

**RIGHT OF WAY CONTRACT**

RW B-3 (Rev. 6/95)

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Ptms. Of APN: 017-110-011  
Project Name: Three Creeks Parkway Restoration  
Project Number: 7562-6D8490

Grantor: DLT Ventures, LLC  
Address: 760 Minnesota Avenue, Brentwood, CA 94513

\_\_\_\_\_, California

\_\_\_\_\_, 2020

**RIGHT OF WAY CONTRACT BETWEEN CONTRA COSTA COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND  
GRANTOR NAMED HEREIN**

A document in the form of a Grant Deed, dated 2-25, 2020, covering the property particularly described in the above instrument (Property) has been executed and delivered to Jewel Lopez, Assistant Real Property Agent for the Contra Costa County Flood Control and Water Conservation District (District).

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) 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.
- (B) The District requires the Property described in the Grant Deed for flood control purposes in connection with the Three Creeks Parkway Restoration Project (Project), a public use for which the District has the authority to exercise the power of eminent domain. Grantor is compelled to sell, and the District is compelled to acquire the property.
2. The District shall:
  - (A) Pay the undersigned Grantor the sum of Seventy Thousand Two Hundred and No/100 (\$70,200) (Purchase Price) for the property or interests conveyed by above document when title to said property vests in the District free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded) and taxes, except:
    - a. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.

- b. Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
  - c. Easements or rights of way over said land for public or quasi-public utility or public street purposes, if any.
  - d. Other approved exceptions, if any.
- (B) Pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the District, the premium charged therefor.
- (C) Have the authority to deduct and pay from the amount shown in Clause 2(A) above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien at the close of escrow.
3. Any or all moneys payable under this contract, up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with the terms and conditions of said trust deed(s) or mortgage(s) shall, upon demand(s), be made payable to the mortgagee(s) or beneficiary(ies) entitled thereunder; said mortgagee(s) or beneficiary(ies) to furnish Grantor with good and sufficient receipt showing said moneys credited against the indebtedness secured by said mortgage(s) or deed(s) of trust.
4. Permission is hereby granted to the District, its contractors, and their authorized agents to enter upon Grantor's land within that certain area described and shown in Exhibit "A" and "B" attached hereto and made a part hereof, for temporary construction and staging purposes in connection with the Project.
5. The Grantor agrees to accept earth materials from the excavation of Marsh Creek as generated by the Project. The District, through its contractors and their authorized agents (Contractor), will place earth materials, using trucks and other earth moving equipment, consisting of dirt, rock, and other fill materials onto the soil disposal site, approximately four and a half (4.5) acres in size, of the Grantor's property as shown on Exhibit "C" attached hereto and made a part hereof. Grantor shall be responsible for maintaining the stockpile upon certification of completion by the Project's geotechnical engineer.

Grantor expressly releases the District and Contra Costa County, their officers, employees, and contractors of any claims or demands for damage or injury to person or property arising out of the placing of said fill materials onto Grantor's property by the Contractor. The Contractor will be responsible for any property damage caused by the Contractor during the fill placement operation.

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6. The Temporary Construction Easements (TCEs) are for a period of eight and a half (8.5) months, to commence on April 15, 2020, and shall terminate on December 31, 2020.

In case of unpredictable delays in construction, upon written notification, the terms of the Temporary Construction Easement may be extended by an amendment to the Right of Way Contract. Grantor shall be compensated based on the fair market value at the time of extension. Payment shall be made to the Grantor for the extension prior to the expiration of the original period.

7. The Grantor shall retain title of the property conveyed up to and including the date of recording of the deed conveying title to the District upon compliance by the Grantor with the conditions of this contract. All rents and all security money collected by Grantor applicable to any period thereafter shall be paid to the District. Either party hereto collecting rents or security money to which the other party is entitled shall forthwith pay such amount to the other as is necessary to comply with the provision of this clause.
8. By this Agreement, the District and Grantor establish an escrow (Escrow) with North American Title Company, 6612 Owens Drive, Suite 100, Pleasanton, California 94588, their Escrow No. 54606-1547533-18 (Title Company). If, for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, the District's Real Property Agent assigned to oversee this property acquisition will select an alternate title company to handle the transaction, and notify Grantor in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the "Title Company" for purposes of this Agreement.

Grantor hereby authorizes the District to prepare escrow instructions and file escrow instructions with said Title Company, on behalf of Grantor, in accordance with this Agreement. This includes authorization of the Title Company to withhold pro rata taxes, liens, and assessments on the property conveyed.

- (A) On or before the Close of Escrow, Grantor will deliver to the District or into Escrow with said Title Company the following documents:

- a. The Grant Deed, in recordable form and properly executed on behalf of Grantor, conveying to the District the property in fee simple absolute, subject only to the Approved Exceptions #6 and #7 as shown on the preliminary title report No. 54606-1547533-18 dated September 25, 2019.
- b. Copies of any effective leases, rental agreements, or any other agreements, if any, which the District has agreed in writing are to remain in effect after the District takes title.

- (B) Prior to the Close of Escrow, the District will deposit the Purchase Price into Escrow with said Title Company.

9. Escrow shall close upon the conveyance of the property to the District (Close of Escrow). On the closing date, the Title Company shall close Escrow as follows:
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- (A) Record the Grant Deed, marked for return to the District care of Jewel Lopez, Assistant Real Property Agent for the District (Which shall be deemed delivered to the District);
- (B) Issue the Title Policy, if requested to do so by the District;
- (C) Prorate taxes, assessments, rents and other charges as provided by this Agreement;
- (D) Disburse to the Grantor the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Grantor;
- (E) Prepare and deliver to the District and to the Grantor one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify the Grantor and the District and retain all funds and documents pending receipt of further instructions from the District.

10. Grantor warrants that there are no oral or written leases 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 Grantor for a period exceeding one month.
11. The undersigned Grantor hereby agrees and consents to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waives any and all claims to any money that may now be on deposit in said action.
12. The Grantor hereby represents and warrants that during the period of Grantor's ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous wastes on, from, or under the property. Grantor further represents and warrants that Grantor has no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes, on, from, or under the property which may have occurred prior to Grantor taking title to the property.

The Purchase Price of the property being acquired in this transaction reflects the fair-market value of the property without the presence of contamination. If the property being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, the District may elect to recover its clean-up costs from those who caused or contributed to the contamination.

13. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the District,

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including the right to remove and dispose of improvements, shall commence on April 15, 2020, or upon recordation of the Grant Deed whichever occurs first. The temporary rights shall commence on April 15, 2020, and terminate on December 31, 2020. 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.

*In Witness Whereof*, the Parties have executed this agreement the day and year first above written.

CONTRA COSTA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
Recommended to the Board of Supervisors  
for Approval:

GRANTOR  
DLT VENTURES, LLC, a California  
Limited Liability Company

By Angela Ball  
for Jewel Lopez  
Assistant Real Property Agent

By [Signature]  
Name: Celand Hancock  
Title: Principal

By Jessica L. Dillingham  
Jessica L. Dillingham  
Principal Real Property Agent

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED:

Date: 2-25-2020  
(Date signed by Grantor)

By \_\_\_\_\_  
Brian M. Balbas  
Chief Engineer

Date: \_\_\_\_\_  
(Date of Approval)

TCE along Marsh Creek Channel  
from DLT Ventures LLC to CCCFC&WCD  
Portion of APN 017-110-011

**EXHIBIT "A"**

Real property in the City of Brentwood, County of Contra Costa, State of California, being a portion of Lot 219, Amended Map of Subdivision No. 5, Brentwood Irrigated Farms, filed August 4, 1920 in Book 17 of Maps at page 372 also being a portion of the property described in the deed to DLT Ventures, LLC, a California limited liability company, recorded July 5, 2013 in Recorder's Series number 2013-0169015, Contra Costa County records, described as follows:

**Temporary Construction Easement (TCE)** from April 15, 2020 to December 31, 2020

Commencing at point 2Z as shown on Marsh Creek Reach 3 & 4 composite Right of Way drawing ED-467 on file with Contra Costa County Public Works Records also as described in the deed to the Contra Costa County Flood Control and Water Conservation District, recorded December 1, 1965 in Book 5004 of Official Records at Page 541, records of said County, said point 2Z bears south 36°58'44" west distant 100.00 feet from point 2Y; thence north 53°01'16" west, 46.00 feet to a point on the northwesterly right of way of Marsh Creek Channel (ED-467 & 5004 OR 541); thence southwesterly along said line south 36°58'44" west, 47.19 feet; thence south 49°31'34" west, 57.79 feet to a point on the northerly right of way of Deer Creek Channel (ED-467 & 5004 OR 541); thence westerly along said line north 89°19'37" west, 68.75 feet to the Point of Beginning; thence continuing along said line north 89°19'37" west, 21.54 feet; thence leaving said line north 36°48'05" east, 679.68 feet to a point on the southerly line of Sand Creek Channel (ED-467 & 5004 OR 541); thence easterly along said line north 89°49'39" east, 3.13 feet; thence leaving said line south 16°42'33" east 71.52 feet; thence south 36°48'05" west, 544.42 feet to the Point of Beginning.

**Exhibit "B"** a plat is attached hereto and by this reference made a part hereof.

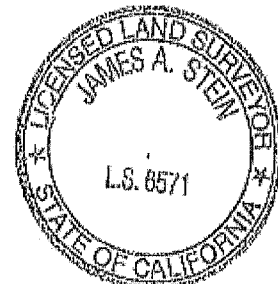
Containing an area of 37,272 square feet of land, (0.8556 acres), more or less.

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

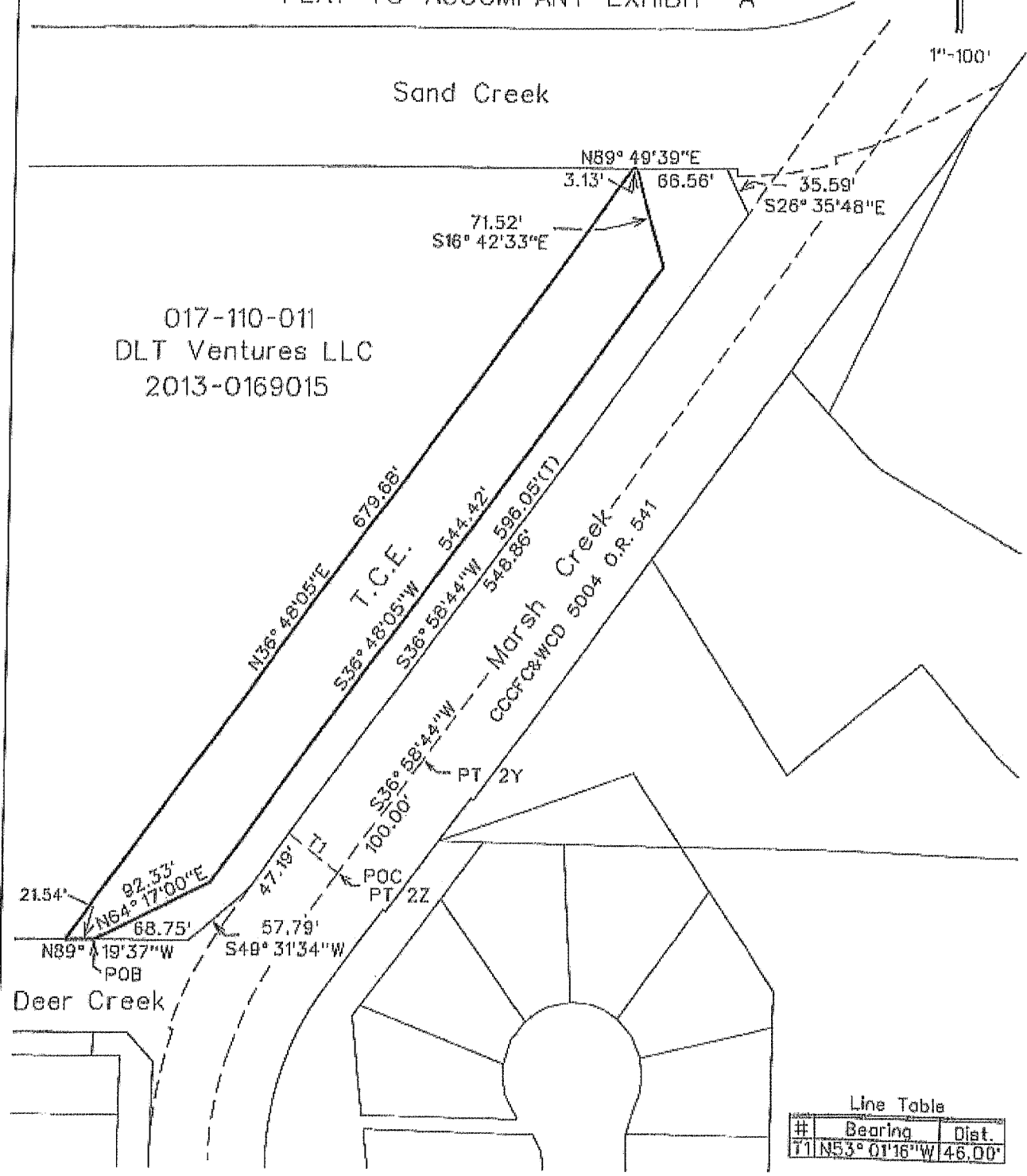
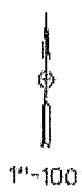
Licensed Land Surveyor  
Contra Costa County Public Works Department

Date: 9/5/19



# EXHIBIT "B"

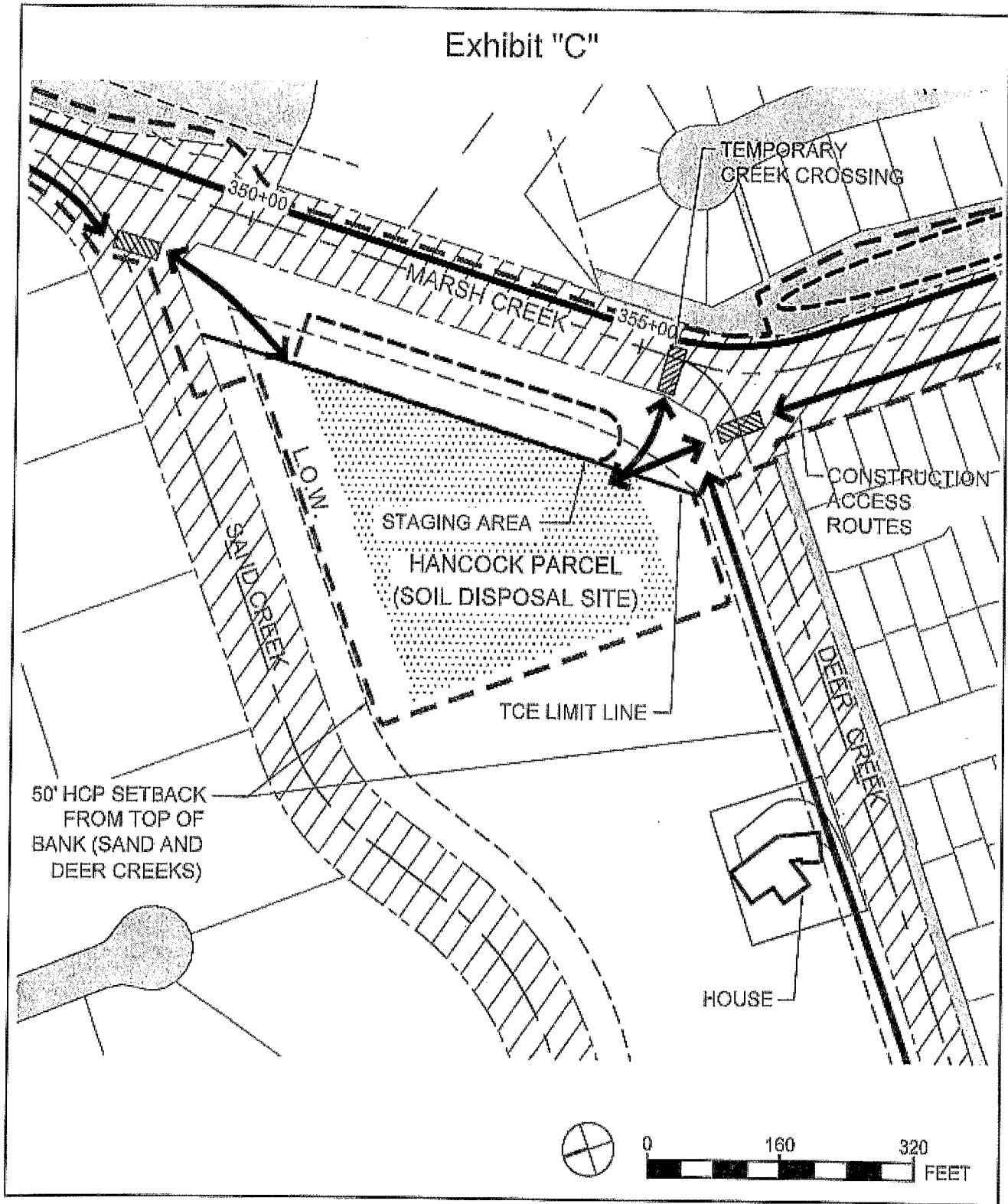
## PLAT TO ACCOMPANY EXHIBIT "A"



### Three Creeks Channel Restoration

Instrument : Temporary Construction Easement	Scale	1"=100'	Date	August 2019
Series: No.	Recorded	Drawn By	KT	File No.
		Checked By	JS	Cad File
				DLT Ventures LLC.dgn

Exhibit "C"



# THREE CREEKS PARKWAY

CITY OF BRENTWOOD

## HANCOCK STAGING AND STOCKPILE DIAGRAM

MAY 9, 2019

