

Project: Old Town Orcutt Clock
A.P.N.: 105-092-002
Folio: 003648
Agent: SD

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (hereinafter, "Agreement") is made by and between:

COUNTY OF SANTA BARBARA, a political subdivision of the State of California, hereinafter referred to as "COUNTY,"

and

OLD TOWN ORCUTT REVITALIZATION ASSOCIATION, a California non-profit corporation, hereinafter referred to as "LICENSEE,"

with reference to the following:

WHEREAS, COUNTY is the owner of a permanent easement (hereinafter "License Area") over a portion of that certain real property located at 120 E. Clark Avenue, Orcutt, CA 93455, also known as County Assessor Parcel Number: 105-090-002, (hereinafter "Property"); and

WHEREAS, LICENSEE is a California non-profit community-based group that provides services to the Orcutt community made possible by LICENSEE'S organization of volunteers supported by private donations to be used for community activities and endeavors; and

WHEREAS, COUNTY and LICENSEE desire to enter into this License Agreement (hereinafter "Agreement") for LICENSEE'S right to enter upon and use the License Area for a Town Clock which LICENSEE purchased and installed on the License Area; and

WHEREAS, COUNTY and LICENSEE desire to designate the roles and responsibilities of the parties in regard to maintenance and preservation of the Town Clock in this Agreement.

NOW THEREFORE, in consideration of the License Area and the provisions, covenants, and conditions set forth herein, LICENSEE and COUNTY hereby agree as follows:

1. **ADMINISTRATION AND ENFORCEMENT**: The provisions and conditions of this Agreement shall be administered and enforced for the COUNTY by the Director of the General Services Department, or designee.

2. **RIGHTS GRANTED**: COUNTY hereby grants to LICENSEE a personal, nonexclusive, revocable and non-assignable right to enter upon, use possess and occupy the License Area legally described on Exhibit "A," attached hereto and incorporated herein by reference, located over a portion of the Property shown as the highlighted area on Exhibit "B," attached hereto and incorporated herein by reference.

3. **PURPOSE:** LICENSEE shall have access and use the License Area to locate, operate, maintain and repair the Town Clock as shown on Exhibit "C" attached hereto and incorporated herein by reference, and for no other purposes without the express consent of COUNTY, through the General Services Department Director, or designee.

4. **TERM:** The term of this Agreement shall commence upon COUNTY'S execution of this Agreement, and shall continue on a year-to-year basis renewing automatically each and every year of the term, until either party terminates Agreement by giving thirty (30) days written notice, unless sooner terminated as hereinafter provided.

5. **RENT:** As consideration for use of the License Area, LICENSEE shall maintain, repair and operate the Town Clock, at its expense, as LICENSEE sole and primary responsible.

6. **UTILITIES:** LICENSEE shall pay for any and all utilities serving the License Area, including gas, electricity, and any other utilities needed for operation of the Town Clock.

7. **IMPROVEMENTS/ALTERATIONS:** LICENSEE accepts the License Area in its current condition. Any improvements or alternations made by the LICENSEE other than routine maintenance and repair must be coordinated by both parties, and all costs shall be the responsibility and expense of the LICENSEE.

8. **CLOCK OWNERSHIP:** Title to the Town Clock shall be held by LICENSEE throughout the term of this Agreement.

9. **INDEMNIFICATION:** LICENSEE shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorneys' fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the LICENSEE or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorneys' fees), judgments or liabilities resulting solely from the negligence or willful misconduct of the COUNTY.

LICENSEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

10. **INSURANCE:** Without limiting LESSEE'S indemnification of the COUNTY, LESSEE shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place LESSEE in default. Upon request by the COUNTY, LESSEE shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

LESSEE shall submit to the designated COUNTY representative, certificate(s) of insurance documenting all of the required insurance as specified below prior to this Agreement becoming effective. Current Certificate(s) of Insurance shall be maintained at all times in the office of the designated COUNTY representative. The approval of insurance shall neither relieve nor decrease the liability of the LESSEE.

All of the insurance requirements specified in this Section 12, et al, are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the insurance requirements, to require additional types of insurance coverage or higher coverage limits provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. Any such change of provisions for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits, must be made by amendment to this Agreement. LESSEE agrees to execute any such amendment within thirty (30) days of receipt.

10.1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers' Liability Insurance shall cover all LESSEE's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, major change in coverage, or expiration shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event LESSEE is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if LESSEE has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and LESSEE submits a written statement to the COUNTY stating that fact.

10.2. General and Automobile Liability Insurance: The general liability insurance shall include personal injury liability coverage, shall afford coverage for all premises and operations of LESSEE, shall afford coverage for product liability, and shall include contractual liability coverage for this Agreement between COUNTY and LESSEE. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles, which are operated on behalf of LESSEE pursuant to LESSEE's activities hereunder. COUNTY, its officers, employees, and agents shall be named as Additional Insured on any policy. A copy of the endorsement evidencing that the COUNTY has been added as a named Additional Insured on the policy must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Personal injury liability coverage shall also be in the amount of not less than \$1,000,000 per occurrence and aggregate. Said policy or policies shall include severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form: "Such insurance as is afforded by this policy shall be primary and contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only." Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

10.3. Fire Legal Liability: LESSEE shall provide Fire Legal Liability coverage in the amount of \$50,000 as part of the General Liability Policy.

10.4. Property Insurance: COUNTY shall maintain property insurance on the real property (building) throughout the Lease Agreement. In the event the COUNTY enters into a self-insurance program for property coverage, the COUNTY shall include the property of this Agreement in any such program.

10.5. Personal Property Insurance: LESSEE shall maintain insurance for personal effects, including supplies, furniture and is not granted personal property coverage under the COUNTY Property program.

11. NON-DISCRIMINATION: Neither party, their officers, agents, or employees, in the operations to be conducted pursuant to the provisions of this Agreement will discriminate or permit discrimination against any person or class of persons by reason of race, color, age, creed, religion, ancestry, sex, or national origin in any manner prohibited by the laws of the United States, the State of California or any County ordinance. Non-compliance with provisions of this article shall constitute a material breach hereof and, in addition to any remedies provided by law, the non-offending party shall have the right to terminate this Agreement and the interest hereby created without liability therefor.

12. **NOTICES:** Any notice to be given to either party, by the other, shall be in writing and shall be served, either personally or by first class mail to the following:

LICENSEE:	OTORA 120 E. Clark Avenue Orcutt, CA 93455 (805) 937-3928
COUNTY:	County of Santa Barbara Support Services Division Office of Real Estate Services 1105 Santa Barbara Street Santa Barbara, CA 93101 (805) 568-3078

All notices hereunder shall be in writing and shall be deemed to have been given on the date delivered, if personally delivered, or if mailed, then on the first business day following the date on which it is mailed, by certified or registered mail, postage prepaid, addressed to the address specified above, or to such other address designated by the party as provided for herein.

13. **DEFAULT:** Except as otherwise specified herein, should either party at any time be in default hereunder with respect to any material covenant contained herein, the nondefaulting party shall give notice to the defaulting party specifying the particulars of the default and the defaulting party shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of twenty-one (21) calendar days from such notice, then this Agreement shall terminate at the option of the non-defaulting party unless the cure of such default shall reasonably take more than twenty-one (21) calendar days in which case the defaulting party shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

13. **REMEDIES:** In the event of a default or breach, either party may exercise any right or remedy at law or in equity which such party may have by reason of such default or breach.

15. **WAIVER:** It is understood and agreed that any waiver, express or implied of any term of this Agreement shall not be, nor construed to be, a waiver of any subsequent breach of a like kind or of any other provision of this Agreement.

16. **TERMINATION:** This Agreement shall terminate and all rights of LICENSEE hereunder shall cease and LICENSEE shall quietly and peacefully vacate the License Area upon LICENSEE's failure to cure a default as specified above, upon expiration of the term of this Agreement or any extension thereof, or either party by giving thirty (30) days written notice.

17. **ASSIGNMENT/HYPOTHECATION/SUBLEASE:** LICENSEE shall not mortgage, pledge, hypothecate, encumber, sublease or sublicense the License Area, Town Clock, or any interest therein. Any attempt to assign, sublicense, sublease, mortgage, pledge, hypothecate or in any other way encumber shall be void and without legal effect and shall constitute grounds for termination.

18. **NEGATION OF PARTNERSHIP/JOINT VENTURE:** Nothing in this Agreement is intended, and no provision of this Agreement shall be construed, to make LICENSEE neither a partner of,

nor a joint venturer with COUNTY or associated in any other way with regard to the use of the License Area, nor to subject either party to any obligation, loss, charge or expense.

19. **ENVIRONMENTAL IMPAIRMENT:** LICENSEE shall comply with all applicable laws, regulations, rules, and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signing, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request of COUNTY.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the License Area or Property due to LICENSEE'S use and occupancy, LICENSEE shall clean all property affected to the satisfaction of COUNTY and any governmental body having jurisdiction therefore. LICENSEE shall indemnify, hold harmless, and defend COUNTY from and against all liability, claim, cost, and expense (including without limitation any fines, penalties, judgments, litigation costs, attorney's fees, consulting, engineering and construction costs) incurred by COUNTY as a result of LICENSEE'S breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution due to LICENSEE'S use and occupancy, regardless of whether such liability, cost or expense arises during or after the term of this Agreement, and regardless of negligence, active or passive, of COUNTY.

20. **TOXICS:** LICENSEE shall not manufacture or generate hazardous wastes on the License Area or Property unless specifically authorized by this Agreement. LICENSEE shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported by LICENSEE, its agents, employees, or designees on the site or property during the term of this Agreement and shall comply with and be bound by all applicable provisions of such federal, state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. LICENSEE shall notify COUNTY and the appropriate governmental emergency response agencies immediately in the event of any release or threatened release of any such wastes, substances or materials.

21. **AGENCY DISCLOSURE:** LICENSEE acknowledges that the General Services Department, Support Services Division, of the COUNTY is the agent for the COUNTY exclusively, and is neither the agent for LICENSEE nor a dual agent in this transaction.

22. **CAPTIONS:** The title or headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

23. **SEVERABILITY:** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24. **SUCCESSORS IN INTEREST:** This Agreement shall bind and ensure to the benefit of the parties hereto, their respective personal representatives, heirs, successors in interest.

25. **CERTIFICATION OF SIGNATORY:** Signatories for the parties represent and certify that they are authorized to sign on behalf of their respective party and that no additional signatures are required to carry out the activities contemplated herein.

26. **AMENDMENTS**: This Agreement may only be amended by written consent of the parties.
27. **EXECUTION IN COUNTERPARTS**: This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.
28. **FACSIMILE/ELECTRONICALLY TRANSMITTED SIGNATURES**: In the event that the parties hereto utilize facsimile transmitted documents or electronically transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided within seventy-two (72) hours of transmission; however, funds shall not be released nor shall documents be accepted for recordation by the Clerk Recorder of the County until such documents bearing original signatures are received by COUNTY.
29. **CONSTRUCTION**: The parties agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and conditions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.
30. **ENTIRE AGREEMENT**: The parties to this Agreement intend that their negotiations, conversations and statements made prior to execution of this Agreement are fully integrated and expressed herein, and no such negotiations, conversations and statements shall be deemed to create rights or obligations other than those stated herein.

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A.P.N.: 105-092-002
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IN WITNESS WHEREAS, COUNTY and LICENSEE have executed this Agreement, by the respective authorized officers as set forth below.

"COUNTY"
COUNTY OF SANTA BARBARA

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

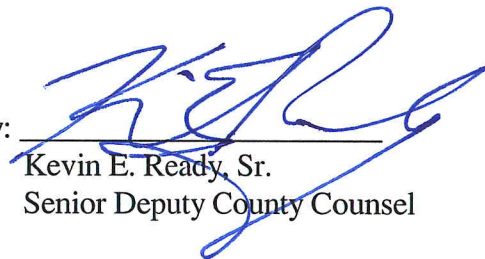
By: _____
Doreen Farr, Chair
Board of Supervisors


By: _____
Deputy

Date: _____

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL


APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

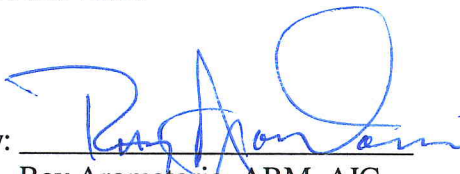
By: 
Kevin E. Ready, Sr.
Senior Deputy County Counsel

By: 
Deputy Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting

APPROVED:

APPROVED:

By: 
Ronn Carlentine
Real Property Manager

By: 
Ray Aromatorio, ARM, AIC
Risk Manager

(signature page continued)

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(signature page continued)

“LICENSEE”

OLD TOWN ORCUTT REVITALIZATION ASSOCIATION,
a California nonprofit corporation,

By: 

STEVE STRACHAN PRESIDENT
Name & Title

By: 

Brett Krauch Treasurer
Name & Title

Date: 3-13-2012

Legal Description

for a

Permanent Easement

That portion of Lot 24 in Block B in the Town of Orcutt, California as shown on a map recorded in Map Book 3, Page 67 in the office of the County Recorder, County of Santa Barbara, State of California, titled "Map Showing Town of Orcutt" surveyed and platted by W. W. Orcutt in July, 1904 more particularly described as follows:

Commencing at the northeast corner of Lot 24 as shown on said map, thence,

- First, Westerly along the northerly line of Lot 24, S 89° 15' W 15.0 feet to a point on a line that is parallel with and 2.0 feet easterly of the easterly line of the clock base of the Orcutt Clock located at 120 E. Clark Avenue, in the town of Orcutt, California to the true point of beginning; thence,
- Second, S 00° 45' E 4.2 feet to a point on a line that is parallel with and 2.0 feet southerly of the southerly line of said clock base; thence,
- Third, S 89° 15' W 6.75 feet to a point on a line that is parallel with and 2.0 feet westerly of the westerly line of said clock base; thence,
- Fourth, N 00° 15' W 4.2 feet to a point on the northerly line of Lot 24 of said map, thence,
- Fifth, Easterly along the northerly line of said Lot 24, N 89° 15' E 6.75 feet to the true point of beginning.

Containing 28 square feet more or less.

End of Description

This legal description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.



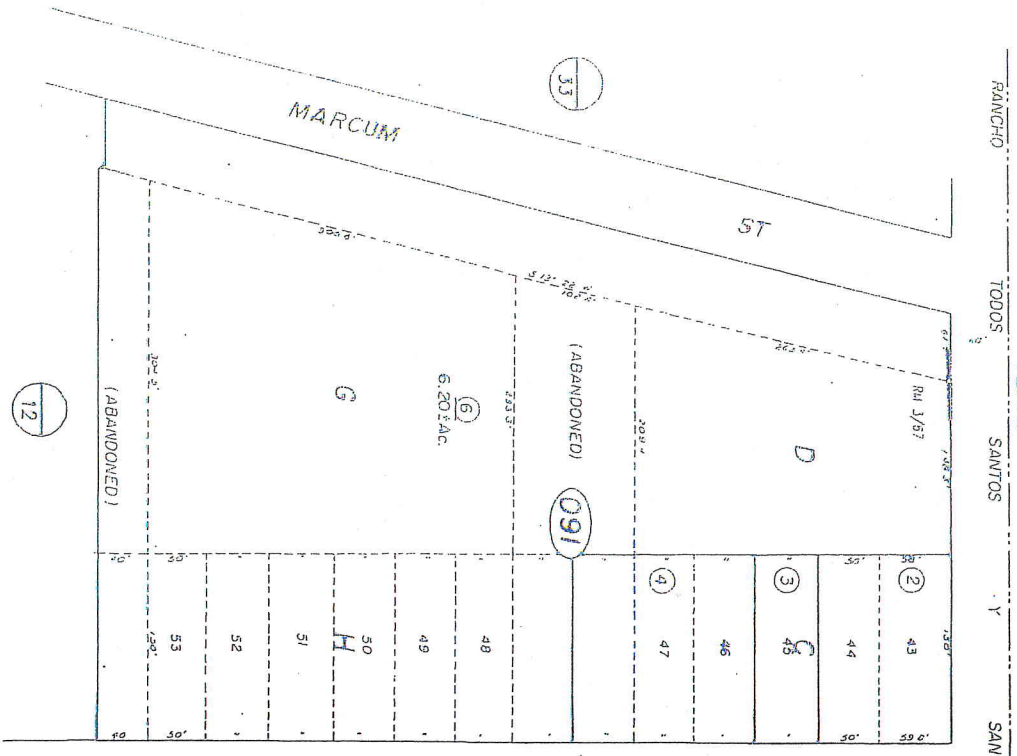
Michael B. Emmons
County Surveyor
P.L.S. 5899
Exp. 12/31/2012



9/15/11
Date: _____

02 CLARK 07 POR. RANCHO TODOS SANTOS Y SAN ANTONIO
 POR. N/2 SEC 15 T9N R34W SBB&M

105-09



09/21/1905 R.M. Bk. 3 , Pg. 83
 03/17/1905 R.M. Bk. 3 , Pg. 67

Tract "Gray's Division, Town of Orcutt"
 Tract "Town of Orcutt"



NOTICE
 Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

Assessor's Map Bk, 105-Pg, 09
 County of Santa Barbara, Calif.

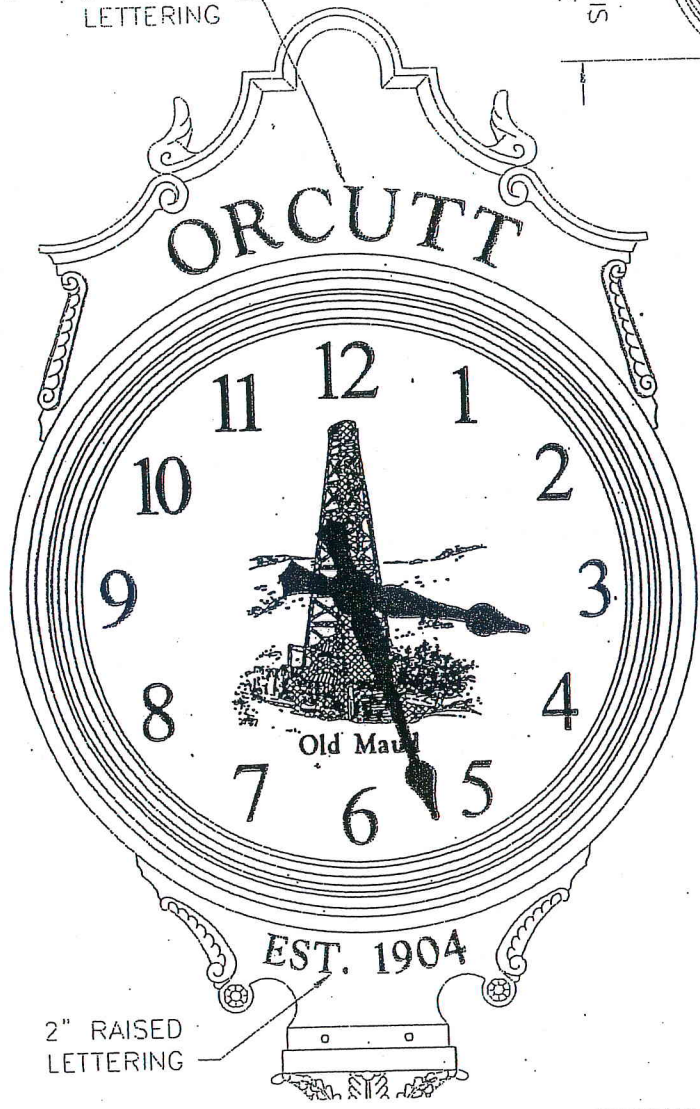
10/205 100' x 60' x 60' - 1.1 Area 13

EXHIBIT B

FACE: "T2A"
 HANDS: "WS"

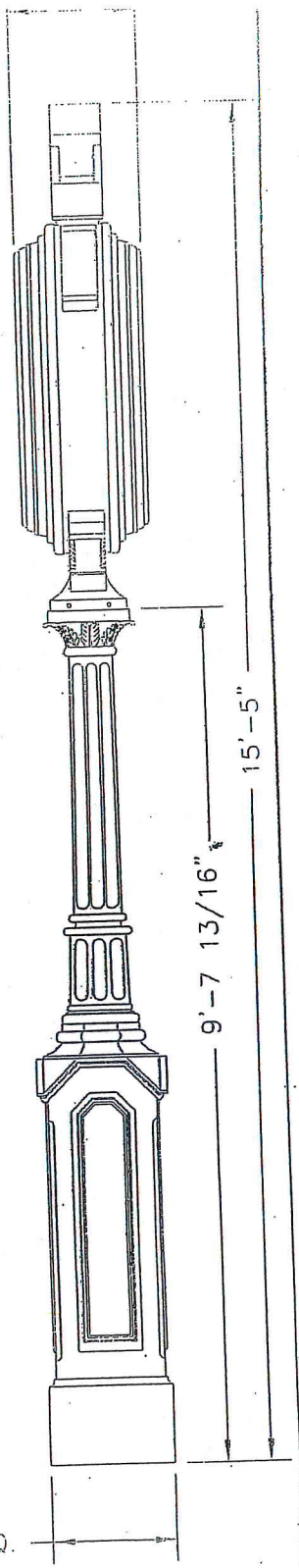
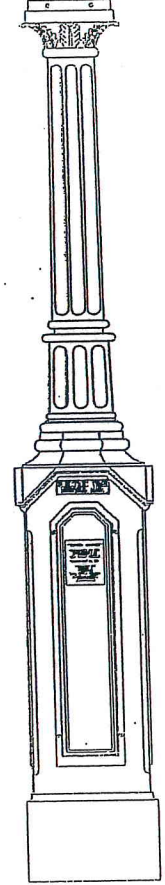
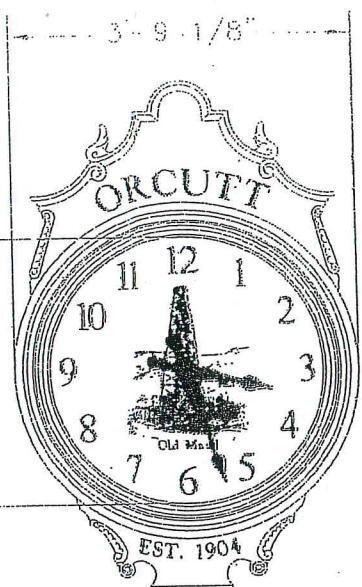
HEAD DETAIL
 SCALE: 1" = 1'

3 1/2" RAISED
 LETTERING



2" RAISED
 LETTERING

2'-11 3/4"
 SIGHT OPENING



VIEW	LASER	PATH	M:\ACAD10\A-11866.DWG			
DRAWING A-11866-01	REV	DATE	TITLE			
	1		Large 2 Dial Howard Post Clock			
	2		Old Town Orcutt - Option 2			
	3		SCALE	DATE	DRAWN	APP'V
	4		AS NOTED	11-20-08	WOR	TDE

POST CLOCK ELEV.
 SCALE: 1/2" = 1'

EXHIBIT C