

TO: James L. App, City Manager
FROM: Meg Williamson, Interim Public Works Director
SUBJECT: Agreement with Ole and Sandra Viborg Regarding the 13th Street Bridge Widening Project
DATE: September 7, 2004

NEEDS: For the City Council to approve an agreement with Ole and Sandra Viborg.

- FACTS:**
1. The City is in the process of constructing a multi-purpose trail in connection with the improvements to the 13th Street Bridge and adjacent roadways.
 2. The proposed multi-purpose trail is adjacent to property owned by Ole and Sandra Viborg.
 3. Ole and Sandra Viborg expressed concern as to the location of a portion of the multi-purpose trail with relation to their property boundaries. It appeared that a portion of the trail was within the Viborg property, and that a portion of the building was within public right-of-way.
 4. In order to resolve this issue, the City and the seller (Viborg) desired to cooperate and enter into an agreement whereby the City will quit claim to seller all rights and interest the City may have for the portion of the building within the public right-of-way (approximately 784 square feet) and seller will convey to City that portion of the property, which has a proposed multi-purpose trail (approximately 437 square feet).
 5. The agreement also gives the City a temporary construction easement to work within the Viborg property.
 6. Viborg will also convey a storm drain easement at their southerly property line and the City will quitclaim an existing storm drain easement through the center of their property.

**ANALYSIS
AND**

CONCLUSION: The City Attorney drafted said agreement and the Viborg's have signed it. Staff requests that the City Council authorize the City manager to sign the agreement on behalf of the City. This would allow for the planned improvements to be constructed as scheduled.

POLICY

REFERENCE: Adopted Capital Improvements Program

FISCAL

IMPACT: The project has been designed and construction contract awarded based on this agreement; all within the budget adopted for the 13th Street Bridge Widening Project

- OPTIONS:**
- a. Authorize the City Manager to sign the attached agreement between the City and Ole and Sandra Viborg.
 - b. Amend, modify, or reject the above option.

Attachments
(1) Agreement.

PROPERTY EXCHANGE AGREEMENT

THIS PROPERTY EXCHANGE AGREEMENT (this "Agreement") is entered into as of _____, 2004, by and between the CITY OF EL PASO DE ROBLES (the "City") and OLE K. VIBORG and SANDRA K. VIBORG, Trustees of the Ole K. Viborg Family Revocable Trust, dated September 9, 1993 (collectively, the "Seller").

Recitals

- A. The City is a municipal corporation of the State of California.
- B. The Seller is the fee owner of certain real property (the "Seller's Property"), located at 1529 North River Road Road, in the City (Assessor's Parcel Nos. 025-501-012, -013). Seller's Property is currently improved with a storage building ("Seller's Building") among other improvements related to Seller's storage unit rental business.
- C. The City is in the process of planning for the construction and development of a multi-purpose trail (the "Trail") in connection with improvements to the 13th Street Bridge, on certain real property (the "City's Property"), located adjacent to Seller's Property and the North River Road public right-of-way.
- D. A dispute has arisen between the parties as to the exact location of a portion of the property boundary line between Seller's Property and City's Property at the southeast corner of Seller's Property. As a result, there exists an approximately 784 square feet piece of property (the "Disputed Area") which Seller believes lies within Seller's Property, and City believes lies within City's Property. Further, a portion of the Trail proposed to be constructed by City lies within the Disputed Area, and a portion of Seller's Building existing on Seller's Property lies within the Disputed Area. A Map showing the Disputed Area is attached hereto as Exhibit A and incorporated herein by reference. A Legal Description of the Disputed Area is attached hereto as Exhibit B and incorporated herein by reference.
- E. In order to settle this issue, City and Seller desire to cooperate and enter into this Agreement whereby City will quitclaim to Seller all rights and interest City may have in the Disputed Area, and Seller will convey to City a portion of the Disputed Area to enable construction of the Trail
- F. The City also desires to obtain a temporary construction easement (the "Construction Easement") across a portion of the Seller's Property (the "Construction Easement Property") for use in construction of the Trail and other improvements in the vicinity of the Seller's Property. In addition, City and Seller have agreed to relocate an existing storm drain easement currently located on Seller's Property.

Agreements

NOW, THEREFORE, THE CITY AND SELLER HEREBY AGREE AS FOLLOWS:

1. Disputed Area; Seller's Conveyance Property; Temporary Construction Easement; Storm Drain Easement

a. Subject to the terms and conditions and consideration set forth herein, the City agrees to quitclaim to Seller all rights, title and interest City may have in the Disputed Area, as shown on the Map (Exhibit A). Prior to close of escrow hereunder, City shall execute and deliver into escrow, in recordable form, a standard form quitclaim deed prepared by the Escrow Agent (as defined in Section 3, below).

b. Subject to the terms and conditions and consideration set forth herein, the Seller agrees to convey to City fee marketable title to that portion of the Disputed Area shown on the Map (Exhibit C) as "Seller's Conveyance Property." Fee title to the Seller's Conveyance Property shall be conveyed by a standard form grant deed prepared by Escrow Agent (as defined in Section 3, below).

c. Temporary Construction Easement. Subject to the terms and conditions and consideration set forth herein, the Seller shall grant to the City the Construction Easement, as described herein. As used in this Agreement, the term "Construction Easement" means and includes a nonexclusive temporary easement on, over and under the Construction Easement Property, as shown on the map attached as Exhibit E, for purposes of construction and staging activities during the construction and development of the Trail and the other improvements and activities provided for under Section 2 below; provided City's use of the Construction Easement shall be limited to those periods of time during the Construction Easement Period (as defined below) that City is performing any such construction activities. The Construction Easement shall be granted pursuant to the terms and conditions set forth herein and in the "Grant of Temporary Construction Easement" attached hereto as Exhibit F and incorporated herein by reference (the "Grant of Temporary Construction Easement"), which Grant of Temporary Construction Easement shall be executed by the parties at the time of close of escrow as provided herein. The Construction Easement will be effective during the construction phase, which is currently estimated to commence in October 2004, and continue for a period of approximately thirty-six (36) months thereafter (the "Construction Easement Period"). The City shall deliver to Seller thirty (30) days written notice prior to commencing construction of the Trail and the Improvements (defined in Section 2.b., below).

The City agrees to indemnify and hold the Seller harmless from any claims for losses or damages resulting from the City's work on or use of the Construction Easement.

d. Relocation of Storm Drain Easement. Subject to the terms and conditions and consideration set forth herein, Seller agrees to cooperate with City to enable City to relocate the ten-foot wide storm drain easement ("Existing Storm Drain Easement") currently located on Seller's Property, as shown on the Map (Exhibit A). Seller and City shall execute and deliver, or cause to be executed and delivered, all documents determined to be necessary to terminate the

Existing Storm Drain Easement ("Termination of Existing Easement") and grant to City a new storm drain easement ("New Storm Drain Easement") to be located along the southern edge of Seller's Property, as shown in the Map (Exhibit A) (the "Storm Drain Easement Property"). The New Storm Drain Easement shall be granted pursuant to the terms and conditions set forth herein and in the "Grant of Storm Drain Easement" attached hereto as Exhibit G and incorporated herein by reference (the "Grant of Storm Drain Easement"), which Grant of Storm Drain Easement shall be executed by the parties concurrent with the Termination of Existing Easement, at the time of close of escrow as provided herein.

2. Consideration.

a. There shall be no exchange of cash for quitclaim by City to Seller of City's interest in the Disputed Area, nor for conveyance by Seller to City of Seller's Conveyance Property, or for the Temporary Construction Easement, the Termination of Existing Easement or the New Storm Drain Easement. The only consideration to be paid by either City or Seller shall be as set forth below in this Section 2.

b. Related Improvements. As consideration for the conveyance of the Seller's Conveyance Property to the City and the Construction Easement granted pursuant to Section 1.c., the City agrees to construct, at the City's sole cost and expense, the following improvements to or for the benefit of Seller's Property (the "Improvements"), as shown on the Map of Improvements attached hereto as Exhibit D and incorporated herein by reference:

(i) Re-grade a portion of the road in front of Seller's Building to decrease the abrupt change in grade to the new driveway at the north end of Seller's Property.

(ii) Remove railings and fill opening at an existing inlet to allow Seller to have additional area to maneuver trucks and equipment on Seller's Property.

(iii) Remove and reconstruct two trash enclosures, which will give Seller more area to maneuver trucks and equipment on Seller's Property.

(iv) Install collapsible bollard and stop signs at the multi-purpose trail, as shown on the Map (Exhibit D).

(v) Plug existing drainage pipes and box culvert in connection with the relocation of the Storm Drain Easement provided for in Section 1.d., above.

(vi) Install "Yield" signs at the locations indicated on the Map (Exhibit D).

(vii) Widen a portion of the southerly access road as it approaches the multi-purpose trail.

The Improvements identified above shall be constructed in conjunction with construction of the Trail and other public improvements to be constructed on City's Property, and in a manner that will allow continued access to the Seller's Property and ensure usability of the Seller's Property with the least amount of disruption as reasonably possible

during the construction phase. Seller shall cooperate with the City, and execute such documents as are determined necessary by the City to grant the City access to the Seller's Property as necessary to construct the Improvements.

The Improvements to be constructed by the City pursuant to this Section 2.b. shall be designed and constructed in accordance with plans approved by City, and shall allow for vehicular access from Seller's Property to the Trail.

3. Escrow.

The City and the Seller shall open an escrow with a title company acceptable to both parties (the "Escrow Agent"). This Agreement constitutes the joint escrow instructions of the City and the Seller, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of the escrow. The City and the Seller may furnish to the Escrow Agent any additional escrow instructions in writing, executed by both the City and the Seller, which are in conformity with this Agreement and which are mutually satisfactory to both parties. The Escrow Agent is hereby empowered to act under this Agreement and shall carry out its duties as Escrow Agent hereunder.

Prior to the close of escrow, the City shall execute, acknowledge and deliver the quitclaim deed, Grant of Temporary Construction Easement, Termination of Existing Easement, and Grant of New Storm Drain Easement, and certificates of acceptance for the grant deed, Construction Easement and Storm Drain Easement, in escrow with the Escrow Agent. The City shall also pay in escrow the fees, charges and costs connected with the escrow as specified in Section 6 of this Agreement.

Prior to the close of escrow, the Seller shall properly execute, acknowledge and deliver a grant deed conveying to the City title to the Seller's Conveyance Property and the Grant of Temporary Construction Easement.

The escrow shall close upon the occurrence of the following actions:

- a. Deliver to the Escrow Agent of the fully executed quitclaim deed to the Disputed Area; and
- b. Delivery to the Escrow Agent of the fully executed grant deed to the Seller's Conveyance Property and the City's acceptance for the grant deed; and
- c. Delivery to the Escrow Agent of the fully executed Grant of Temporary Construction Easement, and the City's acceptance of said Easement; and
- d. Delivery to the Escrow Agent of the fully executed Termination of Existing Easement; and
- e. Delivery to the Escrow Agent of the fully executed Grant of New Storm Drain Easement, and the City's acceptance of said Easement;

provided, however, that escrow shall close within thirty (30) days after the date of this Agreement, but in no event later than October 2004, unless extended by mutual agreement of the parties.

Upon the close of escrow, the Escrow Agent shall file the quitclaim deed, grant deed, and Grant of Temporary Construction Easement for recordation among the land records in the Office of the County Recorder for San Luis Obispo County ("Recorder's Office"), and shall deliver to the City a title insurance policy in conformity with Section 5 of this Agreement. Except as otherwise provided herein, insurance policies for fire or casualty, if any, are not to be transferred, and the Seller agrees to maintain all current fire or casualty policies for the Seller's Property in force until close of escrow, at which time the Seller may cancel said policies as to the Seller's Conveyance Property.

The parties acknowledge and agree that certain actions must be completed by City prior to relocation of the Existing Storm Drain Easement. Following completion of all such actions, City shall deliver to Escrow Agent, with a copy to Seller, its notice that all such actions have been completed, and that Escrow Agent may proceed to record the Termination of Existing Easement and Grant of New Storm Drain Easement. Seller agrees to cooperate with City and authorize the recordation of the Termination of Existing Easement and Grant of New Storm Drain Easement upon completion of all prerequisite actions by City.

The Escrow Agent is authorized to pay and charge the City and the Seller for any fees, charges and costs payable under this Section 3 and Section 6 of this Agreement. The Escrow Agent is further authorized to pay and charge the Seller for any amount necessary to place title in the condition necessary to satisfy Section 4 of this Agreement.

In addition, the Escrow Agent is authorized to disburse funds and deliver the quitclaim deed, grant deed, Grant of Temporary Construction Easement, and other documents to the parties entitled thereto and to record any instruments delivered through this escrow, if necessary or proper, to vest title to the Seller's Conveyance Property with the City and grant the Construction Easement to the City in accordance with the terms and provisions of this Agreement.

4. Condition of Title to Seller's Conveyance Property and Construction Easement; Representations of Seller.

The Seller shall convey by grant deed to the City fee simple title to the Seller's Conveyance Property. Title shall be in a condition that is acceptable to both the City and Seller. Within 10 days of execution of this Agreement by the City, City and Seller shall agree upon the condition of title of the Seller's Conveyance Property. If the City and Seller cannot agree on the condition of title of the Seller's Conveyance Property within the time specified, either party may terminate this Agreement after thirty (30) days after written notice to the other party. The Seller shall grant the Construction Easement to the City in a condition that will permit the City to use the Construction Easement in the manner and for the purposes provided in this Agreement.

Seller warrants and represents:

a. that the execution and delivery by Seller of, and Seller's performance under, this Agreement are within Seller's powers and have been duly authorized by all requisite actions, and there are no parties with any interest in the Seller's Conveyance Property, the Construction Easement Property or the Storm Drain Easement Property (marital, homestead or otherwise), and no other signatures are required to make this Agreement fully enforceable by the City;

b. that it has not entered into and is not aware of any unrecorded leases or other encumbrances pertaining to the Seller's Conveyance Property, and no party has been granted any license, lease or other right relating to the use or possession of the Seller's Conveyance Property, the Construction Easement Property, or the Storm Drain Easement Property;

c. that it has not granted to any party, other than the City, any option, contract or other agreement with respect to a purchase or sale of the Seller's Conveyance Property, the Construction Easement Property or the Storm Drain Easement Property, or any portion thereof or any interest therein; and

d. that there are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy, or under any applicable debtor relief laws, or any other litigation contemplated by, pending or threatened against Seller or the Seller's Conveyance Property, the Construction Easement Property or the Storm Drain Easement Property.

5. Title Insurance.

Concurrently with recordation of the grant deed and Grant of Temporary Construction Easement, a title insurance company, satisfactory to the Seller and the City (the "Title Company") shall provide and deliver to the City an A.L.T.A. standard form title insurance policy in the amount of \$ _____, issued by the Title Company insuring that title to the Seller's Conveyance Property and Construction Easement is vested in the City in the condition required by Section 4 of this Agreement. Concurrent with recordation of the Termination of Existing Easement and Grant of Storm Drain Easement, the Title Company shall provide and deliver to the City an A.L.T.A. standard form title insurance policy in the amount of \$ _____, issued by the Title Company insurant that title to the New Storm Drain Easement is vested in the City in the condition required by Section 4 of this Agreement. Said title insurance policy(ies) shall be subject only to such liens, encumbrances, clouds or conditions as are permitted under Section 4 of this Agreement or otherwise approved by the City.

6. Costs, Expenses of Escrow.

Except as otherwise provided herein, the City shall pay in escrow to the Escrow Agent all fees, charges and costs connected with the escrow, title insurance and conveyance, including, but not limited to, the escrow fee, the premium for the title insurance policy, costs of preparing and executing the quitclaim deed, grant deed, Grant of Temporary Construction

Easement, Termination of Existing Easement and Grant of Storm Drain Easement, recording fees, and notary fees.

Real property taxes imposed upon the Seller's Conveyance Property by San Luis Obispo County or any governmental or special district, organization or body shall be prorated as of the close of escrow, on the basis of 30-day months.

7. Possession of Seller's Conveyance Property

The Seller's Conveyance Property shall be conveyed to the City upon the close of escrow free and clear of any possession or right of possession by the Seller or any other person or entity.

8. Record of Survey.

Upon close of escrow for conveyance of the Seller's Conveyance Property to the City, the City shall deliver to the Seller a certified Record of Survey showing the new boundary of the Seller's Property and a certificate of compliance certifying that the remainder of the Seller's Property is in compliance with the Subdivision Map Act. Adequate property line monuments shall be placed on behalf of the City identifying the new boundary of the Seller's property.

9. Permission to Enter on Seller's Conveyance Property, Construction Easement Property and Storm Drain Easement Property.

Prior to the conveyance of title (or easement, as applicable), the Seller grants to the City, its authorized officials, agents, employees, contractors and contractors' employees the right of access to the Seller's Conveyance Property, the Construction Easement Property and the Storm Drain Easement Property at all reasonable times for inspection purposes, obtaining data and making surveys and tests. All such work performed on the Seller's Conveyance Property, the Construction Easement Property and the Storm Drain Easement Property by the City shall be at the sole expense of the City. The City shall hold the Seller harmless for any injury or damages arising out of any activity pursuant to this Section 9.

10. Condition of the Seller's Conveyance Property.

The Seller's Conveyance Property shall be conveyed from the Seller to the City in an "as is" condition.

The City shall have access to all data and information on the Seller's Conveyance Property available to the Seller, but without warranty or representation by the Seller as to the completeness, correctness or validity of such data and information. Following execution of this Agreement by the parties, the City, at its sole cost, shall investigate and determine the soil conditions of the Seller's Conveyance Property, which investigation may include but is not limited to obtaining a Phase I report on the Seller's Conveyance Property. If the soil conditions are not in all respects entirely suitable for the use or uses to which the Seller's Conveyance Property will be put, then City shall have the right to terminate this Agreement, upon written notice to the Seller.

11. Right of Termination by City Prior to Conveyance.

In the event that (a) City determines that the condition of the Seller's Conveyance Property is not satisfactory to the City, or (b) the Seller does not tender conveyance of title to the Seller's Conveyance Property in the manner, condition and times provided in this Agreement, and any such failure is not cured within thirty (30) days after written demand by the City, then this Agreement may, at the option of the City, be terminated by written notice thereof to the Seller.

12. Right of Termination by Seller Prior to Conveyance.

In the event that the City does not take title to the Seller's Conveyance Property under tender of conveyance by the Seller within the time provided in this Agreement, and any such failure is not cured within thirty (30) days after written demand by the Seller then this Agreement may, at the option of the Seller, be terminated by written notice thereof to the City.

13. Specific Performance.

If the Seller or the City defaults under any of the provisions of this Agreement, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not commenced to be cured by the defaulting party within thirty (30) days of service of the notice of default, the nondefaulting party may, at its option, institute an action for specific performance of the terms of this Agreement. It is understood and agreed that damages would be an inadequate remedy to the City were the Seller to default in its obligation to convey the Seller's Conveyance Property to the City as set forth in this Agreement.

14. Acquisition Under Threat of Condemnation.

This acquisition is being made under threat of condemnation by the City, which is a public agency having the power of eminent domain pursuant to the California Eminent Domain Law. The Seller acknowledges and agrees that the Seller's Property Improvements to be constructed by City, as provided for hereunder, are in lieu of any and all compensation, damages and cost, including relocation costs, if any, to which the Seller might otherwise be entitled if the City were to proceed to acquire its property by eminent domain.

15. Notices and Communications between the Parties.

Formal notices, demands and communications between the City and the Seller shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the addresses of the City and the Seller set forth below:

City: City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446
Attn: City Manager

with a copy to:

McDonough, Holland & Allen PC
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
Attn: Iris P. Yang, Esq.

Seller: Ole K. Viborg
Sandra K. Viborg
2470 El Pomar Road
Templeton, CA 93465

Written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time-to-time designate.

16. Conflicts of Interest.

No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

17. Binding on Successors.

The terms, conditions, covenants and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

18. Brokers' Commission.

The City and the Seller each represents to the other that it has not engaged a broker, agent or finder in connection with this transaction, and insofar as they know, no broker or other person is entitled to any commission or finder's fee in connection with this sale.

19. Entire Agreement.

This Agreement constitutes the entire understanding and agreement of the parties relating to acquisition of the Seller's Conveyance Property and the easements provided for hereunder. It integrates all the terms and conditions mentioned herein or incidental thereto and

supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

20. Time for Acceptance by City.

This Agreement, when executed by the Seller and delivered to the City, must be authorized, executed and delivered by the City within thirty (30) days after the date of signature by the Seller or this Agreement shall be void, except to the extent that the Seller shall consent in writing to further extensions of time for the authorization, execution and delivery of this Agreement. The effective date of this Agreement shall be the date when this Agreement has been signed by the City.

CITY:

Dated: _____

CITY OF EL PASO DE ROBLES

By: _____

James L. App, City Manager

-AND-

SELLER:

Dated: 8/2/04

Ole K. Viborg

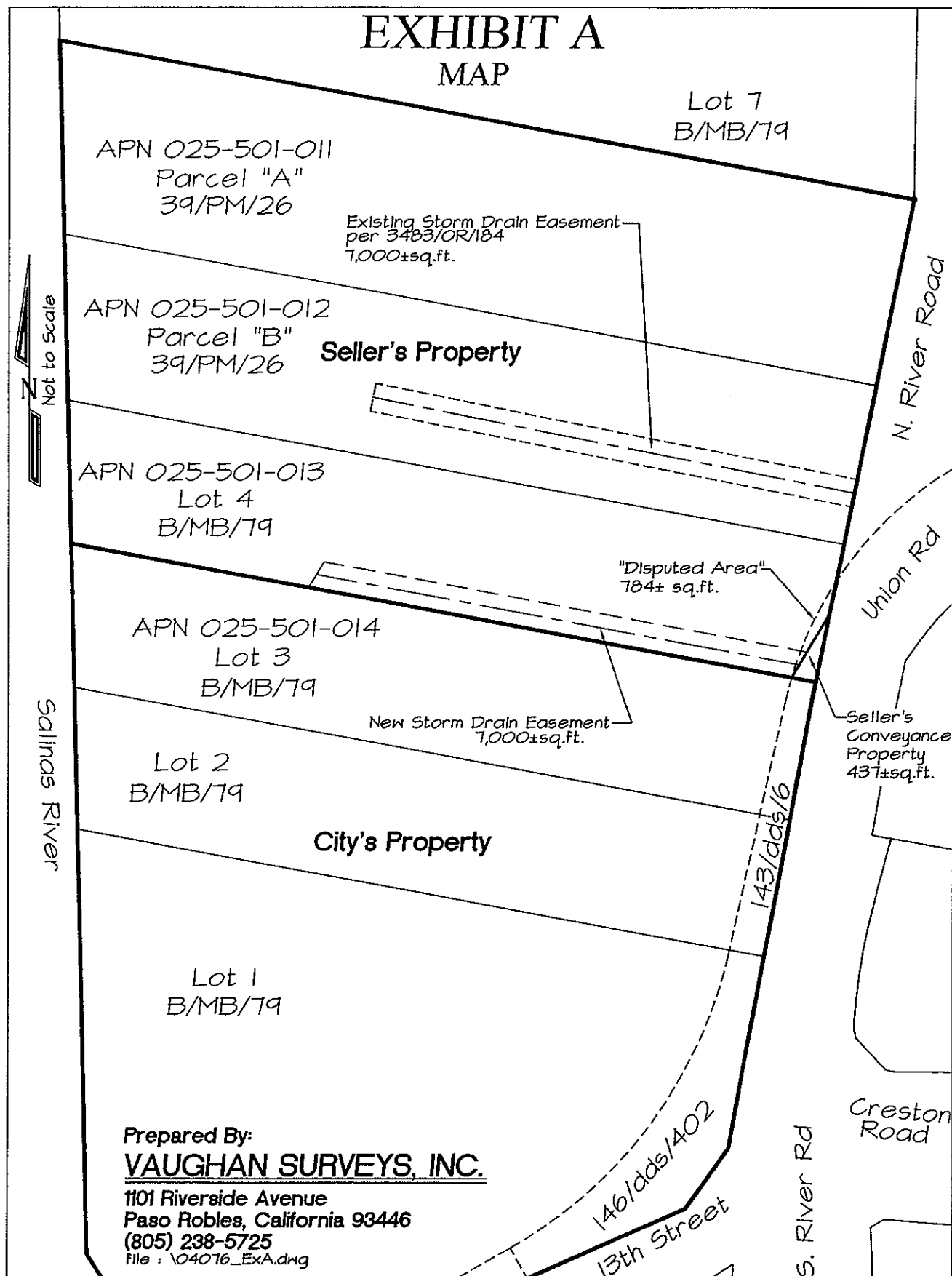
OLE K. VIBORG,
Trustee of the Ole K. Viborg Family Revocable
Trust, Dated September 9, 1993

Dated: 8/2/04

Sandra J. Viborg

SANDRA K. VIBORG,
Trustee of the Ole K. Viborg Family Revocable
Trust, Dated September 9, 1993

EXHIBIT A MAP



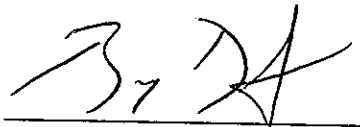
Prepared By:
VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : \04076_ExA.dwg

EXHIBIT B

LEGAL DESCRIPTION OF THE DISPUTED AREA

That portion of Lot 4, if any, of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County, lying within the strip of land described in the Deed to the County of San Luis Obispo recorded January 8, 1921 in Book 143 of Deeds, at Page 6, records of said County



6/3/04

Bryce Dilger #L-7571 (Exp. 12/05)

Date

:\04076_ExB.doc



EXHIBIT C

LEGAL DESCRIPTION OF THE SELLER'S CONVEYANCE PROPERTY

That portion of Lot 4 of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County, more particularly described as follows:

Beginning at a ½" rebar marking the southeast corner of said Lot 4 as shown on the Record of Survey map recorded in Book 40 of Surveys, at Page 86, records of said County;

Thence North 79°27'50" West along the southerly line of said Lot 4, a distance of 17.54 feet;

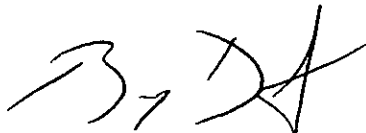
Thence North 30°50'10" East, a distance of 53.06 feet to the easterly line of said Lot 4;

Thence South 11°32'10" West along said easterly line, a distance of 49.78 feet to the **Point of Beginning**.

Contains 437 square feet, more or less.

Bearings and distances used herein are based upon the NAD '83 HPGN, Zone 5 California Coordinate System. Multiply distances called by 1.000005396 to obtain ground level distances.

The above described property is graphically shown on Exhibit "B" attached hereto and made a part thereof.



6/3/04

Bryce Dilger #L-7571 (Exp. 12/05)

Date



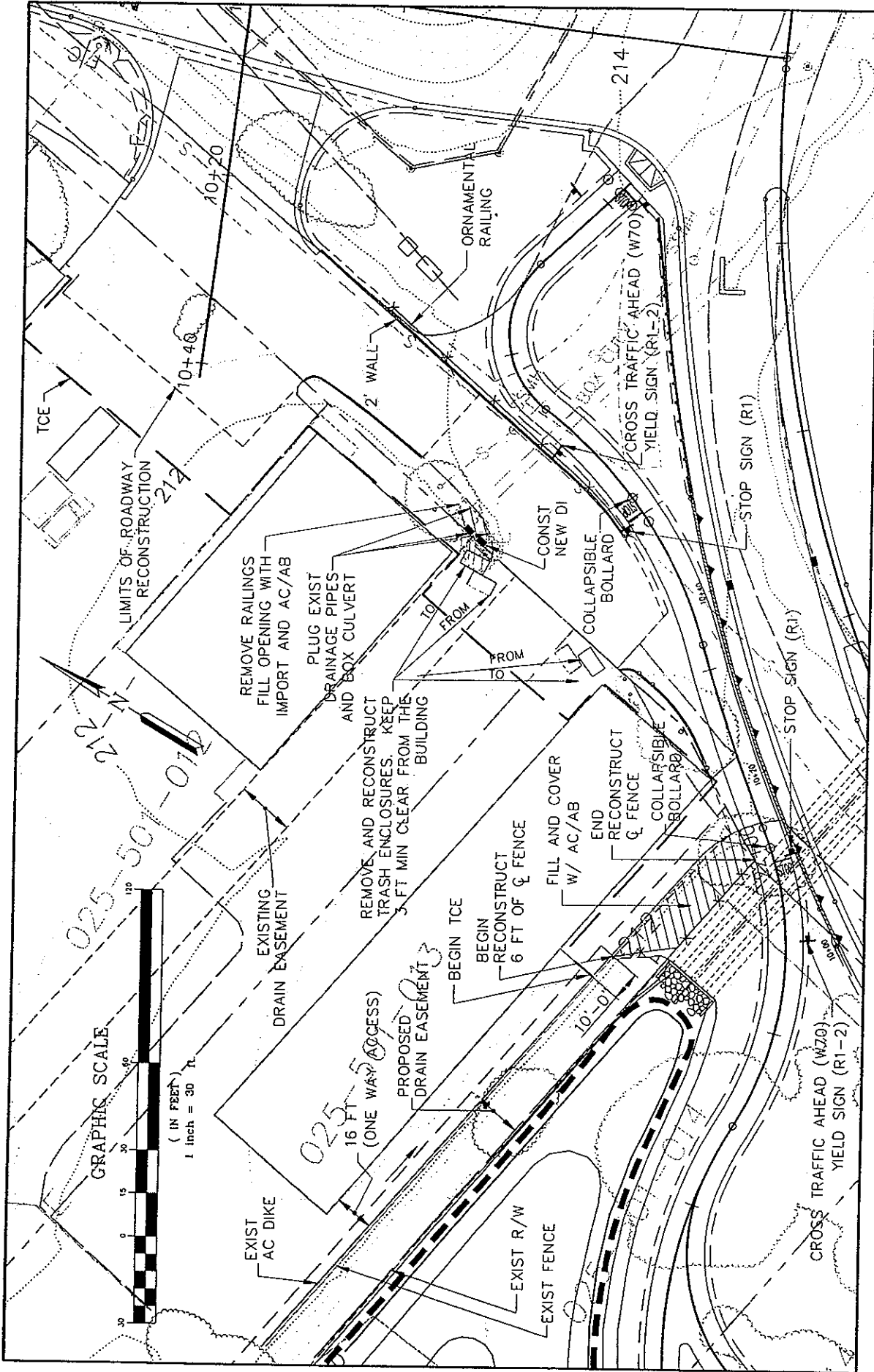


EXHIBIT "D"

EXHIBIT E

MAP OF CONSTRUCTION EASEMENT PROPERTY

Parcel "A"
39/PM/26

Parcel "B"
39/PM/26



LINE TABLE		
LINE	LENGTH	BEARING
L1	27.86	N10°17'13"E
L2	72.80	S79°33'12"E
L3	6.20	S80°25'33"E
L4	52.59	N10°30'24"E
L5	17.75	N79°20'59"W
L6	10.91	N10°20'10"E
L7	36.32	N10°20'10"E
L8	324.03	N78°47'06"W
L9	20.00	N11°2'54"E
L10	342.40	S78°47'06"E
L11	22.28	N10°07'26"E
L12	45.75	N09°11'52"E
L13	40.89	N79°27'37"W
L14	41.01	N09°44'09"E
L15	54.62	N09°44'09"E
L16	26.26	S79°00'45"E
L17	33.81	N10°55'32"E
L18	5.96	N10°55'32"E

Lot 4
B/MB/79

Lot 3
B/MB/79

Lot 2
B/MB/79

Lot 1
B/MB/79

Salinas River

N. River Road

Creston Rd

S. River Rd

13th Street

146/dds/402

143/dds/6

Point of Beginning



[Signature] 6/3/04
Bryce Dilger, #L-75711 exp. 12/31/05 Date

Prepared By:
VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : V04076_ExE.dwg

L9
17,643± sq.ft.
L8

L2 L3
N79°27'50"W
84.65'

579°27'50"E 28.13'
L14 L15 L16 L17 L18
350.96'

EXHIBIT F

Recorded at the Request of, and
When Recorded, Return to:

City of El Paso de Robles
100 Spring Street
Paso Robles, CA 93447
Attn: City Manager

**FORM OF GRANT OF
TEMPORARY CONSTRUCTION EASEMENT**

This Agreement is entered into as of _____, 200_, by and between OLE K. VIBORG and SANDRA K. VIBORG, Trustees of the Ole K. Viborg Family Revocable Trust, dated September 9, 1993 (collectively, the "Grantor"), and CITY OF EL PASO DE ROBLES ("City").

Recitals

A. Grantor is the owner of certain real property (the "Grantor's Property"), located at 1529 North River Road, in the City (Assessor's Parcel Nos. 025-501-012, -013). Grantor's property is shown on the Map (Exhibit 1 hereto) and is described in the "Description of the Grantor's Property" attached hereto as Exhibit 2 and incorporated herein by reference.

B. Pursuant to that certain Acquisition Agreement between Grantor and City, dated _____, 2004 (the "Acquisition Agreement"), Grantor conveyed to City a portion of Grantor's Property, consisting of approximately 437 square feet of land (the "Conveyance Property") to enable construction and development a multi-purpose trail (the "Trail"). The Conveyance Property is described in the "Legal Description of the Conveyance Property," attached hereto as Exhibit 3 and incorporated herein by reference, and shown on the "Map of the Conveyance Property," attached hereto as Exhibit 4 and incorporated herein by reference.

C. Pursuant to the Acquisition Agreement, Grantor agreed, among other things, to grant to the City a temporary construction easement (the "Construction Easement") across a portion of Grantor's Property (the "Construction Easement Property"). The Construction Easement Property is shown on the Map (Exhibit 5) and is described in the "Description of the Construction Easement Property" (Exhibit 6) incorporated herein by reference.

E. The Acquisition Agreement further provides for the City to construct certain improvements and perform certain activities on and adjacent to Grantor's Property (collectively, the "Other Improvements"). In order to construct the Trail and such Other Improvements, the City requires a Construction Easement for purposes of construction and staging activities during

the construction and development of all such improvements on the Conveyance Property and Grantor's Property.

F. Grantor desires to grant a temporary construction easement over the Construction Easement Property to City for the purposes described above.

NOW, THEREFORE, the parties agree as follows:

Agreement

1. Grant of Temporary Construction Easement. Subject to the terms and conditions set forth herein and in the Acquisition Agreement, Grantor hereby grants to City the Construction Easement for purposes of ingress and egress and construction and staging activities over that portion of Grantor's Property as shown on Exhibit 5 and described in Exhibit 6. This Temporary Construction Easement will be used solely during periods of construction of the Trail and the Other Improvements on the Conveyance Property and Grantor's Property. City agrees that it shall not use the Construction Easement Property for storage of construction equipment or vehicles.

2. Term of Easement. As used in this Agreement, the term "Construction Easement" means and includes a nonexclusive temporary easement on, over and under the Easement Property, as shown on Exhibit 5 for purposes of construction and staging activities during the construction and development of the Trail on the Conveyance Property and the Other Improvements and activities provided for under Section 2 of the Acquisition Agreement. The Construction Easement shall be granted pursuant to the terms and conditions set forth herein which Grant of Temporary Construction Easement shall be executed by the parties at the time of close of escrow as provided herein. The Construction Easement will be effective during the construction phase, which is currently estimated to commence in October 2004 and continue for a period of approximately thirty-six (36) months thereafter (the "Construction Easement Period"). The City shall deliver to Seller thirty (30) days written notice prior to commencing construction of the Trail and/or Other Improvements.

3. Indemnification; Condition of Grantor's Property. City shall indemnify and hold Grantor harmless from and against all liability, claims, demands, damages or costs of any kind whatsoever arising from or connected with City's construction activities on Grantor's Property during the term of the Construction Easement granted above.

Dated: 8/2/04

GRANTOR:

Ole K. Viborg

OLE K. VIBORG,
Trustee of the Ole K. Viborg Family Revocable
Trust, Dated September 9, 1993

Dated: 8/2/04

Sandra K. Viborg

SANDRA K. VIBORG,
Trustee of the Ole K. Viborg Family Revocable
Trust, Dated September 9, 1993

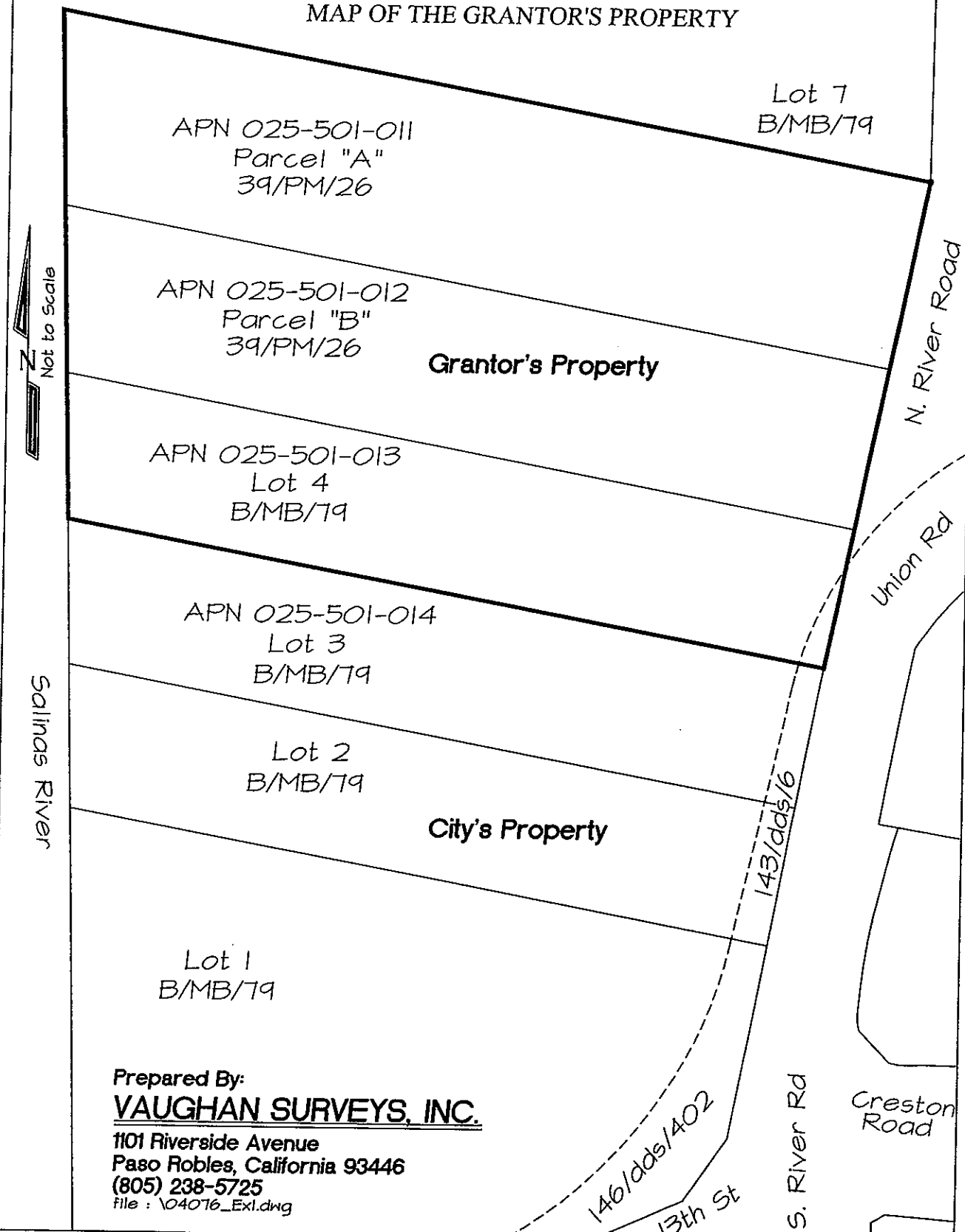
Dated: _____

CITY:

CITY OF EL PASO DE ROBLES

By: _____
James L. App, City Manager

EXHIBIT NO. 1
MAP OF THE GRANTOR'S PROPERTY



APN 025-501-011
Parcel "A"
39/PM/26

Lot 7
B/MB/79

APN 025-501-012
Parcel "B"
39/PM/26

Grantor's Property

APN 025-501-013
Lot 4
B/MB/79

APN 025-501-014
Lot 3
B/MB/79

Lot 2
B/MB/79

City's Property

Lot 1
B/MB/79

Salinas River

N. River Road

Union Rd

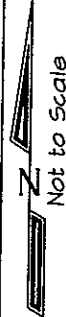
143/dds/6

146/dds/402

13th St

S. River Rd

Creston Road



Prepared By:
VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : \04076_Ext.dwg

EXHIBIT NO. 2

LEGAL DESCRIPTION OF THE GRANTOR'S PROPERTY

Lot 4 of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County and Parcels A and B per map recorded in Book 39 of Parcel Maps, at Page 26, records of said County.

:\04076_Ex2.doc

EXHIBIT NO. 3
MAP OF THE CONVEYANCE PROPERTY

Lot 7
B/MB/79

Parcel "A"
39/PM/26

Parcel "B"
39/PM/26

Lot 4
B/MB/79

Lot 3
B/MB/79

Lot 2
B/MB/79

Lot 1
B/MB/79

N. River Road



Not to Scale

Salinas River

437± sq.ft.
N30°50'10"E
53.06'
N79°27'50"W
17.54'
Point of Beginning
S113°21'0"W
49.78'

143/dds/6

146/dds/402
13th St

S. River Rd

Creston Road



Bryce Dilger 6/3/04

Bryce Dilger, #L-7571 exp. 12/31/05 Date

Prepared By:

VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : \04076_Ex3.dwg

EXHIBIT NO. 4

LEGAL DESCRIPTION OF THE CONVEYANCE PROPERTY

That portion of Lot 4 of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County, more particularly described as follows:

Beginning at a ½" rebar marking the southeast corner of said Lot 4 as shown on the Record of Survey map recorded in Book 40 of Surveys, at Page 86, records of said County;

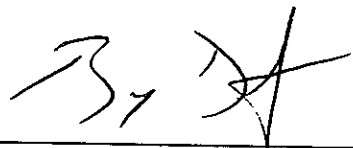
Thence North 79°27'50" West along the southerly line of said Lot 4, a distance of 17.54 feet;

Thence North 30°50'10" East, a distance of 53.06 feet to the easterly line of said Lot 4;

Thence South 11°32'10" West along said easterly line, a distance of 49.78 feet to the **Point of Beginning.**

Contains 437 square feet, more or less.

Bearings and distances used herein are based upon the NAD '83 HPGN, Zone 5 California Coordinate System. Multiply distances called by 1.000005396 to obtain ground level distances.



6/3/04

Bryce Dilger #L-7571 (Exp. 12/05)

Date

:\\04076_Ex4.doc



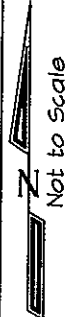
EXHIBIT NO. 5

MAP OF THE CONSTRUCTION EASEMENT PROPERTY

Parcel "A"
39/PM/26

Lot 7
B/MB/79

Parcel "B"
39/PM/26



Salinas River

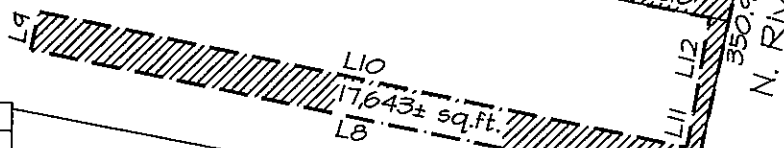
LINE TABLE		
LINE	LENGTH	BEARING
L1	27.86	N10°17'13"E
L2	72.80	S79°33'12"E
L3	6.20	S80°25'33"E
L4	52.59	N10°30'24"E
L5	17.75	N79°20'59"W
L6	10.91	N10°20'10"E
L7	36.32	N10°20'10"E
L8	324.03	N78°47'06"W
L9	20.00	N112°54"E
L10	342.40	S78°47'06"E
L11	22.28	N10°07'26"E
L12	45.75	N09°11'52"E
L13	40.89	N79°27'37"W
L14	41.01	N09°46'53"E
L15	54.62	N09°44'09"E
L16	26.26	S79°00'45"E
L17	33.81	N10°55'32"E
L18	5.96	N10°55'32"E

Lot 4
B/MB/79

Lot 3
B/MB/79

Lot 2
B/MB/79

Lot 1
B/MB/79



Point of Beginning

143/dds/6

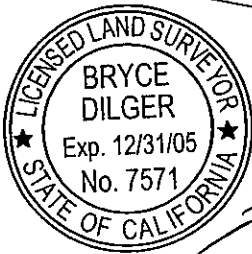
146/dds/402

13th St

S. River Rd

Creston Road

N. River Road



[Signature] 6/3/04

Bryce Dilger, #L-7571 exp. 12/31/05 Date
Prepared By:

VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : 104076_Ex5.dwg

EXHIBIT NO. 6

LEGAL DESCRIPTION OF THE CONSTRUCTION EASEMENT PROPERTY

Those portions of Lot 4 of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County and Parcels A and B of the Parcel Map recorded April 14th, 1986 in Book 39 of Parcel Maps, at Page 26, records of said County more particularly described as follows:

Beginning at a ½" rebar marking the southeast corner of said Lot 4 as shown on the Record of Survey map recorded in Book 40 of Surveys, at Page 86, records of said County;

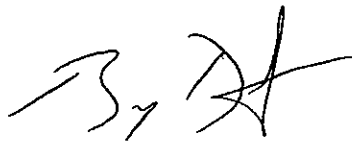
Thence North 79°27'50" West along the southerly line of said Lot 4, a distance of 84.65 feet; Thence North 10°17'13" East, a distance of 27.86 feet; Thence South 79°33'12" East, a distance of 72.80 feet; Thence South 80°25'33" East, a distance of 6.20 feet; Thence North 10°30'24" East, a distance of 52.59 feet; Thence North 79°20'59" West, a distance of 17.75 feet; Thence North 10°20'10" East, a distance of 10.91 feet; Thence North 10°20'10" East, a distance of 36.32 feet; Thence North 78°47'06" West, a distance of 324.03 feet; Thence North 11°12'54" East, a distance of 20.00 feet; Thence South 78°47'06" East, a distance of 342.40 feet; Thence North 10°07'26" East, a distance of 22.28 feet; Thence North 09°11'52" East, a distance of 45.75 feet; Thence North 79°27'37" West, a distance of 40.89 feet; Thence North 09°46'53" East, a distance of 41.01 feet; Thence North 09°44'09" East, a distance of 54.62 feet; Thence South 79°00'45" East, a distance of 26.26 feet; Thence North 10°55'32" East, a distance of 33.81 feet; Thence North 10°55'32" East, a distance of 5.96 feet to a point on the northerly line of said Parcel "A";

Thence South 79°27'50" East along said northerly line, a distance of 28.13 feet to a ½" rebar marking the northeast corner of said Parcel "A" as shown on said Parcel Map;

Thence South 11°32'10" East along the easterly lines of said Parcels "A" & "B" and said Lot 4, a distance of 350.96 feet to the **Point of Beginning**.

Contains 17,643 square feet, more or less.

Bearings and distances used herein are based upon the NAD '83 HPGN, Zone 5 California Coordinate System. Multiply distances called by 1.000005396 to obtain ground level distances.



6/3/04

Bryce Dilger #L-7571 (Exp. 12/05)

Date

:\04076_Ex6.doc



STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)

On AUG 02 2004, before me, the undersigned notary public, personally appeared _____
OLY VIBORG AND SANDRA VIBORG

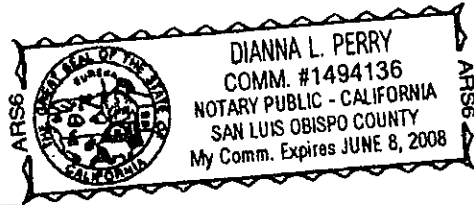
personally known to me; or
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is 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 Dianna L Perry

Type of Document: acknowledgment



* * * * *

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)

On AUG 02 2004, before me, the undersigned notary public, personally appeared _____
OLY VIBORG AND SANDRA VIBORG

personally known to me; or
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is 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 Dianna L Perry

Type of Document: acknowledgment



EXHIBIT G

FORM OF GRANT OF STORM DRAIN EASEMENT

This Agreement is entered into as of _____, 200_, by and between OLE K. VIBORG and SANDRA K. VIBORG, Trustees of the Ole K. Viborg Family Revocable Trust, dated September 9, 1993 (collectively, the "Grantor"), and CITY OF EL PASO DE ROBLES ("City").

RECITALS

A. Grantor is the owner of certain real property (the "Grantor's Property"), located at 1529 North River Road, in the City (Assessor's Parcel Nos. 025-501-012, -013). Grantor's property is shown on the Map (Exhibit 1 hereto) and is described in the "Description of the Grantor's Property" attached hereto as Exhibit 2 and incorporated herein by reference.

B. Pursuant to that certain Acquisition Agreement between Grantor and City, dated _____, 2004 (the "Acquisition Agreement"), Grantor agreed, among other things, to grant to the City a storm drain easement (the "Construction Easement") across a portion of Grantor's Property (the "Storm Drain Easement Property"). The Storm Drain Easement Property is shown on the Map (Exhibit 3) and is described in the "Description of the Storm Drain Easement Property" (Exhibit 4) incorporated herein by reference.

C. Grantor desires to grant a permanent storm drain easement over the Storm Drain Easement Property to City for the purposes described above.

NOW, THEREFORE, the parties agree as follows:

Agreement

1. Grant of Easement for Storm Drain. Grantor grants to City an easement over the Storm Drain Easement Property for the purpose of installing and constructing drainage channel (the "Storm Drain Improvements"). Such easement shall include a right to construct and right of entry for maintenance, replacement and repair of the Storm Drain Improvements. Grantor grants to the City the right to do such work and construct such improvements on the Storm Drain Easement Property; and the City agrees to do such work and construct such improvements at its cost. The easement and the right to make improvements shall commence on the date designated by the City in a written notice to the Grantor, which shall include a copy of the final engineering plans for the Storm Drain Improvements.

2. Indemnification; Condition of Storm Drain Easement Property. City shall indemnify and hold Grantor harmless from and against all liability, claims, demands, damages or costs of any kind whatsoever arising from or connected with City's construction activities on the Storm Drain Easement Property during the construction phase for construction of the Storm Drain Improvements.

3. Maintenance of Storm Drain Improvements. City shall, at its cost, maintain and repair the Storm Drain Improvements constructed by City on the Storm Drain Easement Property.

4. Successors. The benefits and obligations granted and imposed in this Agreement shall be binding on and inure to the benefit of successors and assigns of the Grantor and City and are intended to bind and burden the Grantor's Property, the City's Property and the Storm Drain Easement Property, as provided in California Civil Code Section 1468.

5. Expenses of Enforcement. Should any suit or arbitration action be brought by any party to this Agreement against the other for the enforcement of any rights of any party against the other pursuant to the provisions of this Agreement or by reason of any alleged breach of any of the provisions of this Agreement or arising from this Agreement, then and in such event, the successful party in such action shall be entitled to receive from the unsuccessful party all costs incurred in connection with such suit, including a reasonable allowance for attorneys' fees incurred by the successful party.

6. Amendment and Termination. The provisions of this Agreement may be amended or terminated in full, or as to any portion, only by a written agreement signed by both Grantor and City.

7. Governing Law. This declaration shall be governed by and construed in accordance with the laws of the State of California.

Dated: 8/2/04

GRANTOR:

Ole K. Viborg
OLE K. VIBORG,
Trustee of the Ole K. Viborg Family Revocable
Trust, Dated September 9, 1993

Dated: 8/02/04

Sandra K. Viborg
SANDRA K. VIBORG,
Trustee of the Ole K. Viborg Family Revocable
Trust, Dated September 9, 1993

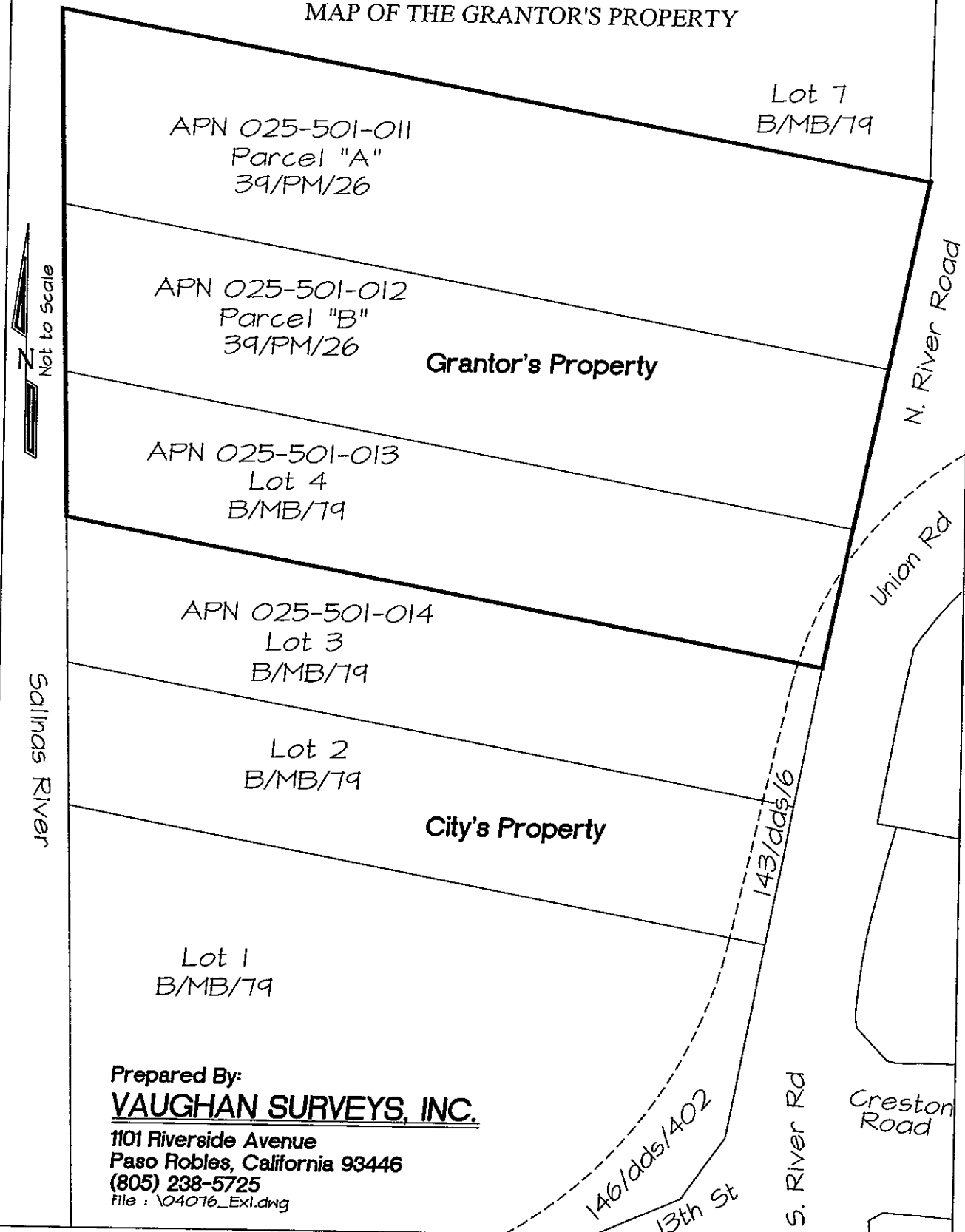
Dated: _____

CITY:

CITY OF EL PASO DE ROBLES

By: _____
James L. App, City Manager

EXHIBIT NO. 1
MAP OF THE GRANTOR'S PROPERTY



APN 025-501-011
Parcel "A"
39/PM/26

Lot 7
B/MB/79

APN 025-501-012
Parcel "B"
39/PM/26

Grantor's Property

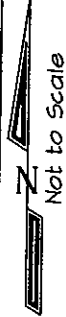
APN 025-501-013
Lot 4
B/MB/79

APN 025-501-014
Lot 3
B/MB/79

Lot 2
B/MB/79

City's Property

Lot 1
B/MB/79



Salinas River

N. River Road

Union Rd

143/dds/16

146/dds/402

13th St

S. River Rd

Creston Road

Prepared By:
VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : \04076_Ext1.dwg

EXHIBIT NO. 2

LEGAL DESCRIPTION OF THE GRANTOR'S PROPERTY

Lot 4 of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County and Parcels A and B per map recorded in Book 39 of Parcel Maps, at Page 26, records of said County.

:\\04076_Ex2.doc

EXHIBIT NO. 3
MAP OF THE STORM DRAIN EASEMENT PROPERTY

Parcel "A"
39/PM/26

Parcel "B"
39/PM/26

1,000± sq.ft. Lot 4
B/MB/79

S30°50'10"W
14.78'

N79°27'50"W
579.27'50"E

N30°50'10"E
14.78'

505.00'

505.00'

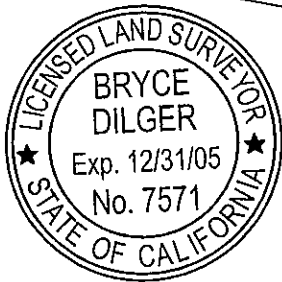
N79°27'50"W
17.54'

Lot 3
B/MB/79

Point of Beginning
Point of Commencement

Lot 2
B/MB/79

Lot 1
B/MB/79



Bryce Dilger slalox
Bryce Dilger, #L-7571 exp. 12/31/05 Date

Prepared By:
VAUGHAN SURVEYS, INC.

1101 Riverside Avenue
Paso Robles, California 93446
(805) 238-5725
file : \04076_Ex63-2.dwg

N. River Road

Salinas River

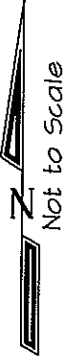
143/dds/6

146/dds/402

13th Street

Creston Rd

S. River Rd



Not to Scale

EXHIBIT NO. 4

LEGAL DESCRIPTION OF THE STORM DRAIN EASEMENT PROPERTY

That portion of Lot 4 of the Linden Avenue Tract in the City of El Paso de Robles, County of San Luis Obispo, State of California, as per the Map recorded July 21, 1899 in Book B of Maps, at Page 79, records of said County, more particularly described as follows:

Commencing at a ½" rebar marking the southeast corner of said Lot 4 as shown on the Record of Survey map recorded in Book 40 of Surveys, at Page 86, records of said County;

Thence North 79°27'50" West along the southerly line of said Lot 4, a distance of 17.54 feet to the True **Point of Beginning**;

Thence North 30°50'10" East, a distance of 14.78 feet;


Thence North 79°27'50" West parallel with said southerly line of Lot 4, a distance of 505.00 feet;

Thence South 30°50'10" West, a distance of 14.78 feet to a point on said southerly line of Lot 4;

Thence South 79°27'50" East along said southerly line of Lot 4, a distance of 505.00 feet to the **Point of Beginning**.

Contains 7,000 square feet, more or less.

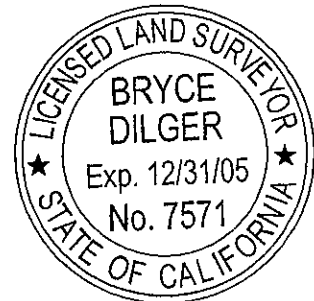
Bearings and distances used herein are based upon the NAD '83 HPGN, Zone 5 California Coordinate System. Multiply distances called by 1.000005396 to obtain ground level distances.



Bryce Dilger #L-7571 (Exp. 12/05)

8/9/04

Date



STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)

On Aug. 02, 2004, before me, the undersigned notary public, personally appeared _____
JOY URSO AND SANDRA URSO

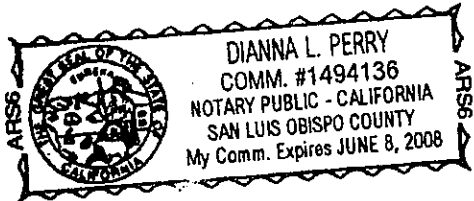
personally known to me; or
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is 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 Dianna L. Perry

Type of Document acknowledgment



* * * * *

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, before me, the undersigned notary public, personally appeared _____

personally known to me; or
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is 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 _____

Type of Document: _____