

_____, California

District	County	Route	Post Mile	Project Number
I	CC	N/A	N/A	7505-6F8740

June _____ 2017

Grantor: West County Landfill, Inc.

RIGHT OF WAY CONTRACT

This Right of Way Contract is entered into in connection with Contra Costa County Flood Control and Water Conservation District's ("District") San Pablo & Wildcat Creeks Levee Remediation project ("Project"). An Access Easement ("Easement"), in the form attached hereto as Exhibit A, covering parcel FCPID 5160 as more particularly described in Exhibit A-1 and depicted in Exhibit A-2 to said document, has been executed on behalf of Grantor and delivered to Angela Bell, Associate Real Property Agent for the District. Angela Bell will cause said instrument to be recorded in the Official Records of the Contra Costa County Clerk-Recorder, and will provide Grantor a copy of the recorded instrument.

For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the District of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. Under the terms of this Agreement, Grantor hereby grants to the District a temporary, non-exclusive construction easement ("TCE") upon, over, and across parcel FCPID 5161, as more particularly described in Exhibit B-1 and depicted in Exhibit B-2, attached hereto, to allow the District's, and its authorized agents' and contractors', personnel, vehicles, and construction equipment to travel between Project job locations along both the north and the south banks of San Pablo Creek. The term of the TCE shall commence August 1, 2017, and it shall continue through the later of (a) February 28, 2019, or (b) the date the District records a notice of completion for the Project.
3. Upon full execution of this Agreement, the District will pay the undersigned Grantor the sum of Four Thousand Three Hundred Twenty-Five Dollars (\$4,325.00) for the Easement and the TCE. The District will take title to the Easement and TCE on an "as is, where is" basis and further subject to Grantor's underlying fee title and:
 - (a) Covenants, conditions, restrictions, and reservations of record, if any; and
 - (b) Easements or rights of way of record over said property.

4. The Grantor warrants that there are no oral or written leases, to which the Grantor is a party, on all or any portion of the property exceeding a period of one month, and the Grantor further agrees to hold the District harmless and reimburse the District for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of the Grantor for a period exceeding one month.
5. In order to ensure unrestricted and uninterrupted daily traffic to and from the Grantor's West County Landfill ("WCL"), the District will, and will require its contractor, to: conduct paving work on Parr Boulevard, as described in Section 5(a), only on weekdays between 6:00 p.m. and 4:00 a.m.; and replace the Metal Beam Guard Rail on Parr Boulevard, as described in Section 5(b), only on weekdays between 6:00 p.m. and 4:00 a.m. and anytime on Sundays. The District will, and will require its contractor to, coordinate access and traffic control plans with the District's Resident Engineer and Grantor's WCL General Manager, Daryl Smith at (281) 788-2535.
 - (a) The District will complete a Hot Mix Asphalt (HMA) paving on a portion of Parr Boulevard, within the limits shown on Exhibit C, attached hereto. The District's HMA paving will involve grinding of existing pavement for conforming purposes, cleaning grinded roadway surface, applying tact coat, spreading HMA by a paver in layers, and use of a water truck. A breakdown roller and a finish roller will compact loose HMA to achieve designed relative compaction. Once HMA material cools off to a certain temperature, an additional layer will be added on top of the first layer, and the paving process described herein will be repeated until the paving surface reaches the design-finished grade.
 - (b) Upon completion of HMA paving, the District's guard rail contractor will remove an outdated metal beam guard rail and install a new Midwest Guardrail System (MGS) at the locations shown on Exhibit C. The District's contractor will use truck-mounted drilling gear to drill new holes for the MGS.
 - (c) The Project will include adding a 12-inch reinforced concrete cap on top of existing flood walls on both sides of the Sanitary Bridge ("Cap Work"), as shown on Exhibit C. The District anticipates that a majority of the Cap Work can be done on District property. During the term of the TCE, the District may, after 6:00 p.m. on weekdays and in accordance with Section 7 below, and with prior reasonable notice to Grantor, temporarily block-off one lane of Parr Boulevard as it determines to be reasonably necessary to complete the Cap Work,.
6. The Easement and TCE granted herein are non-exclusive, and the Grantor retains the right at all times to use the Easement and TCE areas for any and all purposes not inconsistent with the purposes set forth herein. Any of the Grantor's existing or future improvements located within the Easement and TCE areas, including without limitation driveways, bridges, or roads, shall not be altered, improved, or destroyed by District, except in accordance with District's rights under the Easement and TCE.

7. The District acknowledges and agrees that portions of the Easement and TCE areas cross one or more roads, bridges, and facilities used by the Grantor and others for vehicular ingress and egress and other purposes, as shown on Exhibit C (the "Roads;" the Roads includes Parr Boulevard). The District will ensure at all times that the activities of the District, its consultants, engineers, contractors, employees, and agents do not adversely affect Grantor's use of the Roads or prevent the Grantor's use of the Roads. Except as expressly authorized herein, the Roads shall remain open and usable by the Grantor, in a manner acceptable to Grantor, for its business operations.
8. Notwithstanding anything to the contrary set forth in this agreement, the District accepts the Easement and TCE areas on an "as-is" basis without any representations or warranties of any kind whatsoever by the Grantor, including without limitation, any representations or warranties concerning the physical condition of the Easement and TCE areas or their suitability for District's use.
9. The District will indemnify, defend, and hold harmless the Grantor for the proportion of damage, injury, or death of or to any person or the property of any person, including attorney's and expert fees, that a court determines arises out of the negligence or willful misconduct of the District's or its officers', employees', or agents' exercise of District's rights under this contract, or that a court determines arises out of the use of the Easement and TCE areas by the District or its officers, employees, or agents.
10. Before the District, or any party acting by, through, or on behalf of the District, accesses the Easement and TCE areas, the District shall provide to Grantor a certificate of insurance naming the Grantor, its parents, affiliates, and all of its subsidiaries, as additional insureds, with the following minimum insurance coverage:
 - a. Worker's Compensation in accordance with the benefits afforded by the statutory Worker's Compensation Acts applicable to the state, territory or district of hire, supervision or place of accident. Policy limits for worker's compensation shall not be less than statutory limits and for employer's liability not less than one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) disease each employee, and one million dollars (\$1,000,000) disease policy limit.
 - b. Commercial General Liability Insurance including bodily injury, death, property damage, independent contractors, products/completed operations, contractual, and personal injury liability, with a limit of Two Million Dollars (\$2,000,000) per occurrence and in the annual aggregate.
 - c. Commercial Automobile Insurance covering owned, hired, rented, and non-owned automotive equipment with a limit of Two Million Dollars (\$2,000,000) per accident.

The certificate of insurance evidencing coverage shall require thirty (30) days prior written notice to the Grantor of cancellation of, or change in, coverage. Any combination of primary and excess/umbrella policies may be utilized to satisfy the required limits of liability. The District, at its sole discretion, may self-insure for any or all of the insurance required herein.

11. Upon the District's completion of the use of the Easement and TCE areas, the District shall promptly restore those areas to the condition they were in prior to the start of Project construction, as determined by the District.
12. In the event of any delays in recording the Easement, it is agreed and confirmed by the parties hereto that, notwithstanding other provisions in this contract, the right of possession and use of the Easement, including the right to remove and dispose of improvements in accordance with the terms of this contract, shall commence on August 1, 2017, and that the amount shown in Clause 2(a) herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.
13. This contract shall inure to the benefit of, and shall be binding on, the parties' successors and assigns. This contract may not be assigned by either party without the advance written consent of the other party. Nothing in this contract, express or implied, is intended to confer on any person, other than the parties and their successors and assigns, any rights or remedies by reason of this contract. The terms of this contract shall not merge in the deeds or other documents following the delivery and recordation of said deeds or other documents
14. This contract may not be modified or amended except in a writing signed by both parties hereto.
15. This contract shall not be construed as if it had been prepared by one of the parties, but rather as if all parties have prepared it. The parties to this contract and their attorneys have read and reviewed this contract and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this contract.

Remainder of Page Left Blank Intentionally

16. This contract shall be governed and construed in accordance with California law.

CONTRA COSTA COUNTY
FLOOD CONTROL AND
WATER CONSERVATION DISTRICT

WEST COUNTY LANDFILL, INC.,
a California Corporation

Recommended to the
Board of Supervisors for Approval.

By Michael Caprio

By Angela Bell
Angela Bell
Associate Real Property Agent

Mike Caprio, Area President

By Karen A. Laws
Karen A. Laws
Principal Real Property Agent

Date: June 13th 2017

APPROVED:

By _____
Julia R. Bueren
Chief Engineer

Date: _____
(Date of Approval)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Recorded at the request of:
Contra Costa County

Exhibit "A"

Return to:
Contra Costa County
Public Works Department
Real Estate Division
255 Glacier Drive
Martinez, CA 94553
Attn: Angela Bell

Portion of Assessor's Parcel Nos.: 408-140-010 and 408-130-030

ACCESS EASEMENT

THIS INDENTURE, made by and between **WEST COUNTY LANDFILL, INC.**, a California Corporation hereinafter called the GRANTOR, and **CONTRA COSTA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT**, flood control district, organized under the laws of the State of California, hereinafter called the GRANTEE,

WITNESSETH:

That the GRANTOR, for value received, hereby grants to the GRANTEE, and its successors and assigns, a perpetual non-exclusive easement and right of way for ingress and egress purposes upon, over, and across that certain real property in the County of Contra Costa, State of California, described as follows:

FOR DESCRIPTION SEE EXHIBITS "A" and "B" ATTACHED HERETO AND MADE A PART HEREOF.

The easement herein granted shall include the right by said GRANTEE, its officers, agents and employees, and by persons under contract with it and their employees whenever necessary for ingress and egress purposes only, to enter upon said land with personnel, vehicles, and equipment.

TO HAVE AND TO HOLD, all and singular, the rights above described unto the GRANTEE and the GRANTEE's successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR has executed this indenture this ____ day of _____, 2017.

West County Landfill, Inc.

General Manager

ABOVE SIGNATURES MUST BE NOTARIZED

DA-19A San Pablo Creek
West County Landfill, Inc. to CCCFC&WCD
portion of APN 408-140-010

EXHIBIT "A-1"

Real property in the unincorporated area of Contra Costa County, State of California, being a portion of Section 35, Township 2 North, Range 5 West, Mount Diablo Meridian, also being a portion of Parcel One as described in the Grant Deed to West County Landfill, Inc. recorded December 29, 1989 as document number 89-263265, Contra Costa County records, described as follows:

FCPID 5160 – Access Easement

Commencing at the Southeast corner of Tidelands Lot 29 as shown on "Map No. 1 of Salt Marsh and Tidelands situate in the County of Contra Costa, State of California" dated 1872 and filed in the Contra Costa County Recorder's office June 11, 1917; thence northerly along the easterly line of said Lot 29 north 1°04'10" east, 33.05 feet to the Point of Beginning; thence from said Point of Beginning north 72°30'00" west, 30.82 feet; thence south 47°00'24" west, 12.05 feet; thence north 36°09'16" west, 33.41 feet; thence south 88°56'50" east, 27.15 feet; thence south 72°30'00" east 32.62 feet to the east line of said Lot 29; thence southerly along said line south 1°04'10" west 17.72 feet to the Point of Beginning.

Containing an area of 987 square feet of land, more or less.

Bearings are based on the California Coordinate System of 1983 (CCS83), Zone III. Distances given are ground distances.

Exhibit "B" (Drawing No. FA-20076) is attached hereto and by this reference made a part hereof.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: 

Licensed Land Surveyor
Contra Costa County Public Works

Date: 12/7/15

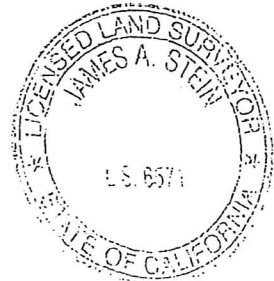
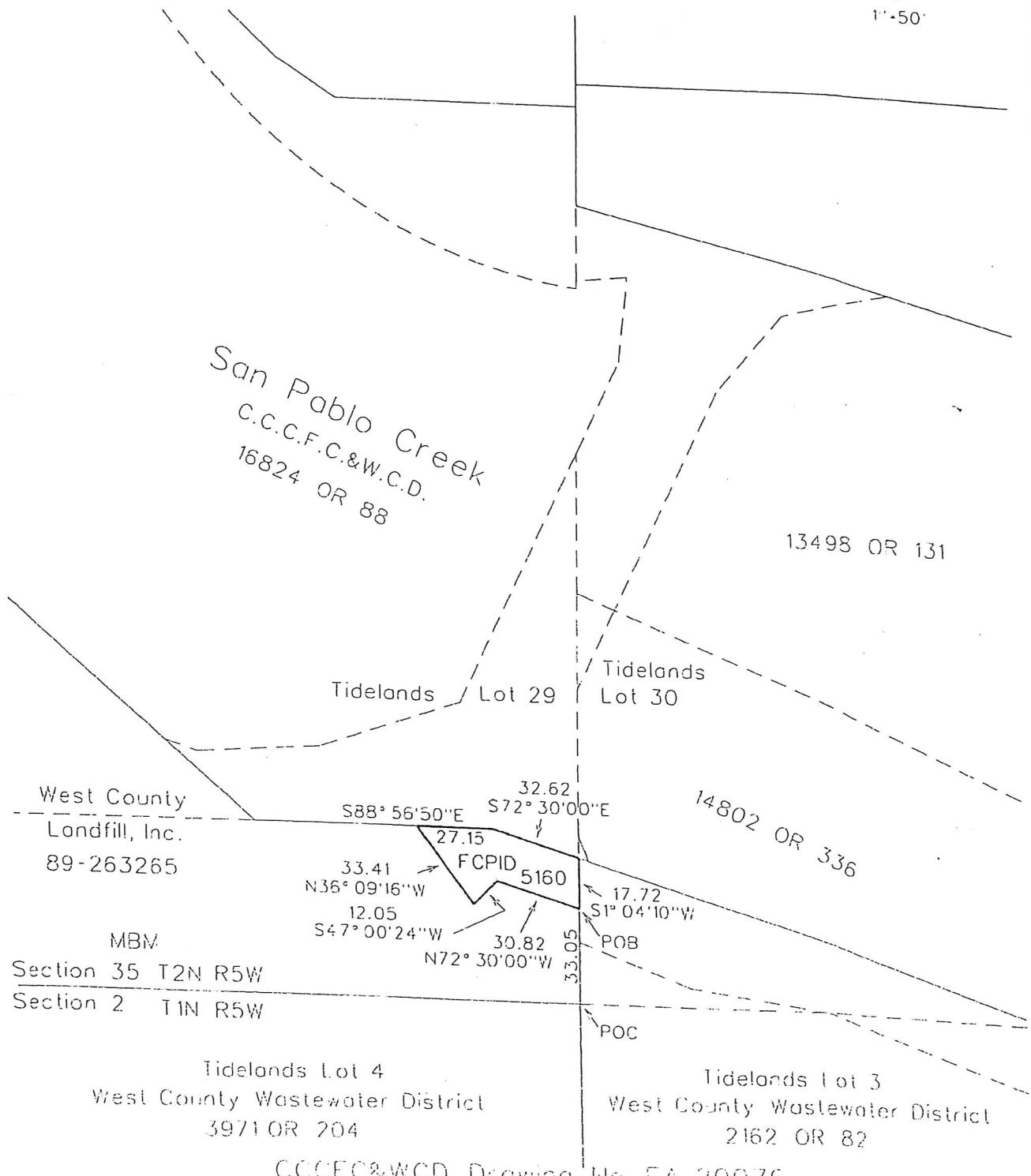
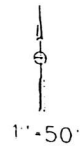


EXHIBIT "A-2"

PLAT TO ACCOMPANY EXHIBIT "A-1"



CCCFC&WCD Drawing No. FA 20076

West County Landfill, Inc., Access Easement

Instrument: Access Easement	Scale: 1"=50'	Date: December 2015
Drawn By: [Name]	Recorded: [Date]	Filed: [Date]
Checked By: [Name]	Reviewed By: [Name]	Approved By: [Name]

DA-19A San Pablo Creek
West County Landfill Inc. to CCCFC&WCD
portion of APN 408-130-030

Exhibit "B-1"

Real property in the unincorporated area of Contra Costa County, State of California, being a portion of Lot 30, Section 35, Township 2 North, Range 5 West, Mount Diablo Meridian, also being a portion of the land described in the Grant Deed to West County Landfill, Inc. recorded August 30, 2001 as document number 2001-0260300, Contra Costa County records, described as follows:

FCPID 5161 – Temporary Construction Easement from August 1, 2017 to February 28, 2019.

Commencing at a point on the west line of said West County Landfill, Inc. property (2001-0260300) at the southwest corner of Parcel B as shown on the Record of Survey filed January 26, 1978 in Book 64 of Licensed Surveyors Maps at Page 4; thence along said west line south 1°04'10" west, 16.79 feet to the Point of Beginning; thence from said Point of Beginning and leaving said westerly line south 83°56'28" east, 50.59 feet; thence north 61°13'34" east, 42.55 feet to a point on the southerly line of said Parcel B (64 LSM 4); thence easterly along said southerly line south 88°55'20" east, 20.16 feet; thence leaving said line south 61°10'09" east, 160.70 feet to a point on the north line of Parcel 1261.1-3A (Reserved Easement) described in the Grant Deed to Richmond Sanitary Service recorded March 3, 1992, as document number 92-48897; thence along said north line the following three courses: 1) north 69°52'56" west, 143.57 feet; 2) north 89°53'00" west, 68.00 feet; 3) north 73°53'00" west, 47.59 feet to the Point of Beginning.

Containing an area of 3,307 square feet of land, more or less.

Bearings are based on the California Coordinate System of 1983 (CCS83), Zone III. Distances given are ground distances.

Exhibit "B" (Drawing No. FA-20077) is attached hereto and by this reference made a part hereof.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____

James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works

Date: _____

9/13/16

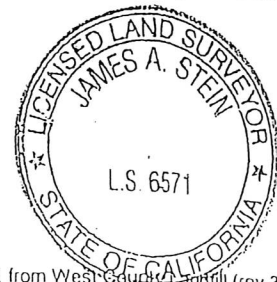
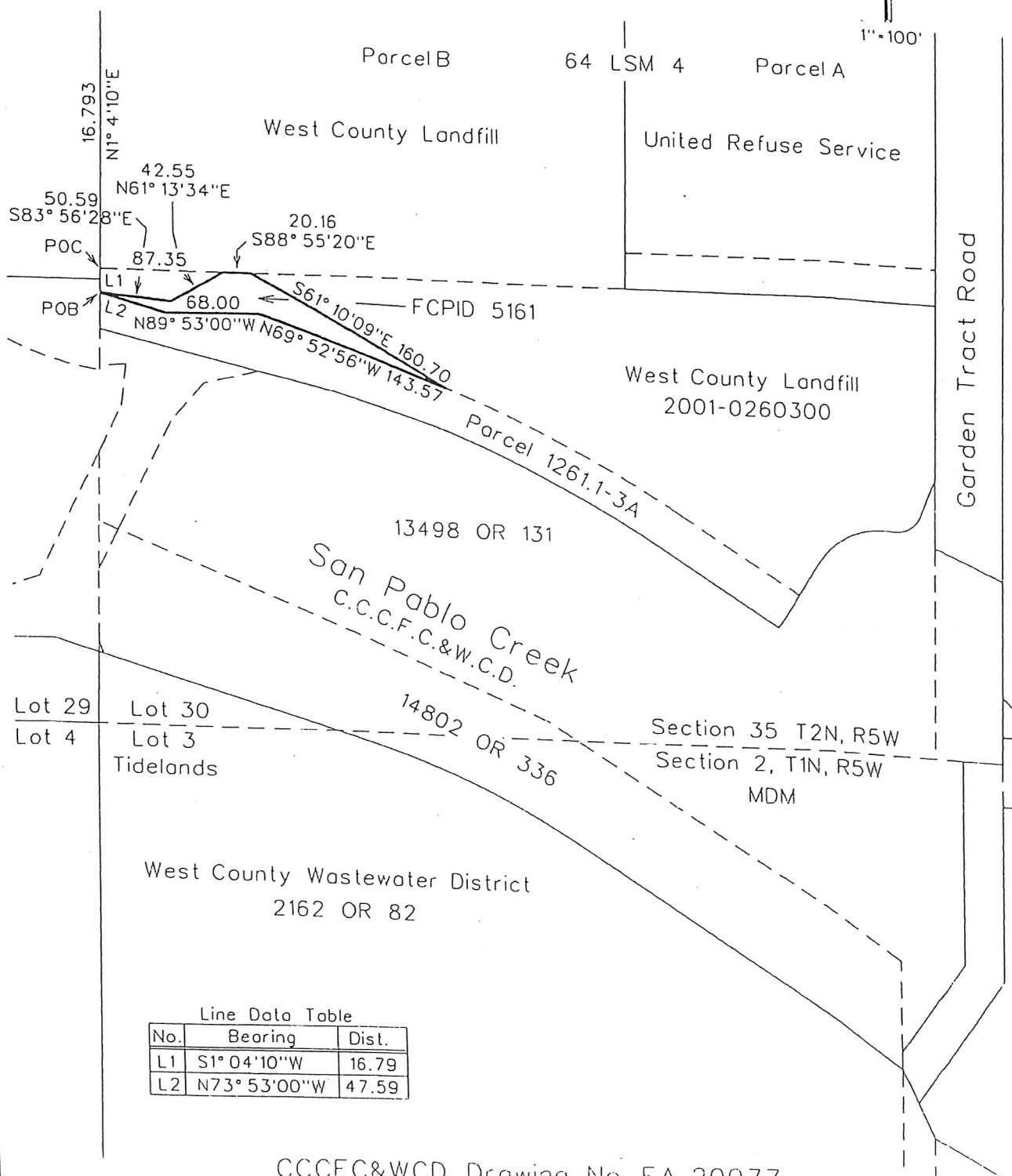
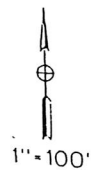


EXHIBIT "B-2"

PLAT TO ACCOMPANY EXHIBIT "B-1"



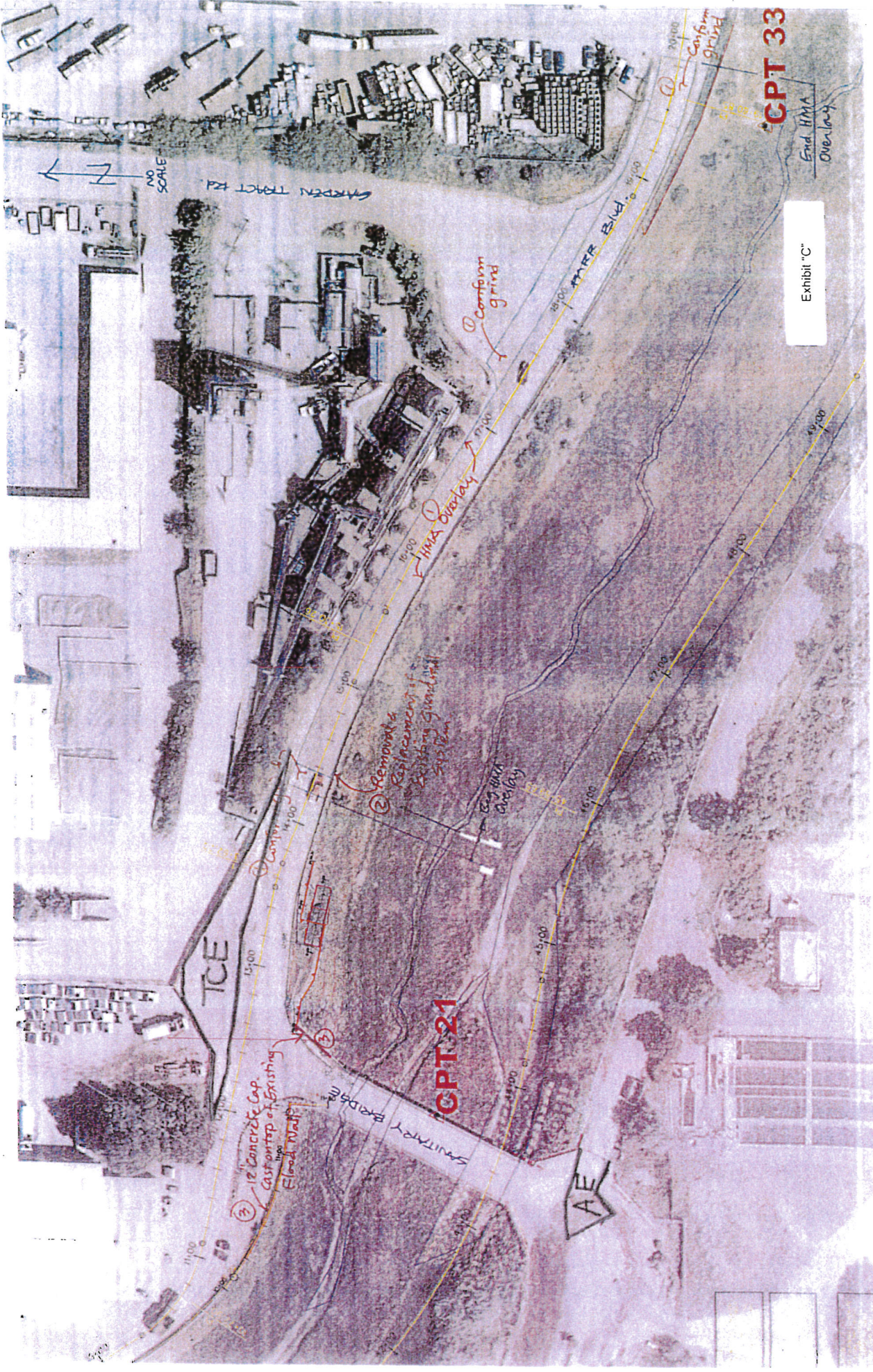
Line Data Table

No.	Bearing	Dist.
L1	S1° 04' 10" W	16.79
L2	N73° 53' 00" W	47.59

CCCFC&WCD Drawing No. FA-20077

West County Landfill Inc., T.C.F.

Instrument	Temporary Construction Easement	Scale	1" = 100'	Date	June 2015
Series No	Recorded	Drawn By	KT	File No	A 05848 2015
		Checked By	JS	Cad File	San Pablo Creek West CO Landfill for TCF 16° CO.dwg



CPT 33

Exhibit "C"

CPT 21

TICE

SANITARY BRIDGE

AE

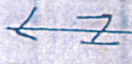
GREEN TRACT RD

TRF BLD

Confirm Grind

End HMA Overlay

NO SCALE



12 Concrete Cap. Cast on top of Existing Flood Wall

Removal & Replacement of Existing Guardrail 545' Run

Confirm grind

HMA Overlay

Gravel Overlay

11,000

12,000

13,000

14,000

15,000

16,000

17,000

18,000

19,000

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