

TO: James L. App, City Manager
FROM: Doug Monn, Director of Public Works
SUBJECT: Surplus Property and Sales Agreement (38th Street, Vernon)
DATE: September 1, 2009

Needs: For the City Council to declare city owned property at 38th Street as surplus and to authorize the City Manager to enter into a sales agreement.

- Facts:**
1. The City Council, at their meeting of May 3, 2005, approved the abandonment of 38th Street from Vine Street to Oak Street.
 2. Title research disclosed that the underlying fee title of 38th Street reverted to the adjacent property owners, Brad Vernon on the south and Caltrans to the north.
 3. In February 2007, Caltrans quitclaimed to the City the 0.14 acre portion of the land underlying the abandoned right-of-way.
 4. The subject property is narrow, and due to topographic constraints and encumbrances of easements, has very limited development potential.
 5. In 2008, the City retained Schenberger, Taylor, McCormick and Jecker to appraise the property. The value of the property as a free standing parcel sold to the open market was estimated to range from \$6,000 to \$12,000.
 6. Mr. Vernon has made an offer of \$15,000 to purchase the property with the intention of incorporating it into a comprehensive residential development of his adjacent properties.
 7. The Director of Public Works has determined that the offer of \$15,000 is reasonable and covers the City's expenses for the original purchase, appraisal and legal fees associated with the proposed transfer.
 8. The Planning Commission, at their meeting of February 24, 2009, found that the surplus of the property located in former right-of-way of 38th Street was in conformance with the General Plan.

**Analysis
and**

Conclusion: Abandonment of a public right-of-way results in elimination of the public's right of access. All public right-of-ways have an underlying land ownership. Typically title is held by the adjacent property owners. In the case of 38th Street, the adjacent property owners at the time of abandonment were Brad Vernon for the south half of the right-of-way and Caltrans on the north half. Caltrans subsequently offered to sell their half of the right-of-way to the City for a nominal fee. The City accepted the quit-claim offer from Caltrans.

The existing terrain in the former 38th Street right-of-way drops off of the edge of paving on Vine Street in a sharp slope. The City property is less than 37 feet wide and is

encumbered by City sewer and water easements. On its own, the City owned portion of 38th Street has very limited development potential, if any. By virtue of his adjacent holdings, Vernon has the opportunity to relocate the City sewer and water easements as part of a comprehensive development proposal.

Vernon has made an offer to purchase the property from the City. The Director of Public Works has determined that Mr. Vernon's offer of \$15,000 is reasonable, representative of fair market value and allows the City to recover their expenses for appraisal and legal fees associated with its transfer. The Planning Commission, in a unanimous decision, found that determination of the property as surplus is in conformance with the General Plan.

Policy

Reference: General Plan

Fiscal

Impact: None

Options:

- a. Authorize the City Manager to enter into an agreement to sell the City-owned portion of the 38th Street right-of-way to Brad Vernon for the amount of \$15,000.
- b. Amend, modify or reject the above option.

Attachments: (3)

1. Purchase Agreement
2. Exhibit "A"
3. Resolution

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This agreement for the purchase and sale of real property ("**Agreement**") is made and entered into by and between the CITY OF EL PASO DE ROBLES, a municipal corporation of the State of California ("**Seller**"), and BRAD VERNON, an individual ("**Buyer**"), who agree as follows:

ARTICLE 1

BACKGROUND

1.01. Property. Seller is the owner of approximately 0.14 acres of real property in the City of El Paso de Robles, County of San Luis Obispo, State of California, currently consisting of an abandoned right-of-way between Vine Street and Oak Street, generally identified as San Luis Obispo County Assessor's Parcel No. _____, which is more particularly described in **Exhibit "A"**, and depicted in **Exhibit "B"** (the "**Property**").

1.02. Purpose. Buyer desires to acquire the Property from Seller pursuant to the terms and conditions set forth herein.

ARTICLE 2

PURCHASE AND SALE

2.01. Purchase and Sale. Seller shall sell the Property to Buyer and Buyer shall purchase the Property from Seller on the terms and conditions set forth in this Agreement.

2.02. Purchase Price. The purchase price for the Property shall be FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) (the "**Purchase Price**").

2.03. Deposit.

A. Deposit Amount. Within 15 days after the Effective Date, as a deposit against the Purchase Price, Buyer must deposit a non-refundable amount of \$2,500.00 (the "**Deposit**") into the Escrow.

B. Requirements for Deposit. Buyer may make the Deposit in cash, or by check payable to the Escrow Holder, or by electronic transfer of federal funds. The Escrow Holder shall hold the Deposit in an escrow account at a bank and invested in investments approved by Seller, with interest accruing for the benefit of Seller.

C. Payment of Balance. Buyer agrees to pay, or cause to be paid, the balance of the Purchase Price to Seller through the Escrow by depositing cash or a certified or cashier's check payable to the Escrow Holder, or by electronic transfer of federal funds, which shall be delivered to the Escrow Holder at least one day before the Closing Date.

D. Deposit Non-Refundable; Payment of Deposit. Buyer hereby acknowledges that the Deposit is non-refundable and that the Escrow Holder shall pay to Seller the entire Deposit upon the earlier of (1) the Closing Date, or (2) the termination of this Agreement as set forth in Section 6.01.

2.04. Easement.

A. Reservation of Easement. The parties hereby acknowledge and agree that no part in this Agreement, or the transaction contemplated herein, shall affect Seller's right, title and interest in that certain easement encumbering the Property (the "**Easement**"), reserved to Seller under that certain Resolution No. 05-090: A Resolution of the City Council of the City of Paso Robles Vacating 38th Street, an 80-Foot Right-of-Way Between Vine and Oak Streets (Vernon), dated May 9, 2005, and recorded in the Official Records of San Luis Obispo County on March 1, 2006, as Document No. 2006014461, and that Seller's right, title and interest in the Easement shall be reserved, and remain vested in, Seller upon conveyance of the Property to Buyer subject to Section 2.04.B. The reservation set forth in this Section 2.04.A constitutes a necessary portion of Buyer's consideration to induce Seller to enter into this Agreement.

B. Relocation of Easement. Buyer may wish to relocate the Easement and all equipment located in or associated therewith, including, but not limited to, any and all sewer and water lines. Buyer shall be required to obtain Seller's prior written consent to any proposed relocation of the Easement (the "**Relocated Easement**"). Upon completion of the improvements within such approved Relocated Easement, Seller shall inspect and provide Buyer with either written approval or rejection of the improvements within such Relocated Easement. Upon Seller's approval of the Relocated Easement, Buyer shall prepare and execute all documents necessary to properly record the Relocated Easement and Seller shall execute all documents necessary to abandon, extinguish and/or release all of its rights in, to, under, across and over the Easement.

ARTICLE 3

ESCROW

3.01. General.

A. Open of Escrow. The purchase and sale of the Property shall be consummated by means of an escrow (the "**Escrow**") to be opened by Seller at _____ Title Company, or such other escrow company as may be acceptable to the parties (the "**Escrow Holder**"), located in the City of El Paso de Robles. The Escrow shall be opened promptly following the date of signature of the second party to sign this Agreement (the "**Effective Date**").

B. Escrow Instructions. The escrow instructions given to the Escrow Holder shall be consistent with the terms of this Agreement and shall prevail over any inconsistent terms in past or future instructions, unless such instructions specifically state that they are intended to supersede a provision of this Agreement.

C. Close of Escrow. "Close of escrow," "close," or "closing" shall mean the date when that certain grant deed conveying the Property to Buyer, in the form attached hereto as **Exhibit "C"** (the "**Grant Deed**"), is recorded in the official records of San Luis Obispo County, California. Escrow shall close on or before the date 180 days after the Effective Date (the "**Closing Date**").

D. Costs and Expenses. Seller shall pay all escrow, recording, and title insurance fees incurred in this transaction, including any transfer taxes, and the premium for a CLTA owner's policy of title insurance in the amount of the Purchase Price. Buyer shall pay any additional or increase in premiums associated with an ALTA owner's policy of title insurance, and any special endorsements or additional coverage which may be requested by Buyer.

E. Prorations. Real property taxes imposed upon the Property by San Luis Obispo County, or any governmental or special district, organization or body, shall be prorated as of the Closing Date, on the basis of a 30-day month.

3.02. Delivery of Documents and Funds.

A. Delivery by Seller. Prior to and as a condition to the close of escrow, Seller shall:

- (1) Deposit with the Escrow Holder the Grant Deed, fully executed and notarized, conveying title to the Property to Buyer in accordance with this Agreement;
- (2) Deposit with the Escrow Holder certificates required by §1445 of the Internal Revenue Code of 1986, as may be amended, and the California Revenue and Taxation Code §18815, as may be amended, duly executed by Seller;
- (3) Deposit with the Escrow Holder a California Form 590-RE, Withholding Exemption Certificate for Real Estate Sales;
- (4) Deposit with the Escrow Holder any funds required to be paid by Seller to close the escrow; and
- (5) Execute and deliver to the Escrow Holder any other instructions or documents as may be required by the Escrow Holder to close escrow.

B. Delivery by Buyer. Prior to and as a condition to the close of escrow, Buyer shall:

- (1) Deposit with the Escrow Holder the Purchase Price and any other funds required from Buyer for prorations and closing costs to close escrow; and
- (2) Execute and deliver to the Escrow Holder any other instructions or documents as may be required by the Escrow Holder to close escrow.

C. Delivery by Escrow Holder. When all other conditions for the close of escrow have been met, Escrow Holder shall promptly:

(1) Disburse to Seller the Purchase Price, after deducting therefrom all items chargeable to the account of Seller pursuant to this Agreement;

(2) Cause the Grant Deed to be recorded in the official records of San Luis Obispo County, vesting title to the Property in Buyer; and

(3) Deliver to Buyer a CLTA owner's policy of title insurance (or ALTA policy if Buyer so requests, with any additional premium to be paid by Buyer), insuring title to the Property in Buyer subject to the Easement and any other exceptions consistent with the terms of this Agreement.

3.03. Additional Conditions to Close of Escrow.

A. General. The provisions of this Section 3.03 are conditions to the close of escrow and, unless otherwise provided expressly or by context, are covenants of the party responsible for causing the condition to be satisfied. If any such conditions are not fulfilled by either the date stated, or, where no specific date is stated, five days before the Closing Date, then, except as otherwise provided in this Agreement, the party benefited by the condition shall have the right to cancel and terminate this Agreement and the Escrow, in which event all rights and obligations of Buyer and Seller hereunder shall be terminated and be of no further force and effect and, subject to Section 2.03, all funds and instruments deposited into the Escrow shall be returned to the party who deposited the same.

B. Title. Taxes shall be apportioned and cleared in the manner required by Sections 5081, et seq., of the California Revenue and Taxation Code; the date of apportionment shall be the same as the Closing Date. Seller shall cause title to the Property to be conveyed subject to current taxes and all exceptions approved by Buyer in accordance with Section 3.03.C and all other matters disclosed by the Preliminary Report. The Escrow Holder must be ready and able to issue its CLTA policy of title insurance, or ALTA policy if Buyer so requests, insuring title in Buyer with liability in the amount of the Purchase Price (or such additional amount requested by Buyer). The title insurance policy shall list only the foregoing taxes and exceptions in addition to the printed exceptions common to the form of policy required by Buyer.

C. Approval of Exceptions to Title. Seller shall order from the Escrow Holder and cause to be delivered to Buyer within 10 days after the Effective Date a copy of a preliminary report covering the Property (the "**Preliminary Report**") and legible copies of all available documents referred to in the Preliminary Report. Buyer shall have 15 days from receipt of the Preliminary Report to provide Seller with written notice of Buyer's approval or disapproval of any exceptions listed on the Preliminary Report ("**Buyer's Title Objections**"). Buyer's Title Objections shall be provided in accordance with Section 6.02. Buyer's failure to provide Seller with Buyer's Title Objections, as set forth in this Section 3.03.C, shall be deemed approval by Buyer of all exceptions, except for monetary liens other than current taxes, bonds and assessments. Seller shall have until two days before the Closing Date to cure any and all Buyer's Title Objections.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES BY SELLER

4.01. Representations and Warranties in General. Seller acknowledges that the execution of this Agreement by Buyer is made in material reliance on the following representations and warranties:

A. Execution and Delivery. 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 authorities. This Agreement constitutes the legal, valid, binding and enforceable obligation of Seller.

B. Breach of Other Agreements. Neither the execution of this Agreement nor the consummation of the transaction contemplated herein will constitute a breach under any contract or agreement to which Seller is a party or by which Seller is bound or affected which affects the Property or any part thereof.

C. No Other Parties. There are no parties other than Seller with any interest in the Property, and no other signatures are required to make this Agreement fully enforceable by Buyer.

D. Rights of Others. Seller represents and warrants that to the best of its knowledge, but without independent investigation, there are no parties in possession of any portion of the Property as tenants, tenants at sufferance, or trespassers, and no party has been granted any license, lease or other right relating to use or possession of the Property except in accordance with the Easement and as shown on the Preliminary Report.

E. No Grant of Other Rights. Seller has not granted to any party, other than to Buyer, any option, contract or other agreement with respect to a purchase or sale of the Property or any portion thereof or any interest therein.

F. No Bankruptcy or Litigation. Seller represents and warrants that to the best of its knowledge, but without independent investigation, 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 Property.

4.02. Survival of Warranties. Seller agrees that each representation and warranty in Section 4.01 shall survive the Closing Date and shall not merge with the delivery to Buyer of the Grant Deed.

4.03. Notice of Changed Circumstances. If Seller becomes aware of any fact or circumstance which would render false or misleading a representation or warranty made by Seller, then Seller shall immediately give written notice of such fact or circumstance to Buyer, but such notice shall not relieve Seller of any liabilities or obligations with respect to any representation or warranty.

ARTICLE 5

"AS IS" CONVEYANCE; INDEMNITY

5.01. "As Is" Buyer agrees it will rely solely on its own investigation of the Property and agrees to purchase the Property **"AS IS,"** in its current physical condition, with no warranties, express or implied, as to the physical condition thereof, the presence or absence of any latent or patent condition thereon or therein, including, without limitation, any Hazardous Materials thereon or therein and any other matters affecting the Property. As used in this Agreement, the term "Hazardous Materials" means any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant" or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; or (6) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

5.02. Buyer Indemnity. Buyer agrees, from and after the Closing Date, to defend, indemnify, protect and hold harmless Seller and their officers, beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns ("Indemnitees") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, environmental response actions, claims, losses, damages, fines, penalties, expenses, environmental response costs or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), whenever arising, unless caused by acts or omissions of gross negligence by any of the Indemnitees, resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials, at, on, in, beneath or from the Property (collectively referred to as "Contamination"). Buyer's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding any Contamination, at Buyer's sole cost.

5.03. Release and Waiver. Buyer hereby releases and waives all rights, causes of action and claims Buyer has or may have after the Closing Date against the Indemnitees arising out of or in connection with any Hazardous Materials, at, on, in, beneath or from the Property, unless the presence of such Hazardous Materials at, on, in, beneath or from the Property is caused in whole or in part by any of the Indemnitees. In furtherance of the intentions set forth herein, Buyer acknowledges that it is familiar with Section 1542 of the Civil Code of the State of California which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Buyer hereby waives and relinquishes any right or benefit which it has or may have under Section 1542 of the Civil Code of the State of California or any similar provision of the statutory

or nonstatutory law of any other applicable jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Article 5.

ARTICLE 6

MISCELLANEOUS

6.01. Termination of Agreement. If any term or condition of this Agreement is not complied with then, except as otherwise provided in this Agreement, the party benefited by the term or condition shall have the right to terminate this Agreement and the Escrow, in which event all rights and obligations of Buyer and Seller hereunder shall be terminated and be of no further force and effect and, subject to Section 2.03, all funds and instruments deposited into the Escrow shall be returned to the party who deposited the same.

6.02. Notices. Any notices or elections shall be made in writing and shall be deemed sufficiently given and served for all purposes: (a) upon delivery if given in person; (b) upon receipt if given by generally recognized overnight courier service; or (c) 72 hours after deposit with the United States Postal Service, certified mail or registered mail, return receipt requested, postage prepaid. Notices shall be given to the respective addresses set forth below, or to such other addresses as the parties may designate from time to time.

If to Seller: City of El Paso de Robles
 1000 Spring Street
 Paso Robles, CA 93446
 Attn: _____

If to Buyer: Brad Vernon

6.03. Brokers. Each of the parties hereto represents that it has dealt with no broker or finder in connection with this sale, and insofar as they know, no broker or other person is entitled to any commission or finder's fee in connection with this sale. Buyer and Seller each agree to indemnify and hold harmless one another against any loss, liability, damage, cost, claim or expense incurred by reason of any brokerage commission or finder's fee alleged to be payable because of any act, omission or statement of the indemnifying party.

6.04. Interpretation. The captions of the paragraphs used in this Agreement are for convenience only. The provisions hereof shall be binding upon and inure to the benefit of the successors and assigns of Seller and Buyer.

6.05. Time of Essence. Time is of the essence of this Agreement and of the Escrow provided for herein.

6.06. Attorneys' Fees. If either Seller or Buyer shall commence legal proceedings for the purpose of enforcing any provision or condition hereof, or by reason of any breach arising under the provisions hereof, then the prevailing party shall be entitled to reasonable attorneys'

fees which shall consist of the fees for services rendered by counsel, the fees for services of experts, and all other expenses incurred in connection with the action, including those expenses recoverable as allowable costs of suit under the applicable state or federal statute, and those attorneys' fees and costs incurred executing upon or appealing any judgment, as well as all other expenses incurred during the course of the action.

6.07. Integration. This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, relating to the subject matter which are not fully expressed herein.

6.08. Additional Documents. From time to time prior to and after the close of escrow, each party shall execute and deliver such instruments of transfer and other documents as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement.

6.09. Dependency and Survival of Provisions. The respective warranties, representations, covenants, agreements, obligations and undertakings of each party hereunder shall be construed as dependent upon and given in consideration of those of the other party, and shall survive the close of escrow and delivery of the Grant Deed.

6.10. California Law. This Agreement shall be governed by the laws of the State of California.

6.11. Entry. During the term of this Agreement, Buyer and its designated agents and independent contractors shall have the right to enter onto the Property to conduct reasonable tests, studies, inquiries and appraisals with respect thereto. Buyer agrees to repair all damages it or its agents or independent contractors shall cause to the Property and further agrees to indemnify and hold Seller harmless of all costs, expenses, losses, attorneys' fees and liabilities (including, but not limited to, claims of mechanics' liens) incurred or sustained by Seller as a result of any acts of Buyer, its agents or independent contractors, pursuant to the rights granted by this Section 6.11.

6.12. Possession. Seller shall deliver exclusive possession of the Property to the Buyer at the close of escrow.

6.13. Reporting to Internal Revenue Service. The Escrow Holder shall report this transaction to the Internal Revenue Service pursuant to Section 6045 of the Internal Revenue Code of 1986, as amended.

6.14. Calculation of Time Periods. If any date for performance under this Agreement falls on a Saturday, Sunday or bank holiday, then the date for performance shall be the next day which is not a Saturday, Sunday or bank holiday, and the next time period shall be calculated from and after the date of such actual performance.

6.15. Exhibits. All exhibits to which reference is made in this Agreement are incorporated in this Agreement by the respective references to them, whether or not they are actually attached. Reference to "this Agreement" includes matters incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above written.

SELLER:

CITY OF EL PASO DE ROBLES, a municipal corporation of the State of California

DATED: _____, 2009.

By: _____
James L. App
City Manager

Attest:

Cathy David
Deputy City Clerk

BUYER:

DATED: _____, 2009.

BRAD VERNON, an individual

Brad Vernon

EXHIBIT A

Legal Description of Property

EXHIBIT B

Map Showing Property

EXHIBIT C
Form Grant Deed

RECORDING REQUESTED BY
City of El Paso de Robles

AND WHEN RECORDED MAIL TO
[AND MAIL TAX STATEMENTS TO]:
Brad Vernon

APN:

The undersigned Grantor(s) declare(s):

Documentary transfer tax is \$_____.

- Computed on full value of property conveyed, or
 Computed on full value less value of liens and encumbrances remaining at time of sale.
 Unincorporated area City of _____

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, CITY OF EL PASO DE ROBLES, a municipal corporation of the State of California (“**Grantor**”), hereby grants to BRAD VERNON, an individual (“**Grantee**”), that certain real property located in the County of San Luis Obispo, State of California, described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the “**Land**”), together with all rights, privileges and easements appurtenant to and for the benefit of the Land owned by Grantor, including, all minerals, oil, gas and other hydrocarbon substances on and/or under the Land, as well as all development rights, air rights, water, water rights and water stock relating to the Land, any other easements, rights-of-way or appurtenances relating to or used in connection with the ownership, operation, use, occupancy or enjoyment of the Land and all improvements owned by Grantor located on the Land, EXCEPTING THEREFROM AND RESERVING IN GRANTOR all right, title and interest in that certain easement, vested in Grantor, encumbering the Land for access to and construction, operation and maintenance of water, sanitary sewer, and other public utilities and services over and under 20 feet of the Land, as further defined in that certain Resolution No. 05-090: A Resolution of the City Council of the City of Paso Robles Vacating 38th Street, an 80-Foot Right-of-Way Between Vine and Oak Streets (Vernon), dated May 9, 2005, and recorded in the Official Records of San Luis Obispo County on March 1, 2006, as Document No. 2006014461, attached hereto as **Exhibit "B"** and incorporated herein by reference.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized this _____ day of _____, 2009.

GRANTOR:

CITY OF EL PASO DE ROBLES, a municipal corporation of the State of California

_____, 2009

By: _____
Name: _____
Title: Executive Director

The provisions of this Grant Deed are hereby approved and accepted.

GRANTEE:

_____, 2009

BRAD VERNON

California All-Purpose Acknowledgment

State of California)
) SS
County of _____)

On _____, _____ before me, _____,
(Here Insert Name and Title of the Notary Officer)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

[Seal]

California All-Purpose Acknowledgment

State of California)
) SS
County of _____)

On _____, _____ before me, _____,
(Here Insert Name and Title of the Notary Officer)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

[Seal]

EXHIBIT A
Property Legal Description

[To Be Inserted.]

EXHIBIT B

Resolution No. 05-090

[To Be Inserted.]

Exhibit A
Ptn. of Caltrans Parcel # 9962-01-01

**Villa
 Lots Rd.**

Vine Street

width varies

N 03°39'46" W 73.34'

36.67'

36.67'

C of C
 Doc # 2004-058149

C of C
 Doc # 2004-058148

N 86°10'00" E

38 th Street

N 86°10'00" E 188.32'

U.S. 101

N 86°10'00" E 143.11'

City Limit

triangles designate
 parcel area = 0.14 AC.

C of C
 Doc # 2004-058151

Block

170.12' M

C of C
 Doc # 2004-058150

209

3/4" IP LS 2391

Oak Street

U.S. 101

N54°42'59"W 330.16'



1" = 40'

hatched area is City utility easement
 per Doc. # 2006-014461



Mark Lewis
 LS 6631
 3-27-2008

RESOLUTION NO. 09-0xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
DECLARING PORTION OF 38TH STREET TO BE SUPRLUS AND APPROVING SALE OF
SUCH PROPERTY (VERNON)

WHEREAS, the City Council of the City of Paso Robles, at its meeting of May 3, 2005, adopted a Resolution of Vacation of 38th Street, an 80-foot public right-of-way, from Vine Street to Oak Street in the City of Paso Robles, County of San Luis Obispo, State of California, and more particularly described as follows; and

WHEREAS, in May, 2005, the underlying fee title of the north half of 38th Street was held by the State Department of Transportation also known as Caltrans; and

WHEREAS, in February, 2007 and in exchange for certain consideration, the City accepted a deed from Caltrans for the northerly half of the abandoned right-of-way; and

WHEREAS, the subject property is 37 feet wide, is encumbered by steep terrain and City water and sewer easements, and therefore has very limited development potential; and

WHEREAS, the City has obtained a professional appraisal of the property estimating its value in a range of between \$6,000 and \$12,000; and

WHEREAS, Mr. Brad Vernon has provided the City with an offer to purchase the property in exchange for \$15,000 with the intention of incorporating the land into an adjacent residential development; and

WHEREAS, the Director of Public Works has determined that Mr. Vernon's offer is fair and reasonable; and

WHEREAS, the Planning Commission at their meeting of February, 2009, found that the determination of the property as surplus and the disposition of the property was in conformance with the General Plan; and

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

Section 1. The Council hereby finds and determines that the property located within the northerly half of 38th Street abandoned right-of-way, as shown on Exhibit A and incorporated herein by reference, is surplus property. The basis for this finding is the configuration, small size and topography of the property would make it extremely difficult to develop by itself.

Section 2. The Council hereby approves the Purchase and Sale Agreement, attached hereto as Exhibit B and incorporated herein by reference, and authorizes the City Manager to execute such agreement, subject to any minor technical, clarifying or non-substantive changes approved by the City Attorney.

ADOPTED by the City Council of the City of El Paso de Robles at a regular meeting of said Council held on this 1st day of September 2009 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Cathy David, Deputy City Clerk