

August 17, 2015

City of Fresno
Bruce Rudd, City Manager
2600 Fresno Street, 3rd Floor
Fresno, CA 93721

Re: Extension – Right of Entry Permit, Fresno Veteran’s Home

Dear Mr. Rudd:

On June 18, 2009, a Right of Entry Permit was entered into by and between, the State of California acting by and through the Department of General Services, and the City of Fresno with the approval of the California Department of Veterans Affairs to enter upon the Fresno Veteran’s Home, located at 2811 West California Avenue, Fresno, CA 93706 for a term of three years with an option to renew for five years until December 31, 2018.

The State agrees to allow continued entry upon said premises and is hereby giving written notice, pursuant to Provision 4. of the June 18, 2009 Right of Entry Permit, to extend said Right of Entry Permit to December 31, 2018, under the same terms and conditions as contained in said Right of Entry Permit. A copy of said Right of Entry Permit is attached for your reference.

If this Extension of Right of Entry letter for the Fresno Veterans Home, as set forth above, is satisfactory to you, please indicate your acceptance by signing the acceptance signature block herein below and on the three attached copies. Please return three fully signed Extension copies to this office to my attention.

Sincerely,

Michael P. Butler, Chief
DGS - Real Property Services Section

ACCEPTED
City of Fresno,
By: _____

Bruce Rudd, City Manager

APPROVED AS TO FORM:

By: 
for Douglas Sloan, City Attorney

CONSENTED
California Department of Veteran’s Affairs,

By: _____
David R. Gerard, Chief, Facilities and Business Services Division

cc: Andre Arnold, Project Director, DGS

RIGHT OF ENTRY PERMIT

STORM WATER CONTROL MEASURES

Agency: Department of Veterans Affairs

Project: Fresno New Home Veterans Site

File: TR08 041-G ABMS 118643

This RIGHT OF ENTRY PERMIT is made and entered into this _____ day of _____, 2009, between the STATE OF CALIFORNIA, acting by and through its Director of the Department of General Services, with the approval of the California Department of Veterans Affairs, hereinafter called STATE, and the CITY OF FRESNO, its officers, employees, agents and contractors, hereinafter called CITY.

STATE hereby gives permission to CITY to enter upon that real property located within the STATE'S land located at the southeast corner of South Marks Avenue and West California Avenue, City of Fresno, County of Fresno, APN 477-021-22T, as shown on the attached Exhibit A and as described in the attached Exhibit B, for the purposes of maintaining the retention pond, to be located at the southwest corner of the said property, in addition to maintenance of the storm water and pipes.

The City's obligations in this agreement related to a temporary flood control basin and future obligations to connect permanent flood facilities to the Site are interpreted by State representatives to meet the City's obligations pursuant to Section 3 of the August 30, 2005 Agreement for Conveyance and Acceptance of Real Property for flood control and drainage facilities.

This Right of Entry is subject to the following terms and conditions:

1. This Right of Entry is subject to existing contracts, leases, licenses, encumbrances and claims which may affect said property.
2. CITY waives all claim against STATE, its officers, agents and employees, for loss or damage caused by, arising out of, or in any way connected with the exercise of this Right of Entry, and CITY agrees to protect, save harmless, indemnify, and defend STATE, its officers, agents and employees from any and all loss, damage or liability including, without limitation all legal fees, expert witness or consultant fees and expenses related to the response to, settlement of, or defense of any claims or liability which may be suffered or incurred by STATE, its officers, agents and employees caused by, arising out of, or in any way connected with exercise by CITY of the rights hereby granted, except those arising out of the sole negligence of STATE.
3. STATE reserves the right to use said real property in any manner, provided such use does not unreasonably interfere with CITY'S rights herein.
4. This Right of Entry shall be for three years from the start of construction on January 1, 2010, with an option to renew for five years until December 31, 2018
5. CITY shall furnish to STATE at the time of execution of this Right of Entry a certificate of Insurance, with STATE'S issued to the State of California, Department of Veterans Affairs, with the amount of Commercial General Liability being at least ONE MILLION DOLLARS (\$1,000,000) per occurrence, and naming the STATE as an additional insured. Said certificate of insurance shall be in effect for full term of this Right of Entry and shall be issued by an insurance company which is acceptable with the Department of General Services, Office of Risk and Insurance Management or be provided through partial or total self-insurance acceptable to DGS. It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the insurance coverage required by this provision. Permittee agrees that the insurance herein provided for shall be in effect at all times during the term of this Right of Entry.
6. CITY agrees to conform to the following requirements:
 - a. Prior to any entry upon said land for any of the purposes hereinabove set forth, CITY shall notify STATE by written or oral notice to the authorities in charge of the new Fresno Veterans Home.

RIGHT OF ENTRY PERMIT
STORMWATER CONTROL MEASURES

Agency: Department of Veterans Affairs

Project: Fresno New Home Veterans Site

File: TR08 041-G

7. For the above consideration, the following apply:

a. CITY agrees to pay all costs of the construction and installation of curbs, gutters, paving, and sidewalks along West California Avenue in front of the proposed Veterans Home Site and any necessary transition paving. In addition, CITY will install an Asbestos/Concrete (AC) dike along the eastern edge of South Marks Avenue to direct storm water southward to the temporary basin.

b. The Contractor to the STATE is to pay a fee of \$150,000 to the CITY of design of the street improvement project at West California Avenue.

c. CITY agrees to install the proposed street improvement plans within 6 months of the estimated completion and operation of the Veterans Home, whenever that maybe.

d. STATE agrees to pay all costs of the construction and installation of the on-site underground storm drain pipes, the 5-acre retention pond of approximately 10 feet in depth, and the security fence with gate within the above referenced property.

e. CITY is responsible for the maintenance of the retention pond, and storm runoff from the storm drains located in the streets, to include, but not limited to, pumping of excess water. In addition, the CITY will clear the storm lines on-site as necessary to prevent backup of storm water.

f. STATE to control natural drainage on site. Commencement point for natural gravity and flow of storm water shall be at the northeast corner of the property.

g. Upon installation of the City of Fresno's proposed infrastructure and storm drain system along South Marks Avenue, the CITY will tie into any existing lines thereby diverting storm water to the CITY'S new system, and fill the existing pond to grade with soil adequate for landscaping and match the surrounding area.

h. Key control to the fence surrounding the retention pond to be provided to the CITY and the Chief of the Plant of the Fresno Veterans Home.

STATE OF CALIFORNIA
Department of General Services

CITY OF FRESNO

By: _____
MICHAEL SALYER

By: _____
ANDREW T. SOUZA

Title: Senior Supervising Real Estate Officer

Title: Fresno City Manager

CONSENT: Department of Veterans Affairs

APPROVED AS TO FORM:
JAMES C. SANCHEZ, CITY ATTORNEY

By: _____

By:  5/13/09

Title: Secretary, Department of Veterans Affairs

Title: Senior Deputy

Date