



Meeting Date: 03/14/06

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Ernest Whitaker *EW* Agenda Item No. I-2
 Reviewed By: City Manager *[Signature]* City Attorney *Holmberg* Finance *[Signature]* Other (Specify) _____

DATE: March 3, 2006

TO: City Council

FROM: Salvador Gonzalez *[Signature]*
Housing Director

SUBJECT: Hacienda Guadalupe, Easement from Cabrillo Economic Development Corporation

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute an "Access Easement between the City of Oxnard and the Cabrillo Economic Development Corporation" pertaining to property located immediately south of the intersection of 7th Street and Meta Street.

DISCUSSION

Cabrillo Economic Development Corporation ("Cabrillo") is developing a twenty-six "for sale" lower income townhome project on property formerly owned by the City and used as a playfield for the 7th Street Boys & Girls Club. One of the conditions of the development is that Cabrillo grant to the City an Access Easement, allowing access to parking spaces at the rear of the Boys & Girls Club building. The attached Agreement accomplishes this purpose.

FINANCIAL IMPACT

There is no financial impact to this transaction.

AH/kh

Attachment #1 - Access Easement

COPY

RECORDING REQUESTED BY

And When Recorded, Mail To:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**ACCESS EASEMENT,
BETWEEN
THE CITY OF OXNARD AND CABRILLO ECONOMIC
DEVELOPMENT CORPORATION**

This Access Easement ("Agreement") is made by and between the City of Oxnard, a municipal corporation ("City") and Cabrillo Economic Development Corporation ("CEDC") as of this _____ day of _____, 2006, with reference to the following recitals:

RECITALS

A. On November 1, 2005, the City of Oxnard City Council approved Final Tract Map No. 5358 and a development plan for 26 condominium airspace units on Lot 2 thereof owned by CEDC.

B. As a condition of the approvals referred to in Recital A, above, CEDC is required to grant to the City a 25.5-foot wide easement along the western boundary of Lot 2 for access, egress and ingress to a parking area on adjacent property owned by the City for the benefit of itself and its tenants (the "Easement").

This Agreement grants such Easement.

NOW, THEREFORE, the parties agree as follows:

1. **GRANT.** CEDC grants to the City a non-exclusive 25.5 foot-wide easement, described on Exhibit A over and across the property described on Exhibit B for access, ingress and egress to a parking area on Exhibit C.

2. **CEDC Assignments.** As provided in paragraph 5 (c), this Agreement is binding on the parties' successors in interest. In particular, CEDC may assign this Agreement to the homeowners association formed to own and manage the common area on Lot 2.

3. **Recordation.** This Agreement shall be recorded in the Office of the County Recorder for Ventura County, California.

4. **Covenants and Restrictions.** The Easement shall be used solely as allowed hereby and subject to the covenants herein.

(a) **Use.**

(i) The Easement shall provide access, ingress and egress to parking spaces on the City Property only.

5. **Miscellaneous.**

(a) **Time of Essence.** Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

(b) **No Partnership.** Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or any other relationship between the parties hereto.

(c) **Binding Effect.** This Agreement, and the terms, provisions, promises, covenants and conditions of this Agreement, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(d) **Counterparts.** This instrument 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 instrument. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original Agreement.

(e) **Attorneys' Fees.** In the event of any dispute, legal proceeding or arbitration between the parties hereto arising out of or relating to this Agreement or its breach, the prevailing party shall be entitled to recover all fees, costs and expenses, including but not limited to attorneys' and expert witness fees, incurred in connection with such dispute, legal proceeding or arbitration, with any counterclaims or cross-complaints, with any appeals, and with any proceeding to establish and recover such costs and expenses, in such amount as the court deems reasonable.

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(f) **Entire Agreement, Waivers and Amendments.** This Agreement constitutes the entire and exclusive agreement between the parties relating to the specific matters covered in this Agreement. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose. All waivers of and amendments to the provisions of this Agreement must be in writing and signed by both parties and recorded in the Office of the County Recorder for Ventura County, California.

(g) **Construction and Interpretation of Agreement.**

(i) The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arms length and careful negotiation over a considerable period of time, that each party has been reviewed this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions of this Agreement.

(ii) If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid, and enforceable to the fullest extent permitted by law. It is the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.

(iii) The captions of the articles, sections and subsections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

(iv) As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

(h) **Amendments.** Upon either party's request, the other party shall reasonably consider making such other reasonable amendments to this Agreement that are necessary and appropriate for its implementation.

"City"

City of Oxnard

By: _____
Dr. Thomas E. Holden, Mayor

"CEDC":

Cabrillo Economic Development
Corporation

By: Karen Flock
Karen Flock
Housing Development Director

ATTEST:

By: _____

APPROVED AS TO FORM:

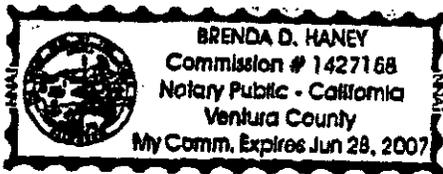
By: [Signature]
Alan Holmberg,
Assistant City Attorney

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STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

On March 1, 2006, before me, Brenda D. Haney, Notary Public,
personally appeared Karen Flock, personally known to me
(~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is
subscribed to the within instrument and acknowledged that ~~he~~^{she} executed the same in ~~his~~^{her}
authorized capacity, and that by ~~his~~^{her} signature on the instrument the person, or the entity
upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Brenda D. Haney

Notary Public

STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

On _____, 2006, before me, _____,
personally appeared _____, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person whose name is
subscribed to the within instrument and acknowledged that he executed the same in his
authorized capacity, and that by his signature on the instrument the person, or the entity
upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

EXHIBIT A

A strip of land, in the City of Oxnard, County of Ventura, State of California, being a portion of Lot 2 of Tract No. 5358 as per map filed in Book 154, of Miscellaneous Records (Maps), at Pages 84 through 85, inclusive, in the office of the County Recorder of said County, being more particularly described as follows:

That certain 25.50 feet wide strip labeled "STRIP 4" on said map, being the Westerly 25.50 feet of said Lot 2.

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EXHIBIT B

Lot 2 of "Tract No. 5358 as per map filed in Book 154, of Miscellaneous Records (Maps), at Pages 84 through 85, inclusive, in the office of the County Recorder of said County."

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EXHIBIT C

Lot 1 of "Tract No. 5358 as per map filed in Book 154, of Miscellaneous Records (Maps), at Pages 84 through 85, inclusive, in the office of the County Recorder of said County."

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