

RESOLUTION NO. ____-2023

A RESOLUTION OF THE FORT BRAGG CITY COUNCIL DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS FOR A PUBLIC PROJECT AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

(Applicable to Property: APNs 019-630-05, 019-640-01, 019-640-04)

The City Council of the City of Fort Bragg does hereby resolve as follows:

SECTION 1. The City Council of the City of Fort Bragg (hereafter "City"), after consideration of the staff report, staff presentation, discussion, oral testimony and evidence presented at the **June 12, 2023**, meeting of the City Council hereby finds, determines and declares as follows:

(a) The public interest, convenience and necessity require the proposed project; to wit, to construct a section of a primary water transmission line that delivers raw water from sources at Waterfall Gulch, Newman Reservoir, and Summers Lane Reservoir to the City's water treatment plant and all uses appurtenant thereto ("Project"); and

(b) The interests in real property to be acquired are located within the City of Fort Bragg, County of Mendocino, State of California and consist of the following:

A non-exclusive permanent subsurface easement, 1.65 acres (71,993 s.f.) in size, to survey, install, construct, reconstruct, alter, operate, remove, replace, inspect, repair, and maintain underground pipeline(s) for water and storm water (collectively, the "Facilities") in, under, across, and along that certain real property located in the County of Mendocino, State of California, described in Exhibit A and depicted in Exhibit B attached hereto ("Permanent Easement").

The Permanent Easement described herein shall be subject to the following terms and conditions set forth in Exhibit C attached hereto.

(c) The Project is planned and located in a manner that will be most compatible with the greatest public good and least private injury.

(d) The taking of the Permanent Easement is necessary for the proposed Project and such taking is authorized by Section 19, Article I of the California Constitution, Section 37350.5 and 38730 of the California Government Code, Sections 1230.010 et seq. 1240.010 of the California Code of Civil Procedure, Section 14.04.010 et seq. of the Fort Bragg Municipal Code and other applicable law.

(e) Because the Permanent Easement is being acquired for construction, reconstruction, alteration, enlargement, maintenance, renewal, repair, or replacement of subsurface waterlines

or appurtenances, per Government Code 7267, the provisions of subdivision (b) of Section 7267.1 and Section 7267.2 do not apply to the acquisition of the Permanent Easement.

(f) The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure Section 1245.235.

(g) The City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the “right to take”) to acquire the Permanent Easement described herein.

(h) The City has fully complied with all the provisions of California’s Environmental Quality Act in regard to the proposed Project.

SECTION 3. The City Council further finds that if any portion of the area of the Permanent Easement has been appropriated to some public use, the public uses to which it is to be applied by the City, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure Section 1240.610 or, alternatively, will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future, pursuant to Code of Civil Procedure Section 1240.510.

SECTION 4. The firm of Burke, Williams & Sorensen LLP, under the direction of the City Attorney, is authorized and directed to prepare, institute and prosecute in the name of the City such proceedings in the proper Court having jurisdiction thereof as may be necessary for the acquisition of said Permanent Easement, including the filing of an application for an Order for Possession prior to judgment.

SECTION 5. This Resolution shall be effective immediately upon its adoption.

SECTION 6. The City Clerk shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FORT BRAGG THIS 12th DAY OF JUNE 2023 BY THE FOLLOWING VOTE:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**Bernie Norvell
Mayor**

ATTEST:

**Cristal Muñoz
Acting City Clerk**

EXHIBIT 'A'
20' WATER LINE EASEMENT

Lying within the unincorporated area of County of Mendocino, State of California, and being a portion of the lands of Redwood Timber Company LLC, a Delaware limited liability company, as shown on that Co-Tenancy Agreement recorded under Document Number 2022-02810, Official Records of Mendocino County, said Redwood Timber Company LLC was formerly known and appears of record as Lyme Redwood Timberlands LLC, a Delaware limited liability company, as to an undivided 75.00000% interest; RJS TIC HTC, LLC, a California limited liability company, as to an undivided 0.78346% interest; PV TIC HTC, LLC, a California limited liability company, as to an undivided 3.40448% interest; and RMB TIC HTC, LLC, a California limited liability company, as to an undivided 20.81206% interest, as described by Grant Deed recorded under Document Number 2015-18090, Official Records of Mendocino County, said portion is more particularly described as follows:

Being all that portion of said lands of Redwood Timber Company LLC et al. lying within a strip of land, 20 feet in width, and lying 10 feet on each side of an underground water pipeline, the centerline of which is more particularly described as follows:

COMMENCING at a 1-inch iron pipe, not tagged, marking the easterly common corner of said lands of Redwood Timber Company LLC et al. and the lands of Don H. Celeri and Julia C. Celeri, Trustees of The Don H. Celeri and Julia C. Celeri Revocable Living Trust, as described by Grant Deed recorded under Document Number 1998-14070, Official Records of Mendocino County, and marking the common corner of Sections 8, 9, 16 and 17, Township 18 North, Range 17 West, Mount Diablo Base and Meridian as shown on that Record of Survey filed in Drawer 82 of Maps at Page 66, Mendocino County Records, from which a 1-inch rebar and cap stamped "LS 3184" as shown on said Record of Survey bears North 78°36'46" West 1345.06 feet; thence along the easterly boundary of said lands of Celeri Trust, South 1°37'31" West 409.30 feet; thence leaving said easterly boundary, North 74°58'04" West 4.35 feet; thence North 7°28'04" West 151.70 feet; thence North 6°49'26" East 107.35 feet; thence North 18°57'35" East 52.47 feet; thence North 7°54'51" East 53.83 feet; thence North 65°11'42" West 131.84 feet; thence North 76°59'23" West 130.62 feet; thence North 80°17'45" West 97.94 feet; thence North 54°14'13" West 37.23 feet to common boundary of said lands of Redwood Timber Company LLC et al. and said lands of Celeri Trust, and the POINT OF BEGINNING of the herein described centerline of said pipeline, from which said 1-inch rebar bears North 78°36'46" West 965.58 feet; thence leaving said common boundary the following courses:

North 54°14'13" West 52.68 feet;
thence North 59°34'07" West 88.80 feet;
thence North 69°06'28" West 102.70 feet;
thence South 87°42'51" West 50.31 feet;
thence North 83°25'16" West 105.69 feet;
thence North 71°21'09" West 108.39 feet;
thence North 75°51'19" West 68.05 feet;
thence North 58°49'20" West 142.83 feet;
thence North 45°40'28" West 107.30 feet;

Cinquini & Passarino, Inc.
1360 North Dutton Avenue, Suite 150
Santa Rosa, CA 95401

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CPI No.: 8466-19
Tel: (707) 542-6268 Fax: (707) 542-2106
www.cinquinipassarino.com

EXHIBIT 'A'
20' WATER LINE EASEMENT

thence North 63°54'49" West 76.83 feet;
thence North 32°33'54" West 54.12 feet;
thence North 37°57'00" West 160.08 feet;
thence North 56°15'41" West 101.35 feet;
thence North 31°47'21" West 202.07 feet;
thence North 44°33'52" West 70.35 feet;
thence North 33°56'28" West 61.76 feet;
thence North 10°20'25" East 41.43 feet;
thence North 5°27'13" East 51.02 feet;
thence North 36°34'39" West 52.16 feet;
thence North 29°20'17" West 72.83 feet;
thence North 11°33'23" West 76.84 feet;
thence North 36°44'08" West 26.66 feet;
thence North 18°20'21" West 30.95 feet;
thence North 7°23'46" East 76.65 feet;
thence North 30°45'06" West 138.10 feet;
thence North 17°26'29" West 73.57 feet, from which a 3/4-inch rebar and cap stamped "PLS 5940" marking the northeast corner of the lands of Templer as shown on said Record of Survey bears South 76°40'05" West 108.45 feet;
thence North 4°09'27" West 19.44 feet;
thence North 26°19'36" West 78.07 feet;
thence North 46°08'38" West 82.08 feet;
thence North 55°14'52" West 39.73 feet;
thence North 85°01'21" West 60.93 feet;
thence North 77°33'02" West 54.77 feet;
thence North 46°51'02" West 144.07 feet;
thence South 83°10'57" West 81.45 feet;
thence North 31°41'18" West 46.79 feet;
thence along a non-tangent curve to the right, the radius point of which bears South 31°41'18" East 372.00 feet, through a central angle of 17°26'08", for a length of 113.20 feet;
thence North 75°44'50" East 36.32 feet;
thence North 86°38'31" East 52.68 feet;
thence South 79°00'08" East 132.16 feet;
thence along a curve to the left having a radius of 188.00 feet, through a central angle of 62°31'01", for a length of 205.13 feet;
thence North 56°37'30" East 15.40 feet;
thence North 30°40'51" East 50.19 feet;
thence North 4°44'12" East 11.43 feet;
thence North 30°40'51" East 26.06 feet;
thence North 22°39'32" East 65.63 feet;
thence along a curve to the left having a radius of 133.00 feet, through a central angle of 17°31'09", for a length of 40.67 feet;
thence North 40°55'12" East 4.00 feet;

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EXHIBIT 'A'
20' WATER LINE EASEMENT

thence North 49°04'48" West 48.00 feet to the TERMINUS of the herein described centerline of said pipeline.

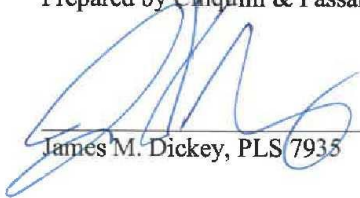
The northerly and southerly lines of said strip at the POINT OF BEGINNING shall be lengthened or shortened to terminate at the common boundary of said lands of Redwood Timber Company LLC et al. and said lands of Celeri Trust.

Containing 71,993 square feet (1.65 acres), more or less.

END OF DESCRIPTION

Being a portion of APN 019-630-05-00, 019-640-01-00 & -04-00

Prepared by Cinquini & Passarino, Inc.


James M. Dickey, PLS 7935



4/14/2023
Date

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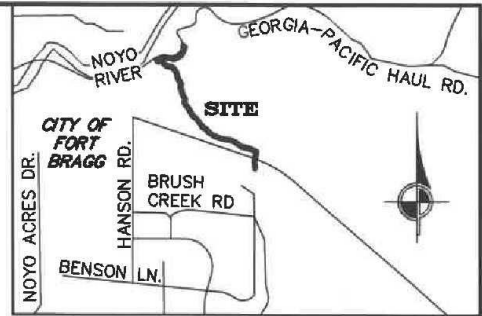
CPI No.: 8466-19
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EXHIBIT 'B'

THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS SHALL NOT AFFECT THE LEGAL DESCRIPTION.

LEGEND

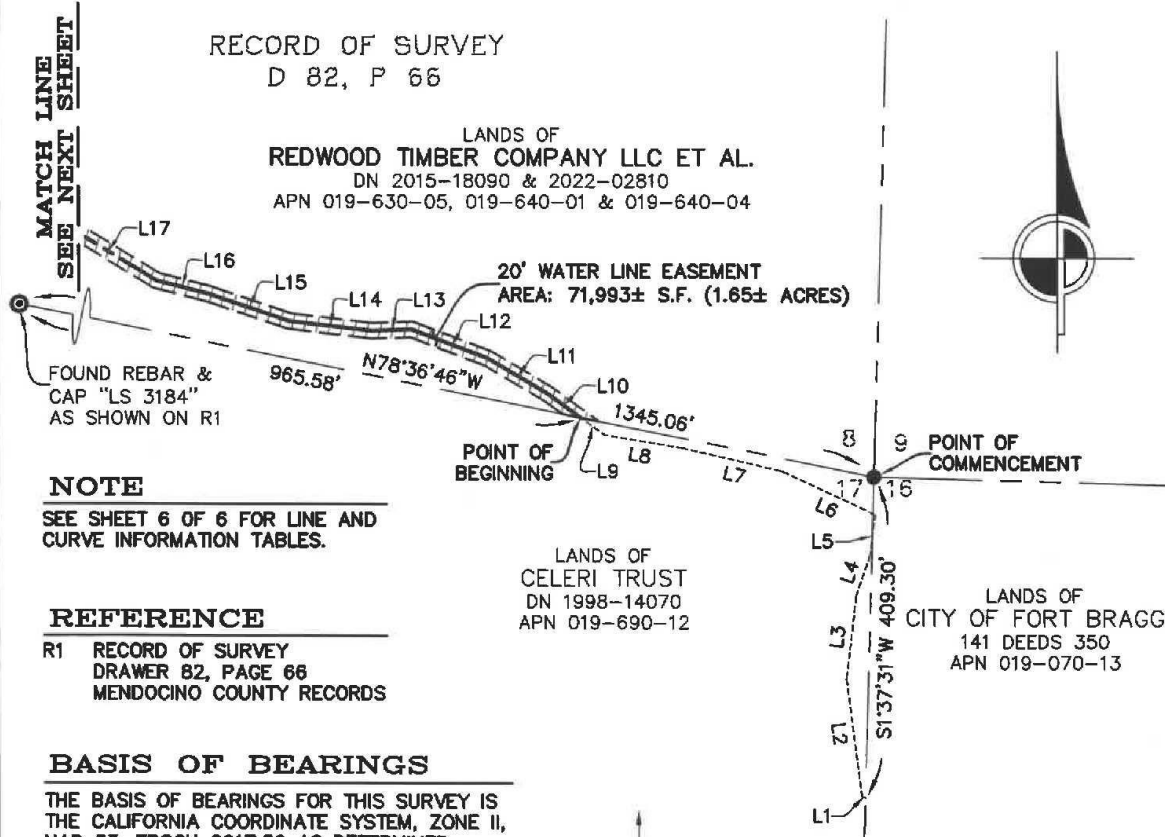
- ADJACENT PROPERTY BOUNDARY
- - - EASEMENT CENTERLINE
- SURVEY TIE
- ▨▨▨▨▨▨▨▨▨▨ WATER LINE EASEMENT AREA
- FOUND 1" IRON PIPE AS SHOWN ON R1, NO TAG
- ⊙ FOUND REBAR & CAP AS NOTED
- S.F. SQUARE FEET
- DN DOCUMENT NUMBER



SITE MAP
NO SCALE

RECORD OF SURVEY
D 82, P 66

LANDS OF
REDWOOD TIMBER COMPANY LLC ET AL.
DN 2015-18090 & 2022-02810
APN 019-630-05, 019-640-01 & 019-640-04



NOTE

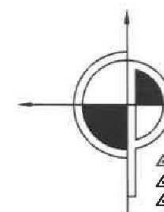
SEE SHEET 6 OF 6 FOR LINE AND CURVE INFORMATION TABLES.

REFERENCE

R1 RECORD OF SURVEY
DRAWER 82, PAGE 66
MENDOCINO COUNTY RECORDS

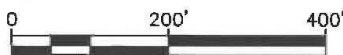
BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83, EPOCH 2017.50 AS DETERMINED LOCALLY BY A LINE BETWEEN CONTINUOUS GLOBAL POSITIONING SYSTEMS (CGPS) STATION P184 AND STATION P312; BEING NORTH 02°12'53" EAST AS DERIVED FROM GEODETIC VALUES PUBLISHED BY THE CALIFORNIA SPATIAL REFERENCE CENTER (CSRC).



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 - △ CONSTRUCTION
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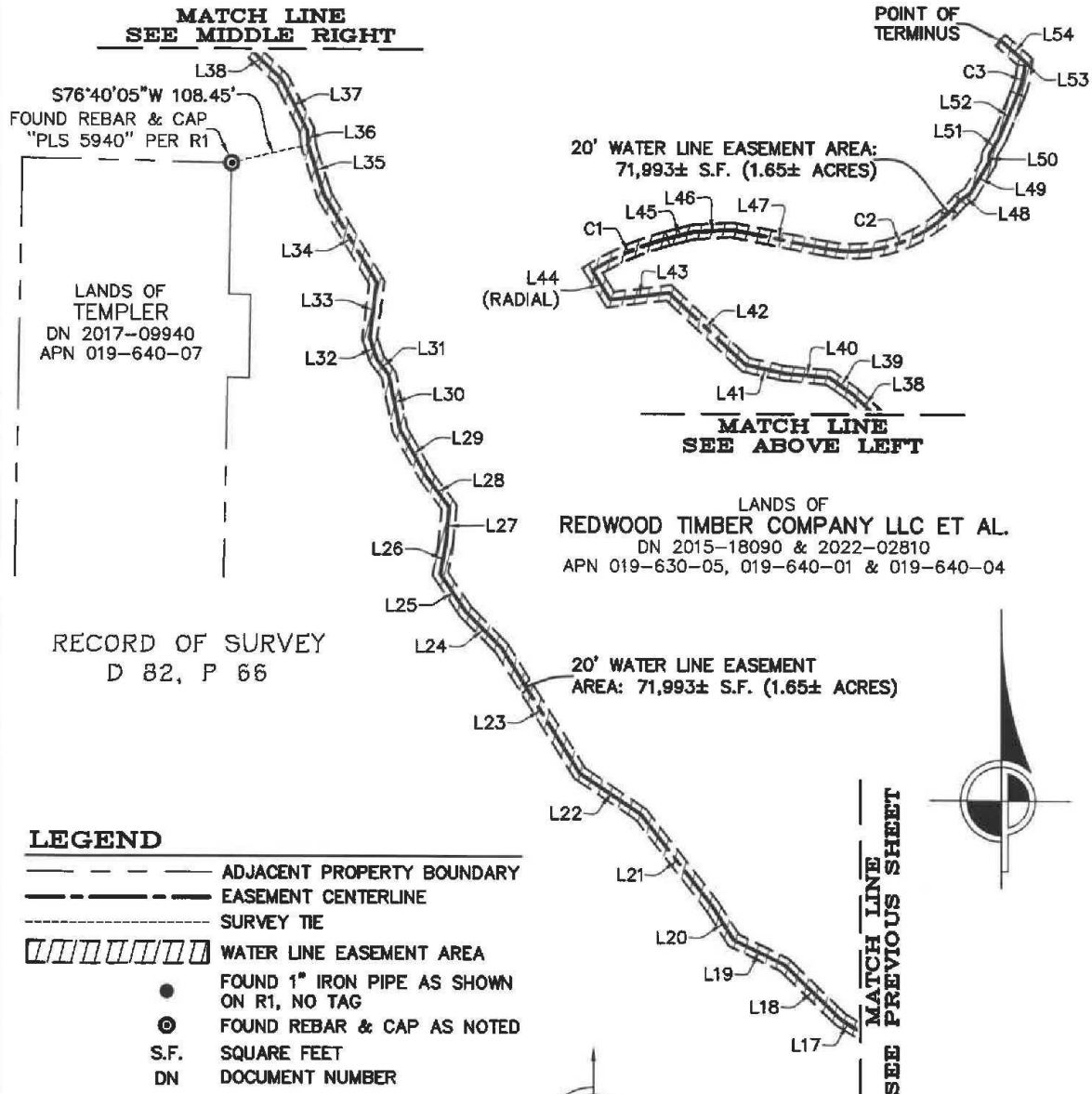


| | | |
|--|----------------|----------------|
| JOB NAME: FORT BRAGG RAW WATER LINE | DRAWN BY: AJD | CHECKED BY: JD |
| DESCRIPTION: 20' WATER LINE EASEMENT- LANDS OF REDWOOD TIMBER CO. LLC | SCALE: 1"=200' | DATE: 2/27/23 |
| | JOB #: 8466-19 | PAGE: 4 OF 6 |

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Apr 14, 2023 - 10:59am

EXHIBIT 'B'

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LEGEND

- ADJACENT PROPERTY BOUNDARY
- EASEMENT CENTERLINE
- SURVEY TIE
- WATER LINE EASEMENT AREA
- FOUND 1" IRON PIPE AS SHOWN ON R1, NO TAG
- FOUND REBAR & CAP AS NOTED
- S.F. SQUARE FEET
- DN DOCUMENT NUMBER

NOTE

SEE SHEET 6 OF 6 FOR LINE AND CURVE INFORMATION TABLES.

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EXHIBIT 'B'

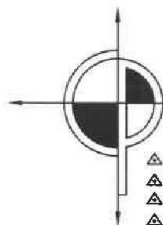
THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS
OR OMISSIONS SHALL NOT AFFECT THE LEGAL DESCRIPTION.

| Line Table | | |
|------------|-------------|---------|
| Line # | Direction | Length |
| L1 | N74°58'04"W | 4.35' |
| L2 | N7°28'04"W | 151.70' |
| L3 | N6°49'26"E | 107.35' |
| L4 | N18°57'35"E | 52.47' |
| L5 | N7°54'51"E | 53.83' |
| L6 | N65°11'42"W | 131.84' |
| L7 | N76°59'23"W | 130.62' |
| L8 | N80°17'45"W | 97.94' |
| L9 | N54°14'13"W | 37.23' |
| L10 | N54°14'13"W | 52.68' |
| L11 | N59°34'07"W | 88.80' |
| L12 | N69°06'28"W | 102.70' |
| L13 | S87°42'51"W | 50.31' |
| L14 | N83°25'16"W | 105.69' |
| L15 | N71°21'09"W | 108.39' |
| L16 | N75°51'19"W | 68.05' |
| L17 | N58°49'20"W | 142.83' |
| L18 | N45°40'28"W | 107.30' |
| L19 | N63°54'49"W | 76.83' |
| L20 | N32°33'54"W | 54.12' |

| Line Table | | |
|------------|-------------|---------|
| Line # | Direction | Length |
| L21 | N37°57'00"W | 160.08' |
| L22 | N56°15'41"W | 101.35' |
| L23 | N31°47'21"W | 202.07' |
| L24 | N44°33'52"W | 70.35' |
| L25 | N33°56'28"W | 61.76' |
| L26 | N10°20'25"E | 41.43' |
| L27 | N5°27'13"E | 51.02' |
| L28 | N36°34'39"W | 52.16' |
| L29 | N29°20'17"W | 72.83' |
| L30 | N11°33'23"W | 76.84' |
| L31 | N36°44'08"W | 26.66' |
| L32 | N18°20'21"W | 30.95' |
| L33 | N7°23'46"E | 76.65' |
| L34 | N30°45'06"W | 138.10' |
| L35 | N17°26'29"W | 73.57' |
| L36 | N4°09'27"W | 19.44' |
| L37 | N26°19'36"W | 78.07' |
| L38 | N46°08'38"W | 82.08' |
| L39 | N55°14'52"W | 39.73' |
| L40 | N85°01'21"W | 60.93' |

| Line Table | | |
|------------|-------------|---------|
| Line # | Direction | Length |
| L41 | N77°33'02"W | 54.77' |
| L42 | N46°51'02"W | 144.07' |
| L43 | S83°10'57"W | 81.45' |
| L44 | N31°41'18"W | 46.79' |
| L45 | N75°44'50"E | 36.32' |
| L46 | N86°38'31"E | 52.68' |
| L47 | S79°00'08"E | 132.16' |
| L48 | N56°37'30"E | 15.40' |
| L49 | N30°40'51"E | 50.19' |
| L50 | N4°44'12"E | 11.43' |
| L51 | N30°40'51"E | 26.06' |
| L52 | N22°39'32"E | 65.63' |
| L53 | N40°55'12"E | 4.00' |
| L54 | N49°04'48"W | 48.00' |

| CURVE TABLE | | | |
|-------------|---------|-----------|---------|
| CURVE # | RADIUS | DELTA | LENGTH |
| C1 | 372.00' | 17°26'08" | 113.20' |
| C2 | 188.00' | 62°31'01" | 205.13' |
| C3 | 133.00' | 17°31'09" | 40.67' |



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| | JOB #: 8466-19 | PAGE: 6 OF 6 |

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EXHIBIT "C"

TERMS AND CONDITIONS OF PERMANENT EASEMENT

Trimming.

Easement holder may from time to time, trim or cut down, without easement holder paying compensation, any and all trees and brush now or hereafter located within said Permanent Easement.

Ingress/Egress.

Easement holder, and its employees, contractors, agents and assigns ("Authorized Users") shall have the right of reasonable egress and ingress over and across the remaining servient larger parcel to allow for access to personnel, vehicles, and construction equipment, to, from, and along the Permanent Easement at any time, without prior notice, including the right to use existing roadways, driveways, drive aisles, and parking areas, if any, within the larger parcel as shall be convenient and necessary to access the Facilities and/or the Permanent Easement; provided however, that nothing shall prevent or limit landowner's right to close such roadways, driveways, drive aisles, or parking areas, if any, and to provide easement holder or its Authorized Users with comparable alternative access to the Permanent Easement.

No Interference.

Following the initial construction and installation of the Facilities in the Permanent Easement, any further use, maintenance, operation, alteration, addition to, inspection, repair, removal, reconstruction, and/or replacement of the Facilities by easement holder shall be undertaken in a manner so as to minimize interference with the use and operation of, and access to, landowner's larger parcel.

Improvements.

No building, fences, walls or other permanent structures of any kind, flammable substance, wells, reservoirs, or other obstructions, and no deep rooted trees, deep rooted shrubs or other plants or vegetation, shall be installed, constructed, erected, placed, planted or maintained within the Permanent Easement without prior written consent of the easement holder, which consent shall not be unreasonably withheld, conditioned or delayed. Nor shall the ground level in the Permanent Easement area be diminished or substantially added to, nor shall any fences be constructed that will interfere with the maintenance, repair and operation of said Facilities.

Location.

Easement holder and its Authorized Users shall have the right to mark the location of the Permanent Easement in a manner which will not interfere with the landowner's reasonable and lawful use of the Permanent Easement and will not interfere with its customary business operations.

Exclusivity.

Except for preexisting easements, if any, no other easement or easements shall be granted within the Permanent Easement without the prior written consent of easement holder, which consent shall not be unreasonably withheld, conditioned or delayed. Landowner shall have the right to use the surface of the Permanent Easement for any purpose that does not interfere and is not inconsistent with the rights granted to easement holder under this Easement.

Compliance with Laws.

Easement holder is responsible for any damage to landowner's property caused by easement holder's or the Authorized Users' activities related to the Easement. In the event easement holder's or Authorized Users' activities damage landowner's larger property, then subject to any restrictions set forth herein, easement holder shall restore the damaged area to its prior condition to the best it is able. Any work performed by easement holder or the Authorized Users in the Permanent Easement must be performed in a good and workmanlike manner and easement holder shall be solely responsible for obtaining all applicable permits necessary to install, repair, maintain and/or replace the Facilities.

Indemnity.

Easement holder shall indemnify, defend and hold harmless landowner from and against any action, cause of action, liability, suit, costs and expenses (including court costs and reasonable attorneys' fees), claim, liens (including mechanics' liens), or demand whatsoever (collectively, "Claims") brought or asserted by any third person whomsoever, at law or in equity, arising out of or in connection with easement holder's installation, repair, maintenance and/or operation of the Facilities in the Permanent Easement, or use of the Permanent Easement, provided, however, that this indemnity shall not extend to that portion of such loss or damage that shall have been caused by landowner's comparative negligence or willful misconduct.

Hazardous Substances.

Nothing contained herein shall authorize easement holder or the Authorized Users to bring Hazardous Substances onto the Permanent Easement, or authorize any release of Hazardous Substances in, on, under or from same. For the purposes of this Easement, Hazardous Substances (or any derivation thereof) means any and all hazardous materials, toxic substances, chemicals, contaminants, pollutants, solid wastes or waste, as defined by any applicable environmental law, and also includes, but is not limited to, any lead paint, mold, radon, petroleum, petroleum products, petroleum by products, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous waste, toxic substances, toxic chemicals, chemicals, pesticides, radioactive materials, polychlorinated byphenols, methane, soil vapor, gas, linoleum, and surface and subsurface man-made media left at or underneath the larger property, and any other element, compound, mixture, solution, substance, material, waste or the like which may pose a present or potential danger to human health and safety, biota or the environment.

Assignment.

Easement holder shall have the right to assign any portions, or all of the rights granted under this Easement.