

**RESOLUTION NO. 2004-78**

**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  
FOR THE CONSTRUCTION AND MAINTENANCE OF PORTIONS OF FRANKLIN  
BOULEVARD**

**WHEREAS**, the East Franklin Specific Plan was approved by the Sacramento County Board of Supervisors on May 31, 2000, by the adoption of Ordinance No. SZC 2000-0021; and

**WHEREAS**, The approval of the East Franklin Specific Plan was intended to provide for the orderly and systematic development of the Plan area and to respond to the opportunities and constraints in the local community; and

**WHEREAS**, the East Franklin Specific Plan, and its incorporated circulation plan, identified several on-site and off-site infrastructure improvements necessary for the roadway system to operate efficiently including the realignment of Franklin Boulevard south of Poppy Ridge Road east along the Union Pacific Railroad Right-of-Way, to an offset intersection with Bilby Road, and ultimately to an intersection with Kammerer Road; and

**WHEREAS**, the City's General Plan provides that development in the East Franklin Policy Area shall take place in accordance with the East Franklin Specific Plan; and

**WHEREAS**, the Bilby Ranch Tentative Subdivision Map (Project No. EG-02-285)("Bilby Ranch Subdivision") was conditioned, in part, on the realignment of Franklin Boulevard along the entire property frontage including the acquisition and improvement of the right of way; and

**WHEREAS**, the City of Elk Grove intends to proceed with its Franklin Boulevard Project ("Project") as envisioned by the East Franklin Specific Plan and the Bilby Ranch Subdivision; and

**WHEREAS**, the Project, including its improvements, are necessary to ensure that the roadway system operates at an acceptable level of service, to provide for efficient and safe traffic circulation within the Plan area, and to generally promote the goals and objectives stated with the East Franklin Specific Plan and accompanying documents; and

**WHEREAS**, as a part of said Project, it is necessary to acquire certain real property interests ("Property") for the construction, operation and maintenance of a right-of-way, and related improvements to Franklin Boulevard as envisioned by the East Franklin Specific Plan; and

**WHEREAS**, the City of Elk Grove 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 consists of an 8,151 square foot permanent easement and a 5,319 square foot temporary construction easement and is generally located north of Bilby Road, Elk Grove, California. The Property is more particularly described and depicted in Exhibit A which is attached hereto and is incorporated herein. The Sacramento County Assessor has designated the Property as a portion of APN 132-0030-045; and

**WHEREAS**, the Property is located entirely within the municipal boundaries of the City of Elk Grove and is presently vacant; 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 Sacramento County's adoption of an Environmental Impact Report in conjunction with its approval of the East Franklin Specific Plan and through the adoption of a mitigated negative declaration for the Bilby Ranch Subdivision; and

**WHEREAS**, the City of Elk Grove has complied with the requirements of Government Code section 7267.2, in regards to 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 April 21, 2004, 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:

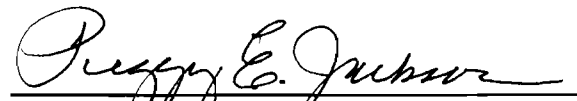
1. The recitals contained herein are true and correct;
2. Upon examination of the alternatives, the City of Elk Grove requires the Property for the Project;
3. The City of Elk Grove is authorized to acquire the Property pursuant to the provisions of Government Code section 37350.5 and the provisions of the 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, it fosters development within and implementation of the East Franklin Specific Plan in an orderly manner, is authorized by Government Code section 37350.5, 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 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.
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. The City Attorney is further authorized take all steps necessary to obtain such orders for immediate possession of the property interests as may be required for the Project.

**APPROVED, PASSED AND ADOPTED** by the City Council of the City of Elk Grove on this 21<sup>st</sup> day of April 2004.

  
SOPHIA SCHERMAN, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:

  
ANTHONY B. MANZANETTI,  
CITY ATTORNEY

## EXHIBIT A

### DESCRIPTION FOR RIGHT-OF-WAY EASEMENT

All that certain real property situate in the Southeast One-Quarter of Section 8, Township 6 North, Range 5 East, Mount Diablo Meridian, County of Sacramento, State of California, and being further described as being a portion of the Lot 22 as shown on that certain map entitled "Franklin Farms Subdivision No. 1" filed in Book 13 of Maps, at Page 39, Sacramento County Records, and being further described as follows:

Beginning at the Northeast corner of said Lot 22, from which a found nail and shiner accepted as the Southeast corner of said Section 8 as shown on that certain Final Map entitled "ELK GROVE MEADOWS UNIT NO. 3A" filed for record in Book 322 of Maps at Page 1, Sacramento County Records bears South 48°33'30" East a distance of 1326.99 feet; thence from the POINT OF BEGINNING along the East line of said Lot 22, South 00°19'02" East a distance of 108.68 feet; thence leaving said East line of Lot 22, North 35°27'38" West a distance of 133.02 feet to a point on the North line of said Lot 22; thence along said North line of Lot 22, North 89°45'08" East a distance of 76.57 feet to the Point of Beginning.

Containing 4,161 square feet of land, more or less.

Basis of Bearings is California State Plane coordinate System, Zone 2, NAD'83 as measured between Stations Eschinger and Keller and is North 20°56'36" West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

This legal description was prepared by me or under my direct supervision pursuant to Section 8729 (2) of the Professional Land Surveyors Act.



Craig E. Spiess P.L.S. 7944  
Expires December 31, 2005

Date: 12/12/03



PREPARED BY WOOD RODGERS, INC.  
SACRAMENTO, CALIFORNIA

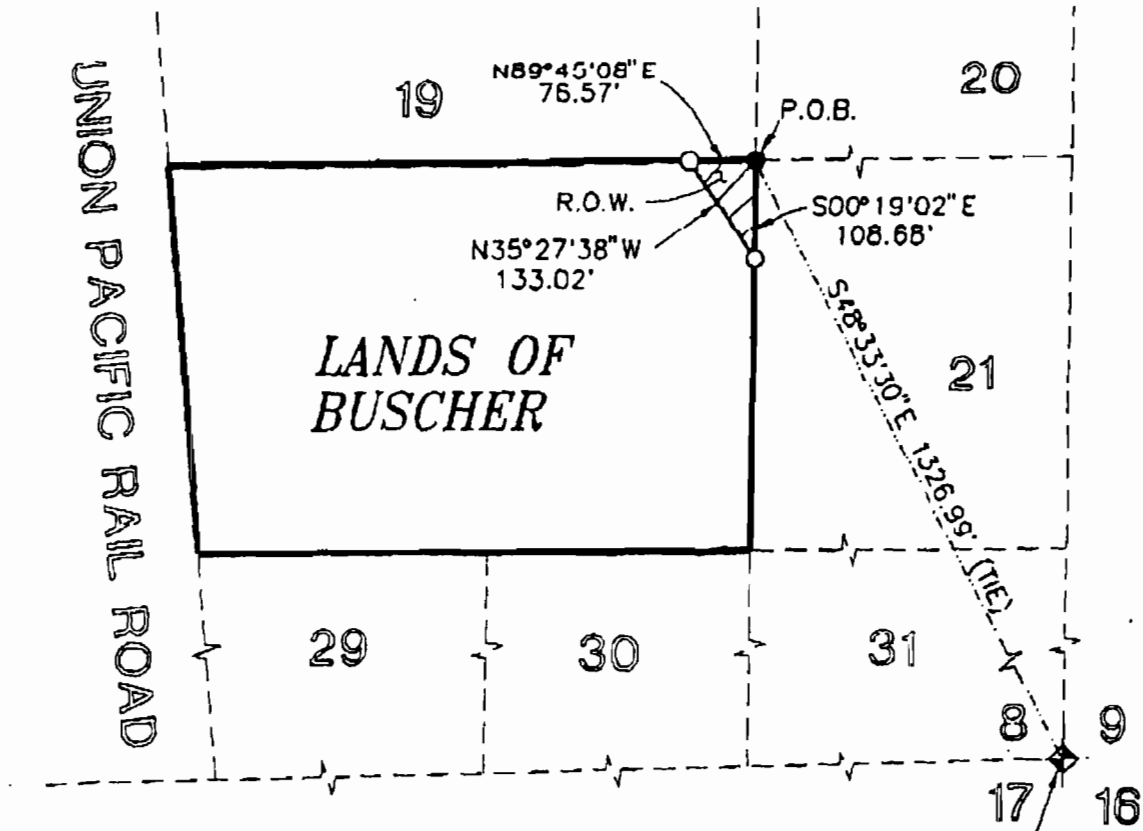
**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

LANDS OF BUSCHER  
RIGHT-OF-WAY EASEMENT  
A PORTION OF LOT 22 - 13 B.M. 39  
CITY OF ELK GROVE  
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

LEGEND:

P.O.B. POINT OF BEGINNING  
R.O.W. RIGHT-OF-WAY



FOUND NAIL & SHINER NOT  
OF RECORD FITS 13 B.M. 39  
AND 86 P.M. 24 ACCEPTED  
AS SECTION CORNER PER  
322 B.M. 1.

SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1" = 200'

**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

EXHIBIT A

DESCRIPTION FOR  
PUBLIC UTILITY EASEMENT

All that certain real property situate in the Southeast One-Quarter of Section 8, Township 6 North, Range 5 East, Mount Diablo Meridian, County of Sacramento, State of California, and being further described as being a portion of the Lot 22 as shown on that certain map entitled "Franklin Farms Subdivision No. 1" filed in Book 13 of Maps, at Page 39, Sacramento County Records, and being further described as follows:

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Containing 3,990 square feet of land, more or less.

Basis of Bearings is California State Plane coordinate System, Zone 2, NAD'83 as measured between Stations Eschinger and Keller and is North 20°56'36" West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

This legal description was prepared by me or under my direct supervision pursuant to Section 8729 (2) of the Professional Land Surveyors Act.



Craig E. Spiess P.L.S. 7944  
Expires December 31, 2005

Date: 12/12/03



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SACRAMENTO, CALIFORNIA

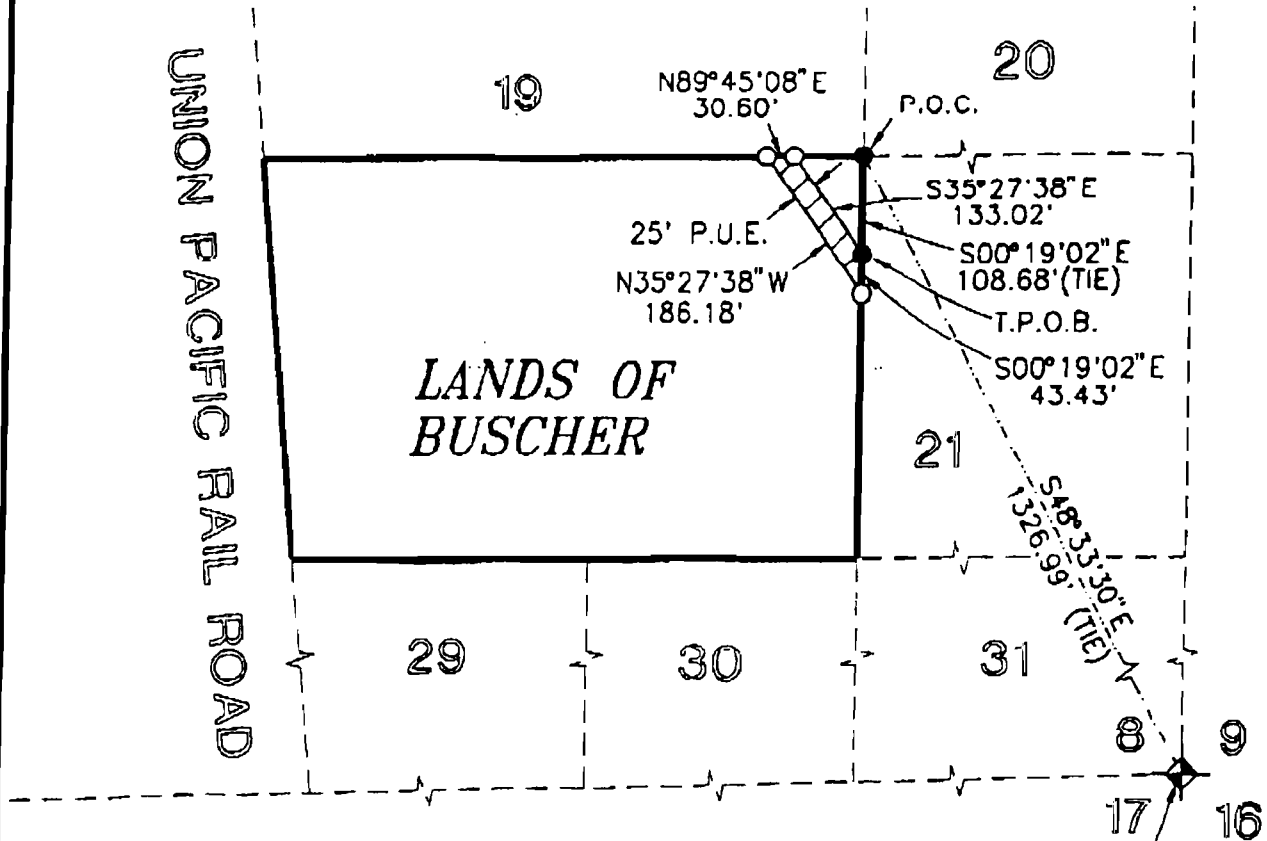
**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

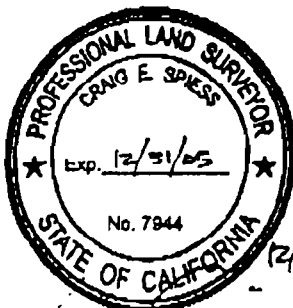
LANDS OF BUSCHER  
PUBLIC UTILITY EASEMENT  
A PORTION OF LOT 22 - 13 B.M. 39  
CITY OF ELK GROVE  
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

LEGEND:

P.U.E. PUBLIC UTILITY EASEMENT  
P.O.C. POINT OF COMMENCEMENT  
T.P.O.B. TRUE POINT OF BEGINNING



FOUND NAIL & SHINER NOT  
OF RECORD FITS 13 B.M. 39  
AND 86 P.M. 24 ACCEPTED  
AS SECTION CORNER PER  
322 B.M. 1.



*[Handwritten signature]*  
12/12/03



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'



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Sacramento, CA 95818    Fax 916.341.7767

**EXHIBIT A**

**DESCRIPTION FOR  
LANDSCAPE EASEMENT**

All that certain real property situate in the Southeast One-Quarter of Section 8, Township 6 North, Range 5 East, Mount Diablo Meridian, County of Sacramento, State of California, and being further described as being a portion of the Lot 22 as shown on that certain map entitled "Franklin Farms Subdivision No. 1" filed in Book 13 of Maps, at Page 39, Sacramento County Records, and being further described as follows:


Commencing at the Northeast corner of said Lot 22, from which a found nail and shiner accepted as the Southeast corner of said Section 8 as shown on that certain Final Map entitled "ELK GROVE MEADOWS UNIT NO. 3A" filed for record in Book 322 of Maps at Page 1, Sacramento County Records bears South 48°33'30" East a distance of 1326.99 feet; thence along the East line said Lot 22, South 00°19'02" East a distance of 108.68 feet to the True Point of Beginning; thence from the TRUE POINT OF BEGINNING along said East line of Lot 22, South 00°19'02" East a distance of 43.43 feet; thence leaving said East line of Lot 22, North 35°27'38" West a distance of 186.18 feet to a point on the North line of said Lot 22; thence along said North line of Lot 22, North 89°45'08" East a distance of 30.60 feet; thence leaving said North line of Lot 22, South 35°27'38" East a distance of 133.02 feet to the True Point of Beginning.

Containing 3,990 square feet of land, more or less.

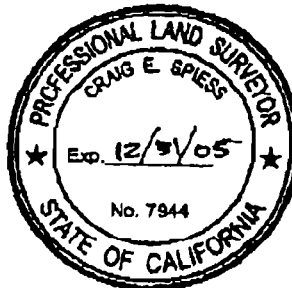
Basis of Bearings is California State Plane coordinate System, Zone 2, NAD'83 as measured between Stations Eschinger and Keller and is North 20°56'36" West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

This legal description was prepared by me or under my direct supervision pursuant to Section 8729 (2) of the Professional Land Surveyors Act.

  
Craig E. Spiess P.L.S. 7944  
Expires December 31, 2005

Date: 12/12/03



PREPARED BY WOOD RODGERS, INC.  
SACRAMENTO, CALIFORNIA



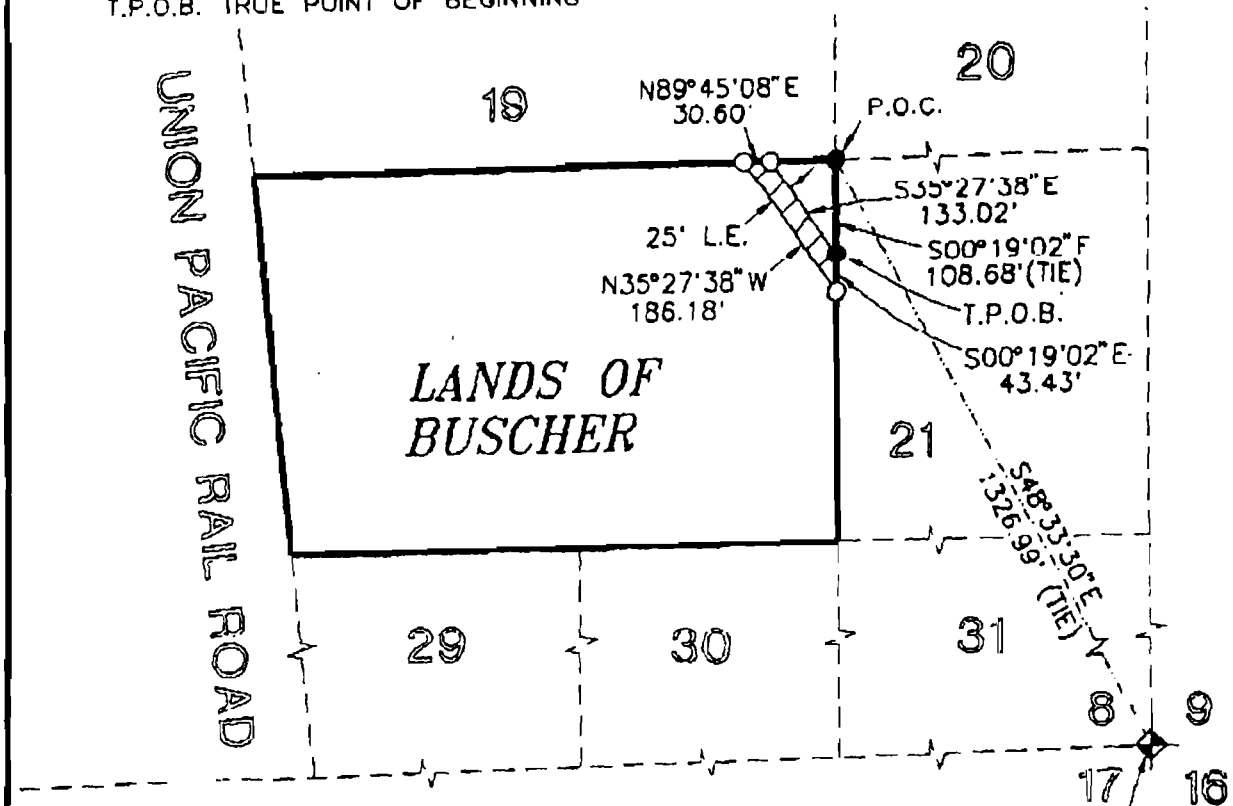
**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

LANDS OF BUSCHER  
LANDSCAPE EASEMENT  
A PORTION OF LOT 22 - 13 B.M. 39  
CITY OF ELK GROVE  
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

LEGEND:

- L.E. LANDSCAPE EASEMENT
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING



FOUND NAIL & SHINER NOT  
OF RECORD FITS 13 B.M. 39  
AND 86 P.M. 24 ACCEPTED  
AS SECTION CORNER PER  
322 B.M. 1.



*[Handwritten Signature]*



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1" = 200'

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Sacramento, CA 95816 Fax 916.341.7767

EXHIBIT A

DESCRIPTION FOR  
PEDESTRIAN EASEMENT

All that certain real property situate in the Southeast One-Quarter of Section 8, Township 6 North, Range 5 East, Mount Diablo Meridian, County of Sacramento, State of California, and being further described as being a portion of the Lot 22 as shown on that certain map entitled "Franklin Farms Subdivision No. 1" filed in Book 13 of Maps, at Page 39, Sacramento County Records, and being further described as follows:

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Containing 3,990 square feet of land, more or less.

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See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.

This legal description was prepared by me or under my direct supervision pursuant to Section 8729 (2) of the Professional Land Surveyors Act.



Craig E. Spiess P.L.S. 7944  
Expires December 31, 2005

Date: 12/12/03



12/12/03

PREPARED BY WOOD RODGERS, INC.  
SACRAMENTO, CALIFORNIA

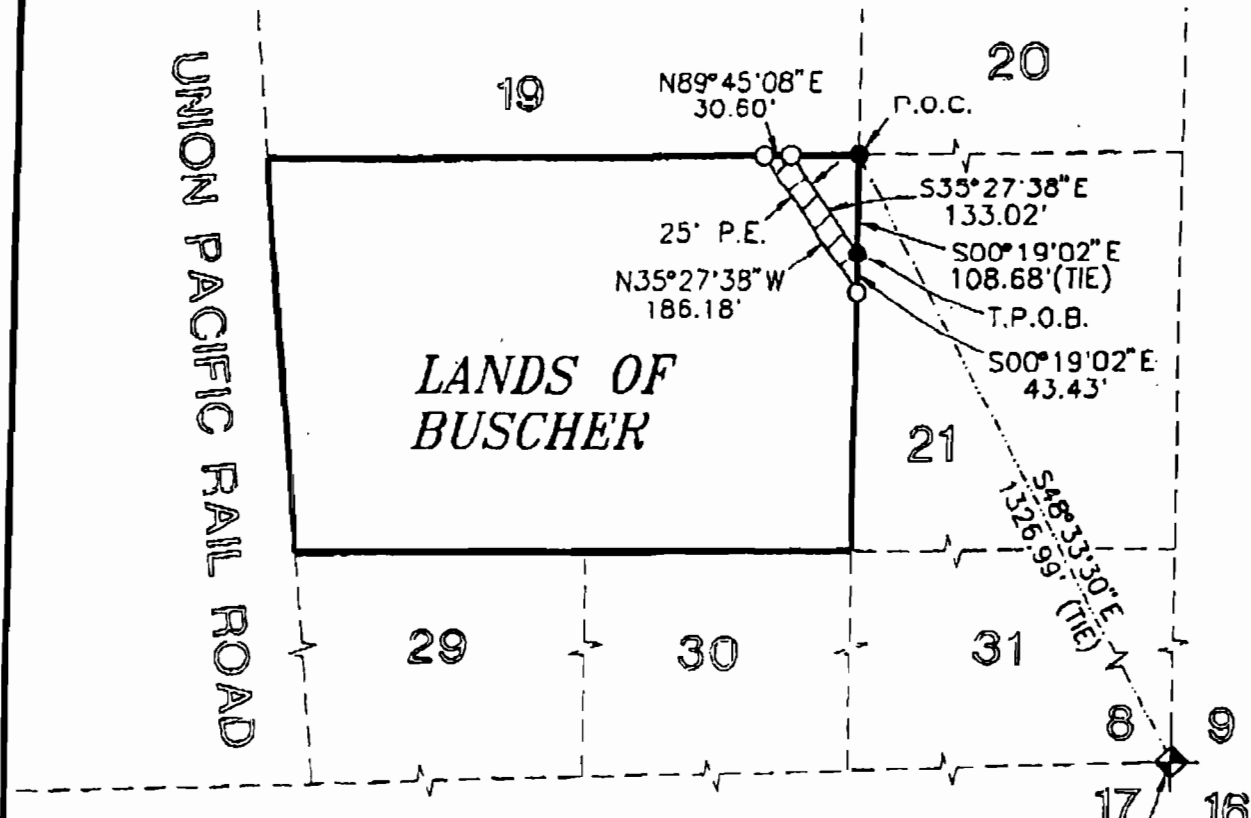
# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION

LANDS OF BUSCHER  
PEDESTRIAN EASEMENT  
A PORTION OF LOT 22 - 13 B.M. 39  
CITY OF ELK GROVE  
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

### LEGEND:

- P.E. PEDESTRIAN EASEMENT
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING



FOUND NAIL & SHINER NOT  
OF RECORD FITS 13 B.M. 39  
AND 86 P.M. 24 ACCEPTED  
AS SECTION CORNER PER  
322 B.M. 1.



12/12/03  
*[Signature]*



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1" = 200'

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Sacramento, CA 95816 Fax 916.341.7787

**EXHIBIT A**

**DESCRIPTION OF  
TEMPORARY CONSTRUCTION EASEMENT**

All that certain real property situate in the Southeast One-Quarter of Section 8, Township 6 North, Range 5 East, Mount Diablo Meridian, City of Elk Grove, County of Sacramento, State of California, and being further described as being a portion of the Lot 22 as shown on that certain map entitled "Franklin Farms Subdivision No. 1" filed in Book 13 of Maps, at Page 39, Sacramento County Records, and being further described as follows:

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Containing 5,319 square feet of land, more or less.

Basis of Bearings is California State Plane coordinate System, Zone 2, NAD'83 as measured between Stations Eschinger and Keller and is North 20°56'36" West.

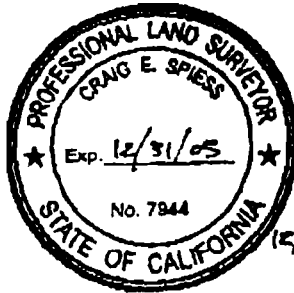
*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

This legal description was prepared by me or under my direct supervision pursuant to Section 8729 (2) of the Professional Land Surveyors Act.



Craig E. Spiess P.L.S. 7944  
Expires December 31, 2005

Date: 12/30/03



12/30/03

PREPARED BY WOOD RODGERS, INC.  
SACRAMENTO, CALIFORNIA

**EXHIBIT A-1**

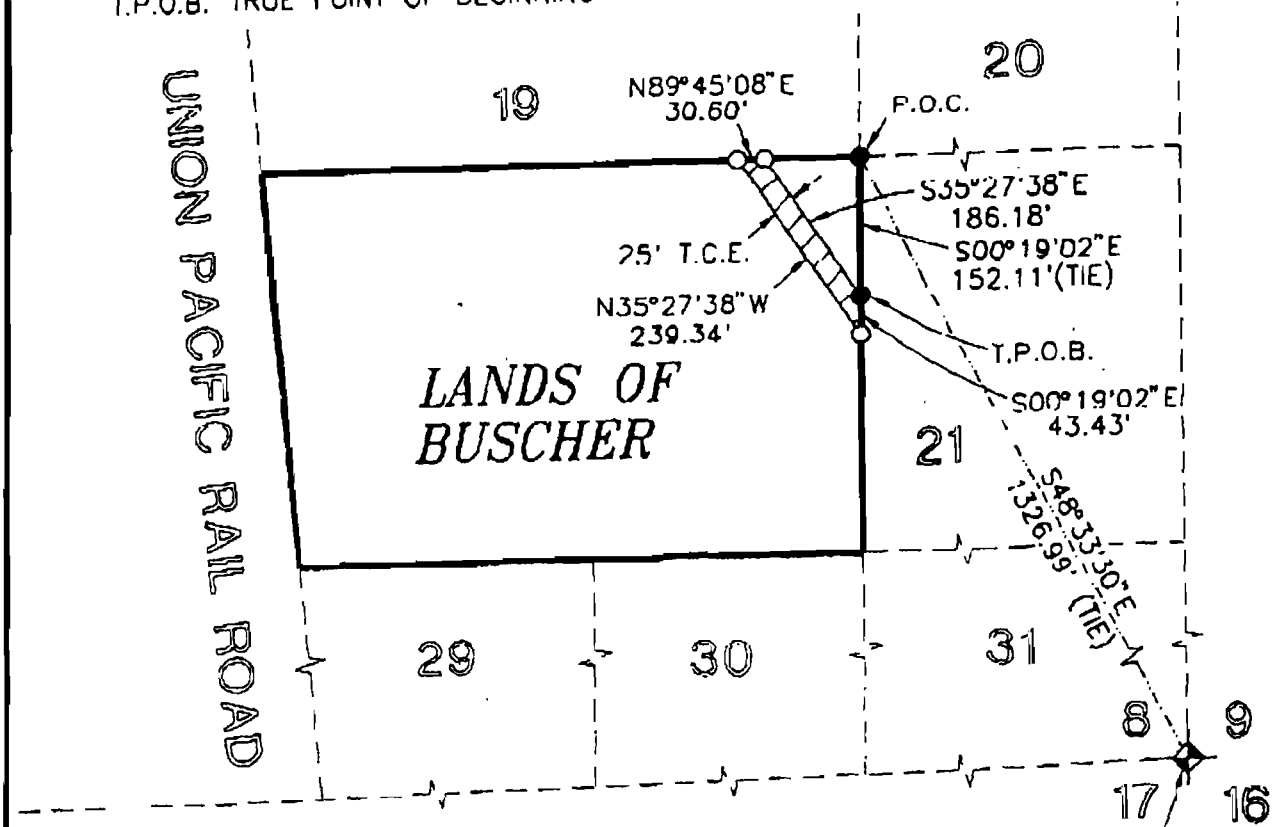
PLAT TO ACCOMPANY  
DESCRIPTION

**LANDS OF BUSCHER  
TEMPORARY CONSTRUCTION EASEMENT  
A PORTION OF LOT 22 - 13 B.M. 39**

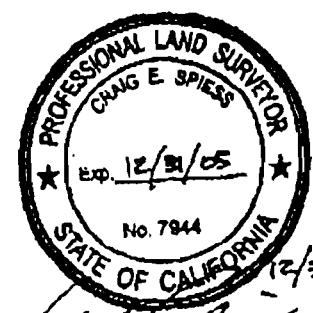
CITY OF ELK GROVE  
COUNTY OF SACRAMENTO STATE OF CALIFORNIA

LEGEND:

- T.C.E. TEMPORARY CONSTRUCTION EASEMENT
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING



FOUND NAIL & SHINER NOT  
OF RECORD FITS 13 B.M. 39  
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AS SECTION CORNER PER  
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*[Handwritten signature]*



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1" = 200'

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Sacramento, CA 95816 Fax 916.341.7767

**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2004-78**

**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 the 21<sup>st</sup> day of April 2004 by the following vote:***

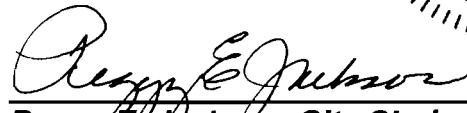
***AYES 5:     COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper, Leary***

***NOES 0:     COUNCILMEMBERS:***

***ABSTAIN 0: COUNCILMEMBERS:***

***ABSENT 0: COUNCILMEMBERS:***



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