

TO: James L. App, City Manager
FROM: Joseph M. Deakin, Public Works Director
SUBJECT: Sewer Pipeline Abandonment (Hilltop Drive)
DATE: April 15, 2003

NEEDS: For the City Council to consider adopting a Resolution abandoning any interest the City might have in an existing sewerline.

- FACTS:**
1. There is an existing sewerline generally parallel to Olive Street behind existing residences fronting on Olive Street. The records regarding the ownership and responsibility for maintenance of this sewerline are unclear.
 2. During the storms of 1995, the slope behind these homes failed, damaging two of the residences.
 3. A lawsuit was filed by these residents against the City alleging that the City was responsible for the failed slope. The lawsuit claimed the sewerline was improperly maintained by the City, causing the slope to fail.
 4. The lawsuit was settled and the Settlement Agreement released the City from all future claims. The attorney who represented the City in this litigation recommended that the City consider abandoning any interest it might be considered to have in this sewerline to avoid future problems with other landowners. The attorney further recommended that the City re-route the sewerline following Hilltop Road alignment.
 5. On March 18, 2003, the City adopted Resolution No. 03-43 initiating Abandonment Proceedings.

**ANALYSIS
AND**

CONCLUSION: Re-routing of the sewerline along Hilltop Road was approved as part of a Capital Improvement Project and on November 19, 2002, the City Council authorized staff to award the construction contract to Raminha Construction. When the work is completed, the City could then abandon whatever interest it could be considered to have in the old sewerline, following all required notice and hearing procedures.

On February 28, 2003, Raminha Construction completed the work in accordance to the Plans & Specifications and to the satisfaction of City.

In accordance to the Highway Code, staff has:

- published the Resolution of Intent to Abandon in a local newspaper fifteen (15) days prior to the Public Hearing;
- notified all property owners within 300 feet of this sewerline of the Public Hearing; and
- posted in the field the Resolution of Intent to Abandon every 300 feet along the existing Sewerline.

POLICY

REFERENCE: Settlement Agreement, Rogers v. City of Paso Robles; Streets and Highways Code

FISCAL

IMPACT: \$100,000 has been appropriated under Budget Account Nos. 610.910.5452.571 and 221.910.5452.571

- OPTIONS:**
- a.** Adopt Resolution 03-xx abandoning any interest the City may have in the old Hilltop Drive sewerline, which runs parallel to Olive Drive.
 - b.** Amend, modify or reject the above option.

Attachment (1)
1) Resolution

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

The City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446

Attn: DITAS ESPERANZA

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
VACATING ANY INTEREST IN A ROAD AND PUBLIC SERVICE EASEMENT

WHEREAS, a road and sewer line (collectively, the "Existing Line" are located on certain property within the City of El Paso de Robles; and

WHEREAS, the records regarding the ownership and responsibility for maintenance of such Existing Line are unclear and were the subject of litigation in San Luis Obispo Superior Court Case No. CV78659, which matter was settled; and

WHEREAS, the City has determined that it is in the best interest of public health, safety and welfare to install a new sewer line in a public street, which will significantly reduce and may eliminate any need for the Existing Line to be used; and

WHEREAS, the City has the authority, pursuant to Streets and Highways Code section 8300 et seq. to vacate all or part of a street or public service easement located within the City.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AS FOLLOWS:

SECTION 1. The City Council hereby directs that a new sewer line (the "New Line") be installed in a portion of Hilltop Road, which will connect to the existing sewer main, as shown on Exhibit A, attached hereto to this resolution and incorporated herein by reference. The installation of the New Line will enable current users of the Existing Line to connect to the New Line, which will help promote public health, safety and welfare. The Existing Line is shown on Exhibit B, attached hereto and incorporated herein by reference.

SECTION 2. The City Council has considered the proposed vacation of the Existing Line, which is located within the area covered by the City's General Plan, and determined that Section 65402 of the Government Code does not apply to the proposed vacation.

SECTION 3. Pursuant to the procedures established by Section 8300 et seq. of the Streets and Highways Code, a public hearing on the proposed vacation was conducted by the City Council on March 18, 2003. Notices of the public hearing were posted and published in accordance with law, and as provided in the affidavits of publication and posting, attached hereto as Exhibit C and D and incorporated herein by reference.

SECTION 4. Based on all the evidence submitted at the hearing and without any acknowledgement that the Existing Line is necessary for present public use, the City Council hereby finds and determines that, upon the installation of the New Line, the Existing Line, including any improvements located therein, will be unnecessary for present or prospective public use and shall be vacated.

SECTION 5. Upon completion of construction of the New Line and acceptance by the City, the City Clerk is hereby directed to record a certified copy of this resolution of vacation with the Office of the County Recorder, County of San Luis Obispo.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 15th day of April 2003 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

EXHIBIT "A"

LOCATION OF NEW LINE

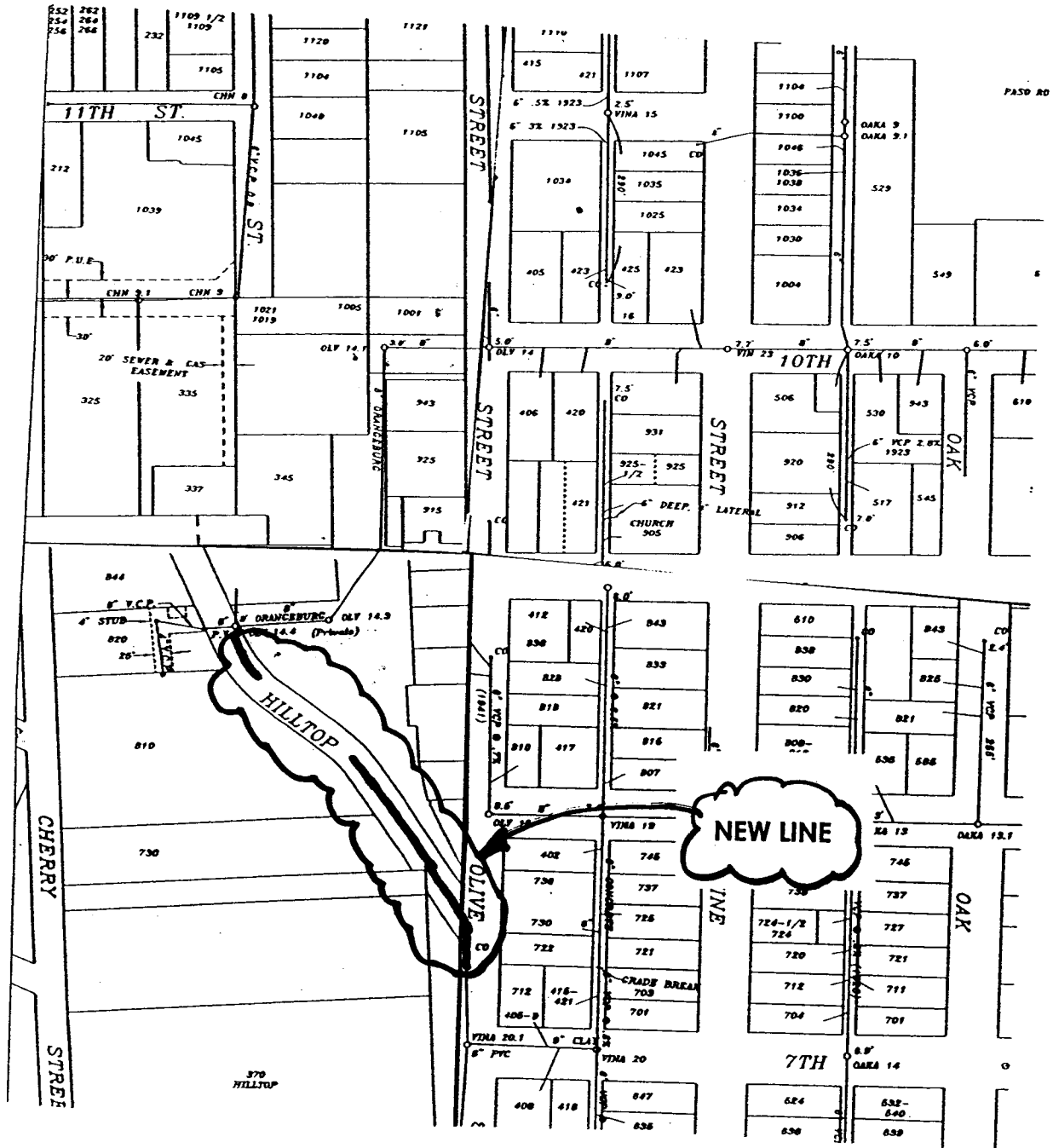


EXHIBIT "B"

LOCATION OF EXISTING LINE

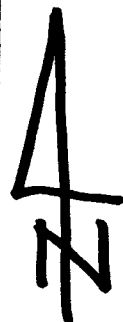
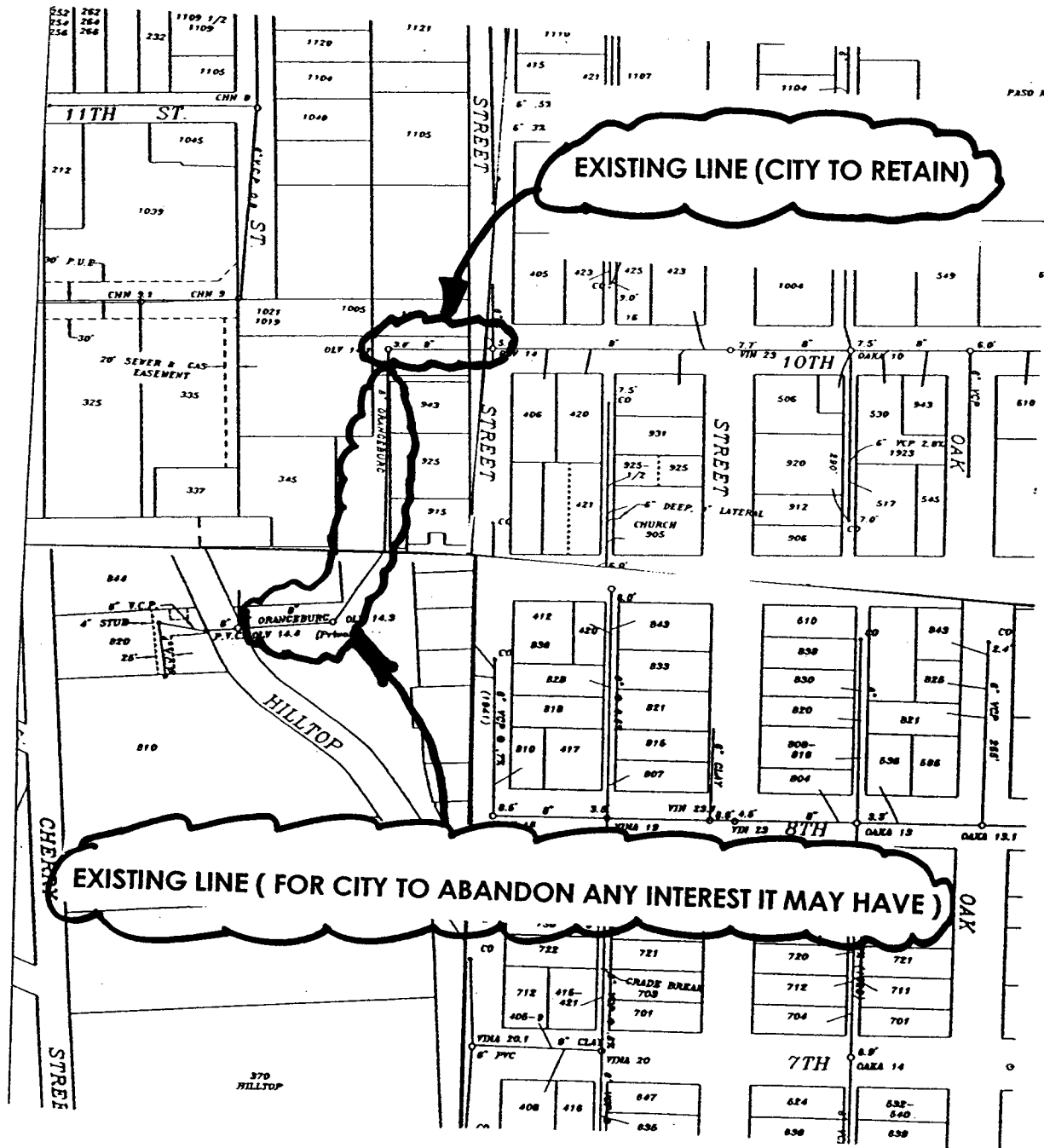


EXHIBIT "C"

PROOF OF PUBLICATION

PUBLICATION OF NOTICE

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING

Newspaper: The Tribune

Date of Publication: March 31, 2003


Meeting Date: April 15, 2003
(City Council)

Project: A Resolution of the City Council
Of the City of Paso Robles
Declaring the City's Intention to
Vacate Whatever Interest the
City May Have to an Existing
Sewer Line and Giving Notice
Of a Time and Place for a Public
Hearing.

I, Tracey Gutierrez, employee of the Public
Works Department, of the City of El Paso de Robles,
do hereby certify that this notice is a true copy of a
published legal newspaper notice for the above named project.

Signed: Tracey Gutierrez
Tracey Gutierrez

forms\newsaffi.691



RESOLUTION NO. 03-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES DECLARING THE CITY'S INTENTION TO VACATE WHATEVER INTEREST THE CITY MAY HAVE TO AN EXISTING SEWER LINE AND GIVING NOTICE OF A TIME AND PLACE FOR A PUBLIC HEARING

THAT THE CITY COUNCIL OF THE CITY OF PASO ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

1. That it is the intention of the City Council to abandon whatever interest the City could be considered to have in an existing sewer pipeline.
2. For further particulars as to the proposed vacation, reference is thereby made to a map and plan now on file in the Office of the City Clerk of the City of Paso Robles.
3. That April 15, 2003 at the hour of 7:30 p.m., on said date in the Paso Robles City Hall, City Council Chambers, 1000 Spring Street, Paso Robles, California, is the time and place set forth for hearing all persons interested or having objection to the proposed abandonment.
4. That the Capital Projects Engineer of the City of Paso Robles be and is hereby directed to cause a copy of this Resolution of Intention to be published fifteen (15) days prior to the date set herein for hearing in the Paso Robles Press, a newspaper of general circulation, published and circulated in the City of Paso Robles, California.
5. The Capital Projects Engineer of the City of Paso Robles be and is hereby directed to cause a notice of the passage of this Resolution of Intention and the time and place for hearing hereon by conspicuously posting notices thereof along the sewer line to be abandoned.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 18th day of March 2003 by the following vote:

AYES: Finigan, Heggarty, Nemeth, Picarico and Mecham
NOES: None
ABSTAIN: None
ABSENT: None
ATTEST: Frank R. Mecham, Mayor
 Sharilyn M. Ryan, Deputy City Clerk
 5805159 Mar 31; Apr 7, 2003

AFFIDAVIT OF POSTING OF NOTICE
AFFIDAVIT OF POSTING

STATE OF CALIFORNIA }

COUNTY OF SAN LUIS OBISPO }

I, **Ditas Esperanza**, being first duly sworn, disposes and says:

1. That I am now and was at all times herein mentioned the duly appointed **CAPITAL PROJECTS ENGINEER** for the City of El Paso de Robles, California;

2. That on the **28th** day of **March 2003**, I caused to be conspicuously posted along that portion of a street in the City of El Paso de Robles, being proposed for closing at not more than 300 feet in distance apart, notice of passage of that certain **Resolution of Intention No. 03-43** passed on the **18th** day of **March 2003** by the City Council of the City of El Paso de Robles and which is referenced in the Notice attached hereto;

3. That said **Notice** was headed "**NOTICE OF ABANDONMENT OF ANY CITY INTEREST**" in letters of not less than one inch in height and was in legible characters and stated the fact of the passage of said **Resolution of Intention**, its' date, and briefly the areas to be closed and the date set for the hearing any objections thereto;

4. That a copy of said **Notice** as aforementioned is hereto attached and marked "**Exhibit A.**"

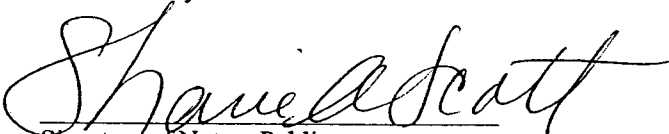
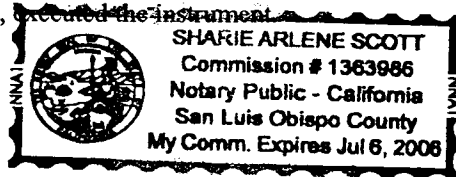


Ditas Esperanza, P.E.
Capital Projects Engineer

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On March 28, 2003 before me, Sharie A. Scott,
personally appeared, Ditas Esperanza P.E.
personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) who
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


Signature of Notary Public

NOTICE OF ABANDON- MENT OF ANY CITY INTEREST

Notice is hereby given that on the 18th day of March 2003, the City Council of the City of El Paso de Robles passed a Resolution of Intention No. 03-43 to abandon any interest that the City might have to an existing sewerline north-east of Hilltop Drive in the City of El Paso de Robles, California.

For further particulars, reference is hereby made to said Resolution of Intention with the map now on file in the office of the City Clerk of the City of El Paso de Robles.

The date set for Public Hearing for all interested persons thereon is April 15, 2003, at 7:30 PM in the Paso Robles City Hall, 1000 Spring Street, Paso Robles, California.

Dated the 25th day of March 2003.


DITAS ESPERANZA, P.E.
CAPITAL PROJECTS ENGINEER