MEMORANDUM

TO: CITY COUNCIL
FROM: BILL ROBESON, ACTING COMMUNITY DEVELOPMENT DIRECTOR
BY: ANDREW PEREZ, ASSISTANT PLANNER
SUBJECT: CONSIDERATION OF A RESOLUTION ACCEPTING AN EASEMENT FOR EMERGENCY ACCESS AT 995 EAST GRAND AVENUE
DATE: JANUARY 28, 2020

SUMMARY OF ACTION:
Acceptance of the emergency access easement will provide access to the religious facility at 995 E. Grand Avenue consistent with the conditions of approval for the project.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:
No impacts to financial or personnel resources are anticipated.

RECOMMENDATION:
It is recommended that the City Council adopt a Resolution accepting an easement for emergency access for Conditional Use Permit 18-005, located at 995 E. Grand Avenue.

BACKGROUND:
On November 6, 2018, the Planning Commission approved a Conditional Use Permit to establish a 12,500 square foot religious facility, 1,500 square foot neighborhood coffee shop, and a 2,628 square foot commercial lease space. The location of the structures on site necessitate the dedication of an emergency access easement to protect the structures in the event of an emergency. Therefore, a condition of approval was added to require the developer to dedicate an easement to the City for emergency access.

ANALYSIS OF ISSUES:
Acceptance of the easement is consistent with the project’s approval. The easement will allow for emergency access across the property lines.

ALTERNATIVES:
The following alternatives are provided for the Council’s consideration:
1. Adopt the Resolution accepting an Emergency Access Easement;
2. Modify and adopt the Resolution accepting an Emergency Access Easement;
3. Do not adopt the Resolution; or
4. Provide direction to staff
ADVANTAGES:
The easement will allow emergency access to the property in accordance with the Planning Commission approval of the project.

DISADVANTAGES:
No disadvantages have been identified.

ENVIRONMENTAL REVIEW:
Acceptance of the easements has been determined to be categorically exempt from the California Environmental Quality Act (CEQA), per Section 15061(b)3 of the CEQA Guidelines.

PUBLIC NOTIFICATION AND COMMENT:
The Agenda was posted at City Hall and on the City website in accordance with Government Code Section 54954.2.
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ACCEPTING AN EASEMENT FOR EMERGENCY ACCESS FOR CONDITIONAL USE PERMIT 18-005; LOCATED AT 995 E. GRAND AVENUE

WHEREAS, the Planning Commission approved Conditional Use Permit 18-005 on November 6, 2018 to establish a religious facility, neighborhood coffee shop, and additional lease space in the existing building at 995 E. Grand Avenue; and

WHEREAS, conditions of approval required the dedication of an Emergency Access Easement; and

WHEREAS, accepting the dedicated easement will provide for emergency access to the property; and

WHEREAS, the City Council has reviewed the item in compliance with the California Environmental Quality Act (CEQA) and has determined it is exempt from CEQA per Section 15061(b)3 of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Arroyo Grande hereby accepts the emergency access easement as shown in Exhibit "A", attached hereto and incorporated herein by this reference.

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 28th day of January, 2020.
CAREN RAY RUSSOM, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, CITY ATTORNEY
GRANT OF EMERGENCY ACCESS EASEMENT AGREEMENT

THIS GRANT OF EMERGENCY ACCESS EASEMENT AGREEMENT ("Agreement"), is made as of the date last set forth below opposite signatures, by and between Kent N. Allen and Robin R. Allen, Trustees of The Allen Family Trust 1998 u/t/a June 17, 1988, hereinafter referred to as "Grantor" and the City of Arroyo Grande, a California municipal corporation, hereinafter referred to as "City".

RECITALS

A. Condition #28 of the Resolution of the Planning Commission of the City of Arroyo Grande Approving Conditional Use Permit 18-005 requires the grant of an easement for emergency vehicle access.

B. The Allen Trust is the owner of certain real property described as 995 Grand Avenue, Arroyo Grande, California, Parcel A of Parcel Map AG 72-251, and as more particularly set forth on Exhibit "A" ("The 995 Parcel"), and the real property described as 973 Grand Avenue, Arroyo Grande, California, Parcel 1 of Parcel Map AG 73-468, and as more particularly set forth on Exhibit "B" (the "973 Parcel"). The 995 Parcel and the 973 Parcel are referred to individually as a "Parcel", and collectively as the "Parcels" or the "Property."

C. Said Grantor desires to grant to the City, an easement over a portion of the 995 Parcel that will allow for access by emergency vehicles, on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for good and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Emergency Access Easement. That said Grantor does hereby grant to City, and City hereby accepts from Grantor, a non-exclusive, perpetual easement for ingress and egress over and across the portion of the 995 Parcel described in Exhibit "C" (the "Easement Area") by all government personnel, vehicles and equipment for the purpose of emergency and safety response, including but not limited to fire and rescue, police, and ambulance.
easement shall not permit access by the general public or any use or purpose other than ingress and egress of emergency vehicles on official business.

2. **Character and Use of Easement.** The easement described above shall be non-exclusive and in gross. Provided, however, the easement rights granted to the City herein shall be paramount and superior to the right of Grantor.

3. **Prohibited Activities within Easement.** Within said easement, for the purposes of ensuring unobstructed emergency access, the construction, or placement of any temporary or permanent structure, parking, equipment, or material storage, or any other activity that would impede emergency access shall be prohibited.

4. **Term.** The easement will be an easement in perpetuity for the benefit of City, its successors and assigns.

5. **Successors and Assigns.** The provisions of this Agreement are intended to and will run with the land referenced herein and will bind, be a charge upon and inure to the benefit of the respective owners of the subject property and their successors and assigns.

6. **Attorney’s Fees.** If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorney’s fees, costs and expenses incurred in the action or proceeding by the prevailing party.

7. **Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California. The parties hereto agree that all actions or proceedings in connection with this Agreement shall be tried and litigated in the Superior Court located in the County of San Luis Obispo, State of California.

8. **Severability.** If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provision or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of the Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this section, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

9. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

10. **Authority of Parties.** All persons executing this Agreement on behalf of a party warrant that they have the authority to execute this Agreement on behalf of that party.
IN WITNESS WHEREOF, this Grant of Emergency Access Easement Agreement is hereby executed by the said Grantor and City as of the day and year written below.

Grantor:
The Allen Family Trust 1998 u/t/a June 17, 1998

Kent N. Allen, Trustee

Robin R. Allen, Trustee

Date: ____________________

City:

City of Arroyo Grande:

Caren Russom, Mayor

ATTEST:

Kelly Wetmore, City Clerk

APPROVED AS TO FORM:

Timothy J. Carmel, City Attorney
EXHIBIT "A"
LEGAL DESCRIPTION OF 995 PARCEL

Parcel A of Parcel Map AG 72-251, in the City of Arroyo Grande, County of San Luis Obispo, State of California, according to map recorded September 12, 1972 in Book 9, Page 53 of Parcel Maps, in the office of the County Recorder of said County.

APN 077-223-061 and 077-223-062
EXHIBIT "B"
LEGAL DESCRIPTION OF 973 PARCEL

Parcel 1 of Parcel Map AG 73-468, in the City of Arroyo Grande, County of San Luis Obispo, State of California, according to map recorder November 23, 1973 in Book 13, Page 14 of Parcel Maps, in the office of the County Recorder of said County.

APN 077-223-064
EXHIBIT "C"

EMERGENCY ACCESS EASEMENT

A portion of Parcel A of Parcel Map AG 72-251 as shown on the map thereof recorded September 12, 1972, in Book 9, Page 53 of Parcel Maps in the office of the County Recorder, County of San Luis Obispo, State of California, described as follows:

Beginning at the southwest corner of said Parcel A, also being a point along the easterly right-of-way of Alder Street;
-Thence along said right-of-way N 21°08'00" E, 24.06 feet;
-Thence leaving said right-of-way, S 48°27'00" E, 32.25 feet;
-Thence S 69°52'05" E, 60.12 feet;
-Thence S 83°01'05" E, 43.47 feet;
-Thence N 64°23'41" E, 35.49 feet, to the line common to Parcel 1 of Parcel Map Parcel Map AG 73-468 as shown on the map thereof recorded November 23, 1973, in Book 13, Page 14 of Parcel Maps of said County;
-Thence, along said common line, S 28°49'54" W, 50.79 feet, to the southeasterly line of said Parcel A;
-Thence along the southwesterly line thereof, N 68°52'00" W, 150.00 feet to the Point of Beginning and containing 2,906 square feet more or less and as shown on Exhibit C2 attached hereto and by reference made a part hereof.

END DESCRIPTION

Prepared by:

[Signature]
William R. Dyer, LS 5661, Lic. Exp. 9/30/19

Date: 4/3/18
CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant of Emergency Access Easement Agreement, dated __________ between Kent N. Allen and Robin R. Allen, Trustees of The Allen Family Trust 1998 u/t/a June 17, 1988 and the CITY OF ARROYO GRANDE, a municipal corporation, is hereby accepted by order of the City Council of the City of Arroyo Grande pursuant to authority conferred by order of the City Council of the City of Arroyo Grande on January 28, 2020, and the grantee consents to recordation thereof by its duly authorized Mayor.

Dated: ___________________________________

CITY OF ARROYO GRANDE:

By ______________________________________

CAREN RAY RUSSOM, MAYOR

ATTEST:

________________________________________

KELLY WETMORE, CITY CLERK