

## MEMORANDUM

**TO:** CITY COUNCIL

**FROM:** TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR

**BY:** JILL MCPEEK, CAPITAL IMPROVEMENT PROJECT MANAGER

**SUBJECT:** CONSIDERATION OF A RESOLUTION AUTHORIZING THE PURCHASE OF TEMPORARY CONSTRUCTION EASEMENTS FOR THE BRIDGE STREET BRIDGE REHABILITATION PROJECT

**DATE:** MAY 28, 2019

### **SUMMARY OF ACTION:**

Adoption of the Resolution enables the Community Development Director to execute agreements for Temporary Construction Easements needed to construct the Bridge Street Bridge Rehabilitation project.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The City has been successful in securing 100% grant funding through the Local Highway Bridge Program (HBP) for the Bridge Street Bridge Rehabilitation project, which includes \$200,000 for purchasing Temporary Construction Easements. The total cost to purchase the Temporary Construction Easements (TCEs) is \$75,100. Staff time will be necessary to coordinate construction activities with the contractor and construction management consultants.

### **RECOMMENDATION:**

It is recommended the City Council adopt a Resolution authorizing the Community Development Director to execute agreements for Temporary Construction Easements with property owners for construction of the Bridge Street Bridge Rehabilitation project.

### **BACKGROUND:**

Due to various deficiencies, the Bridge Street Bridge is restricted to a 3-ton maximum load limit and is in need of rehabilitation or replacement. In 2005, a Preliminary Engineering Study (PES) was prepared that presented a preliminary set of alternatives and associated costs for rehabilitating or replacing the bridge but efforts were halted due to the required local match funds under the regular HBP program. In July 2010, the City was made aware of an opportunity to receive 100% Federal funding and the City applied for and was approved to receive 100% Federal funding. In May 2012, after a competitive procurement process, the City retained Quincy Engineering, Inc. to begin preliminary design and public outreach. Since that time, the City and its consultant team has diligently worked with the community to understand their needs and perform bridge design. In

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CONSIDERATION OF A RESOLUTION AUTHORIZING THE PURCHASE OF  
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January 2015, the Council selected two alternatives for environmental study for the project, one for rehabilitation and one for replacement. In January 2017, the Council approved the elimination of the replacement alternative as the rehabilitation alternative is considered an avoidance alternative and must be the selected alternative under Section 4(f) of the Department of Transportation Act if it is feasible and prudent. In September 2017, the City Council approved the environmental document. Since that time, the City and its consultant team have proceeded with the design and right of way of the rehabilitation alternative and in July 2018, the Council approved an Agreement with Hamner, Jewell & Associates (HJA) to perform right of way acquisition and appraisal services for the project following a competitive acquisition process.

**ANALYSIS OF ISSUES:**

In order to construct the Bridge Street Bridge Rehabilitation project, TCEs will be required. A TCE allows a City and its contractors to enter a private property for temporary use during the construction of a project. For this project, existing utilities that are supported by the Bridge Street Bridge will need to be relocated during construction to adjacent private properties. In addition, TCEs are necessary to occupy areas for material and equipment staging, and to gain access points to the construction area.

While the Bridge Street Bridge Rehabilitation project will be constructed within the existing public right of way, TCEs will need to be acquired from three adjacent private properties for temporary use during construction of the project. The City's offering prices were based on appraisals performed by a local appraiser, Ed Hawkes, as part of the HJA team. To ensure that fair market value was offered to the property owners for the purchase of the TCEs, a valuation was made by taking into consideration the highest and best use of the affected property, the size of the land, any improvements located thereon, and all other factors that affect fair market value. Appraisal reviews of Hawkes' appraisals were performed by appraiser Dennis Greene, also part of the HJA team, to comply with federal appraisal review requirements.

Beginning in May 2018, City staff and HJA met with and offered to the three property owners the City's initial offer for the TCEs. The team spent considerable effort coordinating with the property owners and in May 2019, was successful in securing agreement from the three property owners for the TCEs. Staff is recommending these agreements be executed now to ensure that the TCEs remain in effect during events such as a property being sold to a new owner.

The following is a summary of the three TCEs:

**127 Bridge Street**

- APN 007-491-016
- Property is located on the southeast corner of the Bridge Street Bridge

**CITY COUNCIL**

**CONSIDERATION OF A RESOLUTION AUTHORIZING THE PURCHASE OF TEMPORARY CONSTRUCTION EASEMENTS FOR THE BRIDGE STREET BRIDGE REHABILITATION PROJECT**

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- The City is purchasing a temporary construction and access easement (approximately 11,435 square feet) for purposes such as storage of materials, supplies and equipment
- Acquisition amount \$52,000

**101 West Branch Street**

- APN 007-481-001
- Property is located on the northwest corner of the Bridge Street Bridge
- The City is purchasing a temporary construction and access easement (approximately 1,250 square feet) for a temporary pedestrian access and utility bridge over Arroyo Grande creek
- Acquisition amount \$6,800

**135 Traffic Way**

- APN 007-481-011
- Property is located on the southwest corner of the Bridge Street Bridge
- The City is purchasing a temporary construction and access easement (approximately 11,585 square feet) for a temporary pedestrian access and utility bridge over Arroyo Grande creek
- Acquisition amount \$16,300

The proposed Resolution authorizes the Community Development Director to execute TCE Agreements with owners of the properties listed above.

**ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Approve staff's recommendations;
2. Do not approve staff's recommendations; or
3. Provide direction to staff.

**ADVANTAGES:**

Purchasing the TCEs will allow the City and its contractors to enter private properties during the construction of the project for purposes such as material and equipment staging and access points to the construction area, and for temporary pedestrian access and utility relocations. Bringing the Bridge Street Bridge up to standard loading conditions will remove the 3-ton maximum load limit and would allow fire and delivery trucks to utilize Bridge Street as a route. The project implements the Council goal to support City infrastructure.

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**DISADVANTAGES:**

Some traffic related disruption within the Village will occur during construction activities.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for the approval of the Resolution.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AUTHORIZING THE PURCHASE OF TEMPORARY CONSTRUCTION EASEMENTS FOR THE BRIDGE STREET BRIDGE REHABILITATION PROJECT**

**WHEREAS**, the Bridge Street Bridge is currently a two-lane bridge over Arroyo Grande Creek that adds valued character to the Village of Arroyo Grande; and

**WHEREAS**, the Bridge Street Bridge is structurally deficient, obsolete and in need of rehabilitation; and

**WHEREAS**, to rehabilitate the bridge as currently designed, it is necessary to obtain temporary construction easements by which the City's contractor may utilize private property for constructability purposes; and

**WHEREAS**, certain private property owners have agreed to grant the City the use of their property for temporary construction easements; and

**WHEREAS**, the rehabilitation of the Bridge Street Bridge, including the costs associated with the procurement of the temporary construction easements, is fully funded by Caltrans' Highway Bridge Program; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Arroyo Grande hereby:

- 1, The Council hereby approves and authorizes the Community Development Director to execute temporary construction easement agreements with property owners adjacent to the Bridge Street Bridge, in the forms attached hereto as Exhibit A and incorporated herein by reference, subject to final approval as to form by the City Attorney.
2. The Community Development Director is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and by the following roll call vote, to wit:

**AYES:**  
**NOES:**  
**ABSENT:**

The foregoing Resolution was adopted this 28<sup>th</sup> day of May 2019.

\_\_\_\_\_  
**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**KELLY WETMORE, CITY CLERK**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
**JAMES A. BERGMAN, CITY MANAGER**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**HEATHER K. WHITHAM, CITY ATTORNEY**

**PARCEL NO.: 007-191-016**  
**PROJECT: Bridge Street Bridge**  
**OWNER: Brisco Foundation**

## TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into by and between

Aileen Mankins, Blair Mankins and Mark Mankins, as Successor Co-Trustees of the Leo A. and Minta L. Brisco Foundation

(hereinafter called "Grantor"), and

City of Arroyo Grande, a municipal corporation

(hereinafter called "City").

An instrument in the form of a Temporary Construction Easement Deed ("Easement Deed") covering the property particularly described therein ("Easement Area"), has been executed concurrently with this Agreement and delivered to City representatives.

In consideration of which, and other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve the City of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.

2. The City shall:

A. PAYMENT - Pay to the order of the Grantor the sum of fifty-two thousand dollars (\$52,000) as consideration in full for the property interests described in the Easement Deed, for the loss, replacement and moving of any improvements, and for entering into this Agreement. Said sum shall be paid within thirty days of the date of City acceptance and execution of this Agreement.

B. RECORDATION OF INSTRUMENT - Accept the Easement Deed and may, at City's sole discretion, cause the same to be recorded in the office of the San Luis Obispo County Recorder.

C. MISCELLANEOUS COSTS - Pay any and all transactional closing costs and recording fees incurred in this transaction.

D. CLEARANCE OF BONDS, ASSESSMENTS, OR DELINQUENT TAXES - Have the authority to deduct and pay from the amount shown in Clause 2.A. above any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in

which the deeds record, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien as of the date of this Agreement.

E. PROPERTY RESTORATION AND CONSTRUCTION PROVISIONS – Except for vegetation, City shall, upon completion of construction, generally restore the Easement Area to a comparable or better condition as that which existed prior to City’s project construction, to the extent reasonably practical, in accordance with the provisions of the Easement Deed. The City intends to utilize the entire parking lot of Grantor’s property. City will provide for on-street parking for two vehicles in front of Grantor’s building, reserved for and signed for the use of Grantor’s property occupants, or in the alternative, will provide two parking spots either in the parking lot Easement Area or across the street on the street or in a private parking lot reserved for Grantor’s tenants.

F. INDEMNIFICATION - Indemnify and hold harmless the Grantor from any and all claims, damages, costs, judgments or liability proximately caused by City or its officers, employees, contractors or agents specifically arising from City’s construction and restoration work within the Easement Area during the temporary easement period specified in the Easement Deed.

3. The Grantor:

A. LEASE INDEMNIFICATION - Warrants there are no oral or written leases on all or any portion of the Easement Area or if there are such leases, Grantor agrees to hold the City harmless and reimburse City for any and all of its losses and expenses occasioned by reason of any lease encumbering the Easement Area. Grantor shall provide City use of the Easement Area free of any leases that may conflict with City’s rights under the Easement Deed provisions.

B. TITLE INDEMNITY AND WARRANTY - In consideration of the City waiving requirements to clear any defects and imperfections in all matters of record title, Grantor indemnifies and holds the City harmless from any and all claims that other parties may make or assert on the title to the Easement Area. Grantor’s obligation to indemnify the City shall not exceed the amount paid to the Grantor under this Agreement. Grantor hereby represents and warrants that he/she/they are the sole vested owners of the Easement Area, holding all ownership and possessory rights, and are the authorized signatories to grant the easement rights referenced in this Agreement and the Easement Deed without conflict or claims from other parties.

C. GRANTOR’S KNOWLEDGE OF THE ENVIRONMENTAL CONDITIONS OF THE PROPERTY – Hereby represents and warrants that to the best of Grantor’s knowledge and belief, throughout the period of ownership by Grantor, there has been no spill, discharge, release, cleanup or contamination of or by any hazardous or toxic waste or substance used, generated, treated, stored, disposed of or handled by the Grantor, its employees, and/or agents on or around the Easement Area. Further, Grantor agrees to disclose to the City of Arroyo Grande, prior to the close of escrow, all studies, reports, and investigations, known to Grantor, concerning any pollution, toxic building materials or toxic hazardous substances or wastes located at, on, or under the Easement Area.

4. The Parties agree:

A. ESCROW - At City’s option, to open an escrow in accordance with this Agreement at an escrow company of City’s choice. Opening an escrow shall be at City’s sole discretion and



City may decide to process this transaction without the use of an escrow agent. The parties hereto agree to do all acts necessary to close this escrow in the shortest possible time.

B. ARTICLE HEADINGS - Article headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants and conditions of this Agreement.

C. COMPLETE UNDERSTANDING - This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements or understandings, written or oral. This Agreement may not be amended except in writing by the parties hereto or their successors or assigns.

D. CITY COUNCIL APPROVAL - This Agreement is subject to and conditioned upon approval by the Arroyo Grande City Council. This Agreement is not binding upon the City until executed by the appropriate City official(s) acting in their authorized capacity.

E. COUNTERPARTS - This Agreement may be executed in counterparts, each of which so executed shall irrespective of the date of its execution and delivery be deemed an original, and all such counterparts together shall constitute one and the same document.

F. SUCCESSORS AND ASSIGNS - This Agreement shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

G. ELECTRONIC AND FACSIMILE SIGNATURES – In the event that the parties hereto utilize electronic or facsimile documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided following transmittal of the electronic or facsimile signature. Documents for recordation by the Clerk Recorder must contain original signatures.

H. RELEASE OF DEED UPON CONSTRUCTION CONCLUSION- Within 90 days after the conclusion of project construction, City shall cause to be recorded with the County Recorder a release of the Temporary Construction Easement deed if previously recorded.

**No Obligation Other Than Those Set Forth Herein Will Be Recognized.**

**GRANTOR:**

Aileen Mankins, Blair Mankins and Mark Mankins, as Successor Co-Trustees of the Leo A. and Minta L. Brisco Foundation

\_\_\_\_\_  
Aileen Mankins, Successor Co-Trustee

Date: \_\_\_\_\_

\_\_\_\_\_  
Blair Mankins, Successor Co-Trustee

Date: \_\_\_\_\_

\_\_\_\_\_  
Mark Mankins, Successor Co-Trustee

Date: \_\_\_\_\_

GRANTOR'S MAILING ADDRESS:

1005 El Camino Real  
Arroyo Grande, CA 93420

Agency Name: City of Arroyo Grande

Date: \_\_\_\_\_

\_\_\_\_\_  
Name: Teresa McClish  
Title: Community Development Director

Attest:

\_\_\_\_\_  
Kelly Wetmore, City Clerk

Approved as to Form:

\_\_\_\_\_  
Heather K. Whitman, City Attorney

MAILING ADDRESS OF CITY:

City of Arroyo Grande  
Attn: Kelly Wetmore, City Clerk  
300 East Branch Street  
Arroyo Grande, CA 93420

**PARCEL NO.: 007-481-001**  
**PROJECT: Bridge Street bridge**  
**OWNER: Hometown Ventures LLC**

## **TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT**

THIS AGREEMENT is made and entered into by and between

Hometown Ventures LLC

(hereinafter called "Grantor"), and

City of Arroyo Grande, a municipal corporation

(hereinafter called "City").

An instrument in the form of a Temporary Construction and Access Easement Deed ("Easement Deed") covering the property particularly described therein ("Easement Area"), has been executed concurrently with this Agreement and delivered to City representatives.

In consideration of which, and other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve the City of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.

2. The City shall:

A. PAYMENT - Pay to the order of the Grantor the sum of six thousand eight hundred dollars (\$6,800) as consideration in full for the property interests described in the Easement Deed, for the loss, replacement and moving of any improvements, and for entering into this Agreement. Said sum shall be paid within thirty days of the date of City acceptance and execution of this Agreement.

B. RECORDATION OF INSTRUMENT - Accept the Easement Deed and may, at City's sole discretion, cause the same to be recorded in the office of the San Luis Obispo County Recorder.

C. MISCELLANEOUS COSTS - Pay any and all transactional closing costs and recording fees incurred in this transaction.

D. CLEARANCE OF BONDS, ASSESSMENTS, OR DELINQUENT TAXES - Have the authority to deduct and pay from the amount shown in Clause 2.A. above any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in

which the deeds record, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien as of the date of this Agreement.

E. PROPERTY RESTORATION – Except for vegetation, City shall, upon completion of construction, generally restore the Easement Area to a comparable or better condition as that which existed prior to City’s project construction, to the extent reasonably practical, in accordance with the provisions of the Easement Deed. At the request of Grantor, the ramp from the street to the temporary pedestrian bridge will be left in place for Grantor’s use. At the conclusion of construction, this ramp will become the sole property of Grantor and Grantor will be solely responsible for all future maintenance, repair and replacement.

F. INDEMNIFICATION - Indemnify and hold harmless the Grantor from any and all claims, damages, costs, judgments or liability proximately caused by City or its officers, employees, contractors or agents specifically arising from City’s construction and restoration work within the Easement Area during the temporary easement period specified in the Easement Deed.

3. The Grantor:

A. LEASE INDEMNIFICATION - Warrants there are no oral or written leases on all or any portion of the Easement Area or if there are such leases, Grantor agrees to hold the City harmless and reimburse City for any and all of its losses and expenses occasioned by reason of any lease encumbering the Easement Area. Grantor shall provide City use of the Easement Area free of any leases that may conflict with City’s rights under the Easement Deed provisions.

B. TITLE INDEMNITY AND WARRANTY - In consideration of the City waiving requirements to clear any defects and imperfections in all matters of record title, Grantor indemnifies and holds the City harmless from any and all claims that other parties may make or assert on the title to the Easement Area. Grantor’s obligation to indemnify the City shall not exceed the amount paid to the Grantor under this Agreement. Grantor hereby represents and warrants that he/she/they are the sole vested owners of the Easement Area, holding all ownership and possessory rights, and are the authorized signatories to grant the easement rights referenced in this Agreement and the Easement Deed without conflict or claims from other parties.

C. SUPPLEMENTAL FORMS - Agrees to provide all required supplemental forms necessary to complete this transaction, including a W-9 Form required for payment processing.

D. GRANTOR’S KNOWLEDGE OF THE ENVIRONMENTAL CONDITIONS OF THE PROPERTY – Hereby represents and warrants that to the best of Grantor’s knowledge and belief, throughout the period of ownership by Grantor, there has been no spill, discharge, release, cleanup or contamination of or by any hazardous or toxic waste or substance used, generated, treated, stored, disposed of or handled by the Grantor, its employees, and/or agents on or around the Easement Area. Further, Grantor agrees to disclose to the City of Arroyo Grande, prior to the close of escrow, all studies, reports, and investigations, known to Grantor, concerning any pollution, toxic building materials or toxic hazardous substances or wastes located at, on, or under the Easement Area.

4. The Parties agree:

A. ARTICLE HEADINGS - Article headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants and conditions of this Agreement.

B. COMPLETE UNDERSTANDING - This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements or understandings, written or oral. This Agreement may not be amended except in writing by the parties hereto or their successors or assigns.

C. CITY COUNCIL APPROVAL - This Agreement is subject to and conditioned upon approval by the Arroyo Grande City Council. This Agreement is not binding upon the City until executed by the appropriate City official(s) acting in their authorized capacity.

D. COUNTERPARTS - This Agreement may be executed in counterparts, each of which so executed shall irrespective of the date of its execution and delivery be deemed an original, and all such counterparts together shall constitute one and the same document.

E. SUCCESSORS AND ASSIGNS - This Agreement shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

G. ELECTRONIC AND FACSIMILE SIGNATURES – In the event that the parties hereto utilize electronic or facsimile documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided following transmittal of the electronic or facsimile signature. Documents for recordation by the Clerk Recorder must contain original signatures.

**No Obligation Other Than Those Set Forth Herein Will Be Recognized.**

GRANTOR:  
Hometown Ventures LLC

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Title:

GRANTOR'S MAILING ADDRESS:

Century 21 Hometown Realty  
102 Bridge Street  
Arroyo Grande, CA 93420-3310

Agency Name: City of Arroyo Grande

Date: \_\_\_\_\_

\_\_\_\_\_  
Name: Teresa McClish  
Title: Community Development Director

Attest:

\_\_\_\_\_  
Kelly Wetmore, City Clerk

Approved as to Form:

\_\_\_\_\_  
Heather K. Whitman, City Attorney

MAILING ADDRESS OF CITY:

City of Arroyo Grande  
Attn: Kelly Wetmore, City Clerk  
300 East Branch Street  
Arroyo Grande, CA 93420

**PARCEL NO.: 007-481-011**  
**PROJECT: Bridge Street Bridge**  
**OWNER: Kaloosian**

## **TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

THIS AGREEMENT is made and entered into by and between

Raffi M. Kaloosian, a married man as his sole and separate property and Minas Kaloosian, a single man

(hereinafter called “Grantor”), and

City of Arroyo Grande, a municipal corporation

(hereinafter called “City”).

An instrument in the form of a Temporary Construction Easement Deed (“Easement Deed”) covering the property particularly described therein (“Easement Area”), has been executed concurrently with this Agreement and delivered to City representatives.

In consideration of which, and other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve the City of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.

2. The City shall:

A. PAYMENT - Pay to the order of the Grantor the sum of sixteen thousand three hundred dollars (\$16,300) as consideration in full for the property interests described in the Easement Deed, for the loss, replacement and moving of any improvements, and for entering into this Agreement. Said sum shall be paid within thirty days of the date of City acceptance and execution of this Agreement.

B. ADDITIONAL TERMS – City will allow Grantor the use of the three parking spots (“Parking Spots”) by Traffic Way as “non-conforming use” as defined in Arroyo Grande Municipal code Section 16.48.110 and subject also to Code section 16.44.050D for creek management indicated as spots 13, 14 and 15 and highlighted in yellow on the attached plat marked Exhibit A and incorporated herein;

1. City will allow the following improvements in the Parking Spots subject to Engineering Department review for the purposes of storm water compliance per the Municipal Code:

- a. permeable pavers or permeable pavement in the Parking Spots, if Grantor so desires, at Grantor's sole expense;
  - b. Striping the Parking Spots, if Grantor so desires, at Grantor's sole expense;
  - c. The paving of the Parking Spots and striping shall be less than 500 square feet.
2. Subject to Engineering Department review for purposes of storm water compliance, City will allow Grantor, at Grantor's sole expense, to use permeable pavers or permeable pavement to pave a drive aisle no wider than 12 foot extending from the driveway in front of the main building to the existing pavement in back of the building placed as far from the top of creek bank as feasible.

C. RECORDATION OF INSTRUMENT - Accept the Easement Deed and may, at City's sole discretion, cause the same to be recorded in the office of the San Luis Obispo County Recorder.

D. MISCELLANEOUS COSTS - Pay any and all transactional closing costs and recording fees incurred in this transaction.

E. CLEARANCE OF BONDS, ASSESSMENTS, OR DELINQUENT TAXES - Have the authority to deduct and pay from the amount shown in Clause 2.A. above any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which the deeds record, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien as of the date of this Agreement.

F. PROPERTY RESTORATION - Except for vegetation, City shall, upon completion of construction, generally restore the Easement Area to a comparable or better condition as that which existed prior to City's project construction, to the extent reasonably practical, in accordance with the provisions of the Easement Deed. City will relocate the existing fence along the creek in the Easement Area. If it cannot effectively re-use the existing fence materials, City will install new like-kind fencing.

G. INDEMNIFICATION - Indemnify and hold harmless the Grantor from any and all claims, damages, costs, judgments or liability proximately caused by City or its officers, employees, contractors or agents specifically arising from City's construction and restoration work within the Easement Area during the temporary easement period specified in the Easement Deed.

3. The Grantor:

A. LEASE INDEMNIFICATION - Warrants there are no oral or written leases on all or any portion of the Easement Area or if there are such leases, Grantor agrees to hold the City harmless and reimburse City for any and all of its losses and expenses occasioned by reason of any lease encumbering the Easement Area. Grantor shall provide City use of the Easement Area free of any leases that may conflict with City's rights under the Easement Deed provisions.

B. TITLE INDEMNITY AND WARRANTY - In consideration of the City waiving requirements to clear any defects and imperfections in all matters of record title, Grantor



indemnifies and holds the City harmless from any and all claims that other parties may make or assert on the title to the Easement Area. Grantor's obligation to indemnify the City shall not exceed the amount paid to the Grantor under this Agreement. Grantor hereby represents and warrants that he/she/they are the sole vested owners of the Easement Area, holding all ownership and possessory rights, and are the authorized signatories to grant the easement rights referenced in this Agreement and the Easement Deed without conflict or claims from other parties.

C. SUPPLEMENTAL FORMS - Agrees to provide all required supplemental forms necessary to complete this transaction, including a W-9 Form required for payment processing.

D. GRANTOR'S KNOWLEDGE OF THE ENVIRONMENTAL CONDITIONS OF THE PROPERTY – Hereby represents and warrants that to the best of Grantor's knowledge and belief, throughout the period of ownership by Grantor, there has been no spill, discharge, release, cleanup or contamination of or by any hazardous or toxic waste or substance used, generated, treated, stored, disposed of or handled by the Grantor, its employees, and/or agents on or around the Easement Area. Further, Grantor agrees to disclose to the City of Arroyo Grande, prior to the close of escrow, all studies, reports, and investigations, known to Grantor, concerning any pollution, toxic building materials or toxic hazardous substances or wastes located at, on, or under the Easement Area.

4. The Parties agree:

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**No Obligation Other Than Those Set Forth Herein Will Be Recognized.**

**GRANTOR:**

\_\_\_\_\_  
Raffi M. Kaloosian

Date: \_\_\_\_\_

\_\_\_\_\_  
Minas Kaloosian

Date: \_\_\_\_\_

**GRANTOR'S MAILING ADDRESS:**

135 Traffic Way  
Arroyo Grande, CA 93420-3332

**CITY OF ARROYO GRANDE:**

\_\_\_\_\_  
Name: Teresa McClish  
Title: Community Development Director

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Kelly Wetmore, City Clerk

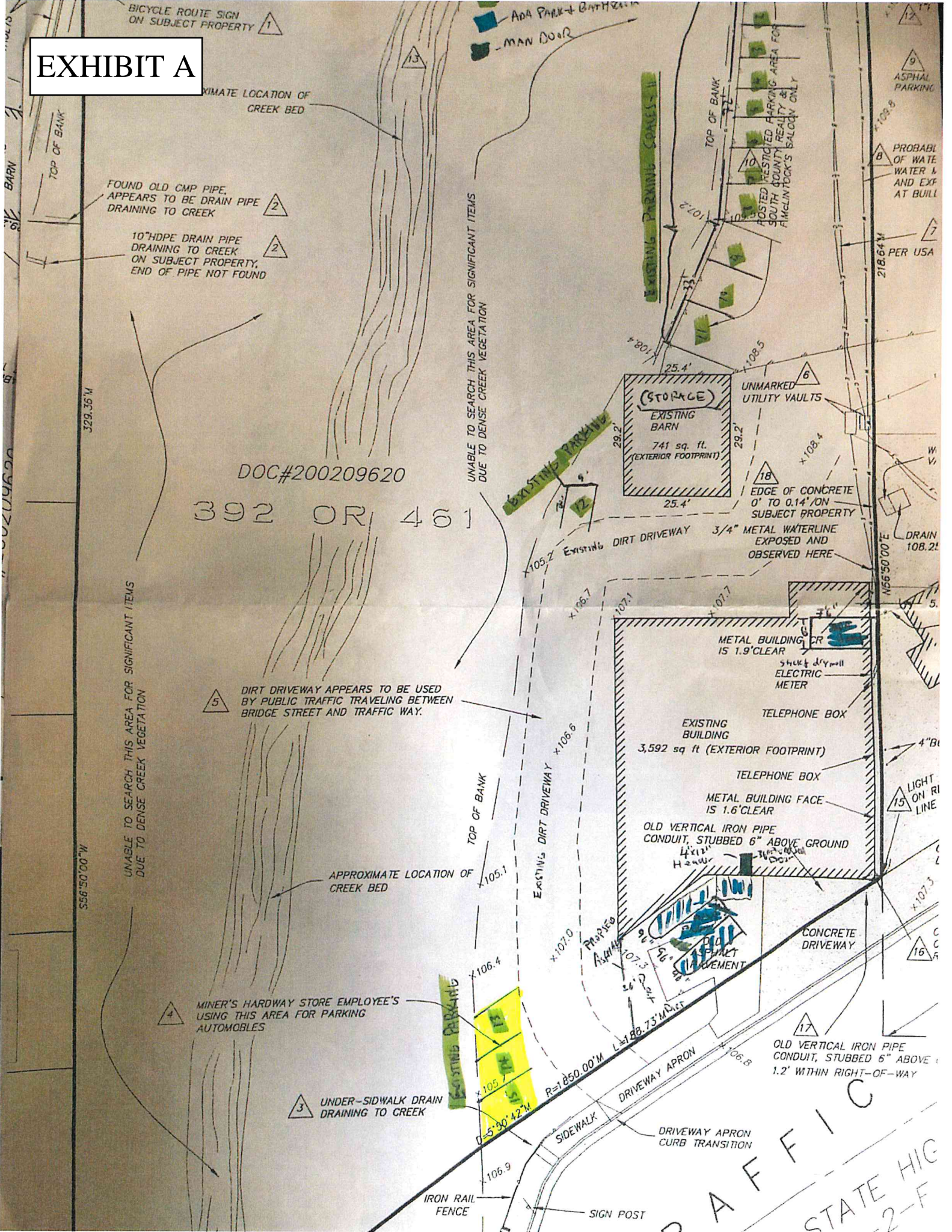
Approved as to Form:

\_\_\_\_\_  
Heather K. Whitman, City Attorney

**MAILING ADDRESS OF CITY:**

City of Arroyo Grande  
Attn: Kelly Wetmore, City Clerk  
300 East Branch Street  
Arroyo Grande, CA 93420

# EXHIBIT A



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