

RECORDING REQUESTED BY
AND WHEN RECORDED, RETURN TO:
City Clerk
City of San Luis Obispo
990 Palm Street
San Luis Obispo, CA 93401

REAL PROPERTY EXCHANGE AGREEMENT

THIS REAL PROPERTY EXCHANGE AGREEMENT ("**Agreement**") is dated as of _____, 202__, and is made and entered into by and between Michael K. Hodge and Trudy A. Hodge and subsequent Trustees of the Michael and Trudy Hodge Revocable Trust dated November 4, 2013, as restated and Chad Van Til and, as Trustee of the Survivors Trust under the Van Til Family Trust dated March 7, 2002 and amended and restated July 16, 2004 (collectively "**DEVELOPERS**"), and the City of San Luis Obispo, a California municipal corporation and charter city ("**City**"). DEVELOPERS and City are collectively referred to as "**Parties**".

RECITALS

- A. DEVELOPERS own that certain real property located at 1804 and 1814 Osos Street, San Luis Obispo, CA as more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("**DEVELOPERS' Property**").
- B. City owns that certain real property located adjacent to the railroad right-of-way as more particularly described in Exhibit B attached hereto and incorporated herein by this reference ("**City Property**").
- C. DEVELOPERS were granted approval to develop DEVELOPERS' Property per City Council Resolution No. 10073 (2009 Series) and per Architectural Review Commission (ARC) approval ARC 45-07.
- D. To develop DEVELOPERS' Property as entitled, it is necessary for DEVELOPERS to obtain and utilize a portion of said City Property ("**Surplus Property**") as described in Exhibit C and shown in Exhibit D both of which are attached hereto and incorporated herein by this reference.
- E. City Council Resolution No. 10073 made findings regarding the disposition of the Surplus Property. It was determined that City no longer has need for the Surplus Property, and that the disposition of Surplus Property to facilitate the development is consistent with the policies of the Land Use and Housing Elements of the General Plan.
- F. In exchange for obtaining Surplus Property, DEVELOPERS agreed to construct certain improvements ("**Improvements**") benefitting the City and the public.
- G. The Parties recognize that there is a risk that Surplus Property might be impacted by underground soil contamination resulting from past railroad operations, although the City has no actual knowledge of the such contamination. It is the intention of the Parties that, through this agreement and a separate Environmental Indemnity Agreement recorded concurrently herewith, DEVELOPERS assumes all risks, liabilities, and financial obligations arising from or relating to contamination, if any.

- H. By Resolution No. 10592 (2015 Series), the City Council approved this Real Property Exchange Agreement and the Environment Indemnity Agreement, to be executed and recorded concurrently herewith.
- I. DEVELOPER has submitted improvement plans (“**Improvement Plans**”) showing the Improvements within the City Property consistent with the tentative map for Parcel Map SLO 07-0094. Improvements include parking reconfiguration, accessible path of travel upgrades, sidewalk improvements, landscaping and irrigation, signing and striping, and drainage.
- J. The City has approved the Improvement Plans.
- K. The Improvements depicted in the approved Improvement Plans have been completed to the satisfaction of the City.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants set forth below, City and DEVELOPERS agree as follows:

1. Recitals Incorporated. The above Recitals are true and correct and are incorporated into this Agreement by this reference.
2. Conveyance of Real Property. The method of conveyance/exchange shall be by quitclaim or any other means as determined by City, in City’s sole and absolute discretion. The documents conveying the property shall be recorded in the office of the County Recorder of San Luis Obispo County, California (“**County**”) at no cost to City. Any fees and taxes required by County to record the conveyance shall be the sole responsibility of DEVELOPERS.
3. Conditions Precedent to Conveyance for City’s Benefit. City’s obligation to convey title of Surplus Property to DEVELOPERS is expressly conditioned upon DEVELOPERS’ completion of the following conditions:
 - a.
 - b.
 - c. Concurrent recordation of the second phase of Parcel Map SLO 07-0094 or some other map or document approved by the City that incorporates the Surplus Property into the adjoining parcels.
 - d.
4. Condition of Title of Real Property. City makes no warranties, representations, claims or guarantees as to the condition of title of Surplus Property.
5. Consideration. The Parties agree that the cost of Improvements and Surplus Property are of equal value. The Improvements, together with the indemnification granted to City by DEVELOPERS in a separate Environmental Indemnity Agreement, provide a significant public benefit as a whole and constitute adequate consideration for the property transferred, and no monetary consideration shall be exchanged.
6. “As-Is”; Environmental Indemnity Agreement.

AS-IS, WHERE IS

To the maximum extent permitted by law, DEVELOPERS agree to accept the Surplus Property on an “as-is” and “where-is” basis, with all faults and any and all latent and patent defects, and without any representation or warranty, all of which City and its representatives hereby disclaim.

As a material part of the consideration for the City’s agreement to enter into the Real Property Exchange Agreement, City shall be released, held harmless and indemnified by DEVELOPERS and its successors and assigns, and completely protected, to the fullest extent possible under the law, from any and all claims, liabilities and obligations associated with the physical or environmental condition of Surplus Property and DEVELOPERS and its successors and assigns, as transferees, shall accept all risks, liabilities and financial obligations arising from or relating to the physical and environmental condition of Surplus Property, regardless of the nature or degree of any defect in such condition. An Environmental Indemnity Agreement shall be recorded concurrently with the Real Property Exchange Agreement.

7. **Waiver.** No delay or omission in the exercise of any right or remedy of a non-defaulting party regarding any default by the other party shall impair such right or remedy or be construed as a waiver. A party’s consent or approval of any act by the other party requiring consent or approval shall not be deemed to waive or render unnecessary said party’s consent to or approval of any subsequent act of the other party. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8. **Legal Action.** In addition to any other rights or remedies either party has under this Agreement, either party may take legal action to: (a) cure, correct or remedy any default by the other party; (b) compel specific performance of this Agreement; (c) obtain injunctive relief; or (d) obtain any other remedy consistent with the purpose of this Agreement.

9. **Notices.** Any notice, demand, request, consent, approval or communication under this Agreement shall be in writing and either served personally or sent by prepaid, first-class mail to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed given (a) upon personal delivery or (b) forty-eight (48) hours from deposit of such notice in the United States mail, postage prepaid.

To City:

City of San Luis Obispo
919 Palm Street
San Luis Obispo, CA 93401
Attn: Director of Public Works

To DEVELOPERS:

Michael Hodge
351 San Miguel Avenue
San Luis Obispo, CA 93405

10. **Agreement Assignment.** DEVELOPERS shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

12. Amendment. This Agreement may be amended at any time by the mutual consent of the Parties by a written instrument signed by both Parties.

13. Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by so executing this Agreement, the Parties hereto are formally bound to the provisions of this Agreement.

14. Severability. Each term, covenant, condition or provision of this Agreement is intended to be severable. If any term, covenant, condition or provision contained in this Agreement is held to be invalid, void or illegal by any court of competent jurisdiction, such provision shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or invalidate any other term, covenant, condition or provision contained in this Agreement. If such term, covenant, condition or provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

15. Interpretation. The paragraph headings of this Agreement are for reference and convenience only, are not made part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof. The provisions of this Agreement shall be construed in a reasonable manner to implement the purposes of the Parties and of this Agreement. This Agreement shall be construed as if drafted jointly by City and DEVELOPERS.

16. Indemnification. To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), DEVELOPERS and each of them shall indemnify, defend, and hold harmless the City, and its elected officials, officers, employees, volunteers, and agents ("City Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of or related to the City's approval of this Agreement. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from this Agreement, the DEVELOPERS and each of them shall provide a defense to the City Indemnitees or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims. The City shall promptly notify DEVELOPERS of any claim, action, or proceeding received by the City.

17. Entire Agreement. This Agreement represents the entire understanding of City and DEVELOPERS as to the matters contained herein, and no prior oral or written understanding shall be of any force or effect with respect to the matters covered in this Agreement.

18. 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 will 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.

A notary public or other officer completing this certificate verifies only the identity of the individual, who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)ss
COUNTY OF SAN LUIS OBISPO)

On 7/01/25, 2025, before me, C. MERSAI, Notary Public, personally appeared MICHAEL K. HODGE 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 declare 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]
Notary Public



A notary public or other officer completing this certificate verifies only the identity of the individual, who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)ss
COUNTY OF SAN LUIS OBISPO)

On _____, 202__, before me, _____, Notary Public, 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 declare 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.

Notary Public

CONSENT AND SUBORDINATION OF TRUST DEED BENEFICIARY

NOTICE: THIS CONSENT AND SUBORDINATION OF TRUST DEED BENEFICIARY RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO THE AGREEMENT OF THE FOREGOING INSTRUMENT

The undersigned, beneficiary under that certain deed of trust and assignment of rents recorded on June 11, 2025, as Document No. 2025 016381, in the Official Records of the County of San Luis Obispo, does hereby join in, and consent to, each and all of the terms and provisions of the within instrument, and does hereby subordinate its interests to the entire effect of this instrument. In this regard, the undersigned does hereby agree upon request of any insuring title company to direct the trustee under said deed of trust to execute and deliver to the County in recordable form acceptable to such insuring title company partial re-conveyances as to any rights granted and to be granted to the City of San Luis Obispo pursuant to this instrument.

Dated: May 6, 2025

TRUST DEED BENEFICIARY

Banc of California

By: [Signature]
Name: NATHAN RODDICK
Its: SVP

A notary public or other officer completing this certificate verifies only the identity of the individual, who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)ss
COUNTY OF SAN LUIS OBISPO)

On July 2, 2025, before me, Elizabeth A Shank, Notary Public, personally appeared Nathan Roddick 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 declare 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]
Notary Public



Exhibit A

Legal Description of Existing DEVELOPERS Property

Parcels 1, 3, and Remainder Parcel of Parcel Map SLO 07-0094-Phase 1, in the City of San Luis Obispo, County of San Luis Obispo, State of California, according to the Map thereof recorded August 12, 2010 in Book 74, pages 20 through 23 inclusive, of Parcel Maps in the Office of the County Recorder of said County.

Exhibit B

Legal Description of Existing City Property

Those portions of Blocks 181, 182, 183, and 187A of the Ingleside Homestead Tract in the City of San Luis Obispo, County of San Luis Obispo, State of California, according to map thereof recorded in Book A, page 132 of Maps in the Office of the County Recorder of said County and those portions of the Loomis Addition to said City according to map thereof recorded in Book A, Page 126 of Maps, in the Office of the County Recorder of said County described in the Grant Deed from Southern Pacific Transportation Company to the City of San Luis Obispo recorded December 30, 1985, in Book 2786, Page 550 of Official Records of said County Recorder.

Exhibit C

LEGAL DESCRIPTION CITY SURPLUS PROPERTY

A portion of Lots 1, 2, and 3 in Block 182 of the Ingleside Homestead Tract, in the City of San Luis Obispo, County of San Luis Obispo, State of California as shown on the map filed in Book A of Maps at Page 132 granted from Southern Pacific Transportation Company to the City of San Luis Obispo in Grant Deed recorded December 30, 1985 in Book 2786 of Official Records at Page 550, in the office of the County Recorder of said County described as follows:

Beginning at the easterly most corner of Parcel 3 of Parcel Map SLO 07-0094 Phase 1, according to the map filed in Book 74 of Parcel Maps at Pages 20 through 23, records of said County, also being the westerly most corner of that certain parcel of land described in Grant Deed recorded January 3, 1997 as Document No. 1997-000301 of Official Records of said County; said point being witnessed by 1 1/2" iron pipe with tag "LS5702" thence

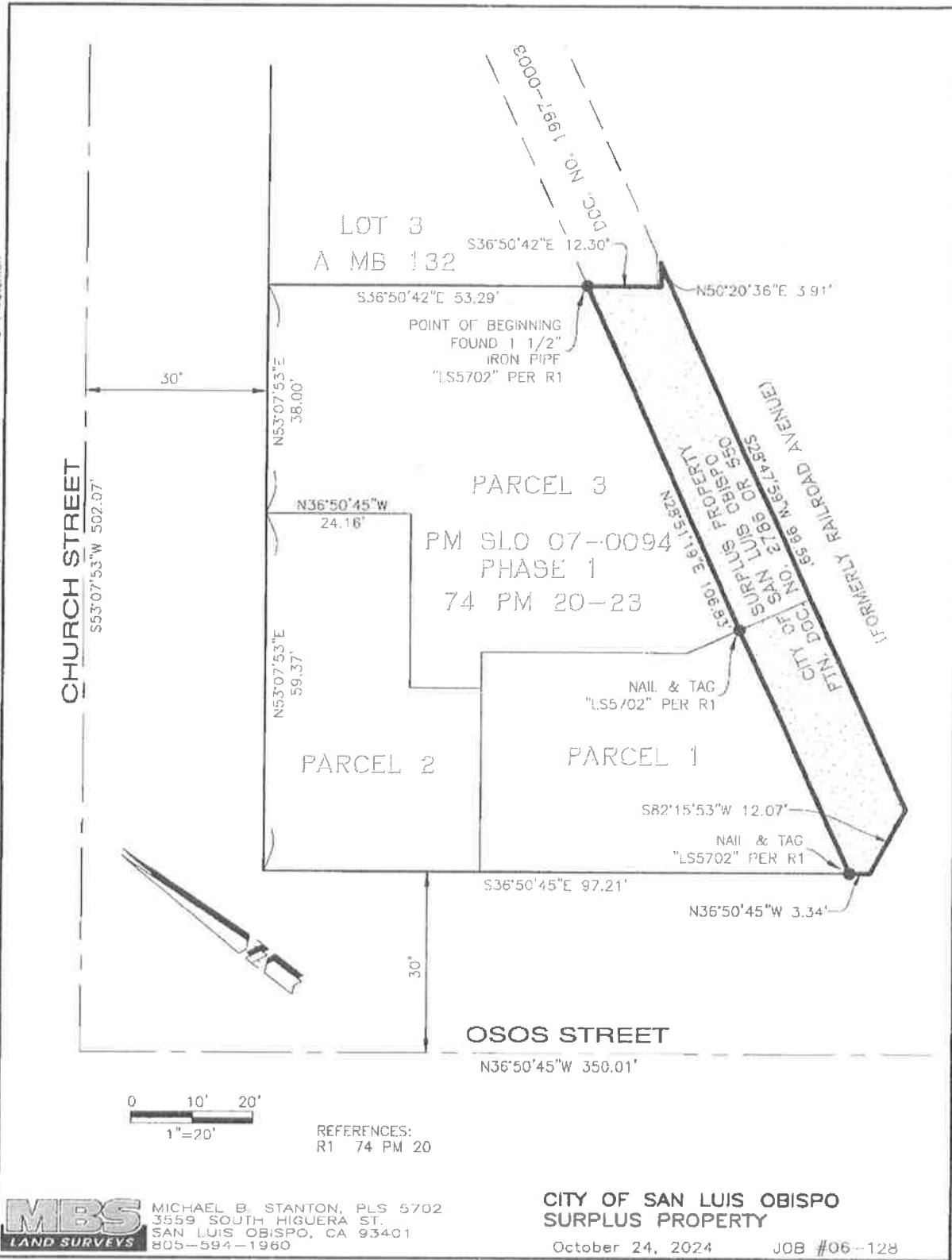
1. South 36°50'42" East along the southwest line of land described in Grant Deed recorded January 3, 1997 as Document No. 1997-000301 of Official Records a distance of 11.67 feet; thence
2. North 50°21'32" East along the southeast line of land described in Grant Deed recorded January 3, 1997 as Document No. 1997-000301 of Official Records a distance of 5.46 feet; thence
3. South 28°47'59" West, 101.29 feet; thence
4. South 82°15'53" West, 12.07 feet more or less to intersect the southeasterly projection of the northeasterly right-of-way line of Osos Street as said right-of-way is shown on Parcel Map SLO 07-0094- Phase 1, filed on August 10, 2010 in Book 74 of Parcel Maps at Pages 20-22 in said County Recorder's Office; thence
5. North 36°50'45" West along said northeasterly right-of-way line of Osos Street a distance of 3.34 feet to the southerly corner of Parcel 1 of said Parcel Map SLO 07-0094, said point as evidenced by a nail & tag "LS 5702"; thence
6. North 28°51'19" East, along the southeasterly line of said Parcels 1 and 3, a distance of 106.83 feet to the point of beginning.

The above-described parcel contains 1306 square feet and is shown graphically on Exhibit B attached hereto and made a part hereof.


Michael B. Stanton, P.L.S. 5702 Date 10-28-2024



Exhibit D



M:\2008\06-128 Acero Club (C. Reinos) \3d\2024\11-26-24 Auto Club-Need Appointment REV 2024.dwg, B-SX11 EXH, Oct 24, 2024 11:31am, MStanton



MICHAEL B. STANTON, PLS 5702
 3559 SOUTH HIGUERA ST.
 SAN LUIS OBISPO, CA 93401
 805-594-1960

CITY OF SAN LUIS OBISPO
SURPLUS PROPERTY

October 24, 2024 JOB #06-128