

**AGREEMENT FOR PURCHASE AND SALE OF REAL
PROPERTY AND ESCROW INSTRUCTIONS**
APNs: 510-326-32T and 510-326-33T
4170 and 4176 North Brix Avenue
Fresno, CA

This Agreement for Purchase and Sale of Real Property (this "Agreement") is entered into by and between MDS PROPERTIES, LTD, a California corporation (the "Buyer") and the CITY OF FRESNO, a California municipal corporation (the "Seller" or "City") (collectively referred to as the "Parties").

RECITALS

- A. The City owns fee title to that certain real property known as Assessor's Parcel Numbers ("APN") 510-326-32T and 510-326-33T (the "Subject Property"), more particularly described in Exhibit "A," Legal Description, attached hereto and incorporated herein by reference.
- B. The Buyer has agreed to purchase the Subject Property in its current condition ("as-is") for the purpose of redeveloping the existing structure into a multi-unit affordable housing development.
- C. The City now wishes to sell the property to the Buyer and the Buyer now wishes to purchase the Subject Property on the terms and conditions contained herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective Parties, it is mutually agreed as follows:

- 1. **Subject Property.** The Subject Property is identified by the Fresno County Assessor as APNs 510-326-32T and 510-326-33T and is commonly referred to as 4170 and 4176 North Brix Avenue, in the City of Fresno, County of Fresno, State of California. The combined area is approximately 0.18 acres (7,840 square feet) and is improved with a single structure that spans both parcels, situated at the corner of North Brix Avenue and West Swift Avenue.
- 2. **Fee Title.** The Seller shall grant the Subject Property to the Buyer in fee, free and clear of all liens, encumbrances, and restrictions of record.
- 3. **Purchase Price.** The Buyer shall pay the Seller **ONE HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$175,000.00)** (the "Purchase Price") for the Subject Property.
- 4. **Buyer Credit.** The Seller shall credit the Buyer an amount equal to three percent (3%) of the Purchase Price upon the close of escrow. This credit is a seller concession and shall not be construed as a commission or compensation to any broker or agent.

5. **Effective Date.** The Effective date of this Agreement shall be upon its duly authorized execution by the City.
6. **Right to Sell.** The Seller represents and warrants that it holds fee title to the Subject Property, that such property is free of all liens and encumbrances, and that it has the authority to enter into this Agreement.
7. **Escrow Instructions.** The sale shall be completed through an external escrow to be opened at Fidelity National Title Company (the "Escrow Holder") (Attn: Valerie Budzik, Escrow Officer). Said escrow shall be opened upon the following terms and conditions, and the Seller and the Buyer by their signature to this Agreement agree upon the following terms and joint escrow instructions to the Escrow Holder:
 - a. **Deposits.** The Buyer shall deposit the sums specified in Paragraph 3 of this Agreement, along with the applicable the closing costs, into escrow upon receipt of a demand and statement from the title company as follows:
 - i. **Initial Deposit.** Within five days of the Effective Date, the Buyer shall deposit with the Escrow Holder the sum of SEVENTEEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$17,500.00) (the "Initial Deposit"), which shall be considered non-refundable except in the event of the Seller's breach upon expiration of the feasibility period (more particularly defined in Section b below). The Initial Deposit shall be applied to the Purchase Price at the close of escrow (more particularly defined in Section f below).
 - ii. **Balance of Purchase Price.** The Buyer shall pay the balance of the Purchase Price, less the Initial Deposit to the Seller, in good funds through escrow, not later than the close of business on the day before the close of escrow. The Escrow Holder will forward to both the Buyer and the Seller a separate accounting of all funds received and disbursed for each Party, and copies of all signed and recorded documents deposited into escrow, with the recording and filing date and information endorsed thereon.
 - b. **Feasibility Period.** The Buyer shall have the right to examine the feasibility of the Subject Property for a period of 30 days after the Parties have executed this Agreement (the "Feasibility Period").
 - i. **Access.** The Buyer shall have the right to access the Subject Property at all times following execution of this Agreement by the Parties, for the purpose of conducting all studies, inspections, evaluations, tests, or surveys of the Subject Property that the Buyer elects to have performed, upon reasonable notice to the Seller. The Buyer agrees to indemnify and hold the Seller free and harmless from any and all liability, loss, cost, damage, or expense that the Buyer may sustain or incur by reason of or in connection with such entry, studies, inspections, evaluations, tests, or surveys conducted by the

Buyer during the Feasibility Period. The Buyer agrees not to conduct any removal of underground tanks prior to the close of escrow.

- ii. **Expiration of Feasibility Period.** If the Buyer has not given notice of termination and cancellation on or before the expiration of the Feasibility Period, the Initial Deposit shall be non-refundable and released and paid to the Seller by the Escrow Holder on the next business day immediately following the expiration of the Feasibility Period without need for further instructions, notice, or demand from either Party.
- iii. **Termination and Cancellation of Agreement.** If the Buyer, in its sole and absolute discretion, decides to terminate and cancel this Agreement by timely delivery of a termination and cancellation notice on or before expiration of the Feasibility Period, then the entire Initial Deposit, and any accrued interest thereon, shall be immediately refunded to the Buyer by the Escrow Holder without the need for further instruction, notice, or demand from either Party.
- c. **Financial Liabilities.** It is understood that the Buyer shall be responsible for the payment of all taxes, penalties, redemptions, and costs allocable to the Subject Property.
- d. **Costs.** The Parties shall each pay one half of the escrow fee; the Seller shall provide the 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 Buyer; the Buyer will pay any cost to convey the title to the Subject Property.
- e. **Disbursement.** Disbursements of the Purchase Price shall 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.
- f. **Close of Escrow.** The close of escrow for the purchase and sale of the Subject Property shall occur no later than 20 days from the expiration of the Feasibility Period (the "Close of Escrow"). The following conditions of sale must be met prior to Close of Escrow:
 - i. The Buyer's approval of contents of the preliminary title report and exceptions,
 - ii. No pending litigation against Subject Property and no notices of violation of law,
 - iii. The Buyer's approval of physical inspection of the Subject Property,
 - iv. Approval of this Agreement by the City Council of the City of Fresno prior to execution by the City,
 - v. The Escrow Holder is in possession of a good and sufficient grant deed, duly executed by the Seller,

- vi. The Escrow Holder is in possession of a duly executed Affordable Housing Covenant in the form attached hereto as Exhibit "B."
8. **Possession.** Sole and exclusive possession of the Subject Property shall be delivered to the Buyer on the closing date, free of all claims from the Seller or any third persons under leases or otherwise.
9. **Condition and Inspection of Subject Property.** Notwithstanding any other provision of this Agreement to the contrary, the Seller has not expressly or impliedly made any representations, guaranties, promises, statements, assurances, or warranties of any kind concerning the Subject Property. The Seller has not conducted any investigation regarding the condition of the Subject Property, and the Subject Property is sold as-is, where-is, with all faults, and there is no warranty, express or implied regarding the condition of the Subject Property. The Buyer hereby represents and warrants that the Buyer is relying solely upon, and as of the expiration of the Feasibility Period will have conducted its own independent inspection, investigation, and analysis of the Subject Property as it deems necessary or appropriate in so acquiring the Subject Property from the Seller.
10. **Affordable Housing Covenant.** The sample covenant/restriction attached herein as Exhibit "B" shall be used to record the affordability covenant required under Surplus Land Act pursuant to Government Code Sections 54233 and 54233.5.
11. **Reverter Right.** The Parties acknowledge and agree that a material part of the consideration for the Seller's agreeing to sell the Property on the terms and conditions set forth herein is that the Buyer will proceed to develop the Property and construct a multi-unit affordable housing development ("Development"); provided, however, that the Reverter Right described below shall be the Seller's sole, exclusive recourse or remedy in the event the Buyer elects not to develop the Property for the stated purpose, and nothing in this Agreement shall be construed to require the Buyer to develop the Property in any particular way or at all, or allow the Seller to pursue any action for damages or specific performance in connection with the transactions contemplated by this Agreement. In order to ensure that the Seller and the citizens of Fresno receive the benefit of such development, the Seller shall have the right (the "Reverter Right") to require the Buyer to reconvey to the Seller the Property in accordance with the provisions of this paragraph. The Reverter Right shall be incorporated into the Grant Deed for the Property and the conveyance of the Property shall be specifically subject to the Reverter Right. The Reverter Right shall be subject to the following terms and conditions:
 - a. Following the Closing, the Seller and the Buyer intend that the Buyer shall develop and construct on the Property a multi-unit affordable housing development. Construction of the Development to commence within 12 months of the transfer of title to the Buyer (the "Construction

Commencement Deadline"), all development and construction activity relating thereto to be completed within 36 months of the transfer of title to the Buyer (the "Completion Deadline"), as evidenced by a Certificate of Occupancy or the issuance by the project architect of a Certificate of Substantial Completion. Notwithstanding the foregoing, the Construction Commencement Deadline and the Completion Deadline, respectively, shall be extended to the extent that the Buyer's failure to meet such deadlines is due to war, insurrection, strike, walk-out, riot, flood, earthquake, declared state of emergency, the discovery and remediation of hazardous waste or significant geologic, hydrologic, archaeologic or palaeontologic problems on the Property, fires, casualties, acts of God, shortages of labor or material, governmental restrictions, enactment of conflicting state or federal statutes or regulations, judicial decisions, litigation not commenced by a Party to this Agreement claiming the enforced delay, or any other basis for excused performance which is not within the reasonable control of the Buyer (each, a "Force Majeure Event"), provided that (i) the extension of time shall continue only so long as the buyer is working in good faith to eliminate or resolve such Force Majeure Event and undertaking such actions as may be reasonably necessary for that purpose. Notice must be provided by the Buyer to the Seller within a reasonable time of the cause of any such delay.

- b. In the event that the Buyer:
 - i. Fails to commence construction of the Development on or before Construction Commencement Deadline; or
 - ii. Fails to complete development and construction of the Development on or before Completion Deadline, then in any such event, the Seller may exercise the Reverter Right by delivering written notice thereof to the Buyer in the manner set forth below. The Reverter Right will terminate if the Seller has not delivered written notice of its exercise thereof to the Buyer on or before the date that is five (5) years following the Closing Date.
- c. In the event that the Seller is entitled to and desires to exercise the Reverter Right, the Seller shall deliver to the Buyer a notice (the "Reverter Notice") stating the Seller's intent to exercise the Reverter Right. Upon receipt of a valid Reverter Notice, the Buyer shall proceed with reasonable diligence to reconvey the Property to the Seller for a purchase price of \$175,000, subject to the following terms and conditions:
 - i. The Buyer shall pay all costs of title, escrow, transfers taxes and any other similar charges in connection with such reconveyance.

12. **Notices.** All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the Parties in the manner set forth below, and shall

be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending Party obtains a signature of a person at such address that the notice has been received); (b) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (c) one (1) business day after the notice has been deposited with either Golden State Overnight, FedEx or United Parcel Service to be delivered by overnight delivery (provided that, the sending Party receives a confirmation of actual delivery from the courier). The addresses of the Parties to receive notices are as follows:

TO SELLER: CITY OF FRESNO
Attention: City Manager
2600 Fresno Street
Fresno, CA 93721
Telephone: (559) 621-8000

TO BUYER: MDS Properties LTD
4785 East McKinley Avenue
Fresno, CA 93703
Telephone: (559) 207-1717

TO ESCROW HOLDER: Fidelity National Title Company
7475 N. Palm Avenue, Suite 107
Fresno, CA 93711
Attention: Valerie Budzik
Telephone: (559) 431-8050

Each Party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this Section, and that any person to be given notice receives such notice. If any notice is refused, the notice shall be deemed to have been delivered upon such refusal. Any notice delivered after 5:00 p.m. (recipient's time) or on a non-business day shall be deemed delivered on the next business day. A Party may change or supplement the addresses given above, or designate additional addressees, for purposes of this Section by delivering to the other Party written notice in the manner set forth above.

13. **Compliance Title VI.** The Parties to this Agreement shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT-Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21

and 28 C.F.R. Section 50.3.

14. **Non-Discrimination.** No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this Agreement.

15. **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 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.
- k. **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 Buyer and the Seller.
- l. **Counterpart.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts of this Agreement may be exchanged by email or electronic facsimile and any email or electronic facsimile exchange of a Party's signature shall be deemed to be an original signature for all purposes.

[SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the Parties have executed this Agreement at Fresno, California, on the Effective date of this Agreement as defined above.

CITY OF FRESNO,
A California municipal corporation

MDS PROPERTIES, LTD, a California corporation

By: _____
Georgeanne A. White
City Manager

By: Kao Xiong
Name: KAO XIONG

RECOMMENDED FOR APPROVAL:

Title: VICE PRESIDENT
(If corporation or LLC., Board Chair, Pres. or Vice Pres.)

By: Nancy Bruno 10.14.2025
Nancy Bruno Date
Right of Way Manager

By: Sao Chau
Name: Sao Chau

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

Title: CFO
(If corporation or LLC., CFO, Treasurer, Secretary or Assistant Secretary)

By: Angela M. Karst 12/01/25
Angela M. Karst Date
Senior Deputy City Attorney

ATTEST:
AMY K. ALLER
Interim City Clerk

By: _____
Date
Deputy

- Attachments:
- 1. Exhibit A - Legal Description
 - 2. Exhibit B- Affordable Housing Covenant

EXHIBIT "A"

APN 447-326-32T and 33T
Grant Deed

Lot 124 and Lot 125 of Tract No. 3439, Trend Homes No. 10, according to the map thereof recorded in Volume 39 of Plats, at Pages 80 and 81, Fresno County Records, lying in the Southeast quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California.



2025-207
PLAT:1845
CP00012

Recording Requested By:

Public Works Department
City of Fresno
2600 Fresno Street
Fresno, CA. 93721-3623
ATTN: Right-of-way Section

No Fee-Gov't Code Sections
6103 and 27383

Documentary Transfer Tax: \$0.00
City Transfer Tax: _____ (City of Fresno)
Exemption (R&T Code): 11922
Explanation: Conveyance to a
Government Agency

Signature of Declarant determining tax

"B"

APN: 510-326-32T
510-326-33T

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**AFFORDABLE HOUSING COVENANT
EXHIBIT "B"**

THIS AFFORDABLE HOUSING COVENANT ("Covenant") is made and entered into this _____, by and between the CITY OF FRESNO, a municipal corporation ("City") and MDS PROPERTIES, LTD, a California corporation ("Buyer") and all successors and assigns, in accordance with the purchase of real property more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property") in accordance with the California Surplus Land Act. (Government Code Sections 54220, et seq.)

RECITALS:

WHEREAS, If ten (10) or more residential units are developed on the Property, not less than 15 percent of the total number of residential units developed on the property shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the California Health and Safety Code, or affordable rent, as defined in Section 50053 of the California Health and Safety Code, to lower income households, as defined in Section 50079.5 of the California Health and Safety Code. Rental units shall remain affordable to and occupied by lower income households for a period of 55 years for rental housing and 45 years for ownership housing. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of 65915 of the California Government Code. These requirements shall be covenants or restrictions running with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor-in-interest who continues the violation by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5 of the California Government Code.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the Effective Date of this Agreement as defined above.

CITY OF FRESNO,
A California municipal corporation

MDS PROPERTIES, LTD, a California
corporation

By: _____
Georgeanne A. White
City Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Date
Deputy City Attorney

By: _____
Name: _____
Title: _____

ATTEST:
TODD STERMER, MMC
City Clerk

By: _____
Date
Deputy

Attachment: Exhibit "A"

EXHIBIT "B"

EXHIBIT "A"

APN 447-326-32T and 33T
Grant Deed

Lot 124 and Lot 125 of Tract No. 3439, Trend Homes No. 10, according to the map thereof recorded in Volume 39 of Plats, at Pages 80 and 81, Fresno County Records, lying in the Southeast quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California.



EXHIBIT "B"

2025-207
PLAT:1845
CP00012