

RESOLUTION NO. 2006-324

**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
(ELK GROVE CHURCH OF CHRIST, INC. / APN: 116-0030-003)**

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 Property, and concluded that both the Project and acquisition of the Property for the Project are necessary; and

WHEREAS, the Property, which is the subject of this Resolution of Necessity, consists 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 116-0030-003; and

WHEREAS, the City intends to acquire and provide substitute access to the remainder property pursuant to Code of Civil Procedure section 1240.350; 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

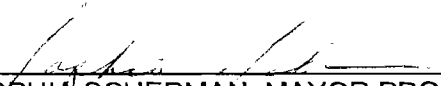
WHEREAS, as a result of the hearing held on December 13, 2006, and in accordance with the provisions of Code of Civil Procedure section 1245.235, the City Council of the City of Elk Grove intends to make certain findings and determinations.

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).
4. Acquisition of the Property for Project purposes promotes public safety and the general welfare, is authorized by Government Code sections 37350.5, 40401, 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
 - 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.

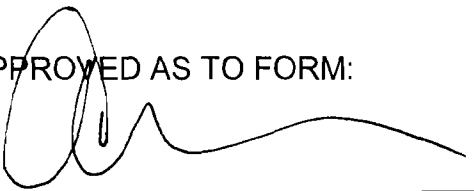


SOPHIA SCHERMAN, MAYOR PRO TEM
of the CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

FEE Take Parcel

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 1, plat of Hewitt Subdivision No. 3, filed January 8, 1915 in Book 15 of Maps, Map No. 13.

BEGINNING at a point on the center line of Sheldon Road being the North line of said Lot 1, said point of beginning being located North 89° 35' West 291.00 feet from the Northeast corner of said Lot 1; thence along said center line of said North line, North 89° 35', West 152.26 feet; thence, South 0° 35' West 33 feet to the South line of said Sheldon Road, thence, continuing South 0° 13' West 540.25 feet to a fence line; thence along said fence line South 89° 47', East 152.26 feet; thence, North 0° 13', East 539.72 feet to the South line of said Sheldon Road and **Point A**; thence, continuing North 0° 13', East 33.00 feet to the point of beginning more particularly described as follows:

Beginning at said **Point A**, being the **Point of Beginning** along the East line of said parcel South00°08'28"East 69.29 feet or 21.120 meters; thence leaving said East line along the arc of a non-tangent curve to the left having a radius of 11741.80 feet or 3578.908 meters, a chord bearing South85°18'01"West 153.09 feet or 46.662 meters to the West line of said Parcel; thence along said West line North00°10'12"West 81.99 feet or 24.991 meters to the South right of way of Sheldon Road; thence along said South Right of Way North89°56'26"East 152.65 feet or 46.528 meters to the **Point of Beginning**, Together with all underlying fee, if any, appurtenant to the above-described parcel.

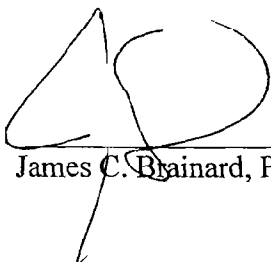
containing 7,855.52 square feet or 0.1803 acres; or 729.805 square meters or 0.073 hectares, more or less.

Together with the underlying fee in the existing 30 foot Sheldon Road Right of Way shown on that map titled "Plat of Hewitt Subdivision No. 3" and accepted as public highways, and the 54 foot Sheldon Road Right of Way recorded in Document # 199811258645. Both parcels contain a total of 8219.70 square feet or 0.1887 acres; or 763.638 square meters or 0.076 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.

APN: 116-0030-003

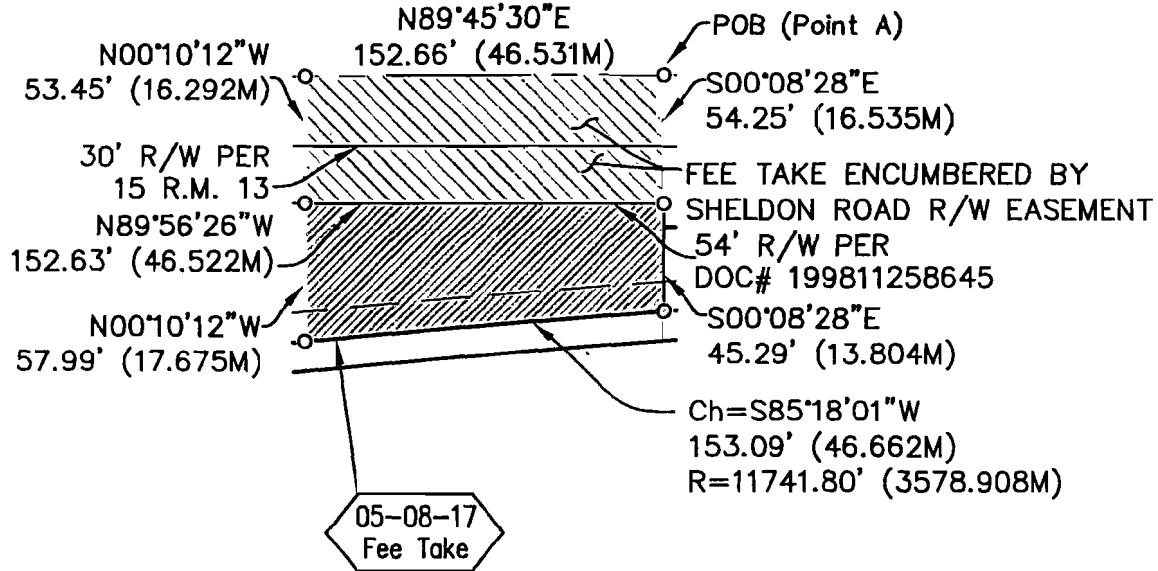
This real property description has been prepared at R.E.Y. Engineers, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.


James C. Brainard, PLS 7051



10/25/06
Date

Sheldon Road



**BOOK 15
PAGE 13**

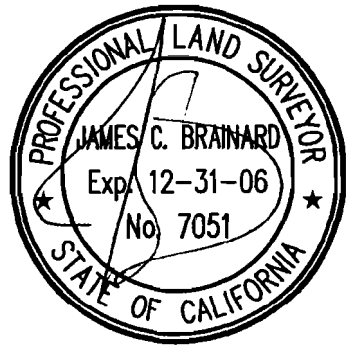
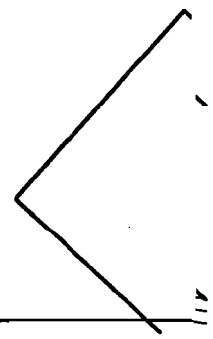
Lot 1

APN 118-0030-052

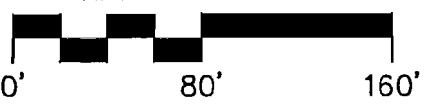
APN 116-0030-003

APN 118-0030-052

**Elk Grove
Church of Christ**

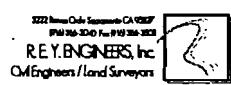


POB = Point of Beginning
 POC = Point of Commencement
 GRAPHIC SCALE



PARCEL ACREAGES	
ORIGINAL:	2.006
FEE TAKE:	0.180
FEE TAKE FOR ESMT:	0.189
REMAINDER:	1.637

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 05-08-17 APN 116-0030-003



Scale 1"=80'
 Date 07-18-06
 Drawn By KS
 Checked By JB

PLAT MAP - SHEET 1 OF 1
 Fee Take of 7,855.52+/- sq.ft., 0.1803+/- acres or 0.073+/- hectares
 Fee Take encumbered by Sheldon Road R/W of 8,219.70+/- sq.ft.
 0.1887+/- acres or 0.076+/- hectares

2006 07 18 10:11 AM 116-0030-003-1 AKE.dwg, 10/23/2006 2:18:16 PM

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 1, plat of Hewitt Subdivision No. 3, filed January 8, 1915 in Book 15 of Maps, Map No. 13.

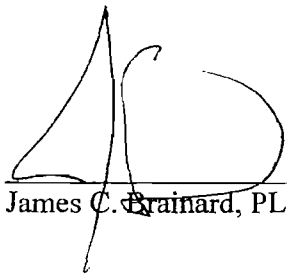
BEGINNING at a point on the center line of Sheldon Road being the North line of said Lot 1, said point of beginning being located North 89° 35' West 291.00 feet from the Northeast corner of said Lot 1; thence along said center line of said North line, North 89° 35', West 152.26 feet; thence, South 0° 35' West 33 feet to the South line of said Sheldon Road, thence, continuing South 0° 13' West 540.25 feet to a fence line; thence along said fence line South 89° 47', East 152.26 feet; thence, North 0° 13', East 539.72 feet to the South line of said Sheldon Road and **Point A**; thence, continuing North 0° 13', East 33.00 feet to the point of beginning more particularly described as follows:

Beginning at said **Point A**, thence along the East line of said parcel South00°08'28"East 54.01 feet or 16.462 meters to the **Point of Beginning**; thence continuing along said East line South 00°08'28" East 12.53 feet or 3.819 meters; thence leaving said East line along the arc of a non-tangent curve to the left having a radius of 11741.80 feet or 3578.908 meters, a chord bearing South85°18'01"West 153.09 feet or 46.662 meters to the West line of said Parcel; thence along said West line North00°10'12"West 12.55 feet or 3.825 meters; thence along the arc of a curve to the right having a radius of 11754.30 feet or 3582.718 meters, a chord bearing North85°18'19"East 153.09 feet or 46.662 meters to the **Point of Beginning**, containing 1913.63 square feet or 0.0439 acres; or 177.783 square meters or 0.018 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.

APN: 116-0030-003

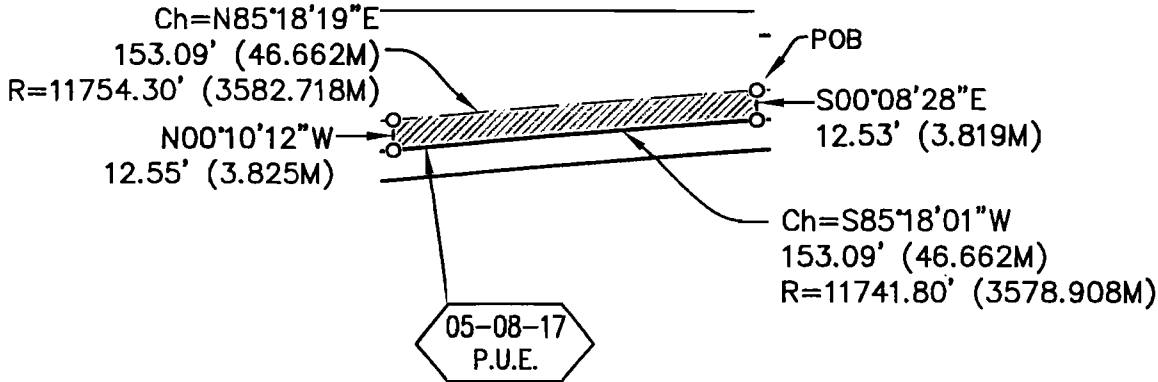
This real property description has been prepared at R.E.Y. Engineers, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.


James C. Brainard, PLS 7051



10/25/06
Date

Sheldon Road



**BOOK 15
PAGE 13**

Lot 1

APN 118-0030-052

APN 116-0030-003

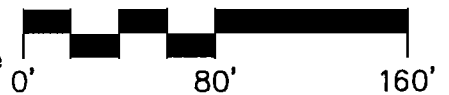
APN 118-0030-052

**Elk Grove
Church of Christ**



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.



R.E.Y. ENGINEERS, Inc.
Civil Engineers / Land Surveyors

IN THE CITY OF ELK GROVE
SACRAMENTO COUNTY, CALIFORNIA
CITY PARCEL 05-08-17

Scale 1"=80'
Date 03-06-06
Drawn By KS
Checked By JB

PLAT MAP - SHEET 1 OF 1
Public Utility Easement of 1,913.63+/- sq.ft.
0.0439+/- acres or 0.018+/- hectares
APN 116-0030-003



EXHIBIT B-3
(Public Utility Easement)

An EASEMENT for PUBLIC UTILITY PURPOSES for the installation, construction, repair and maintenance of electric lines, traffic control devices, 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:

All that portion of Lot 1, plat of Hewitt Subdivision No. 3, filed January 8, 1915 in Book 15 of Maps, Map No. 13. BEGINNING at a point on the center line of Sheldon Road being the North line of said Lot 1, said point of beginning being located North 89° 35' West 291.00 feet from the Northeast corner of said Lot 1; thence along said center line of said North line, North 89° 35', West 152.26 feet; thence, South 0° 35' West 33 feet to the South line of said Sheldon Road, thence, continuing South 0° 13' West 540.25 feet to a fence line; thence along said fence line South 89° 47', East 152.26 feet to **Point B**; thence, North 0° 13', East 539.72 feet to the South line of said Sheldon Road and **Point A**; thence, continuing North 0° 13', East 33.00 feet to the point of beginning more particularly described as follows:

Beginning at said **Point A**, thence along the East line of said Parcel South00°08'28"East 99.54 feet or 30.340 meters to the **Point of Beginning**; thence from said **Point of Beginning** along the East line of said parcel South00°08'28"East 12.45 feet or 3.795 meters; thence leaving said East line along the arc of a non-tangent curve to the left having a radius of 8599.45 feet or 2621.118 meters, a chord bearing South85°13'05"West 153.10 feet or 46.665 meters to the West line of said Parcel; thence along said West line North00°10'12"West 12.67 feet or 3.862 meters; thence leaving said West line along the arc of a curve to the right having a radius of 11741.80 feet or 3578.908 meters, a chord bearing North85°18'01"East 153.09 feet or 46.662 meters to the West line of said Parcel and the **Point of Beginning**,

together with a parcel of land described as follows:

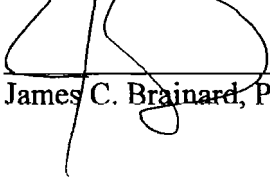
Beginning at said **Point B**; thence from said **Point of Beginning** along the South line of said Parcel South89°51'34"West 20.06 feet or 6.114 meters; thence leaving said South line North47°47'03"West 75.32 feet or 22.958 meters; thence North42°12'57"East 106.30 feet or 32.400 meters; thence South47°47'03"East 5.55 feet or 1.692 meters to the East line of said Parcel; thence along said East line South00°08'28"East 125.56 feet or 38.271 meters to the **Point of Beginning**,

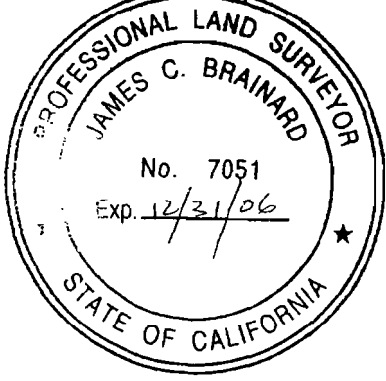
both pieces containing 7466.18 square feet or 0.1714 acres; or 693.634 square meters or 0.069 hectares, more or less.

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.

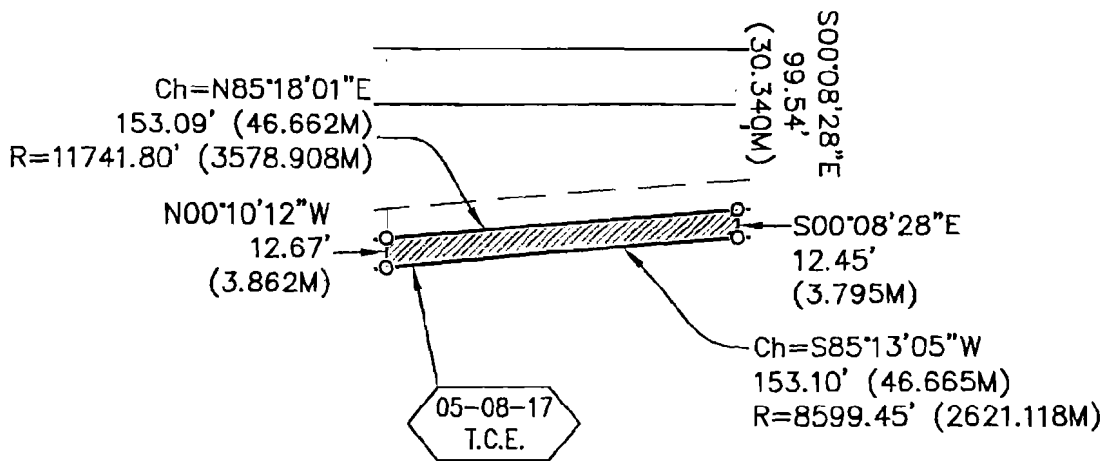
APN: 116-0030-003


James C. Brainard, PLS 7051



10/25/06
Date

Sheldon Road



**BOOK 15
PAGE 13**

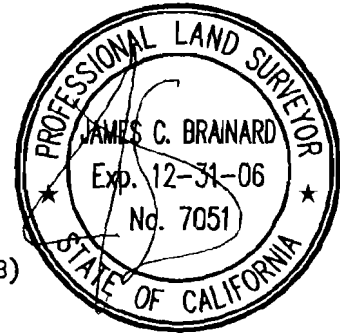
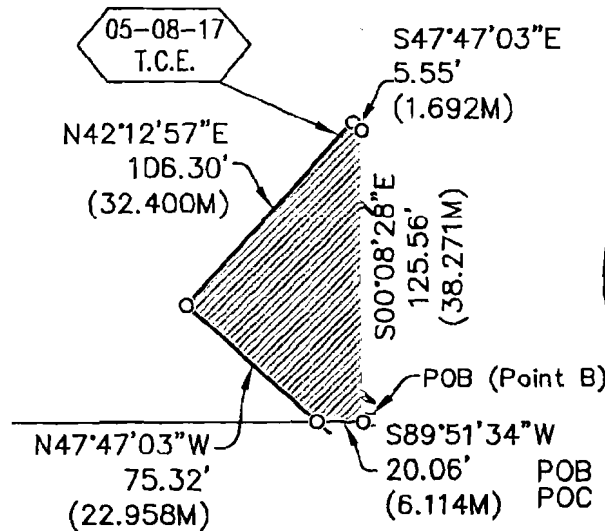
Lot 1

APN 118-0030-052

APN 116-0030-003

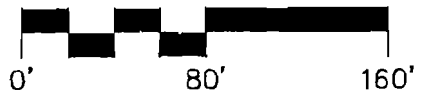
APN 118-0030-052

**Elk Grove
Church of Christ**



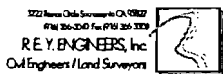
POB = Point of Beginning
POC = Point of Commencement

GRAPHIC SCALE



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IN THE CITY OF ELK GROVE
SACRAMENTO COUNTY, CALIFORNIA
CITY PARCEL 05-08-17



Scale 1"=80'
Date 02-23-06
Drawn By KS
Checked By JB

PLAT MAP - SHEET 1 OF 1
Temporary Construction Easement of 7,466.18+/- sq.ft.
0.1714+/- acres or 0.069+/- hectares
APN 116-0030-003



EXHIBIT C-3
(Temporary Construction Easement)

A TEMPORARY CONSTRUCTION EASEMENT ("EASEMENT") for the purpose of public 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. 2006-324**

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**