

RESOLUTION NO. 2006-329

**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
(SHELDON TERRACE, LLC / APN: 116-0021-036)**

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 116-0021-036; 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.



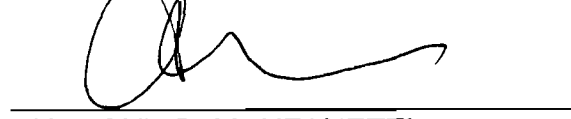
SOPHIA SCHERMAN, MAYOR PRO TEM
of the CITY OF ELK GROVE

ATTEST:



PEGGY 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:

Parcel 2 as shown on that certain Parcel Map entitled "Being a portion of Parcel 2 of 154 P.M. 7", filed in the office of the Recorder of Sacramento County, State of California, on May 8, 2000, in Book 157 of Parcel Maps, page 9 described as follows:

Beginning at the Northwest corner of said Parcel 2 said point also being on the Southerly Right of Way of Sheldon Road; thence along said Right of Way from said **Point of Beginning** South 89°58'52" East 80.94 feet or 24.671 meters; thence leaving said Right of Way and following said Parcel boundary South 00°04'47" West 22.02 feet or 6.712 meters; thence South 80°17'04" East 422.54 feet or 128.790 meters; thence South 08°58'36" East 327.11 feet or 99.703 meters; thence along the arc of a curve to the left having a radius of 525.00 feet or 160.020 meters, a chord bearing South 33°42'44" East 439.35 feet or 133.914 meters; thence South 58°26'51" East 45.33 feet or 13.817 meters; thence South 31°14'38" West 68.72 feet or 20.946 meters; thence leaving said Parcel boundary North 61°25'45" West 36.51 feet or 11.128 meters; thence along the arc of a curve to the right having a radius of 488.54 feet or 148.907 meters, a chord bearing North 34°24'16" West 436.32 feet or 132.991 meters; thence North 07°52'54" West 297.09 feet or 90.553 meters; thence North 18°29'20" West 77.38 feet or 23.585 meters; thence North 82°15'37" West 375.69 feet or 114.511 meters; thence North 72°33'46" West 82.87 feet or 25.259 meters to the Westerly line of said Parcel; thence along said Westerly line North 00°04'25" West 43.85 feet or 13.366 meters to the Southerly Right of Way of Sheldon Road and the **Point of Beginning**, Together with all underlying fee, if any, appurtenant to the above-described parcel.

ACCESS Rights

The grantor hereby releases and relinquishes to the grantee any and all rights of access in and to the State Highway over and across the access control line as shown on the attached exhibit A1. This conveyance is made for the purposes of a freeway and the grantor hereby releases and relinquishes to grantee any and all abutter's rights of access, appurtenant to said access control line across grantor's remaining property, in and to said freeway.

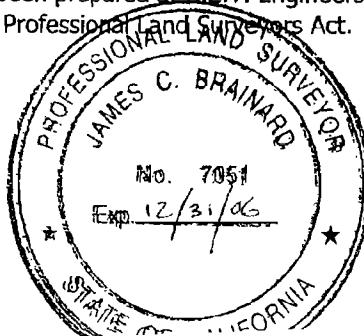
containing 65784.33 square feet or 1.5102 acres; or 6111.589 square meters or 0.611 hectares, more or less.

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: 116-0021-036

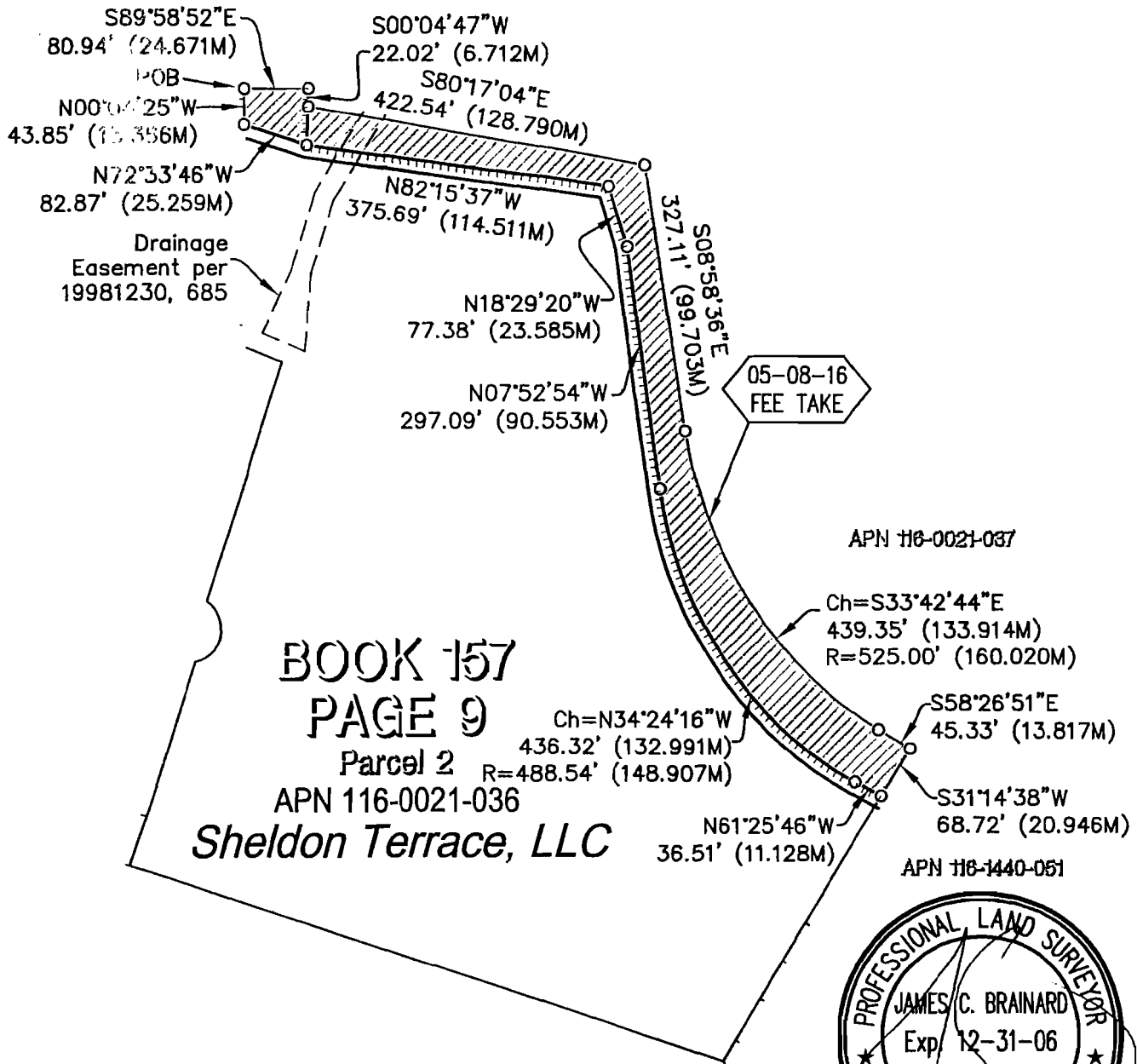
This real property description has been prepared at R.E.Y. Engineers, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

James C. Brainard, PLS 7051



10/25/06
Date

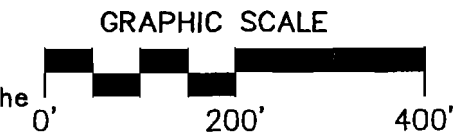
Sheldon Road



PARCEL ACREAGES

ORIGINAL:	15.805
FEE TAKE:	1.510
REMAINDER:	14.295

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

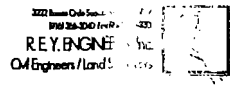


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IN THE CITY OF ELK GROVE
 SACRAMENTO COUNTY, CALIFORNIA
 CITY PARCEL 05-08-16



S:\8010\001 Sheldon Interchange\116-0021-036-TAKE.dwg, 10/23/2006 1:07:32 PM



Scale 1" = 200'
 Date 03-16-06
 Drawn By JCS
 Checked By JCS

PLAT MAP - SHEET 1 OF 1
 Fee Take of 65,784.33+/- sq.ft.
 1.5102+/- acres or 0.611+/- hectares
 APN 116-0021-036



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:

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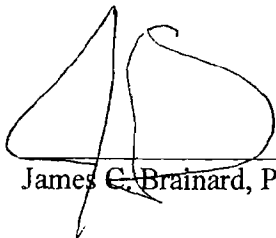
Beginning at the Northwest corner of said Parcel 2 said point also being on the Southerly Right of Way of Sheldon Road; thence along the Westerly line of said Parcel South 00°04'25" East 43.85 feet or 13.366 meters to the **Point of Beginning**; thence from said **Point of Beginning** South 72°33'46" East 82.87 feet or 25.259 meters; thence South 82°15'37" East 375.69 feet or 114.511 meters; thence South 18°29'20" East 77.38 feet or 23.585 meters; thence South 07°52'54" East 297.09 feet or 90.553 meters; thence along the arc of a curve to the left having a radius of 488.54 feet or 148.907 meters, a chord bearing South 34°24'16" East 436.32 feet or 132.991 meters; thence South 61°25'46" East 36.51 feet or 11.128 meters to the Easterly line of said Parcel; thence along said Easterly line South 31°14'38" West 15.02 feet or 4.578 meters; thence leaving said Easterly line North 61°25'46" West 35.87 feet or 10.933 meters; thence along the arc of a curve to the right having a radius of 503.54 feet or 153.479 meters, a chord bearing North 34°24'29" West 449.77 feet or 137.090 meters; thence North 07°52'54" West 295.70 feet or 90.130 meters; thence North 18°29'20" West 66.65 feet or 20.315 meters; thence North 82°15'37" West 367.63 feet or 112.054 meters; thence North 72°33'46" West 79.41 feet or 24.204 meters to the Westerly line of said Parcel; thence along said Westerly line North 00°04'25" West 15.73 feet or 4.795 meters to the **Point of Beginning**,

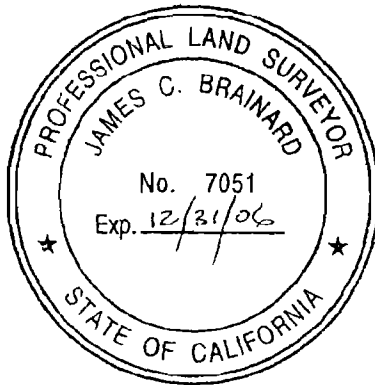
containing 19750.18 square feet or 0.4534 acres; or 1834.859 square meters or 0.183 hectares, more or less.

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.

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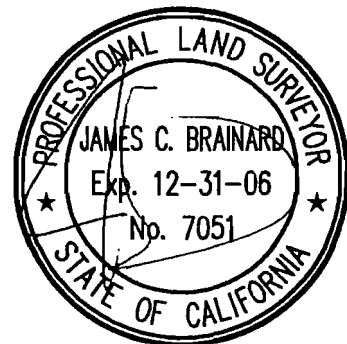
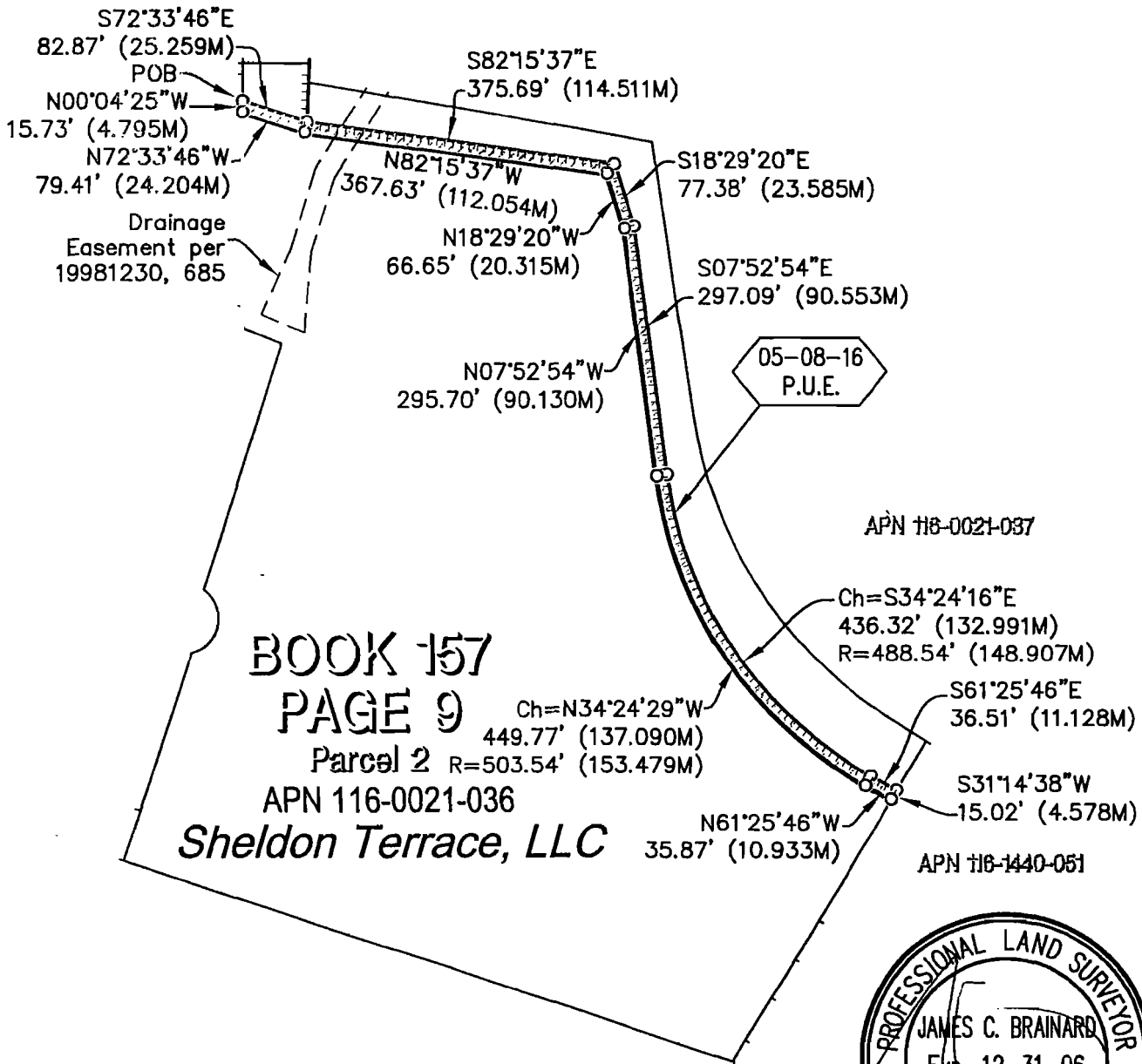
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James C. Brainard, PLS 7051



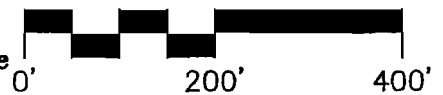
12/25/06
Date

Sheldon Road



|||| = Access Control Line
 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 05-08-16

PLAT MAP - SHEET 1 OF 1
 Public Utility Easement of 19,750.18+/- sq.ft.
 0.4534+/- acres or 0.183+/- hectares
 APN 116-0021-036



Scale 1" = 200'
 Date 02-23-06
 Drawn By KS
 Checked By JLS

EXHIBIT B-3
(Public Utility Easement)

An EASEMENT for PUBLIC UTILITY PURPOSES for the installation, construction, use, 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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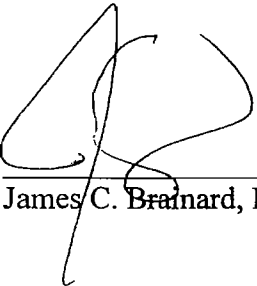
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containing 19750.18 square feet or 0.4534 acres; or 1834.859 square meters or 0.183 hectares, more or less.

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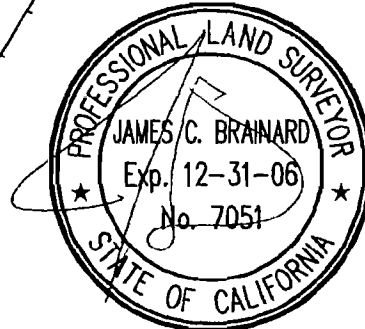
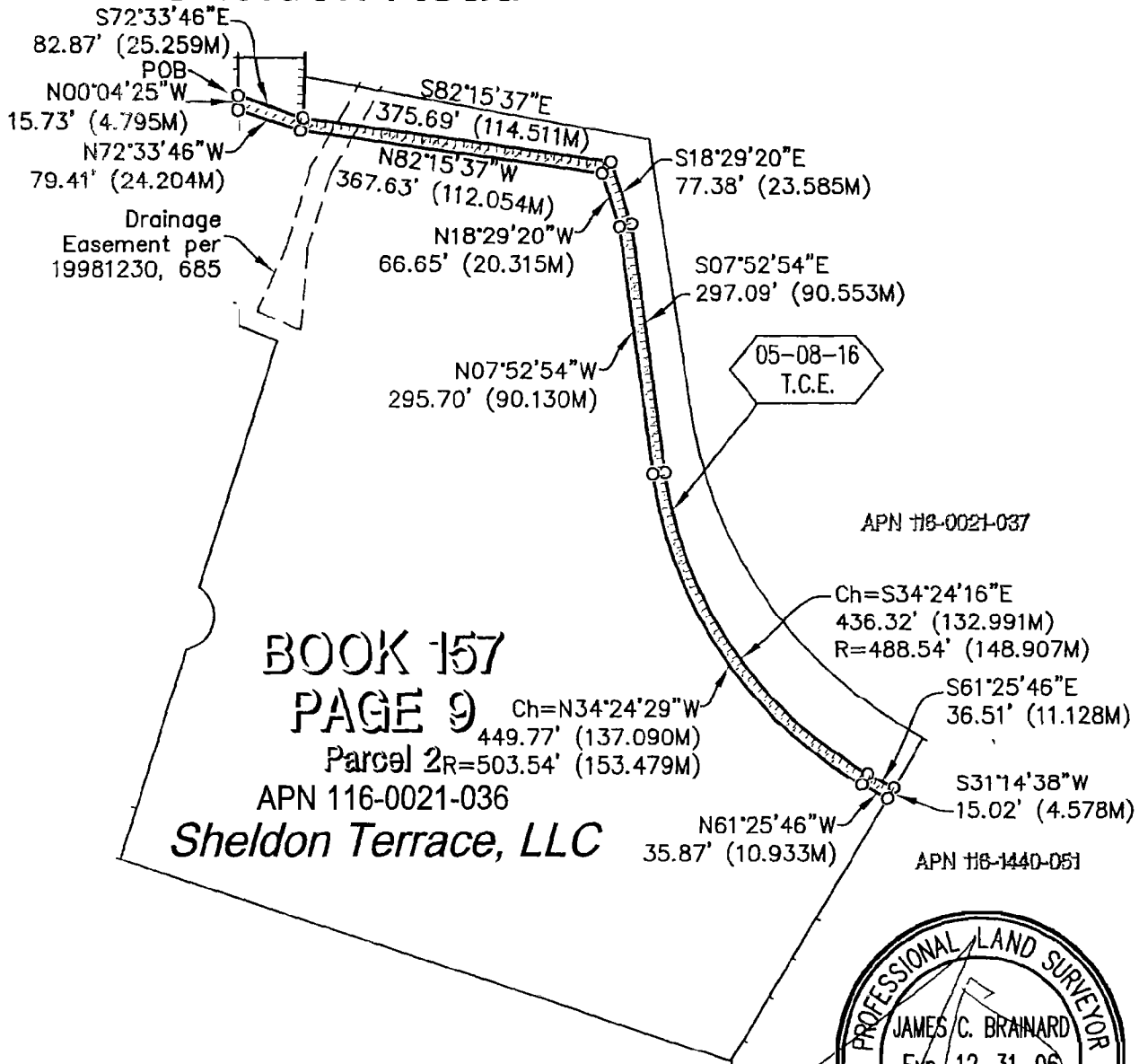
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James C. Brainard, PLS 7051



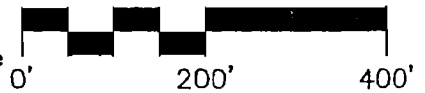
10/25/06
Date

Sheldon Road



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GRAPHIC SCALE



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REYBNK
 04 Engineers / Land Surveyors

IN THE CITY OF ELK GROVE
 SACRAMENTO COUNTY, CALIFORNIA
 CITY PARCEL 05-08-16



Scale 1" = 200'
 Date 02-23-06
 Drawn By K
 Checked By JBS

PLAT MAP - SHEET 1 OF 1
 Temporary Construction Easement of 19,750.18+/- sq.ft.
 0.4534+/- acres or 0.183+/- hectares
 APN 116-0021-036

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. 2006-329**

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:

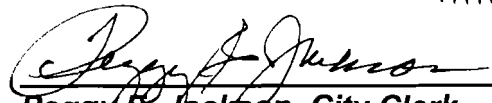
AYES : COUNCILMEMBERS: Scherman, Cooper, Leary, Davis, Hume

NOES : COUNCILMEMBERS: None

ABSTAIN : COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None





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