

**AGREEMENT FOR PURCHASE AND SALE OF PROPERTY
AND ESCROW INSTRUCTIONS
Clinton and Armstrong Widening project
PW00721**

Christopher Scott Schulte (Seller) without regard to number or gender, hereby offers to sell to the CITY OF FRESNO, a municipal corporation, (City) the hereinafter described property being purchased for a street easement on the following terms and conditions:

1. The real property which is the subject of this Agreement is presently held by Seller in fee simple title and is a portion of a parcel of land situated in the City of Fresno, County of Fresno, State of California, identified as Assessor's Parcel Number 310-041-07. The portion of the real property, the "subject property," to be acquired by the City pursuant to this Agreement as a permanent easement consists of 8,238 square feet and is depicted on Exhibit "A" & "B" attached to this Agreement and made part of this Agreement. Seller is selling and providing the easement as to only that portion of the real property and parcel identified in Exhibits "A" & "B".
2. The purchase price for the subject property/easement shall be the sum of NINETY THOUSAND-ONE HUNDRED DOLLARS (\$90,100.00) as just compensation therefor,
3. Seller acknowledges that the City has the power to acquire the subject property for public purposes by eminent domain. If title does not pass to the City within the time provided by this Agreement as a result of the Seller's default or Seller's failure to perform the Seller's obligation to sell in accordance with this Agreement, the City may begin eminent domain proceedings to acquire such possession or title. In the event of Seller's default and failure to perform, the parties agree and stipulate that the net sum payable to Seller hereunder shall be conclusively deemed to be the total just compensation payable in such proceedings, and this Agreement may be filed with the court as stipulation upon which judgment may be entered in the eminent domain proceeding as to the just compensation to be paid to Seller. Seller waives all other defenses in said proceeding.
4. It is agreed and confirmed by the City and the Seller that notwithstanding other provisions in this Agreement, the right of possession and use of the subject property by the City, including the right to remove and dispose of improvements within the subject property shall commence on the close of escrow for consummating the City's purchase.

5. Seller represents and warrants that Seller has the authority to make the offer herein made, and that Seller holds fee title to said real property and can convey the subject property free and clear of monetary liens or monetary encumbrances, except real property taxes and assessments not delinquent. Prior to close of escrow the City shall obtain at City's cost and review a title report and in the event the City does not approve the condition of title, the City may by written notice to Seller elect to cancel the escrow and its obligation to purchase. Seller makes no warranty or representation as to the condition of title except as expressly set forth herein.

6. The sale shall be completed through an escrow with First American Title Company, 4750 Willow Road, Suite 100, Pleasanton, CA 94588. Michelle Chan will be handling the escrow, No. 0131-622356ala, phone number (925)201-6625. Said escrow shall be opened upon the following terms and conditions, and the Seller and City by their signature to this Agreement make this paragraph their escrow instructions:
 - a. The City shall deposit the sums specified in Paragraphs 2 of this Agreement and the closing costs in escrow upon receipt of a demand and statement from said title company therefore.

 - b. Payment of said sums, less Seller's cost to clear title, if any, shall and may be made to Seller only when escrow holder possesses and is in a position to deliver to the City a fully executed and acknowledged and recordable grant deed to the subject property (for the easement to be granted) and when said escrow holder stands ready to issue to the City a standard title insurance policy guaranteeing a title to the subject property (easement) in the City free and clear of all liens, encumbrances, and restrictions of record, except for those reflected in the title report provided by First American.

 - c. It is understood that Seller shall be responsible for the payment of all real property taxes, penalties, redemptions, and costs allocable to the subject property prior to close of escrow. It is further Seller's responsibility to apply to the County Tax Collector for any refund or decrease in taxes which may be granted as a result of the City's acquisition of the easement or subject property.

 - d. The escrow fee, cost of policy of title insurance, recording fees, (if any), and all other closing costs shall be paid by the City. Seller will pay only any cost to clear any monetary lien or encumbrance (other than real property taxes and

assessments, not delinquent) to convey the title to the subject property in the condition described in 5 above.

- e. Disbursements of the purchase price to Seller to be in the amounts, at the times, and in all respects in accordance with the terms and conditions and subject to the limitations of this Agreement.

7. Miscellaneous Provisions:

- a. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute 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 the waiver is 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.
8. It is understood and agreed that as a condition precedent to the purchase and sale, this Agreement must be approved by the Council for the City of Fresno. This Agreement is to remain open for one hundred and twenty (120 days) from the date signed by Seller, and upon its duly authorized approval by the City Council and execution within said time by the City, this Agreement shall become a contract for the purchase and sale of subject property binding upon Seller and City, their heirs, executors, administrators, successors in interest, and assigns. If not approved by the City Council and the escrow provided for closed within such one-hundred twenty (120) days, Seller may by written notice to City and escrow holder at anytime thereafter, cancel and terminate the escrow and Seller shall then have no further obligation to sell the subject property and this Agreement, including any agreement or stipulation for use of this Agreement for acquisition of the subject property by eminent domain or otherwise, shall be of no further effect.

This Agreement is executed by the City of Fresno by and through the Assistant Public Works Director or his designee of said City pursuant to authority granted by the Council of the City of Fresno on _____.

SELLER:

RECOMMENDED FOR APPROVAL:

By: Cathy Rodriguez
Cathy Rodriguez
Senior Real Estate Agent

Date: 7/30/18

By: _____
Craig L. Hansen
Supervising Real Estate Agent

Date: _____

SELLER'S SIGNATURE:

By: CS
Christopher Scott Schulte

Date: 7/18/18

Address of Seller:
6366 E. Clinton Avenue
Fresno, CA 93727

CITY OF FRESNO

By: _____
Scott Mozier, Director
Department of Public Works

Date: _____

Address of City:
City of Fresno
Public Works Department
2600 Fresno Street, Room4019
Fresno, CA 93721-3623

APPROVED AS TO FORM:

DOUGLAS T. SLOAN, City Attorney

By: Stacy Parvaman
Deputy

ATTEST:

YVONNE SPENCE, MMC, City Clerk

By: _____
Deputy

APN: 310-041-07

EXHIBIT "A"

APN: 310-041-07 (portion)
Street Easement

LEGAL DESCRIPTION

The North 10.00 feet of the South 30.00 feet of the South half of the Southeast quarter of the Northwest quarter of Section 27, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California.

EXCEPTING THEREFROM the East 502.33 feet thereof.

Containing 8,238 square feet, more or less.



1-05-17

2011-003
15-A-8205
T-5501

NORTH ARMSTRONG AVENUE

EXHIBIT "B"

PARCEL B OF LOT LINE ADJUSTMENT No. 2007-53, RECORDED ON FEBRUARY 15, 2008 AS DOCUMENT No. 2008-0023200, OFFICIAL RECORDS OF FRESNO COUNTY.

THE WEST LINE OF THE EAST 502.33 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN.

823.5' +/-

823.5' +/-

PREVIOUSLY DEDICATED WITH MAP OF THE SUBDIVISION OF SECTION 27, T. 13 S., R. 21 E., RECORDED IN VOLUME 5 OF PLATS AT PAGE 14, FRESNO COUNTY RECORDS.

AVENUE

CLINTON

EAST

THE INTERSECTION OF THE SOUTH LINE OF LOT 6 OF THE SUBDIVISION OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN, RECORDED IN VOLUME 5 OF PLATS AT PAGE 14, FRESNO COUNTY RECORDS, AND THE WEST LINE OF THE EAST 502.33 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27.



INDICATES AREA TO BE DEEDED TO THE CITY OF FRESNO AS AN EASEMENT FOR PUBLIC STREET PURPOSES.

* INDICATES PREVIOUSLY DEDICATED FOR PUBLIC ROAD PURPOSES WITH MAP OF THE SUBDIVISION OF SECTION 27, T. 13 S., R. 21 E., RECORDED IN VOLUME 5 OF PLATS AT PAGE 14, FRESNO COUNTY RECORDS, AND ACCEPTED AS PUBLIC HIGHWAY BY COUNTY OF FRESNO RESOLUTION RECORDED IN VOLUME 29 MISCELLANEOUS PAGE 9, FRESNO COUNTY RECORDS.

AREA: 8,238 SQUARE FEET, +/-

OWNER: TERENCE MILLER AND JAMIE M. FLYNN

APNs: 310-041-07



SCALE: 1" = 30'



1-05-17

TRACT No. 6033 RECORDED IN VOLUME 84 OF PLATS AT PAGES 78 & 77, FRESNO COUNTY RECORDS.

Ref. & Rev.
2011-003
Plat No: 2268
T - 5501

CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS

Proj. ID: -
Fund No.: -
Org. No.: -

PORTION OF PARCEL 2 OF PARCEL MAP No. 1329 RECORDED IN BOOK 6 OF PARCEL MAPS AT PAGE 95, FRESNO COUNTY RECORDS, TO BE DEEDED TO THE CITY OF FRESNO AS AN EASEMENT FOR PUBLIC STREET PURPOSES.

Dr. By: GMR
Ck. By:
Date: April 12, 2016
Scale: 1" = 30'

SHEET NO. 1
OF 1 SHEETS
15-A-8205

Jan. 5, 2017
14-005 / 5341