

0.24+/- Acres of Land at 125 N. Diana Street, Fresno CA

1. The real property which is the subject of this Agreement, and which is hereinafter for convenience referred to as the Offered Parcel, is all that real property situated in the City of Fresno, County of Fresno, State of California, described as: Assessor's Parcel Number 459-333-21T, more particularly described as: 125 N. Diana Street in Fresno, California and consisting of approximately 10,625 square feet in vacant land and as set forth in Exhibit A.

4. City shall be released from any obligation to sell the Offered Parcel to Buyer and may retain \$3,200 as liquidated damages if the Buyer: (a) does not deposit balance of the purchase price into escrow as provided in Paragraph 2 of this Agreement, or (b) if Buyer defaults in the performance of this Agreement.

5. Buyer and City hereby agree and confirm as follows: This transaction is subject to approval by the FRESNO CITY COUNCIL (Council). The Offered Parcel is sold "as is," subject to any encumbrances of record. There are no current taxes on the Offered Parcel because the City is exempt from property taxes. Buyer shall be responsible for property taxes levied against the Offered Parcel after title is conveyed to the Buyer. There will be a third-party escrow in this transaction at Fidelity National Title Company at 7475 North Palm Avenue, Suite 101, Fresno, CA 93711, (559) 431-8050. Bernadette Watson will be the escrow officer. A CLTA policy of title insurance will be provided to Buyer at City's expense. The Buyer shall pay all recording fees and documentary transfer tax for this transaction and Buyer and City will each pay one-half of the escrow fees.

6. This document has been read by each of the parties, and the contents are known and understood by each of the parties. All prior discussions, negotiations, commitments, or understandings are hereby superseded by this Purchase and Sale Agreement.

7. This Agreement may be amended or cancelled only by the written and mutual consent of the parties, and the approval of the Council. This Agreement is binding upon, and shall inure to the benefit of all parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees or representatives. Time is of the essence of each and every term, condition, and covenant contained within this Agreement.

8. Buyer releases and hereby agrees to indemnify City from any and all claims Buyer or any other party may have against the City, of whatever kind or nature, resulting from or in any way connected with, the environmental condition of the property, including any and all claims Buyer may have against the City under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) or any other federal, state or local law, whether statutory or common law, ordinance or regulation, pertaining to the release of hazardous substances into the environment from or at the Offered Parcel. Buyer expressly waives the benefits of Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release, which, if known by him, must have materially affected settlement with the debtor."

Buyer's obligations under this indemnity and release shall survive the recordation of the Deed.

9. It is understood and agreed that this Agreement is contingent upon approval by Council; this Agreement shall become a binding contract for the Purchase and Sale of Offered Parcel upon Buyer and City, their heirs, executors, administrators, successors in interest, and assigns.

10. Buyer will be responsible for all work and expenses associated with the use and development of the Offered Parcel. Buyer will be responsible for preparing any and all applications, plans, entitlement requests, permits and inspection fees.

11. This transaction shall be completed through an escrow to be opened at Fidelity National Title Company (Escrow Holder) as provided in the above Paragraph 5 with the following terms and conditions:

- a. Buyer shall deposit closing costs with Fidelity title prior to the close of escrow.

- b. Payment of funds, less City's cost to clear title, if any, may be made to City only when escrow holder possesses and is in a position to deliver to the Buyer a fully executed and acknowledged and recorded Grant Deed for the Offered Parcel and when said Escrow Holder stands ready to issue to Buyer a standard CLTA policy of title insurance.
- c. Buyer will be responsible for all property taxes and assessments upon the close of escrow and recording of the Grant Deed.
- d. Buyer will complete and sign a Preliminary Change of Ownership form in to escrow.

12. Miscellaneous Provisions:

- a. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provision of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
- b. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement any rights and duties hereunder shall be in Fresno, California.
- c. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.
- d. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability or any one provision in this Agreement shall not affect the other provisions.
- e. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against any party, but rather by construing the terms in accordance with their generally accepted meaning.
- f. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant

or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

- g. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment.
- h. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
- i. Exhibits and Attachments. Each Exhibit and Attachment referenced herein is by such reference incorporated into and made a part of this Agreement for all purposes.
- j. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both the City and the Seller.

[SIGNATURE PAGE TO FOLLOW]

This agreement is executed by the City of Fresno and through the City Manager's Office, or designee of said City, pursuant to authority granted by the Council of the City of Fresno on _____.

RECOMMENDED FOR APPROVAL:

By: _____
Jennifer K. Clark, Director of Development Resource Management Department

Date: _____

BUYER:
Community Hospitals of Central
California, dba Community Medical
Centers (CMC)

By: _____
Joseph M. Nowicki
Chief Financial Officer

Date: 8/1/17

CITY OF FRESNO:
City Manager's Office

By: _____
Wilma Quan-Schechter,
City Manager

Date: _____

ADDRESS OF BUYER:
Community Medical Centers
789 Medical Center Drive East
Clovis, CA 93611

ADDRESS OF SELLER:
City of Fresno, Development and Resource Management Department
2600 Fresno Street, Room 3065
Fresno, CA 93721-3623

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: _____
Deputy _____ Date _____

ATTEST:
Yvonne Spence, CMC
City Clerk

By: _____

Deputy

Date

EXHIBIT "A"
Legal Description

APN# 459-333-21T

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

PARCEL 1:

Lot 14 and the North one-third of Lot 15 of Subdivision of Lot 3 of Block 1 of Villa Homestead Tract, according to the map thereof recorded in Book 1 Page 11 of Plats, Fresno County Records.

PARCEL 2:

The South one-half of Lot 12 and Lot 13 of Resubdivision of Lot 3 Block 1 of Villa Homestead Tract according to the map thereof recorded in Book 1, Page 11 of Plats, Fresno County Records