

**AGREEMENT FOR PURCHASE AND SALE OF A PERMANENT  
STREET EASEMENT AND ESCROW INSTRUCTIONS  
APN: 511-011-15**

**NORTH POLK AVENUE PUBLIC STREET IMPROVEMENT PROJECT  
Tract Map No. 5538 City Project No.: PW00826**

This Agreement for a Permanent Street Easement (Agreement) is entered into by and between DNASSOCIATES, A CALIFORNIA CORPORATION, (Owner), without regard to number or gender, and the CITY OF FRESNO, a municipal corporation (City) for a permanent street easement and right-of-way for public street purposes on the following terms and conditions.

1. The real property which is the subject of this Agreement, hereinafter "Subject Property", is a Permanent Street Easement to facilitate the North Polk Avenue Public Street Improvement Project (Project), situated in the City of Fresno, County of Fresno, State of California, being approximately 1,430 square feet in size, within Assessor's Parcel Number 511-011-15, as described on Exhibit "A" and depicted on Exhibit "B", attached hereto and incorporated herein by reference.
2. Owner agrees to grant to the City a permanent street easement and right-of-way, (Easement) for public street purposes over, under, through, and across the Subject Property, free and clear of all liens, encumbrances, and restrictions of record.
3. City shall deposit into escrow THIRTY SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$37,500.00) for the Easement, including cost to cure damages, benefits and/or severance damages to the remainder, if any, as indicated on Exhibits "C", "D", attached hereto and incorporated herein in by reference.
4. Paragraph 3 above includes payment to excavate a portion of the existing septic system to expose components, remove system contents by pumping, and abandoning system as required by City and other local agencies; and to connect the residence within Assessor's Parcel Number 511-011-15, commonly known as 3793 N. Polk Avenue, Fresno, CA 93722, to a new lateral to be made available at or near the new right-of-way line as described on said Exhibit "A" and depicted on said Exhibit "B," hereinafter "Septic component removal and abandonment". City's responsibility shall be limited to providing the new lateral from the main sewer line to the new lateral on the east property right-of-way line of Assessor's Parcel Number 511-011-15. Owner shall be fully responsible for retaining and making payment to a licensed contractor to perform any and all Septic component removal and abandonment.
5. It is understood and agreed by owner and City that Paragraph 3 above includes payment for the total Sewer Connection Charge obligation, in the amount of \$4,738.00, as outlined on Exhibit "D" and that said total Sewer Connection

Charge obligation in the amount of \$4,738.00 shall be paid directly out of the escrow deposit amount of \$37,500.00 in Paragraph 3 above, to the City of Fresno Department of Utilities, as a condition precedent to the disbursement of the balance of said escrow deposit amount payable to Owner.

6. The Effective date of this Agreement shall be upon its duly authorized execution by the City and the close of escrow by payment of THIRTY SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$37,500.00), less the total Sewer Connection Charge obligation in the amount of \$4,738.00 paid directly to the City of Fresno Department of Public Utilities, and Owner's cost to clear title, if any, be made to Owner.
7. Owner represents and warrants that it holds fee title to the Subject Property, and has the authority to enter into the Agreement herein made.
8. Owner agrees to hold the City harmless and reimburse the City for any and all losses and expenses as to the Subject Property by reason of any change in ownership or Lease of said Subject Property held by any tenant of the Owner.
9. The sale shall be completed through an external escrow to be opened at First American Title Company, Escrow No. 5405-5479299, located at 211 E. Caldwell Avenue, Visalia, CA 93277. The Escrow Officer is Sherry Salierno-Munger, Phone number is 559-625-1550 or email at ssalierno@firstam.com. Said escrow shall be opened upon the following terms and conditions, and the Owners and City by their signature to this Agreement make this paragraph their escrow instructions:

a. The City shall deposit the sums specified in Paragraph 3 of this Agreement and the closing costs in escrow upon receipt of a demand and statement from said title company.

b. Payment of said sums in Paragraph 3, less Owner's cost to clear title, if any, and the City sewer connection fees, may be made to Owner only after the total Sewer Connection Charge obligation in the amount of \$4,738.00 has been made directly to the City of Fresno Department of Public Utilities. In addition, the escrow holder must first possess and be in a position to deliver to the City a fully executed, acknowledged and recorded easement deed to the subject property free and clear of all liens, encumbrances and restrictions of record.

c. The City reserves the right to accept title to the property interest to be acquired by City herein subject to certain defects in any or all matters of record title to the property. In consideration for Owner receiving the total sum as stated in Paragraph 3, subject to paragraph 9, the undersigned Owner covenants and agrees to indemnify and hold the City harmless from any and all claims and demands third parties may make or assert and causes of action third parties may bring which arise out of or are in connection with the foregoing defects in title to the property. The Owner's obligation herein to indemnify and hold harmless the City shall not exceed the amount paid to the Owner specified in Paragraph 3.

d. It is understood that Owner shall be responsible for the payment of all taxes, penalties, redemptions, and costs allocable to the subject property.

e. The escrow fee, cost of policy of title insurance and recording fee (if any), shall be paid by the City.

f. Disbursements of the purchase price 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.

10. Owner shall indemnify, hold harmless, and defend the City, its officers, agents, employees, and volunteers from any liability, loss, fines, penalties, forfeitures, claims, expenses, and costs, whether incurred by the Owner, City, or any other third party, arising directly or indirectly from the release, presence or disposal of any hazardous substances or materials (as now or hereafter defined in any law, regulation, or rule) in, on, or about the Property on or before the effective date of this Agreement. This indemnity shall include, without limitation, any claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), or any other federal, state or local law whether statutory or common law, ordinance, or regulation. Costs or losses covered will include, without limitation, consultants, engineering, investigator fees, clean up or disposal costs and attorneys' fees, and damages. The Owner's obligation herein to indemnify and hold harmless the City shall not exceed the amount paid to the Owner specified in Paragraph 3.

11. 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.

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 Owner.

[SIGNATURE PAGE TO FOLLOW]

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

DNAssociates, a California corporation

By: \_\_\_\_\_  
Scott L. Mozier, PE, Date  
Public Works Director

By: DNASSOCIATES By [Signature] 10/2/19  
Curtis Donovan, Director Date

RECOMMENDED FOR APPROVAL:

By: [Signature] 10/3/19  
Victoria Gonzales Date  
Senior Real Estate Agent

By: [Signature] 10/2/19  
BOARD PRESIDENT Date

By: [Signature] 10/7/19  
R. Scott Beyelia Date  
Supervising Real Estate Agent

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

ATTEST:  
YVONNE SPENCE, MMC CRM  
City Clerk

By: [Signature] 10/2/19  
Deputy Date

By: \_\_\_\_\_  
Deputy Date

Attachments:

1. Exhibit "A"
2. Exhibit "B"
3. Exhibit "C"
4. Exhibit "D"

APN: 511-011-15 (portion)  
Street Easement

EXHIBIT "A"

The West 11 feet of the East 31 feet of Parcel C of Parcel Map No. 1066, recorded in Book 5, page 47 of Parcel Maps, Fresno County Records.



T-5538  
2017-073  
15-A-9365

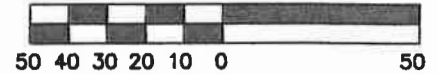
# EXHIBIT "B"

POSITION OF THE NORTH QUARTER  
CORNER OF SECTION 22, TOWNSHIP  
13 SOUTH, RANGE 19 EAST,  
M.D.B. & M.

WEST ASHLAN AVENUE



SCALE: 1" = 50'



APN 511-011-15

PARCEL C

PARCEL MAP NO. 1066  
BOOK 5, PAGE 47 OF PARCEL MAPS  
FRESNO COUNTY RECORDS

NORTH POLK AVENUE

20' PREVIOUSLY DEEDED FOR PUBLIC ROAD  
PURPOSES AS PER DEED RECORDED MAY 4,  
1911 IN BOOK 477, PAGE 203 AS DOC. NO.  
7834, OFFICIAL RECORDS OF FRESNO COUNTY.

POSITION OF THE SOUTHEAST CORNER  
OF THE NORTHEAST QUARTER OF THE  
NORTHWEST QUARTER OF SECTION 22,  
TOWNSHIP 13 SOUTH, RANGE 19 EAST,  
M.D.B. & M.



HATCHED AREA TO BE DEEDED FOR  
PUBLIC STREET EASEMENT PURPOSES

AREA = 1,430 SQ. FT.

## RECORD OWNER:

A.P.N. 511-011-15  
DNASSOCIATES  
3793 N. POLK  
FRESNO, CALIFORNIA 93722  
(559)

## PREPARED BY:

GARY GIANNETTA  
1119 "S" STREET  
FRESNO, CA. 93721  
(559) 264-3590

8/16/17

REF. & REV.  
ACC'T NO.  
FILE NO.  
TRACT 5538  
2017-073

## CITY OF FRESNO

A PORTION OF THE NORTHWEST QUARTER OF SECTION 22,  
T 13 S, R 19 E, M.D.B. & M., TO BE DEEDED TO THE  
CITY OF FRESNO FOR:

**PUBLIC STREET EASEMENT PURPOSES**

PROJ. ID. \_\_\_\_\_  
FUND NO. \_\_\_\_\_  
ORG. NO. \_\_\_\_\_

DR. BY: B. GIANNETTA  
CH BY:  
DATE:  
SCALE: AS NOTED

SHEET NO. 1  
OF 1 SHEET  
**15-A-9365**

## EXHIBIT "C"

## APPRAISAL SUMMARY SHEET

Date of Value	12/21/2018	Project	Ashlan/Polk Intersection		
Owner	DNAssociates	Property Address	3793 N Polk Ave		
APN	511-011-15	Size (Acres)	0.92	Size (SF)	40,040
Present Use	Single-Family Residential	Zoning	RS-4	General Plan	Med-Low Density
		Highest & Best Use	Single-Family Homesite		

	Net Area	Net Area
Gross Site Size (Whole Property Unencumbered Before Taking)	0.870 Acres	40,040.00 SF
New Right-of-Way Acquisition (Public Utility Easement)	0.033 Acres	1,430.00 SF
Remainder (Unencumbered)	0.890 Acres	38,610.00 SF
Remainder (Encumbered with new Public Street Easement)	0.033 Acres	1,430.00 SF

## PERMANENT EASEMENT TAKING

Value Before Taking:

Land - Whole Property (Unencumbered)	40,040 SF	x	\$6.00 /SF	=	\$240,240.00
Site Improvements - In Public Street Easement Take Area (Depreciated)					
Crushed Rock Driveway	517 SF	x	\$1.60 /LF	=	\$827.20
3" high solid wood board fencing	22 LF	x	\$19.20 /SF	=	\$422.40
6" concrete curbing	118 LF	x	\$12.70 /LF	=	\$1,498.60
Irrigated Lawn	572 SF	x	\$1.35 /SF	=	\$772.20
4 Trees (Lump Sum Value, John Pape Consulting)	Lump Sum			=	\$10,100.00
<b>Total Value Before Taking:</b>				>>>>>>>>	<b>\$253,860.40</b>

Value of Part Taken (As Part of Whole):

Land - Right of Way Acquisition (Public Street Easement)	1,430 SF	x	\$6.00 /SF	=	\$8,580.00
Site Improvements - In Public Street Easement Take Area (Depreciated)					
Crushed Rock Driveway	517 SF	x	\$1.60 /LF	=	\$827.20
3" high solid wood board fencing	22 LF	x	\$19.20 /SF	=	\$422.40
6" concrete curbing	118 LF	x	\$12.70 /LF	=	\$1,498.60
Irrigated Lawn	572 SF	x	\$1.35 /SF	=	\$772.20
4 Trees (Lump Sum Value, John Pape Consulting)	Lump Sum			=	\$10,100.00
<b>Total Value of Part Taken (As Part of Whole)</b>				>>>>>>>>	<b>\$22,200.40</b>

Remainder Value Before Taking:

= \$231,660.00

Remainder Value After Taking:

Portion Unencumbered	38,610 SF	x	\$6.00 /SF	=	\$231,660.00
Portion Encumbered with Public Utility Easement	1,430 SF	x	\$0.00 /SF	=	\$0.00
Less Costs to Cure:					
Sprinkler Repair				=	-\$500.00
Excavate residential septic system & connect to new sewer lateral				=	-\$8,500.00
Sewer Connection Charges				=	-\$4,738.00
Landscaping Repair				=	-\$1,500.00
<b>Total Value After Taking:</b>				>>>>>>>>	<b>\$216,422.00</b>

Damages to Remainder:

= \$15,238.00

Less Benefits:

= \$0.00

Net Damage to Remainder:

= \$15,238.00

Value of Part Taken (as Part of Whole):

+ \$22,200.40

Total Difference (Total Award for Easement Taking):

= \$37,438.40

rounded \$37,500.00



**EXHIBIT "D"****CITY OF FRESNO  
PUBLIC WORKS DEPARTMENT****TRAFFIC AND ENGINEERING SERVICES DIVISION / LAND DIVISION SECTION**SERVICE ADDRESS: 3793 N. Polk Avenue APN: 511-011-15LOT/BLOCK: C TRACT/P.M.: PM No. 1066 ZONING: RS-4/UGM (✓) CITY ( ) COUNTY**SEWER CONNECTION CHARGES**1. **HOUSEBRANCH SEWER CHARGE** (FMC 6-304(a)(3)) ..... \$ 250.002. **LATERAL SEWER CHARGE** (FMC 6-304(a)(1))13,000 sq. ft. @ \$0.10/sq. ft. (up to the depth of 100 feet) ..... \$ 1,300.003. **OVERSIZE SEWER CHARGE** (FMC 6-304(a)(2))

A. For NON-UGM Parcels:

           sq. ft. @ \$0.05/sq. ft. (up to the depth of 100 feet) ..... \$           

B. For UGM Parcels:

13,000 sq. ft. @ \$0.05/sq. ft. (up to the depth of 100 feet) ..... \$ 650.00

The Wastewater Facilities Charge and the Trunk Sewer Charge are only applicable to single family, duplex, and triplex developments. (FMC 6-302(b)(4))

4. **WASTEWATER FACILITIES CHARGE** (FMC 6-304(a)(5))1 Units @ \$ 2,119.00 /unit..... \$ 2,119.005. **TRUNK SEWER CHARGE** (FMC 6-304(a)(4))Trunk Sewer Service Area: Grantland1 Units @ \$ 419.00 /Unit..... \$ 419.00

\*Upon occupancy of the project, the subdivider shall pay the appropriate sewer facility charge pursuant to the Simple Tiered Equity Program (STEP) as determined by the Department of Public Utilities, Wastewater Division, Environmental Services Section (559-621-5153).

**TOTAL SEWER CONNECTION CHARGE OBLIGATION**..... \$ 4,738.00 \*\*

\*\* Sewer connection charges for existing single-family residences and existing commercial or industrial development in the Enterprise Zone may be deferred pursuant to the property owner(s) executing an agreement with the City providing for equal bi-monthly installments of the principal and interest over a 15 - year period. (FMC 6-305(c)(1))

Prepared By: Frank SaburitDate: July 25, 2019

621-8797