

TO: James L. App, City Manager
FROM: Ed Gallagher, Community Development Director
SUBJECT: Approval of Final Map of Tract 2790, (White) for Recordation and Annexation No. 05-042 to Community Facilities District No. 2005-1
DATE: May 6, 2014

Needs: That the City Council consider taking a series of steps toward recordation of the Final Tract Map for Tract 2790, a residential subdivision.

Facts:

1. The applicant Bruce White has requested that Tract 2790 be authorized by the City for recordation. Tract 2790 is a 6-lot subdivision of a 3.36-acre site located between Merryhill Road and Hilltop Drive south of Fresno Street (see Attachment 1).
2. All required public improvements have been completed.
3. The applicants have signed the documents needed for annexation of Lots 1, 2, 3, 5 and 6 into the Community Facilities District (CFD).

Analysis
and

Conclusion: Tract 2790 was originally approved by the Planning Commission on February 14, 2006. Annexation of Lots 1, 2, 3, 5 and 6 in to the City's Community Facilities District 2005-1 is necessary to mitigate projected adverse fiscal impacts of new residential development.

With the construction of the public improvements, all conditions imposed by the Planning Commission have been satisfied.

Policy

Reference: General Plan
California Government Code Section 66462 ("Subdivision Map Act")
Paso Robles Municipal Code Section 22.16.160

Fiscal

Impact: With annexation to the CFD, none.

Options: That the City Council accept the subject map by taking the following actions:

- a. (1) Adopt Resolution No. 14-xx authorizing the recordation of Tract 2790, a 6-lot subdivision located between Merryhill Road and Hilltop Drive south of Fresno Street; and
(2) Adopt Resolution No. 14-xx annexing Lots 1, 2, 3, 5 and 6 of Tract 2790 into Community Facilities District No. 2005-1, and directing the City Clerk to record the Amendment to the Notice of Special Tax Lien.
- b. Amend, modify or reject the above option.

Attachments: (3)

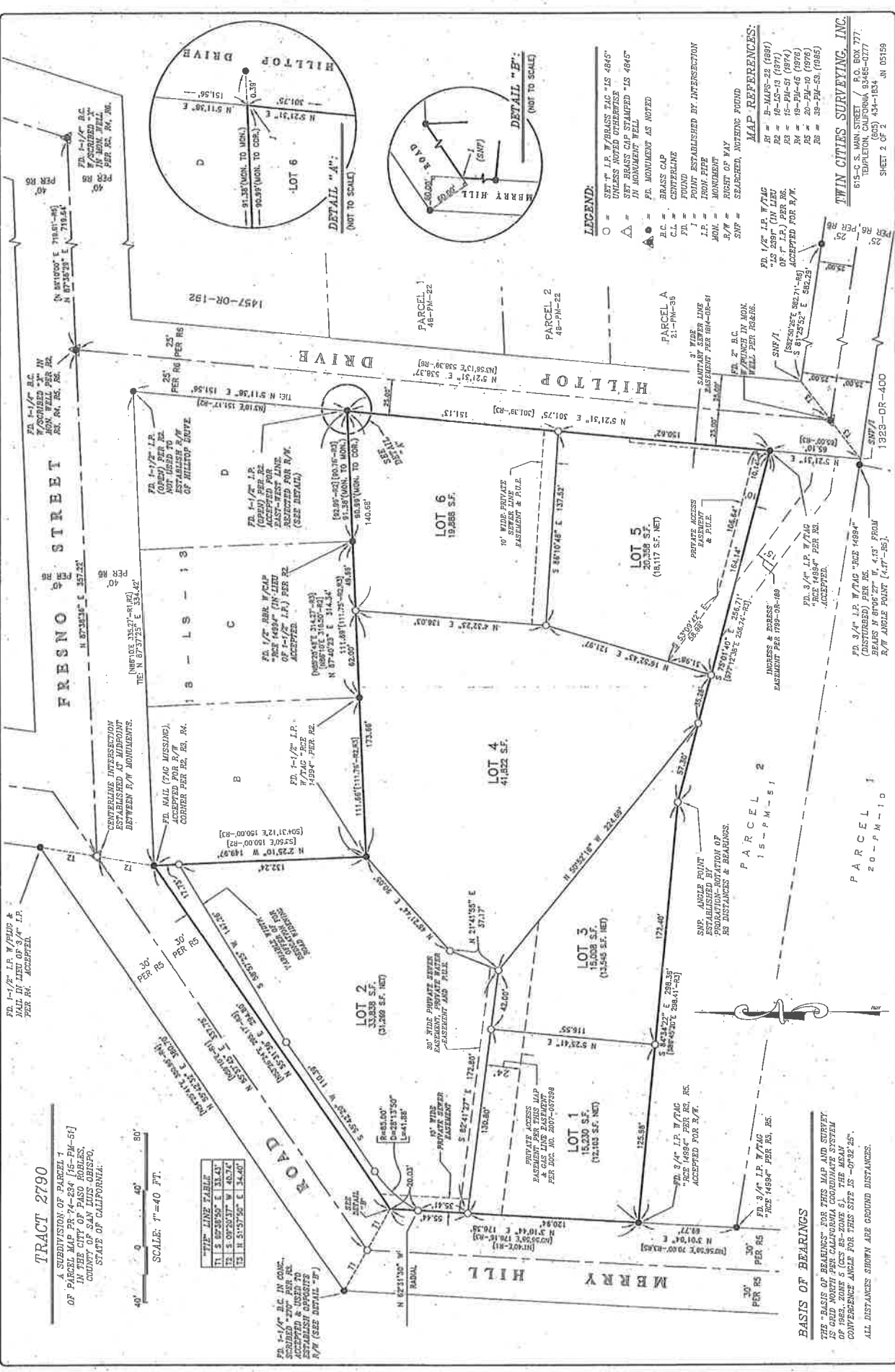
- 1) Vicinity and Tract Maps
- 2) Resolution Final Map
- 3) Resolution CFD

TRACT 2790

A SUBDIVISION OF PARCEL 1 OF PARCEL MAP PR 74-234 (15-PM-53) IN THE COUNTY OF SAN JUAN, CALIFORNIA, STATE OF CALIFORNIA.

SCALE: 1" = 40 FT.

LINE	BEARING	DISTANCE
11	S 87°30'37" E	131.41'
12	S 87°30'37" W	103.24'
13	N 81°53'25" E	34.40'



LEGEND:

- SET "I.P. W/BRASS TAG "IS 4845" UNLESS NOTED OTHERWISE
- △ SET BRASS CAP STAMPED "IS 4845" IN MONUMENT WELL
- SET MONUMENT AS NOTED
- C.C. = CENTERLINE
- P.M. = POINT ESTABLISHED BY INTERSECTION
- I.P. = IRON PIPE
- A.M. = MONUMENT
- S.P. = RIGHT OF WAY
- S.P. = SEARCHED, ADJUSTED FOUND

MAP REFERENCES:

- RI = B-MAFS-22 (1889)
- R2 = 15-15-13 (1971)
- R3 = 15-PM-51 (1974)
- R4 = 19-PM-46 (1978)
- R5 = 30-PM-53 (1985)

TWIN CITIES SURVEYING, INC.

615-S. MAIN STREET / P.O. BOX 777
TEMPERANCE, CALIF. 92551-0277
(951) 494-1833
SHEET 2 OF 2

BASIS OF BEARINGS

THE "BASIS OF BEARINGS" FOR THIS MAP AND SURVEY IS GRID NORTH PER CALIFORNIA COORDINATE SYSTEM. THE CONVERGENCE ANGLE FOR THIS SITE IS -07'42.25". ALL DISTANCES SHOWN ARE GROUND DISTANCES.

OWNERS' STATEMENT

I, THE UNDERSIGNED HEREBY STATE THAT I AM THE SOLE OWNER OF, AND SOLE PARTY HAVING ANY RECORD TITLE INTEREST IN THE REAL PROPERTY INCIDENT WITHIN THE SUBDIVISION AND PROJECT MAP OF THIS MAP, AND THAT I DO HEREBY CONSENT TO THE PLACING AND RECDICATION OF THIS MAP. I HEREBY RESERVE TO MYSELF, MY HEIRS, AND ASSIGNS FOR THE USE AND BENEFIT OF THE SEVERAL PUBLIC UTILITY COMPANIES WHICH ARE AUTHORIZED TO SERVE IN SAID SUBDIVISION, EASEMENTS FOR PUBLIC UTILITY PURPOSES, DELINEATED ON SAID MAP AS "PUBLIC UTILITY. I HEREBY RESERVE TO MYSELF MY HEIRS, AND ASSIGNS THE PRIVATE SEWER AND PRIVATE ACCESS EASEMENTS FOR THE USE AND BENEFIT OF THE PRESENT OR FUTURE OWNERS OF THE LOTS AFFECTED BY SUCH EASEMENTS AS DELINEATED AND DESCRIBED AS EASEMENT FOR PUBLIC PURPOSES. THE REAL PROPERTIES DESCRIBED BELOW ARE DEDICATED AS EASEMENT FOR PUBLIC PURPOSES: (1) THAT PORTION OF SAID REAL PROPERTY LYING AT THE NORTHWEST CORNER OF LOT 2 (VARIABLE WIDTH) AS SHOWN AND DELINEATED HEREON (SHEET 2) AS OFFER OF DEDICATION FOR ROAD BENCHMARK PURPOSES.

BRUCE WHITE

NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA,)
COUNTY OF SAN LUIS OBISPO) SS
ON _____ 2014, BEFORE ME)
PERSONALLY APPEARED _____ BRUCE WHITE)
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS)
SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME)
IN HIS AUTHORIZED CAPACITY, AND THAT BY HIS SIGNATURE ON THE INSTRUMENT THE PERSON, OR)
THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.)
I HEREBY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE)
FOREGOING PARAGRAPH IS TRUE AND CORRECT.)
WITNESS MY HAND AND OFFICIAL SEAL:)

SIGNATURE _____ PRINTED NAME _____
COUNTY OF COMMISSION: _____ EXP. DATE: _____
COMMISSION NO. _____

BENEFICIARY STATEMENT

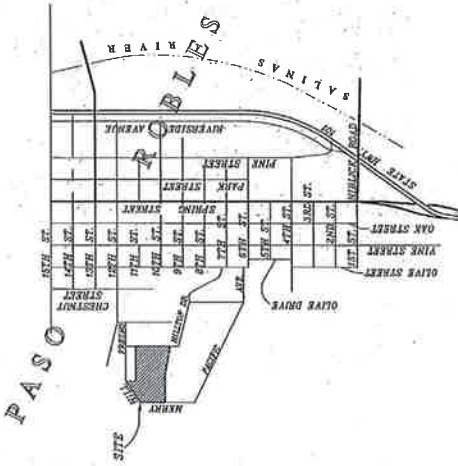
BAROBANK NATIONAL ASSOCIATION, AS SUCCESSOR IN INTEREST BY MENDOR TO MID-STATE BANK AND TRUST, AS ASSIGNEE, UNDER A DEED OF ASSIGNMENT DATED NOVEMBER 20, 2008, AND SAN LUIS OBISPO, CALIFORNIA, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

SIGNATURE _____ PRINTED NAME _____
TITLE _____
STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO) SS
ON _____ 2014, BEFORE ME)
PERSONALLY APPEARED _____ BRUCE WHITE)
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS)
SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME)
IN HIS AUTHORIZED CAPACITY, AND THAT BY HIS SIGNATURE ON THE INSTRUMENT THE PERSON, OR)
THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.)
I HEREBY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE)
FOREGOING PARAGRAPH IS TRUE AND CORRECT.)
WITNESS MY HAND AND OFFICIAL SEAL:)

SIGNATURE _____ PRINTED NAME _____
COUNTY OF COMMISSION: _____ EXP. DATE: _____
COMMISSION NO. _____

TRACT 2790

A SUBDIVISION OF PARCEL 1 OF PARCEL MAP PR M-284 (56-PH-51) IN THE CITY OF PASO ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA.



VICINITY MAP

M.T.S.

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF BRUCE WHITE. I HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF CALIFORNIA, CONDITIONALLY APPROVED TENTATIVE MAP AND THAT ALL THE MONUMENTS SHOWN HEREON WILL BE SET IN SUCH POSITIONS WITHIN ONE YEAR OF THE APPROVAL OF THIS FINAL MAP, AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE REPRODUCED.

Mr. E. Z. [Signature] 02-17-2014
W. E. TUCHEREN LS 4845



CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE ANNEXED MAP, ENTITLED TRACT 2790, IN THE CITY OF PASO ROBLES, COUNTY OF SAN LUIS OBISPO, CALIFORNIA, AND THAT ALL THE PROVISIONS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA AND OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

JOHN R. FALKENSTEIN, CITY ENGINEER
CITY OF EL PASO DE ROBLES
R.C.E. 33780 (EXP. 6-30-2014)



CITY PLANNING COMMISSION'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND THAT I AM SATISFIED THAT SAID MAP SUBSTANTIALLY CONFORMS WITH THE ACTION TAKEN BY THE CITY OF EL PASO DE ROBLES FOR TRACT 2790 ON FEBRUARY 14, 2008.

ED GALLAGHER
COMMUNITY DEVELOPMENT DIRECTOR
CITY OF EL PASO DE ROBLES

CITY CLERK'S STATEMENT

I, DENNIS FANGLER, CITY CLERK OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA, HEREBY STATE THAT I HAVE RECEIVED THE MAP OF TRACT 2790 FROM THE OFFICE OF DEDICATION FOR STREETS AND EASEMENTS AND ACCEPTED TO THE TERMS OF OFFER OF DEDICATION BY THE PARTIES HAVING A RECORD TITLE INTEREST IN SAID LAND.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____ 2014.

DENNIS FANGLER
CITY CLERK

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____ 2014, AT _____ M
IN BOOK _____ OF PARCEL MAPS AT PAGES _____
AT THE REQUEST OF W. E. TUCHEREN.
REC. NO. _____ FEE: _____
FILED BY _____ BY DEPUTY _____
COUNTY RECORDER: _____

TWIN CITIES SURVEYING, INC.
515-C.S. MANY STREET, P.O. BOX 777
TEMPLETON, CALIFORNIA 95352-0777
(805) 434-1834 JN 05189
SHEET 1 OF 2

RECEIVED

FEB 10 2014

City of Paso Robles
Community Development Dept.

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
ANNEXING LOTS 1, 2, 3, 5 AND 6 OF TRACT 2790 TO THE CITY'S COMMUNITY
FACILITIES DISTRICT NO. 2005-1

WHEREAS, the owner of the real property described in Exhibit 'A' has petitioned to annex Lots 1, 2, 3, 5 and 6 of Tract 2790 into the Paso Robles Community Facilities District No. 2005-1 (Public Services).

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That the City Council of the City of Paso Robles does hereby declare that the real property located in the City of Paso Robles, County of San Luis Obispo, as more particularly described in Exhibit 'A' hereto, is hereby annexed into Community Facilities District 2005-1 and that the subject properties shall be subject to a tax lien of \$811.44 per dwelling unit per year, which, in turn, is subject to escalation based on a blend of the San Francisco Urban Consumer Price Index and Los Angeles Urban Consumer Price Index or two percent, whichever is greater.

SECTION 2. That the City Council of the City of Paso Robles does hereby declare that the current owner of the real property, according to the Consent and Election to Annex Real Property to an Existing Community Facilities District Petition for Formation of the District, is Bruce White.

SECTION 3. That the City Council for the City of Paso Robles does hereby declare that the assessments for Lots 1, 2, 3, 5 and 6 of Tract 2790 shall begin with Fiscal Year 2014-2015.

SECTION 4. That the City Council for the City of Paso Robles does hereby declare that the area annexed shall be designated as Annexation No. 05-042 to the Paso Robles Community Facilities District No. 2005-1.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 6th day of May, 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF EL PASO DE ROBLES ACCEPTING AND APPROVING THE
EXECUTION AND RECORDATION OF THE FINAL MAP FOR TRACT 2790
(WHITE)

WHEREAS, the Developer has met all conditions of the tentative map and has completed all required public improvements; and

WHEREAS, City staff has reviewed the final tract map and finds it to be in substantial conformance with the approved tentative map and technically correct.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That the City Council of the City of Paso Robles does hereby approve the final map for Tract 2790, and authorize the execution and recordation of the tract map.

SECTION 2. That the City Council of the City of Paso Robles accept the offers of dedication for public right-of-way and public utility easements as shown on the final map.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 6th day of May 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk



Tax Collector
San Luis Obispo County

James P. Erb, C.P.A.
Treasurer-Tax Collector

1055 Monterey Street, Room D290 • San Luis Obispo, CA 93408-2060 • Telephone (805) 781-5831 • Fax (805) 781-5362

TAX BOND CERTIFICATE

I HEREBY CERTIFY that according to the records of this office, as of this date, there are no liens against the real property shown on Parcel/Tract Map # TR 2790 for unpaid State, County, Municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

I FURTHER CERTIFY that pursuant to California Government Code Section 66494.1 that the tax bond required by Chapter 4, Article 8 of the Subdivision Map Act is now on file in my office.

DATED: 1/29/14

James P. Erb, C.P.A.
Treasurer-Tax Collector
County of San Luis Obispo,
State of California

By: J. Thompson
Deputy



First American Title

RECEIVED
JAN 24 2014
TWIN CITIES SURVEYING

First American Title Company

899 Pacific Street
San Luis Obispo, CA 93401

January 24, 2014

Bruce White
1245 Vine Street
Paso Robles, CA 93446
Phone: (805)238-6136

RECEIVED

FEB 19 2014

City of Paso Robles
Community Development Dept.

Customer Reference: Tract 2790

Title Officer: Lisa Irot
Phone: (805)786-2042

Order Number: 4001-4565691 (LI)

Escrow Number: 4001-4565691

Owner: White
Property: Merry Hill Road
Paso Robles, CA 93446

Attached please find the following item(s):

Guarantee

Thank You for your confidence and support. We at First American Title Company maintain the fundamental principle:

Customer First!

First American Title Company

SUBDIVISION GUARANTEE

Fee: \$230.00

No.:

Subdivision: Tract No. 2790

First American Title Insurance Company
a corporation

GUARANTEES

The County of San Luis Obispo and any City within which said subdivision is located in a sum not exceeding \$1,000.00.

That, according to those public records which, under the recording laws, impart constructive notice of matters affecting the title to the land included within the exterior boundary shown on the map of the above referenced subdivision, the only parties having any record title interest in said land whose signatures are necessary, under the requirements of the Subdivision Map Act, on the certificates consenting to the recordation of said map and offering for dedication any streets, roads, avenues and other easements offered for dedication by said map are:

Bruce White, a married man as his sole and separate property

EXCEPTIONS FROM COVERAGE

1. An easement for sewer and incidental purposes, recorded January 15, 1975 as Instrument No. 1466 in book 1814, page 61 of Official Records.
In Favor of: Robert L. Graham and Corliss A. Graham
Affects: a portion of said land

2. A deed of trust to secure an original indebtedness of \$984,000.00 recorded November 30, 2005 as Instrument No. 2005-100101 of Official Records.
Dated: November 29, 2005
Trustor: Bruce White, a married man as his sole and separate property
Trustee: MSB Properties, Inc., a California corporation
Beneficiary: Mid-State Bank & Trust

3. An easement for pipelines for public utilities, ingress and egress and incidental purposes, recorded August 22, 2007 as Instrument No. 2007-057398 of Official Records.
In Favor of: Southern California Gas Company, a California corporation, its successors and assigns
Affects: a portion of said land

First American Title Company

The map hereinbefore referred to is a subdivision of:

PARCEL A:

Parcel 1 of Parcel Map PR 74-234, in the City of Paso Robles, County of San Luis Obispo, State of California, according to map recorded September 5, 1974 in Book 15, Page 51 of Parcel Maps.

PARCEL B:

An easement for ingress and egress over a portion of Parcel 2 of Parcel Map PR 74-234 in the City of Paso Robles, County of San Luis Obispo, State of California, according to map recorded September 5, 1974 in Book 15, Page 51 of Parcel Maps, described as follows:

Commencing at the Southeast corner of Lot 6;
Thence along the Easterly line of said Lot 6, North 3° 12' 00" East, 25.06 feet to the Point of Beginning;
Thence North 82° 50' 00" West, 23.17 feet;
Thence North 54° 41' 57" West, 108.79 feet to the Northerly line of Parcel 2 as said parcel is shown in Book 15, Page 51 of Parcel Maps.

Dated: 01/13/2014

First American Title Insurance Company



**Dennis J. Gilmore
President**



**Timothy Kemp
Secretary**



First American Title Company

SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

1. Except to the extent that specific assurance are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:

- (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.
- (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.
- (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.

2. Notwithstanding any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:

- (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps, or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.
- (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.
- (c) The identity of any party shown or referred to in Schedule A.
- (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

GUARANTEE CONDITIONS AND STIPULATIONS

1. Definition of Terms.

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A) (C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A) (C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records" : records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

2. Notice of Claim to be Given by Assured Claimant.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the manner or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

3. No Duty to Defend or Prosecute.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.

(d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. Proof of Loss Damage.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss damage. All information designated as confidential by the Assured provided to the Company, pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. Options to Pay or Otherwise Settle Claims: Termination of Liability.

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price. Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim Assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

7. Determination and Extent of Liability.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The Liability of the Company under this Guarantee to the Assured shall not exceed the least of:

(a) the amount of liability stated in Schedule A or in Part 2;

(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage Assured against by this Guarantee occurs, together with interest thereon; or

(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance Assured against by this Guarantee.

8. Limitation of Liability.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter Assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.

(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. Reduction of Liability or Termination of Liability.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. Payment of Loss.

(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. Subrogation Upon Payment or Settlement.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies. If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. Arbitration.

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

13. Liability Limited to This Guarantee; Guarantee Entire Contract.

(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.

(c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, and Assistant Secretary, or validating officer or authorized signatory of the Company.

14. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at 2 First American Way, Bldg 2, Santa Ana, California, 92707.