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

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THE CITY OF FRESNO, a public body, corporate and politic (“Seller” or “City”), and PAVL ZACHARY (“Buyer”), enter into this Real Property Purchase and Sale Agreement and Joint Escrow Instructions (the “Agreement”), effective as of the date that the Buyer has executed it and the City has approved it.

**RECITALS**

- A. The Seller owns certain real property within the City of Fresno consisting of approximately 0.41 acres of land commonly known as 1929 E. Church Avenue (APN 478-262-03T), Fresno, California, and more particularly described in Exhibit A, attached, (the “Property”).
- B. The Buyer has agreed to purchase the entire parcel as-is.
- C. The Buyer desires to purchase the Property on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**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 below provided that Seller may, in Seller’s sole discretion, elect to waive any such condition of Closing.
  - 2.1 **Compliance with CEQA.** The Seller shall have complied with the California Environmental Quality Act with respect to this Agreement, as applicable.
  - 2.2 **Environmental Assessment.** The Property is being sold in an “As is” condition. The Buyer may perform a Phase 1 Environmental Site Assessment at Buyer’s cost. Seller shall provide Buyer with any copies of environmental reports pertaining to the Property in Seller’s possession, if any, without any warranty as to their accuracy.
- 3. **Purchase Price.** The purchase price for the Property is \$61,000 (“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. **Property to be transferred As-Is.** Buyer specifically acknowledges and agrees the Seller is transferring the Property on an “as is with all faults” basis. The transfer is not contingent upon Buyer obtaining any entitlements, and Buyer is not relying on any representations or warranties of any kind whatsoever, express or implied, from the Seller as to any matters concerning the Property, including, without limitation: (a) the quality, nature, adequacy and physical condition of the Property (including topography, climate, air, water rights, water, gas, electricity, utility services, grading, drainage, sewers, access to public roads and related conditions); (b) the quality, nature, adequacy, and physical condition of soils, geology and groundwater; (c) the existence, quality, nature, adequacy, and physical condition of utilities serving the Property; (d) the development potential of the Property, and the Property’s use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose; (e) the zoning or other legal status of the Property or any other public or private restrictions on the use of the Property; (f) the compliance of the Property or their operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person, or entity; (g) the presence or absence of hazardous materials on, under or about the Property; and (h) the condition of title to the Property. Buyer affirms that it has not relied on the skill or judgment of the Seller or any of its respective agents, employees or contractors to select or furnish the Property for any particular purpose, and that the Seller makes no warranty that the Property is fit for any particular purpose. Buyer acknowledges it shall use its independent judgment and make its own determination as to the scope and breadth of its due diligence investigation which it shall make relative to the Property and shall rely upon its own investigation of the physical, environmental, economic and legal condition of the Property.
5. **Opening Escrow/Escrow Deposit.** Within three business days after the execution of this Agreement by both parties, the parties will open an escrow (“Escrow”) with Fidelity National Title Company at 7475 North Palm Avenue, Suite 101, Fresno, CA 93711 (“Title Company”), Attention: Bernadette Watson.
  - 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. Buyer has provided or will provide a deposit of \$2,000 to Title Company. Within fifteen days after the agreement is executed, Buyer will deposit the balance of the Purchase Price and Seller will deposit, or will conditionally deliver to Buyer, a recordable grant deed duly executed and acknowledged before a notary public, and accompanied by documentation reasonably necessary to establish

the authority of any signatory executing such deed on behalf of Seller.

- 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, if any.
  - 5.4 **Title and Closing Costs.** Seller will pay any costs of clearing and conveying title in the condition described in Section 5.3. Buyer will pay the cost of a CLTA or ALTA owner's title policy insuring Buyer's title in the condition described in Section 5.3. Escrow fees, costs to record the grant deed, etc., shall be split equally between Buyer and Seller.
  - 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 condition to Close when all conditions to Close are satisfied or waived, 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 thirty 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 and documents to the respective depositor, including deposit if Seller defaults under section 8.16, and this Agreement will be of no further effect except as herein provided. If Buyer defaults under section 8.17 deposit is nonrefundable, 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, performance deed of trust and all other documents necessary to the Closing.
  - 5.7 **Disbursements.** At Closing, Title Company shall disburse the Purchase Price, less prorations, and other costs, if any, to Seller, when Title Company is committed to issue a standard CLTA or ALTA owner's title insurance policy to Buyer insuring its fee title in the condition set forth in Section 5.3, above, for the Purchase Price or such lesser amount as Buyer may designate.
  - 5.8 **Risk of loss.** Any loss or damage, to the Property or any improvements on it, before Closing is at Seller's risk.
  - 5.9 **Broker.** The Seller shall pay a brokerage commission equal to six percent (6%) of the gross sales price to Cushman & Wakefield/ Pacific who represents the Seller, at Close of Escrow. Seller/Buyer shall mutually indemnify the other from any claims for commissions or fees arising from dealing with any other broker or agent other than Cushman & Wakefield/Pacific.
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 shall have the right to enter, inspect, and conduct any due diligence tests on the property that Buyer deems advisable. Seller grants Buyer, and/or Buyer's agents, the right, upon 24 hours notice, to enter onto the Property to conduct tests and investigations, if all the following occur: (a) Buyer conducts tests and investigations at its sole cost and expense; (b) the tests and investigations do not unreasonably interfere with Seller's possession.

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, (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, or (d) on the date of transmission if delivered electronically via email and showing the date and time transmitted.

**To Seller:**  
THE CITY OF FRESNO  
Attention: City Manager  
2600 Fresno Street  
Fresno, CA 93721

**To Buyer:**  
PAVL ZACHARY  
998A 17TH AVE  
SANTA CRUZ, CA 95062

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 without the consent of Seller.

- 8.6 **Time of the Essence.** Time is of the essence of each term in this Agreement.
- 8.7 **Attorneys' Fees.** If any party to this Agreement or the Title Company begins any action, proceeding, or arbitration arising out of this Agreement, then as between Buyer and Seller, the prevailing party shall be entitled to receive from the other party, besides any other relief that may be granted, its reasonable attorneys' fees, costs, and expenses incurred in the action, proceeding, or arbitration.
- 8.8 **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.
- 8.9 **Headings.** The section headings in this Agreement are for convenience only. The headings are not part of this Agreement and shall not be used to construe it.
- 8.10 **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.
- 8.11 **Severability.** The provisions of this Agreement are severable. The invalidity or unenforceability of any provision in this Agreement will not affect the other provisions.
- 8.12 **Interpretation.** This Agreement is the result of the combined efforts of the parties. If any provision of this Agreement is found ambiguous, the ambiguity will not be resolved by construing this Agreement in favor or against any party, but by construing the terms according to their generally accepted meaning.
- 8.13 **Precedence of documents.** If any conflict exists between the body of this Agreement and any Exhibit or Attachment to it, the provisions of the body of this Agreement will control and take precedence over the Exhibit or Attachment.
- 8.14 **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.
- 8.15 **Survival.** All representations and warranties, indemnifications, and other provisions which, by their nature are intended to continue, shall survive Closing and delivery of the grant deed.

8.16 **Seller's Default and Buyer's Remedies.** If the sale of the Property is not consummated due to Seller's material default hereunder that is not cured within five business days of Notice from Buyer of Default, then Buyer shall have the right, to elect, as its sole and exclusive remedy, to either (a) terminate this Agreement by written notice to Seller, promptly after which the Deposit shall be returned to Buyer, (b) waive the default and proceed to close the transaction contemplated herein. Notwithstanding anything to the contrary contained herein, Seller shall not be deemed in default unless and until Buyer provides Seller with written notice of such default and Seller fails to cure such default within five business days of its receipt of such written notice.

8.17 **Buyer's Default and Seller's Remedies.** If the sale of the Property is not consummated due to Buyer's material default, then Seller shall have the right, to elect, as its sole and exclusive remedy, to terminate this Agreement by written notice to Buyer, after which the Deposit shall be forfeited.

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

BUYER:

SELLER:

THE CITY OF FRESNO, a municipal corporation

By:   
Paul Zachary

By: \_\_\_\_\_  
Wilma Quan-Schecter, City Manager

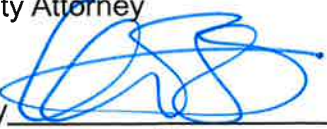
Dated: NOV 2, 2017

Dated: \_\_\_\_\_, 20\_\_

ATTEST:  
YVONNE SPENCE, CMC  
City Clerk

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By \_\_\_\_\_  
Deputy

By   
Deputy

Dated: \_\_\_\_\_, 20\_\_

Dated: 11/2, 2017

**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Lot 13 and lot 14, and the west 42.92 feet of Lot 12 of Richards Tract, recorded in Volume 13 of Plats at Page 59, Fresno County Records.

Containing an area of 0.41 acres, more or less.

APN: APN 478-262-03T