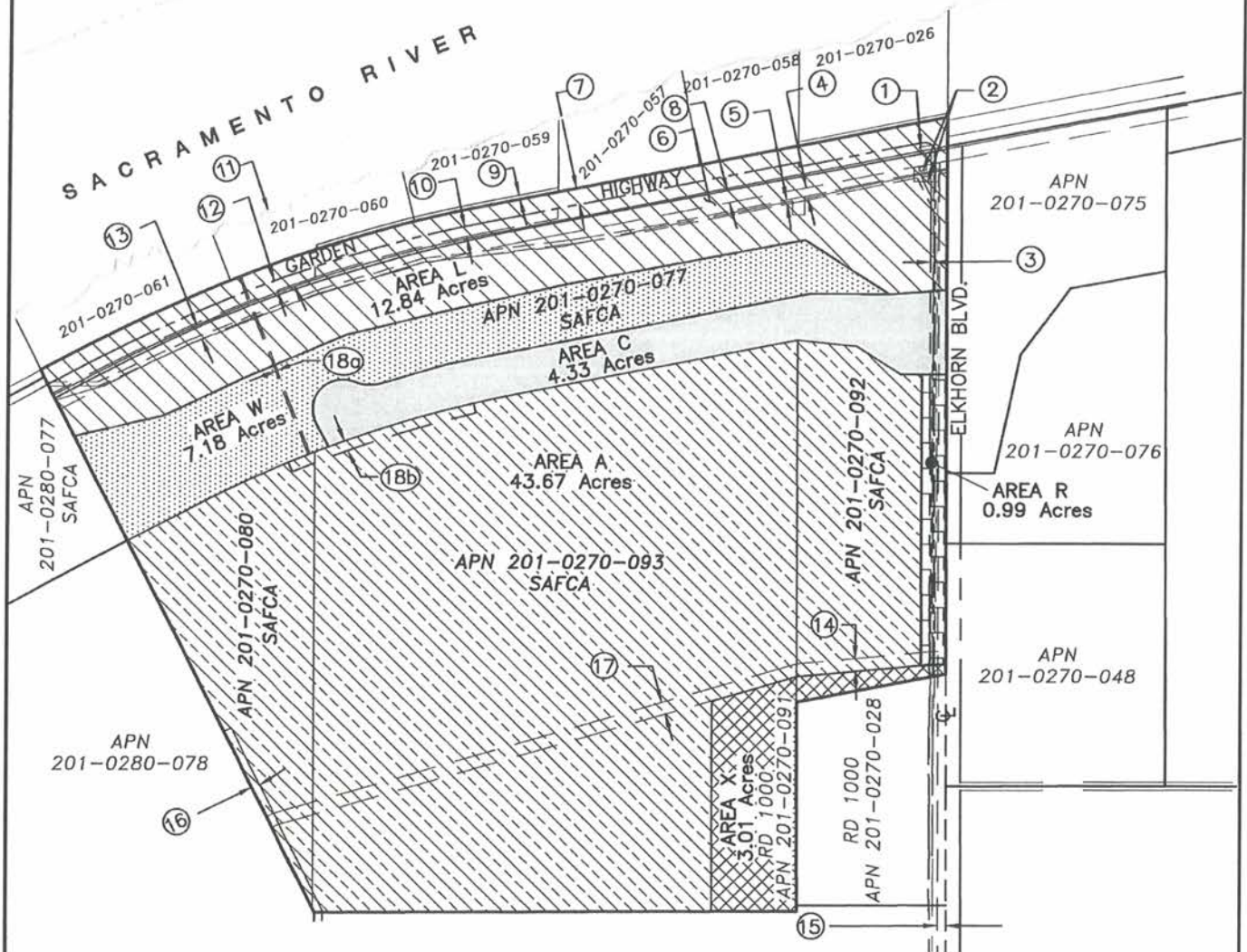
**SACRAMENTO AREA FLOOD  
CONTROL AGENCY**, a California joint  
powers authority

By: \_\_\_\_\_  
Richard M. Johnson, Executive Director

APPROVED AS TO FORM:

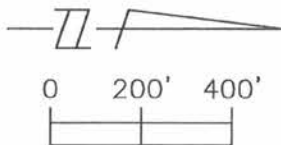
By: \_\_\_\_\_  
M. Holly Gilchrist, Agency Counsel

# EXHIBIT 'B'



## LEGEND

- AREA L
- AREA W
- AREA C
- AREA A
- AREA R
- AREA X



## SAFCA CORRIDOR EXHIBIT APN: 201-0270-077 -080 -092 -093

COUNTY OF SACRAMENTO

STATE OF CALIFORNIA

DATE: 08/26/2019

SCALE: 1" = 400'

DRWN. BY: DJF CHK. BY: BEB

SHEET 1 OF 2

Plotted: Aug/26/2019 9:14 AM | By: Andriy.buchko

DWG: P:\SAFCA\2006.NLIP\survey\legals\Sac-River-2008\Plats\Rosa-Poppo-Exhibit-Corridors.dwg

### PSOMAS

1075 Creekside Ridge Drive, Suite 200  
Roseville, Ca. 95678  
(916) 788-8122 (916) 788-0600 (FAX)



### EASEMENT DESCRIPTIONS:

- ① R/W FOR ELECTRIC POLE LINE IN FAVOR OF GREAT WESTERN POWER COMPANY OF CALIFORNIA PER 570 O.R. 349
- ② R/W FOR UTILITIES IN FAVOR OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY PER 781102 O.R. 950
- ③ R/W FOR ELECTRIC POLE LINE IN FAVOR OF GREAT WESTERN POWER COMPANY OF CALIFORNIA PER 153 O.R. 10
- ④ R/W FOR LEVEE IN FAVOR OF RD 1000 PER 921223 O.R. 0303
- ⑤ R/W FOR POLE LINE IN FAVOR OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY PER 1466 O.R. 458 & 1829 O.R. 528
- ⑥ R/W FOR PRIVATE ROAD AND CANAL PER 15 R.M. 42 (SUBJECT TO 4101 O.R. 109)
- ⑦ R/W FOR PUBLIC HIGHWAY OR ROAD IN FAVOR OF THE COUNTY OF SACRAMENTO PER 101 O.R. 79
- ⑧ R/W FOR CANAL/DITCH AND INGRESS/EGRESS IN FAVOR OF ELKHORN MUTUAL WATER COMPANY PER 492 DEEDS 324
- ⑨ R/W FOR PUBLIC HIGHWAY OR ROAD IN FAVOR OF THE COUNTY OF SACRAMENTO PER 771214 O.R. 940
- ⑩ EASEMENT FOR SEPTIC IN FAVOR OF GARRY AND BARBARA YOUNGBLOD PER 771205 O.R. 558
- ⑪ R/W FOR LEVEE IN FAVOR OF RD 1000 PER 473 O.R. 74
- ⑫ EASEMENT FOR SEPTIC IN FAVOR OF JOSEPH F. & TAMARA SYKOSKY AND KENDALL M. & DEBORAH AWES PER 770930 O.R. 251
- ⑬ R/W FOR LEVEE IN FAVOR OF RD 1000 PER 921223 O.R. 0304
- ⑭ ESMT. FOR PIPELINE PURPOSES AND INGRESS/ EGRESS IN FAVOR OF SHELL OIL COMPANY PER 820928 O.R. 569
- ⑮ R/W FOR PUBLIC HIGHWAY AND ROAD PURPOSES IN FAVOR OF COUNTY OF SACRAMENTO PER 264 O.R. 391
- ⑯ DRAINAGE CANAL EASEMENT IN FAVOR OF RD 1000 PER 76 O.R. 388
- ⑰ ESMT. FOR PIPELINE PURPOSES AND INGRESS/ EGRESS IN FAVOR OF SHELL OIL COMPANY PER 820928 O.R. 578.
- ⑱ a.-ESMT. FOR SEPTIC SYSTEM IN FAVOR OF CUMMINGS PER 20141120 O.R. 310.  
b.-ESMT. FOR SANITARY SEWER PIPELINE IN FAVOR OF CUMMINGS PER 20141120 O.R. 310.

EASEMENT IN FAVOR OF GREAT WESTERN POWER COMPANY PER 570 O.R. 84 S.C.R. GRANTS THE RIGHT TO ERECT POLE LINE ON EXISTING RD 1000 R/W ON LOT 75 OF THE NATOMAS ELKHORN SUBDIVISION.

EASEMENT IN FAVOR OF GREAT WESTERN POWER COMPANY PER 570 O.R. 87 S.C.R. GRANTS THE RIGHT TO ERECT POLE LINE ON EXISTING ELKHORN MUTUAL WATER CO. R/W ON LOT 75 OF THE NATOMAS ELKHORN SUBDIVISION.

APN 201-0270-092 SUBJECT OF AND EASEMENT FOR AVIGATION AND NOISE IN FAVOR OF THE COUNTY OF SACRAMENTO PER 860303 O.R. 949  
(BLANKET COVERAGE)

### NOTES:

- 1) DISTANCES USED TO CALCULATE AREAS SHOWN ARE GRID, MULTIPLY BY 1.00006027 TO OBTAIN GROUND VALUES.
- 2) THE HORIZONTAL DATUM FOR THIS PLAT IS BASED ON THE CCS, NAD83, ZONE 2 DATUM.
- 3) TITLE REPORT USED: FIDELITY NATIONAL TITLE CO. REPORT NO. 08-5005567-CS DATED 02/27/2008.

## **SAFCA CORRIDOR EXHIBIT**

COUNTY OF SACRAMENTO **APN: 201-0270-077 -080 -092 -093** STATE OF CALIFORNIA

DATE: 08/26/2019 SCALE: 1" = 400'

DRWN. BY: DJF CHK. BY: BEB SHEET 2 OF 2

Plotted: Aug/26/2019 9:14 AM | By: Andriy.buchko  
DWG: P:\SAFCA\2006.NLIP\survey\legals\Sac-River-2008\Plots\Rosa-Pappa-Exhibit-Corridors.dwg

# **P S O M A S**

1075 Creekside Ridge Drive, Suite 200  
Roseville, Ca. 95678  
(916) 788-8122 (916) 788-0600 (FAX)



Exhibit D

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO

Karl Douglas Cummings and  
Georgann B Johnston  
6301 Garden Highway  
Sacramento, CA 95837

Sacramento County Recorder  
David Villanueva, Clerk/Recorder  
BOOK **20141120** PAGE **0310**

Check Number 2380  
Thursday, NOV 20, 2014 11:24 58 AM  
Ttl Pd \$39 00 Rcpt # 0008424581

ARR/26/1-7

APNS 201-0270-077, 201-0270-079, 201-0270-080

THIS SPACE FOR RECORDER'S USE ONLY

### GRANT OF EASEMENTS

SACRAMENTO AREA FLOOD CONTROL AGENCY ("SAFCA"), a California joint exercise of powers agency, as owner of certain parcels of land in the County of Sacramento, California, hereby grants to KARL DOUGLAS CUMMINGS and GEORGANN B. JOHNSTON, husband and wife, as owners of that real property described in that certain Grant Deed recorded June 29, 2007 in Book 20070629, Page 1693 of Official Records, Sacramento County, commonly known as 6301 Garden Highway, Sacramento, California, 95837 ("Cummings Parcel"), the following two non-exclusive easements in and over certain portions of land owned by SAFCA as described and depicted in the attached exhibits

#### Easement 1

An easement for the construction, operation, and maintenance of a septic system, including a septic tank and/or leach lines and any necessary appurtenances, to serve the Cummings Parcel. Easement 1 is located in and over that land particularly described in Exhibit A, attached hereto, and depicted as "Septic Tank Easement" on Exhibit B, attached hereto

#### Easement 2

An easement for the construction, operation, and maintenance of a sanitary sewer pipeline. Easement 2 is located in and over that land particularly described in Exhibit A, attached hereto, and depicted as "Sanitary Sewer Pipeline Easement" on Exhibit B, attached hereto

Easement 2 shall be subject to and subordinate to the rights of the United States of America, the State of California, Reclamation District No. 1000 and/or SAFCA, their successors and assigns, to construct, operate, inspect, maintain, repair, alter, or augment flood control works, irrigation facilities, and habitat.

Easements 1 and 2 shall be solely for the benefit of, and appurtenant to, the Cummings Parcel

SACRAMENTO AREA FLOOD  
CONTROL AGENCY, a California joint  
exercise of powers agency

By: Richard M. Johnson

Its. Executive Director

Date October 22, 2014



## ACKNOWLEDGMENT

State of California  
County of Sacramento

On October 22, 2014 before me, Lyndee Russell, Notary Public  
(insert name and title of the officer)

personally appeared Richard M. Johnson  
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

Lyndee Russell

(Seal)



**EXHIBIT "A"**  
**SEPTIC SYSTEM EASEMENTS**  
**LEGAL DESCRIPTION**

**EASEMENT 1: SEPTIC TANK AND APPURTENANCES**

A strip of land, 25 feet wide, situate in the County of Sacramento, State of California, in Section 35, Township 10 North, Range 3 East, Mount Diablo Meridian, being a portion of the lands of the Sacramento Area Flood Control Agency (SAFCA) as said lands are described in that certain Final Order of Condemnation recorded in Book 20131007 of Official Records, at Page 123, Sacramento County Recorder's Office, the general westerly line of said strip being described as follows

**COMMENCING** at a found 3/4" iron pipe marking the southeast corner of Parcel "A" as said parcel is shown on that certain Parcel Map entitled "Portion of Lot 75 Natomas Elkhorn Subdivision" filed in Book 25, of Parcel Maps, Page 40, Sacramento County Records, thence from said iron pipe South 16°36'43" West 1201 62 feet to the **POINT OF BEGINNING**, said point of beginning being the beginning of a non-tangent curve concave easterly, having a radius of 2956.79 feet; thence along said curve through a central angle of 9°09'59" an arc distance of 473 04 feet (said curve being subtended by a chord which bears South 18°05'17" East 472 53 feet) to the **POINT OF TERMINATION**.

Containing 0 27 acres, more or less

The above-described real property is identified as "Septic Tank Easement" on the plat labeled "Exhibit B" attached hereto and made a part hereof

**EASEMENT 2: SANITARY SEWER PIPELINE**

A strip of land, 5 feet wide, situate in the County of Sacramento, State of California, in Section 35, Township 10 North, Range 3 East, Mount Diablo Meridian, being a portion of the lands of the Sacramento Area Flood Control Agency (SAFCA) as said lands are described in that certain Final Order of Condemnation recorded in Book 20131007 of Official Records, at Page 123, Sacramento County Recorder's Office, the centerline of said strip being described as follows

**BEGINNING** at a point on the general easterly line of that certain Parcel 2 recorded in Book 132 Parcel Maps, at Page 24, Sacramento County Records, said point lying North 21°49'51" West

24 97 feet from a found 5/8" rebar tagged L S 5532 marking the southeasterly corner of Parcel 2 as said Parcel and monument are shown on that certain Parcel Map filed in Book 132 of Parcel Maps, at Page 24, Sacramento County Records, thence from said point of beginning North 68°22'36" East 470 78 feet to a point on the general westerly line of the above-described Septic Tank Easement, said point being the **POINT OF TERMINATION** and lying South 17°33'51" East 418 61 feet from the point of beginning of said above-described Septic Tank Easement

The sidelines of said Sanitary Sewer Pipeline easement being extended or shortened to begin on said general easterly line of said Parcel 2 and terminate on the general westerly line of the above-described Septic Tank Easement

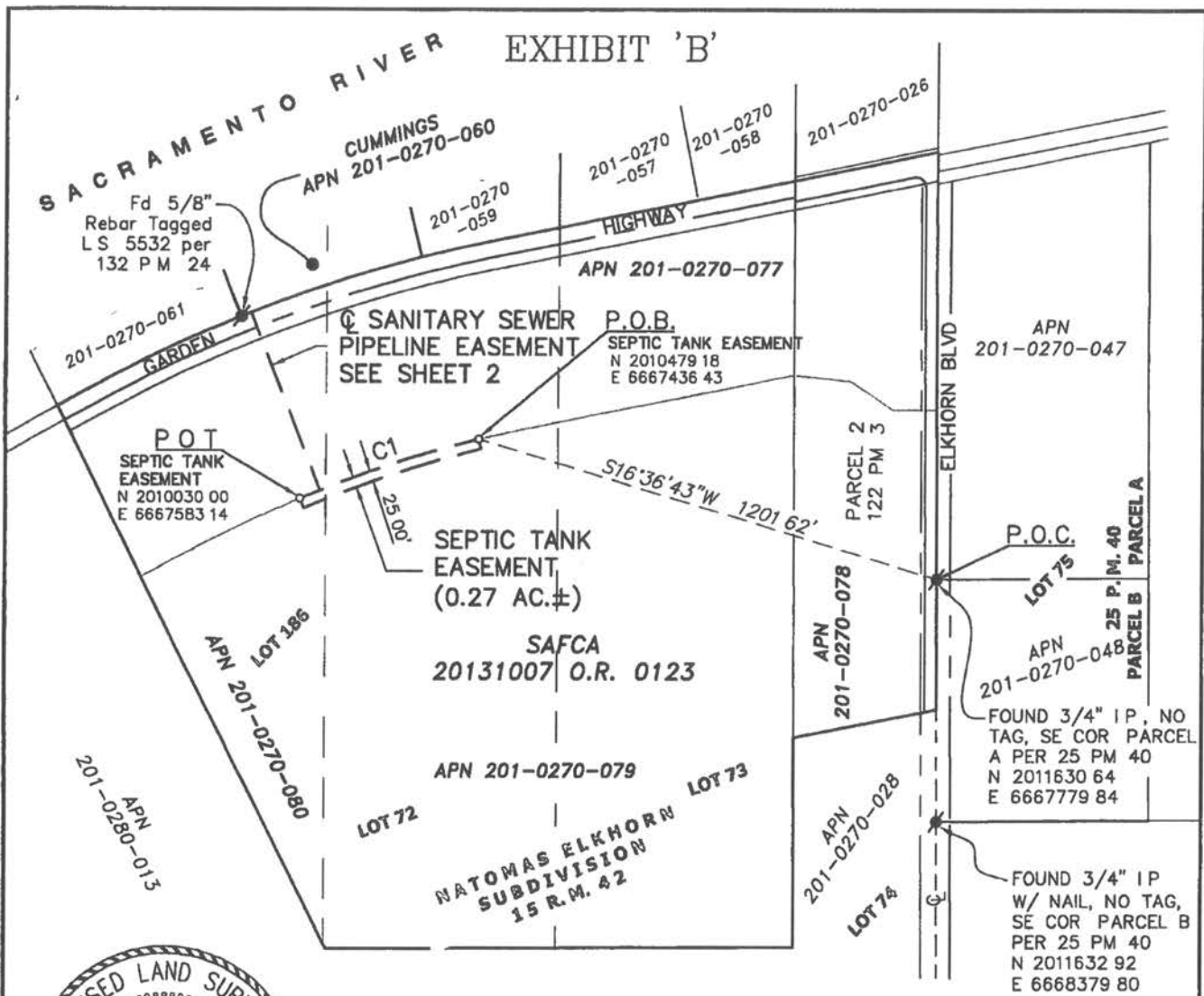
Containing 0 05 acres, more or less.

The above-described real property is identified as "Sanitary Sewer Pipeline Easement" on the plat labeled "Exhibit B" attached hereto and made a part hereof

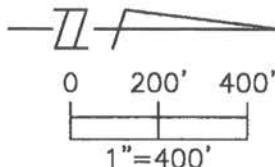
The basis of bearings for this description is NAD 83, California State Coordinate System, Zone 2 (1991 35 epoch date) and is based on the NLIP project survey control established by Psomas and documented on the Record of Survey filed in Book 84 of Surveys, Page 8, Sacramento County Records All distances cited herein are grid values, which are the basis for the areas shown hereon To obtain ground values multiply the distances and by 1 00006027

End of Description





| CURVE | RADIUS   | ARC LENGTH | DELTA ANGLE | CHORD BRG   | CHORD   |
|-------|----------|------------|-------------|-------------|---------|
| C1    | 2956 79' | 473 04'    | 9°09'59"    | S18°05'17"E | 472 53' |



#### LEGEND

|      |                       |
|------|-----------------------|
| COR  | Corner                |
| ESMT | Easement              |
| O R  | Official Records      |
| PAR  | Parcel                |
| PM   | Parcel Map            |
| POB  | Point of Beginning    |
| POC. | Point of Commencement |
| POT  | Point of Termination  |
| R/W  | Right of Way          |

#### NOTES

- DISTANCES AND COORDINATES SHOWN ARE GRID, MULTIPLY BY 1.00006027 TO OBTAIN GROUND VALUES
- THE HORIZONTAL DATUM FOR THIS PLAT IS BASED ON THE CCS, NAD83, ZONE 2 DATUM. SEE RECORD OF SURVEY BOOK 84 OF SURVEYS, PAGE 8 FOR CONTROL
- ALL RECORD REFERENCES ARE SACRAMENTO COUNTY UNLESS OTHERWISE NOTED

### SEPTIC SYSTEM EASEMENTS

**APNs: 201-0270-077, -079, -080**

COUNTY OF SACRAMENTO

STATE OF CALIFORNIA

DATE 09/3/2014

SCALE 1" = 400'

DRWN BY DJF CHK BY BEB

SHEET 1 OF 2

**PSOMAS**

1075 Creekside Ridge Drive, Suite 200  
Roseville, Ca 95678  
(916) 788-8122 (916) 788-0600 (FAX)

Plotted Sep/03/2014 4 25 PM | By: Andriybuchko  
DWG P \SAFCA\2008 NLP\survey\legals\Soc-River-2008\Plats\Utility Esmts\X-EX-CUMMINGS-SEPTIC-ALT-2.dwg

# EXHIBIT 'B'

Fd 5/8" Rebar  
Tagged L S 5532  
© SE'ly Cor Pcl 2  
per 132 P M 24

CUMMINGS  
APN 201-0270-060  
PARCEL 2, 132 P M 24  
GENERAL E'LY LINE PARCEL 2.  
PER 132 P M 24

GARDEN HIGHWAY R/W  
PER 101 O.R. 79

GENERAL E'LY LINE LEVEE  
ESMT PER 473 O.R. 74

P.O.B.  
SANITARY SEWER  
PIPELINE EASEMENT  
N 2009906 60  
E 6667125 10

SAFCA  
20131007 O.R. 0123

CENTERLINE 5' WIDE  
SANITARY SEWER  
PIPELINE EASEMENT  
AREA (0.05 AC.±)

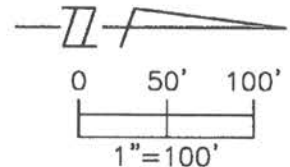
P.O.B.  
SEPTIC TANK  
EASEMENT

P.O.T.  
SANITARY SEWER  
PIPELINE EASEMENT  
N 2010080 08  
E 6667562 75

L=473.04' R=2956.79' Δ9°09'59"  
CHD S18°05'17"E 472.53'

P.O.T.  
SEPTIC TANK  
EASEMENT

SEPTIC TANK  
EASEMENT  
(0.27 AC.±)



## SEPTIC SYSTEM EASEMENTS

COUNTY OF SACRAMENTO

APNs: 201-0270-077, -079, -080

STATE OF CALIFORNIA

DATE. 09/3/2014

SCALE 1" = 100'

DRWN BY DJF CHK BY BEB

SHEET 2 OF 2

**PSOMAS**

1075 Creekside Ridge Drive, Suite 200  
Roseville, Ca 95678  
(916) 788-8122 (916) 788-0600 (FAX)

Plotted Sep/03/2014 4 25 PM | By Andriybuchko  
DWG P \SAFCA\2005 NLP\survey\legals\Sac-River-2008\Plots\Utility Esmts\X-EX-CUMMINGS-SEPTIC-ALT-2.dwg