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

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

RECITALS

- A. City owns fee title to that certain real property located in Fresno, California described in Exhibit-A attached hereto (the “Property”).
- B. The Buyer has agreed to purchase the Property 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 in Sections 2.1 and 2.2, provided that Seller may, in Seller’s sole discretion, elect to waive any such condition of Closing.
 - 2.1 **Environmental Assessment.** The Property is being sold in an “As Is” condition. 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.
 - 2.2 **Grant Deed:** Seller’s deposit of a Grant Deed in escrow prior to closing.
- 3. **Purchase Price.** The purchase price for the Property is TWENTY TWO THOUSAND

DOLLARS (\$22,000) (“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. **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.

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 two business (2) business days after the execution of this Agreement by both parties, the parties will open an escrow (“Escrow”) with Commonwealth Land Title Company, 888 S. Figueroa Street, Ste. 2100, Los Angeles, California 90017 (“Title Company”), Attention: Chery Greer, and Buyer shall deposit into Escrow the sum of FIVE THOUSAND DOLLARS (\$5,000.00) (“Deposit”) to be placed in an interest bearing account. Such deposit is refundable if this agreement is not approved by State Department of Finance.

- 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 five (5) days after the execution of 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 thirty (30) days following final execution of this Agreement (the "Outside Closing Date"). 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 to December 31, 2016 by providing written notice to the Seller along with making an additional deposit of \$1,000.00, 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 **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. **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
Phone No.: 559.621-7784
Fax No.: (559) 621-7776

To Buyer:

APEC INTERNATIONAL, LLC
Attn: Eugene Kim, President
770 South Irolo Street, Ste. 1000
Los Angeles, CA 90005
Phone No.: 213.738.7389
Fax No.: (213) 384-3847

- 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.

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

BUYER:

APEC INTERNATIONAL, LLC., a
California Limited Liability Company

By: _____
Eugene Kim, President

Dated: _____, 2015

SELLER:

CITY OF FRESNO, a public body corporate and
politic

By: _____
Bruce Rudd, City Manager

Dated: _____, 2015

The City of Fresno has signed this Agreement pursuant to authority granted on _____,
2016.

ATTEST:
YVONNE SPENCE, CMC
Ex-officio Clerk

By _____
Deputy

Dated: _____, 2015

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

By _____
Deputy

Dated: _____, 2015

Attachments:

Exhibit A: Legal Description

EXHIBIT-A

LEGAL DESCRIPTION

Portions of Lots 30 to 32, inclusive, in Block 63 of the Town (now City) of Fresno, according to the map thereof recorded June 8, 1876, in Book 1, Page 2 of Plats, Fresno County Records in the City of Fresno, County of Fresno, State of California and more described as follows:

Commencing at the West corner of said Lot 32, being also the west corner of said Block 63; thence North 48°20'00" East, 7.75 feet, along the Northwesterly line of said Lot 32, to the intersection with the Westerly prolongation of a Northerly line of Parcel D as described in Deed of Easement recorded June 29, 1981, in Book 7745, Pages 797 to 804, Official Records of Fresno County, being the TRUE POINT OF BEGINNING; thence North 48°20'00" East, along the Northwesterly line of said Lot 32, a distance of 142.25 feet to the North corner of said Lot 32; thence South 41°40'00" East, along the Northeasterly line of said Lot 32, a distance of 14.91 feet; thence South 11°38'00" West, across said Lots 32 to 30, inclusive, a distance of 90.26 feet to the intersection with said Northerly line of said Parcel "D"; thence North 87°05'28 West, along the said Northwesterly prolongation of the Northerly line of said Parcel "D", a distance of 98.10 feet to the TRUE POINT OF BEGINNING.

Contains an area of 5,436 square feet, more or less.