

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Library *K*

BOARD AGENDA # *B-6

Urgent Routine

AGENDA DATE October 30, 2012

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Easement Agreement between Central Valley Independent Network (CVIN) and Stanislaus County to Connect the Stanislaus County Main Library to the Central Valley Next-Generation Broadband Infrastructure Project (CVNGBIP) Backbone

STAFF RECOMMENDATIONS:

1. Approve the Easement Agreement between CVIN and Stanislaus County to connect the Stanislaus County Main Library to the CVNGBIP backbone.
2. Authorize the Chairman of the Board of Supervisors to sign the easement agreement.
3. Find that the project is categorically exempt pursuant to California Environmental Quality Act Guidelines Sections 15303 (d) and 15305 (b).

FISCAL IMPACT:

The current cost of the Library's internet connectivity is approximately \$5,300 monthly. The Corporation for Education Network Initiatives in California (CENIC) has received Federal American Recovery and Reinvestment Act (ARRA) funds for this project, therefore there will be no charge for connectivity to the Library for the initial 3 years. In years four and five the cost of connectivity will not exceed the Library's current cost.

BOARD ACTION AS FOLLOWS:

No. 2012-531

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of the Easement Agreement between Central Valley Independent Network (CVIN) and Stanislaus County to Connect the Stanislaus County Main Library to the Central Valley Next-Generation Broadband Infrastructure Project (CVNGBIP) Backbone

DISCUSSION:

The Corporation for Education Network Initiatives in California (CENIC), a non-profit, together with its private sector partner the Central Valley Independent Network (CVIN), have developed the Central Valley Next Generation Broadband Infrastructure Project (CVNGBIP) to improve the availability of broadband networking infrastructure for eighteen counties within the California Central Valley area. These counties include: Amador, Calaveras, Colusa, El Dorado, Fresno, Kings, Kern, Mariposa, Merced, Madera, Nevada, Placer, Tuolumne, Tulare, San Joaquin, Stanislaus, Sutter, and Yuba.

The goals of the project are:

- Immediately connect via fiber 19 county offices of education sites, 14 community college sites, 3 CSU universities, 20 county main libraries, and 7 public safety sites as anchor institutions to this network infrastructure that will connect to the Corporation for Education Network Initiatives in California (CENIC) existing statewide fiber-based backbone and beyond to the worldwide internet;
- Expand Central Valley Independent Network's (CVIN) fiber-based infrastructure and wireless capabilities to facilitate the ability of the other anchor related institutions in the community including school sites, healthcare facilities, community-based organizations, and public safety entities, to enhance their existing high speed networking capacity;
- Enable CVIN and other providers to use the new network infrastructure to facilitate businesses, residences and government agencies to have access to high speed networking capacity;
- CVIN forge strategic relationships with existing local internet providers enabling them to connect their businesses and resident customers to Internet services at more reasonable costs, one of the largest broadband adoption obstacles faced by most rural or underserved communities; and
- Enhance the ability to reach the economic development goals of the 18 counties by having the required network capacity available for new businesses that might locate in these counties.

On March 9, 2010 this Board sent a letter of support for CENIC's plan to expand and improve broadband options in 14 counties within the California Central Valley area, including Stanislaus County (Attachment A). CENIC has received Federal American Recovery and Reinvestment Act funds for this project.

The primary goal of the American Recovery and Reinvestment Act (ARRA) is to provide a fiscal boost to the country during this current economic crisis, and to lay the foundation for long-term growth and development of our economy. One of the pillars of the ARRA is that provision of access to broadband services will increase economic development and improve the quality of life. Nationwide, the ARRA has provided \$7.2 billion dollars of stimulus funds to increase broadband network access, especially in rural and un-served or underserved areas.

Approval of the Easement Agreement between Central Valley Independent Network (CVIN) and Stanislaus County to Connect the Stanislaus County Main Library to the Central Valley Next-Generation Broadband Infrastructure Project (CVNGBIP) Backbone

The implementation of a robust network infrastructure consisting of new fiber-optic cable installation and wireless broadband should improve the ways residents work and live together. The funding of this application will also create jobs associated with network deployment in the short term, and will contribute to economic growth in the long term.

The first component involves building, operating, and maintaining fiber infrastructure that will traverse 1,371 miles of rural Central Valley. Connections in Stanislaus County include California State University Stanislaus, Stanislaus County Office of Education, Yosemite Community College District, and Stanislaus County Main Library.

A primary focus of the CVNGBIP is to connect anchor institutions such as educational institutions that include county offices of education, community colleges, CSU universities, and libraries across California. Stanislaus County Library, Modesto Branch, is one of these anchor institutions. Improving the Library's broadband access with better fiber-optic cable will significantly improve wireless capability and increase the speed of traffic, leading to better customer service.

The Library fosters the love of reading and opens the door to knowledge. At the library, customers receive reference and readers advisory assistance. They receive assistance in searching for jobs and in filling out applications, composing resumes, and in filing for public assistance. Customers can use online databases and reference services at any time from any internet link. They can take advantage of wireless internet, a mobile app, and have access to public computers.

Part of the Library's strategic plan is to improve connectivity of residents to the online world by maintaining a convenient and relevant web portal. The Library's electronic resources are heavily used. In Fiscal Year 2011-2012, there were 200,000 computer sessions, 1.5 million website visits, almost 300,000 mobile application uses, and 19,000 wireless log-ins, an increase of 12.8%.

Service to customers is slow, because there is so much traffic on the Library's current 20Mbps (megabits per second) fiber-optic cable. An increase in broadband --high speed internet access --would ensure faster service to the public. The Library has an opportunity to improve its wireless broadband connection to 100Mbps through the Central Valley Next Generation Broadband Infrastructure Project. It is estimated that close to 57% of the Central Valley is either un-served or underserved by broadband infrastructure. This region requires the tools, resources and potential job growth that a robust network infrastructure throughout the Valley could provide.

Approval of the attached easement agreement will give permission for the temporary use by CVIN for the construction, installations and on-going maintenance of CVIN's system. The Easement Agreement provides one site connection fiber optics path connecting the Stanislaus County Library to the CVIN backbone. The CVIN Backbone Transmission Fiber-Optics path runs southwest along H and 15th Street. The site connection Fiber Optics Path will be used to serve the Stanislaus County Library, and through it, branch libraries connected to the County Library by providing connectivity to CENIC's statewide CalREN advanced service network infrastructure over the CVIN Backbone.

Approval of the Easement Agreement between Central Valley Independent Network (CVIN) and Stanislaus County to Connect the Stanislaus County Main Library to the Central Valley Next-Generation Broadband Infrastructure Project (CVNGBIP) Backbone

County staff have determined that this project is categorically exempt pursuant to California Quality Act Guidelines Sections 15303 (d) and 15305 (b).

Stanislaus County has been working with CENIC and CVIN on delivery of the broadband infrastructure project to the community for several years. Discussions were held during the planning, environmental and implementation stages to ensure good communication and collaboration. Although the intended path for the infrastructure through Stanislaus County was determined through the initial application process, County staff has worked successfully with the CENIC/CVIN partners to make minor adjustments to coordinate the broadband construction with the County's road infrastructure projects in process or planned. Additionally, the path was slightly redirected to pass by the Office of Emergency Services to provide the potential for connectivity in the future. The Department of Public Works was instrumental in sharing information to CENIC and CVIN through the County's Geographical Information System (GIS) to make these small technical adjustments. Additionally, the Department of Public Works has been involved in issuing and processing the necessary permits for segments in the County areas and coordinating with the cities (including Modesto) for segments within their incorporated boundaries. A majority of the work in the County segments have been completed. Specific to downtown Modesto, the City of Modesto is in the process of issuing the necessary permits to bring the infrastructure to the County Library and other anchor sites (Stanislaus County Office of Education, Modesto Junior College, etc.) within their limits.

The onsite construction will occur in two phases. The first phase will be installing the underground conduit along 15th Street to the existing telecommunications hand-hole at the southern corner of the Library building. The second phase will be to install the fiber optic cable in the conduit and extend it in to the building to the data room. Construction within the City of Modesto is expected to start in the next few weeks. Once the backbone is built, the second phase construction will occur by early December. Installation of the equipment and turn-up of services will occur sometime after the first of the year.

POLICY ISSUES:

The recommended actions support the Board's priority of providing A Strong Local Economy by increasing the availability of high-speed Internet services to the community.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Vanessa Czopek, County Librarian Phone: 558-7801



RECORDING REQUESTED BY:
Stanislaus County

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2012-0110948-00

WHEN RECORDED MAIL TO:
CVIN, LLC
9479 North Fort Washington
Suite 105
Fresno, CA 93730

Check Number 062685
Thursday, DEC 06, 2012 13:47:41
Ttl Pd \$38.00 Rcpt # 0003306376
OMK/R1/1-9

A.P.N. 105-006-012

AGREEMENT, GRANT OF EASEMENT AND REVOCABLE LICENSE

This Agreement, Grant of Easement and Revocable License is entered into by and between Stanislaus County, a political subdivision and one of the Counties of the State of California, hereinafter called "County", and CVIN, LLC, a California Limited Liability Company, hereinafter called "CVIN".

County, in consideration of the mutual promises contained herein, and the public benefit provided as a result of the American Recovery and Reinvestment Act ("ARRA") Broadband Infrastructure Program award received by CVIN, hereby grants unto CVIN, its successors and assigns, an easement with rights of ingress and egress over and across the subject property, which is more particularly described in attached Exhibit "A", and depicted on Exhibit "B", both of which are incorporated herein by reference, on that real property referred to for tax assessment purposes as Stanislaus County Assessor's Parcel Number 105-006-012, sufficient to construct, install, own, manage, operate, maintain, repair, or replace from time to time an underground conduit and fiber cable for telecommunications facilities and all other appurtenant equipment for CVIN's multi-county transmission system, including but not limited to above ground markers (hereinafter referred to as the "Easement").

In addition, County licenses CVIN to use the existing County telephone handhole and the conduit space that runs between the telephone handhole, to the County Library data center, as shown in Exhibit "C", which is attached hereto and by this reference made a part hereof, in order to connect to and serve the Stanislaus County Library ("Library"). Such revocable license shall be limited to installing, owning, managing, operating, maintaining, repairing, or replacing from time to time the fiber-optic cable line(s). The location of the existing conduit is graphically depicted in Exhibit "C". However, the exact location shall be the actual physical location of the existing conduit, which may slightly vary from Exhibit "C" ("Revocable Permit Area").

THE TERMS AND CONDITIONS OUTLINED ON PAGES 2 AND 3 HEREOF CONSTITUTE A PART OF THIS AGREEMENT AND GRANT OF EASEMENT.

Date: October 19, 2012

Date: October 30, 2012

APPROVED: CVIN LLC, a California
Limited Liability Company

APPROVED: STANISLAUS COUNTY

By:
Print Name: David Nelson
Print Title: President

By:
Print Name: William O'Brien
Print Title: Chairman of the Board

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PROVIDED, this Agreement and Grant of Easement is subject to the following terms and conditions:

1. This Agreement includes permission by County for the temporary use by CVIN of such area as is reasonably necessary for the construction, installation and on-going maintenance of CVIN's system.
2. This Agreement is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect said subject property and the use of the word "Grant" herein shall not be construed as a covenant against the existence of any thereof. If at the time of installation of CVIN's facilities or thereafter there is a conflict with existing rights, then both parties hereto will cooperate in determining a new location for CVIN's facilities.
3. CVIN agrees that any improvements or other property installed under the authority of this Agreement shall be well and safely maintained by CVIN at all times while this Agreement is operative. CVIN will maintain a "Call-Before-You-Dig" program for all required and related cable locations on County's property. Where appropriate, CVIN will maintain sign posts along the CVIN transmission system right-of-way with the number of the local "Call-Before-You-Dig" organization and the "800" number for CVIN. Unless CVIN fails to respond to notices by the County or by the local "Call-Before-You-Dig" program, any damage caused by the County, its contractors or related parties shall be repaired or replaced by CVIN as necessary at County's expense, and County shall be responsible for any consequential damages related to the damage.
4. Except for emergencies and any unscheduled breakdown of service connection, CVIN shall provide to County adequate advance written notice of its entering the easement, and coordinate with County all authorized activity in the easement in a manner reasonably agreeable to County.
5. CVIN waives all claims against County, its officers, agents, and employees, for loss or damage caused by, arising out of, or in any way connected with the exercise of this Agreement except as otherwise provided herein. CVIN agrees to save harmless, indemnify, and defend County, its officers, agents, and employees, from any and all loss, damage or liability which may be suffered or incurred by County, its officers, agents, and employees caused by, arising out of, or in any way connected with exercise by CVIN of the rights hereby granted, except those arising out of the negligence of County.
6. County reserves the right to use said real property and Revocable Permit Area in any manner, provided such use does not unreasonably interfere with CVIN's rights hereunder. The terms set forth in Exhibit D, attached hereto and incorporated herein, shall apply to this Agreement.
7. County reserves the right to require CVIN, at County's expense, to remove and relocate all improvements placed by CVIN upon said real property, upon determination by County that the same interfere with future development of County's property or in the Revocable Permit Area. Within 180 days after County's written notice and demand for removal and relocation of the improvements and upon receipt of the estimated costs to remove and relocate CVIN's improvements, CVIN shall remove and relocate the improvements to a feasible location on County's property, as designated by County, and County shall furnish CVIN with an easement or, if within Grantor's existing conduit, a license in such new location, on the same terms and conditions as herein stated, all without cost to CVIN, and CVIN thereupon shall reconvey to County the easement or terminate the license herein granted. Provided, however, CVIN shall not be required to transition to the new easement in a manner or timeframe which will cause any unreasonable break or disruption of service to CVIN's customers using the improvements.

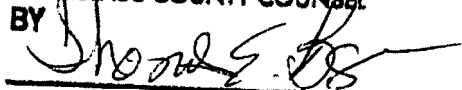
8. In making any excavation on said property of County, CVIN shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as they were prior to such excavation as is practicable.

9. CVIN will provide as-built drawings to County at the completion of construction and prior to putting CVIN's transmission system into service on County's property.

10. CVIN shall have access to all utilities as may be required to operate CVIN's facilities, as specified in Exhibit A. Except as provided herein, County shall not bear any expense in the installation, maintenance or operation of CVIN's facilities.

11. This agreement shall apply to and bind the assigns and successors of the parties hereto. Further, pursuant to the Broadband Technology Opportunities Program ("BTOP") under the National Telecommunications and Information Administration, U.S. Department of Commerce ("NTIA"), the parties hereto agree that the NTIA hereby has the right of assignment of this Agreement and Grant of Easement to the NTIA if CVIN fails to act in accordance with the NTIA BTOP award.

**APPROVED AS TO FORM:
STANISLAUS COUNTY COUNSEL
BY**



DATE: 10-25-2012

State of California

County of Fresno

On October 19th, 2012 before me, B. Nielsen-Jones, Notary Public, personally appeared David Nelson, 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.

[Handwritten Signature]
Signature of Notary Public (Seal)



State of California

County of Stanislaus

On _____ 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 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 of Notary Public (Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

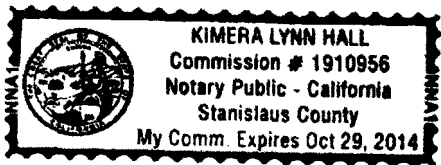
State of California

County of Stanislaus }

on 10/30/12 before me, Kimera Lynn Hall
Date Here Insert Name and Title of the Officer

personally appeared William O'Brien
Name(s) of Signer(s)

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: Kimera Lynn Hall
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

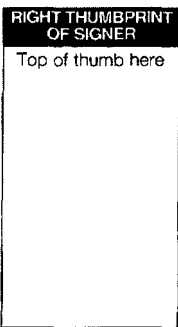
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

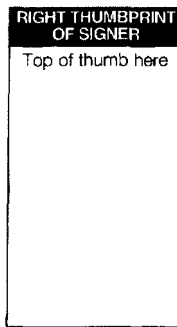
- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

EXHIBIT "A"
LEGAL DESCRIPTION

UNDERGROUND FIBER OPTIC FACILITIES EASEMENT

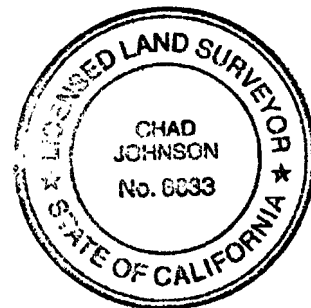
A strip of land, 10.00 feet in width, for use as an underground fiber optic facilities easement, being a portion of Lots 24 and 25 of Block 121 as shown on the City of Modesto Block Map filed in Volume 13 of Maps, at Page 121, Stanislaus County Records, situate in a portion of the southwest quarter of Section 28, Township 3 South, Range 9 East, Mount Diablo Meridian, County of Stanislaus, State of California, the centerline of said 10.00 foot wide easement being more particularly described as follows:

Commencing at intersection of the centerline of H Street and the centerline of 15th Street as shown on said City of Modesto Block Map, thence North 43°29'30" West along said centerline of 40 foot half-width 15th Street, a distance of 236.00 feet, thence North 46°30'30" East, distant 236.00 feet northwest of and parallel with the centerline of said H Street, a distance of 40.00 feet to a point on the southwest line of said Block 121 and the **Point of Beginning** of the herein described easement centerline; thence continuing North 46°30'30" East, a distance of 30.00 feet to the terminus of the herein described easement centerline.

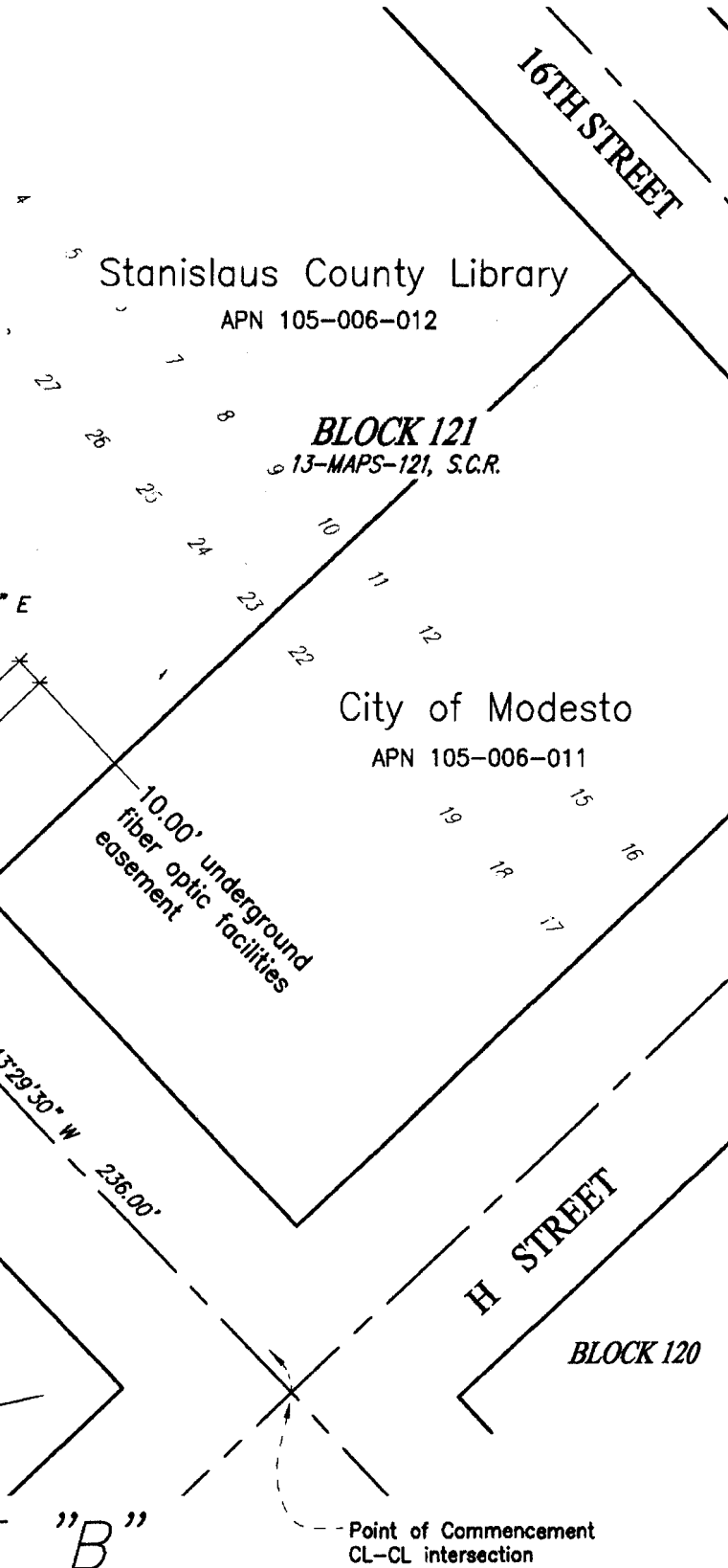
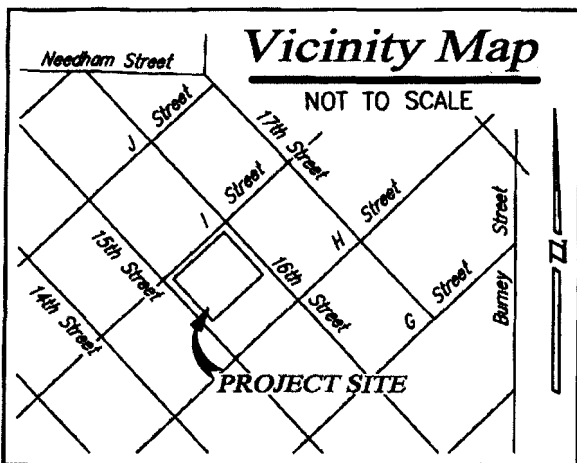
The sidelines of said 10.00 foot wide easement being shortened or extended to terminate at the southwest line of said Block 121.

containing 300 square feet, more or less.

END DESCRIPTION



Chad Johnson
10-25-12



SCALE: 1"=60'

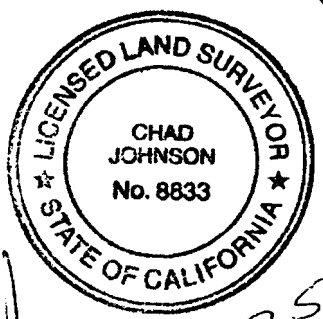


EXHIBIT "B"



UNDERGROUND FIBER OPTIC
FACILITIES EASEMENT
MODESTO, CALIFORNIA

DR. BY:	C. JOHNSON
PROJECT:	1202-005128
DATE:	10-25-12
SHEET NO:	1 OF 1

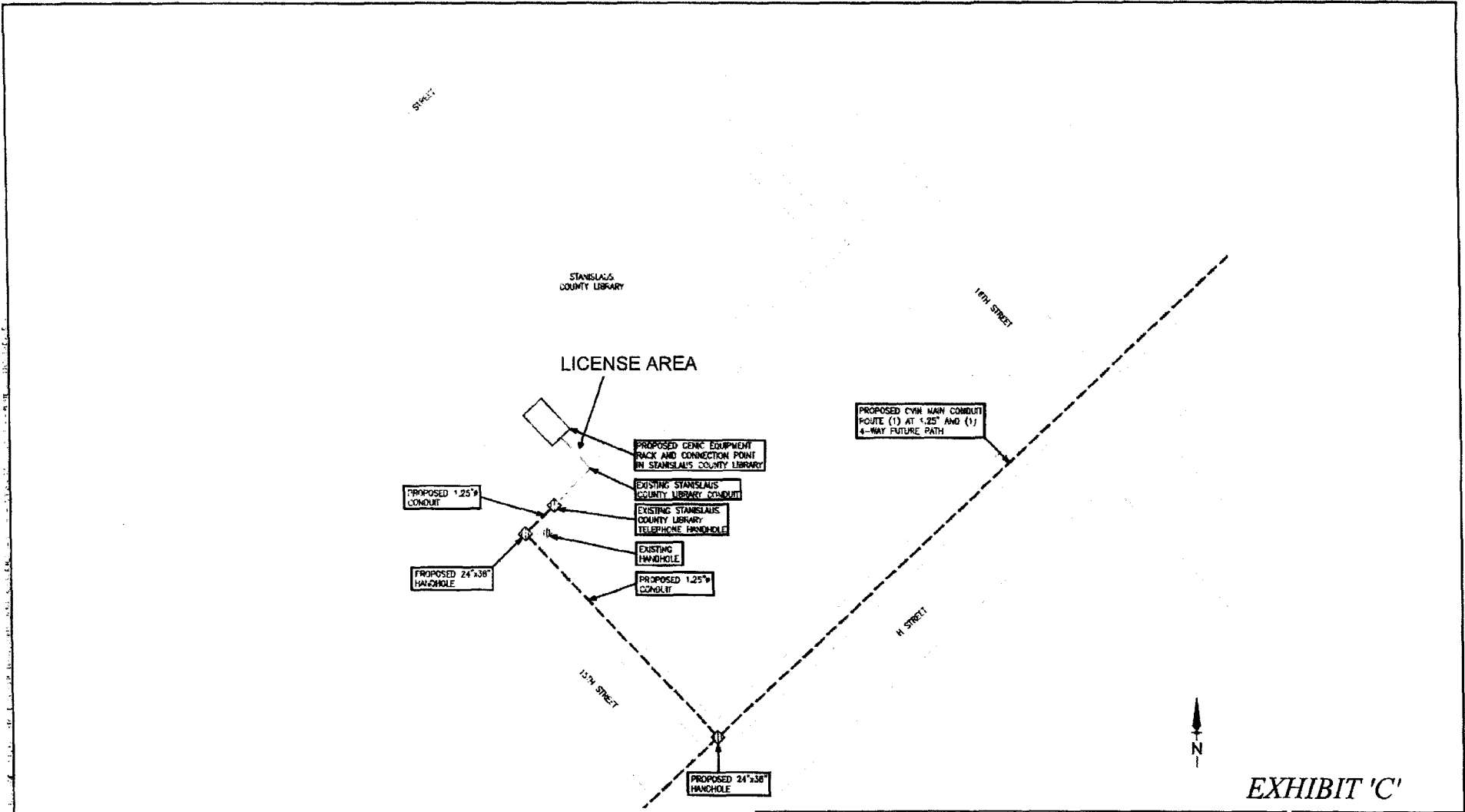


EXHIBIT 'C'

LEGEND
 PROPOSED 1.25" CONDUIT
 PROPOSED 24"x36" HANDHOLE
 (LICENSE AREA)

PLAN REVISIONS	#	REV. DATE	DESCRIPTION	INT.	DATE	TIME	SCALE	SHEET
								1 OF 1
CVIN Installation @ Stanislaus Co. Library Equipment Location and Fiber Connection Plan 150th STREET MODESTO, CALIFORNIA 95154								

EXHIBIT D

CVIN-STANISLAUS COUNTY Stanislaus County Library Easement Agreement

As depicted on the engineering drawing, one Site Connection Fiber Optics Path connects the Stanislaus County Library to the CVIN Backbone.

1. The CVIN Backbone Transmission Fiber-Optics Path runs southwest along H Street in public right of way.
2. CVIN will install a new 24"X36" handhole on the CVIN Backbone at the corner of H Street and 15th Street in public right of way.
3. As depicted on the drawing, CVIN will install a new 1.25" conduit from that handhole to run northwest along 15th Street to another new CVIN 24"X36" handhole to be installed at the southwest corner of the Library (the "Library handhole") in public right of way.
4. From the Library handhole, CVIN will install a 1.25" conduit to an existing Library telephone handhole.
5. CVIN will utilize the existing Library conduit from the telephone handhole to the Library data center.
6. CVIN will install a 10/12mm microduct with a 6-count fiber between the Library data center and the CVIN Backbone at the handhole at H and 15th Street.
7. This Site Connection Fiber Optics Path will be used to serve the Stanislaus County Library, and through it, branch libraries connected to the County Library by providing connectivity to CENIC's statewide CalREN advanced service network infrastructure over the CVIN Backbone unless otherwise requested by the site. Additionally the easement may be used by CVIN to meet the open access requirements of the NTIA BTOP funding.