



Boards of Commissioners Special Board Meeting

June 17, 2021

AGENDA

O (559) 443-8400

F (559) 445-8981

1331 Fulton Street
Fresno, California 93721
TTY (800) 735-2929

www.fresnohousing.org

Special Meeting of the Boards of Commissioners of Fresno Housing

5pm - June 17, 2021 – Per Executive Order N-25-20, which allows local and state legislative bodies to hold meetings via teleconference and to make meetings accessible electronically, this Board Meeting will be held via conference call and can be accessed as follows:

To join via Zoom: <http://bit.ly/06172021SBM>

**To join via teleconference, call: (669) 900-6833. Meeting ID: 992 4807 7791
Passcode: 161998**

Interested parties wishing to address the Boards of Commissioners regarding this meeting's Agenda Items, and/or regarding topics not on the agenda but within their subject matter jurisdiction, are asked to submit a "Request to Speak". You will be called to speak under Agenda Item 3, Public Comment. Please email your request to speak to executiveoffice@fresnohousing.org.

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices, or translators should be made at least one (1) full business day prior to the meeting. Please call the Board Secretary at (559) 443-8475, TTY 800-735-2929.

5pm

1. Call to Order and Roll Call**2. Approval of agenda as posted**

The Boards of Commissioners may add an item to this agenda if, upon a two-thirds vote, the Boards of Commissioners find that there is a need for immediate action on the matter and the need came to the attention to the Authority after the posting of this agenda.

3. Public Comment

This is an opportunity for the members of the public to address the Boards of Commissioners on any matter within the subject matter jurisdiction of the Boards of Commissioners that is not listed on the Agenda. At the start of your presentation, please state your name, address and/or the topic you wish to speak on that is not on the agenda. Presentations are limited to a total of three (3) minutes per speaker.

4. Closed Session**a. CONFERENCE WITH REAL ESTATE NEGOTIATORS**

(Pursuant to Gov't Code §54954.5(b))

Address: 933 N. Parkway Drive, Fresno, CA (APN: 449-335-32)

Agency Negotiator: Housing Authority of the City of Fresno (HACF)

Negotiating Parties: HACF, Naresh Patel, Ragini Patel, & City of Fresno

Under Negotiation: Price and Terms

5. Report on Closed Session Item(s)**6. Action****a. Consideration of Assignment and Delegation of Purchase and Sale Agreement, Repair Services Agreement, & Agreement for Option to Purchase with the City of Fresno – Valley Inn**

Approval of various agreements with the City of Fresno to facilitate the acquisition and repair of the Valley Inn motel to provide interim housing for the homeless.

7. Adjournment

BOARD MEMO

O (559) 443-8400

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Fresno, California 93721
TTY (800) 735-2929

www.fresnohousing.org

TO: Boards of Commissioners

Fresno Housing

FROM: Angie Nguyen

Interim CEO/Chief Programs Officer **AUTHOR:** Michael Duarte

DATE: June 14, 2021

BOARD MEETING: June 17, 2021

AGENDA ITEM: 6a

SUBJECT: Consideration of Assignment and Delegation of Purchase and Sale Agreement, Repair Services Agreement & Agreement for Option to Purchase with the City of Fresno – Valley Inn

Executive Summary

The purpose of this memo is to approve an Assignment and Delegation of Purchase and Sale Agreement (PSA), Repair Services Agreement & Option to Purchase for the Valley Inn Motel property located at 933 N. Parkway Drive, Fresno, CA 93728 (APN: 449-335-32) (Property) with the City of Fresno (City). The partnership will facilitate the City's acquisition and repair of the Valley Inn motel to provide interim housing for the homeless and possible conversation to permanent housing in the future.

The Valley Inn Motel consists of 107 motel rooms and common facilities on approximately 2.42 acres and is located on the Parkway Drive corridor in close proximity to Fresno Housing (FH)'s operating Project Homekey sites. As part of the collaborative Homekey and CARES Act planning efforts between FH and the City of Fresno, the motel was identified as a possible site of interest.

On March 5, 2021, FH entered into a Purchase and Sale Agreement with the Seller, Naresh Patel and Ragini Patel, which is subject to FH Board approval, to potentially acquire said property for \$6,995,000. The Purchase and Sale Agreement provided FH with site control of the subject property and allowed time to consider potential feasibility in partnership with the City of Fresno. Since entering into the PSA, FH has conducted some initial due diligence including Appaisal, environmental review and physical condition assessments.

The City of Fresno has taken actions to move forward with the acquisition of this property on their own behalf and has requested that FH Assign its interest in the PSA as Buyer to the City of Fresno. In anticipation that the City will acquire the Property, the City has requested the assistance of FH to help make repairs to the Property and prepare the property for occupancy. The Repair Services Agreement proposed fully outlines the scope of services and further states that the City would pay 100% of the repair costs. As part of our shared vision to convert motels along Parkway into permanent housing, the City has agreed to grant FH an Option to Purchase the property during the Option Window of years 3 – 7 from the acquisition date in order to provide site control. Having site control

will allow FH to pursue and secure local, state and federal government and private funding to provide for the conversion of the Valley Inn to quality permanent multifamily housing.

Fiscal Impact

The Purchase and Sale Agreement required a \$20,000 Earnest Money Deposit within 5 days of execution of the agreement. FH has incurred a total of approximately \$30,000 in deposits and due diligence expenses including environment reports, appraisals, and inspections. As part of the Assignment Agreement, the City would reimburse FH for the initial deposit and the incurred due diligence expenses. As part of the Repair Services Agreement, the City will pay for 100% of the repair costs, FH staff time and an admin cost fee of \$10,000 per month. Per the Agreement for Option the Purchase with the City of Fresno, FH will have the Option to Purchase the Valley Inn property for \$500 during the Option Window.

Recommendation

It is recommended that the Board of Commissioners approve and authorize entering into the Assignment and Delegation of the Purchase and Sale Agreement with Naresh Patel and Ragini Patel for real property located at 933 N. Parkway Drive. in Fresno (APN 449-335-32) at a purchase price of \$6,955,000 to the City of Fresno, the Repair Services Agreement & the Agreement for Option to Purchase with the City of Fresno and authorize Angelina Nguyen, Interim CEO/Chief Programs Officer, Tracewell Hanrahan, Deputy Executive Director, and/or their designee to negotiate and execute documents in connection with the approved action.

RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE CITY OF FRESNO, CALIFORNIA

RESOLUTION AUTHORIZING APPROVAL TO ENTER INTO AN ASSIGNMENT AND DELEGATION OF THE PURCHASE AND SALE AGREEMENT WITH NARESH PATEL AND RAGINI PATEL FOR REAL PROPERTY LOCATED AT 933 N. PARKWAY DRIVE, FRESNO, CA 93728 (APN: 449 335 32) TO THE CITY OF FRESNO, REPAIR SERVICES AGREEMENT & AGREEMENT FOR OPTION TO PURCHASE WITH THE CITY OF FRESNO

WHEREAS, the Housing Authority of City of Fresno, California (the “Agency”) seeks to expand the availability of affordable rental housing and homeownership opportunities to low income persons within Fresno County; and

WHEREAS, the Agency desires to support housing opportunities for low and moderate income households within a variety of neighborhoods and to improve under-invested neighborhoods; and

WHEREAS, the Agency has entered into a Purchase and Sale Agreement (PSA) with Naresh Patel and Ragini Patel (“the Seller”) on March 5, 2021 to acquire real property located at 933 N Parkway Drive, Fresno, California (APN: 449 335 32), known as Valley Inn, (“the Property”) in the City of Fresno; and

WHEREAS, the Purchase and Sale Agreement for the Property has a purchase price of \$6,955,000 for real property consisting of 107 motel rooms and common area facilities on approximately 2.42 acres; and

WHEREAS, the Agency desires to enter into an Assignment and Delegation of the Purchase and Sale Agreement (“Assignment”) with the City of Fresno to facilitate the acquisition of subject Property by the City of Fresno; and

WHEREAS, as part of the Assignment Agreement with the City of Fresno, FH will be reimbursed for the initial \$20,000 earnest deposit and other due diligence expenses incurred; and

WHEREAS, the Agency approves entering into a Repair Services Agreement with the City of Fresno to assist with the repairs and prepare the Property for occupancy, and

WHEREAS, the City of Fresno intends to operate the Property as interim housing for the homeless and convert to permanent housing thereafter in partnership with the Agency, and

WHEREAS, the City of Fresno has granted the Agency an Option to Purchase the Property, per the Agreement of Option to Purchase, during the Option Window of years 3-7 of the acquisition date for the amount of \$500 for purposes of converting the Property to quality multifamily housing; and

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of the City of Fresno, California do hereby approve and authorize entering into the Assignment and Delegation of the Purchase and Sale Agreement with Naresh Patel and Ragini Patel for real property (APN: 449 335 32) to the City of Fresno, the Repair Services Agreement & the Agreement for Option to Purchase with the City of Fresno and further authorize Angelina Nguyen, Interim CEO/Chief Programs Officer, Tracewell Hanrahan, Deputy Executive Director, and/or their designee to negotiate and execute all related documents.

PASSED AND ADOPTED THIS 17th DAY OF JUNE 2021. I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the governing body with the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angelina Nguyen, Secretary of the Boards of Commissioners

DRAFT

REPAIR SERVICES AGREEMENT CITY OF FRESNO AND FRESNO HOUSING AUTHORITY

This Repair Services Agreement (Agreement) is made as of the _____ day of June 2021 (Effective Date), by and between the City of Fresno (City or Owner), and Housing Authority of the City of Fresno, California, a body corporate and politic (Fresno Housing). The City of Fresno and Fresno Housing are referred to hereinafter each as a "Party" or collectively as "Parties."

RECITALS

- A. WHEREAS there is a critical housing-shortage crisis in the City of Fresno, and the crisis is contributing to the growth in homeless population counts throughout the city; and
- B. WHEREAS, the City of Fresno has acquired The Valley Inn (Property) located at 933 North Parkway Drive, Fresno, CA, 93728 (APN 449-335-32), and the City desires to have the Property repaired and prepared to serve as an interim low-barrier emergency homeless shelter; and
- C. WHEREAS, the Fresno Housing has resources, as well as the technical, and financial expertise to among other things, repair projects in order to make them available for affordable housing and homeless services, and
- D. WHEREAS Project Off Ramp and Project Homekey have been successful collaborations between the City and the Fresno Housing to place, and not displace, homeless from the freeway right-of-way into emergency shelter housing with available case-management services. To date, approximately 70% of the homeless individuals offered housing and case management services through Project Off Ramp and Project Homekey have accepted assistance, and
- E. WHEREAS, the Fresno Housing has recently completed the repair of four (4) motels along Parkway Corridor to serve as low-barrier emergency homeless shelters, and
- F. WHEREAS the City contracts with the Fresno Housing to fund the Property Management and Case Management Services provided for the homeless individuals housed at the Fresno Housing's motels along Parkway Corridor; and
- G. WHEREAS the City and the Fresno Housing now desire to enter into this Agreement with the terms, conditions and compensation specified for the repair of The Valley Inn to a low-barrier emergency homeless shelter (the Project).

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the Fresno Housing agree as follows:

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. Responsibilities of the Parties. City's Charter allows it to execute agreements with various third-parties, including governmental agencies to

perform public works of improvement. The City desires to engage and reimburse Fresno Housing to carry out the Project, which shall include the performance of certain public works, as provided herein. The Parties contemplate that Fresno Housing shall subcontract some or all of the public works provided under this Agreement. In doing so, Fresno Housing shall manage and coordinate with its contractors in order to complete the repair and maintenance of the Property. The repair and maintenance design and work shall be subject to City approval, which the City shall not unreasonably withhold. The City shall be responsible for payment to Fresno Housing as provided in Section 3 below.

2. Term of Agreement and Conditions Precedent. This Agreement shall be effective as of the Effective Date and shall continue in full force and effect through December 31, 2021, or until the Project is completed, whichever occurs first; subject to any earlier termination in accordance with this Agreement. Project completion will occur when both parties have signed off on the repairs, following a walk-through by both representatives. 3. Compensation. Fresno Housing's sole compensation for satisfactory performance of all services rendered pursuant to this Agreement shall be on a cost-reimbursable basis with a not-to-exceed upper limit of **\$800,000**, paid on the basis of the rates set forth in the schedule of fees and expenses contained in the agreements expressly incorporated into **Exhibit A**.

(b) Detailed statements shall be rendered monthly for services performed in the preceding month and will be payable by the City within thirty (30) days of receipt.

(c) The Parties may agree to modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to Fresno Housing's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each Party. Vendor shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies, and Force Majeure.

(a) This Agreement shall terminate without any liability of City to Fresno Housing upon the earlier of: (i) Fresno Housing's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against Fresno Housing; (ii) sixty (60) calendar days' prior written notice for breach of this Agreement by Fresno Housing; (iii) City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.

(b) This Agreement shall terminate without any liability of Fresno Housing to City upon the earlier of: (i) City's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against City; (ii) sixty (60) calendar days' prior written notice for breach of this Agreement by City; (iii) Fresno Housing's' non-appropriation of funds

sufficient to meet its obligations hereunder during any Fresno Housing fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.

(c) Immediately upon any termination or expiration of this Agreement, each party shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and, (iii) in the case of Fresno Housing, return to City any and all unearned payments and all properties and materials in the possession of Fresno Housing that are owned by City. Subject to the terms of this Agreement, Fresno Housing shall be paid compensation for services satisfactorily performed prior to the effective date of termination.

(d) Upon any breach of this Agreement by either party, the other may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. (e) Each party shall provide the other with adequate written assurances of future performance in the event that either party fails to comply with any terms or conditions of this Agreement.

(e) Each party shall be liable for default unless its nonperformance is caused by an occurrence beyond the reasonable control of that party and without its fault or negligence such as, acts of God or the public enemy, acts of City or the Fresno Housing, as the case may be, in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The nonperforming party shall notify the other in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the other of the cessation of such occurrence.

5. Intentionally left blank.
6. Intentionally left blank.
7. Intentionally left blank.
8. Level of Skill; Subcontractors.

(a) Fresno Housing may, at its sole discretion, subcontract any of the services required under this Agreement, in compliance with the terms of this Agreement. Fresno Housing shall warrant that a lawful competitive process was followed to select any and all subcontractors. Fresno Housing shall use good faith efforts to hire qualified, licensed, insured and bonded local contractors that have a local workforce. It is further mutually understood and agreed by and between the parties hereto that inasmuch as Fresno Housing represents to City that Fresno Housing and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said industry necessary to perform the services agreed to be done by it under this Agreement, City relies upon the skill of Fresno Housing and its subcontractors, if any, to do and perform such

services in a skillful manner and Fresno Housing agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by City shall not operate as a release of Fresno Housing or any subcontractors from said industry and professional standards.

(b) City reserves the right to hire additional contractors to perform the services required under this Agreement, and offset any future payment to Fresno Housing accordingly, so long as such hiring and associated offset is memorialized in an Addendum executed by the parties, setting forth the amount of the offset. In the event that the City elects to hire additional contractors to perform the services, City shall not cause Fresno Housing to breach any agreement with any of its contractors or City shall fully reimburse Fresno Housing for any claims made by its subcontractors.

(c) If Fresno Housing subcontracts any or all of the services to be performed under this Agreement where the subcontract is for a total of \$250,000 or greater during any calendar year, Fresno Housing shall require, at the discretion of the City Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by City Risk Manager or designee. If no Side Agreement is required, Fresno Housing will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

(d) To the full extent required by applicable federal and state law, each party and its contractors and agents shall comply with the Davis-Bacon Act, as amended, California Labor Code Section 1720 et seq., and the regulations adopted pursuant thereto (Prevailing Wage Laws), if so required, and shall be solely responsible for carrying out the requirements of such provisions. Each party shall indemnify, defend and hold the other and its elected and appointed officers, officials, employees, agents, consultants, and contractors harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors, or third party claimants pursuant to Labor Code sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including, but not limited to the Prevailing Wage Laws, or any act or omission of that party related to the payment or requirement of payment of prevailing wages.

9. Indemnification. To the furthest extent allowed by law, Fresno Housing shall indemnify, hold harmless and defend City and each of its officers, officials, employees,

agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Fresno Housing, its principals, officers, employees, agents, or volunteers in the performance of this Agreement.

If, pursuant to Section 8 above, Fresno Housing should subcontract all or any portion of the services to be performed under this Agreement, Fresno Housing shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

If, pursuant to Section 8 above, City should subcontract all or any portion of the services to be performed under this Agreement, City shall require each subcontractor to indemnify, hold harmless and defend Fresno Housing and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This Section shall survive termination or expiration of this Agreement.

10. Insurance.

(a) Throughout the life of this Agreement, Fresno Housing shall pay for and maintain in full force and effect all insurance as required in Exhibit B, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by City's Risk Manager or designee at any time and in its sole discretion. The required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of the Agreement or any extension, Fresno Housing or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Fresno Housing shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this Section shall in any way relieve Fresno Housing of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by Fresno Housing shall not be deemed to release or diminish the liability of Fresno Housing, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Fresno Housing. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Fresno Housing, its principals, officers, agents, employees, or persons under the supervision of Fresno Housing, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) Upon request of City, Fresno Housing shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

(e) If Fresno Housing should subcontract all or any portion of the services to be performed under this Agreement, Fresno Housing shall require each subcontractor/sub-consultant to provide insurance protection, as an additional insured, to the City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of this Section, except that any required certificates and applicable endorsements shall be on file with Fresno Housing and City prior to the commencement of any services by the subcontractor. Fresno Housing and any subcontractor/sub-consultant shall establish additional insured status for City, its officers, officials, employees, agents, and volunteers by using Insurance Service Office (ISO) Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

11. Conflict of Interest and Non-Solicitation.

(a) Fresno Housing shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state, and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of City, Fresno Housing shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Fresno Housing and the respective subcontractor(s) are in full compliance with all laws and regulations. Such written opinion shall be issued to Fresno Housing for the benefit of Fresno Housing only. Fresno Housing shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery

of any facts giving rise to the appearance of a conflict of interest, Fresno Housing shall immediately notify City of these facts in writing.

(c) In performing the work or services to be provided hereunder, Fresno Housing shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.

(d) Fresno Housing represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit, or procure this Agreement or any rights/benefits hereunder.

(e) Fresno Housing and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, Fresno Housing shall remain responsible for complying with Section (a), above.

(f) If Fresno Housing should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, Fresno Housing shall include the provisions of this Section in each subcontract and require its subcontractors to comply therewith.

(g) This Section shall survive expiration or termination of this Agreement.

12. [Intentionally Omitted.]

13. General Terms.

(a) Except as otherwise provided by law, all notices expressly required of City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Administrator or designee.

(b) Records of Fresno Housing's 's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of Fresno Housing pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to City until such action is resolved, or until the end of said time period whichever shall later occur. If Fresno Housing should subcontract all or any portion of the services to be performed under this Agreement, Fresno Housing shall cause each subcontractor to also comply with the requirements of this paragraph. This Section shall survive expiration or termination of this Agreement.

(c)

(d) A For any portion of the work or services subcontracted by Fresno Housing, Fresno Housing shall require that subcontractor to provide evidence to Fresno Housing that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

14. Nondiscrimination. To the extent required by controlling federal, state and local law, Fresno Housing shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, Fresno Housing agrees as follows:

(a) Fresno Housing will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

(b) Fresno Housing will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Fresno Housing shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to Fresno Housing's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Fresno Housing agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) Fresno Housing will, in all solicitations or advertisements for employees placed by or on behalf of Fresno Housing in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

(d) If Fresno Housing should subcontract all or any portion of the services to be performed under this Agreement, Fresno Housing shall cause each subcontractor to also comply with the requirements of this Section.

15. Independent Contractor.

(a) In the furnishing of the services provided for herein, Fresno Housing is acting solely as an independent contractor. Neither Fresno Housing, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner, or associate of City for any purpose. City shall have no right to control or supervise or direct the manner or method by which Fresno Housing shall perform its work and functions. However, City shall retain the right to administer this Agreement, to the extent provided for herein, so as to verify that Fresno Housing is performing its obligations in accordance with the terms and conditions thereof.

(b) This Agreement does not evidence a partnership or joint venture between Fresno Housing and City. Fresno Housing shall have no authority to bind City absent City's express written consent. Except to the extent otherwise provided in this Agreement, Fresno Housing shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, Fresno Housing and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to City employees. Fresno Housing shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, Fresno Housing shall be solely responsible, indemnify, defend and save City harmless from all matters relating to employment and tax withholding for and payment of Fresno Housing's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in City employment benefits, entitlements, programs and/or funds offered employees of City whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, Fresno Housing may be providing services to others unrelated to City or to this Agreement.

16. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

17. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

18. Assignment.

(a) This Agreement is personal to each party and there shall be no assignment by either party of its rights or obligations under this Agreement without the prior written approval of the other. Any attempted assignment shall be null and void unless approved in writing for the City, by the City Manager or designee, or for Fresno Housing, by its CEO or designee. The City expressly acknowledges that Fresno Housing may assign all or some of its rights and obligations to Fresno Housing's instrumentality, Silvercrest, a California nonprofit public benefit corporation.

(b) Fresno Housing hereby agrees not to assign the payment of any monies due Fresno Housing from City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). City retains the right to pay any and all monies due Fresno Housing directly to Fresno Housing.

19. Compliance With Law. Each party shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

20. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions 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.

21. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

22. 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.

23. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

24. 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 either party, but rather by construing the terms in accordance with their generally accepted meaning.

25. 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.

26. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

27. 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. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

28. 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.

29. No Third Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

30. 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 City and Fresno Housing.

[SIGNATURES FOLLOW ON THE NEXT PAGE.]

EXHIBIT A
TERM, SCOPE, AND COMPENSATION

The City's acquisition of The Valley Inn is an extension of Project Homekey and Project Off Ramp. The short-term objective of the Valley Inn acquisition is to increase the capacity of low-barrier emergency shelter beds to house homeless individuals currently living in areas that pose an unacceptable level of risk to public health and safety.

The City has purchased the Valley Inn and desires to retain the Fresno Housing to repair the motel and prepare the motel for occupancy as a low-barrier emergency homeless shelter. The Term, and Compensation to repair, and prepare the Valley Inn for occupancy as a low-barrier homeless shelter is presented in the following sections.

- 1) Agreement Term. The Term of this Agreement shall be in effect until Dec 31, 2021 commencing on the Effective Date and ending upon completion of the Scope of Work, The Term may be extended with the mutual consent of both parties.
- 2) Security Services. At all times during the Repair Project, the City shall maintain and pay for security personnel at the site for 24 hours and 7 days a week.
- 3) Appointment of Repair Project Manager. The Fresno Housing will assign a Repair Project Manager to serve as the point of contact with the City of Fresno to coordinate the planning, permitting, and inspection requirements for the renovation project. The City of Fresno will also designate a point of contact for the Repair Project.
 - a) Project Schedule and Cost Estimate. Within ten (10) calendars of the close of escrow, the Repair Project Manager will provide the City of Fresno with a preliminary schedule and cost estimate to repair The Valley Inn and prepare it for occupancy as a low-barrier emergency homeless shelter. It is estimated that the time required from close of escrow to receipt of occupancy permit will be approximately thirty (30) calendar days. The schedule shall identify action items required by the City to meet the project schedule.
 - b) Progress Meetings and Reports. The Repair Manager shall provide weekly progress reports for the repair work, and the Repair Manager shall schedule bi-weekly progress meetings with the City of Fresno.
 - c) Retention, Inspection and Audit of Records. The Repair Manager agrees to maintain appropriate accounting records for all labor, materials, equipment, supplies, and service provided to renovate The Valley Inn for low-barrier emergency homeless shelter services. The Repair Manager shall retain all accounting records relating to the renovation work for a period of three (3) years. The City reserves the right to conduct an audit of the accounting records for the renovation work any time during the three-year period.
- 4) Changed Conditions. The City and the Fresno Housing have visually inspected and toured The Valley Inn to preliminarily assess the condition of the facility and prepare preliminary cost estimates for the repair.
 - a) Despite the best intentions, diligence, and discipline of the City of Fresno and the Fresno Housing, changed conditions may be encountered during the repair work

and the changed conditions may require adjustments in the work schedule or costs. The Fresno Housing will work assist the City with owner-initiated change orders, as applicable.

- b) When changed conditions are encountered for the repairs, the Repair Manager will notify the City's point of contact to schedule a meeting to review and discuss options to address the changed condition.
 - c) The agreed upon course of action to address the changed condition shall be prepared in writing by the Repair Manager and submitted to the City.
 - d) Under no circumstances shall the Repair Manager authorize additional work or extend the project schedule without the consent of the City of Fresno.
- 5) Service Contracts. The Repairs Manager is authorized to procure contractors using a competitive selection process to provide building trade, equipment, materials, supplies, and other services required to repair the Valley Inn to serve as a low-barrier emergency homeless shelter. The Repairs Manager is also authorized to utilize any existing Trade Services contracts for which the Fresno Housing has completed appropriate procurement.
- a) Warranties for Workmanship and Materials. All service contracts shall include a 12-month warranty for workmanship and materials provided for the repairs as appropriate. Any exceptions should be provided by the City in writing.
 - b) Regulatory Compliance. The Repairs Manager shall plan and execute the renovation of The Valley Inn in compliance with, all statutes, laws, rules, regulations, requirements, orders, notices, determinations, and ordinances of any federal, state, or local government and appropriate agencies, departments, commissions, or boards.
- 6) Compensation. The Repair Manager's compensation for the renovation work shall be on a Cost-Plus Fixed Fee Basis.
- a) Repair Management Fixed-Fee. As compensation for the project management and administration of the repair work, the Fresno Housing shall be entitled to a Repair Management Fixed-Fee. The Management Fixed-Fee shall be payable monthly during the repair work. The Management Fee shall be established at **\$10,000 per month**. The Repair Management Fixed-Fee is in addition to the direct and indirect costs incurred by the Fresno Housing to execute the repair work.
 - b) Direct and Indirect Renovation Costs. All Direct and Indirect costs will be paid by the City of Fresno to the Fresno Housing at cost. Direct costs are actual costs paid directly by the Fresno Housing to contractors, equipment suppliers, and service providers to complete the renovation work. Indirect costs are costs incurred by The Fresno Housing for general overhead, office expenses, and personnel costs for individuals assigned to the repair work.
 - c) Payment in advance of work to begin, will be required for 50% of the agreed upon Scope of Work and Budget for all Direct costs. Following initial payment of 50%, all Direct and Indirect costs shall be payable upon receipt of invoices or other

documentation provided by the Fresno Housing with monthly pay applications, due and payable within 30 days.

- d) Permits and Inspection Fees. The Repair Manager will be required to ensure payment of all repair and inspection fees required to repair The Valley Inn to serve as a low-barrier emergency homeless shelter. These charges may be included in pay applications as Direct Costs.
 - e) Utility Deposits and Monthly Charges. The Repair Manager will be required to ensure payment of all security deposit fees to initiate utility services for The Valley Inn, and to pay monthly charges for utilities during the repair work period. Utility services include, but are not limited to, water, sewer, solid waste, internet, gas, and electricity. These charges may be included in pay applications as Direct Costs.
- 7) Property and Liability Insurance. The City shall maintain, at its cost, property, and liability insurance for The Valley Inn during the period when repair work is being conducted.
 - 8) Workers' Compensation Insurance. Fresno Housing shall ensure compliance with all worker's compensation insurance requirements for its employees involved in the repair work.
 - 9) Indemnification. The repair work shall be under the control and management of the Repair Manager.

EXHIBIT B
Property Description

EXHIBIT A

**Property
Legal Description**

PARCEL 1:

Lots 10, 11, 19 and 20 of Roeding Park Gardens, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records.

EXCEPTING THEREFROM that portion of said Lots 10 and 20 and said Parkview Avenue, described as follows:

Beginning at the most Easterly corner of said Lot 10; thence Northwesterly, along the Northeasterly line of said Lot 10, a distance of 35.00 feet; thence Southwesterly, parallel with and 35.00 feet from the Southeasterly line of said Lots 10 and 20 and the Southwesterly prolongation of said Southeasterly line to the centerline of East Parkview Avenue, as shown on the map of Roeding Park Gardens recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records; thence Southeasterly along said centerline, a distance of 35.00 feet to the Southwesterly prolongation of the Southeasterly line of said Lots 10 and 20; thence Northeasterly along said prolongation and Southeasterly line to the point of beginning.

ALSO EXCEPTING THEREFROM that portion of said Lots 10 and 11 Deeded to the State of California by Deed recorded July 7, 1954 in Book 3455, Page 414 of Official Records, Document No. 34427, described as follows:

Beginning at a point on the Northeasterly line of said Lot 10, a distance of 35.00 feet from the most Easterly corner of said Lot 10; thence South $64^{\circ} 04' 25''$ West, along the Southeasterly line of said Lot 10 a distance of 17.92 feet; thence North $25^{\circ} 55' 35''$ West, parallel with and 17.92 feet from the Northeasterly line of said Lots 10 and 11, a distance of 155.33 feet to the beginning of a tangent curve, concave to the Southwest; thence Northwesterly along said curve, having a radius of 3,972.00 feet, through a central angle of $0^{\circ} 08' 22''$, an arc distance of 9.67 feet to the Northwesterly line of said Lot 11; thence North $64^{\circ} 04' 25''$ East, along said Northwesterly line, a distance of 17.93 feet to the most Northerly corner of said Lot 11; thence South $25^{\circ} 55' 35''$ East, along the Northeasterly line of said Lots 11 and 10, a distance of 165.00 feet to the point of beginning.

PARCEL 2:

Lots 49, 50, 51 and 52 of Roeding Park Gardens, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records.

PARCEL 3:

Lot 56 of Roeding Park Gardens, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records.

PARCEL 4:

All of that portion of East Parkview Avenue, as said Avenue is shown on the map of Roeding Park Gardens, recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records, and more particularly described as follows: Beginning at the most Westerly corner of Lot 19, of said Roeding Park Gardens;

thence Southerly and Southwesterly, along a curve which is tangent to the Southwesterly line of said Lot 19, having a radius of 40.0 feet and concave to the Northwest, through an interior angle of $104^{\circ} 28' 31''$, an arc distance of 72.94 feet, to the intersection with the Northeast line of Lot 52 of said Roeding Park Gardens; thence South $25^{\circ} 52' 00''$ East, along the Northeasterly lines of Lots 52, 51, 50 and 49 of said Roeding Park Gardens, to the point which is 91.65 feet Southeasterly from the Northeasterly corner of said Lot 49; thence Southerly and Westerly, along a tangent curve, concave to the Northwest and having a radius of 20.0 feet, an arc distance of 40.40 feet, to the intersection with the South line of said Lot 49; thence North $89^{\circ} 52' 00''$ East, along the Easterly prolongation of the South line of said Lot 49, a distance of 43.38 feet; thence Easterly and Southerly, along a tangent curve concave to the Southwest and having a radius of 70.0 feet, an arc distance of 78.52 feet, to the intersection with the Southwest line of Lot 23 of Roeding Park Gardens; thence North $25^{\circ} 52' 00''$ West, along the Southwesterly lines of Lots 23, 22, 21, 20 and 19 of said Roeding Park Gardens to the point of beginning, as abandoned by the Fresno City Council, by Resolution No. 8732, recorded in Book 5261, Page 488 of Official Records.

EXCEPTING THEREFROM any portion thereof lying within the Northeasterly half of said land, lying Northwesterly of the Southwesterly prolongation of the Southeasterly line of Lot 21 of said Roeding Park Gardens, and Southeasterly of the Southwesterly prolongation of the Northwesterly line of the Southeasterly 35 feet of Lots 10 and 20 of said Roeding Park Gardens.

EXHIBIT C
INSURANCE REQUIREMENTS
Service Agreement between City of Fresno (City)
and Fresno Housing Authority (Service Provider)
Repair of The Valley Inn for Low-Barrier Emergency Shelter Housing

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under “Minimum Limits of Insurance.”
2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto). If personal automobile coverage is used, the City, its officers, officials, employees, agents, and volunteers are to be listed as additional insureds.
3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.

MINIMUM LIMITS OF INSURANCE

Service Provider, or any party the Service Provider subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY:**
 - (i) \$1,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$1,000,000 per occurrence for personal and advertising injury;
 - (iii) 1,000,000 aggregate for products and completed operations; and,
 - (iv) \$ 1,000,000 general aggregate applying separately to the work performed under the Agreement.

2. **COMMERCIAL AUTOMOBILE LIABILITY:**

\$1,000,000 per accident for bodily injury and property damage.

OR*

PERSONAL AUTOMOBILE LIABILITY insurance with limits of liability not less than:

- (i) \$100,000 per person;
- (ii) \$300,000 per accident for bodily injury; and,
- (iii) \$50,000 per accident for property damage.

3. **WORKERS' COMPENSATION INSURANCE** as required by the State of California with statutory limits.

4. **EMPLOYER'S LIABILITY:**

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

UMBRELLA OR EXCESS INSURANCE

In the event Service Provider purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the City, its officers, officials, employees, agents, and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

Service Provider shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and Service Provider shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared on the Certificate of Insurance, and approved by, the City's Risk Manager or designee. At the option of the City's Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, officials, employees, agents, and volunteers; or
- (ii) Service Provider shall provide a financial guarantee, satisfactory to City's Risk Manager or designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

- 1. City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds. Service Provider shall establish additional insured status for the City and for all ongoing and completed operations by

use of ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript insurance company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

2. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents, and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.
3. For any claims related to this Agreement, Service Provider's insurance coverage shall be primary insurance with respect to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, and volunteers shall be excess of Service Provider's insurance and shall not contribute with it. Service Provider shall establish primary and non-contributory status by using ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 01 04 13.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: Service Provider and its insurer shall waive any right of subrogation against City, its officers, officials, employees, agents, and volunteers.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty calendar days' written notice by certified mail, return receipt requested, has been given to City. Service Provider is also responsible for providing written notice to the City under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Service Provider shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Service Provider shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen calendar days' prior to the expiration date of the expiring policy.

VERIFICATION OF COVERAGE

Service Provider shall furnish City with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the City's Risk Manager or designee prior to City's execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of City, Service Provider shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration, or termination of this Agreement.

DRAFT

ASSIGNMENT AND DELEGATION OF PURCHASE AND SALE AGREEMENT

THIS ASSIGNMENT AND DELEGATION OF PURCHASE AND SALE AGREEMENT (this Assignment) is made and entered into this ____ day of June 2021 (the Effective Date), by and between the HOUSING AUTHORITY OF THE CITY OF FRESNO, a California public body corporate and politic (Assignor), and the CITY OF FRESNO, a California municipal corporation (Assignee). All capitalized terms used in this Assignment shall have the same meanings as set forth in the Purchase Agreement (defined below).

RECITALS:

A. Assignor, as buyer, and NARESH PATEL AND RAGINI PATEL, as seller (Seller), are parties to that certain Purchase and Sale Agreement and Addendum to Purchase and Sale Agreement dated March 5, 2021 (collectively, the Purchase Agreement) for a 29,646 square-foot motel known as the Valley Inn, located at 933 N. Parkway Drive, Fresno, CA 93728, Fresno County APN 449-335-32 (the Property). The Purchase Agreement is attached hereto as Exhibit "A" and is incorporated herein by this reference.

B. Assignor's mission is, in part, to support families and individuals by providing access to quality affordable housing within the City and County of Fresno.

C. The Purchase Agreement permits Assignor, as Buyer, to assign Buyer's rights, title, obligations, and interest under the Purchase Agreement to a third party without Seller's consent.

D. Pursuant to the Purchase Agreement, Assignor has deposited \$20,000 into escrow to apply to the Purchase Price for the Property (the Deposit).

E. Assignor now desires to assign and delegate to Assignee, and Assignee desires such assignment and delegation of, all of its rights, interests, and obligations under the Purchase Agreement for the Property pursuant to the terms and subject to the conditions set forth in this Assignment.

F. On May 25, 2021, Assignor's Board of Commissioners authorized the assignment and delegation of the Purchase Agreement to Assignee.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree as follows:

1. **Assignment and Delegation.** Pursuant to the Purchase Agreement, Assignor may assign its interest in the Property without Seller's consent. Effective as of the Effective Date, Assignor hereby assigns all of its rights, interests, and obligations under the Purchase Agreement to Assignee, and delegates to Assignee all of its duties, responsibilities, and obligations under the Purchase Agreement relating to the Property. Any reference to "Buyer" in the Purchase Agreement shall apply to Assignee.

2. **Acceptance of Assignment and Delegation.** Effective as of the Effective Date, Assignee hereby accepts Assignor's assignment of all of Assignor's rights, interest, and obligations under the Purchase Agreement and hereby accepts Assignor's delegation of all of Assignor's duties, responsibilities, and obligations under the Purchase Agreement. On and after the Effective Date, Assignee shall perform all of the duties, responsibilities, and obligations of Assignor under the Purchase Agreement except that Assignee's City Council must agree to accept the Property prior to the Close of Escrow, as defined in the Purchase

Agreement. Assignee covenants that it (1) approves, ratifies and confirms all terms, covenants, conditions and provisions of this Assignment, (2) will perform at Assignee's own expense all duties and obligation imposed on Assignee by the Assignment, and (3) expressly assumes and agrees to keep, perform, and fulfill all the terms, covenants, conditions, duties, and obligations, required to be kept, performed, and fulfilled by Buyer under the Purchase Agreement on and after the Effective Date.

3. **Deposit: Reimbursement.** Upon the Closing of Escrow, as defined in the Purchase Agreement, the Assignee shall prepare and execute escrow instructions directing the Escrow Holder to remit the following funds to Assignor: (1) the full amount of the Deposit of \$20,000; (2) as valuable consideration for this Assignment, the sum of One Dollar (\$1.00); and (3) reimbursement of due diligence expenses in the amount of \$9,645 as more specifically described in Exhibit "B" attached hereto and incorporated herein by this reference. In the event that Assignor does not receive such funds either prior to the Close of Escrow through electronic deposit or cashier's check as specified in this Section 3, this Assignment shall be void and the obligations contained herein shall be of no force and effect.

4. **Indemnification.** Assignee agrees to indemnify and hold Assignor harmless from and against any and all costs, liabilities, damages, expenses, or claims, including without limitation reasonable attorney fees, arising from or in connection with the Purchase Agreement after the Effective Date of this Assignment.

5. **Further Assurances.** Each party shall, at its own cost and expense, execute and deliver any such further documents and instruments and shall take such other actions as may be reasonably necessary to carry out this Assignment.

6. **Governing Law.** This Assignment shall be governed by, and construed in accordance with, the laws of the State of California (without regard to the conflicts of laws provisions thereof).

7. **Counterpart Execution.** This Assignment may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE TO FOLLOW]

EXHIBIT "A"

THE PURCHASE AGREEMENT

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is effective as of March, 5th, 2021, (the "Effective Date") by and between NARESH PATEL and RAGINI PATEL (collectively, "Sellers"), and the HOUSING AUTHORITY OF THE CITY OF FRESNO, a public body corporate and politic ("Buyer"), with reference to the following facts.

RECITALS

A. Sellers are the fee simple owner of that motel known as Valley Inn, comprised of approximately 29,646 square feet of buildings located at 933 N. Parkway Drive, Fresno, California 93728, Assessor Parcel Number 449-335-32, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Buyer's mission is, in part, to provide affordable housing to the people of the City of Fresno.

C. Sellers desire to sell the Property to Buyer, and Buyer desires to purchase the Property from Sellers subject to the conditions enumerated in this Agreement.

D. Buyer's obligation to purchase the Property is expressly conditioned on Buyer's completion, with Sellers' cooperation, of environmental review, including, but not limited to, review under the California Environmental Quality Act and the National Environmental Policy Act, as Buyer determines to be necessary in Buyer's sole discretion (the "Environmental Review"). Any expense incurred by Buyer in conjunction with any Environmental Review shall be solely incurred by Buyer.

NOW THEREFORE, in consideration of the foregoing Recitals, which are deemed true and correct and incorporated herein by this reference, and of the covenants and provisions contained in this Agreement, the parties hereto agree as follows:

1. Agreement to Sell and Purchase Property. Sellers agree to sell to Buyer, and Buyer agrees to purchase from Sellers, subject to the terms and conditions of this Agreement, the Property.

2. Property. The Property shall include (i) all buildings and structures located thereon, if any; (ii) all of the contracts, documents and materials associated with the Property, including, but not limited to, the following: (A) all land use approvals, conditional use permits, building permits, and other governmental permits and approvals of any nature obtained in connection with the Property; (B) all architectural design, construction, engineering and consulting contracts, and development agreements, and any and all amendments, modifications, supplements, addenda, and general conditions thereto, relating to the Property entered into by Sellers and any contractor; (C) all plans and specifications, architectural and engineering drawings, shop drawings, working drawings, prints, surveys, reports, studies, amendments, modifications, changes, supplements, general conditions, and addenda and other documents relating to the Property; (D) all licenses, permits, and other approvals issued by any state, federal, or local authority relating to the Property; and (E) all service, maintenance, management or other contracts related to ownership or operation of the Property, at Buyer's sole discretion;

(iii) all water lines and systems appurtenant to the Property; (iv) all easements and rights-of-way relating to or appurtenant to the Property, including any right, title and interest of Sellers in and to adjacent streets, alleys, rights-of-way, etc.; (v) all rights to groundwater or rights that the Property may have to receive surface water from any source; (vi) all wells and related pumps and motors located on the Property; (vii) all minerals, oils, gas, and other hydrocarbons located on or under the Property; (viii) all Sellers' interest in and to all ground leases and leasehold interests or rents and security deposits; and (ix) any and all other improvements to the Property, fixtures, furniture, equipment and all other personal property that Sellers may have any interest in as may be appurtenant or affixed thereto. Seller shall deliver the Property free and clear of all liens, taxes and encumbrances, unless specifically waived by the Buyer in writing.

3. Purchase Price Amount; Deposit.

(a) The purchase price for the Property shall be a total of SIX MILLION NINE HUNDRED FIFTY-FIVE THOUSAND DOLLARS AND NO/100 CENTS (\$6,955,000.00) (the "**Purchase Price**").

(b) Within five (5) days of the execution of this Agreement, Buyer shall make a deposit of TWENTY THOUSAND DOLLARS AND NO/100 CENTS (\$20,000.00) (the "**Deposit**") with Title Company (as defined below). The Deposit shall become non-refundable after the Due Diligence Period ends (the 181st day after the Effective Date of this Agreement) and shall be credited towards the Purchase Price upon the Closing (as defined below).

(c) Upon the Closing, Title Company shall transmit the entire Purchase Price to Sellers.

4. Buyer's Inspections.

(a) Sellers shall provide Buyer, and Buyer's agents, employees, and representatives (collectively "**Buyer's Agents**"), for ten (10) days from the Effective Date (the "**Inspection Period**"), with reasonable access to the Property, and each portion thereof, to allow Buyer or Buyer's Agents, or both, to investigate, inspect, and to conduct such tests upon the Property, and each portion thereof, as Buyer deems necessary or advisable, including, without exception, a building inspection, Phase 1 and/or Phase 2 environmental assessments, and soil testing (collectively "**Buyer's Inspections**"). Buyer is aware there are residents within the subject units on the Property, and neither Buyer nor Sellers may have access to all of the rooms at any single time. Sellers shall reasonably cooperate with Buyer and Buyer's Agents in the carrying out any and all of Buyer's Inspections.

(b) Sellers shall transmit to Buyer as soon as possible, but in no event later than the end of the Inspection Period, any and all information, including but not limited to data, studies, and reports, as well as any other information Sellers have in their possession regarding the Property (the "**Diligence Documents**"). A list of the specific Diligence Documents required is attached hereto and included herein as **Exhibit B**. Said documents shall be provided prior to the start of the Inspection Period.

(c) In addition to the Inspection Period, Buyer shall have an additional one hundred seventy (170) -day due diligence period (collectively, a total of 180 days) to determine whether or not the Property meets requirements imposed by the California Department of Housing and Community Development, City of Fresno, County of Fresno or other Agencies and complete all due diligence at Buyer's sole discretion (the "**Due Diligence Period**").

(d) Buyer shall indemnify, defend, and hold Sellers, and Sellers' employees, agents, successors, and assigns, and each of them, harmless from and against any and all claims, demands, losses, costs, expenses, damages, recoveries, deficiencies, liabilities, and liens (including, without limitation, the defense thereof and all reasonable attorneys', paralegals', and other professionals' fees and costs) that may arise, result from, or be attributable to the acts or omissions of Buyer or Buyer's Agents, or both, in performing or preparing the Buyer's Inspections.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYER SHALL TAKE TITLE TO THE PROPERTY IN AN "AS IS" PHYSICAL CONDITION, IT BEING UNDERSTOOD THAT SELLERS ARE NOT MAKING ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH REGARD TO THE PHYSICAL CONDITION OF THE PROPERTY, OR ANY PORTION THEREOF, UNLESS OTHERWISE EXPRESSLY PROVIDED FOR IN THIS AGREEMENT OR AS EXPRESSLY SET FORTH IN WRITING AND PROVIDED TO BUYER. BUYER ACKNOWLEDGES THAT PURSUANT TO THE TIME PERIODS STATED HEREIN OR BY THE CLOSE OF ESCROW, WHICHEVER IS LATER, BUYER HAS MADE ALL INSPECTIONS OF THE PROPERTY BUYER BELIEVES ARE NECESSARY TO PROTECT BUYER'S INTEREST THEREIN.

5. Closing: Closing Costs.

(a) The closing of escrow (the "**Closing**") shall take place through an escrow established with Title Company, which shall be Placer Title Company in Fresno, Darryl Evans (the "**Title Company**"). Closing shall occur on a date agreed to by Buyer and Sellers on or before thirty (30) days after the Due Diligence Period (the "**Closing Date**"), unless agreed to by both parties in writing. Buyer, at its sole discretion, may terminate the escrow on or up to the last day of the Due Diligence Period. Escrow shall occur pursuant to the provisions contained in this Agreement and those additional escrow instructions reasonably approved by both parties and prepared by the Title Company and approved by the parties. Buyer and Sellers shall sign and deliver said escrow instructions to the Title Company to deposit into escrow within seven (7) calendar days of the Effective Date.

(b) Buyer and Sellers shall sign and complete all customary or reasonably required documents at or before the Closing Date.

(c) Fees for Closing services by the Title Company shall be paid at the Closing Date by a 50/50 split between Buyer and Sellers, except for the title

commitments and policies as described in Sections 6 and the items described in Section 12(b) below.

6. Title Commitment and Survey. Sellers shall order from the Title Company, at Sellers' expense, a commitment (or commitments) for a California Land Title Association (CLTA) policy issued by Title Company (the "**Preliminary Title Report**" or "**Title Commitment**"), within fourteen (14) days of the Effective Date, subject only to the Permitted Title Exceptions (defined below). Buyer shall have ninety (90) days from receipt of the Preliminary Title Report, and copies of all exceptions, to review and approve same. If Sellers are unwilling or unable to eliminate any title matter reasonably disapproved by Buyer, Sellers may terminate this Agreement. If Sellers fail to deliver title to Buyer subject only to the Permitted Title Exceptions, or is unwilling or unable to eliminate any title matter reasonably disapproved by Buyer, Buyer may terminate this Agreement. Buyer, at its sole election, may direct Title Company to prepare an American Land Title Association (ALTA) policy. Any additional premium to obtain the ALTA policy beyond the CLTA policy premium shall be borne solely by Buyer.

7. Hazardous Substances. The Closing of this transaction is contingent upon the satisfaction or waiver by Buyer of a Hazardous Substance Conditions report. Buyer shall give written approval following the receipt of a Hazardous Substance Conditions report concerning the Property and relevant adjoining properties. Such approval or waiver must be given within ninety (90) days of the Effective Date. Such report will be obtained at Buyer's direction and expense. An unacceptable Hazardous Substance Conditions report will provide Buyer with a basis for termination of this Agreement. A "Hazardous Substance" for purposes of this Agreement shall mean without limitation: (i) those substances included within the definitions of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminant" in CERCLA, RCRA, TSCA, MAT, or under any other environmental law; (ii) those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101], or by the Environmental Protection Agency (EPA), or any successor agency, as hazardous substances [40 CFR Part 302]; (iii) other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and (iv) any material, waste, or substance that is: (a) a petroleum or refined petroleum product, (b) asbestos, (c) polychlorinated biphenyl, (d) designated as a hazardous substance pursuant to 33 U.S.C.A. §1321 or listed pursuant to 33 U.S.C.A. §1317, (e) a flammable explosive, or (f) a radioactive material.

8. Representations and Warranties of Sellers. Sellers hereby represent and warrants to Buyer on and as of the date hereof and as of the Closing Date as follows:

(a) Sellers have full capacity, right, power and authority to execute, deliver, and perform this Agreement and all documents to be executed by Sellers pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Sellers are and shall be duly authorized to sign the same on Sellers' behalf and to bind Sellers thereto. This Agreement and all documents to be executed pursuant hereto by Sellers are and shall be binding upon Sellers in accordance with their respective terms. The transaction contemplated hereby

will not result in a breach of or constitute a default under any agreement to which Sellers or the Property is subject or by which Sellers or the Property is bound.

(b) Sellers own fee simple title to the Property free and clear of all liens, encumbrances, options and restrictions of every kind, except for any Permitted Exceptions (as defined below) and any exceptions shown on its current title insurance policies delivered to Buyer.

(c) Unless otherwise disclosed to Buyer in writing prior to the Closing Date, to Sellers' knowledge, there are no claims, causes of action or other litigation or proceedings pending with respect to the ownership or operation of the Property, or any part thereof which could materially affect the Property, or the consummation of the transactions contemplated by this Agreement.

(d) Sellers have not received any notice of any violations of any legal requirements with respect to the Property which have not been corrected, and to Sellers' knowledge there is no condition existing with respect to the Property which violates any law, ordinance, rule, regulation or requirement, including, without limitation, those pertaining to zoning, building, health, safety or environmental matters, of the municipal, county, state or federal government.

(e) Sellers have no actual knowledge or is unaware of any facts or circumstances related to the existence of any Hazardous Substances, as defined in Section 7 of this Agreement, on, about, under, or adjoining the Property.

(f) Neither Sellers nor, to Sellers' knowledge, any of their affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives, or agents, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

(g) Sellers have not received, and has no other knowledge or information of, any notice from any insurance company or board of fire underwriters requesting the performance of any work or alteration with respect to the Property, or requiring an increase in the insurance rates applicable to the Property.

(h) Sellers shall not take or cause to be taken or suffer any action that would cause any of the foregoing representations or warranties to be untrue as of the Closing Date. Sellers shall immediately notify Buyer in writing of any event or condition that will cause a change in the facts relating to, or the truth of, any of the above representations or warranties. The representations, warranties and covenants contained in this Section shall survive the Closing Date, however, in the event that Buyer, prior to Closing, obtains actual knowledge that a representation or warranty of Sellers may be

inaccurate, and Buyer nonetheless signs a knowing and complete written expression waiving such representation or warranty and elects to Close Escrow, Buyer may not bring a subsequent action or proceeding against Sellers or Broker regarding the representation or warranty that is subject to the Buyer's wavier.

9. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Sellers on and as of the date hereof and as of the Closing Date as follows:

(a) Buyer has full capacity, right, power and authority to execute, deliver, and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto. This Agreement and all documents to be executed pursuant hereto by Buyer are and shall be binding upon Buyer in accordance with their respective terms.

(b) Buyer's execution and delivery of this Agreement will not result in a breach or violation or a default (or any event which with notice and passage of time, or both, would constitute a default) under any of Buyer's organizational documents or any contract, agreement, permit, license, order or decree to which Buyer is a party.

(c) Neither Buyer nor, to Buyer's knowledge, any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action.

10. Possession. Actual, sole and exclusive physical possession of the Property shall be given to Buyer on the Closing Date by delivery of Sellers' Grant Deed, duly executed and acknowledged by Sellers (the "**Deed**"), subject to the following, all of which shall be deemed "**Permitted Title Exceptions**":

(a) Except for any matters shown on the Title Commitment reasonably objected to by Buyer in writing prior to the Closing Date, all matters shown in the Title Commitment;

(b) Any title exceptions or encumbrances, including current property taxes, arising by, through, or under Buyer;

(c) Applicable zoning and governmental regulations and ordinances;

and

(d) All matters created as a result of the transactions contemplated by this Agreement.

11. Vesting. Unless otherwise designated in the escrow instruction of Buyer, title shall vest with the Housing Authority of the City of Fresno or its assignee.

12. Apportionments, Taxes, Etc. Real estate taxes on the Property, personal property taxes, special district taxes, water and sewer rents, and other municipal charges shall be apportioned pro rata between Sellers and Buyer on a per diem basis as of the Closing Date based on the most recent bill received or assessment due. Further, notwithstanding the foregoing, no prorations shall be made for any unpaid amounts due and payable prior to the Closing Date. The amount of any bond or assessment which is a lien, and not paid along with taxes, shall be paid by Sellers.

(a) Utility Meter Charges. Sellers shall pay all outstanding charges accruing until the day prior to the Closing Date, for water, electric, gas, and other utilities based upon the most recent bill received or assessment due, apportioned pro rata between Sellers and Buyer on a per diem basis as of the Closing Date.

(b) Transfer and Documentary Stamp Taxes; Sales and Use Taxes. Any realty transfer taxes, documentary stamp taxes, and similar taxes imposed upon the delivery and/or recording of the Deed or upon this transaction shall be paid by Sellers. Any sales and use tax that may accrue because of this transaction shall be paid, when due, by Buyer.

13. Conditions of the Agreement.

(a) Conditions of Buyer. The obligations of Buyer under this Agreement are subject to the following:

(i) Sellers have performed all covenants, agreements, and conditions required by this Agreement to be performed by Sellers prior to or as of the Closing Date (any of which may be waived in whole or in part in writing by Buyer at or prior to Closing);

(ii) Buyer may terminate this Agreement at any time prior to the Closing Date if, in Buyer's sole determination, any of the following events or circumstances occur:

- (A) Buyer fails to obtain entitlements to develop the Property;
- (B) There is a successful legal challenge of the Environmental Review;
- (C) Buyer fails to obtain desired financing to develop the Property; or

(D) Buyer no longer desires to proceed with the purchase of the Property.

(iii) The discretionary approval of Buyer's Board of Commissioners during a publicly agendized meeting within one hundred eighty (180) days of the Effective Date.

(iv) All of the following requirements must be met:

(A) Property to be free and clear of all Fresno Municipal Code violations;

(B) Buyer to obtain approval from the City of Fresno to utilize the Property for its specific use; and

(C) Property to be free and clear of all litigation.

(b) Conditions of Sellers. The obligations of Sellers under this Agreement are subject to the satisfaction at the time of Closing that Buyer has performed all covenants, agreements, and conditions required by this Agreement to be performed by Buyer prior to or as of the Closing Date (any of which may be waived in whole or in part in writing by Sellers at or prior to Closing). This Agreement is subject to the approval of the Housing Authority of the City of Fresno and subject to satisfactory due diligence as determined by the Buyer.

14. Items to be Delivered at Closing by Sellers. At Closing, Sellers shall deliver to Buyer (or to Buyer's nominee), via escrow, the following:

(a) The Deed, duly executed and acknowledged;

(b) Such resolutions and certificates as Buyer or the Title Company shall require to evidence the due authorization of the execution and performance of this Agreement and the documents to be delivered pursuant hereto; and all affidavits, indemnities and other agreements, documents, or reports required by the Title Company to permit it to issue to Buyer the owner's policy of title insurance required pursuant to Section 6 hereof;

(c) A signed copy of the closing statement prepared by the Title Company;

(d) A certificate given pursuant to the Foreign Investment in Real Property Tax Act certifying that Sellers are not a foreign entity or person; and

(e) Any other documents required to be delivered by Sellers pursuant to any other provisions of this Agreement or as otherwise required by the Title Company or California law.

15. Items to be Delivered at Closing by Buyer. At Closing, Buyer shall deliver to Sellers (or to Sellers' nominee), via escrow, the following:

(a) The Purchase Price (adjusted by any Deposit or other prorations contemplated herein);

(b) A signed copy of the closing statement prepared by the Title Company;

(c) Such resolutions and certificates as Sellers or the Title Company shall require to evidence the due authorization of the execution and performance of this Agreement and the other documents to be delivered pursuant hereto, together with Buyer's organizational documents, and all affidavits, indemnities and other agreements, documents, or reports required by the Title Company to permit it to issue to Buyer the owner's policy of title insurance pursuant to Section 6 hereof; and

(d) Any other documents required to be delivered by Buyer pursuant to any other provisions of this Agreement, or as otherwise required by the Title Company or California law.

16. Brokerage. Buyer represents and warrants to Sellers that Buyer has dealt with no broker, finder, or other intermediary in connection with this sale. Sellers represent and warrant to Buyer that Sellers have dealt with the following broker in connection with this sale: Roger Story of Motel Hotel Specialists, Inc. (the "**Broker**"). Sellers are solely responsible for all brokerage fees and commissions totaling three and one-half percent (3.5%) of the Purchase Price. The provisions of this Section shall survive Closing. Sellers shall indemnify, defend and hold Buyer harmless from any and all claims associated with the payment of such brokerage fees and commissions.

17. Confidentiality.

(a) Confidential Information. For purposes of this Agreement, the term "**Confidential Information**" shall include, but is not limited to, all of the following: financial information, including but not limited to, real property holdings, income statements, balance sheets, pro forma, budgets, development project expenses, and cash flow statements, any data, ideas, know-how, materials, products, formulas, processes, technology, computer programs, specifications, drawings, diagrams, manuals, business plans, software, marketing plans, customer lists, personnel information (including, but not limited to, information regarding employee identity and wages), manufacturing techniques, and other information disclosed or submitted, orally, in writing, or by any other media, by and between the parties. Confidential Information shall also include, (i) information that is not known by current or future competitors of the disclosing party and/or is generally unavailable to the public; (ii) information that has been created, discovered, developed by, or otherwise become known to the disclosing party; and (iii) information that is valuable to, or may become valuable to, the disclosing party's present or future business, and which is disclosed by that party, either directly or indirectly, in writing, orally, or by any other media, to the receiving party.

(b) Non-Disclosure. Subject to subsection (c) below, the receiving party agrees that the Confidential Information of the disclosing party is confidential and proprietary and shall be held in strictest confidence by the receiving party. The receiving party may disclose the Confidential Information only to the officers, directors, and employees of the receiving party who have a need to know the information and who shall have agreed to abide by the terms of this Agreement. Neither the nature nor the content of any Confidential Information of the disclosing party shall, directly or indirectly, be disclosed to others or used for the benefit of any person other than the disclosing party without the prior written permission of the disclosing party. The receiving party shall not use any Confidential Information for any purpose except to evaluate and engage in discussions concerning this Agreement.

(c) Legal or Regulatory Disclosures. In the event a receiving party is compelled (by deposition, interrogatory, request for documents, order, subpoena, civil investigative demand or similar process issued by a court of competent jurisdiction or by a government body, or pursuant to the California Public Records Act) to disclose any of the Confidential Information, then within two (2) business days of the receiving party becoming aware of or receiving notice of such requirement, the receiving party shall provide written notice to the disclosing party so that it may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, and irrespective of whether or not compliance with the provisions hereof is waived, only that portion of the Confidential Information which the receiving party is subject to such legal or regulatory compulsion, or is advised by its counsel is legally (or pursuant to an applicable regulator's rules or regulations) required to be disclosed shall be disclosed.

(d) Exceptions. Notwithstanding any provision to the contrary, Confidential Information shall not include any information or data which: (i) the receiving party can demonstrate to have been previously known to the receiving party, at the time of its disclosure, by sources other than the disclosing party; (ii) is in the public domain at the time of disclosure, or which later becomes part of the public domain by publication or otherwise through no breach of this Agreement by the receiving party; (iii) was furnished to the receiving party by a third party, as a matter of right without restriction on disclosure, and which was not received directly or indirectly from the disclosing party, and which the disclosing party is not obligated to keep confidential; or (iv) the receiving party can demonstrate to have been independently developed by the receiving party without use of any Confidential Information of the disclosing party.

(e) Return/Destruction of Confidential Information. All documents and other tangible objects containing or representing Confidential Information and all copies which are in a receiving party's possession shall be and shall remain the property of disclosing party and shall be promptly returned to disclosing party or destroyed upon their request.

18. 1031 Exchange. In the event that Sellers wish to enter into a Tax-Deferred Exchange for the Property, or if Buyer wishes to enter into a Tax-Deferred Exchange relating to the Property, each of the parties agree to cooperate with the other party in connection with such

exchange, including the execution of such documents as may be reasonably necessary to effectuate the same. Provided that: (a) the other party shall not be obligated to delay the Closing; (b) all additional costs and liabilities in connection with the exchange shall be borne by the party whose property is exchanged; and (c) the other party shall not be obligated to execute any note, contract, or other document providing for any personal liability which would survive the exchange.

19. Notices. All notices, demands, requests, or other communications from either party to the other party, required or permitted under the terms of this Agreement, shall be in writing to the following addresses for Sellers and Buyer, respectively:

Sellers

Naresh Patel and Ragini Patel
933 N. Parkway Drive
Fresno, CA 93728

Buyer

Housing Authority of the City of Fresno
Attn: Michael Duarte
1331 Fulton Street
Fresno, California 93721
Email: mduarte@fresnohousing.org
Facsimile:

With a copy to:

Kenneth J. Price, Esq.
Baker Manock & Jensen, PC
5260 N. Palm Avenue, Suite 421
Fresno, California 93704
Facsimile: (559) 432-5620

and shall be deemed to have been provided on the earlier of:

- (a) Forty-eight (48) hours after being sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested; or
- (b) The next business day after having been deposited (in time for delivery by such service on such business days) with Federal Express or another national overnight courier service; or
- (c) If such party's receipt thereof is acknowledged in writing, upon having been sent by telefax or another means of immediate electronic communication, in each case to the address of such party set forth hereinabove or to such other address in the United States of America as such party may designate from time to time by notice to the other party hereto; or

(d) If such party's receipt thereof, is acknowledged in writing, its having been given by hand or other actual delivery to such party.

Notwithstanding the foregoing, any notice of default shall be deemed to have been provided only upon receipt or refusal as evidenced by return receipt, courier receipt or other receipt provided by the overnight delivery service.

20. Miscellaneous.

(a) Assignment. Buyer may, without Sellers' consent, assign all right, title, obligation, and interest under this Agreement to a third party.

(b) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement may not be assigned by either party hereto without the written consent of the other party hereto; provided that Buyer may assign this Agreement without the consent of Sellers to a limited partnership of which Buyer, an affiliate of Buyer, or an entity in which Buyer is a sole member, is a partner.

(c) Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof, supersedes all prior or other negotiations, representations, understandings and agreements of, by or among the parties, express or implied, oral or written, which are fully merged herein. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Agreement unless such agreement is in writing and signed by the party against whom enforcement of such change, modification, discharge or abandonment is sought.

(d) Governing Law; Venue. This Agreement shall be governed by and construed under the laws of California and venue for any action related to the enforcement of any provision of this Agreement shall be in Fresno County Superior Court or in the Eastern District of California (Fresno) as the case may be.

(e) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall be binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected on this Agreement as the signatories.

(f) No Waiver. Neither the failure nor any delay on the part of either party to this Agreement to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power, or privilege with respect to any occurrence be construed as a waiver of any such right, remedy, power, or privilege with respect to any other occurrence. No

waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

(g) Time of the Essence. Time, wherever stated in this Agreement, is expressly of the essence of this Agreement.

(h) Expiration. Unless accepted prior thereto, this Agreement must be accepted and counter-signed by Sellers by 5:00pm PST on Friday, March 5, 2021.

(i) Attorneys' Fees. In the event that the parties to this Agreement find it necessary to institute legal proceedings to enforce the provisions of this Agreement, the prevailing party in said suit, action or arbitration shall be entitled to recover from the non-prevailing party, all costs associated with such suit or action, including reasonable attorney's fees and costs.

IN WITNESS WHEREOF, intending to be legally bound, the parties have executed this Agreement as of the Effective Date above written.

SELLERS:

Naresh Patel
Naresh Patel

Date: 3-5-2021

Ragini Patel
Ragini Patel

Date: 3-5-2021

BUYER:

Housing Authority of the City of Fresno, a public body corporate and politic

By: _____
Preston Prince, CEO

Date: _____

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IN WITNESS WHEREOF, intending to be legally bound, the parties have executed this Agreement as of the Effective Date above written.

SELLERS:

Naresh Patel

Date: _____

Ragini Patel

Date: _____

BUYER:

Housing Authority of the City of Fresno, a public body corporate and politic

By: Preston Prince
Preston Prince, CEO

Date: 03/03/2021

PARCEL 4:

All of that portion of East Parkview Avenue, as said Avenue is shown on the map of Roeding Park Gardens, recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records, and more particularly described as follows: Beginning at the most Westerly corner of Lot 19, of said Roeding Park Gardens;

thence Southerly and Southwesterly, along a curve which is tangent to the Southwesterly line of said Lot 19, having a radius of 40.0 feet and concave to the Northwest, through an interior angle of $104^{\circ} 28' 31''$, an arc distance of 72.94 feet, to the intersection with the Northeast line of Lot 52 of said Roeding Park Gardens; thence South $25^{\circ} 52' 00''$ East, along the Northeasterly lines of Lots 52, 51, 50 and 49 of said Roeding Park Gardens, to the point which is 91.65 feet Southeasterly from the Northeasterly corner of said Lot 49; thence Southerly and Westerly, along a tangent curve, concave to the Northwest and having a radius of 20.0 feet, an arc distance of 40.40 feet, to the intersection with the South line of said Lot 49; thence North $89^{\circ} 52' 00''$ East, along the Easterly prolongation of the South line of said Lot 49, a distance of 43.38 feet; thence Easterly and Southerly, along a tangent curve concave to the Southwest and having a radius of 70.0 feet, an arc distance of 78.52 feet, to the intersection with the Southwest line of Lot 23 of Roeding Park Gardens; thence North $25^{\circ} 52' 00''$ West, along the Southwesterly lines of Lots 23, 22, 21, 20 and 19 of said Roeding Park Gardens to the point of beginning, as abandoned by the Fresno City Council, by Resolution No. 8732, recorded in Book 5261, Page 488 of Official Records.

EXCEPTING THEREFROM any portion thereof lying within the Northeasterly half of said land, lying Northwesterly of the Southwesterly prolongation of the Southeasterly line of Lot 21 of said Roeding Park Gardens, and Southeasterly of the Southwesterly prolongation of the Northwesterly line of the Southeasterly 35 feet of Lots 10 and 20 of said Roeding Park Gardens.

EXHIBIT "B"

REIMBURSABLE TO ASSIGNOR DUE DILIGENCE EXPENSES

Item	Description	Vendor	Expense
PSA deposit	refundable deposit paid to owner	Property owner	\$20,000
Phase I	Environmental study of the property	Krazan and Associates	\$3,600
Asbestos	Asbestos testing (interior and exterior)	Krazan and Associates	\$2,395
Appraisal	Assessment of the property's valuation	James G. Palmer Appraisals, Inc.	\$3,250
Pest Inspection	Inspection of the property for pest damage	San Joaquin Valley Pest Control	\$400
			\$29,645

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

DRAFT

City of Fresno
2600 Fresno Street,
Fresno, Ca. 93721
Attention:

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Agreement is recorded at the request and for the benefit of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

CITY OF FRESNO, a municipal
corporation

By: _____

Thomas Esqueda

Its: City Manager

Dated: _____

AGREEMENT FOR PURCHASE OPTION

By and Between

THE CITY OF FRESNO
a municipal corporation

and

**Housing Authority of the City of Fresno,
a California public body corporate and politic**

AGREEMENT FOR OPTION TO PURCHASE

This Agreement for an Option-to-Purchase real property is made by and between The Housing Authority of the City of Fresno (Fresno Housing Authority), a public body corporate and politic, and the City of Fresno, a municipal corporation (City or Owner).

RECITALS:

A. The City of Fresno holds or will hold fee title to certain real property known as The Valley Inn and located at 933 North Parkway Drive, Fresno, CA, 93728 (APN 449-335-32) (Property), and more specifically described in the attached **Exhibit A** (Property Description).

B. The City of Fresno desires to convert Property from a low-barrier emergency homeless shelter to high-quality permanent affordable housing no sooner than three (3) years after the City's acquisition of the Property but no later than seven years after the City's acquisition of the property (the Option Window).

C. To convert the Property to high-quality permanent affordable and/or mixed income housing, the City will collaborate with Fresno Housing Authority, and the collaboration is described in this Option-to-Purchase Agreement.

D. The Option-to-Purchase Agreement provides Fresno Housing Authority the exclusive rights within the Option Window, to acquire the Property from the City and convert property to permanent affordable and/or mixed income housing.

E. If Fresno Housing Authority does not exercise the Option-to-Purchase within the Option Window, the City may (a) extend the term of the Option-to-Purchase Agreement with the mutual consent of Fresno Housing Authority, or (b) exercise the City's adopted process and procedures to dispose of property in accordance with the Surplus Land Act in effect at the time when the Option-to-Purchase Agreement expires, or (c) continue to own the Property.

F. Fresno Housing Authority desires to enter into this Option-to-Purchase Agreement with the City of Fresno to secure exclusive rights to acquire the Property for potential or future conversion to permanent affordable, and/or mixed-income housing.

AGREEMENT:

NOW, THEREFORE, Owner and City agree as follows:

1. **Grant of Option.** Owner grants an exclusive right to Fresno Housing Authority to purchase the Property at the price and on the terms set forth in **Exhibit B**.

2. **Effective Date.** The effective date of this Agreement is the date it is signed by the Owner, after it is signed by the Fresno Housing Authority upon their approval of this Agreement (Effective Agreement).

3. **Consideration.** For the rights granted by Owner, the Fresno Housing Authority will pay Owner FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) within 30 days after the Owner approves this Agreement. The Owner's approval is a condition precedent to the effectiveness of this Agreement.

4. **Original Term.** The Option Window for the Fresno Housing Authority to exercise an exclusive option to purchase The Valley Inn begins three years after the

Effective Date of this Agreement and expires seven years after the Effective Date, unless the Option Window is extended by the parties as provided herein.

4.1. Automatic Termination. If Fresno Housing Authority does not exercise this option to purchase the Property within the Option Window or any extension of the original option period, then this Agreement and Fresno Housing Authority's option rights will automatically expire without notice.

4.2. Extension of Original Term. If Fresno Housing Authority desires to extend the Option Window to a new term date, Fresno Housing Authority shall provide notification to the City of Fresno no later than 30-days prior to the expiration of the Option Window. The notification shall be in the form of a Resolution adopted by the Fresno Housing Authority Board of Commissioners. If Fresno Housing Authority is granted an extension of the Option Window, then Fresno Housing Authority will pay the Owner an additional ONE HUNDRED AND NO/100 DOLLARS (\$100.00) as consideration for the extension.

4.3. Expiration of Original Term. If Fresno Housing Authority does not exercise the Option-to-Purchase during the Option Window, the City may retain the Property or exercise the City's adopted process and procedures to dispose of property in accordance with the Surplus Land Act in effect at the time when the Option-to-Purchase Agreement expires.

5. Exercise of Option. The Fresno Housing Authority may exercise the exclusive option to purchase the property upon submittal of the following:

5.1. A Resolution adopted by the Fresno Housing Authority Board of Commissioners notifying the City of Fresno of the Fresno Housing Authority's intent to exercise the option to purchase The Valley Inn.

5.2. The Resolution must be received by the City of Fresno at any time prior to the expiration of the Option Window.

5.3. The Resolution must also specify that the Fresno Housing Authority will acquire The Valley Inn for the sole and exclusive purpose of developing permanent affordable and/or mixed income housing on the property.

5.4. The Resolution must also include supplemental information summarizing the details of the permanent affordable housing project to be developed by the Fresno Housing Authority on The Valley Inn property. The supplemental information shall include the funding plan, site development plans, building elevations, construction cost estimates and construction schedule for the permanent affordable housing project. So long as the Resolution contains all required elements described in this Section 5.3 and 5.4, the City shall automatically accept the Resolution as sufficient.

5.5. Within 60 days after submitting the notice of intent to exercise the purchase option, including all required supplemental information, the Fresno Housing Authority and Owner will execute all required escrow documents to facilitate a transfer of title, with a title company selected by City.

5.6. Upon receipt of the notice of intent, and all supplemental information, Owner will take all actions necessary to convey title to Fresno Housing Authority

free and clear of all liens, licenses, claims, encumbrances, easements, encroachments from adjacent properties, and pending litigation.

6. Application of Prior Payments to the Purchase Price or Retention by Owner. If Fresno Housing Authority exercises the option to purchase, then all payments submitted by Fresno Housing Authority to the City of Fresno as a condition of the Agreement shall be applied to the purchase price. If the Fresno Housing Authority does not exercise the option to purchase, then all payments submitted by the Fresno Housing Authority to the City of Fresno shall be retained by the City.

7. Assignment. Either party may assign its interests in this Agreement to any affiliated nonprofit entity either partially or wholly controlled by a party to this Agreement, provided it gives reasonable prior notice to the other party and the assignee agrees in writing to comply with this Agreement.

8. Warranties. Owner warrants that Owner has a marketable and insurable fee simple title to the Property.

9. Risk of Loss. If any improvement on the Property is damaged or destroyed, The Fresno Housing Authority will not be entitled to any refund of moneys paid. The Fresno Housing Authority, however, will be entitled on exercise of this option to offset against the purchase price the insurance proceeds Owner collects or has a right to collect for the loss or damage.

10. Miscellaneous Provisions.

10.1. Notice. Unless otherwise provided in this Agreement, any notice, tender, or delivery given by either party to the other may be by personal delivery or by United States mail, postage prepaid. Notices will be in writing. The notice, tender, or delivery will be deemed communicated or made as of delivery if personally given, or within 24 hours after posting, if mailed. Mailed notices must be addressed as set forth below, but each party may change its address by written notice according to this paragraph.

Notice to the City/Owner:

City of Fresno
Attention: City Manager and
Public Works Director
2600 Fresno Street
Fresno, CA 93721

Notice to Owners:

Housing Authority of the City of Fresno
Attn: CEO/Executive Director
1331 Fulton Mall
Fresno, CA 93721

10.2. Time of the Essence. Time is of the essence of this Agreement.

10.3. Exhibits; Entire Agreement. The exhibits referenced in this Agreement as attached are, by the reference, incorporated into this Agreement. This instrument and the attached Exhibits A and B are the entire agreement between the parties relating to this option. This Agreement supersedes any prior

agreements, promises, negotiations, or representations not expressly set forth in this Agreement. Any amendment to this Agreement must be in writing and signed by Owner and Fresno Housing to be effective.

10.4. Remedies. Either party shall have any remedies now or later allowed at law or in equity. Either party may seek any declaratory, injunctive, or other equitable relief to enforce this Agreement, or restrain or enjoin a violation or breach of any provision hereof.

10.5. Attorney's Fees. If either party brings any legal action or proceeding relating to this Agreement, the prevailing party will be entitled to recover from the other party, in addition to any other relief that may be granted, reasonable attorneys' fees, costs and expenses.

10.6. Binding Effect. This Agreement will bind and inure to the benefit of the parties and their heirs, personal representatives, successors, and assigns.

10.7. Further Assurance. The parties will sign any additional documents and take any additional steps that may be necessary to carry out the intent and purpose of this Agreement.

10.8. Recorded Agreement. Following the execution of this Agreement, this Agreement shall be recorded with the official records of Fresno County, California.

10.9. Survival. The terms of this Agreement shall survive the close of escrow of the Property unless there is a contradiction between the REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS and this Agreement, in which event the REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS shall control.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF the Owner and City have signed this Agreement on the dates and in the year set forth below.

Owner:
CITY OF FRESNO,
A California municipal corporation

Housing Authority of the City of Fresno, a
California public body corporate and politic

By: _____
Thomas C. Esqueda,
City Manager

By: _____
Name: _____

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

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

By: _____

By: _____ Date _____
Tracy N. Parvanian
Senior Deputy City Attorney

Name: _____

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

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy

Attachments:

1. Exhibit A – Property Description
2. Exhibit B – Agreement for Purchase and Sale of Real Property and Escrow Instructions

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT A

**Property
Legal Description**

PARCEL 1:

Lots 10, 11, 19 and 20 of Roeding Park Gardens, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records.

EXCEPTING THEREFROM that portion of said Lots 10 and 20 and said Parkview Avenue, described as follows:

Beginning at the most Easterly corner of said Lot 10; thence Northwesterly, along the Northeasterly line of said Lot 10, a distance of 35.00 feet; thence Southwesterly, parallel with and 35.00 feet from the Southeasterly line of said Lots 10 and 20 and the Southwesterly prolongation of said Southeasterly line to the centerline of East Parkview Avenue, as shown on the map of Roeding Park Gardens recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records; thence Southeasterly along said centerline, a distance of 35.00 feet to the Southwesterly prolongation of the Southeasterly line of said Lots 10 and 20; thence Northeasterly along said prolongation and Southeasterly line to the point of beginning.

ALSO EXCEPTING THEREFROM that portion of said Lots 10 and 11 Deeded to the State of California by Deed recorded July 7, 1954 in Book 3455, Page 414 of Official Records, Document No. 34427, described as follows:

Beginning at a point on the Northeasterly line of said Lot 10, a distance of 35.00 feet from the most Easterly corner of said Lot 10; thence South 64° 04' 25" West, along the Southeasterly line of said Lot 10 a distance of 17.92 feet; thence North 25° 55' 35" West, parallel with and 17.92 feet from the Northeasterly line of said Lots 10 and 11, a distance of 155.33 feet to the beginning of a tangent curve, concave to the Southwest; thence Northwesterly along said curve, having a radius of 3,972.00 feet, through a central angle of 0° 08' 22", an arc distance of 9.67 feet to the Northwesterly line of said Lot 11; thence North 64° 04' 25" East, along said Northwesterly line, a distance of 17.93 feet to the most Northerly corner of said Lot 11; thence South 25° 55' 35" East, along the Northeasterly line of said Lots 11 and 10, a distance of 165.00 feet to the point of beginning.

PARCEL 2:

Lots 49, 50, 51 and 52 of Roeding Park Gardens, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records.

PARCEL 3:

Lot 56 of Roeding Park Gardens, in the City of Fresno, County of Fresno, State of California, according to the map thereof recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records.

PARCEL 4:

All of that portion of East Parkview Avenue, as said Avenue is shown on the map of Roeding Park Gardens, recorded in Book 13, Pages 37 and 38 of Plats, Fresno County Records, and more particularly described as follows: Beginning at the most Westerly corner of Lot 19, of said Roeding Park Gardens;

thence Southerly and Southwesterly, along a curve which is tangent to the Southwesterly line of said Lot 19, having a radius of 40.0 feet and concave to the Northwest, through an interior angle of $104^{\circ} 28' 31''$, an arc distance of 72.94 feet, to the intersection with the Northeast line of Lot 52 of said Roeding Park Gardens; thence South $25^{\circ} 52' 00''$ East, along the Northeasterly lines of Lots 52, 51, 50 and 49 of said Roeding Park Gardens, to the point which is 91.65 feet Southeasterly from the Northeasterly corner of said Lot 49; thence Southerly and Westerly, along a tangent curve, concave to the Northwest and having a radius of 20.0 feet, an arc distance of 40.40 feet, to the intersection with the South line of said Lot 49; thence North $89^{\circ} 52' 00''$ East, along the Easterly prolongation of the South line of said Lot 49, a distance of 43.38 feet; thence Easterly and Southerly, along a tangent curve concave to the Southwest and having a radius of 70.0 feet, an arc distance of 78.52 feet, to the intersection with the Southwest line of Lot 23 of Roeding Park Gardens; thence North $25^{\circ} 52' 00''$ West, along the Southwesterly lines of Lots 23, 22, 21, 20 and 19 of said Roeding Park Gardens to the point of beginning, as abandoned by the Fresno City Council, by Resolution No. 8732, recorded in Book 5261, Page 488 of Official Records.

EXCEPTING THEREFROM any portion thereof lying within the Northeasterly half of said land, lying Northwesterly of the Southwesterly prolongation of the Southeasterly line of Lot 21 of said Roeding Park Gardens, and Southeasterly of the Southwesterly prolongation of the Northwesterly line of the Southeasterly 35 feet of Lots 10 and 20 of said Roeding Park Gardens.

EXHIBIT "B"

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY
AND ESCROW INSTRUCTIONS**

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY
AND ESCROW INSTRUCTIONS**

THE VALLEY INN

933 N. Parkway Drive, Fresno, California 93728 (APN 449-335-32)

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS (Agreement) is made and entered into as of _____, 202_ (the Effective Date), between the CITY OF FRESNO, a municipal corporation (the City) and The Housing Authority of the City of Fresno, a California public body corporate and politic (Fresno Housing Authority or Buyer). This Agreement is being entered to facilitate the acquisition of the Valley Inn (referred to herein as the Subject Property) by the Fresno Housing Authority pursuant to an Option to Purchase Agreement dated _____ between the City and Fresno Housing Authority and recorded on [DATE] as Document No. _____ (Option Agreement).

1. Subject Property. The Subject Property known as APN 449-335-32 is located at 933 North Parkway Drive, in the City of Fresno, County of Fresno, State of California, which includes fixtures and improvements located on the property and all rights, privileges, and appurtenances including and permits and easements, as depicted on Exhibit "A", attached hereto, and incorporated herein by reference.
2. Purchase Price. Fresno Housing Authority shall pay the City Five Hundred Dollars (\$500.00) for the Subject Property (Purchase Price).
3. Payment of Purchase Price. Fresno Housing Authority shall deliver the Purchase Price pursuant to Section 5 below.
4. Conditions Precedent to Close of Escrow. The following conditions precedent must be satisfied or waived by the benefitted party prior to the Close of Escrow:
 - a. Resolution from Fresno Housing Authority Board of Commissioners. Fresno Housing Authority shall provide a resolution from its Board of Commissioners notifying the City of Fresno Housing Authority's intent to exercise the Option to Purchase the Subject Property. Said resolution must be received by the City at any time prior to the expiration of the Option Window, as defined in the Option Agreement. The Resolution shall further confirm that Fresno Housing Authority shall:
 - i. Acquire The Valley Inn for the sole and exclusive purpose of developing permanent affordable and/or mixed income housing on the Subject Property.
 - ii. Provide supplemental information confirming and summarizing the details of the permanent affordable and mixed income housing project to be developed by the Fresno Housing Authority on Subject Property. The supplemental information shall include the funding plan, site development plans, building elevations, construction cost

estimates and construction schedule for the permanent affordable and mixed income housing project.

- b. Title Review. Within 10 business days after execution of this Agreement, City shall order a Preliminary Title Report for the Subject Property, to be issued by Fidelity National Title Company, together with copies of all encumbrances referenced in such Preliminary Title Report (the Prelim). Fresno Housing Authority shall have a period of 15 days after receipt of the Prelim to review the Prelim (the Title Review Period). Upon the expiration of the Title Review Period, Fresno Housing Authority shall be deemed to have approved all exceptions to title to the Subject Property as shown on the Prelim (the Permitted Exceptions), except for matters for which Fresno Housing Authority has provided written notice of objection prior to the expiration of the Title Review Period (the Disapproved Exceptions). In the event Fresno Housing Authority provides notice of Disapproved Exceptions, City may undertake to eliminate or modify such objectionable items to the reasonable satisfaction of Fresno Housing Authority within 30 days (the Cure Period) after receipt of such notice of objections or as extended in writing by the parties. In the event City has not cured, or chooses not to cure, Disapproved Exceptions within the Cure Period, Fresno Housing Authority may, at its option, and as Fresno Housing Authority's sole remedy, terminate this Agreement by written notice to City at any time subsequent to the Cure Period (but prior to the expiration of the Feasibility Period); Fresno Housing Authority and City shall bear equally all costs, fees, and expenses payable to the Title Company; and neither Party shall thereafter have any further duties, rights or obligations hereunder. Notwithstanding anything to the contrary contained in this Agreement, as a condition precedent to Fresno Housing Authority's obligation to proceed with a Closing, City shall remove or cause to be removed, on or before such Closing, all monetary encumbrances, or liens (other than non-delinquent real Property taxes and assessments), excepting those caused by Fresno Housing Authority or otherwise approved or waived by Fresno Housing Authority in writing.
 - c. Conveyance. City shall convey title to the Subject Property to Fresno Housing Authority, in the condition required above, by appropriate Grant Deed and Escrow Holder shall issue the Title Policy (as defined in Section 9 below) to Fresno Housing Authority.
5. Terms of Sale. Not later than five business days after the Effective Date, Fresno Housing Authority shall deposit the Purchase Price with Escrow Holder. Not less than two days business days prior to the Closing Date, City shall deposit a Grant Deed in Escrow and Fresno Housing Authority shall, within the same period, deposit Fresno Housing Authority's share of all costs, expenses and/or prorations, with Escrow Holder.
 6. Close of Escrow. "Close of Escrow" shall mean the act of recording the Grant Deed for the Subject Property in the Official Records of Fresno County, California (the Official Records). The date upon which such recording takes place is the

"Closing Date." The Close of Escrow for the purchase and sale shall occur on, or before 90 days after the Effective Date of this Agreement.

7. Escrow.

- a. Escrow Holder. An escrow (the Escrow) for the consummation of the purchase and sale of the Subject Property shall be established with Fidelity National Title Insurance Company, located at 7485 N. Palm Avenue, Suite 106, Fresno, Ca 93711, (559) 261-8919, Bernadette.Watson@fnf.com (Escrow Holder).
- b. Escrow Instructions. Upon execution of this Agreement, an original signed copy hereof shall be contemporaneously deposited with and countersigned by Escrow Holder. This Agreement constitutes both an agreement of purchase and sale for the Subject Property between City and Fresno Housing Authority and joint escrow instructions to Escrow Holder relative to the purchase and sale of the Subject Property. If Escrow Holder requires separate or additional escrow instructions that it deems necessary for its protection, City and Fresno Housing Authority agree promptly upon request by Escrow Holder to execute and deliver to Escrow Holder such separate or additional escrow instructions (the Additional Instructions). In the event of any conflict or inconsistency between this Agreement and the Additional Instructions, this Agreement shall prevail and govern, and the Additional Instructions shall so provide. The Additional Instructions shall not modify or amend the provisions of this Agreement unless otherwise agreed to in writing by Owner and City. Escrow and title charges are allocated between Owner and City as follows:
- c. Action of Escrow Holder. On the Closing Date, Escrow Holder shall take the following actions:
 - i. Pay from funds deposited by Fresno Housing Authority all claims, demands and liens necessary to place title to the Subject Property in the condition required by Section 9 below;
 - ii. Pay City's share of the closing costs, if any, from funds otherwise distributable to City;
 - iii. Pay Fresno Housing Authority's share of closing costs from funds deposited by Fresno Housing Authority;
 - iv. Prorate real and personal Subject Property taxes, assessments, and other items as set forth in Section 8 below;
 - v. Record the Grant Deed in the Official Records;
 - vi. Deliver to Fresno Housing Authority a conformed copy of the recorded Grant Deed
 - vii. Issue City's Title Policy in accordance with the provisions of Section 9;

- viii. Deliver to City and Fresno Housing Authority true and correct closing statements.
 - d. Escrow and title charges are allocated between City and Fresno Housing Authority as follows:
 - i. The cost for a policy of title insurance shall be paid by the City.
 - ii. The escrow fees, recording fees (if any), and all closing costs shall be paid by Fresno Housing Authority.
 - iii. All other expenses incurred by City and Fresno Housing Authority with respect to the negotiation, documentation and closing of this transaction, including, without limitation, attorneys' fees, shall be borne and paid by the party incurring same.
- 8. Possession; Prorations.
 - a. Possession. Sole and exclusive possession of the Subject Property shall be delivered to Fresno Housing Authority on the Closing Date free of any and all claims by City or any third persons under leases or otherwise.
 - b. Prorations. Current real Property taxes and assessments shall be prorated between City and Fresno Housing Authority at Close of Escrow. The proration of taxes and assessments with respect to the Subject Property shall be based upon the latest available tax information such that City is responsible for all such taxes and assessments levied against the Subject Property to and including the day prior to the Close of Escrow, and Fresno Housing Authority is responsible for all taxes, special taxes and assessments levied against the Subject Property from and after the day prior to the Close of Escrow. If any errors or omissions are made regarding adjustments and prorations, the parties shall make the appropriate corrections promptly upon the discovery thereof. If any estimates are made at the Close of Escrow regarding adjustments or prorations, the parties shall make the appropriate correction promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid in cash to the party entitled thereto.
- 9. Title. Upon Close of Escrow, Escrow Holder shall issue to Fresno Housing Authority a CLTA Owner's Policy of Title Insurance (the Title Policy) in the amount of the Purchase Price, together with such special endorsements thereto that Escrow Holder is willing to issue as may be reasonably requested by Fresno Housing Authority (the Endorsements). The Title Policy shall insure title to the Subject Property vested in Fresno Housing Authority in the amount of the Purchase Price, subject only to: (a) exceptions approved by Fresno Housing Authority or otherwise described as Permitted Exceptions in this Agreement; (b) non-delinquent real Property taxes and assessments; (c) the standard printed exceptions to and exclusions from coverage contained in the form of the Title Policy; and, (d) matters created with the consent of Fresno Housing Authority.
- 10. City's Representations, Warranties and Covenants. City represents, warrants and covenants (where applicable) to Fresno Housing Authority that, as of the date of

this Agreement and at the Close of Escrow (and all of which shall survive the Close of Escrow):

- a. Legal Power. City has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby.
- b. Validity. This Agreement and all documents required hereby to be executed by City are valid, legally binding obligations of and enforceable against City.
- c. Hazardous Materials. Except as disclosed below, City has not, and to the best of City's actual knowledge no third party has, used, generated, transported, discharged, released, manufactured, stored, or disposed any Hazardous Material from, into, at, on, under or about the Subject Property. Additionally: (a) the Subject Property is not in violation, nor has been or is currently under investigation for violation of any Environmental Law; (b) there has been no migration of any Hazardous Material from, into, at, on, under or about the Subject Property; and (c) there is not now, nor has there ever been on or in the Subject Property underground storage tanks or surface or below-grade impoundments used to store, treat or handle Hazardous Materials or debris or refuse buried in, on or under the Subject Property.

The term "Hazardous Material" as used herein shall mean any hazardous or toxic substances, materials, chemicals, or wastes in any form and in any concentration that is or becomes, prior to the Close of Escrow, regulated by the United States or any state or local government authority having jurisdiction over the Subject Property (including any present order or agreement imposing liability or standards concerning any such substances, materials, chemicals, or wastes and any future such order or agreement that becomes effective prior to the Close of Escrow), and includes without limitation: any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675); any "hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code sections 6901-6992k); petroleum products; volatile organic compounds; radioactive materials; asbestos and lead paint, in any form or condition; and substances or compounds containing PCBs. The term "Environmental Law" as used herein shall mean any federal, state, or local law, ordinance or regulation, or any order, demand, or guidance document of any governmental agency, relating to Hazardous Materials.

- d. Exclusion of Other Warranties. Except as expressly set forth in this Agreement, City makes no other representations or warranties of any kind to Fresno Housing Authority. As to any matter above that is based on the "best of City's actual knowledge," City has not conducted any investigation or due diligence with respect to such matter.

11. Fresno Housing Authority's Representations and Warranties. Fresno Housing Authority represents and warrants to City, that as of the date hereof:
 - a. Power. Fresno Housing Authority has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated thereby.
 - b. Validity. This Agreement and all documents required hereby to be executed by Fresno Housing Authority are valid, legally binding obligations of and enforceable against Fresno Housing Authority.
 - c. Exclusion of Other Warranties. Except as expressly set forth in this Agreement, Fresno Housing Authority makes no other representations or warranties of any kind to City.

12. 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 Fresno Housing Authority.
- k. Form of Notices; Addresses. All notices and other communications (the Notices) required or permitted to be given by any party to another party pursuant to this Agreement shall be properly given only if the Notice is: (a) made in writing (whether or not so stated elsewhere in this Agreement); (b) given by one of the methods prescribed in Section 12-I; and (c) sent to the party (to which it is addressed at the address set forth below (with a copy to the appropriate entity as indicated below) or at such other address as such Party (or the addressee required to be sent a copy) may hereafter specify by at least five calendar days' prior written notice:

If to City: City of Fresno
 City Hall
 2600 Fresno Street
 Fresno, CA 93721-3600
 Attention: City Manager

And to: City Attorney
 City of Fresno
 City Hall
 2600 Fresno Street
 Fresno, CA 93721-3600
 Attention: City Attorney

If to FHA: Fresno Housing Authority
 1331 Fulton Mall
 Fresno, CA 93721
 Attention: Executive Director

- I. Methods of Delivery. Notices may be either: (a) delivered by hand; delivered by a nationally recognized overnight courier that maintains evidence of receipt; or sent by facsimile transmission with a confirmation copy delivered the following day by a nationally recognized overnight courier which maintains evidence of receipt. Notices shall be effective on the date of receipt.

[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

Housing Authority of the City of Fresno, a
California public body corporate and politic

By: _____
Thomas Esqueda,
City Manager

By: _____
Name: _____

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

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

By: _____ Date
Tracy N. Parvanian
Senior Deputy City Attorney

By: _____
Name: _____

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

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

By: _____ Date
Deputy

Attachments:
Exhibit "A" – Legal Description of Subject Property

Exhibit "A"
Depiction of the Subject Property