

RESOLUTION NO. 2013-060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK ACCEPTING GRANT OF EASEMENT FOR RIGHT OF WAY FROM US DEPARTMENT OF INTERIOR, BUREAU OF INDIAN AFFAIRS ON LANDS HELD IN TRUST FOR THE FEDERATED INDIANS OF GRATON RANCHERIA (APN 045-073-001)

WHEREAS, the Department of the Interior, Bureau of Indian Affairs accepted approximately 254 acres of land in Sonoma County in trust for the benefit of the Federated Indians of Graton Rancheria ("Tribe") including Property located along Wilfred Avenue (APN 045-073-001).

WHEREAS, the widening of Wilfred Avenue/Golf Course Drive West is called for in the City and County's general plans.

WHEREAS, the City of Rohnert Park entered into a Joint Exercise of Powers Agreement ("JEPA") with Sonoma County representatives, and the Tribe to facilitate the road widening of Wilfred Avenue (hereinafter Wilfred Avenue Improvement Project).

WHEREAS, the JEPA provides for the Tribe to consent to the grant of a perpetual right of way by the Secretary of the Interior through his authorized representative, the Bureau of Indian Affairs ("BIA") over that portion of the Project area between Labath Avenue and Langner Avenue required for the Wilfred Avenue Improvement project.

WHEREAS, the Tribe has provided its consent for the grant of a perpetual right of way and the BIA has executed the necessary Grant of Easement for Right of Way to the City for and on behalf of the Tribe.

WHEREAS, the City desires to accept the Grant of Easement and Right of Way consistent with the Project.

WHEREAS, the Wilfred Avenue Improvement Project was previously approved by the City pursuant to a Notice of Exemption on September 25, 2012. The City filed a notice of exemption with the County Clerk on September 26, 2012, who posted it that same day through October 29, 2012. The acquisition of a perpetual easement proposed herein was anticipated in the approval of the Wilfred Avenue Improvement Project and is a subsequent action toward implementing said project. Accepting the proposed Grant of Easement of Right of Way does not involve any substantial changes to the Project, nor would such acceptance cause new or more severe environmental impacts. For those reasons, neither the obligation to comply with CEQA nor the statute of limitations on that prior action is re-triggered by this action toward implementing the project.

WHEREAS, this action is exempt from compliance with the provisions of Government Code 65402 because this action involves a real property acquisition for street alignment purposes and is minor in nature.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby resolve, determine, find and order as follow:

Section 1. Acceptance of Grant of Easement and Right of Way. The City Council of the City of Rohnert Park hereby accepts the attached Grant of Easement of Right of Way, in substantially similar form as provided for in the attachment hereto subject to minor modification by the City Attorney, which is incorporated by this reference, from the United States Department of the Interior, Bureau of Indian Affairs, Central California Agency for property located along Wilfred Avenue known as Assessor Parcel Number 045-073-001.

Section 2. Section 65402 Compliance. The acquisition of said property is exempt from compliance with the provisions of Government Code 65402 because this action involves a real property acquisition for street alignment purposes and is minor in nature.

Section 3. Mayoral Authorization. The Mayor of the City of Rohnert Park is hereby authorized and directed to execute the attached certificate of acceptance, in substantially similar form as provided for in the attachment hereto, which is incorporated by this reference, for and on behalf of the City of Rohnert Park.

Section 4. City Clerk Authorization. The City Clerk of the City of Rohnert Park is hereby authorized and directed to cause a certified copy of this resolution to be recorded with the Grant of Easement of Right of Way in the office of the Recorder of the Sonoma County, State of California for and on behalf of the City of Rohnert Park.

DULY AND REGULARLY ADOPTED this 26th day of March, 2013.



CITY OF ROHNERT PARK

Pam Stafford
Pam Stafford, Mayor

ATTEST:

JoAnne Buergler
JoAnne Buergler, City Clerk

Attachments:

- A. Certificate of Acceptance
- B. Grant of Easement and Right of Way with Exhibits (legal description and plat map)

AHANOTU: AYE BELFORTE: AYE MACKENZIE: AYE CALLINAN: AYE STAFFORD: AYE
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)

**RECORDING AT REQUEST OF
AND WHEN RECORDED RETURN TO :**

Attachment A

City of Rohnert Park
City Manager's Office
130 Avram Avenue
Rohnert Park, CA 94928

EXEMPT FROM RECORDER'S FEES
PURSUANT TO GOVERNMENT CODE
SECTIONS 6103 AND 27383

Space Above This Line for Recorder's Use Only

CERTIFICATE OF ACCEPTANCE	
<p>This is to certify that the interest in real property conveyed above is hereby accepted by order of the Council of the City of Rohnert Park pursuant to council Resolution No. _____, dated _____, 20____, and the City consents to recordation thereof by its duly authorized officer.</p> <p>Recording of this document is requested for an on behalf of the City of Rohnert Park pursuant to Section 27383 of the Government Code.</p>	<p>CITY OF ROHNERT PARK A California Municipal Corporation</p> <p>By: _____ Pamela Stafford</p> <p>Title: <u>Mayor</u>_____</p> <p>Date: _____</p>

Attachment B

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

GRANT OF EASEMENT FOR RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America, acting by and through the Department of the Interior, Bureau of Indian Affairs, Central California Agency, 650 Capitol Mall, Suite 8-500; Sacramento, CA for, and on behalf of the Federated Indians of Graton Rancheria a federally recognized tribe, hereinafter referred to as GRANTOR, under authority contained in 209 DM 8 dated November 17, 1981, 230 DM 1 and 3 IAM 4 dated July 19, 2000 and Sacramento Redelegation Order No. 1 (43 FR 30131, July 13, 1978) and pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328); and Part 169, Title 25, *Code of Federal Regulations*, which by reference are made a part hereof, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the City of Rohnert Park, Development Services Department, of 130 Avram Avenue, Rohnert Park, CA 94928, its successors and assigns, hereinafter referred to as GRANTEE, an easement for right-of-way for the following purposes, specifically:

To enter upon the hereinafter described land, grade, level, fill, drain, pave, build, maintain, repair, and rebuild a public road, including incidental purposes consistent therewith, together with such bridges, culverts, ramps, and cuts as may be necessary.

Over the land embraced within a right-of-way situated on the following described lands:

more particularly shown on the attached Exhibit "A" Legal Description for Right of Way and Utility Easement

said right-of-way is limited to and more particularly described as shown on Exhibit B, attached hereto, and made a part hereof.

To have and to hold the said easement and right-of-way unto the GRANTEE and unto its successors and assigns subject to the following provisions:

1. GRANTEE agrees to indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
2. GRANTEE agrees to restore the land to its original condition, as far as is reasonably possible, upon termination or revocation of this easement for any reason. Failing to comply with this stipulation, GRANTEE agrees to bear all expenses and costs incurred by the owner and/or the United States in accomplishing said restoration.
3. GRANTEE agrees to that during the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.
4. GRANTEE agrees to construct and maintain the right-of-way in a workmanlike manner.

5. GRANTEE agrees to clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
6. GRANTEE agrees to take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
7. GRANTEE agrees to do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. GRANTEE agrees to build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. GRANTEE agrees to that upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.
10. GRANTEE agrees at all times to keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. GRANTEE agrees to not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.

This easement is subject to any prior valid existing right or adverse claim and is without limitation as to tenure so long as said easement shall be actually used for the purpose above specified; PROVIDED, that this right-of-way may be terminated in whole or in part by the GRANTOR for any of the following causes upon 30 days written notice, and failure of the GRANTEE within said notice period to correct the basis for termination (25 CFR 169.20):

1. Failure to comply with any term or condition of the Grant, or the applicable regulations.
2. A non-use of the right-of-way for any consecutive two-year period (for the purpose for which it was granted).
3. An abandonment of the right-of-way, as determined by the BIA.

The condition for this easement shall extend to and be binding upon and shall inure to the benefit of the successors and assigns of the GRANTEE.

IN WITNESS WHEREOF, GRANTOR has executed this grant of easement this 7th day of March, 2013.

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
Central California Agency
Sacramento, CA

By: _____


Troy Burdick, Superintendent

ACKNOWLEDGEMENT

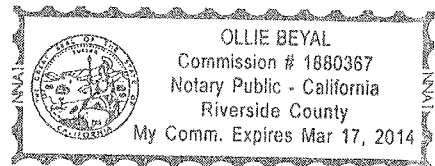
STATE OF CALIFORNIA)

COUNTY OF RIVERSIDE) SS.

On March 7, 2013 before me, Ollie Beyal, Notary Public,
personally appeared Troy Burdick, who proved to me on
the basis of satisfactory evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity,
and that by his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the
person 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: _____

Ollie Beyal

RBF CONSULTING
500 Ygnacio Valley Road, Suite 300
Walnut Creek, California 94596

October 26, 2012
JN: 50-100964
Page 1 of 1

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY AND UTILITY
EASEMENT
APN 045-073-001

That certain parcel of land situated in the County of Sonoma, State of California, being a portion of Lot 106, Santa Rosa Farms No. 2, filed on March 7, 1910 in Book 21 of Maps, at Page 14, in the Office of the County Recorder of said Sonoma County and being a portion of Lot 106 as described in the Grant Deed, from Redwood Equities Investments, L.L.C. to SC Sonoma Development, LLC., recorded on August 11, 2005, in Instrument Number 2005117988 of Official Records, at said County Recorder's Office, more particularly described as follows:

A strip of land 56.50 feet wide, the northerly line of which is described as follows:

BEGINNING at the intersection of the southerly right of way line of Wilfred Avenue and easterly right of way line of Langner Avenue as shown on the Record of Survey filed December 16, 2011 in Book 747 of Maps at Pages 50-53, in said County Recorder's Office;

Thence, easterly along said southerly right of way of Wilfred Avenue, South 89°35'41" East 552.71 feet to the northeast corner of said Lot 106;

Sidelines shall be lengthened or shortened so as to terminate on said easterly right of way of Langner Avenue and the easterly line of said Lot 106.

CONTAINING 31,229 Square Feet, more or less.

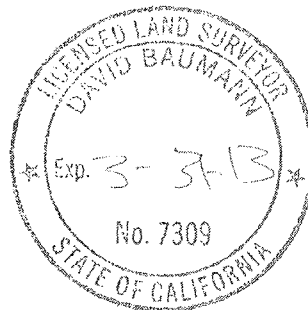
BASIS OF BEARINGS The bearings and distances contained herein are based upon the Record of Survey filed December 16, 2011 in Book 747 of Maps at Pages 50-53, in said County Recorder's Office.

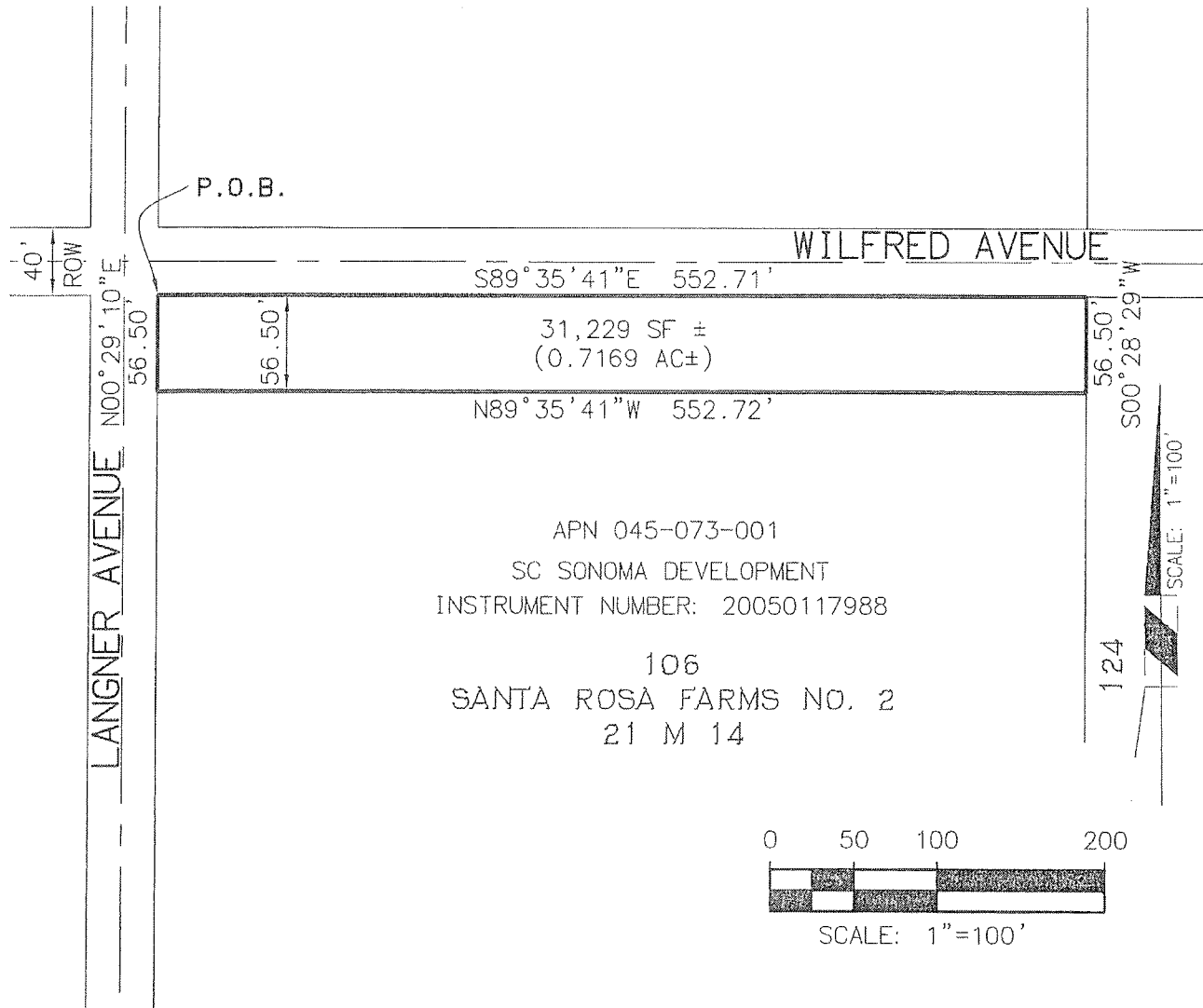
SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached and by this reference made a part hereof.



David Baumann, P.L.S. 7309
License Expires March 31, 2013





APN 045-073-001
 SC SONOMA DEVELOPMENT
 INSTRUMENT NUMBER: 20050117988
 106
 SANTA ROSA FARMS NO. 2
 21 M 14

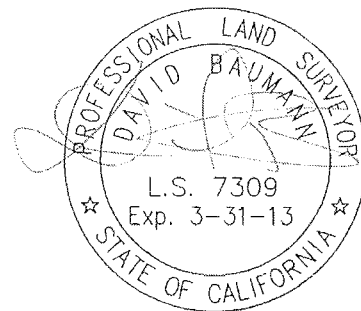
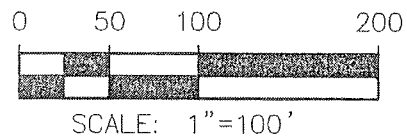


EXHIBIT "B"

SKETCH TO ACCOMPANY A
 LEGAL DESCRIPTION FOR
 WILFRED AVENUE
 RIGHT OF WAY
 CITY OF ROHNERT PARK
 COUNTY OF SONOMA
 STATE OF CALIFORNIA



500 YGNACIO VALLEY ROAD, SUITE 500
 WALNUT CREEK, CALIFORNIA 94596-3847
 925.908.1460 • FAX 925.908.1465 • www.RBF.com

SHEET 1 OF 1

OCTOBER 26, 2012

JOB NO. 50-100964

H:\DATA\50100964\CADD\MAPPING\EXHIBITS\WILFRED AVE\WILFRED EX09.DWG JERRY MILLER 1/11/13 9:20 am

RBF CONSULTING
500 Ygnacio Valley Road, Suite 300
Walnut Creek, California 94596

October 26, 2012
JN: 50-100964
Page 1 of 2

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY AND UTILITY
EASEMENT
APN 045-073-001

That certain parcel of land situated in the County of Sonoma, State of California, being a portion of Lot 124, Santa Rosa Farms No. 2, filed on March 7, 1910 in Book 21 of Maps, at Page 14, in the Office of the County Recorder of said Sonoma County and being a portion of Lot 124 as described in the Grant Deed, from Redwood Equities Investments, L.L.C. to SC Sonoma Development, LLC., recorded on August 11, 2005, in Instrument Number: 2005117988 of Official Records, at said County Recorder's Office, more particularly described as follows:

BEGINNING at the intersection of the southerly right of way line of Wilfred Avenue with easterly line of Lot 106 as shown on the Record of Survey filed December 16, in Book 747 of Maps at Pages 50-53, in said County Recorder's Office;

Thence, easterly along said southerly right of way of Wilfred Avenue, South 89°35'41" East 572.71 feet to the centerline of Labath Avenue as shown on said Record of Survey (747 M 50);

Thence, southerly along the said centerline South 00°27'48" West 69.57 feet;

Thence, westerly and leaving said centerline North 89°32'12" West 36.39 feet;

Thence, northwesterly North 37°47'26" West 16.58 feet;

Thence, westerly and parallel with said southerly right of way of Wilfred Avenue, North 89°35'41" West 526.07 feet to said easterly line of said Lot 106;

Thence, northerly and along said easterly line North 00°28'29" East 56.50 feet to the **POINT OF BEGINNING**.

CONTAINING 32,900 Square Feet, more or less.

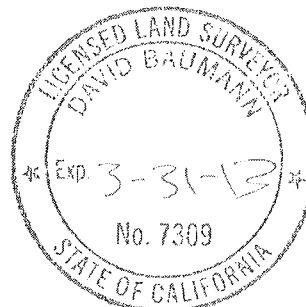
BASIS OF BEARINGS The bearings and distances contained herein are based upon the Record of Survey filed December 16, 2011 in Book 747 of Maps at Pages 50-53, in said County Recorder's Office.

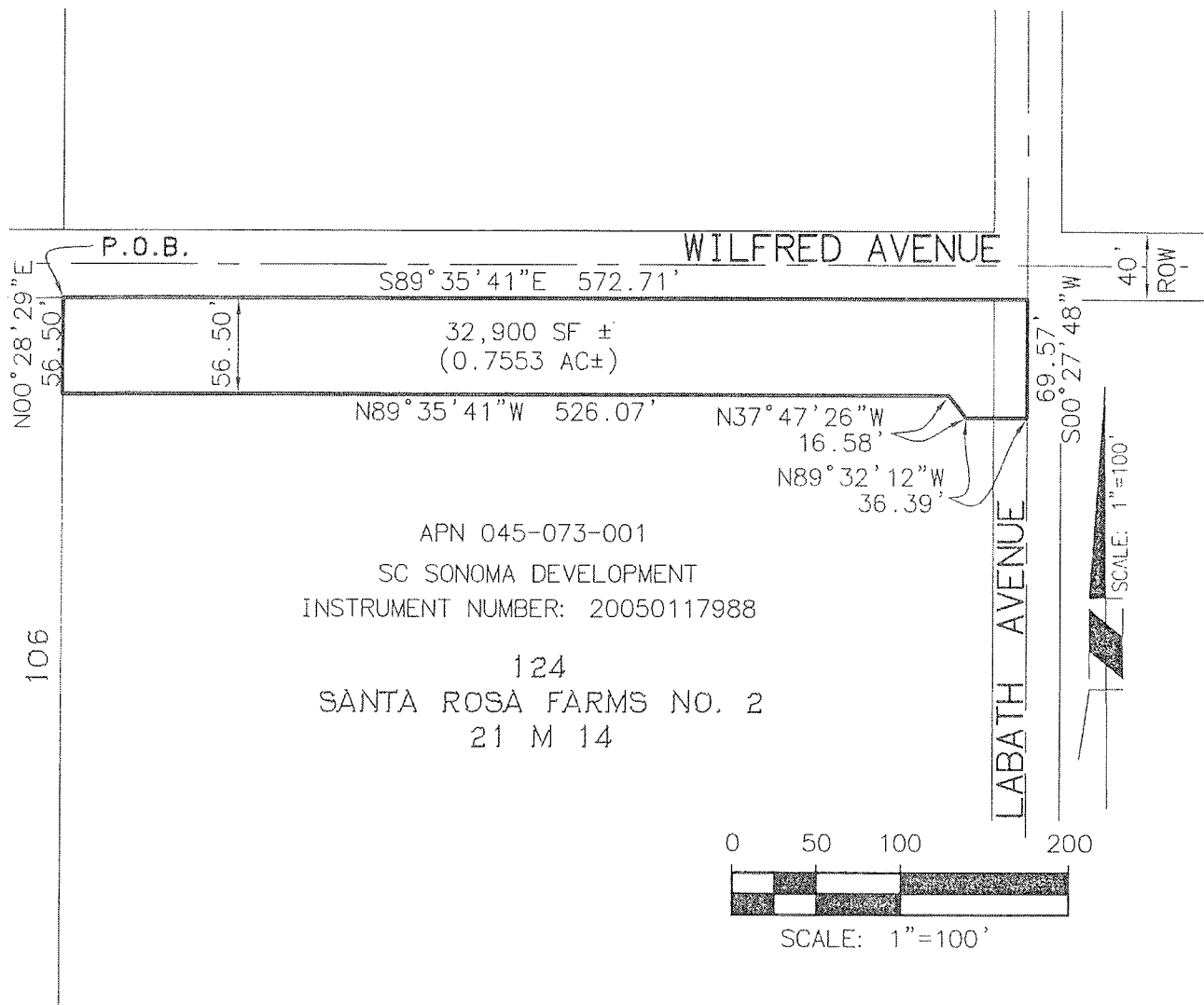
SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached and by this reference made a part hereof.



David Baumann, P.L.S. 7309
License Expires March 31, 2013





APN 045-073-001
 SC SONOMA DEVELOPMENT
 INSTRUMENT NUMBER: 20050117988
 124
 SANTA ROSA FARMS NO. 2
 21 M 14

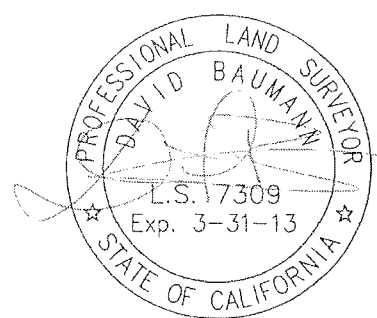


EXHIBIT "B"

SKETCH TO ACCOMPANY A
 LEGAL DESCRIPTION FOR
 WILFRED AVENUE
 RIGHT OF WAY
 CITY OF ROHNERT PARK
 COUNTY OF SONOMA
 STATE OF CALIFORNIA



500 YGNACIO VALLEY ROAD, SUITE 300
 WALNUT CREEK, CALIFORNIA 94596-3847
 925.906.1460 • FAX 925.906.1465 • www.RBF.com

SHEET 1 OF 1

OCTOBER 26, 2012

JOB NO. 50-100964

H:\PDATA\50100964\CADD\MAPPING\EXHIBITS\WILFRED AVE\WILFRED EX10.DWG JERRY MILLER 1/11/13 9:21 am

RIGHT OF WAY AND UTILITY EASEMENT
PORTION OF LOTS 106 AND 124 OF THE SANTA ROSA FARMS NO. 2
COUNTY OF SONOMA, STATE OF CALIFORNIA

PARCEL 1
 A CERTAIN TRACT OF LAND LOCATED IN THE COUNTY OF SONOMA,
 STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:
 SITUED IN THE SEQUOIA TRACT, AS SHOWN ON MAP NO. 10,000,
 NO. 2, FILED IN MAPS 7, 1910 IN BOOK 27 OF MAPS, AT PAGE 14,
 THE TITLE OF THE CERTIFICATE OF SAID SEQUOIA TRACT, AND BEING
 MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 BEING THE EAST HALF OF THE EAST HALF OF THE EAST HALF OF THE
 EQUITIES INSEPARABLY JOINED TO THE SEQUOIA TRACT, AS RETURNED
 AND RECORDED IN BOOK 11, PAGE 1, IN INSTRUMENT NUMBER 205177980 OF
 OFFICIAL RECORDS, AT SAID COUNTY RECORDER'S OFFICE, MORE
 PARTICULARLY DESCRIBED AT SAID COUNTY RECORDER'S OFFICE, MORE
 PARTICULARLY DESCRIBED AS FOLLOWS:
 A STRIP OF LAND 50.00 FEET WIDE, THE NORTHERLY LINE OF WHICH IS
 BEGINNING AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE
 OF WILBURD AVENUE, AND EASTERLY RIGHT OF WAY LINE OF LAMAR
 AVENUE, AS SHOWN ON THE RECORD OF SURVEY FILED DECEMBER 16, 2011
 IN BOOK 47, OF MAPS AT PAGE 50-53, IN SAID COUNTY RECORDER'S
 OFFICE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRUCK, NORTHERLY AND ALONG SAID FACILITY LINE NORTH 047°28'29"
EAST 59.50 FEET TO THE POINT OF BEGINNING.

SURVEYOR'S STATEMENT

THIS EXHIBIT WAS PREPARED BY MR. ORLANDER AT DIRECTION FROM J. J. HANLEY, ATTORNEY GENERAL, IN JANUARY 2014 FOR THE BUREAU OF INDIAN AFFAIRS.

215913

DAVID RAYMOND, 2nd Floor, 1000
LAWSON

ROB
W D M
CONSULTING
A Division of

ACKNOWLEDGMENT

DATE OF COMPLETION: 01/01/2013
 NAME OF COMPANY: J. J. COSTA
 CO. NO.: 1111
 PERSONNEL APPEARED: DAVID BALMAIN AND J. J. COSTA
 INSTRUMENT NO.: 10184

SECRET

PRINT NAME JOHN VELETTA

MY COMMISSION # 10265-2

MY COMMISSION EXPIRES 3/31/11

SECURITY OR PRINCIPAL, PLACE OF BUSINESS "LOWE'S" JUCHA "LOWE'S"

100