

RESOLUTION NO. 2006-319

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
DECLARING THE NECESSITY AND AUTHORIZING THE COMMENCEMENT OF
EMINENT DOMAIN PROCEEDINGS TO SECURE REAL PROPERTY INTERESTS
NECESSARY TO CONSTRUCT THE SHELDON ROAD/STATE ROUTE-99
INTERCHANGE RECONSTRUCTION PROJECT
(KOCHOO / APN: 115-0162-012)**

WHEREAS, improving and widening the Sheldon Road/State Route 99 Interchange holds a priority in the City of Elk Grove Transportation Improvement Program and acquiring the necessary right of way and other property interests and assisting with the required business and residential relocations is an important and necessary step in the Sheldon Road/State Route 99 Interchange Reconstruction Project; and

WHEREAS, the Project, including its improvements, is necessary to ensure that the roadway system operates at an acceptable level of service, to provide for efficient and safe traffic circulation and access, and to generally further public safety and the general community welfare in a manner consistent with the City's General Plan; and

WHEREAS, it is necessary to acquire certain real property interests ("Property") for the construction, operation and maintenance of a right of way and related improvements as part of the Project; and

WHEREAS, the City has investigated and examined alternatives to the Project and the acquisition of the Properties, and concluded that both the Project and acquisition of the Properties for the Project are necessary; and

WHEREAS, the Property which is the subject of this Resolution of Necessity consist of a fee interest, a public utility easement and a temporary construction easement all of which are more particularly described and depicted in Exhibits A-1, A-2, B-1, B-2, B-3, C-1, C-2, and C-3 which are attached hereto and are incorporated herein. The Sacramento County Assessor has designated the Property as a portion of APN 115-0162-012; and

WHEREAS, a portion of the Property will have little or no economic value to the owner in the after condition and therefore is a remainder pursuant to Code of Civil Procedure section 1240.150; and

WHEREAS, the Property is located entirely within the municipal boundaries of the City of Elk Grove; and

WHEREAS, the City of Elk Grove has complied with the requirements of the California Environmental Quality Act, Public Resources Code section 21000, *et seq.*, in regards to acquisition of the Property based upon the City of Elk Grove's adoption of a final Environmental Report and Assessment, including the Mitigation Monitoring and Reporting Program as adopted by the City Council on July 27, 2005; and

WHEREAS, the City of Elk Grove has complied with the requirements of Government Code section 7267.2, in regards to the acquisition of the Property by making an offer to purchase to the known owner(s) of record; and

WHEREAS, as a result of the hearing held on December 13, 2006, and in accordance with the provisions of Code of Civil Procedure section 1245.235, the City Council of the City of Elk Grove intends to make certain findings and determinations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove as follows:

1. The recitals contained herein are true and correct.
2. Upon examination of the alternatives, the City of Elk Grove requires the Property for the Project.
3. The City of Elk Grove is authorized to acquire Properties pursuant to the provisions of Government Code sections 37350.5, 40401 and 40404 and the provisions of Eminent Domain Law comprising Title 7, Part 3 of the Code of Civil Procedure (commencing at section 1230.010) including section 1240.150.
4. Acquisition of the Property for Project purposes promotes public safety and the general welfare, is authorized by Government Code sections 37350.5, 40401 and 40404, and is therefore a public use.
5. The City of Elk Grove hereby finds, determines and declares:
 - a. The public interest and necessity require the proposed Project;
 - b. The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
 - c. The property interests described and depicted in Exhibits A-1, A-2, B-1, B-2, B-3, C-1, C-2, and C-3 are necessary for the purposes of construction, operation and maintenance of the proposed Project, and/or such acquisition is authorized pursuant to Code of Civil Procedure section 1240.150; and


- d. Prior to making the above findings and determinations, the offer required by section 7267.2 of the Government Code was made to the owner(s) of record of the property interests described and depicted in Exhibits A-1, A-2, B-1, B-2, B-3, C-1, C-2, and C-3.
6. The City Attorney is hereby authorized and directed to prepare, commence and prosecute proceedings in eminent domain in the appropriate court to acquire for the City of Elk Grove the property interests described and depicted in Exhibits A-1, A-2, B-1, B-2, B-3, C-1, C-2, and C-3. The City Attorney is further authorized to take all steps necessary to obtain such orders for immediate possession of the property interests as may be required for the Project.
7. The City's Chief Financial Officer shall disburse all funds required by the City Attorney to make any and all deposits to obtain possession of and title to the Property including but not limited to deposit of probable amount of compensation pursuant to Code of Civil Procedure section 1255.020.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of December 2006.



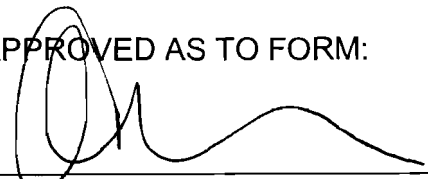
SOPHIA SCHERMAN, MAYOR PRO TEM
of the CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

FEE TAKE

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

All that portion of Lot 11 of Fleming's Highway Farms No. 4, in the City of Elk Grove, County of Sacramento, California, according to the official plat thereof, filed in the office of the Recorder of Sacramento County on July 14, 1926, in Book 19 of maps, Map No. 3, and being more particularly described as follows:

Beginning at the Northwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the North line of said parcel North 70°18'45" East 54.56 feet or 16.630 meters to the **Point of Beginning**; thence from said **Point of Beginning** continuing along said North line North 70°18'45" East 53.62 feet or 16.343 meters; thence leaving said North line along the arc of a curve to the left having a radius of 656.49 feet or 200.099 meters, with a chord bearing South 47°52'03" East 48.22 feet or 14.697 meters; thence along the arc of a curve to the left having a radius of 597.66 feet or 182.167 meters, with a chord bearing South 57°24'43" East 154.77 feet or 47.174 meters to the South line of said parcel; thence along said South line South 70°00'38" West 67.51 feet or 20.577 meters; thence leaving said South line along the arc of a curve to the right having a radius of 713.45 feet or 217.460 meters, with a chord bearing North 54°48'10" West 120.15 feet or 36.622 meters; thence along the arc of a curve to the right having a radius of 705.04 feet or 214.897 meters, with a chord bearing North 46°54'35" West 75.34 feet or 22.964 meters to the **Point of Beginning**, Together with all underlying fee, if any, appurtenant to the above-described parcel.

Together with:

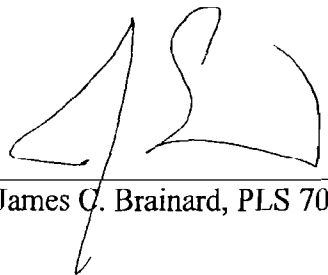
Beginning at the Northwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence from said **Point of Beginning** along the North line of said parcel North 70°18'45" East 12.32 feet or 3.755 meters; thence leaving said North line South 24°15'23" East 50.98 feet or 15.539 meters; thence along the arc of a curve to the left having a radius of 721.78 feet or 219.999 meters, with a chord bearing South 25°47'04" East 38.50 feet or 11.735 meters; thence South 26°59'40" East 77.48 feet or 23.616 meters to the South line of said parcel; thence along said South line South 70°00'38" West 1.47 feet or 0.448 meters to the West line of said parcel; thence leaving said South line along the West line of said parcel North 29°33'07" West 168.45 feet or 51.344 meters to the **Point of Beginning**, Together with all underlying fee, if any, appurtenant to the above-described parcel.

The total area of the Fee Take Parcels contains 10,728.23 square feet or 0.2463 acres; or 996.689 square meters or 0.100 hectares, more or less.

The meridian used herein is based upon the California Coordinate System (CCS) Zone II, NAD83, 1991.35. The ground distances used herein are in U.S. Survey Feet and Meters. To obtain grid distances, multiply the ground distances shown herein by the combined factor of 0.99997792.

This real property description has been prepared at R.E.Y. Engineers, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

APN: 115-0162-012


James C. Brainard, PLS 7051



10/25/06
Date

APN 115-0162-011

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PAGE 3

APN 115-0162-012
William Kochoo

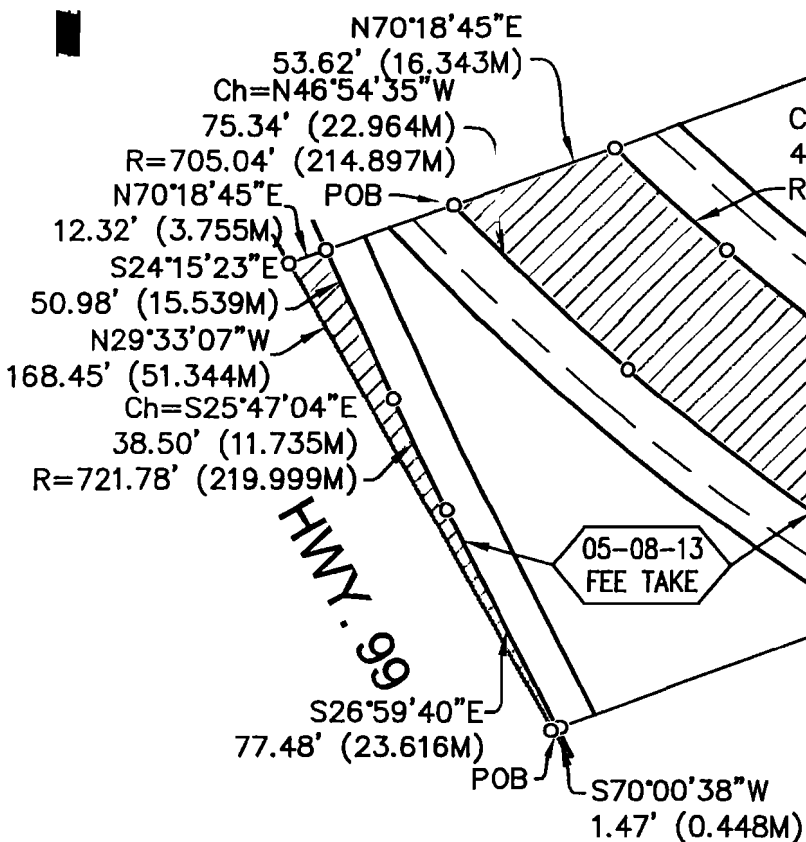
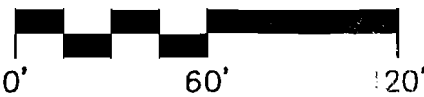
Ch=S47°52'03"E
48.22' (14.697M)
R=656.49' (200.099M) Lot 11
Ch=S57°24'43"E
154.77' (47.174M)
R=597.66' (182.167M)

APN 115-0162-013



|||| = Access Control Line
POB = Point of Beginning
POC = Point of Commencement

GRAPHIC SCALE



PARCEL ACREAGES

ORIGINAL:	1.657
FEE TAKE:	0.246
REMAINDER:	1.411

The meridian shown hereon is based upon the California Coordinate System, Zone 2 (NAD83, 1991.35). To obtain grid distances, multiply the ground distances shown hereon by the combined factor of 0.99997792.

IN THE CITY OF ELK GROVE
SACRAMENTO COUNTY, CALIFORNIA
CITY PARCEL 05-08-13

PLAT MAP - SHEET 1 OF 1
Fee Take of 10,728.23+/- sq.ft.
0.2463+/- acres or 0.100+/- hectares
APN 115-0162-012



Scale 1"=60'
Date 04-12-06
Drawn By KS
Checked By JB

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Public Utility Easement

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

All that portion of Lot 11 of Fleming's Highway Farms No. 4, in the City of Elk Grove, County of Sacramento, California, according to the official plat thereof, filed in the office of the Recorder of Sacramento County on July 14, 1926, in Book 19 of maps, Map No. 3, and being more particularly described as follows:

Beginning at the Northwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the North line of said parcel North 70°18'45" East 108.18 feet or 32.973 meters to the **Point of Beginning**; thence from said **Point of Beginning** continuing along said North line North 70°18'45" East 13.95 feet or 4.252 meters; thence leaving said North line along the arc of a curve to the left having a radius of 643.99 feet or 196.289 meters, with a chord bearing South 48°08'25" East 41.18 feet or 12.552 meters; thence along the arc of a curve to the left having a radius of 585.16 feet or 178.357 meters, with a chord bearing South 58°01'39" East 163.99 feet or 49.984 meters to the South line of said parcel; thence along said South line South 70°00'38" West 17.83 feet or 5.435 meters; thence leaving said South line along the arc of a curve to the right having a radius of 597.66 feet or 182.167 meters, with a chord bearing North 57°24'43" West 154.77 feet or 47.174 meters; thence along the arc of a curve to the right having a radius of 656.49 feet or 200.099 meters, with a chord bearing North 47°52'03" West 48.22 feet or 14.697 meters to the **Point of Beginning**,

Together with: **Beginning** at the Northwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the North line of said parcel North 70°18'45" East 40.88 feet or 12.460 meters to the **Point of Beginning**; thence from said **Point of Beginning** continuing along said North line North 70°18'45" East 13.68 feet or 4.170 meters; thence leaving said North line along the arc of a curve to the left having a radius of 705.04 feet or 214.897 meters, with a chord bearing South 46°54'35" East 75.34 feet or 22.964 meters; thence along the arc of a curve to the left having a radius of 713.45 feet or 217.460 meters, with a chord bearing South 54°48'10" East 120.15 feet or 36.622 meters to the South line of said parcel; thence along said South line South 70°00'38" West 16.14 feet or 4.919 meters; thence leaving said South line along the arc of a curve to the right having a radius of 725.95 feet or 221.270 meters, with a chord bearing North 54°23'47" West 112.00 feet or 34.138 meters; thence along the arc of a curve to the right having a radius of 717.54 feet or 218.707 meters, with a chord bearing North 46°41'10" West 82.26 feet or 25.073 meters to the **Point of Beginning**,

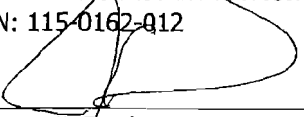
Together with: **Beginning** at the Southwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the South line of said parcel North 70°00'38" East 1.47 feet or 0.448 meters to the **Point of Beginning**; thence from said **Point of Beginning** leaving said South line North 26°59'40" West 77.48 feet or 23.616 meters; thence along the arc of a curve to the right having a radius of 721.78 feet or 219.999 meters, with a chord bearing North 25°47'04" West 38.50 feet or 11.735 meters; thence North 24°15'23" West 50.98 feet or 15.539 meters to the North line of said parcel; thence along said North line North 70°18'45" East 12.54 feet or 3.822 meters; thence leaving said North line South 24°15'23" East 49.99 feet or 15.237 meters; thence along the arc of a curve to the left having a radius of 709.28 feet or 216.189 meters, with a chord bearing South 25°47'04" East 37.83 feet or 11.531 meters; thence South 26°59'40" East 79.09 feet or 24.107 meters to the South line of said parcel; thence along said South line South 70°00'38" West 12.59 feet or 3.837 meters to the **Point of Beginning**,

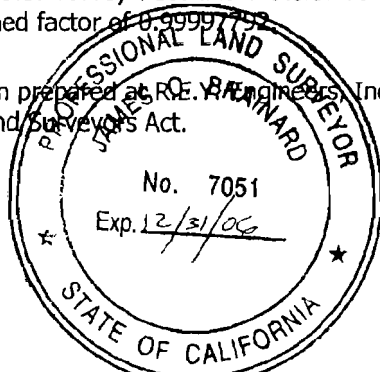
The total area of the PUE Parcels contains 7,081.60 square feet or 0.1626 acres; or 657.905 square meters or 0.066 hectares, more or less.

The meridian used herein is based upon the California Coordinate System (CCS) Zone II, NAD83, 1991.35. The ground distances used herein are in U.S. Survey Feet and Meters. To obtain grid distances, multiply the ground distances shown herein by the combined factor of 0.9997492.

This real property description has been prepared at R.E. Brainard Engineers, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

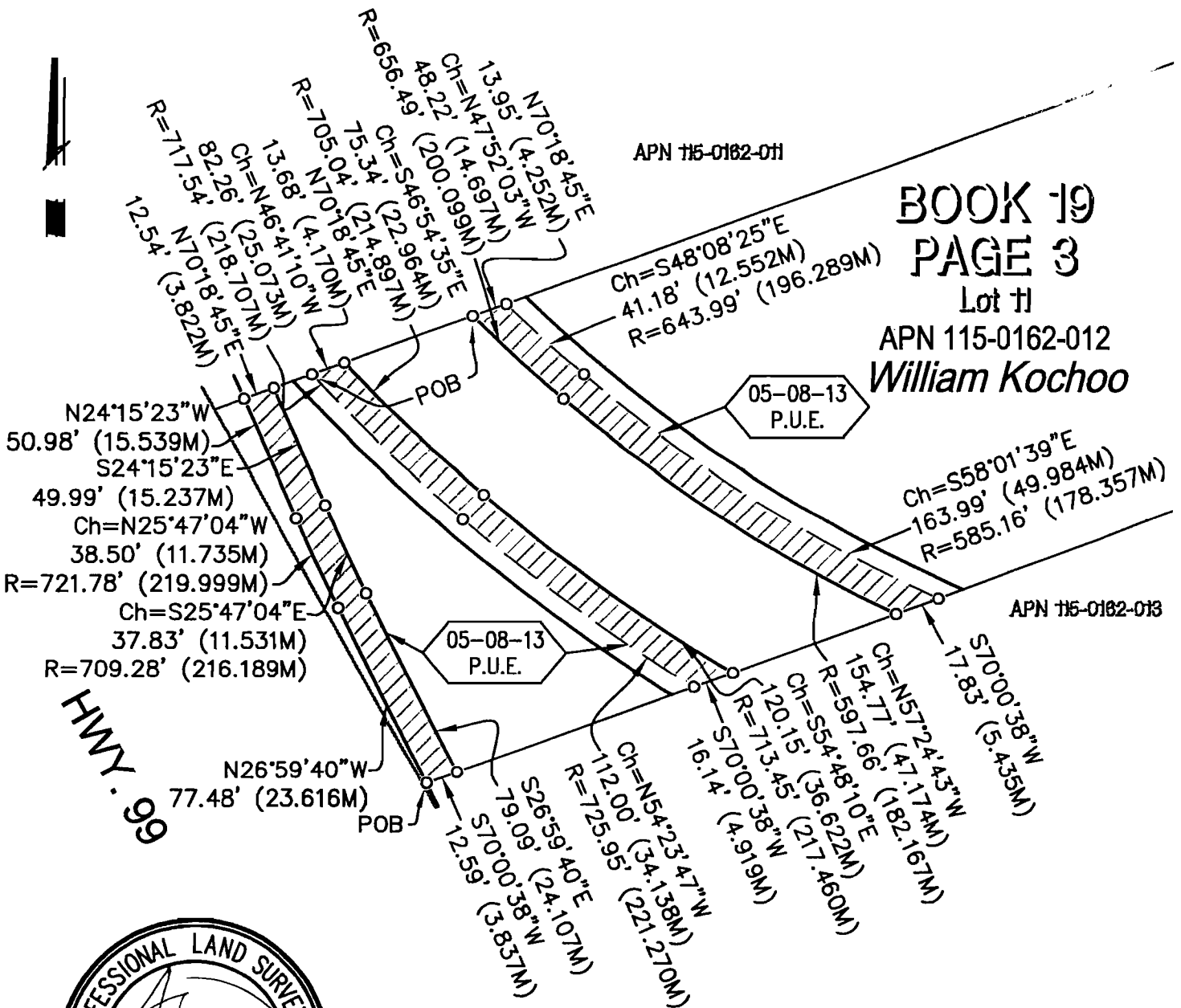
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James C. Brainard, PLS 7051



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Date

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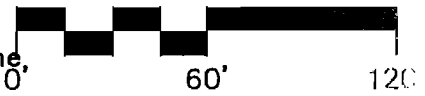


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Lot 11
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William Kochoo



||| = Access Control Line
POB = Point of Beginning
POC = Point of Commencement

GRAPHIC SCALE



The meridian shown hereon is based upon the California Coordinate System, Zone 2 (NAD83, 1991.35). To obtain grid distances, multiply the ground distances shown hereon by the combined factor of 0.99997792. 0

IN THE CITY OF ELK GROVE
SACRAMENTO COUNTY, CALIFORNIA
CITY PARCEL 05-08-13



Scale 1"=60'
Date 04-12-06
Drawn By KS
Checked By JB

PLAT MAP - SHEET 1 OF 1
Public Utility Easement of 7,081.60+/- sq.ft.
0.1626+/- acres or 0.066+/- hectares
APN 115-0162-012



EXHIBIT B-3
(Public Utility Easement)

An EASEMENT for PUBLIC UTILITY PURPOSES for the installation, construction, repair and maintenance of electroliers, traffic control devises, water, sewer, gas and drainage pipes and poles, and overhead and underground wires and conduits for electrical communications and television services, together with any and all appurtenances pertaining thereto, on, over, under and across all that real property owned by OWNER(S) and situated within the City of Elk Grove ("CITY"), County of Sacramento, State of California described herein in Exhibit B-1 and delineated herein on Exhibit B-2.

The CITY may move and/or remove any existing structures or improvements. The CITY shall replace "in like kind" or restore such structures or improvements upon completion of construction and/or maintenance activities unless such restoration or replacement interferes with the operation and maintenance of said public utilities.

Without limiting the CITY's rights granted herein, the CITY may also trim such tree foliage and to cut such limbs and roots on said property as may be necessary for the protection of said public utilities.

OWNER(S) shall not erect or construct any building or other permanent structure or drill or operate any well within said easement.

Temporary Construction Easement

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

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Beginning at the Northwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the North line of said parcel North 70°18'45" East 108.18 feet or 32.973 meters to the **Point of Beginning**; thence from said **Point of Beginning** continuing along said North line North 70°18'45" East 22.00 feet or 6.706 meters; thence leaving said North line along the arc of a curve to the left having a radius of 636.80 feet or 194.097 meters, with a chord bearing South 48°18'09" East 37.11 feet or 11.311 meters; thence along the arc of a curve to the left having a radius of 577.98 feet or 176.16 meters, with a chord bearing South 58°24'00" East 169.42 feet or 51.639 meters to the South line of said parcel; thence along said South line South 70°00'38" West 28.26 feet or 8.614 meters; thence leaving said South line along the arc of a curve to the right having a radius of 597.66 feet or 182.167 meters, with a chord bearing North 57°24'43" West 154.77 feet or 47.174 meters; thence along the arc of a curve to the right having a radius of 656.49 feet or 200.099 meters, with a chord bearing North 47°52'03" West 48.22 feet or 14.697 meters to the **Point of Beginning**,
Together with:

Beginning at the Northwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the North line of said parcel North 70°18'45" East 33.04 feet or 10.071 meters to the **Point of Beginning**; thence from said **Point of Beginning** continuing along said North line North 70°18'45" East 21.52 feet or 6.559 meters; thence leaving said North line along the arc of a curve to the left having a radius of 705.04 feet or 214.897 meters, with a chord bearing South 46°54'35" East 75.34 feet or 22.964 meters; thence along the arc of a curve to the left having a radius of 713.45 feet or 217.460 meters, with a chord bearing South 54°48'10" East 120.15 feet or 36.622 meters to the South line of said parcel; thence along said South line South 70°00'38" West 25.33 feet or 7.721 meters; thence leaving said South line along the arc of a curve to the right having a radius of 733.13 feet or 223.458 meters, with a chord bearing North 54°10'16" West 107.36 feet or 32.723 meters; thence along the arc of a curve to the right having a radius of 724.73 feet or 220.898 meters, with a chord bearing North 46°33'42" West 86.23 feet or 26.283 meters to the **Point of Beginning**,
Together with:

Beginning at the Southwest corner of said Lot 11 of Fleming's Highway Farms No. 4; thence along the South line of said parcel North 70°00'38" East 1.47 feet or 0.448 meters to the **Point of Beginning**; thence from said **Point of Beginning** leaving said South line North 26°59'40" West 77.48 feet or 23.616 meters; thence along the arc of a curve to the right having a radius of 721.78 feet or 219.999 meters, with a chord bearing North 25°47'04" West 38.50 feet or 11.735 meters; thence North 24°15'23" West 50.98 feet or 15.539 meters to the North line of said parcel; thence along said North line North 70°18'45" East 12.54 feet or 3.822 meters; thence leaving said North line South 24°15'23" East 49.99 feet or 15.237 meters; thence along the arc of a curve to the left having a radius of 709.28 feet or 216.189 meters, with a chord bearing South 25°47'04" East 37.83 feet or 11.531 meters; thence South 26°59'40" East 79.09 feet or 24.107 meters to the South line of said parcel; thence along said South line South 70°00'38" West 12.59 feet or 3.837 meters to the **Point of Beginning**,

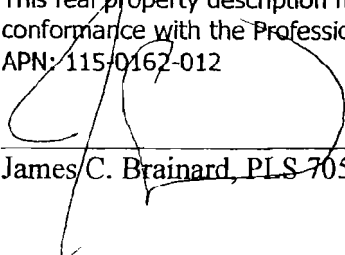
The total area of the TCE Parcels contains 9,959.39 square feet or 0.2286 acres; or 925.261 square meters or 0.093 hectares, more or less.

The meridian used herein is based upon the California Coordinate System (CCS) Zone II, NAD83, 1991.35. The ground distances used herein are in U.S. Survey Feet and Meters. To obtain grid distances, multiply the ground distances shown herein by the combined factor of 0.99997792.

Temporary Construction Easement

This real property description has been prepared at R.E.Y. Engineers, Inc., by me or under my direction in conformance with the Professional Land Surveyors Act.

APN: 115-0162-012

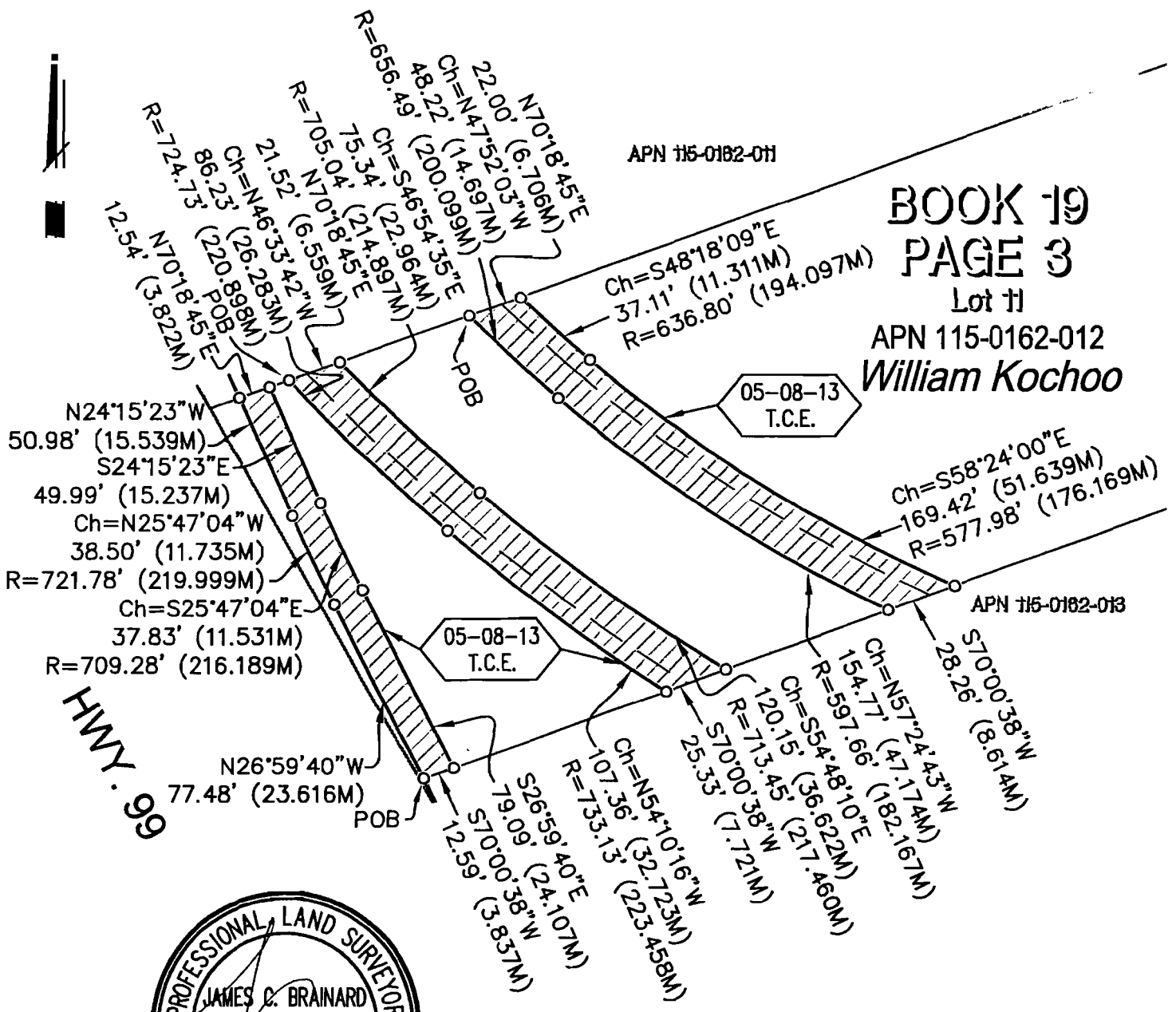

James C. Brainard, PLS 7051



10/25/06
Date

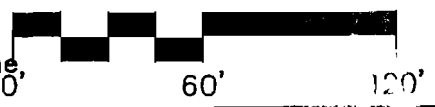
BOOK 19
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Lot 11
APN 115-0162-012
William Kochoo



||| = Access Control Line
POB = Point of Beginning
POC = Point of Commencement

GRAPHIC SCALE



The meridian shown hereon is based upon the California Coordinate System, Zone 2 (NAD83, 1991.35). To obtain grid distances, multiply the ground distances shown hereon by the combined factor of 0.99997792. 0

IN THE CITY OF ELK GROVE
SACRAMENTO COUNTY, CALIFORNIA
CITY PARCEL 05-08-13



Scale 1"=60'
Date 04-12-06
Drawn By KS
Checked By JB

PLAT MAP - SHEET 1 OF 1
Temporary Construction Easement of 9,959.39+/- sq.ft.
0.2286+/- acres or 0.093+/- hectares
APN 115-0162-012

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EXHIBIT C-3
(Temporary Construction Easement)

A TEMPORARY CONSTRUCTION EASEMENT (“EASEMENT”) for the purpose of paving, use, construction, reconstruction, installation, improvement, repair, inspection, expansion and maintenance of public right-of-ways, highways, roadways, services, utilities, landscape improvements, and necessary appurtenant structures, on, over, and under all that real property situated in the City of Elk Grove (“CITY”), County of Sacramento, State of California, described herein in Exhibit C-1 and delineated herein on Exhibit C-2.

CITY may move and/or remove any existing structures or improvements but shall replace “in like kind” or restore such structures or improvements prior to the EASEMENT’s termination. Access to any improved parcels shall not be totally impaired and at least one-half of all driveways shall remain unobstructed at all times. City may re-grade the underlying property to conform to the grade of the street frontage.

The EASEMENT shall extend for a period of thirty (30) months commencing on the date ordered by the Court.

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2006-319**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on December 13, 2006 by the following vote:

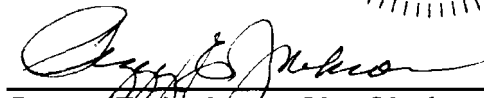
AYES : COUNCILMEMBERS: Scherman, Cooper, Leary, Davis, Hume

NOES : COUNCILMEMBERS: None

ABSTAIN : COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None





**Peggy E. Jackson, City Clerk
City of Elk Grove, California**