



REPORT TO THE CITY COUNCIL

December 5, 2006

<p>AGENDA ITEM NO.</p> <p><u>COUNCIL MEETING 12-05-06</u></p> <p>APPROVED BY _____</p> <p>DEPARTMENT DIRECTOR _____</p> <p>CITY MANAGER _____</p>

FROM: JON R. RUIZ, Interim Director
Public Works Department

BY: MICHAEL T. KIRN, PE, Assistant Director
Public Works Department

SUBJECT: APPROVE THE SALE OF AN ABANDONED WATER WELL SITE LOCATED AT WEST HEDGES AVENUE AND NORTH MILBURN AVENUE TO THE ADJACENT PROPERTY OWNER JUDY BACORN AND PERNELL PERRY, LOCATED IN UNINCORPORATED AREA OF FRESNO COUNTY

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATIONS

1. City Council to approve the sale of a 3,507 square foot abandoned water well site to the adjacent owner Judy Bacorn and Pernell Perry.
2. Authorize the Public Works Director or his designee to execute the Agreement for Purchase and Sale of Real Property and complete the disposal of abandoned water well site to the adjacent property owners Judy Bacorn and Pernell Perry.

EXECUTIVE SUMMARY

This well site is abandoned and is considered surplus land by the Water Division. The parcel is adjacent to the property owner and the City does not require the use of the 3,507 square foot parcel being sold.

KEY OBJECTIVE BALANCE

The Key Objectives of Customer Satisfaction: the City will dispose of land that is no longer required as a well site. Financial Management will be served as the parcel will be returned to the property tax rolls. Employee Satisfaction results from the disposition of a potential maintenance and liability problem.

BACKGROUND

The Water Division identified several water well sites that have been abandoned and are surplus parcels to the City of Fresno. The parcel is too small for independent development so it can only be utilized by adjacent owners. Judy Bacorn and Pernell Perry the owners to north of the well site were contacted about purchasing the abandoned well site,

The well site area is 3,507 square foot with an estimated value of \$3,507.00. Judy Bacorn and Pernell Perry have agreed to pay this amount for the site. Because of the limited value of the site there was no formal appraisal done. However, the price of \$3,507.00 is similar to other well site sales during the past several years. The sale to the adjacent owner is the best alternative for disposing of the parcel. Sales of a number of surplus well sites have been previously found categorically exempt under CEQA.

The documents signed by the property owner have been approved as to form by the City Attorney's office.

FISCAL IMPACT

Funds for the sale and the disposal of the excess street right of way for Fountain Way and West Avenues intersection are funded by Project No. WC00025, Fund 40101, ORG 411501 and KRA 060006000.

JRR/MTK/PC/eam
Apprv Sale of Aband Wtr Well Hedges-Milburn 12-5-06

Attachment: P & S Agreement and Exhibit "A"

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

Surplus City Land at Milburn Avenue and Hedges Avenue, Fresno

PERNELL PERRY, a married man as his sole and separate property and JUDY BACORN, an unmarried woman, Both as Joint Tenants herein called "Buyer," hereby offers to purchase from the CITY OF FRESNO, a municipal corporation, hereinafter called the "Seller," the hereinafter described real property on the following terms and conditions:

1. The real property which is the subject of this Agreement, and which is hereinafter for convenience referred to as the "Offered Parcel," is all that real property situated in the City of Fresno, County of Fresno, State of California, referred to as that City well site more particularly described as:

Assessor's Parcel Number 312-221-12T, more particularly described as:

That Real Property being the South 31.10 feet of Lot 11 of Tract No. 1349, Olive Gardens, according to the map there of recorded in Book 16 of Plats at Page 70, Fresno County Records.

SUBJECT TO an easement for public utility purposes over, under through and across the south 8.00 feet of the above described parcel, said easement being dedicated by said Tract No. 1349.

ALSO SUBJECT TO an easement for temporary road uses over, through, and across the east 11.00 feet of the above described parcel, said easement being dedicated by said Tract No. 1349.

Please refer to Exhibit 'A' attached hereto and by reference made a part hereof, for a visual depiction of the Offered Parcel.

2. The purchase price for the Offered Parcel shall be THREE THOUSAND FIVE HUNDRED SEVEN DOLLARS (\$3,507.00) as just compensation therefor.
3. Seller represents and warrants that it has the authority to make the offer herein made, and that it holds fee title to said real property.
4. Seller hereby acknowledges receipt of THREE THOUSAND FIVE HUNDRED SEVEN DOLLARS (\$3,507.00) as the total purchase price.
5. Buyer and Seller hereby agree and confirm as follows:
 - a. This transaction is subject to approval by the FRESNO CITY COUNCIL (hereinafter referred to as "Council").
 - b. The property is sold "AS IS," subject to any encumbrances of record. There

shall be no proration of taxes, insurance or rents. There are no current taxes on the Offered Parcel because the City is exempt from property taxes. The property is unimproved and is not rented. There are no outstanding loans against the property.

- c. Buyer shall be responsible for property taxes levied against the Offered Parcel after title is conveyed to the Buyer.
- d. After fee title has fully vested in Buyer, Buyer shall be responsible for perfecting possession.
- e. Disbursements to be in the amounts, at the times, and in all respects in accordance with, the terms and conditions (and subject to the limitations) of this Agreement.
- f. There will be no third-party escrow in this transaction and no title insurance will be provided to Buyer by Seller. Rather, the City of Fresno (Seller) shall accomplish delivery of the Deed by providing for recordation of the Deed conveying title to Buyer, and thereafter, mailing the Deed to Buyer.
- g. The City of Fresno (Seller) shall pay all recording fees and documentary Transfer tax required in this transaction.
- h. This document has been read by each of the parties, and the contents are known and understood by each of the parties. There are no other agreements or understandings, written or oral, between the parties, and this Agreement embodies the complete and exclusive Agreement. All prior discussions, negotiations, commitments, or understandings are hereby superseded by this Agreement.
- i. This Agreement may be amended or cancelled only by the written and mutual consent of the parties, and the approval of the Council.
- j. This Agreement is binding upon, and shall inure to the benefit of, and be binding upon, all parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees or representatives.
- k. Time is of the essence of each and every term, condition, and covenant contained within this Agreement.

6. Buyer releases and hereby agrees to indemnify City from any and all claims Buyer or any other party may have against the City, of whatever kind or nature, resulting from or in any way connected with, the environmental condition of the property, including any and all claims Buyer may have against the City under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) or any other federal, state or local law, whether statutory or common law, ordinance or regulation, pertaining to the release of hazardous substances into the environment from or at the Offered Parcel. Buyer expressly waives the benefits of Civil Code Section 1542, which provides as follows:

“A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release, which, if known by him, must have materially affected settlement with the debtor.”

Buyer's obligations under this indemnity and release shall survive the recordation of the Deed.

7. It is understood and agreed that this Agreement is to remain open for sixty (60) days from the date hereof, and that upon its duly authorized execution within said time by the City of Fresno, and upon approval by Council, this Agreement shall become a contract for the Purchase and Sale of Real property binding upon Buyer and City, their heirs, executors, administrators, successors in interest, and assigns.

For the Agreement for Purchase and Sale of Real Property and Escrow Instructions between the City of Fresno as Seller and Pernell Perry and Judy Bacorn as buyer, on Assessor's Parcel Number 312-221-12T, this is set forth on the previous three pages.

Signature Page

This Agreement is executed by the City of Fresno by and through the Public Works Director of said City (or his designee) pursuant to the authority granted by the Council of the City of Fresno on _____.

RECOMMENDED FOR APPROVAL

By: J. A. Pete Caldwell
J. A. Pete Caldwell
Senior Real Estate Agent

Seller:
City of Fresno:

Scott Mozier, Director
Department of Publics Works

Date _____

Address of City:
City of Fresno
Public Works Department
2600 Fresno Street, Room 4019
Fresno, CA 93721-3623

ATTEST:
REBECCA K. KLISCH
City Clerk

By _____
Deputy

BUYER Pernell Perry
Pernell Perry

Date 10-24-06

BUYER Judy Bacorn
Judy Bacorn

Date 10-24-06

ADDRESS OF BUYER:

4613 West Hedges
Fresno, CA 93726

James C. Sanchez
City Attorney

APPROVED AS TO FORM:

By: Agnes Hill
Deputy

ORIGINAL

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

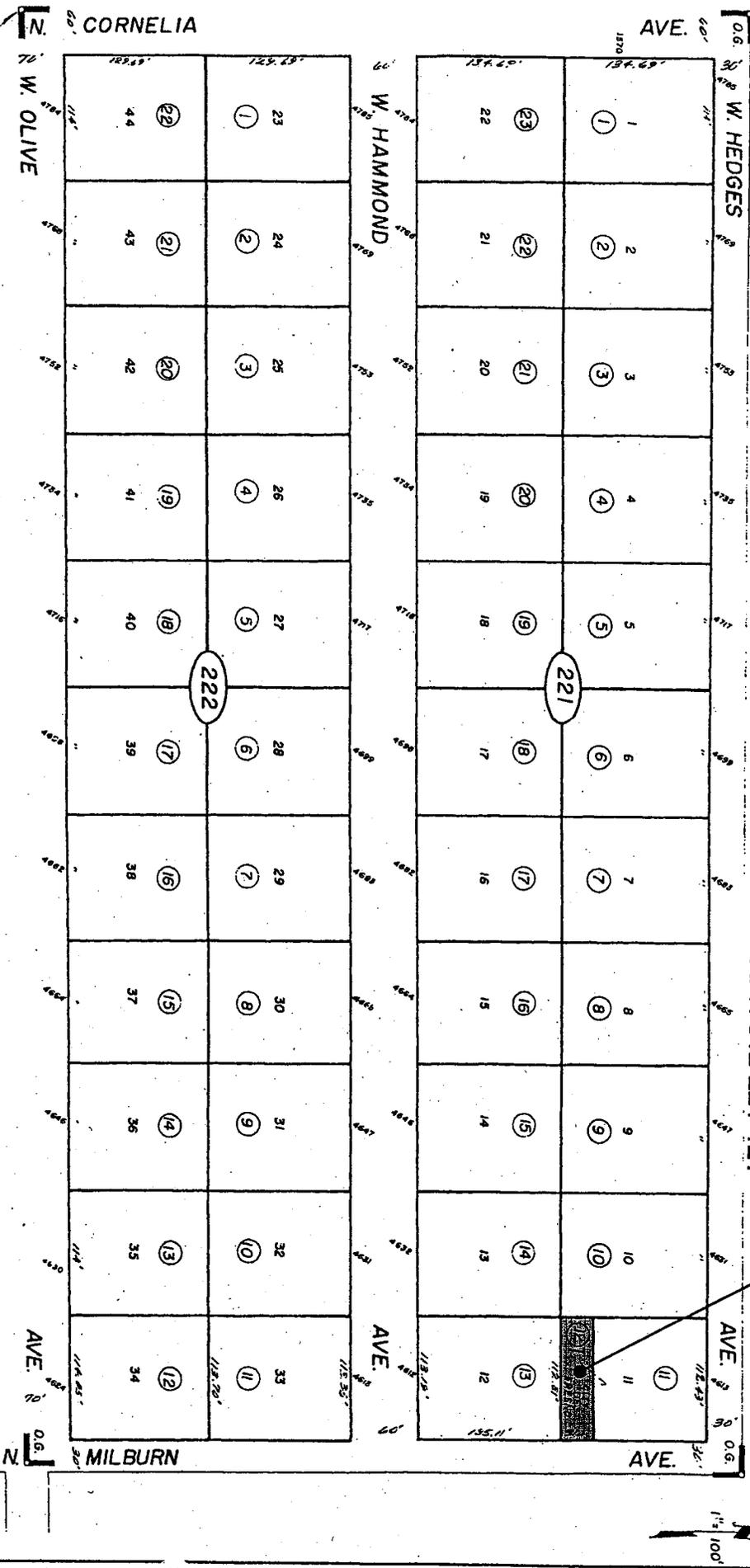
EXHIBIT "A"

PARCEL TO BE QUITCLAIMED BY THE CITY

SUBDIVIDED LAND IN P.O.R. SEC. 35, T. 13 S., R. 19 E., M.D.B. 8 M.

312-22

SUBJECT PARCEL
 APN 312-221-12T



TRACT NO. 1349
 OLIVE GARDENS
 PLAT BOOK 16, PAGE 70 F.C.R.

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

Assessor's Map Bk. 312 - Pg. 22
 County of Fresno, Calif.

