

# CITY OF SACRAMENTO

## DEPARTMENT OF PUBLIC WORKS

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ENGINEERING DIVISION

THOMAS M. FINLEY  
Engineering Division Manager

July 8, 1986

CITY MANAGER'S OFFICE  
**RECEIVED**  
JUL 1 1986

City Council  
Sacramento, California

**APPROVED**  
BY THE CITY COUNCIL

JUL 8 1986

*AC 86003*

Honorable Members In Session: OFFICE OF THE  
CITY ENGINEER

SUBJECT: Sacramento Boat Harbor Expansion at Miller Park (CC:2113, IA21) -  
License from the Corps of Engineers for the Use of Their Site A100  
for Spoils

### SUMMARY

The Corps of Engineers has made their Site A100 available for the City's use for the subject project for a determined fair market value of \$21,000.

### BACKGROUND

The subject project, Contract 1, involves the excavation and disposal of approximately 1,000,000 cubic yards of material. In order to obtain the most economical price from prospective bidders, it was determined that every option should be made available to the contractor for the disposal of material. The most economical dredge operation may be obtained by utilizing the Corps of Engineers' Site A100, which is directly across the river from the subject project. Permission was granted by the Corps for the use of their site contingent upon the City returning fair market value for its use as a dredge spoils site. Fair market value was determined by the Corps to be \$21,000.

### FINANCIAL

The Sacramento Boat Harbor is an Enterprise operation. A loan has been obtained from the State of California, administered through Calboating for the expansion of the harbor. The first phase of funding, already received from the State, totals \$2,000,000. There are adequate funds available from this loan to enter into this agreement with the Corps of Engineers.

City Council  
Sacramento Boat Harbor at Miller Park (CC:2113, IA21)  
July 8, 1986  
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RECOMMENDATION

It is recommended that the City Council authorize the City Manager to sign the attached license from the Corps of Engineers for the use of Site A100 by approving the attached resolution.

Respectfully submitted,

*T. M. Finley for*  
THOMAS M. FINLEY  
Engineering Division Manager

Recommendation Approved:

*Walter J. Slipe*  
WALTER J. SLIPE  
City Manager

Approved:

*Melvin H. Johnson*  
MELVIN H. JOHNSON  
Director of Public Works

NDL:vr  
ED1-01.E  
06.2486

July 8, 1986  
District No. 1

Attachment

DEPARTMENT OF THE ARMY  
LICENSE NO. DACW05-3-86-550  
SACRAMENTO RIVER SHALLOW DRAFT NAVIGATION CHANNEL, CALIFORNIA

The SECRETARY OF THE ARMY (hereinafter Secretary) hereby grants to CITY OF SACRAMENTO, a municipal corporation, licensee, for and in behalf of its Department of Community Services, a license to deposit not to exceed 990,000 cubic yards of hydraulic suction dredge tailings on all or portions, as designated by the District Engineer, US Army Engineer District, Sacramento, hereinafter also referred to as "said officer," of the spoils area operated by said officer on lands designated for Government purposes as Tract A100 of the Sacramento River Shallow Draft Navigation Channel Project (hereinafter premises), said premises being depicted, in whole or in part, on Exhibits "A" and "B" attached hereto and made a part hereof; TOGETHER WITH all reasonable and necessary ingress and egress to and from and transit across said premises for personnel, vehicles, machinery and pipelines. Said dredged material shall be limited to native material, without debris or other foreign matter, generated by licensee during the term of this license at the Sacramento Boat Harbor at Miller Park, Sacramento, as set forth in licensee's letter dated October 21, 1985 and the attachments thereto. The areas to be dredged, as identified by the licensee, are the shaded areas shown on Exhibit "B" to this license. The license is for a period of six (6) months beginning June 1, 1986 and ending November 30, 1986 but revocable at will by the Secretary or his duly authorized representative.

THIS LICENSE is granted subject to the following conditions:

1. The licensee shall pay in advance to the United States compensation in the amount of TWENTY-ONE THOUSAND AND NO/100 DOLLARS (\$21,000.00) for the term, payable to the order of the Finance and Accounting Officer, US Army Engineer District, Sacramento and delivered to him at 650 Capitol Mall, Sacramento, California 95814-4794.

The United States will impose a charge, the amount to be determined by law or regulation, on late payment of payments due under this agreement for each 30-day period that the payment is overdue. The full late charge will also be applicable to periods of less than 30 days.

2. The exercise of the privileges granted shall be:
  - a. without cost or expense to the United States;
  - b. under the general supervision of said officer, i.e., subject to rules and regulations which said officer may prescribe from time to time, and subject to approval of said officer, including prior written approval for alterations, modifications or additions or the use of any herbicide or pesticide on the premises;
  - c. subject to the right to the United States to construct, use and maintain facilities on the premises without unreasonably interfering with the licensee's privileges;

d. subject to other outgrants of the United States on the premises which do not unreasonably interfere with the licensee's privileges; and

e. without liability of the United States for failure to supervise or inspect activities or facilities of the licensee.

3. Under a separate agreement with said officer, the licensee shall pay the cost of the United States to produce or supply utilities or services to the licensee. Such costs shall include the licensee's proportionate share of the operation and maintenance costs of United States facilities involved. The United States has no obligation to furnish utilities or services.

4. The licensee at its own expense shall maintain the premises in good order.

5. The licensee shall at its own expense promptly repair or replace to the satisfaction of said officer any United States property damaged or destroyed by the licensee incident to the exercise of the privileges granted.

6. The United States and its officers, agents, servants and employees ("the released parties") shall not be responsible for damages to property, injuries to persons, or any other cause of action ("released actions") which may arise from or be incident to this license or the licensee's exercise of the privileges herein granted. Released actions include, without limitation, damage to the licensee's property, ~~injury to the licensee's person,~~ or other cause of action of the licensee, or such damage, injury or other cause of action of the licensee's officers, agents, ~~servants,~~ employees, invitees of any of these, or anyone else otherwise on or near said premises incident to the license. The licensee shall hold harmless and indemnify the released parties for released actions which may arise from or be incident to this license or the licensee's exercise of the privileges herein granted.

7. The licensee shall not discriminate against any person(s) because of race, color, age, sex, religion, handicap, or national origin in the conduct of its operations hereunder. ~~The licensee furnishes as a part of this contract an assurance, Exhibit , that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C.S 2000d) and all requirements imposed by or pursuant to Department of Defense Directive 5500.11, May 27, 1971, as amended (32 C.F.R. pt. 300).~~ The licensee shall conduct its operations on the premises and appurtenant areas in a nondiscriminatory manner, to the end that no person shall, on the ground of race, color, age, sex, religion, handicap or national origin, be excluded from obtaining the services arising from such operations or otherwise be subjected to discrimination under any program or activities arising from or supported by such operations.

8. The licensee shall not unlawfully pollute the air, ground or water or create a public nuisance. The licensee shall at no cost to the United States promptly comply with present and future Federal, state and local laws, ordinances, regulations or instructions controlling the quality of the environment. This does not affect the licensee's right to contest their validity or enjoin their applicability. The licensee shall not be responsible for pollution caused by others.

9. The licensee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, vestiges, remains or objects of antiquity. In the event such items are discovered on the premises, the licensee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

10. The licensee will use all reasonable means available to protect the environment and natural resources from damage arising from this license or activities incident to it, and where damage nonetheless occurs, the licensee shall be liable to restore the damaged resources.

11. If the licensee discovers military contamination on the premises, the licensee shall immediately stop work and request guidance from said officer.

12. On or before the date this license expires or the licensee relinquishes this license, the licensee shall vacate the premises, remove the licensee's property and restore the premises to a condition satisfactory to said officer, except for damages beyond the licensee's control or for fair wear and tear. If this license is revoked, the licensee will do the same within the time designated by said officer. If the licensee fails or neglects to remove the property and to restore the premises, at the option of said officer:

a. said property shall become the property of the United States without compensation therefor, or

b. said officer may have the property removed and the premises restored at the expense of the licensee, and no claim for damages against the United States or its officers or agents shall be created by or made on account of the removal and restoration work.

13. The licensee may terminate this license by giving ten (10) days' written notice by certified mail to the Secretary through said officer. The United States shall not refund compensation paid under Condition 1. If notice is not given at least ten (10) days before compensation is due under Condition 1, the licensee shall pay the compensation for that period or term.

14. This license is effective only insofar as the rights of the United States in the premises are concerned. The licensee shall obtain any further permission necessary on account of any other existing rights.

15. This license may not be transferred or assigned. Prior to execution of this license, Condition No(s) 6, 7 and 15 was/were modified, ~~Condition No(s)~~ ~~was/were deleted~~, and Condition No(s) 16 through 39, inclusive, was/were added on page(s) 5, 6, 7 and 8 attached hereto and made a part hereof.

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This license is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand by authority/direction of the Secretary of the Army this day of \_\_\_\_\_ 1986.

The above instrument, including all its conditions, is hereby accepted this day of \_\_\_\_\_ 1986.

CITY OF SACRAMENTO

BY: Walter J. Sipe  
TITLE: \_\_\_\_\_

16. The licensee must obtain prior approval from the Construction-Operations (C-O) Division of said Engineer District for depositing any material in excess of 990,000 cubic yards.

17. The rights herein granted are subject to prior leasehold rights in favor of lessees Messrs. Frank E. Lienert, Jr. and Carl W. Kauk, 2734 58th Street, Sacramento, California 95817, under the provisions of Department of the Army Lease No. DACW05-1-83-509. Said lease authorizes use by the lessees for apiary purposes of two 1/2-acre parcels of land on the southerly boundary of said tract near its southeasterly corner "or such other alternate 1/2-acre sites as may from time to time be made available" on said tract. Prior to depositing any spoil material on said tract, the licensee shall coordinate its proposed operations with said lessees. If said lessees elect to maintain their operations and property in the area briefly described above and shown on an exhibit to said lease, the licensee shall take whatever measures are necessary to ensure that its operations do not in any way interfere with those of said lessees. Alternatively, the licensee may enter into any agreement respecting the operations of said lessees which is mutually agreeable to the licensee and said lessees and acceptable to said C-O Division, e.g., buyout, temporary displacement on said tract or relocation to an off-tract site.

18. It is mutually understood by and between the Secretary and the licensee as follows:

a. That the licensee proposes to widen and deepen the Sacramento Boat Harbor in the Sacramento River at Miller Park, Sacramento, California, and to accomplish other works, in connection with its proposed expansion of a public marina at Miller Park.

b. That the expansion entails the removal of tailings to form the new harbor basin by suction dredging and transportation of such tailings through a hydraulic pipeline to a dredged material disposal site.

c. That this license makes available a site for depositing such tailings.

d. That prior to the effective date of this license, the licensee applied for and was granted Department of the Army Permit No. 9249 pertaining to its project, hereinafter referred to as "said permit," pursuant to authority contained in Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403).

e. That this license is granted in conjunction with said permit and that the pertinent provisions of said permit and the attachments thereto are hereby incorporated, by reference only, into this license.

f. That if said permit is revoked or withdrawn for violation of the terms thereof, this license is revoked.

19. The licensee will clear all portions of said tract on which dredge spoils are to be placed of all trees, brush and vegetative growth prior to the deposition of any material on the premises, except that in no event will material be placed on or in the immediate vicinity of elderberry shrubs and that in no event will any elderberry shrub be disturbed. Licensee will dike each such cleared portion of such tract to prevent disposal of material in uncleared areas. Additionally, licensee will submit a disposal plan to said C-O Division for approval prior to commencement of operations.

20. To provide an accurate determination of the volume of material deposited, the licensee shall accomplish pre-deposit and post-deposit surveys and furnish the results of such surveys to said C-O Division in a timely manner. Each such survey will be accomplished by a licensed surveyor.

21. Material placed upon said tract in exercise of the rights herein granted shall become and remain the property of the Government and the Government may remove, cause to be removed, and otherwise dispose of such material.

22. All matters of ingress, egress and placement of spoil material, in connection with the license herein granted, shall be coordinated with the said officer and shall be accomplished during periods acceptable to the said officer. For purposes of this condition, the initial point of contact within the offices of the said officer and the said C-O Division shall be Mr. Robert Kelly, who can be reached at (916) 551-2115.

23. The Government reserves the right, for itself and for others so authorized by the Government, during the term of this license and any period of renewal or extension thereof, to place spoil, or permit spoil to be placed by others, on all or part of said tract, as the interests or commitments of the Government may require, making reasonable effort to avoid interference with the exercise by the licensee of the rights herein granted, without guarantee or assurance of noninterference.

24. The licensee will be responsible for control of the return effluent. The existing spillway facilities may be used for this purpose. The facilities will be repaired as necessary and as approved to make them usable. These facilities will be maintained while in use and will be left in operable condition upon completion of the work. The gate mechanism will be operational at all times and will be closed if required to prevent river water from entering the area during high river stages. The gate will be left in a closed position upon completion of the work herein authorized and drainage of all water from the area.

25. Existing dikes and siphon on said tract will be maintained by the licensee until said work is completed. Any damage to these facilities resulting from the disposal operations herein authorized will be repaired by the licensee as directed.

26. It is understood by the licensee that an existing oil pipeline is located in the dike separating Tract A100 from the Sacramento-Yolo Port District's disposal area (Tract 125). Licensee will exercise all necessary care to avoid damage to said pipeline and shall be liable for any damage to said pipeline arising from the exercise of the rights herein granted.

27. Any seepage water gathering along the outside of the dikes along the southerly or westerly side of said spoils area shall be removed by the licensee by pumping back into said area as necessary to prevent damage to any adjacent roads and agricultural operations.



28. The licensee shall obtain all required permits for crossing the Sacramento River, the Sacramento River levee, and the county road with the dredge pipelines.

29. The licensee shall obtain the required water quality certification.

30. All water will be drained by the licensee from the area on which spoil material is deposited by licensee upon completion of said work. The area shall be graded by the licensee so that it is free of depressions which would entrap and pond water and shall slope to drain toward the existing spillway facilities. Licensee shall furnish its final grading plan to said C-O Division for approval prior to implementation.

31. The licensee shall comply with all applicable laws, statutes, ordinances and regulations of all competent public authority having jurisdiction in the premises with regard to construction, safety, sanitation, licenses, permits, consents, compliances, and all other matters.

32. The right of ingress and egress to and from the premises and transit to and from the premises upon, over and across said tract shall be subject to existing and such other rules and regulations regarding ingress, egress, transit, safety, security, conduct and decorum as may be prescribed by the said officer.

33. The licensee has inspected the licensed premises and knows the condition thereof, and it is understood that the same are licensed as is and where is, for the purposes set forth in this license, without any representation or warranty whatsoever and without obligation on the part of the Government to make any alterations, repairs or additions thereto.

34. The right is hereby reserved to the United States, its officers, agents, and employees, to enter upon the premises at any time for the purpose of inspection and control and when otherwise deemed necessary for the protection of the interests of the Government, and the licensee shall have no claim of any character on account thereof against the United States or any officer, agent, or employee thereof.

35. Notwithstanding the term shown in the granting clause hereof, and notwithstanding the provisions of Condition No. 13 hereof, this license may be terminated upon completion by the licensee of said work and a determination by the said officer of satisfactory restoration. If, however, for any reason, said work is begun but not satisfactorily completed, as determined by the said officer, the provisions of Condition No. 12 hereof shall apply in such event.

36. The provisions of Condition No. 3 shall apply only to any utilities and services which are in fact produced and/or supplied.

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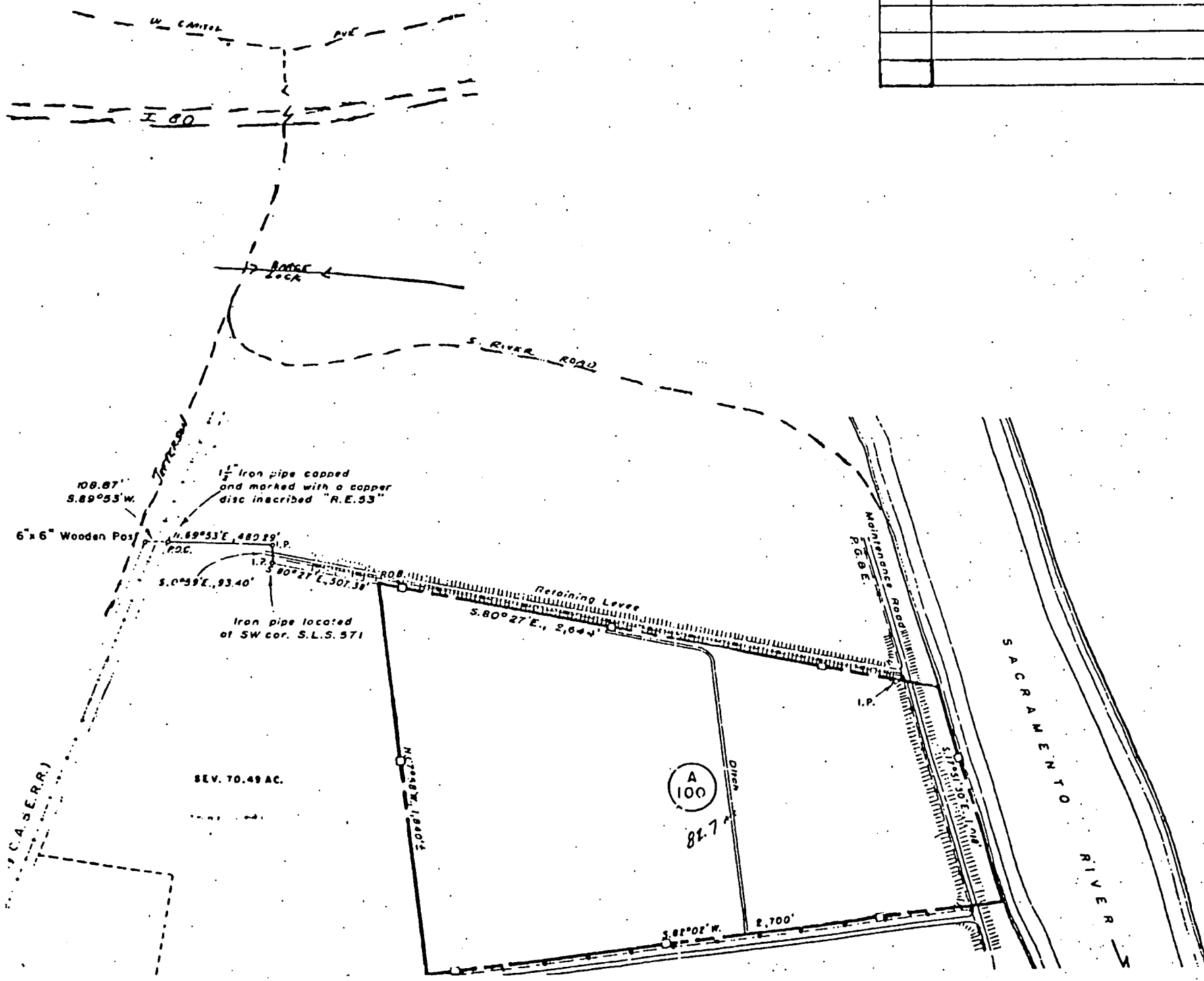
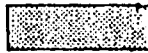


EXHIBIT "A"

CORPS OF  
ENGINEERS

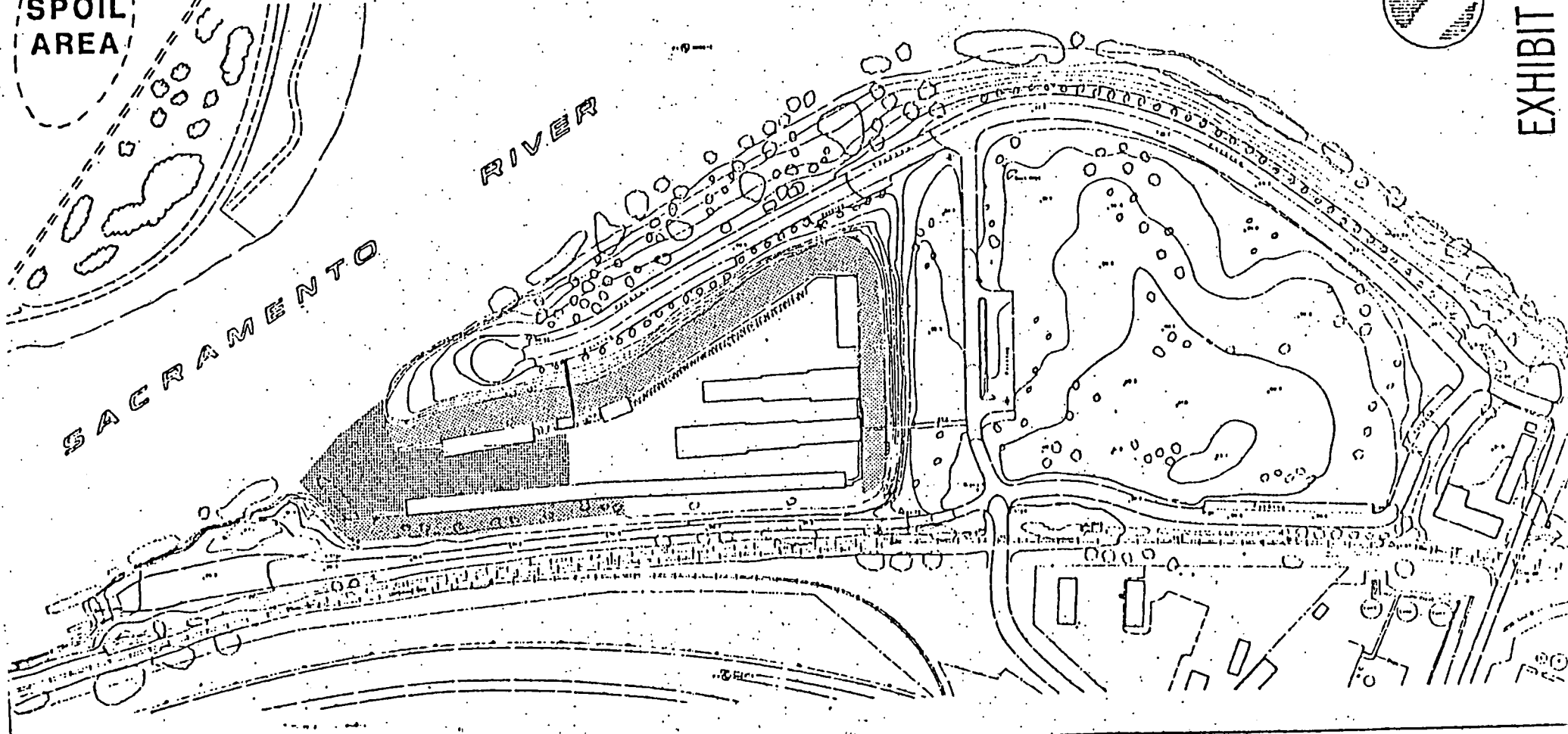


AREA TO BE DREDGED

SPOIL  
AREA



EXHIBIT "B"



REVISIONS			DATE	BY	DESIGNED BY	CHECKED BY	DATE	SCALE

MILLER PARK

RESOLUTION NO. 86-514

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN  
A LICENSE FROM THE CORPS OF ENGINEERS FOR THE  
USE OF THEIR SITE A100 DISPOSITION OF SPOILS FOR  
THE SACRAMENTO BOAT HARBOR EXPANSION PROJECT AT  
MILLER PARK (CC:2113, IA21)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

That the City Manager is hereby authorized and directed to sign a  
license from the Corps of Engineers allowing the City to deposit spoils  
material on the Corps of Engineers Site A100 for an amount of \$21,000.

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MAYOR

ATTEST:

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CITY CLERK

ED1-01.E

July 23, 1986

Mr. Bill Sullivan  
U. S. Army Corps of Engineers  
650 Capitol Mall  
Sacramento, CA 95814-4794  
Attn: 5 PKRE-M

Dear Mr. Sullivan:

On July 8, 1986, the Sacramento City Council adopted Resolution No. 86-514 authorizing the execution of Agreement No. 86003 for use of Site A100 Disposition of Spoils for Sacramento Boat Harbor Expansion Project at Miller Park.

Enclosed are six (6) copies of said agreement executed by the City as authorized by the attached certified resolution.

Upon final execution, please return three (3) copies of said agreement to the Office of the City Clerk for the City's distribution.

Sincerely,

LORRAINE MAGANA, CITY CLERK

Janice Beaman  
Deputy City Clerk

JB/dah/l  
Enclosures

cc: Public Works