

RESOLUTION NO. 17-123

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
APPROVING AND AUTHORIZING EXECUTION OF A
PROPERTY EXCHANGE AGREEMENT WITH ZEN PASO ROBLES LLC

WHEREAS, Rupesh Patel, of Zenique Hotels, applied for a Development Plan (PD 16-003) May 10, 2016 to construct a 4-story, 116-room Hyatt Place Hotel at 1955 Theatre Drive (the “River Lodge Property”); and

WHEREAS, approval of the development application would require the demolition of the existing River Lodge Motel and removal or relocation of the existing highway sign; and

WHEREAS, a Draft Environmental Impact Report (the “Draft EIR”) was prepared and circulated to the public, as required by the California Environmental Quality Act (“CEQA”); and

WHEREAS, based on the Historic Resource Study prepared in connection with the Draft EIR on the proposed project, the Motel and the sign are historic resources that contribute to the historic character of the Paso Robles community; and

WHEREAS, the City received comments on the Draft EIR from the Paso Robles Historic Society, Paso Robles Main Street Association, and neighboring property owner (Kevin Bierl), all highlighting the importance of the existing historic motel and motel sign as contributors to the unique historic character of the community and that the motel’s demolition would result in a loss to the historic fabric and roots of tourism of Paso Robles; and

WHEREAS, similar comments have been expressed in local and social media; and

WHEREAS, the proposed Property Exchange Agreement would allow for the preservation of historic resources for the community and still allow the developer to develop the proposed Hyatt Place Hotel;

WHEREAS, the General Plan Land Use Element land use designation for both the property owned by Rupesh Patel/Zenique Hotels and the City’s property, is Regional Commercial (RC), which supports hotels and motels in this land use category. Therefore, there is no conflict with the proposed property exchange regarding the General Plan land use designation between the two properties because they have the same land use designation; and

WHEREAS, development of PD 16-003 on the River Lodge property would result in a large, building mass on the corner of Theatre Drive and Alexa Court, which would change and significantly affect the visual impact of this gateway parcel to the City and would also require approval to exceed the City’s height limit for a portion of the roofline, as described in the accompanying staff report; and

WHEREAS, the City owns approximately 4 acres fronting on Theatre Drive and Highway 46, adjacent to the Hampton Inn, which property was acquired in connection with the realignment and improvement of Theatre Drive; and

WHEREAS, the proposed Property Exchange Agreement would convey approximately 3 acres of City Property in exchange for the River Lodge Property, subject to certain terms and conditions; and

WHEREAS, the property exchange would allow the City to receive community input on the best ways to retain and/or preserve the historic resources located on the River Lodge Property; and

WHEREAS, the Property Exchange Agreement could allow for a number of other improvements that would improve access, circulation, and safety, including:

a) improvement of the public right-of-way on Theatre Drive adjacent to the River Lodge Motel site to the full planned width, and installation of a sidewalk connection and realignment of the painted bike lane could be completed;

b) improvement of the remaining 1 acre of City property to install access driveways, with reciprocal access agreements, aligning with entrances into the Orchard Supply Hardware and Chili's Restaurant. Currently, a secondary access driveway (with walls on both sides of it) for La Bellasera Hotel extends directly to Theatre Drive without sidewalk or bike lane connections to the west or east. Although outside of the scope of the proposed agreement, a combined "grand entrance" to all four hotels (River Lodge Motel, La Bellasera Hotel, Hampton Inn and Hyatt Place property) could be developed to align with the Chili's Restaurant driveway, which would greatly improve circulation; and

WHEREAS, development of the vacant city property will generate new property tax, transient occupancy tax, and sales tax, as well as new jobs; and

WHEREAS, pursuant to Government Code section 65402, the Planning Commission has determined that the proposed disposition of City property and the proposed acquisition of the River Lodge Property are in conformance with the City's General Plan;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Paso de Robles, as follows:

Section 1. Incorporation of Recitals. All of the above recitals are true and correct and incorporated herein by reference.

Section 2 Findings Based upon the facts and analysis presented in the staff report, and public testimony received, the City Council hereby finds and determines that the Property Exchange Agreement, attached hereto as Exhibit A and incorporated herein by reference, will benefit the public health, safety, and welfare by allowing the City to obtain public input on the best way to preserve and/or retain the historic resources that contribute to the character of the community; allow for the productive use of vacant property that will generate property tax, transient occupancy tax, and sales tax and provide new jobs; and potentially allow for improved circulation and access in the vicinity.

Section 3. Approval Based on all of the above, including the staff report and written and oral testimony presented to it, the City Council hereby approves the Property Exchange Agreement with Zen Paso Robles LLC in substantially the form attached hereto as Exhibit A, and authorizes the City Manager to execute the Property Exchange Agreement, subject to any minor, technical and non-substantive changes approved by the City Attorney, and any other documents required to implement the Property Exchange Agreement.

PASSED AND ADOPTED THIS 19th day of September, 2017 by the following Roll Call Vote:

AYES: Gregory, Strong, Hamon, Reed, Martin

NOES:

ABSENT:

ABSTAIN:



Steven W. Martin, Mayor

ATTEST:



Kristen L. Buxkemper, Deputy City Clerk

Exhibit A

Property Exchange Agreement
[to be inserted]

Exhibit A

AGREEMENT FOR THE EXCHANGE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS

This AGREEMENT FOR THE EXCHANGE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS (the “**Agreement**”), dated as of _____, 2017 (the “**Effective Date**”), is entered into by and between the CITY OF EL PASO DE ROBLES, a municipal corporation (the “**City**”), and ZEN PASO ROBLES, LLC, a California limited liability company (“**Zen**”). City and Zen are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

Recitals

A. The City is the owner of that certain unimproved real property, totaling approximately 4.2 acres, located in the City of Paso Robles, County of San Luis Obispo, California, as depicted in Exhibit A, attached hereto and incorporated herein by reference (the “**City Property**”). The City acquired the property in connection with the realignment and construction of Theatre Drive. The City Property is comprised of the City Exchange Property of approximately 3.2 acres, as more particularly described in Exhibit B-1, attached hereto and incorporated herein by reference (the “**City Exchange Property**”), and the City Plaza Property of approximately 1 acre, as more particularly described in Exhibit B-2, attached hereto and incorporated herein by reference (the “**City Plaza Property**”).

B. Zen is the owner of that certain real property consisting of approximately 2.19 acres, located in the City of Paso Robles, County of San Luis Obispo, California, as depicted in Exhibit A, attached hereto, and more particularly described in Exhibit C, attached hereto, together with all improvements thereon (the “**Zen Property**”).

C. The Zen Property is adjacent to Highway 101 near the intersection with State Highway 46 West. It is currently improved with a single-story 22-room motel with pool area and associated parking which was constructed in the mid-20th century (“**Motel**”) as well as a distinctive sign (“**Sign**”) which is visible to traffic on Highway 101. Since acquiring the Zen Property, Zen has continued to operate the Motel.

D. Zen has submitted an application to develop the Zen Property with a new, 116-room hotel, with associated parking, landscaping and amenities (the “**Proposed Project**”).

E. While neither the Motel nor the Sign on the Zen Property is eligible for listing on the National Register of Historic Places or the California Register of Historic Places, each has been determined have sufficient historical integrity to be eligible for listing as a City Historical Landmark under the City’s Historic Preservation Ordinance. The development of the Proposed Project would require the demolition of the Motel, and relocation or removal of the Sign according to the Draft Environmental Impact Report (“**DEIR**”) dated _____ on the Proposed Project, which would result in a significant and unavoidable impact to historic resources.

Exhibit A

F. The City has received comments on the DEIR from, among other entities, the Paso Robles Main Street Association, stating that the Motel and Sign represent a period of history in the City that should be preserved for future generations. Members of the City's Historical Society have expressed a desire to see the Motel restored and preserved as well.

G. The Parties now desire to enter into an exchange whereby the City will provide to Zen the City Exchange Property, and in exchange Zen will provide to City the Zen Property, pursuant to the terms and conditions of this Agreement. Zen would develop a new, 116-room hotel with associated parking, landscaping and amenities on the City Exchange Property (the "**Revised Project**"), a use which the current zoning on the City Exchange Property permits.

H. This Agreement may facilitate the development of a common and shared access point from two existing adjacent hotels, the Motel and the City Property across Theatre Drive to the shopping center to the south, as well as traffic flow along Theatre Drive between Highway 46 and Highway 101.

I. In addition, the conveyance of the Zen Property to the City will allow the City to obtain community input on the most appropriate means to preserve the Motel and/or Sign as historic and cultural resources for the City, while the development of the City Property will generate additional transient occupancy tax and property tax for the City.

J. Based upon the purchase price paid by Zen for the Zen Property, and sales prices of property comparable to the City Exchange Property, the parties believe that the value of the properties to be exchanged to be roughly equal (the "**Exchange Value**"). In addition, by acquiring the Zen Property, the City has the opportunity to preserve a cultural resource whose value to the community is difficult to quantify in dollars.

NOW, THEREFORE, based upon the foregoing facts, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Agreements

1. Recitals are True and Correct. All of the recitals above are true and correct and are hereby incorporated into this Agreement.

2. Property Exchange. Upon the satisfaction or waiver of all of the conditions precedent to the Closing set forth in Section 6 below, as of the Closing (a) City will convey to Zen all of City's rights, title and interest in and to the City Exchange Property; and (b) Zen will convey to City all of Zen's rights, title and interest in and to the Zen Property (all of the above actions are collectively the "**Exchange**").

2.1 City Exchange Property. The City Exchange Property shall include the real property described in Exhibit B-1, attached hereto, together with all rights, privileges and easements currently held by City which are appurtenant to the City Exchange Property.

Exhibit A

2.2 Zen Property. The Zen Property shall include the real property described in Exhibit C, attached hereto, and any and all buildings, structures, parking areas and other improvements located upon the Zen Property.

3. Escrow and Title.

3.1 Escrow Holder. The Exchange shall be consummated through an escrow (the “**Escrow**”) conducted through _____, located at _____, Paso Robles, CA 93446 (the “**Escrow Holder**”).

3.2 Title Company. Any title policies issued for the benefit of City with respect to the Zen Property and Zen with respect to the City Exchange Property, respectively, in connection with the Exchange shall be issued by _____ (the “**Title Company**”).

3.3 Escrow Instructions. Escrow shall be opened within thirty (30) days after the execution of this Agreement by the Parties. This Agreement, together with any General Escrow Provisions from Escrow Holder, and any supplemental escrow instructions provided by the Parties, shall constitute Escrow Holder’s instructions. The Parties agree to execute and deliver in writing to Escrow Holder such additional standard and supplemental instructions as Escrow Holder may reasonably require in order to clarify Escrow Holder’s duties under this Agreement. However, in the event of any conflict or inconsistency between this Agreement and the General Escrow Provisions and any supplemental instructions requested by Escrow Holder, the terms of this Agreement shall govern the duties of Escrow Holder and the rights and obligations of the Parties.

3.4 Definition of Closing. For purposes of this Agreement, the term “**Closing**” shall mean the time when the Parties shall have recorded the City Grant Deed and the Zen Grant Deed as set forth in Section 7.4 of this Agreement.

4. City Approval of Condition of Title/Due Diligence.

4.1 City’s Review of Condition of Title. Within thirty (30) days of the execution of this Agreement by the Parties, City will have received and reviewed a preliminary title report covering the Zen Property (the “**Zen Preliminary Title Report**”) issued by Title Company. Except as to matters to which City objects in a writing delivered to Zen within ten (10) days after City’s receipt of the Zen Preliminary Title Report, City will be deemed to have approved and accepted those exceptions listed in Schedule B of the Zen Preliminary Title Report to the extent they apply. Those exceptions which City has approved in the Zen Preliminary Title Report are hereinafter referred to as the “**Zen Permitted Exceptions.**” The Zen Permitted Exceptions shall exclude any delinquent taxes or any taxes due prior to the Closing and any other monetary liens or encumbrances on the Zen Property. Pursuant to Section 8.1 herein, Zen will pay taxes for the entire year or tax period and then request a prorated refund from the tax assessor’s office for the balance of the year or tax period Zen did not own the Zen Property.

4.2 Zen Title Insurance Policy. The Title Company shall issue to City a policy of title insurance (the “**Zen Title Policy**”) as to the Zen Property, containing the terms and provisions set forth in this Section 4.2. The Zen Title Policy shall be an ALTA Standard Policy of Title Insurance (formerly referred to as a CLTA Title Policy) in an amount determined by City,

Exhibit A

showing fee simple title to the Zen Property vested in Zen, subject only to the Zen Permitted Exceptions, and such other matters as to which City may consent in writing. The premium for the Zen Title Policy and any costs in connection with the search and examination of title and/or for the issuance of Zen Preliminary Title Report shall be paid by City. The Zen Title Policy shall be issued without reliance on any indemnity of Zen or any third party to induce Title Company to issue the Zen Title Policy, without the prior written consent of City. If City so elects and Title Company agrees, the Zen Title Policy may include such endorsements as City may reasonably request; provided, however, that all such endorsements shall be issued at City's sole cost and expense.

4.3 City Due Diligence. City shall have the right to perform, at its sole cost and expense, such due diligence as it deems appropriate to investigate the suitability of the Zen Property for City's intended uses, which investigations may include, but are not limited to, environmental testing, review for conformity with State law and local codes, and review with State and local officials regarding use of the Zen Property (the "**City Due Diligence**") during which time City shall have the absolute right to terminate the proposed Exchange transaction and this Agreement and related transactions for any reason whatsoever without such termination constituting a default and without any further obligations under this Agreement. The due diligence period shall be for a period of sixty (60) days, unless extended by mutual agreement of the parties in writing (the "**City Due Diligence Period**"). City will rely solely on its due diligence investigations in deciding whether to accept the Zen Property in its "as-is" status and condition. Notwithstanding the foregoing, Zen agrees that it has provided, or will provide, to City copies of any and all reports it has regarding the condition of the Zen Property and/or the improvements thereon, including but not limited to, any Phase I and/or Phase II environmental reports.

5. Zen's Approval of Condition of Title/Due Diligence.

5.1 Zen's Review of Condition of Title. Within thirty (30) days of the execution of this Agreement by the Parties, Zen will have received and reviewed a preliminary title report covering the City Exchange Property (the "**City Preliminary Title Report**") issued by Title Company. Except as to matters to which Zen objects in a writing delivered to City within ten (10) days after Zen's receipt of the City Preliminary Title Report, Zen will be deemed to have approved and accepted those exceptions listed in Schedule B of the City Preliminary Title Report to the extent they apply. Those exceptions which Zen has approved in the City Preliminary Title Report are hereinafter referred to as the "**City Permitted Exceptions.**" The City Permitted Exceptions shall exclude any delinquent taxes or any taxes due prior to the Closing and any other monetary liens or encumbrances on the City Exchange Property. Pursuant to Section 8.1 herein, City will pay taxes, if any, for the entire year or tax period and then request a prorated refund from the tax assessor's office for the balance of the year or tax period City did not own the City Exchange Property.

5.2 City Title Insurance Policy. The Title Company shall issue to Zen a policy of title insurance (the "**City Title Policy**") as to the City Exchange Property, containing the terms and provisions set forth in this Section 5.2. The City Title Policy shall be an ALTA Standard Policy of Title Insurance (formerly referred to as a CLTA Title Policy) in an amount determined by City, showing fee simple title to the City Exchange Property vested in City, subject only to the

Exhibit A

City Permitted Exceptions, and such other matters as to which Zen may consent in writing. The premium for the City Title Policy and any costs in connection with the search and examination of title and/or for the issuance of City Preliminary Title Report shall be paid by Zen. The City Title Policy shall be issued without reliance on any indemnity of City or any third party to induce Title Company to issue the City Title Policy, without the prior written consent of Zen. If Zen so elects and Title Company agrees, the City Title Policy may include such endorsements as Zen may reasonably request; provided, however, that all such endorsements shall be issued at Zen's sole cost and expense.

5.3 Zen's Due Diligence. Zen shall have the right to perform, at its sole cost and expense, such due diligence as it deems appropriate to investigate the suitability of the City Exchange Property for Zen's intended uses, which investigations may include, but are not limited to, environmental testing, review for conformity with State law and local codes, and review with State and local officials regarding use of the City Exchange Property (the "**City Due Diligence**") during which time Zen shall have the absolute right to terminate the proposed Exchange transaction and this Agreement and related transactions for any reason whatsoever without such termination constituting a default and without any further obligations under this Agreement. . The due diligence period shall be for a period of sixty (60) days, unless extended by mutual agreement of the parties in writing (the "**Zen Due Diligence Period**"). Zen will rely solely on its due diligence investigations in deciding whether to accept the City Exchange Property in its "as-is" status and condition. Notwithstanding the foregoing, City agrees that it has provided, or will provide, to Zen copies of any and all reports it has regarding the condition of the City Exchange Property and/or the improvements thereon, including but not limited to, any Phase I and/or Phase II environmental reports.

6. Conditions Precedent to Closing.

6.1 City's Conditions. Each of the following shall constitute a condition precedent to the obligations of City to close the Escrow and may be waived only by a written waiver executed by City and delivered to Zen and to Escrow Holder:

(a) Documents. The documents described in Section 7.3(b) below shall have been deposited into Escrow by Zen.

(b) Title Policy. Title Company shall be irrevocably committed to issue the Zen Title Policy upon the Closing.

(c) Parcelization of City Property. The City shall have created parcels for the City Exchange Property and City Plaza Property.

(d) Acceptance of Property. The City shall be satisfied, after reviewing Title and otherwise conducting the City Due Diligence as provided in Section 4.3 that the Zen Property is suitable for its intended uses and acceptable to City. Should City fail to terminate the Exchange within the Due Diligence Period as provided in Section 4.3, the Zen Property shall be deemed suitable to and accepted by City.

(e) Approval of Revised Project. Zen shall have obtained all necessary City approvals for the development of the Revised Project on the City Exchange Property.

Exhibit A

(f) Development Agreement. The Parties have approved and executed a Development Agreement for the development of the Revised Project on the City Exchange Property.

(g) No Material Change. As of the Close of Escrow, there shall be no material change since the Effective Date in the condition or status of the Zen Property.

(h) Representations and Warranties. All of Zen's representations and warranties as set forth herein shall be true as of the Closing.

(i) No Default. Zen shall not be in material default hereunder. If City does not give Escrow Holder written notice of Zen's default, for purposes of this Section 5.1(i) only, Zen shall be deemed not to be in default hereunder, and Escrow Holder shall proceed with the Closing as though Zen were not in default. City's failure to give such notice to Escrow Holder shall not excuse performance by Zen of any obligation hereunder.

6.2 Zen's Conditions. Each of the following shall constitute a condition precedent to the obligations of Zen to close the Escrow and may be waived only by a written waiver executed by Zen and delivered to City and to Escrow Holder:

(a) The documents described in Section 7.3(a) below shall have been deposited in Escrow by City.

(b) Title Policy. The Title Company shall be irrevocably committed to issue the City Title Policy upon the Closing.

(c) Parcelization of City Property. The City shall have created parcels for the City Exchange Property and City Plaza Property.

(d) Acceptance of Property. Zen shall be satisfied, after reviewing Title and otherwise conducting the Zen Due Diligence as provided in Section 5.3 that the City Exchange Property is suitable for its intended uses and acceptable to Zen. Should Zen fail to terminate the Exchange within the Due Diligence Period as provided in Section 5.3, the City Exchange Property shall be deemed suitable to and accepted by Zen.

(e) Approval of Revised Project. Zen shall have obtained all necessary City approvals for the development of the Revised Project on the City Exchange Property.

(f) Development Agreement. The Parties have approved and executed a Development Agreement for the development of the Revised Project on the City Exchange Property.

(g) No Material Change. As of the Closing, there shall be no material change since the Effective Date in the condition or status of the City Exchange Property.

(h) Representations and Warranties. All of City's representations and warranties as set forth herein shall be true as of the Closing.

Exhibit A

(i) No Default. City shall not be in material default hereunder. If Zen does not give Escrow Holder written notice of City's default, for purposes of this Section 6.2(i) only, City shall be deemed not to be in default hereunder, and Escrow Holder shall proceed with the Closing though City were not in default. Zen's failure to give such notice to Escrow Holder shall not excuse performance by City of any obligation hereunder.

7. Close or Cancellation of Escrow

7.1 Closing Date.

(a) Provided that this Agreement is not earlier terminated pursuant to the terms and provisions hereof and provided that all of the conditions precedent to the Closing have been satisfied or waived, the Parties agree that the Escrow shall close and Escrow Holder is instructed to close the Escrow as soon as practicable, but in no event later than _____, 2017 (the "**Closing Date**"). By effectuating the Closing, the Parties shall be deemed to have irrevocably committed to cause the Title Company to issue the City Title Policy and the Zen Title Policy.

(b) In the event that the Closing fails to occur by the Closing Date, and neither Party is in default of its obligations hereunder, then the Party for whose benefit the non-satisfied condition exists may cancel the Escrow by written notice to the other Party and to Escrow Holder. In the event that, due to an "Event of Default" by a "Defaulting Party" (as these terms are defined in Section 10.1, below), the Closing fails to occur by the Closing Date, then without waiving any rights or remedies which the non-Defaulting Party may have against the Defaulting Party under Section 10 of this Agreement, the non-Defaulting Party may cancel the Escrow upon written notice to the Defaulting Party and to Escrow Holder. In the event that the non-Defaulting Party elects not to terminate this Agreement, then the non-Defaulting Party may pursue the remedies for such Event of Default as provided in Section 10 below. Upon a Party's delivery to Escrow Holder of a notice to terminate Escrow and/or this Agreement pursuant to any provision of this Agreement that permits such termination, Escrow Holder will promptly deliver a copy of such notice to the other Party, this Agreement and all related transactions will become null and void, the Parties will be responsible for their respective shares of any outstanding title, escrow and other charges provided for in this Agreement, neither Party shall have any further rights or obligations under this Agreement except as may be expressly declared in this Agreement to survive termination, and Escrow Holder shall dispose of any unused deposits or other funds it holds as provided for in this Agreement and return all documents and instruments to the Party who delivered them.

7.2 Escrow Cancellation.

(a) If, for any reason, the Escrow is cancelled pursuant to Section 7.1(b) above, Escrow Holder shall return to the parties delivering same all instruments which are then held by Escrow Holder in connection with the Escrow.

(b) If the Escrow is cancelled pursuant to Section 7.1(b), above and neither Party is in default of its obligations hereunder, this Agreement shall be deemed to be terminated (with the exception of those provisions which expressly state that they are to survive such

Exhibit A

termination), and City and Zen shall each bear one-half (1/2) of the title and Escrow fee and cancellation charges, if any. In such event, neither Party shall be obligated to the other to close the Escrow hereunder.

(c) If the Escrow is cancelled pursuant to Section 7.1(b), above and City is the Defaulting Party, City shall pay the Escrow fee and cancellation charges.

(d) If the Escrow is cancelled pursuant to Section 7.1(b), above and Zen is the Defaulting Party, Zen shall pay the Escrow fee and cancellation charges.

7.3 Items to be Delivered into Escrow.

(a) City. On or before one (1) business day prior to the Closing Date, City shall execute and deposit in Escrow the following:

(i) Immediately available funds in the amount of City's share of costs and prorations described in Sections 8.1 and 8.2 below;

(ii) A fully executed grant deed conveying fee simple title to the City Exchange Property to Zen (the "**City Grant Deed**"), in the form of Exhibit D, attached hereto, in recordable form;

(iii) A nonforeign transferor declaration (the "**Nonforeign Transferor Declaration**") in the form of Exhibit E, attached hereto;

(iv) A California state tax withholding certificate in accordance with the requirements of California Revenue and Taxation Code Sections 18805(d) and 26131 (California Form 593-W for Non-Individual Sellers and California Form 593-C for Individual Sellers), executed by City (the "**California Tax Certificate**");

(v) A certificate of acceptance for the Zen Grant Deed and such other documents as may be reasonably required by Title Company or Escrow Holder in order to issue the City Title Policy, or otherwise required to transfer the City Exchange Property to Zen in accordance with the terms of this Agreement; and

(vi) Such other documents as may be reasonably required by Title Company or Escrow Holder in order to issue the City Title Policy, transfer the City Exchange Property to Zen or otherwise fulfill the terms and intent of this Agreement.

(b) Zen. On or before one (1) business day prior to the Closing Date, Zen shall execute and deposit in Escrow the following:

(i) Immediately available funds in the amount of Zen's share of costs and prorations described in Sections 8.1 and 8.3 below;

(ii) A fully executed grant deed conveying fee simple title to the Zen Property to City (the "**Zen Grant Deed**"), in the form of Exhibit G, attached hereto, in recordable form;

Exhibit A

(iii) A Nonforeign Transferor Declaration in the form of Exhibit “F” attached hereto;

(iv) A California State Certificate, executed by Zen; and

(v) Such other documents as may be reasonably required by Title Company or Escrow Holder in order to issue the Zen Title Policy, or otherwise required to transfer the Zen Property to City in accordance with the terms of this Agreement.

7.4 Escrow Holder’s Instructions. At such time as the conditions precedent to the Closing have been satisfied or waived, Escrow Holder shall:

(a) Collate the counterparts of the Agreement into two fully executed counterparts;

(b) Date, as of the Closing, all instruments calling for a date;

(c) Record the City Exchange Property parcel map and the City Plaza Property parcel map, if not previously recorded in the Official Records of San Luis Obispo County, California (“Official Records”);

(d) Record the Grant Deeds in the Official Records;

(e) Give City and Zen telephonic and email notice that the Closing has occurred; and

(f) Deliver to City the Zen Title Policy and deliver to Zen the City Title Policy.

7.5 Post-Closing Matters. After the Closing, Escrow Holder shall deliver the following:

(a) To City: A copy, as recorded, of the Zen Grant Deed, the original Nonforeign Transferor Declaration executed by Zen, the original California Tax Certificate executed by Zen, and plain copies of the Nonforeign Transferor Declaration and the California Tax Certificate executed by City.

(b) To Zen: A copy, as recorded, of the City Grant Deed, the original Nonforeign Transferor Declaration executed by City, the original California Tax Certificate executed by City, and plain copies of the Nonforeign Transferor Declaration and the California Tax Certificate executed by Zen.

(c) To Best, Best & Krieger LLP, Counsel for City: Copies of all documents to be delivered to City pursuant to Section 6.5(a) above.

(d) To Samir Patel, Counsel for Zen: Copies of all documents to be delivered to Zen pursuant to Section 6.5(b) above.

Exhibit A

8. Costs and Prorations.

8.1 Prorations. Based on City's status as a public agency that is exempt from payment of real property taxes, Zen will pay all real property taxes and assessments allocable to the City Exchange Property after the Closing Date. If Zen has paid real property taxes and assessments on the Zen Property for any period after the Closing Date, Zen may petition the San Luis Obispo County Tax Collector's Office for a refund of such prorated amounts. Prior to Closing, Escrow Holder and the Title Company will confirm with San Luis Obispo County that no escaped assessments or other property tax liabilities of any type affect either the City Exchange Property or the Zen Property. In the event any such liabilities do exist, Zen will submit such payments into Escrow in order to satisfy such liabilities at the Close of Escrow. Following Closing, if, notwithstanding the above provisions, the Zen Property becomes subject to any real property tax liability for a period prior to Closing, Zen will satisfy such obligation to the taxing authority within thirty (30) days following notification of such liability from City or the taxing authority. If Zen defaults in such obligation and City elects to pay any such tax liability, Zen will reimburse such costs to City within thirty (30) days following receipt of a written demand therefor from City, together with interest on such amount from the date of payment by City at the highest legal rate.

8.2 Costs to be Paid by City. City shall pay the following costs:

- (a) The premium for City Title Policy;
- (b) All costs associated with the parcelization of the City Property; and
- (c) One-half (1/2) of the Escrow fee.

8.3 Costs to be Paid by Zen. Zen shall pay the following costs:

- (a) The premium for the Zen Title Policy;
- (b) Documentary transfer taxes as specified on the Documentary Transfer Tax Statement based on the Exchange Value; and
- (c) One-half (1/2) of the Escrow fee.

9. Representations and Warranties; Covenants.

9.1 City's Representations and Warranties. As a material inducement to Zen to enter into this Agreement, City makes the following covenants, representations and warranties to Zen set forth in this Section 9.1 as of the date hereof and as of the Closing.

(a) Property Owner. City is the owner of the City Exchange Property and has the right, power and authority to transfer the same to Zen pursuant to this Agreement.

(b) City's Authority to Execute Agreement. City is a municipal corporation of the State of California. Neither the execution and delivery of this Agreement nor the performance or consummation of the transactions contemplated by this Agreement will result in

Exhibit A

any breach of or constitute a default under or conflict with any agreement, covenant, law, regulation, ordinance or obligation binding upon City. No further approvals, authorizations or consents of any public body or of any person are necessary in order to consummate the transactions set forth in this Agreement. City has the legal right, power and authority to enter into this Agreement and all documents, instruments or agreements referenced herein to be executed by City, and to consummate the transaction contemplated hereby. All individuals executing this Agreement and all other documents, instruments or agreements required hereunder, on behalf of City, have the legal right, power and actual authority to bind City to the terms and conditions hereof and thereof.

(c) Compliance with Law. City has no knowledge and has received no notice (i) that the City Exchange Property is in violation of any applicable statutes, ordinances, and regulations, including those relating to environmental and health and safety requirements including those governing the storage, discharge, use and cleaning of toxic or hazardous substances and materials; (ii) of any presently pending or threatened action or proceeding under any environmental or health and safety statutes, ordinances, or regulations; or (iii) of the existence of any present or pending order or directive of any city, county, state or federal authority, or any agency thereof, requiring that any work or repair, maintenance, improvement, or pollution or contamination abatement be performed on the City Exchange Property.

(d) No Litigation. There are no actions, suits, or proceedings of any kind or nature whatsoever, legal or equitable, pending or, to the best of City's knowledge, threatened, against the City Exchange Property or against City relating to or arising out of the ownership, management, condition, or operation of the City Exchange Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, agency, or other governmental instrumentality.

(e) No Adverse Agreements. There are no adverse possessors, tenancies or use or occupancy agreements affecting possession of the City Exchange Property, or any portion thereof, except as disclosed in this Agreement, nor has any option to purchase the City Exchange Property, or any portion thereof, been granted by City to any party. No party (other than Zen pursuant to this Agreement) has the right to acquire, lease or obtain any interest in the City Exchange Property. There are no liens, encumbrances or easements affecting the City Exchange Property except as disclosed in the City Preliminary Title Report and City Title Policy.

(f) No Bankruptcy Proceedings. City is not the subject of a bankruptcy, insolvency or similar proceeding.

(g) Environmental Status. City acknowledges that California Health and Safety Code Section 25359.7 requires certain notice of the release of hazardous substances. City warrants and represents to Zen that it does not know or have reasonable cause to believe that any release of a Hazardous Material has come to be located upon or beneath the City Exchange Property. Neither City nor, to the actual knowledge of City, without duty of inquiry, any third parties during the period of time the City Exchange Property has been owned by City, have generated, handled, manufactured, stored, used, transported or discharged any Hazardous Materials on, in or under the City Exchange Property, the groundwater or any adjacent property.

Exhibit A

City is not aware of any underground storage tanks located on or under the City Exchange Property.

As used herein, the term “Hazardous Materials” shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material that would require remediation and/or removal under applicable Federal, state or local law, including but not limited to those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations promulgated thereto: (1) any “hazardous substance” within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”) 42 U.S.C. §9601, et seq. or the California Hazardous Substance Account Act, Cal. Health and Safety Code §25300 et seq. or the Porter-Cologne Water Quality Act, Cal. Water Code §13000 et seq. or the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; (2) any “hazardous waste” within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; or (3) any other substance, chemical, waste, toxicant, pollutant or contaminant regulated by any federal, state or local law, statute, rule, regulation or ordinance for the protection of health or the environment, including, without limitation, any petroleum products or fractions thereof.

(h) AS-IS. City acknowledges that City has inspected the Zen Property and made its own independent investigation of the Zen Property. City further acknowledges that it is acquiring the Zen Property “AS-IS, WHERE-IS” in reliance solely on its own inspection and on Zen’s representations and warranties as set forth herein.

(i) No Other Representations or Warranties. Other than the representations and warranties set forth in this Section 9.1 and as may otherwise be expressly set forth in this Agreement, City specifically disclaims any and all other representations and warranties of any nature, express or implied, pursuant to this Agreement and pursuant to the instruments and documents that City is or will be executing and/or delivering pursuant to this Agreement, or relating in any way to the transactions contemplated in this Agreement.

9.2 Zen’s Representations and Warranties; Covenants. As a material inducement to City to enter into this Agreement, Zen makes the following covenants, representations and warranties to City set forth in this Section 9.2 as of the date hereof and as of the Closing.

(a) Property Owner. Zen is the owner of the Zen Property and has the right, power and authority to transfer the same to City pursuant to this Agreement.

(b) Zen’s Authority to Execute Agreement. Zen is a duly organized, validly existing limited liability company organized and existing under the laws of the State of California. Neither the execution and delivery of this Agreement nor the performance or consummation of the transactions contemplated by this Agreement will result in any breach of or constitute a default under or conflict with any agreement, covenant, law, regulation, ordinance or obligation binding upon Zen. No approvals, authorizations or consents of any public body or of any person are necessary in order to consummate the transactions set forth in this Agreement. Zen has the legal right, power and authority to enter into this Agreement and all documents, instruments or agreements referenced herein to be executed by Zen, and to consummate the transaction contemplated hereby. All individuals executing this Agreement and all other

Exhibit A

documents, instruments or agreements required hereunder, on behalf of Zen, have the legal right, power and actual authority to bind Zen to the terms and conditions hereof and thereof.

(c) Compliance with Law. Zen has no knowledge and has received no notice (i) that the Zen Property is in violation of any applicable statutes, ordinances, and regulations, including those relating to environmental and health and safety requirements including those governing the storage, discharge, use and cleaning of toxic or hazardous substances and materials; (ii) of any presently pending or threatened action or proceeding under any environmental or health and safety statutes, ordinances, or regulations; or (iii) of the existence of any present or pending order or directive of any city, county, state or federal authority, or any agency thereof, requiring that any work or repair, maintenance, improvement, or pollution or contamination abatement be performed on the Zen Property.

(d) No Litigation. There are no actions, suits, or proceedings of any kind or nature whatsoever, legal or equitable, pending or, to the best of Zen's knowledge, threatened, against the Zen Property or against Zen relating to or arising out of the ownership, management, condition, or operation of the Zen Property in any court or before or by any federal, state, county or municipal department, commission, board, bureau, agency, or other governmental instrumentality.

(e) No Adverse Agreements. There are no adverse possessors, tenancies or use or occupancy agreements affecting possession of the Zen Property or any portion, nor has any option to purchase the Zen Property or any portion been granted by Zen to any party which is still in effect. No party (other than City pursuant to this Agreement) has the right to acquire or obtain any interest in the Zen Property. Zen shall, if and to the extent applicable, comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601, et seq.) and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. Part 42; 24 C.F.R. Section 92.353; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq. If and to the extent that this Agreement results in the permanent or temporary displacement of tenants, then Zen shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. Zen shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. Zen shall indemnify, defend (with counsel reasonably chosen by the City), and hold harmless the City against all claims which arise out of relocation obligations to tenants permanently or temporarily displaced as a result of this Agreement.

(f) No Bankruptcy Proceedings. Zen is not the subject of a bankruptcy, insolvency or similar proceeding.

(g) Environmental Status. Zen acknowledges that California Health and Safety Code Section 25359.7 requires certain notice of the release of hazardous substances. Zen warrants and represents to City that it does not know or have reasonable cause to believe that any release of a Hazardous Material has come to be located upon or beneath the Zen Property. Neither Zen nor, to the actual knowledge of Zen, without duty of inquiry, any third parties during

Exhibit A

the period of time the Zen Property has been owned by Zen, have generated, handled, manufactured, stored, used, transported or discharged any Hazardous Materials on, in or under the Zen Property, the groundwater or any adjacent property. Zen is not aware of any underground storage tanks located on or under the Zen Property.

(h) AS-IS. Zen acknowledges that Zen has inspected the City Exchange Property and made its own independent investigation of the City Exchange Property. Zen further acknowledges that it is acquiring the City Exchange Property “AS-IS, WHERE-IS” in reliance solely on its own inspection and on City’s representations and warranties as set forth herein.

(i) No Other Representations or Warranties. Other than the representations and warranties set forth in this Section 9.2 and as may otherwise be expressly set forth in this Agreement, Zen specifically disclaims any and all other representations and warranties of any nature, express or implied, pursuant to this Agreement and pursuant to the instruments and documents that Zen is or will be executing and/or delivering pursuant to this Agreement, or relating in any way to the transactions contemplated in this Agreement.

9.3 City’s Covenants.

(a) Operation of the City Exchange Property. Prior to the Closing Date, City shall not hypothecate, transfer, encumber, or affirmatively take any other action with respect to the City Exchange Property which would render City unable to convey the City Exchange Property to Zen at the Close of Escrow or impair Zen’s intended use of the City Exchange Property as contemplated herein.

9.4 Zen’s Covenants.

(a) Operation of the Zen Property. Prior to the Closing Date, Zen will conduct its operations at the Zen Property according to its ordinary and usual course of business, and shall not hypothecate, transfer, encumber, or affirmatively take any other action with respect to the Zen Property which would render Zen unable to convey the Zen Property to City at the Closing or impair City’s intended use of the Zen Property as contemplated herein.

10. Default.

10.1 Events of Default. The failure of a Party (the “Defaulting Party”) to perform any material act to be performed by such Party, to refrain from performing any material prohibited act, or to fulfill any condition to be fulfilled by such Party under this Agreement or under any agreement referred to herein or attached hereto as an exhibit, within ten (10) days after receiving written notice of such failure from the Non-Defaulting Party, shall be an “Event of Default” by the Defaulting Party with respect to the Defaulting Party’s obligations hereunder; provided, however, that if more than ten (10) days are reasonably required in order to cure such Event of Default, then the Defaulting Party shall be entitled to a maximum of thirty (30) days to effect such cure, provided the Defaulting Party commences cure within such ten (10) day period and diligently proceeds to complete such cure within such thirty (30) day period.

Exhibit A

10.2 Remedies. Upon the occurrence of any Event of Default by a Defaulting Party, the non-Defaulting Party shall have such rights and remedies available to it under this Agreement and at law or in equity.

11. Casualty Loss; Condemnation.

11.1 Notice Re Condemnation or Casualty; Election. In the event that, prior to the Closing, all or any portion of the City Exchange Property or the Zen Property is taken or proposed to be taken as a result of the exercise or proposed exercise of the power of eminent domain (a "Condemnation Action"), or all or any portion of the City Exchange Property or the Zen Property is damaged by earthquake, flood or fire (a "Casualty"), then the Party that is the current property owner shall, within ten (10) days thereafter, give written notice of such Condemnation Action or Casualty to the other Party ("Noticed Party"). Such Noticed Party shall have thirty (30) days following receipt of such notice to elect in writing to accept or not to accept the City Exchange Property or the Zen Property, as the case may be, subject to such Casualty or Condemnation Action. Failure of a Noticed Party to notify the other Party of its election within such thirty (30) day period shall be deemed an election not to accept the City Exchange Property or the Zen Property, as the case may be, subject to such Casualty or Condemnation Action.

11.2 Termination of Agreement. In the event that a Noticed Party elects not to accept the City Exchange Property or the Zen Property, as the case may be, subject to such Casualty or Condemnation Action as provided in Section 11.1 above, Noticed Party shall cancel the Escrow by written notice to Escrow Holder and the Party that is the current property owner and this Agreement shall be deemed to be terminated (with the exception of those provisions which expressly state that they are to survive such termination), and City and Zen shall each bear one-half (1/2) of the Escrow fee and cancellation charges. In such event, neither Party shall be obligated to the other to close the Escrow hereunder.

11.3 Proceeds of Condemnation or Casualty Insurance. In the event that a Noticed Party elects to accept the City Exchange Property or the Zen Property, as the case may be, subject to a Casualty or Condemnation Action pursuant to Section 11.1 above, then the Party owning the property shall assign to the Noticed Party all rights, causes of action, claims, benefits, payments and awards arising from such Condemnation Action or Casualty (including, without limitation, any amount due from or paid by any insurance company or any other party as a result of the damage).

12. Possession. Possession of the City Exchange Property shall be delivered to Zen upon the Closing, subject only to City Permitted Exceptions. Possession of the Zen Property shall be delivered to City upon the Closing, subject only to Zen Permitted Exceptions.

13. Brokerage Commissions. Each Party warrants and represents to the other that no broker, finder or other intermediary hired or employed by it is entitled to a commission, finder's fee or other compensation based upon the transaction contemplated hereby and each Party shall indemnify and hold harmless the other Party from and against any and all claims, liabilities, losses, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and litigation expenses) caused by or arising out of the claim of any broker, finder or other intermediary alleging to have been employed or hired by such Party to a commission,

Exhibit A

finder's fee or other compensation based upon the transaction contemplated hereby. The obligations of City and Zen pursuant to this Section 13 shall survive beyond the Closing or if the Escrow is cancelled, beyond any termination of this Agreement.

14. Miscellaneous.

14.1 Notices. As used in this Agreement, notice includes but is not limited to, the communication of any notice, request, demand, approval, statement, report, acceptance, consent, waiver and appointment. All notices must be in writing. Notice is given either (i) when delivered in person to the person or company intended named below, (ii) when delivered via facsimile; or (iii) twenty-four (24) business hours after being sent via reputable overnight courier (such as Federal Express), addressed by name and addressed to the party or persons intended, as follows:

To City: City of Paso Robles
1000 Spring Street
Paso Robles, CA 93446
Attn: Tom Frutchey, City Manager
Tel: (805) 237-3888

With a copy to: Best Best & Krieger LLP
500 Capitol Mall, Suite 1700
Sacramento, CA 95814
Attn: Iris P. Yang
Tel: (916) 325-4000

To Zen: Rupesh Patel
Zen Paso Robles LLC
433 Airport Blvd., #100
Burlingame, CA 94010
Tel.: (650) 483-9968

With a copy to: Samir C. Patel
KPPB Law
990 Hammond Drive NE
Suite 800
Atlanta, GA 30328
Tel.: (678) 443-2220

until such time as a party gives notice of the change of address in accordance with the terms of this section.

14.2 Time of the Essence. Time is of the essence for this Agreement and each and every term and provision hereof.

14.3 Interpretation; Governing Law. This Agreement shall be construed as if prepared by both Parties, and no Party shall be deemed the drafter or have any ambiguities construed

Exhibit A

against it. This Agreement shall be construed, interpreted and governed by the laws of the State of California and the laws of the United States of America prevailing in California. Each Party represents that it has consulted with its own attorney regarding the meaning and consequences of signing this Agreement, and that it has read and understands this Agreement and its exhibits and has entered into and signed this Agreement freely and voluntarily without duress, fraud, undue influence or coercion.

14.4 Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void, or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

14.5 Performance of Acts on Business Days. Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days. In the event that the final date for payment of any amount or performance of any act hereunder falls on a Saturday, Sunday or holiday, such payment may be made or act performed on the next succeeding business day.

14.6 Attorneys' Fees. In the event of any legal action or other proceeding between the Parties regarding this Agreement, any of the documents attached hereto as exhibits, the City Exchange Property or the Zen Property, the prevailing Party shall be entitled to the payment by the other Party of its reasonable attorneys' fees, court costs and litigation expenses (including expert witness and consultant fees), as determined by the court.

14.7 Further Assurances; Survival. Each Party will, whenever and as often as it is reasonably requested to do so by the other Party, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all such further conveyances, assignments, approvals, consents and any and all other documents and do any and all other acts as may be reasonably necessary to carry out the intent and purpose of this Agreement.

14.8 Entire Agreement; Amendments. This Agreement, together with the other written agreements referred to herein, is intended by the Parties to be the final expression of their agreement with respect to the subject matter hereof, and is intended as the complete and exclusive statement of the terms of the agreement between the Parties. As such, this Agreement supersedes any and all prior understandings, agreements, representations and negotiations between the Parties, whether oral or written. Any amendments to this Agreement shall be in writing and signed by all Parties. This Agreement may not be modified orally or by a course of conduct.

14.9 No Waiver. A waiver by either Party hereto of a breach of any of the covenants or agreements hereof to be performed by the other Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof. Unless otherwise expressly provided herein, no waiver by any Party of any provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by such Party. Failure on the part of a Party to complain of any act or failure to act by the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights under this Agreement.

Exhibit A

14.10 Assignment. Neither Party hereto shall assign its rights under this Agreement without the prior written consent of the other Party, which consent may be given or withheld in such Party's sole discretion. In the event of any assignment, the assigning Party shall remain fully liable and responsible to perform, fulfill and comply with all of its covenants and obligations under this Agreement.

14.11 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, representatives, successors and permitted assigns.

14.12 Headings; Cross-References; Exhibits. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All cross-references in this Agreement, unless specifically directed to another agreement or document, shall refer to provisions in this Agreement and shall not be deemed to be references to any other agreements or documents. Each of the recitals in and the exhibits attached to this Agreement are hereby incorporated into this Agreement by this reference.

14.13 Force Majeure. If either of the Parties hereto is delayed or prevented from fulfilling any obligation, other than the payment of money, set forth in this Agreement by any act of God, act or omission of civil or military authorities of a nation or state, a terrorist act, civil unrest, fire, strike, flood, riot, war or unavoidable delay of transportation, then said Party shall not be liable or penalized under this Agreement for said delay or failure.

14.14 Third Parties Not Benefited. This Agreement is made for the sole benefit and protection of City and Zen and their successors and permitted assigns. No other person or entity shall have any rights of any nature under or by reason of this Agreement

14.15 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. True and complete facsimile-transmitted or electronically-transmitted copies of this Agreement and executed signature pages shall be equivalent to originals.

{Signatures on following page}

Exhibit A

SIGNATURE PAGE TO AGREEMENT FOR THE EXCHANGE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS

CITY:	ZEN:
City of El Paso de Robles, a municipal corporation	Zen Paso Robles LLC, a California limited liability company
By: _____	By: _____
Attest: By _____	
Approved as to Form: By: _____ Iris P. Yang, City Attorney	

EXHIBIT A

MAP OF SITE

[showing City Property, City Exchange Property, City Plaza Property, Zen Property and Adjacent Properties]

DRAFT

EXHIBIT B-1

Legal Description of City Exchange Property

Real property in the City of Paso Robles, County of San Luis Obispo, State of California,
described as follows:

DRAFT

EXHIBIT B-2

Legal Description of City Plaza Property

Real property in the City of Paso Robles, County of San Luis Obispo, State of California,
described as follows:

DRAFT

EXHIBIT C

Legal Description of Zen Property

Real property in the City of Paso Robles, County of San Luis Obispo, State of California, described as follows:

PARCEL 1:

THAT PART OF THE PORTION OF LOT 23 OF THE SUBDIVISION OF A PART OF THE RANCHO PASO DE ROBLES, IN THE CITY OF EL PASO DE ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP FILED OCTOBER 22, 1886, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE PARCEL CONVEYED TO THE STATE BY DEED RECORDED JUNE 30, 1965 IN BOOK 1356, PAGE 447 OF OFFICIAL RECORDS; THENCE (1) NORTH 59° 00' 17" EAST, 52.17 FEET; THENCE (2) NORTH 02° 25' 45" EAST, 109.38 FEET TO THE NORTHERLY LINE OF SAID PARCEL; THENCE (3) WESTERLY ALONG LAST SAID LINE, 43.19 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL; THENCE (4) SOUTHERLY ALONG THE WESTERLY LINE OF SAID PARCEL TO THE POINT OF BEGINNING.

PARCEL 2:

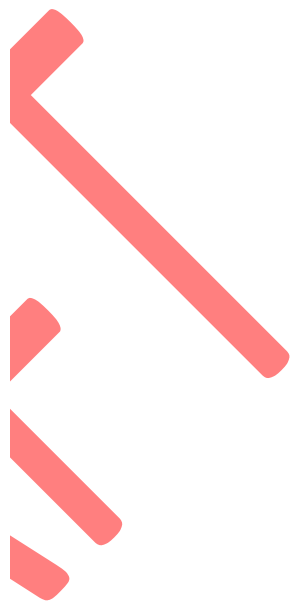
THAT PORTION OF LOT 23 OF THE SUBDIVISION OF A PART OF THE RANCHO PASO DE ROBLES, IN THE CITY OF EL PASO DE ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA ACCORDING TO MAP FILED OCTOBER 22, 1886, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A 6" X 6" C. H. C. CONCRETE RIGHT OF WAY MONUMENT ON U. S. HIGHWAY 101 OF THE WESTERLY RIGHT OF WAY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED DATED OCTOBER 10, 1950, AND RECORDED NOVEMBER 17, 1950, IN BOOK 586, PAGE 518 OF OFFICIAL RECORDS, BEARING 95 FEET AT RIGHT ANGLES FROM HIGHWAY ENGINEER'S STATION 428 + 42.11 ON THE CENTERLINE OF THE SURVEY OF SAID HIGHWAY; THENCE NORTH 6° 33' 30" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, 60 FEET TO THE TRUE POINT OF BEGINNING, SAID TRUE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO WILLIAM C. BRENCHLEY, ET AL., BY DEED DATED MAY 27, 1958, AND RECORDED OCTOBER 3, 1958, IN BOOK 970, PAGE 38 OF OFFICIAL RECORDS; THENCE NORTH 85° 43' 10" WEST, ALONG THE NORTHERLY LINE OF THE PROPERTY SO CONVEYED, 120 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE SOUTH 1° 36' 22" WEST, ALONG THE WESTERLY LINE OF SAID BRENCHLEY PROPERTY, 140 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CALIFORNIA STATE HIGHWAY NO. V-SLO-33-E; THENCE SOUTH 89° 53' WEST, ALONG SAID RIGHT OF WAY 35.96 FEET; THENCE NORTH 89° 40' 40" WEST, ALONG SAID RIGHT OF WAY, 139.33 FEET; THENCE NORTH 4° 27' 10" WEST, 129.97 FEET; THENCE NORTH 41° 39' 25" WEST, 54.91 FEET; THENCE NORTH 26° 54' 50" EAST, 330.55 FEET; THENCE SOUTH 70° 13' 02" EAST, 209.65 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY 101; THENCE SOUTH 16° 38' 25" EAST, ALONG SAID RIGHT OF WAY LINE, 73.00 FEET TO A 6" X 6" C. H. C. MONUMENT; THENCE SOUTH 6° 33' 30" WEST, ALONG THE SAID WESTERLY RIGHT OF WAY LINE, 195.47 FEET, (RECORD 195.89 FEET), TO THE TRUE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED IN THE FINAL ORDER OF CONDEMNATION TO THE STATE OF CALIFORNIA; RECORDED FEBRUARY 4, 1966, IN BOOK 1384, PAGE 637 OF OFFICIAL RECORDS.

PARCEL 3:

AN EASEMENT FOR TELEVISION ANTENNA GUY WIRES AND ANCHOR OVER THAT PORTION OF LOT 23 OF THE SUBDIVISION OF A PART OF THE RANCHO PASO DE ROBLES, IN THE COUNTY OF SAN LUIS OBISPO,



STATE OF CALIFORNIA ACCORDING TO MAP FILED FOR RECORD OCTOBER 22, 1886, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS.

BEGINNING AT A 6" X 6" C. H. C. CONCRETE RIGHT OF WAY MONUMENT ON U. S. HIGHWAY 101 ON THE WESTERLY RIGHT OF WAY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED DATED OCTOBER 10, 1950 AND RECORDED NOVEMBER 17, 1950, IN BOOK 586, PAGE 518 OF OFFICIAL RECORDS, BEARING 95 FEET AT RIGHT ANGLES FROM HIGHWAY ENGINEER'S STATION 428 - 24.11 ON THE CENTERLINE OF THE SURVEY OF SAID HIGHWAY; THENCE NORTH 6° 33' 30" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, 60 FEET TO THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO WILLIAM C. BRENCHLEY, ET AL., BY DEED DATED MAY 27, 1958 AND RECORDED NORTH 85° 43' 10" WEST, ALONG THE NORTHERLY LINE OF THE PROPERTY SO CONVEYED, 120.00 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE SOUTH 1° 36' 22" WEST, ALONG THE WESTERLY LINE OF SAID BRENCHLEY PROPERTY, 140 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CALIFORNIA STATE HIGHWAY NO. V SLO 33 E; THENCE SOUTH 89° 53' WEST, ALONG SAID RIGHT OF WAY, 35.96 FEET; THENCE NORTH 89° 40' 40" WEST, 139.33 FEET; THENCE NORTH 4° 27' 10" WEST, 129.97 FEET; THENCE NORTH 41° 39' 25" WEST, 54.91 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 41° 39' 25" WEST, 17.20 FEET, THENCE NORTH 26° 54' 50" EAST 29.32 FEET, THENCE SOUTH 63° 05' 10" EAST, 16.01 FEET, THENCE SOUTH 26° 54' 50" WEST, 35.60 FEET TO THE TRUE POINT OF BEGINNING.

APN: 009 831 007

DRAFT

EXHIBIT D

Form of City Grant Deed

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO

Zen Paso Robles, LLC
433 Airport Blvd., #100
Burlingame, CA 94010
Attn: Rupesh Patel

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: _____

Grant Deed

The undersigned Grantor(s) declare(s):

Documentary transfer tax is \$ _____.

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

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
CITY OF EL PASO DE ROBLES, a California municipal corporation,

hereby GRANT(S) to
ZEN PASO ROBLES, LLC, a California limited liability company,

the following described real property in the City of Paso Robles, County of San Luis Obispo,
State of California:

SEE ATTACHED EXHIBIT A.

Dated: _____, 2017 City of El Paso de Robles, a California municipal corporation

By: _____
Thomas Frutchey
City Manager

ACKNOWLEDGMENT

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

County of _____)

On _____ before me, _____, Notary Public
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A to City Grant Deed

LEGAL DESCRIPTION

Real property in the City of Paso Robles, County of San Luis Obispo, State of California,
described as follows:

DRAFT

EXHIBIT E

CERTIFICATE OF NON-FOREIGN STATUS

CITY OF EL PASO DE ROBLES, a California municipal corporation (“**Seller**”), is the transferor of that certain real property located in the City of Paso Robles, County of San Luis Obispo, California and more particularly described on Exhibit A attached hereto (the “**Property**”).

Section 1445 of the Internal Revenue Code of 1986 (the “**Code**”) provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. California Revenue and Taxation Code Section 18662 et. seq. contains similar provisions. To inform the transferee that withholding of tax will not be required in connection with the disposition of the Property pursuant to that certain Agreement for the Exchange of Real Property and Joint Escrow Instructions dated as of _____, 2017, by and between Seller and Zen Paso Robles, LLC, a California limited liability company, the undersigned certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Code and the regulations promulgated thereunder;
2. U.S. employer identification number is _____.
3. Seller’s address is 1000 Spring Street, Paso Robles, CA 93446.

It is understood that this certificate may be disclosed to the Internal Revenue Service and California Franchise Tax Board and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined the foregoing certification and, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Seller.

Date: _____, 2017

Signature: _____

Thomas Frutchet
City Manager

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Paso Robles, County of San Luis Obispo, State of California,
described as follows:

APN: _____

DRAFT

EXHIBIT F

CERTIFICATE OF NON-FOREIGN STATUS

ZEN PASO ROBLES, LLC, a California limited liability company (“**Seller**”), is the transferor of that certain real property located in the City of Paso Robles, County of San Luis Obispo, California and more particularly described on Exhibit A attached hereto (the “**Property**”).

Section 1445 of the Internal Revenue Code of 1986 (the “**Code**”) provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. California Revenue and Taxation Code Section 18662 et. seq. contains similar provisions. To inform the transferee that withholding of tax will not be required in connection with the disposition of the Property pursuant to that certain Agreement for the Exchange of Real Property and Joint Escrow Instructions dated as of _____, 2017, by and between Seller and Zen Paso Robles, LLC, a California limited liability company, the undersigned certifies the following on behalf of Seller:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Code and the regulations promulgated thereunder;

2. U.S. employer identification number (or Taxpayer identification number) is

_____.

3. Seller’s address is _____.

It is understood that this certificate may be disclosed to the Internal Revenue Service and California Franchise Tax Board and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined the foregoing certification and, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Seller.

Date: _____, 2017

Signature: _____
_____ (Name)
_____ (Title)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Paso Robles, County of San Luis Obispo, State of California,
described as follows:

APN: _____

DRAFT

EXHIBIT G

Form of Zen Grant Deed

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO

City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446
Attn: City Clerk

EXEMPT FROM RECORDING FEES PURSUANT
TO GOVERNMENT CODE SECTION 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: _____

Grant Deed

The undersigned Grantor(s) declare(s): City of El Paso de Robles is exempt from property taxes. (Rev & Tax Code 11922)

Documentary transfer tax is \$ -0-.

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

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

ZEN PASO ROBLES, LLC, a California limited liability company,

hereby GRANT(S) to

CITY OF EL PASO DE ROBLES, a California municipal corporation,

the following described real property in the City of Paso Robles, County of San Luis Obispo, State of California:

SEE ATTACHED EXHIBIT A.

Dated: _____, 2017

ZEN PASO ROBLES, LLC, a California limited liability company

By: _____

(Name)
(Title)

ACKNOWLEDGMENT

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
County of _____)

On _____ before me, _____, Notary Public
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

Pursuant to Section 27281 of the
California Government Code

This is to certify that the interest in real property conveyed by the Grant Deed dated _____, 2017, from ZEN PASO ROBLES, LLC, a California limited liability company, as Grantor thereunder, to CITY OF EL PASO DE ROBLES, a California municipal corporation, as Grantee thereunder, is hereby accepted by the undersigned officer on behalf of CITY OF EL PASO DE ROBLES pursuant to the authority conferred by Resolution No. _____, adopted by the City Council of the City of El Paso de Robles, on _____, 2017, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2017 _____

By _____
Thomas Frutchey
City Manager

DRAFT

ACKNOWLEDGMENT

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
County of _____)

On _____ before me, _____, Notary Public
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION to Zen Grant Deed

Real property in the City of Paso Robles, County of San Luis Obispo, State of California, described as follows:

PARCEL 1:

THAT PART OF THE PORTION OF LOT 23 OF THE SUBDIVISION OF A PART OF THE RANCHO PASO DE ROBLES, IN THE CITY OF EL PASO DE ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP FILED OCTOBER 22, 1886, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE PARCEL CONVEYED TO THE STATE BY DEED RECORDED JUNE 30, 1965 IN BOOK 1356, PAGE 447 OF OFFICIAL RECORDS; THENCE (1) NORTH 59° 00' 17" EAST, 52.17 FEET; THENCE (2) NORTH 02° 25' 45" EAST, 109.38 FEET TO THE NORTHERLY LINE OF SAID PARCEL; THENCE (3) WESTERLY ALONG LAST SAID LINE, 43.19 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL; THENCE (4) SOUTHERLY ALONG THE WESTERLY LINE OF SAID PARCEL TO THE POINT OF BEGINNING.

PARCEL 2:

THAT PORTION OF LOT 23 OF THE SUBDIVISION OF A PART OF THE RANCHO PASO DE ROBLES, IN THE CITY OF EL PASO DE ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA ACCORDING TO MAP FILED OCTOBER 22, 1886, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A 6" X 6" C. H. C. CONCRETE RIGHT OF WAY MONUMENT ON U. S. HIGHWAY 101 OF THE WESTERLY RIGHT OF WAY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED DATED OCTOBER 10, 1950, AND RECORDED NOVEMBER 17, 1950, IN BOOK 586, PAGE 518 OF OFFICIAL RECORDS, BEARING 95 FEET AT RIGHT ANGLES FROM HIGHWAY ENGINEER'S STATION 428 + 42.11 ON THE CENTERLINE OF THE SURVEY OF SAID HIGHWAY; THENCE NORTH 6° 33' 30" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, 60 FEET TO THE TRUE POINT OF BEGINNING, SAID TRUE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO WILLIAM C. BRENCHLEY, ET AL., BY DEED DATED MAY 27, 1958, AND RECORDED OCTOBER 3, 1958, IN BOOK 970, PAGE 38 OF OFFICIAL RECORDS; THENCE NORTH 85° 43' 10" WEST, ALONG THE NORTHERLY LINE OF THE PROPERTY SO CONVEYED, 120 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE SOUTH 1° 36' 22" WEST, ALONG THE WESTERLY LINE OF SAID BRENCHLEY PROPERTY, 140 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CALIFORNIA STATE HIGHWAY NO. V-SLO-33-E; THENCE SOUTH 89° 53' WEST, ALONG SAID RIGHT OF WAY 35.96 FEET; THENCE NORTH 89° 40' 40" WEST, ALONG SAID RIGHT OF WAY, 139.33 FEET; THENCE NORTH 4° 27' 10" WEST, 129.97 FEET; THENCE NORTH 41° 39' 25" WEST, 54.91 FEET; THENCE NORTH 26° 54' 50" EAST, 330.55 FEET; THENCE SOUTH 70° 13' 02" EAST, 209.65 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U. S. HIGHWAY 101; THENCE SOUTH 16° 38' 25" EAST, ALONG SAID RIGHT OF WAY LINE, 73.00 FEET TO A 6" X 6" C. H. C. MONUMENT; THENCE SOUTH 6° 33' 30" WEST, ALONG THE SAID WESTERLY RIGHT OF WAY LINE, 195.47 FEET, (RECORD 195.89 FEET), TO THE TRUE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED IN THE FINAL ORDER OF CONDEMNATION TO THE STATE OF CALIFORNIA; RECORDED FEBRUARY 4, 1966, IN BOOK 1384, PAGE 637 OF OFFICIAL RECORDS.

PARCEL 3:

AN EASEMENT FOR TELEVISION ANTENNA GUY WIRES AND ANCHOR OVER THAT PORTION OF LOT 23 OF THE SUBDIVISION OF A PART OF THE RANCHO PASO DE ROBLES, IN THE COUNTY OF SAN LUIS OBISPO,

STATE OF CALIFORNIA ACCORDING TO MAP FILED FOR RECORD OCTOBER 22, 1886, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS.

BEGINNING AT A 6" X 6" C. H. C. CONCRETE RIGHT OF WAY MONUMENT ON U. S. HIGHWAY 101 ON THE WESTERLY RIGHT OF WAY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED DATED OCTOBER 10, 1950 AND RECORDED NOVEMBER 17, 1950, IN BOOK 586, PAGE 518 OF OFFICIAL RECORDS, BEARING 95 FEET AT RIGHT ANGLES FROM HIGHWAY ENGINEER'S STATION 428 + 24.11 ON THE CENTERLINE OF THE SURVEY OF SAID HIGHWAY; THENCE NORTH 6° 33' 30" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, 60 FEET TO THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO WILLIAM C. BRENCHLEY, ET AL., BY DEED DATED MAY 27, 1958 AND RECORDED NORTH 85° 43' 10" WEST, ALONG THE NORTHERLY LINE OF THE PROPERTY SO CONVEYED, 120.00 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE SOUTH 1° 36' 22" WEST, ALONG THE WESTERLY LINE OF SAID BRENCHLEY PROPERTY, 140 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CALIFORNIA STATE HIGHWAY NO. V SLO 33 E; THENCE SOUTH 89° 53' WEST, ALONG SAID RIGHT OF WAY, 35.96 FEET; THENCE NORTH 89° 40' 40" WEST, 139.33 FEET; THENCE NORTH 4° 27' 10" WEST, 129.97 FEET; THENCE NORTH 41° 39' 25" WEST, 54.91 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 41° 39' 25" WEST, 17.20 FEET, THENCE NORTH 26° 54' 50" EAST 29.32 FEET, THENCE SOUTH 63° 05' 10" EAST, 16.01 FEET, THENCE SOUTH 26° 54' 50" WEST, 35.60 FEET TO THE TRUE POINT OF BEGINNING.

APN: 009 831 007

DRAFT