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

THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body, corporate and politic (“Seller” or “Successor Agency”), and Cara Mathews, Trustee of the Samuel P. Mathews and Cara L. Mathews Living Trust, (“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 Agency Board has approved it.

RECITALS

- A. The former Redevelopment Agency was responsible for implementing the redevelopment plan (the “Plan”) governing the land area identified as the Central City Commercial Redevelopment Plan Area (the “Project Area”), in accordance with the California Community Redevelopment Law (Health and Safety Code Sections 33000, *et. seq.*; hereafter the “CRL”). The Plan and the CRL authorize the Agency to purchase property for redevelopment purposes.
- B. On January 26, 2012, the City Council adopted Resolution No. 2012-12 electing to serve as the Successor Agency to the Redevelopment Agency of the City of Fresno (“Successor Agency”). Pursuant to Health & Safety Code Section 34181(a) the Oversight Board (“Oversight Board”) shall direct the Successor Agency to dispose of certain Property purchased by the former redevelopment agency with tax increment funds expeditiously and in a manner aimed at maximizing value.
- C. The Seller owns certain real property within the Project Area, and the City of Fresno commonly known as APNs 452-301-25T, 452-301-26T, 452-301-27T & 452-301-30T, Fresno, California, and more particularly described in Exhibit A, attached, (the “Property”).
- D. Buyer operates an adjacent business in need of room for business expansion and parking. The Property will provide the business with desired room for business expansion and parking. The Buyer has agreed to purchase the property for fair market value at the purchase price set forth herein.
- E. The sale of the Property is contingent upon the approval of the Property Management Plan by the Successor Agency, Oversight Board and Department of Finance.

- F. The Buyer desires to purchase the Property on the terms and conditions set forth in this Agreement.

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. Sale of these Property is subject to compliance with Community Redevelopment Law of the State (California Health and Safety code Sections 33000 *et seq*),
- 2 **Conditions Precedent.** Closing shall be conditioned upon performance of all of obligations in this Agreement and satisfaction of the conditions listed in Sections 2.1, 2.2, and 2.3, provided that Seller may, in Seller's sole discretion, elect to waive any such condition of Closing.
 - 2.1 **Compliance with CEQA.** The applicable lead agency shall have complied with the California Environmental Quality Act with respect to this Agreement, as applicable. The Project has been environmentally assessed and has been determined to be eligible for a Categorical Exemption under Section 15332 Class 32 of the California Environmental Quality Act (CEQA).
 - 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 without any warranty as to their accuracy.
 - 2.3 Approval of this Agreement and the Property Management Plan by Successor Agency, Oversight Board, and Department of Finance.
3. **Purchase Price.** The purchase price for the Property is ONE HUNDRED AND SEVENTY-FOUR THOUSAND DOLLARS (\$174,000.00) ("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 (as now or hereafter defined in any law, regulation, or rule) stored, discharged, or otherwise present in, on, or affecting the Property; (e) Seller has no knowledge of any material defects in the Property; (f) the Property is currently vacant.

Seller's authority to sell the property may be subject to approval of the Oversight Board of the Successor Agency and/or the California State Department of Finance and subject to the timelines set forth in California Health and Safety Code section(s) 34170-34191.

The continued accuracy in all respects of Seller's representations and warranties shall be a condition precedent to Buyer's obligation to close. All representations and warranties contained in this Agreement shall be deemed remade as of the date of Closing and shall survive the Closing. 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.

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 7475 N. Palm Ave. Suite 101, Fresno California ("Title Company"), Attention: Bernadette Watson, and Buyer shall deposit into Escrow the sum of EIGHT THOUSAND SEVEN HUNDRED DOLLARS (\$8,700.00) ("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. Within thirty (30) days after the Oversight Board and the Successor Agency Board approve this Agreement, Seller will deposit into the escrow with Title Company, 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.

- 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 one hundred and eighty (180) days following final execution of this Agreement (including attestation by the Clerk) (the "Outside Closing Date"). Seller's Executive Director is authorized to agree to administratively extend this Agreement as necessary to accommodate satisfaction of conditions precedent. 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. Notwithstanding the foregoing, Buyer shall have the right to extend the Outside Closing Date for up to two (2) extension periods of forty-five days each by providing written notice to the Seller along with making an additional deposit of \$2,500.00 for each extension, such additional deposits to be applicable to the Purchase Price but refundable only in the event of a Seller Default.
- 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 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, 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.** Neither party engaged a broker for this transaction.

- 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 **Damage, Destruction, Condemnation.** If the improvements on the Property are destroyed or materially damaged or if condemnation proceedings are commenced against the Property between the date of this Agreement and the Closing, Buyer may terminate this Agreement. If Buyer, however, elects to accept the Property, all proceeds of insurance or condemnation awards payable to Seller by reason of the destruction, damage, or condemnation shall be paid or assigned to Buyer; Seller shall also pay to Buyer the amount of any deductible and coinsurance under any policy. In the event of nonmaterial damage to the Property, which damage Seller is unwilling to repair prior to Closing, Buyer shall have the right either to terminate this Agreement or accept the Property in its then existing condition, in which case Buyer shall be entitled to a reduction in the Purchase Price to the extent of the cost of repairing the damage. If Buyer elects to terminate this Agreement pursuant to this Section, escrow shall terminate and neither party shall have any further duties or responsibilities under this Agreement.
- 9 **Miscellaneous Provisions.**
- 9.1 **Further Assurances.** Each party will sign and deliver further documents, or take any further actions required to complete the purchase and sale described herein.
- 9.2 **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:

SUCCESSOR AGENCY TO THE REDEVELOPMENT
AGENCY OF THE CITY OF FRESNO, a public body
corporate and politic

Attention: Executive Director
2344 Tulare Street, Suite 200
Fresno, CA 93721
Phone No.: 559.621-7600
Fax No.: 559.498.1870

To Buyer:

Mathews Harley-Davidson, Inc.
Attn: Melissa Walters, President
Cara Mathews, Vice-President
555 N. Abby Street
Fresno, CA 93701
Phone No.:559.233.5279

- 9.3 **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.
- 9.4 **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.
- 9.5 **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.
- 9.6 **Time of the Essence.** Time is of the essence of each term in this Agreement.
- 9.7 **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.

- 9.8 **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.
- 9.9 **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.
- 9.10 **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.
- 9.11 **Severability.** The provisions of this Agreement are severable. The invalidity or unenforceability of any provision in this Agreement will not affect the other provisions.
- 9.12 **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.
- 9.13 **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.
- 9.14 **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.
- 9.15 **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.
- 9.16 **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 (5) 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 (5) business days of its receipt of such written notice.

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

BUYER:

SELLER:

Samuel P. Mathews and Cara L. Mathews
Living Trust

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY
OF FRESNO, a public body corporate and politic

By: _____
Cara L. Mathews, Trustee

By: _____
Marlene Murphey, Executive Director

Dated: _____, 2014

Dated: _____, 2014

The Successor Agency to the Redevelopment Agency of the City of Fresno has signed this Agreement pursuant to authority granted on _____, 2014

ATTEST:
YVONNE SPENCE, CMC
Ex-officio Clerk

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
Ex-officio Attorney

By _____
Deputy

By _____
Deputy

Dated: _____, 2014

Dated: _____, 2014

Attachments:

Exhibit A: Legal Description

EXHIBIT "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION

EXHIBIT "A"

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

PARCEL 1A:

The East 50 feet of the West 100 feet of Lots 19, 20, 21, 22, 23 and 24 in Block 25 of Belmont Addition, as per map recorded in Book 1, Page 39 of Plats, Fresno County Records.

Together with that portion of the South half of the alley lying adjacent to the East 50 feet of the West 100 feet of said Lot 19, as vacated and abandoned by Order of the Council of the City of Fresno, Resolution No. 80-603, a certified copy thereof having been recorded November 6, 1980 in Book 7618 of Official Records, Page 496, Fresno County Records, Document No. 108247, which would pass by operation of law.

Excepting from that portion of the Easterly 50 feet of the Westerly 100 feet of Lot 24 in Block 25 of Belmont Addition to the City of Fresno, described as follows:

Beginning at the Southwest corner of said Easterly 50 feet of said Westerly 100 feet; thence Easterly along the Southerly line of said Lot, 50 feet; thence Northerly along the Easterly line of said Westerly 100 feet of said Lot, 2.74 feet; thence Northwesterly to a point on the Westerly line of said Easterly 50 feet of said Westerly 100 feet, 5.49 feet Northerly of the point of beginning; thence Southerly along said Westerly line 5.49 feet to the point of beginning.

PARCEL 1B:

That portion of the East 1/3 of Lots 21, 22, 23 and 24 in Block 25 of Belmont Addition to the City of Fresno, as per map recorded October 17, 1887 in Book 1 of Plats at Page 39, Fresno County Records, described as follows:

Beginning at the Southwest corner of the East 1/3 of said Lot 24, said Southwest corner bears North 89°47'27" East, 100.00 feet from the Southwest corner of said Lot 24;

Thence (1), along the South line of said Lot 24, North 89°47'27" East, 1.12 feet;

Thence (2), North 3°11'08" East, 90.20 feet to the North line of the South 15 feet of said Lot 21;

Thence (3), along said North line, South 89°48'04" West, 5.96 feet to the West line of the East 1/3 of said Lot 21;

Thence (4), along the West line of the East 1/3 of said Lots 21, 22, 23 and 24, South 0°06'45" West, 90.04 feet to the point of beginning.

PARCEL 1C:

The East 50 feet of Lots 19 and 20 and the East 50 feet of the North 10 feet of Lot 21 in Block 25, of Belmont Addition, as per map recorded October 17, 1887, Book 1, Page 39, of Plats, Fresno County Records.

Excepting therefrom that portion lying Easterly of the following described line:

Beginning at a point in the North line of said Lot 19, said point bears South 89°48'28" West, 40.82 feet, from the Northeast corner of said Lot; thence South 3°11'08" West, 60.13 feet, to a point in the South line of the North 10 feet of said Lot 21, said point bears South 89°48'04" West, 44.04 feet, from the Southeast corner of the North 10 feet of said Lot.

Together with that portion of the South half of the alley lying adjacent to that portion of said Lot 19 described above, as vacated and abandoned by Order of the Council of the City of Fresno, Resolution No. 80-603, a certified copy thereof having been recorded November 6, 1980 in Book 7618 of Official Records, Page 496, Fresno County Records, Document No. 108247, which would pass by operation of law.

PARCEL 2:

That portion of Lots 17 and 18 in Block 25 of Belmont Addition to the City of Fresno, per map recorded October 17, 1887, in Book 1 of Plats at Page 39, Fresno County Records and that portion of the abandoned alley adjoining said Lot 18 on the South, described as follows:

Beginning at the intersection of the centerline of the alley adjoining Lot 18 on the South with the Southerly prolongation of the Westerly line of said Lot 18;

Thence (1), along said Southerly prolongation and said Westerly line, North 0°29'02" East, 36.09 feet;

Thence (2), South 89°32'55" East, 111.12 feet to the Westerly line of the land described in the deed to the State of California, recorded July 27, 1954, in Book 3474 at Page 509, Fresno County Official Records;

Thence (3), along last said Westerly line and its Southerly prolongation, South 3°35'14" West, 35.68 feet to said centerline;

Thence (4), along said centerline, North 89°47'10" West, 109.19 feet to the point of beginning.

Except that portion of the underlying fee of the alley adjoining said Lot 17 on the West appurtenant to the above described property, lying Northerly of the Westerly prolongation of the above Course (2).

PARCEL 3:

That portion of Lots 5 and 6 in Block 25 of Belmont Addition to the City of Fresno, as per map recorded October 17, 1887, in Book 1 of Plats at Page 39, Fresno County Records and that portion of the abandoned alley adjoining said Lot 6 on the South, described as follows:

Beginning at the intersection of the centerline of the alley adjoining Lot 6 of the South with the Southerly prolongation of the East line of the West 8 feet of Lot 6;

Thence (1), along said Southerly prolongation and the East line of the West 8 feet of said Lots 5 and 6, North 0°27'13" East, 36.75 feet;

Thence (2), South 89°32'55" East, 141.59 feet to the East line of said Lot 5;

Thence (3), along last said East line, the East line of said Lot 6 and its Southerly prolongation, South 0°29'02" West, 36.16 feet to said centerline;

Thence (4), along said centerline, North 89°47'10" West, 141.57 feet to the point of beginning.

Together with the underlying fee of that portion of the alley adjoining said Lots 5 and 6 on the East appurtenant to said Lots 5 and 6, lying between the Easterly prolongations of the above described Courses (2) and (4).

PARCEL 4:

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

THE WEST 50 FEET OF LOTS 19 TO 24, INCLUSIVE IN BLOCK 25 OF BELMONT ADDITION TO THE CITY OF FRESNO, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGES 39 OF PLATS, FRESNO COUNTY RECORDS, TOGETHER WITH THE SOUTH 1/2 OF THAT CERTAIN ALLEY LYING ADJACENT TO THE NORTHERLY BOUNDARY LINE OF SAID LAND, ABANDONED BY THAT CERTAIN ORDER VACATING ALLEYS AND STREET, A RESOLUTION OF WHICH RECORDED NOVEMBER 6, 1980 AS DOCUMENT NO. 108247 OF OFFICIAL RECORDS.

EXCEPT FROM SAID LOT 24 THE FOLLOWING DESCRIBED PORTION:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF BELMONT AVENUE, AS SHOWN AND DESIGNATED ON SAID MAP, WITH THE EASTERLY LINE OF THE ALLEY RUNNING NORTH AND SOUTH THROUGH SAID BLOCK; THENCE EASTERLY, ALONG SAID NORTHERLY LINE OF BELMONT AVENUE 50 FEET; THENCE AT RIGHT ANGLES NORTHERLY, ALONG THE EASTERLY LINE OF THE WEST 50 FEET OF SAID LOT 24, 5.49 FEET; THENCE NORTHWESTERLY TO A POINT ON THE EASTERLY LINE OF SAID ALLEY, BEING ALSO THE WESTERLY LINE OF SAID LOT 24, 8.23 FEET NORTHERLY FROM THE POINT OF BEGINNING; THENCE SOUTHERLY ALONG SAID EASTERLY LINE OF SAID ALLEY, 8.23 FEET TO THE POINT OF BEGINNING.

APN: 452-301-26 (Parcels 1A 1B 1C), 452-301-25 (Parcel 2), 452-301-30 (Parcel 3), 452-301-27 (Parcel 4)

SUBDIVIDED LAND IN POR. SEC. 34, T.13S., R.20E., M.D.B.&M.

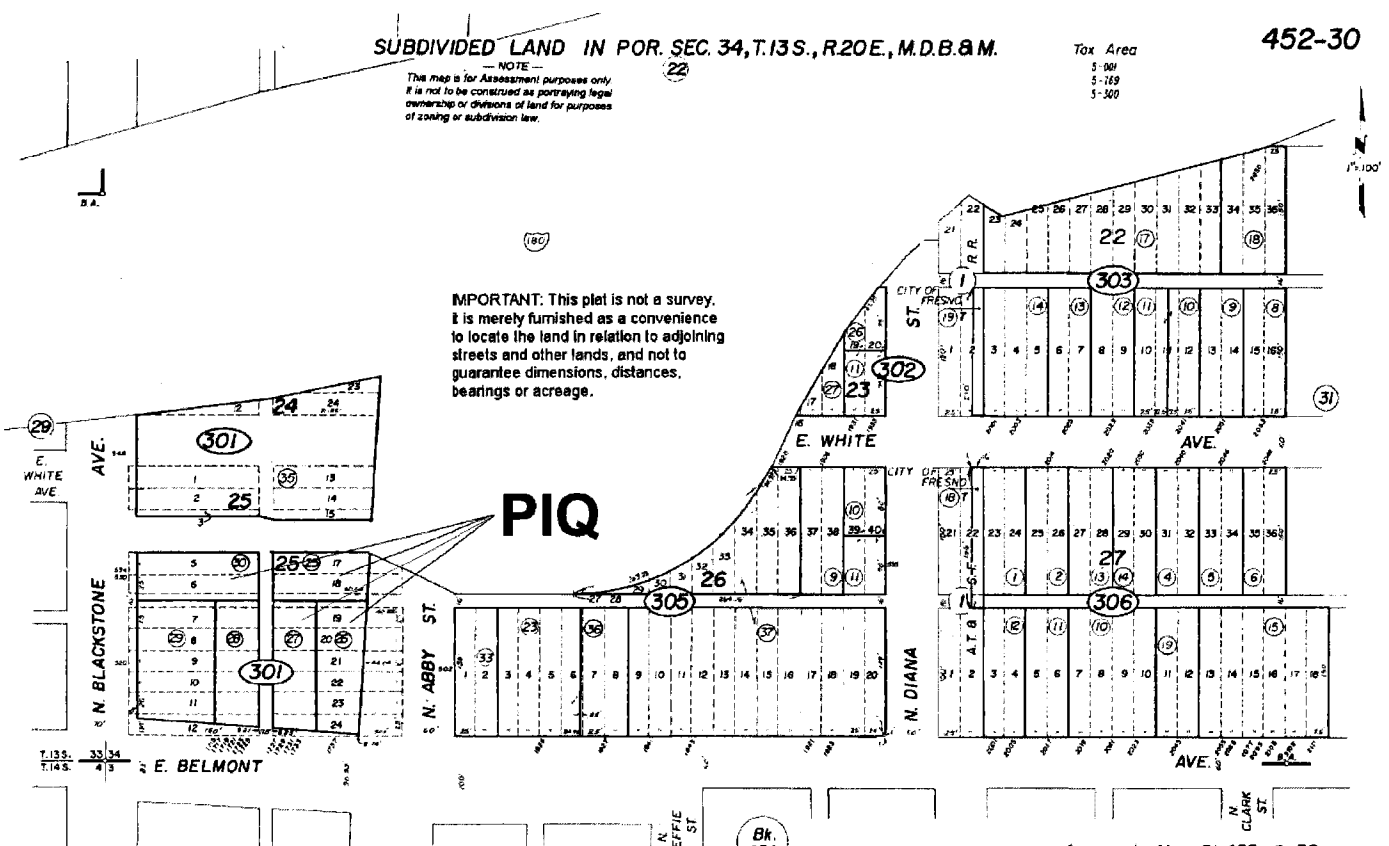
Tax Area
5-001
5-189
5-500

452-30

— NOTE —
This map is for Assessment purposes only.
It is not to be construed as portraying legal
ownership or divisions of land for purposes
of zoning or subdivision law.

IMPORTANT: This plat is not a survey.
It is merely furnished as a convenience
to locate the land in relation to adjoining
streets and other lands, and not to
guarantee dimensions, distances,
bearings or acreage.

PIQ



Belmont Addition - Plat Bk.1, Pg. 39

Bk. 459

Assessor's Map Bk.452 - Pg.30
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles