
**REAL PROPERTY PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

HOUSING AUTHORITY OF THE CITY OF FRESNO, a body corporate and politic, ("Seller" or "Housing Authority"), and CITY OF FRESNO, a municipal corporation, ("Buyer"), enter into this Real Property Purchase and Sale Agreement and Joint Escrow Instructions (the "Agreement"), effective as of _____, 2016.

RECITALS

- A. The Seller owns certain real property located at Argyle & Tulare, APN 313-021-02T & 313-021-03T, Fresno, California, and more particularly described in Exhibit A, attached, (the "Property").
- B. The Buyer desires to purchase the Property on the terms and conditions set forth in this Agreement for development of a police substation and Bus Rapid Transit station.

AGREEMENT

- 1. **Purchase and Sale.** Seller will sell the Property to Buyer, and Buyer will purchase the Property from Seller on the terms and conditions set forth in this Agreement.
- 2. **Conditions Precedent.** Closing shall be conditioned upon performance of all of obligations in this Agreement and satisfaction of the conditions listed in Section 2.1, provided that Seller may, in Seller's sole discretion, elect to waive any such condition of Closing.
 - 2.1 **Environmental Assessment.** Buyer acknowledges that the Property is being sold in an "AS IS" condition and "WITH ALL FAULTS" as of the Closing Date, as defined in Section 5.5 below. The Seller's Phase I Report and Phase II Report, both as defined in Section 4 below have been provided to Buyer. Seller does not warranty the accuracy of the Seller's Phase I Report and the Phase II Report. Seller has also provided to Buyer any copies of environmental reports pertaining to the Property in Seller's possession without any warranty as to their accuracy.
- 3. **Purchase Price.** The purchase price for the Property is Five Hundred Thousand DOLLARS (\$500,000.00) ("Purchase Price"). The Purchase Price, subject to adjustments provided in this Agreement (if any), will be paid by Buyer in cash or by wire transfer of immediately available funds at the Closing.
- 4. **Seller's Warranties.** Seller represents and warrants that: (a) Seller owns the Property, free and clear of all liens, licenses, claims, encumbrances, easements, leases, encroachments on the Property from adjacent Property, encroachments from the Property onto adjacent Property, and any rights of way, other than those disclosed by the public record; (b) Seller has no knowledge of any pending litigation involving the Property; (c) Seller has no knowledge of any violations of,

or notices concerning defects or noncompliance with any code, statute, regulation, ordinance, judicial order, judicial holding, or other applicable law concerning the Property; (d) Seller has no knowledge of any Hazardous Materials or Substances other than those that may have been identified in the Phase 1 Phase I Environmental Site Assessment dated April 29, 2016 prepared by Krazan & Associates ("Seller's Phase 1 Report"), attached hereto as Exhibit "B" and incorporated herein by this reference or in the Phase II Limited Site Assessment dated June 16, 2016 prepared by Krazan & Associate's ("Phase II Report") stored, discharged, or otherwise present in, on, or affecting the Property; and (e) Seller has no knowledge of any material defects in the Property; (f) the Property is currently vacant. For the purposes of this Agreement, Hazardous Materials or Substances means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning the environmental condition of the Property. If any of the representations and warranties are not correct at the time made or as of the Closing, Buyer may terminate this Agreement and there shall be no further liability on the part of Buyer to Seller. Alternatively, Buyer may, at Buyer's option, proceed with the purchase provided that the parties agree that the Purchase Price may be reduced by the cost of remediation prior to the Buyer incurring any remediation expenses. Seller or any representative acting or purporting to act on behalf of Seller, has not made and each hereby disclaims any and all representations and warranties regarding the condition, environmental condition, zoning, the existence, quality, or quantity of any water or mineral rights or the condition, operability, merchantability or fitness for a particular purpose of any improvements, fixtures or personal property, the value, expense of operation or income potential of the property, the accuracy or completeness of any title, survey or other third party information provided by Seller to Buyer relative to the Property. BUYER EXPRESSLY ACCEPTS THE PROPERTY UPON BUYER'S OWN INSPECTIONS AND INVESTIGATIONS AND WAIVES ANY AND ALL RIGHTS AGAINST SELLER RELATED TO THE CONDITION OF THE PROPERTY. The Seller's Phase I Report and the Phase II Report are attached hereto as Exhibit B and incorporated herein by this reference.

5. **Opening Escrow/Escrow Deposit.** Within ten (10) business days after the execution of this Agreement by both parties, the parties will open an escrow ("Escrow") with Fidelity National Title Company at 8050 N. Palm Avenue Suite 110, Fresno California ("Title Company"), Attention: Bernadette Watson, and Buyer shall deposit into Escrow the sum of ten thousand DOLLARS (\$10,000.00) ("Deposit") to be placed in an interest bearing account.

- 5.1 **Agreement as Joint Escrow Instructions.** This Agreement, when signed by Buyer and Seller and deposited into escrow with the Title Company, will be the parties' joint escrow instructions. Buyer and Seller will sign and deliver any other form instructions the Title Company may

require that are consistent with this Agreement.

- 5.2 **Deposits into Escrow.** Buyer and Seller will deposit all instruments, documents, money, and other items into escrow with the Title Company that (i) this Agreement identifies or (ii) the Title Company may require that are consistent with the terms and purposes of this Agreement, and necessary to Closing.
- 5.3 **Title.** Seller will convey title of the Property to Buyer free and clear of all title defects, liens, encumbrances, conditions, covenants, restrictions, leases or agreements, except those agreed to in writing by Buyer.
- 5.4 **Title and Closing Costs.** Seller will pay any costs of clearing and conveying title in the condition described in Section 5.3. The parties shall each pay one half of the escrow fee; Seller shall provide Buyer with a CLTA policy of title insurance; recording fees (if any) shall be as customary in Fresno County; all other closing costs shall be paid by the City.
- 5.5 **Closing.** The escrow will be considered closed ("Closing" or "Close" or the "Closing Date") on the date that the Title Company records the grant deed. The escrow will be in a condition to Close when all conditions to Close are satisfied or waived by the Buyer and Seller, as the case may be, the Title Company is prepared to issue the title policy described herein, and the Title Company is otherwise able to record the grant deed. Unless extended by the mutual consent of the parties, the escrow and this Agreement shall terminate if Closing does not occur within sixty (60) days following final execution of this Agreement (including attestation by the Clerk) (the "Outside Closing Date"). Upon termination of the escrow, the Title Company will return all funds, including the Deposit, and documents to the respective depositor, less any termination fee if applicable, and this Agreement will be of no further effect except as herein provided.
- 5.6 **Recordation.** At Closing, Title Company shall date the grant deed, and all other undated documents in escrow, with the date of Closing, and the Title Company shall record the grant deed and all other documents necessary to the Closing.
- 5.7 **Disbursements.** At Closing, Title Company shall disburse the Purchase Price, less Seller's costs to clear title (placing it in the condition set forth in Section 5.3), prorations, and other costs, if any, to Seller..
6. **Delivery of Possession.** Seller shall deliver exclusive possession of the Property at Closing.
7. **Buyer's Right to Enter and Inspect the Property.** Buyer has entered, inspected, and conducted due diligence tests on the property that Buyer deemed advisable. Seller's Phase 1 and Phase 2 Reports are being provided to Buyer for the purposes of disclosure only and not for Buyer's reliance on the accuracy of the information contained therein.
8. **Miscellaneous Provisions.**

- 8.1 **Further Assurances.** Each party will sign and deliver further documents, or take any further actions required to complete the purchase and sale described herein.
- 8.2 **Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed delivered: (a) on the date of service if served personally on the person to receive the notice, (b) on the date deposited in the U.S. mail, if delivered by depositing the notice or communication in the U. S. mail, postage prepaid, and addressed to the relevant party at the address set forth below, or (c) on the date of transmission if delivered by facsimile, to the number provided below, that provides a transmission confirmation showing the date and time transmitted.

To Seller:

HOUSING AUTHORITY OF THE CITY OF FRESNO
Attention: Preston Prince, Executive Director / CEO
1331 Fulton Mall
Fresno, CA 93721

To Buyer:

CITY OF FRESNO
Attention: Bruce Rudd, City Manager
2600 Fresno Street
Fresno, California 93721

- 8.3 **Entire Agreement.** Each Exhibit referred to in this Agreement is by that reference incorporated into and made a part of this Agreement. This Agreement is the entire agreement between the parties regarding the purchase and sale of the Property, and supersedes all prior discussions, negotiations, commitments or understanding, written or oral.
- 8.4 **Amendment or Cancellation.** Buyer and Seller may amend or cancel this Agreement only by mutual written consent of the parties, unless otherwise expressly provided herein.
- 8.5 **Successors and Assigns.** This Agreement is binding upon and shall inure to the benefit of each party, and each party's heirs, successors, assigns, transferees, agents, employees or representatives. The Buyer may assign this agreement and its rights hereunder to an affiliated entity without the consent of Seller.
- 8.6 **Time of the Essence.** Time is of the essence of each term in this Agreement.
- 8.7 **Governing Law.** This Agreement and the legal relations between the parties shall be governed by and construed according to California law. Venue for the filing of any action to enforce or interpret this Agreement or any rights and duties hereunder shall be in Fresno, California.
- 8.8 **Waiver.** If Buyer or Seller waives a breach of any provision herein, the

waiver will not be a continuing waiver. The waiver will not constitute a waiver of any subsequent breach, or a waiver of a breach of any other provision hereof.

8.9 **Severability.** The provisions of this Agreement are severable. The invalidity or unenforceability of any provision in this Agreement will not affect the other provisions.

8.10 **Counterparts.** This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument. Facsimile or electronic copy signatures shall be deemed as valid and binding as original signatures.

IN WITNESS WHEREOF the Seller and Buyer have signed this Agreement on the dates set forth below.

BUYER:

CITY OF FRESNO,
a municipal corporation

By: _____
Bruce Rudd, City Manager

Dated: _____, 2016

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By _____
Deputy

Dated: _____, 2016

SELLER:

THE HOUSING AUTHORITY OF THE CITY
OF FRESNO, CA,
a public body corporate and politic

By:  _____
Preston Prince, Executive Director / CEO

Dated: _____, 2016

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By  _____
Laurie Avedisian-Favini, Assistant

Dated: 8/11, 2016

Attachments:

Exhibit A: Legal Description

Exhibit B: Phase I Environmental Site Assessment dated April 29, 2016 prepared by Krazan & Associates. & Phase II Limited Site Assessment dated June 16, 2016 prepared by Krazan & Associates.

LAF:ns [70485ns/laf]

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Fresno, County of FRESNO, State of California, described as follows:

PARCEL 1:

That portion of the Southwest quarter of Section 4, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, described as follows:

Commencing at the Southwest corner of said Section 4, Township 14 South, Range 21 East, Mount Diablo Base and Meridian; (1) thence North along the West line of said Section 4, 952.30 feet; (2) thence East 1809.7 feet to a point on the East line of that Parcel of land deeded by W.R. Gerard to George Nollenberger, recorded February 18, 1930, in Book 1059 page 325 of Official Records, which point is further described as being 1157.17 feet North of the centerline of Ventura Avenue; (3) thence Northerly and parallel with the West line of the Southwest quarter of Section 4, 825 feet to the true point of beginning. (4) thence Westerly along a line parallel with and 825 feet North, measured at right angles, from course 2 hereinabove described to a point on the centerline of Fancher Creek Canal; (5) thence Easterly and Northerly along the centerline of Fancher Creek Canal to a line parallel with and 330 feet South, measured at right angles from the North line of the Southwest quarter of said Section 4; (6) thence Easterly along last said parallel line to a point in a line parallel with and 1809.7 feet Easterly from the West line of said Section 4; (7) thence Southerly along last said parallel line to the true point of beginning.

PARCEL 2:

The North 330 feet of the South 825 feet of the East 360 feet of that portion of the Southwest quarter of Section 4; Township 14 South, Range 21 East, Mount Diablo Base and Meridian, according to the official plat thereof, described as follows:

Beginning at a point in the West line of said Section 4, which is 952.30 feet North of the Southwest corner thereof, thence East a distance of 1809.7 feet to a point on the East line of that piece or parcel of land deeded by W.R. Gerard to George Nollenberger, by deed recorded February 18, 1930 In Book 1059 page 325 of Official Records, which point is further described as being 1157.17 feet North of the center line of Ventura Avenue; thence Northerly parallel with the West line of the Southwest quarter of Section 4 to a point which is 330 feet South of the North line of said Southwest quarter of Section 4; thence Westerly parallel with the said North line and 330 feet South thereof to the center line of Fancher Creek Canal. thence Southwesterly and Westerly along the center line of Fancher Creek Canal to the West line of the Southwest quarter of said Section 4, thence Southerly along the said West line to the point of beginning.

APN: 313-021-02T, 03T

EXHIBIT "B"

PHASE I ENVIRONMENTAL ASSESSMENT DATED APRIL 29, 2016 PREPARED BY
KRAZAN & ASSOCIATES

PHASE II REPORT DATED JUNE 16, 2016 PREPARED BY KRAZAN & ASSOCIATES