

REPORT TO THE REDEVELOPMENT AGENCY

DATE: February 11, 1994

FROM: ALVIN P. SOLIS, Director
Development Department

BY: NICK YOVINO, Planning Manager
Planning Division *N*

SUBJECT: APPROVAL OF DOWNTOWN SPORTS/ENTERTAINMENT STADIUM
PROCESSING AGREEMENT AS A COMPONENT OF THE PROPOSED
STADIUM DEVELOPMENT PROJECT

AGENDA ITEM NO. 2000 *Yovino*
AGENCY MEETING 2/15/94
APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

The proposed Downtown Sports/Entertainment Stadium redevelopment project was presented to the City Council/Redevelopment Agency on November 2, 1993, for initiation of the review and consideration processes. These processes include the project related plan amendments, development entitlements, preliminary acquisition agreements, preliminary engineering and design review, environmental assessment and site hazardous substances investigation. In addition to these processes, the City Council received a list of "Proposed Development Agreement Points of Negotiation" presented by The Fresno Diamond Group for consideration and incorporation within a draft disposition and development agreement. The City Council/Redevelopment Agency authorized the City Manager to negotiate a draft disposition and development agreement to be prepared and considered as a part of the proposed project and related environmental assessment.

Concurrently with the project evaluation and environmental assessment processes the City staff and representatives of The Fresno Diamond Group have worked cooperatively to refine the stadium development issues and negotiate the project obligations and responsibilities to be assigned to the Redevelopment Agency and the stadium developer. These project obligations and responsibilities have been specified within the proposed stadium Processing Agreement which is now submitted for acceptance and further consideration through the project review and environmental assessment processes. Contingent upon the completion and approval of the required environmental findings and project entitlements, the project provisions set forth within the attached Processing Agreement or as amended through the project review process will be incorporated into a subsequent Disposition and Development Agreement, which will be returned to the Council for final review and approval.

BACKGROUND

The Downtown Sports/Entertainment Stadium is proposed for the approximately 11-acre area bound by Tulare, Broadway/"H" and Inyo

Presented to City Council

Date 2/15/94Disposition Approved

Streets and the Broadway/Fulton alley. This site is located at the edge of the Central Business District Redevelopment Plan Area at the southwest corner of the Fulton Mall. This location was advocated by the "Central Area Urban Design Strategy" (Ratkovich Plan) to most effectively integrate the facility with the urban commercial center and to maximize support of the downtown core area. In addition, this location promotes the most effective utilization of existing facilities and attributes of the Central Area and optimizes utilization of the limited resources of both the City of Fresno and the Fresno Redevelopment Agency.

On December 15, 1992, The Fresno Diamond Group received approval of an exclusive agreement to prepare a stadium development business plan which was presented to the City Council/Redevelopment Agency on April 20, 1993. At that time, The Fresno Diamond Group was authorized to proceed with the implementation of a stadium development marketing and sales program. Based upon the initial responses to the stadium financing options presented by the "Summary Level Business Plan", The Fresno Diamond Group pursued a stadium development strategy to access private sector financing to construct the stadium and its ancillary features estimated to cost approximately \$15,000,000. This financing strategy also relied upon public agency participation to provide an appropriate buildable site to accommodate a functional stadium structure with adequate supporting facilities.

The proposed Processing Agreement identifies the stadium facilities to include a seating capacity of 15,000 for baseball games and 10,000 to 20,000 patron capacity for concerts and other entertainment events. The stadium is to include skyboxes or other special seating accommodations, stadium club restaurant, retail spaces (i.e. souvenir gift shops), concessions, stadium and team administrative offices, warehouse and maintenance buildings, home and visitor locker rooms, football locker room, weight training room, concert stage and dressing room, loading and staging area, event tent area with adjoining commissary and limited player/employee parking. These facilities are to be provided consistent with applicable codes and development standards and have been depicted by site plan and architectural elevations submitted for the project conditional use permit.

A significant advantage of the proposed stadium site is that much of the property is owned by the Fresno Redevelopment Agency or is readily available to the Agency. Even with this advantage, the property assembly and site preparation work necessary to accommodate a suitable stadium with its supporting facilities may necessitate a substantial investment of the City's and Agency's

staff and financial resources. The provision of a buildable stadium site requires aggregation of the remaining privately owned parcels, demolition, vacation of public right-of-ways, reconstruction of street and public facility improvements and site environmental remediation work. Because the project evaluation, environmental assessment and site hazardous substances investigation are not complete, the full cost of site acquisition and preparation can not yet be determined. However, the staff has identified a preliminary cost estimate ranging from \$4,200,000 to \$5,300,000, which includes \$1,200,000 for storm drainage improvements already committed to by the City.

The estimated cost range does not include the potential cost to remediate hazardous substances nor the income derived from the site purchase price to be paid by The Fresno Diamond Group. However, the proposed Processing Agreement provides that a condition precedent to acquisition of the privately owned parcels is that the total remediation costs to the City/Agency shall not exceed \$750,000. In addition, the Processing Agreement provides that The Fresno Diamond Group shall pay a purchase price of \$750,000 for the parcels identified for disposition.

The Processing Agreement specifically notes that the obligations and requirements of the City of Fresno and Redevelopment Agency, including the approval and execution of a Disposition and Development Agreement, are contingent upon the completion and approval of project entitlements and environmental findings, which are discretionary in nature and cannot be taken or committed to be taken in advance. The Agreement also requires the submittal of a Financing Plan and a Plan of Organization prior to approval of and execution of the Disposition and Development Agreement and conveyance of the stadium site to the developer. The Financing Plan shall be a binding contractual commitment from a qualified source or sources to provide equity and debt capital in the aggregate amount of \$15,750,000 to be available to pay the purchase price for the stadium property and the costs of stadium construction. The Plan of Organization shall disclose the name of the developer, the identities and qualifications of its officers and directors, identities of the shareholders or partners, a pro forma statement of assets and liabilities of the developer, and such other information as may reasonably be required by the Agency to determine the identification and qualifications of the persons in control of the Developer's performance of obligations.

The Fresno Diamond Group's Summary Level Business Plan also provided projections of the stadium's operational costs and

revenues. A significant component of the projected stadium revenue stream, also included within the "Proposed Development Agreement Points of Negotiation", is the implementation of a proposed \$4 special event parking fee within the Central Area, of which the stadium developer will receive \$3 for repayment of private investment and ongoing stadium maintenance. The proposed processing agreement identifies the intention of the City/Agency to consider creation of this special event parking fee and enforcement together with the adoption of an ordinance to control "ticket scalping", sale of unlicensed merchandise/souvenir items, and the implementation of sound ordinance provisions to accommodate stadium activity sound levels.

CONCLUSION AND RECOMMENDATIONS

In order to proceed with the processing and consideration of the Downtown Sports/Entertainment Stadium proposal, staff recommends that the City Council and Redevelopment Agency take the following action:

1. Approve the attached Downtown Sports/Entertainment Stadium Processing Agreement setting forth parameters for review of pending entitlements and subsequent Disposition and Development Agreement.

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Attachment A: Downtown Sports/Entertainment Stadium Processing Agreement

2:00 pm
3/15/94

DOWNTOWN SPORTS/ENTERTAINMENT STADIUM
PROCESSING AGREEMENT
BETWEEN THE
REDEVELOPMENT AGENCY OF THE CITY OF FRESNO,
THE CITY OF FRESNO, AND
FRESNO DIAMOND GROUP

APPROVED BY CITY COUNCIL
February 15, 1994
JACQUELINE L. RYLE, CITY CLERK
Glad Salazar
DEPUTY

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**DOWNTOWN SPORTS/ENTERTAINMENT STADIUM
PROCESSING AGREEMENT**

THIS PROCESSING AGREEMENT (hereinafter "Agreement") is made on or as of the day of the ____ day of _____, 1994, by and between the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body, corporate and politic, hereinafter referred to as the "Agency", the CITY OF FRESNO, a municipal corporation, hereinafter referred to as the "City," and FRESNO DIAMOND GROUP, a California corporation, or its nominee, hereinafter referred to as the "Developer".

RECITALS

A. Developer is interested in constructing and operating a "Triple A" Class baseball stadium in downtown Fresno. The stadium shall be financed and constructed by Developer and will feature approximately 15,000 seats, approximately 36 skyboxes, a Stadium Club restaurant, several retail spaces (i.e. souvenir gift shops), stadium and team administrative offices, concessions, warehouse, maintenance building, home and visitor locker rooms, weight training room, football locker room, a concert stage and concert dressing room, a loading and staging area, event tent area with adjoining commissary, and player/employee parking lot.

B. To this end, Developer has been exploring alternatives for the development of a multi-use sport stadium within the boundaries of the Central Business District Redevelopment Area. The objective is the development of a Sports and Entertainment Complex (the "Stadium") which will serve the entire San Joaquin

Valley and provide a multipurpose facility to attract residents, tourists, and events to downtown Fresno.

C. In furtherance of the objectives of the Community Redevelopment law of the State of California (Health and Safety Code Sections 33000 et seq.) and the objectives addressed in the negotiations, the Agency and Developer desire to carry out an urban renewal project as described in Section 5(a) of this Agreement and as more particularly described in Exhibit "A" entitled "Project Description" attached hereto and incorporated herein by this reference.

D. In order to enable the Agency to achieve the objectives of the Urban Renewal Plan and particularly to make the land in the Project Area available for redevelopment by private enterprise in accordance with the uses specified in the Urban Renewal Plan, the City has undertaken to provide and has provided substantial assistance to the Agency in the Central Business District Project Area.

E. Upon the condition that the City and Agency have available funds for the acquisition of certain parcels of property within the Project Area, the Agency offers to sell and the Developer is willing to purchase those certain parcels of property located in the Project Area and more particularly described in Exhibit "B" (hereinafter referred to as the "Property") attached hereto and made a part hereof by this reference, and to redevelop the Property for and in accordance with the uses specified in the Urban Renewal Plan and in accordance with this Agreement.

F. The Agency believes that the redevelopment of the Property pursuant to this Agreement, and the fulfillment generally of the terms of this Agreement, are in the vital and best interests of the City and the County and the health, safety, morals, and

welfare of its residents, and in accord with the public purposes and local laws and requirements under which the Project has been undertaken and is being assisted. In addition, the Project will have a positive influence on the area and surrounding environs in that it will help eliminate blight, put under-utilized land to productive use and provide jobs for the local economy.

G. In furtherance of arriving at this Agreement the Agency and Developer have expended considerable time, effort and money to implement the Urban Renewal Plans, including, but not limited to, sums of money for economic feasibility studies, design and architectural plans, survey and project planning.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

SECTION 1. DEFINITIONS.

Unless the particular provision or context otherwise requires, the definitions contained in this section shall govern the construction, meaning and applications used in this Agreement.

(a) "Area of Influence" means the area within the following street boundaries--Freeway 41, Tuolumne, "P" Street and "E" Street.

(b) "Available funds" means money available for a particular expenditure in accordance with all applicable laws, policies and procedures of the Agency or City, whichever is applicable. The term "available funds" may include those tax increment funds received by the Agency and other

discretionary funds dedicated to the Project by the City Council and/or Agency Board.

(c) "City" means the City of Fresno, a municipal corporation, which is a separate and distinct legal entity from the Agency.

(d) "Developer" shall also mean redeveloper within the meaning of the Community Redevelopment Law of the State of California.

(e) "Development" shall mean the Fresno Diamond Group or its nominee and shall also mean redevelopment within the context of the Community Redevelopment Law of the State of California.

(f) "Financing Plans" means a binding contractual commitment from a qualified, as defined by the Agency, source or sources to provide equity and debt capital in the aggregate amount of \$15,750,000 to be available as and when needed to pay the Purchase Price for the Property and the costs of construction of the Project.

(g) "Improvement District" means an improvement or acquisition district created pursuant to either the Improvement Act of 1911 or the Municipal Improvement Act of 1913 and the Municipal Code of the City.

(h) "Life of Stadium" means the use of the stadium for the purposes enumerated under Section 5(a) by Developer.

(i) "Project" shall mean the scope of the development as described in Exhibit "B."

(j) "Plan of Organization" means documentation disclosing the name of the Developer, the identities and qualifications of its officers and directors,

the form of entity, the identities of each of its shareholders or partners owning five percent (5%) or more of any class of the outstanding stock or any class of partnership units, a pro forma statement of assets and liabilities of the Developer as of the Closing Date, as defined in Section 3(g) of this Agreement and such other information as may reasonably be required by the Agency to determine the identification and qualifications of the persons in control of the Developer's performance of its obligations under this Agreement.

SECTION 2. SALE. PURCHASE PRICE.

(a) Subject to all terms, covenants, and conditions of this Agreement, the Agency shall convey to the Developer certain parcels of property described in Exhibit "B". Prior to the transfer of properties, Developer shall have submitted an acceptable Financing Plan and Plan of Organization. It is acknowledged by the parties hereto, that Assessor Parcel Nos. (APNs) 468-284-23 and 468-284-24 will be acquired by the Agency pursuant to Option to Purchase Agreements. It is possible that APNs 468-284-31, 468-281-16, and 468-281-18 will be acquired through negotiations by the Agency. Nothing herein shall require the Agency or the City to acquire said parcels through the use of eminent domain proceedings. Copies of option agreements for APN's 468-284-23 and 468-284-24 are attached hereto as Exhibits "C-1" through "C-3" inclusive. The Agency will consider renting, leasing or selling APN 468-282-23T to the Developer for use for parking or staging operations during special events at the stadium. As a further condition precedent to acquisition, the site clean-up cost estimates received after completion of the Level II assessment shall not

exceed the \$750,000 maximum amount for the clean-up of the Project Area and related contaminated parcels required to be remediated by City or Agency.

(b) Subject to all terms, covenants, and conditions of this Agreement, the Agency will sell certain property as described in Exhibit "B" and the Developer will purchase said property from the Agency and pay the amount of Seven Hundred Fifty Thousand and no cents (\$750,000) (hereinafter referred to as "Purchase Price"). The Purchase Price for the parcels shall be paid in cash or certified check simultaneously with the delivery of the Deeds conveying said properties to the Developer. Said transaction shall be completed through an escrow that shall be handled at Agency's expense by an agent that is mutually acceptable to all parties.

SECTION 3. CONVEYANCE OF PROPERTY.

(a) Form of Deed. The Agency shall convey to the Developer title to the property for the Project by Grant Deed (hereinafter referred to as the "Deed" or "Deeds") in a form set forth in Exhibit "D" attached hereto and made a part hereof by this reference or such other form as the parties may mutually agree in writing. Such conveyance and title shall be subject to the appropriate Urban Renewal Plan and to all other conditions, covenants and restrictions set forth or referred to in this Agreement.

(b) Time and Place for Delivery of Deed. The Agency shall deliver the Deeds or Deeds and possession of the Property which Agency is obligated to acquire pursuant to Section 2(a) of this Agreement at the close of escrow no later than the Closing Date established in this Agreement. Conveyance shall be

made at the principal office of the Agency or the office of the escrow agent selected to handle the escrow by mutual consent of the Agency and Developer and the Developer shall accept such conveyance and pay to the Agency at such time and place the purchase price therefor as set forth in Section 2 above.

(c) Apportionment of Current Taxes. The portion of the current taxes, if any, on the Property conveyed by Agency as described in Exhibit "B" which is a lien on the date of delivery of the Deed or Deeds to the Developer shall be prorated between the Agency and the Developer as of the date of the delivery of the Deed or Deeds, respectively. If the amount of the current taxes on the Property is not ascertainable on such date the proration between the Agency and the Developer shall be on the basis of the amount of the most recently ascertainable taxes on the Property, but such proration shall be subject to final adjustment within thirty (30) days after the date or dates of the actual amount of such current taxes is ascertained.

(d) Recordation of Deed. The Escrow Agent shall promptly file the Deed or Deeds for recordation among the land records of the place in which the Property is situated. The Agency shall pay all costs for recording any of the Deeds.

(e) Evidence of Title and Escrow Fees. Evidence of title is to be in the form of a standard ALTA owner's policy or policies of title insurance issued by or through a title company mutually acceptable to the Agency and Developer, the fee for such policy or policies of title insurance, with a policy limit

of \$750,000, shall be paid by the Agency. The escrow fees shall be borne by the Agency.

(f) Developer's Negotiation of Certain Parcel Acquisitions. Developer may undertake to negotiate the purchase of one (1) or more of the three (3) properties in Exhibit "B" (the "Tulare Frontage Properties").

If the Developer is successful in negotiating the terms and conditions in which the owners will sell the one or more of the Tulare Frontage Properties to the Agency before the Agency conveys to the Developer the Property described in Exhibit "B", the Developer may require the Agency to purchase the Tulare Frontage Properties and convey them to the Developer on the same terms and conditions as if the Tulare Frontage Properties were part of the original Property for all purposes of this Agreement. If the sum of the Purchase Price plus real estate brokerage commissions payable by the Agency for the Tulare Frontage Properties exceeds the fair market value of that property, as determined by an agreed upon appraisal, the Purchase Price shall be increased by the amount of the excess. The Agency will provide to any qualified seller of the Tulare Frontage Properties the relocation and other benefits made available to sellers of the Property identified in Exhibit "B."

(g) Closing Date. The Closing Date is the date on which the Purchase Price shall be paid to the Agency and the Property will be conveyed to the Developer through the escrow established under this Agreement for that purpose. The Closing Date shall be May 31, 1994, unless extended by City, Agency or Developer as allowed by this subsection.

Developer may extend the Closing Date by notice to Agency, which shall set forth the reason for the extension and the new Closing Date, but

- (a) Developer may not extend the Closing Date more than three (3) times, and
- (b) any notice to extend the Closing Date must be given at least thirty (30) days in advance of the Closing Date established by this paragraph or by earlier extension(s), as the case may be, and (c) Developer may not extend the Closing Date to a date that is later than November 2, 1994.

City or Agency may extend the Closing Date by notice to Developer, which shall set forth the reason for the extension and the new Closing Date, but the City or Agency may not extend the Closing Date except for reasons beyond the reasonable control of City or Agency.

SECTION 4. TIME FOR CERTAIN ACTIONS.

(a) City Discretionary Actions. On November 2, 1993, the City and the Agency commenced the necessary procedures for the amendments of the plans, the issuance of the permits, the abandonment of the rights-of-way, and other discretionary actions necessary for the implementation of the Project. Those actions cover the full range of planning, land use, zoning and other permits and public actions required for the Project, which include, but are not limited to, the following: the approval of a Disposition and Development Agreement; the issuance of a conditional use permit; amendments to the Central Business District Urban Redevelopment Plan; abandonment of public rights-of-way; and environmental review of the Project under the California Environmental Quality Act ("CEQA") and the National Environmental Protection

Act ("NEPA"), if applicable. The City and the Agency will diligently prosecute all of those processes to a conclusion, with the intent and expectation that the final action on all such matters will be taken on or before April 26, 1994.

(b) No Commitment as to Outcome. Nothing herein requires the City or the Agency to grant final approval of any matter described in paragraph (a). It is understood that the matters therein described are legislative, quasi-judicial or otherwise discretionary actions that cannot be taken or committed to be taken prior to the completion of the environmental assessment under CEQA and NEPA, if applicable.

(c) Approval of Financing Plans and Plan of Organization. Developer shall submit its Financing Plans and Plan of Organization to the Agency at least thirty (30) days before the Closing Date. The Agency shall promptly review the submitted materials and, if the submitted materials do not include all information required by this Agreement, the Agency shall submit its request for the additional information required by this Agreement within ten (10) business days after receiving the materials submitted by Developer. Developer shall promptly assemble and deliver to the Agency the required additional information. The Agency's approval of the Developer's Financing Plans and Plan of Organization is a condition precedent to the Agency's execution of a Disposition and Development Agreement, and that approval shall not unreasonably be withheld or delayed.

(d) Time Limits. The time limits listed herein are based upon the best estimates of the parties. Said time limits may be extended by either party

based upon additional public hearings, environmental review, natural disasters, work stoppages or other similar delays. Attached hereto as Exhibit "E" is a proposed schedule of hearings and other milestones anticipated by the parties. The parties shall use their best efforts to meet these scheduling goals.

SECTION 5. REQUIREMENTS OF THE DEVELOPER.

(a) Description of the Project. Developer shall construct and operate a "Triple A" Class baseball stadium at the designated site in downtown Fresno. The required elements of the stadium shall be included in the Disposition and Development Agreement which shall also contain minimum maintenance requirements based upon those standards that apply to similarly situated Triple "A" Baseball Stadiums. The Stadium shall be financed and constructed by Developer and must contain:

- (1) Approximately 15,000 seats;
- (2) Approximately 36 skyboxes;
- (3) A Stadium Club restaurant;
- (4) Several Retail spaces (i.e., souvenir gift shops);
- (5) Stadium and team administrative offices;
- (6) Concessions;
- (7) A warehouse;
- (8) A maintenance building;
- (9) Home and visitor locker rooms;
- (10) Weight training room;
- (11) A football locker room;

- (12) A concert stage and concert dressing room;
- (13) A loading and staging area;
- (14) Event tent area with adjoining commissary; and
- (15) A player/employee parking lot.

(b) Construction Schedule. As part of any Disposition and Development Agreement entered into by the parties, the Developer shall commit to a construction schedule for completion of the Stadium. Said schedule shall be for a period of eighteen (18) months in duration from the time of the issuance of the building permit for construction of the Stadium. Developer shall be required to obtain its building permit on or before November 2, 1994. Said construction schedule shall be extended by a reasonable allowance on account of delays caused by the occurrence of strikes, natural disasters, or litigation challenging any required project approvals. Developer shall commence construction within twenty (20) days after the Building Permit is issued and shall diligently proceed to complete the Project. If the Project is not completed within the time limits set forth, the Agency and/or City shall have the right to take back title to the Project subject to any rights held by Developer's lender. Except for the Lender's rights, the Project shall be returned free and clear of any other liens, claims or encumbrances.

(c) Certain Covenants To Run With The Land. The Developer covenants for itself, its heirs, executors, administrators, successors and assigns, and all persons claiming under or through them, that said Developer,

and such heirs, executors, administrators, successors and assigns, and all persons claiming under or through them, shall:

(1) Devote the Property and all improvements now existing or hereafter existing thereon, to, and only to and in accordance with, the uses, restrictions and conditions specified in the Plan, as amended, and submit for Agency approval all building plans, including but not limited to plans for facade treatment and signs to be attached to the outside of the building; and

(2) Not effect or execute any agreement, lease, conveyance, or other instrument whereby the Property or any part thereof is restricted upon the basis of race, religion, color, or national origin in the sale, lease or occupancy thereof; and,

(3) Not discriminate against or segregate any person, or group of persons, on account of race, color, creed, national origin, or ancestry in the sale, lease, sublease, rental, transfer, use, occupancy, tenure, or enjoyment of the Property herein referred, or any improvements erected or to be erected thereon, nor shall the Developer itself, or any person claiming under or through it, establish any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property herein referred; and,

(4) Provide in all leases, subleases or conveyances affecting the Property, that no person shall, on the ground of race, color, or

national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of this Agreement; and,

(5) Comply with all Federal, State, and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, religion, color, or national origin in the sale, lease or occupancy of the Property.

It is intended and agreed that the agreements and covenants provided in this paragraph (c) shall be covenants running with the land and that they shall inure to the benefit of and be enforceable by the Agency, its successors and assigns, and the owner of any other land in the Project Area which is subject to the land use requirements and restrictions of the Plan, as amended. It is further intended and agreed that the covenants contained in paragraphs (2) through (5) inclusive, of Section 5(c) hereinabove of the Agreement, shall remain in effect without limitations as to time.

The agreements and covenants of this Agreement shall run in favor of the Agency, its successors and assigns and the United States, for the entire period during which such agreements shall remain in force and effect without regard to whether the Agency or the United States has at any time been, remains, or is an owner of any land or interest therein to which these covenants relate. In the event of any breach, the Agency or the United States shall have the right to exercise all the rights and remedies available at law or in equity to

enforce the curing of such breach, in addition to any remedies contained in this Agreement.

(d) Events of Default Under This Agreement. The following occurrences shall constitute events of default:

(1) Failure of the Developer to comply with or satisfactorily perform any of the terms, covenants or requirements of this Agreement, and any amendment thereto, or the Plan; or,

(2) The fact that any representation or warranty made by or on behalf of the Developer in connection with the Developer selection process, the execution of this Agreement, or any other agreement, instrument, or document referred to herein, or submitted to the Agency or City of Fresno in connection with the construction, redevelopment or rehabilitation of the Property shall prove at any time to have been incorrect in any material respect when made.

(3) The Developer shall not be deemed in default for delay or failure in performance of any of its obligations under this Agreement where the delay or failure is caused substantially by any cause that is beyond the control and without the fault of Developer, including but not limited to Act of God; unusually severe weather; unusually severe flood; earthquake; war; riot; act of the public enemy; governmental quarantine, priority or restriction; action or failure to act by any governmental authority having jurisdiction; labor unrest or strike; unforeseeable inability to secure labor, materials, supplies, tools or transportation; or any similar

or different cause. In the event of such a delay, the Developer shall notify the Agency within two weeks after the delay begins, describing the delay and the cause(s) in reasonable detail and an estimate of the time needed to overcome the effects of delay. If such notice is given within the two week period, the Developer shall be entitled to an extension of time to perform for a period reasonably necessary to overcome the effects of the delay. The extension shall be stated in a writing signed by authorized representatives of the Agency and Developer.

(e) Usage Covenants. The Developer agrees that every conveyance of title from the City or Agency to Property covered by this Agreement subsequent to the date hereof, including leases and assignments, shall, in addition to any other covenants, contain the following covenants on the part of the Developer for itself, its heirs, successors, and assigns of the Property described herein, which shall be covenants running with the land and shall bind the Developer, its heirs, executors, administrators and assigns and all persons claiming under or through them:

(1) A covenant that the Developer, its heirs, successors and assigns, of the Property or any part thereof and any lessee of the Property or any part thereof, will and shall carry out the work of the redevelopment of the Property or part or parts thereof as in this Agreement provided, and will and shall devote such Property to the uses specified in the Plan, as amended.

(2) A covenant that the Developer, its heirs, successors and assigns, of the Property or any part thereof and any lessee of the Property or any part thereof, will adhere to and abide by the provisions and clauses as hereinabove detailed in Section 5(c).

(3) A covenant that after the satisfactory completion of any construction or alterations to the Property referred to herein, and made necessary by this Agreement, the Property shall, for as long as the Plan is in effect, be devoted to the uses specified in the Plan, as amended, and shall not, in whole or in part, be devoted to any other use or used for any other purpose.

(f) Developer Construction Option. Developer may elect to purchase the Property before the demolition, filling and grading required by Section 6(b), (c) and (d) and any hazardous material clean-up of the Property have been started or completed by the Agency. Before the Agency lets any contracts for any of that work or commences any of that work, it shall meet and confer with Developer to determine (i) a fair estimate of the value of the work, and (ii) whether Developer will undertake the work after the Close of Escrow. If the parties agree on a fair estimate of the value of the work and Developer chooses to undertake the work, after the Close of Escrow, Developer shall receive a credit against the Purchase Price in the amount of the fair estimate to which the parties have agreed, up to \$750,000, and the amount of the fair estimate for the work to which the parties have agreed is more than \$750,000, the Agency shall pay the balance to the Developer within thirty (30) days after the completion of

the work. Within thirty (30) days after completion of the work, Developer will provide to the Agency an accounting of the work and, if the Developer's cost for the work is less than the agreed value, the Developer will immediately pay the difference to the Agency. The use of this subsection (f) (Developer Construction Option) shall be subject to legal review and approval of the City Attorney.

SECTION 6. REQUIREMENTS OF THE AGENCY AND CITY.

Agency conveyed property shall be in a cleared and buildable condition. The work needs to be done by either the City or the Agency and shall include the following:

- (a) Acquire the property; including the abandonment of the northeasterly 12' of the existing "Broadway/H" Street right-of-way between Tulare and Inyo Streets and any other public rights-of-way and public utility easements on the Property. Any public utility easements shall be moved according to applicable franchise agreements.
- (b) Demolish buildings.
- (c) Fill in and compact in the temporary ponding basin.
- (d) Grade to pad elevation as mutually agreed to by the parties.
- (e) Complete all required public infrastructure improvements deemed necessary by the Agency or the City.
- (f) Establish within the D&DA coordination between FDG construction and City off-site improvements.
- (g) The Agency shall be responsible for:

(1) All impositions for public infrastructure improvements, including public utility improvements deemed necessary by the Agency and the City;

(2) All fees, costs and charges of the Agency and the City for the issuance of permits for the development of Project including, but not limited to, amendments of public plans, a conditional use permit, grading permits and building permits;

(3) The cost of clearing the Property of buildings, the cost of removing from the Property any toxic and hazardous substances at a cost not to exceed \$750,000, and the cost of placing the Property in a clean, neat, and rough-graded level condition ready for finish grading for the commencement of construction. Clean-up costs shall include all costs associated with cleaning up the actual land conveyed to Developer and clean-up costs for necessary remediation surrounding parcels containing contamination reasonably related to the on-site contamination.

(4) All fees for drainage service, all City fees for connection to public water and sewer service, and all other governmental fees and charges (except for school impact fees) imposed as a condition to the development of the Project.

To protect and insure that event-generated income streams will be available to Developer, City will take certain actions with respect to the Project's Area of Influence as follows:

(1) Consider the adoption of a ticket scalping ordinance. This ordinance would prohibit the sales or solicitation of stadium customers within the Area of Influence.

(2) Enforce the City's parking lot standards on all non-City owned or controlled lots to the extent allowable by law.

(i) On-street parking - City will assist in decreasing on-street parking at agreed locations in the stadium area on event dates to help flow of traffic. Any such agreement shall be negotiated as part of the Disposition and Development Agreement. Said agreement should balance the needs of the surrounding businesses with those of the Stadium. City shall consider on-street parking regulations which allow the usage of an envelope system which gives Three Dollars (\$3.00) per vehicle to Developer and One Dollar (\$1.00) per vehicle to City. The refusal to implement such an envelope system shall not be grounds for termination of this Agreement or a refusal to proceed with the Project. City shall also consider meter and time zone enforcement during events with Three Dollars (\$3.00) per parking violation going to Developer. Said citation system shall be subject to applicable laws and agreements particularly those subject to current litigation with the County of Fresno.

(ii) Off-Street parking - enforce parking lot standards on private lots charging parking fees on event days.

(3) Implement a sound ordinance to allow for stadium event sound levels.

(4) The City will consider the adoption of measures to prohibit the sale of any unlicensed merchandise/souvenir items within the Area of Influence.

(5) Project Manager - The City Manager shall appoint a City Project Manager who will be available to usher the project through the construction process.

(6) Term of Agreement - City shall grant Developer an exclusive agreement until November 2, 1994 to develop remaining elements of the Project.

(7) Event Parking - City and Agency agree to consider the creation of a Special Event parking fee of \$4.00 per vehicle for all parking facilities on property owned by the City or the Agency. Revenues would be shared with the Developer for the repayment of private investment and ongoing maintenance of the stadium, in the following manner: the Developer will receive \$3.00 and the City \$1.00. This fee structure shall be incorporated within the Disposition and Development Agreement. This Disposition and Development Agreement considered by the City shall include the following elements:

(i) The Special Event parking fee may only be changed not more frequently than once every five (5) years. The parties shall meet and confer before the Special Event parking fee is

changed, and shall consider among other relevant factors, whether the City's share of parking revenue is sufficient to pay the City's cost of operating and maintaining the parking facilities on account of Special Events and whether the increase of the Special Event parking fee will have a material adverse affect on the attendance at Special Events. After the parties have met and conferred, the City may increase the fee by the amount (if any) to which the parties have agreed, or if the parties have not agreed, then by an amount determined by the application of the following formula:

The Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco - Oakland - San Jose CSMA, published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), which is published most immediately preceding the date of change ("Recalculation Index") shall be compared with the Index in effect on the date of the D&DA or the date on which the Special Event parking fee was last changed, whichever is later (the "Base Index"). If the Recalculation Index is higher than the Base Index, the Special Event parking fee shall be set by multiplying the Special Event parking fee in effect before the change by a fraction, the numerator of which is the Recalculation Index and the

denominator of which is the Base Index, and rounding the product to the nearest whole quarter.

If the Index is changed so that the base period differs from 1982-1984, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

The Special Event parking fee shall not be reduced. If the Special Event parking fee is increased, the increased fee shall be apportioned in the ratio: City--1: Developer--3.

(ii) The Special Event parking fee will be applicable for the life of the stadium or thirty (30) years, whichever occurs first.

SECTION 7. PUBLIC IMPROVEMENTS.

It is mutually understood by the parties that the City may form any necessary improvement districts to construct required public improvements for the Project under this Agreement or the subsequent Disposition and Development Agreement, provided the Agency enters into an Agreement with Developer whereby the Agency shall pay any assessments related thereto from available funds. Nothing precludes the right of developer to protest the assessment through normal protest procedures. Nothing shall impair the ability of the City, or its subsidiary special assessment districts, from

denying any approval for which a public hearing is required. The payment for the infrastructure in question shall be subject to available funds. This Redevelopment Agency obligation to construct infrastructure shall apply only to facilities in the public right-of-way such as streets, sidewalks, sewers, water lines, etc. Any connections of this public infrastructure to the property of Developer shall be paid for by Developer, except for connection fees, which are provided for in Section 6(g) and Section 12 of this Agreement.

Nothing herein shall prevent the City or Agency from forming subsequent Assessment Districts for the purpose of future infrastructure construction or for any other assessment purpose. Except for the infrastructure improvements herein enumerated, Developer shall be required to pay all future assessments as required of other landowners or persons similarly situated as required by law. Neither this Agreement nor any future Disposition and Development Agreement shall restrict the ability of the City or Agency to assess stadium parcels in the same or similar manner as other parcels.

SECTION 8. CONDITIONS.

(a) Environmental Audit. The Agency has obtained a qualified consultant to conduct a level II environmental audit of all parcels within the Project. In the event such audit discloses the contamination by hazardous or toxic substances, the Developer may elect to proceed with the Project on such terms as the parties may mutually agree prior to the transfer of such parcel to the Developer. Agency shall not be required to spend any more than the amount of \$750,000 on environmental assessments and/or clean-up costs. Any

agreement between the parties shall give Developer the rights to elect either to pay all clean-up costs over and above the \$750,000 Purchase Price or to withdraw from the Agreement. Said decision to terminate shall be based upon an estimate received from the qualified environmental consultant. Clean-up costs shall include all remediation costs both on-site and off-site necessary to remedy the contamination under applicable standards.

(b) Failure to Approve Site Plan. In the event the Agency or City fails to approve Developer's site plan consistent with the Project Description or a modification acceptable to the Developer, the Developer may terminate this Agreement or any Phase of the Project negatively impacted by such failure.

(c) Failure to Modify Plans and Adopt Ordinances. In the event the Agency or the City fail to modify or amend the applicable Urban Renewal Plans or general plan within a reasonable time to permit the development of the Project, the Developer may notify the Agency and City in writing of its intent to terminate this Agreement. The obligation of Developer to purchase the property is subject to the City's adoption of ordinances and measures with respect to ticket scalping, unlicensed merchandise and parking revenues that are, in the judgment of Developer and Developer's financiers, sufficient to protect and generate revenues consistent with Developer's financial projections.

(d) Termination of Agreement for Failing to Grant a Discretionary Approval. Neither the Agency or the City shall be liable for any monetary damages to Developer, its successors or assigns for any termination or

modification of this Agreement due to the failure of the City or Agency to grant a necessary approval on a matter subject to a discretionary approval.

SECTION 9. PERIOD OF DURATION OF COVENANT ON USE.

The covenant pertaining to the uses of the Property located within the Central Business District Urban Renewal Plan, set forth in Section 401(a) of Part II (Form HUD-6209B, 9-69) recorded in the office of the County Recorder in book _____, page _____ of Official Records shall remain in effect from the date of the Deed or Deeds until the period specified or referred to in the Central Business District Urban Renewal Plan, on which date such covenant shall terminate.

SECTION 10. NOTICES AND DEMANDS.

A notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) In the case of the Developer, if addressed or delivered personally to the Developer at 1231 "N" Street, Fresno, California 93721; and

(b) In the case of the City or Agency, if addressed to or delivered personally to the City or Agency at 2600 Fresno Street, Fresno, California 93721 or at such other address with respect to either such party as the party may, from time to time, designate in writing and forward to the other as provided in this Section. Personal delivery to the offices of the City Manager, City Attorney and City Clerk shall be effective delivery.

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SECTION 11. SPECIAL PROVISIONS.

(a) Anti-Discrimination Covenants. The Developer herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the Developer itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land. The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

(b) Deeds. The Deed(s) conveying the Property, or any portion thereof, shall contain the covenants in subsection (a) of this Section.

(c) Leases. Any lease of the Property, or any portion thereof, shall contain the covenants in subsection (a) of this Section.

SECTION 12. UTILITY RELOCATION COSTS.

This Agreement contemplates recognition by affected utility companies that this Project is considered to be a "Franchise Project" under applicable utility relocation agreements. As a "Franchise Project," the affected utility companies will be required to pay for relocation of utility lines within time constraints herein referenced.

SECTION 13. PARTIES NOT PARTNERS.

Nothing in this Agreement is intended to create a partnership or joint venture between or among any of the parties hereto.

SECTION 14. GOVERNING LAW.

This Agreement shall be interpreted, and the rights and duties of the parties hereto (both procedural and substantive) shall be determined according to California law, except where applicable federal law or regulations apply. In the event that legislation is adopted which substantially impairs the ability of the parties to meet their obligations under this Agreement, the parties shall undertake good faith efforts to renegotiate this Agreement. If, after such renegotiation efforts are not successful, any party may terminate this Agreement.

SECTION 15. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which when executed and delivered shall be deemed an original and together shall constitute one and the same instrument.

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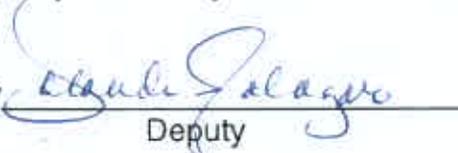
IN WITNESS WHEREOF, the Agency and the City have caused this Agreement to be duly executed in their name and behalf by the Ex-Officio Director and City Manager, respectively, and the City seal to be hereunto duly affixed and attested by the City Clerk, and the Developer has caused this Agreement to be duly executed in its name and behalf, on or as of the day first above written.

FRESNO DIAMOND GROUP,
a California corporation

By  _____
PRESIDENT

ATTEST:

JACQUELINE L. RYLE
Ex-Officio Clerk for the Redevelopment
Agency of the City of Fresno

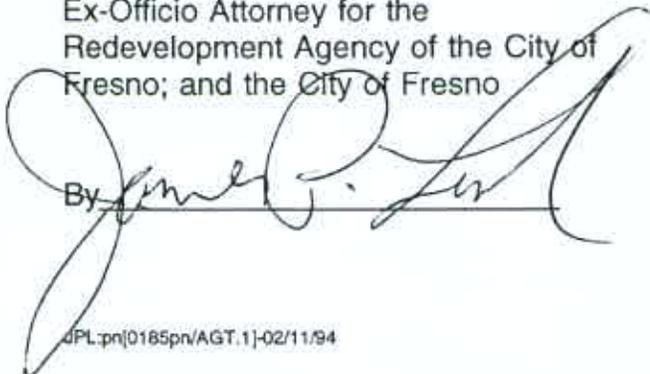
By  _____
Deputy

REDEVELOPMENT AGENCY OF THE
CITY OF FRESNO

By  _____
Michael A. Bierman
Ex-Officio Executive Director of
the Redevelopment Agency of
the City of Fresno

APPROVED AS TO FORM:

JAMES P. LOUGH,
Ex-Officio Attorney for the
Redevelopment Agency of the City of
Fresno; and the City of Fresno

By  _____

CITY OF FRESNO

By  _____
Michael A. Bierman

EXHIBITS

- A Project Description
- B Project Area and Property Description
- C1-C3 Option Agreements
- D Grant Deed Form
- E Project Process Schedule and Milestones

EXHIBIT "A"

PROJECT DESCRIPTION

The sports/entertainment stadium project is to be developed on the approximately 11-acre area depicted by Exhibit "B" and generally bound by Tulare, Broadway/"H", and Inyo Streets and the Fulton/Broadway alley. The project site's size and configuration may be greater or lesser than the site provided by the Fresno Redevelopment Agency, subject to the incorporation of additional parcels through separately negotiated acquisitions, lease agreements or owner participation agreements.

The sports/entertainment stadium facility is to be designed and constructed sufficient to host baseball, football and other outdoor athletic, concert and entertainment events conducted both during daytime and nighttime hours; contain a spectator seating capacity of 15,000 for baseball events and 10,000 to 20,000 for concerts and other entertainment events, and may include skyboxes or other special viewing or seating accommodations; and, include related stadium and operational facilities consisting of stadium club restaurant, retail spaces (i.e. souvenir gift shops), concessions, stadium and team administrative offices, warehouse and maintenance buildings, home and visitor locker rooms, football locker room, weight training room, concert stage and dressing room, loading and staging area, event tent area with adjoining commissary and player/employee parking lot.

All buildings, structures and improvements constructed on the stadium project site shall be consistent with the site plans and architectural elevations approved in accordance with applicable standards, policies and procedures of the City of Fresno and the Fresno Redevelopment Agency.

 TULARE STREET FRONTAGE PROPERTIES MAY BE ACQUIRED BY DEVELOPER OR MAY BE CONVEYED TO DEVELOPER IF ACQUIRED BY AGENCY THROUGH NEGOTIATED ACQUISITION

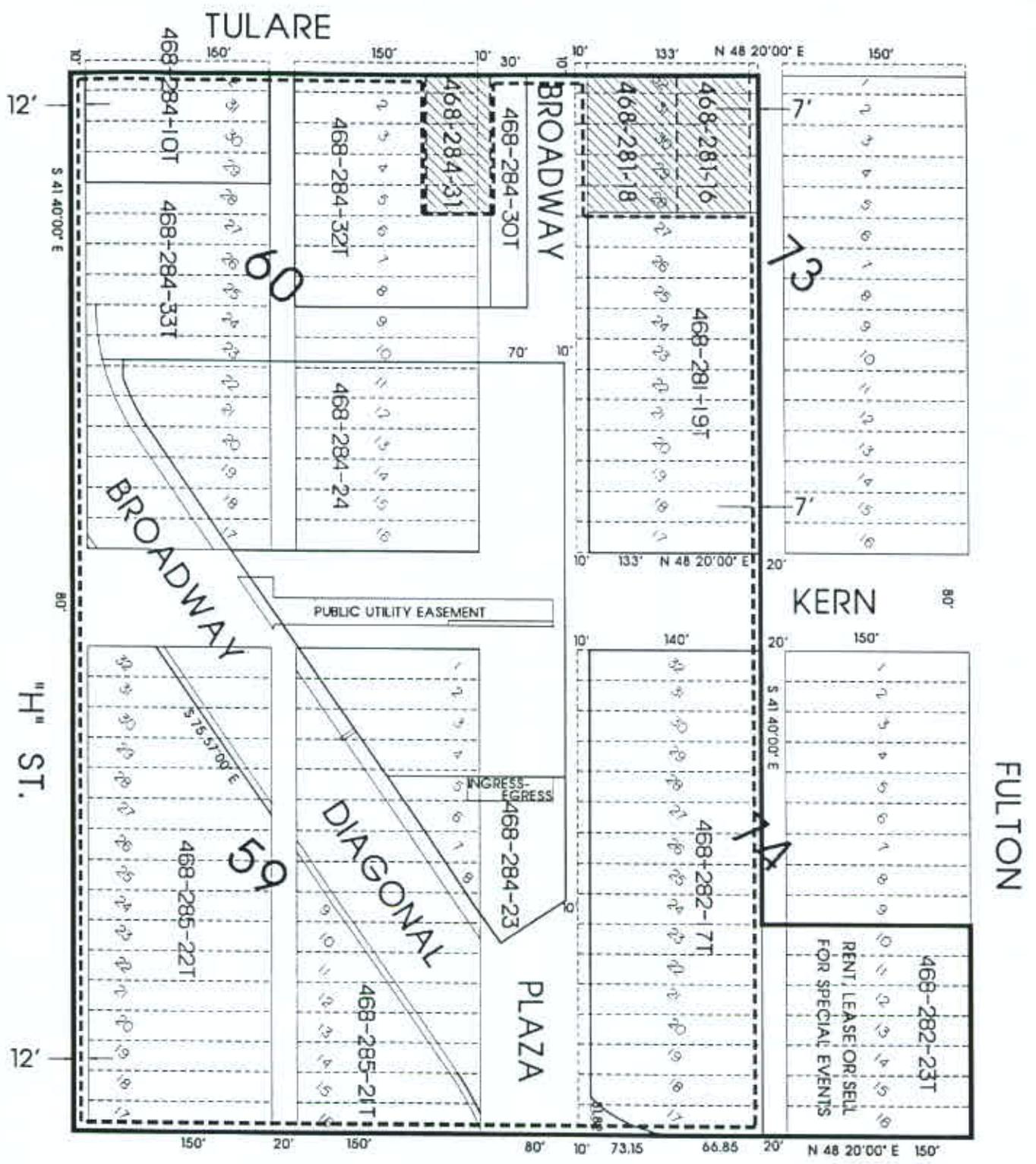


EXHIBIT "B"

Handwritten signature or initials

AGREEMENT FOR
PURCHASE OPTION AND RIGHT OF ACCESS

This agreement, made this 17th day of August, 1993, by and between Thanh Duy Vo, hereafter referred to as "Owner"(s) and the Redevelopment Agency of the City of Fresno, hereafter referred to as "Agency", pertains to real property located at 844 Broadway in the City and County of Fresno, also known as Assessor's Parcel Number 468-284-23, as Shown on the attached Exhibit "A".

RECITALS

WHEREAS, Owner(s) hold fee title to real property located at 844 Broadway, Fresno, California (hereafter, "the subject Property"); and

WHEREAS, Agency is interested in the development of a baseball stadium to the east of the intersection of Tulare and Broadway Streets; and

WHEREAS, Agency desires to acquire an exclusive option to purchase Subject Property for fair market value at such time as it may exercise its option during the term hereof; and

WHEREAS, Owner(s) desire(s) to give Agency such a purchase option, for valuable consideration as hereafter set forth; and

WHEREAS, Owner and Agency believe that it is in their common interest to enter into this Agreement concerning the Subject Property.

NOW, THEREFORE, the parties agree as follows:

Section 1: Agreement For Purchase Option. Owner hereby grants to Agency the

exclusive right to purchase the Subject Property at its fair market value to be determined by an independent appraiser as of the date of exercise of this option, or as otherwise determined by an agreed arbitrator.

Section 2: Option Period. The option period created by this Agreement shall remain in effect for twelve (12) months from the date of execution.

Section 3: Consideration For Option and Right of Access. The Owner shall receive payment in the amount of FIVE HUNDRED DOLLARS (\$500.00) within 30 calendar days following the date this Agreement is formally approved by the Agency. If, for any reason, this Agreement is not approved by Agency's Board of Directors, no payment shall be made to the Owner and this Agreement shall be of no force or effect.

Section 4: Assignment. The parties agree that their respective interests in this Agreement shall be assignable to a third party, provided reasonable prior notice of assignment is given and the Assignee expressly agrees to comply with all terms of this Agreement.

Section 5: Right of Access: Appraisal. Owner hereby grants the Agency, its agents or assigns, access to the Subject Property on 24 hours' prior notice and further agrees to allow access to enclosed or locked areas. Any damage to the property caused by Agency, its agents or assigns, will be repaired by Agency. Site visits will be done in a manner which will not interfere with Owner's (or Owner's tenants') use of the Subject Property. During the period of this option, Agency shall have the right to, at its sole expense, commission an appraisal of Subject Property by a professional real estate appraiser to

determine its then fair market value.

Section 6: Warranties. Owner warrants he/they/it own the Subject Property and has/have marketable and insurable fee simple title to the Subject Property.

Section 7: Completion of Purchase: Purchase Price. In the event Agency elects to exercise its purchase option, Agency shall:

- (a) Notify Owner in writing of its decision to exercise the option.
- (b) Within 10 days thereafter, submit a written offer to purchase the Subject Property for the price established by the appraiser commissioned by Agency.
- (c) Notify all nonresidential occupants of the Subject Property of eligibility for relocation assistance benefits and payments, as of the purchase offer date, as provided pursuant to Section 7260 of the California Government Code. No housing is being acquired and no payments to parties claiming residential tenancy will be made.
- (d) Utilize the standard "Offer of Sale of Land", a copy of which is attached as Exhibit "B". Upon opening of an escrow, Agency shall also pay all escrow and title insurance fees but shall not be responsible for payment of recorded liens, encumbrances, or delinquent taxes, if any.

Section 8: Owner Option To Contest Appraisal: Arbitration. If the Owner(s) disagree(s) with the offered purchase price of the Subject Property as established by the real estate appraiser commissioned by Agency pursuant to this Agreement, Owner(s) may commission his/their/its own appraisal of Subject Property and thereafter negotiate with Agency for a different sale price. Owner(s) and Agency agree, however, that if no

agreement is reached on a sale price, Owner(s) will sell and Agency will purchase Subject Property at a price to be determined through binding arbitration before an arbitrator who shall be certified by the designation of "Member of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards." Said arbitrator shall be selected by the parties from among those MAI's who have offices in the City of Fresno.

Section 9: Time of the Essence. It is expressly agreed by the parties hereto that time is of the essence to this Agreement.

Section 10: Entire Agreement. This Agreement, with attachments, constitutes the entire agreement between the parties, and this Agreement supersedes any oral statements by either party unless amended, modified, supplemented or terminated except as set forth herein unless each of the parties hereto consents in writing.

Section 11: Attorney's Fees. If any legal action or proceeding, other than the valuation of the property, arising out of or relating to this Agreement is brought by either party, the prevailing party shall be entitled to recover from the other party in addition to any other relief that may be granted, reasonable attorneys' fees, costs and expenses.

Section 12: Binding Effect. The provisions of this Agreement shall bind the respective, heirs, executors, personal representatives, administrators, successors and assigns of the parties hereto.

Section 13: Further Assurance. The parties hereto agree to execute any additional documents that may be necessary to effectuate the intent and purpose of this Agreement.

PROPERTY OWNER

REDEVELOPMENT AGENCY OF
THE CITY OF FRESNO

By Thanh Duy Vo
Thanh Duy Vo, Owner

By Michael A. Berman

By _____

MAILING ADDRESS:

1245 East Barstow Avenue
Fresno, CA 93710

ATTEST:

Jacqueline L. Ryle
City Clerk

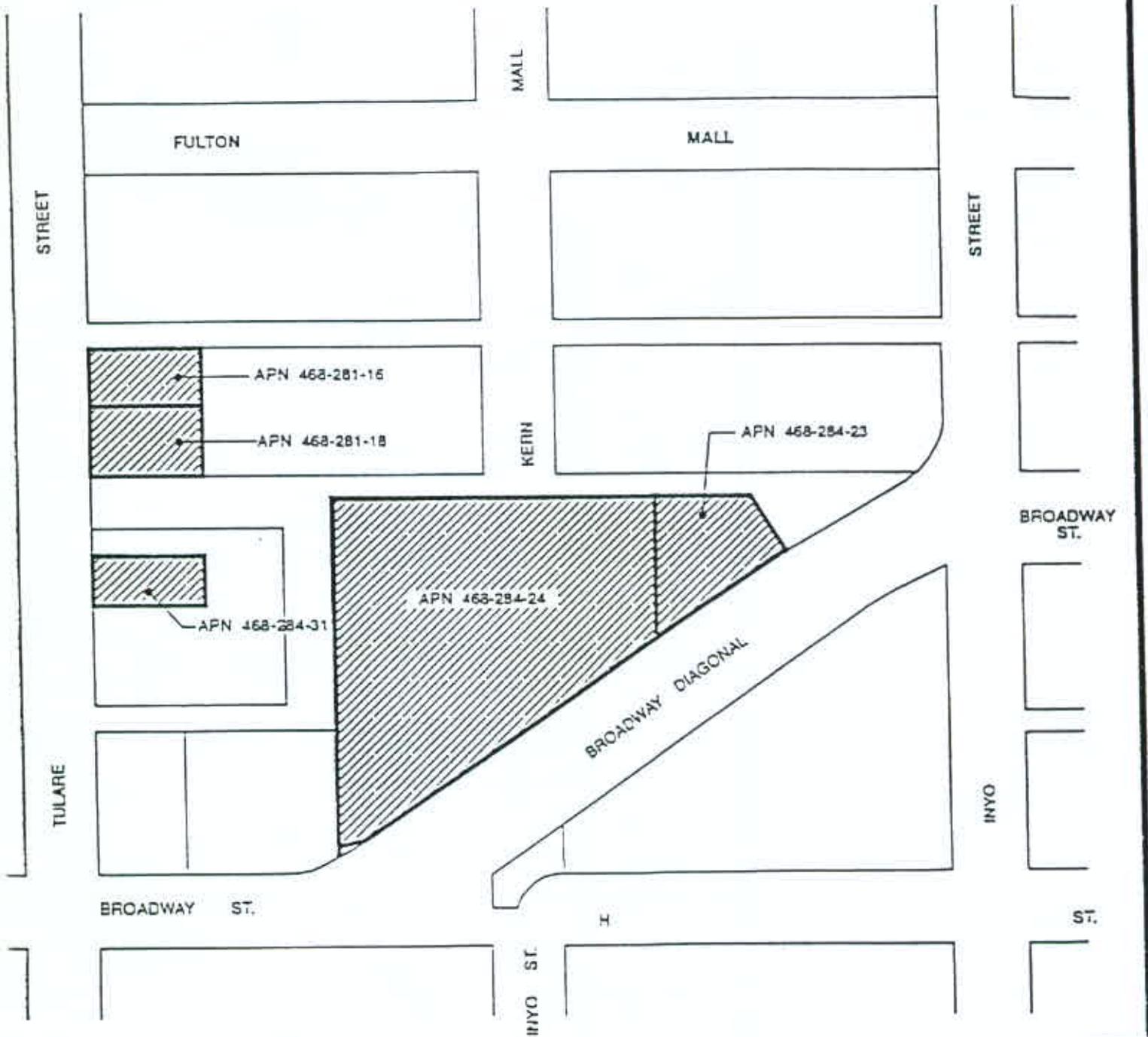
By Jacqueline L. Ryle
City Clerk

APPROVED AS TO FORM:

James P. Lough
City Attorney

By Adrian A. Osier, Asst.

30502A.ADS



City of
FRESH
Department Of Economic Resources

DRAWN BY: Duc DATE: 6/19/05
CHK'D BY: _____ DATE: _____

PAGE NO. 1

EXHIBIT A

_____, California

_____ 19_____

_____ (Herein referred to as Grantor)

PARCEL NO. _____

NDP AREA _____

PROJECT NO. _____

ESCROW NO. _____

OFFER OF SALE OF LAND

This Agreement evidences:

1. That _____ (hereinafter referred to as "deed"), describing the following real property:

has been signed by the undersigned Grantor, together with escrow instructions relating thereto, and handed to _____ Agent for The Redevelopment Agency of the City of Fresno, hereinafter referred to as "the Agency", for acceptance or return by the Agency.

2. That the parties have set forth herein the whole of their agreements.

3. That the purchase price of said real property shall be the sum of \$ _____ free and clear of all liens, encumbrances, restrictions, easements, assessments, delinquent taxes, rights of possession, claims to rights of possession, and recorded and/or unrecorded leasehold interests and easements except:

Unpaid non-delinquent taxes prorated as of close of escrow.

Urban Renewal Plan.

4. That all expenses of escrow, examination of title and of recording the Deed shall be paid by the Agency, except the costs of any required documentary stamps.

5. That in consideration of the execution of this agreement by Grantor, the Agency will continue to negotiate and endeavor to obtain other agreements generally similar in character, from owners of real property in the vicinity of the real property above described.

6. That the Grantor shall have no claim or cause of action against the Agency except such as may arise by reason of this agreement.

7. That the rights given by the Grantor to the Agency hereunder are exclusive and irrevocable, and at any time within 120 days from the date hereof, or thereafter until this agreement is terminated, the Agency may file said escrow instructions and said Deed with the escrow holder named therein, and pay into the escrow the purchase price of said property. Upon the recording of said Deed, monies due the Grantor shall become immediately due and payable.

8. That should the Agency not deposit said escrow instructions with the escrow holder within a period of 120 days from the date hereof, this agreement shall remain in force hereafter until the Grantor shall terminate this agreement by giving 30 days prior written notice to the Agency of such termination, whereupon, the Agency shall file the escrow instructions and Deed within said 30 days or return all documents delivered to it by the Grantor, and this agreement shall be of no further effect thereafter except as hereinafter provided.

9. That the Agency may at any time prior to the recording of the deed, terminate this agreement and all liability to Grantor hereunder, by returning to the Grantor all documents received from said Grantor.

10. That even though the Agency may have accepted this offer, nevertheless in lieu of completing the purchase of said premises through escrow, the Agency may at any time prior to recording of such Deed, proceed to acquire the premises by eminent domain proceedings, and the Grantor agrees, as an independent stipulation which shall survive the expiration or termination of this offer, that the just compensation to which the Grantor shall be entitled in such eminent domain action shall be the purchase price above stated, which price the Grantor hereby declares to be the fair market value of said premises, inclusive of every interest therein, other than those interests excepted in Paragraph 3.

**AGREEMENT FOR PURCHASE
OPTION AND RIGHT OF ACCESS**

This agreement, made this 15th day of October, 1993, by and between PATCO, Inc., a California Corporation, B.M. Patel, Vrajlal Chaniava, and Bhovanbhai Bavariya, hereafter referred to as "OWNER"(S) and the Redevelopment Agency of the City of Fresno, hereafter referred to as "AGENCY", pertains to real property, a motel building and other improvements, located at 866 to 888 Broadway, in the City and County of Fresno, also known as Assessor's Parcel Number 468-284-24, as shown on the attached Exhibit "A".

RECITALS

WHEREAS, OWNER(S) hold title to real property improvements on leased land located at 866 to 888 Broadway, Fresno, California (hereafter, "the subject property"); and

WHEREAS, AGENCY is interested in the development of a baseball stadium to the east of the intersection of Tulare and Broadway Streets; and

WHEREAS, AGENCY desires to acquire an exclusive option to purchase Subject Property for fair market value at such time as it may exercise its option during the term hereof; and

WHEREAS, OWNER(S) desire(s) to give AGENCY such a purchase option, for valuable consideration as hereafter set forth; and

WHEREAS, OWNER and AGENCY believe that it is in their common interest to enter into this Agreement concerning the Subject Property.

NOW, THEREFORE, the parties agree as follows:

Section 1: Agreement for Purchase Option. OWNER hereby grants to AGENCY the exclusive right to purchase the Subject Property at the price of ONE MILLION TWO HUNDRED THIRTY THOUSAND SEVEN HUNDRED DOLLARS (\$1,230,700).

Section 2: Option Period. The option period created by this Agreement shall remain in effect for twelve (12) months from the date of execution.

Section 3: Consideration for Option and Right of Access. The OWNER shall receive payment in the amount of FIVE HUNDRED DOLLARS (\$500.00) within 30 calendar days following the date this Agreement is formally approved by the AGENCY. If, for any reason, this Agreement is not approved by AGENCY'S Board of Directors, no payment shall be made to the OWNER and this Agreement shall be of no force or effect.

Presented to Fresno Redevelopment Agency
Date 11/2/93
Disposition: Approved

Section 4: Assignment. The parties agree that their respective interests in this Agreement shall be assignable to a third party, provided reasonable prior notice of assignment is given and the Assignee expressly agrees to comply with all terms of this Agreement.

Section 5: Right of Access; Appraisal. OWNER hereby grants the AGENCY, its agents or assigns, access to the Subject Property on 24 hours prior notice and further agrees to allow access to enclosed or locked areas. Any damage to the property caused by Agency, its agents or assigns, will be repaired by AGENCY. Site visits will be done in a manner which will not interfere with OWNER'S (or OWNER'S tenants') use of the Subject Property.

Section 6: Warranties. OWNER warrants he/they/it own the Subject Property and has/have marketable and insurable fee simple title to the Subject Property.

Section 7: Completion of Purchase; Purchase Price. In the event AGENCY elects to exercise its purchase option, AGENCY shall:

- (a) Notify OWNER in writing of its decision to exercise the option.
- (b) Within 10 days thereafter, submit a written offer to purchase the Subject Property for the price established by the appraiser commissioned by AGENCY.
- (c) Notify all nonresidential occupants of the Subject Property of eligibility for relocation assistance benefits and payments, as of the purchase offer date, as provided to Section 7260 of the California Government Code. No housing is being acquired and no payments to parties claiming residential tenancy will be made.
- (d) Utilize the standard "Offer of Sale of Land", a copy of which is attached as Exhibit "B". Upon opening of an escrow, AGENCY shall also pay all escrow and title insurance fees but shall not be responsible for payment of recorded liens, encumbrances, or delinquent taxes, if any.

Section 8. Owner Option to Contest Appraisal, Arbitration. OWNER has concluded that the current value of the improvements at 866 and 888 Broadway is \$1,230,700 and will accept this amount, less any mortgages, liens, encumbrances and previous years' taxes and assessments as the full purchase price. No arbitration will be necessary unless there is a significant diminution of value caused by fire, earthquake, water or other physical forces.

Section 9: Time of the Essence. It is expressly agreed by the parties hereto that time is of the essence to this Agreement.

Section 10: Entire Agreement. This Agreement, with attachments, constitutes the entire agreement between the parties, and this Agreement supersedes any oral statements by either party unless amended, modified, supplied, supplemented or terminated except as set forth herein unless each of the parties hereto consents in writing.

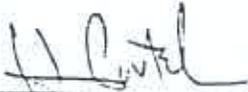
Section 11: Attorney's Fees. If any legal action or proceeding, other than the valuation of the property, arising out of or relating to this Agreement is brought by either party, the prevailing party shall be entitled to recover from the other party in addition to any other relief that may be granted, reasonable attorney's fees, costs and expenses.

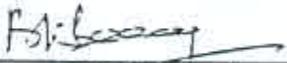
Section 12: Binding Effect. The provisions of this Agreement shall bind the respective, heirs, executors, personal representatives, administrators, successors and assigns of the parties hereto.

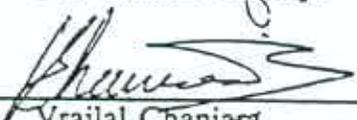
Section 13: Further Assurance. The parties hereto agree to execute any additional documents that may be necessary to effectuate the intent and purpose of this Agreement.

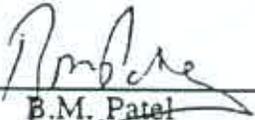
PROPERTY OWNER

PATCO, Inc.

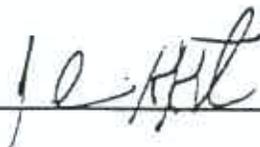
By: 
William Patel, President

By: 
Bhovantbhai Bavariya

By: 
Vrajlal Chaniara

By: 
B.M. Patel

REDEVELOPMENT AGENCY OF THE
CITY OF FRESNO

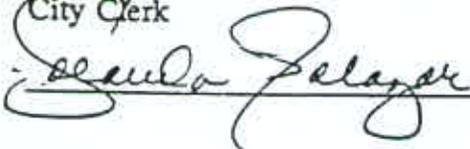
By: 

MAILING ADDRESS:

1400 Fashion Island Boulevard, Suite 304
San Mateo, CA 94404

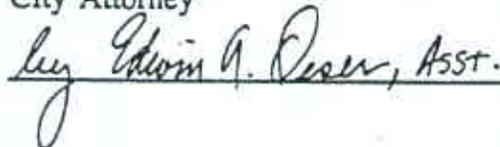
ATTEST:

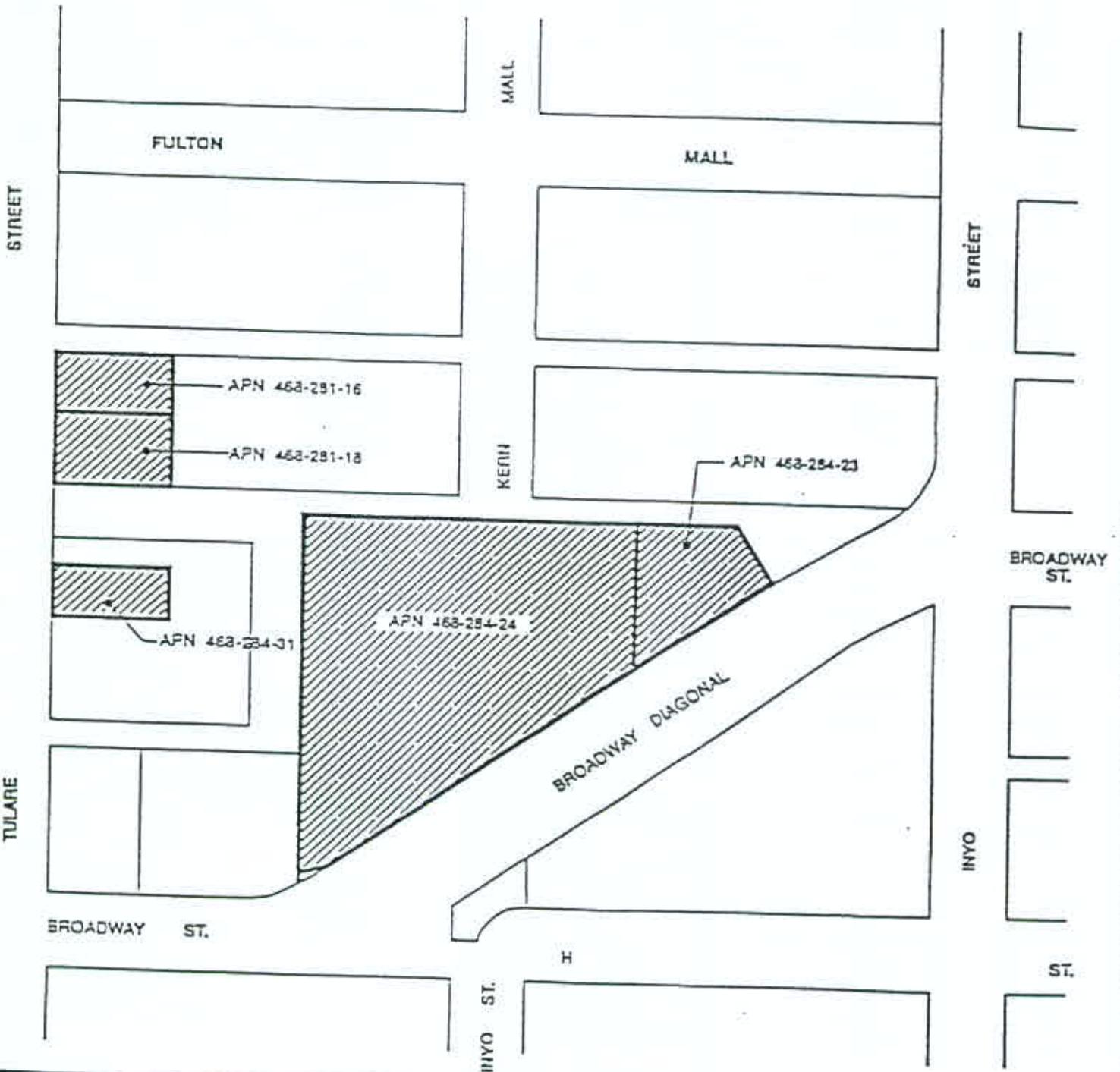
Jacqueline L. Ryle
City Clerk



APPROVED AS TO FORM:

James P. Lough
City Attorney


James P. Lough, ASST.



City of
FRESNO
Department Of Economic Resources

DRAWN BY: Doc DATE: 4/19/05
CHK'D BY: _____ DATE: _____

PAGE NO. 1

EXHIBIT A

_____, California

ASSESSOR'S PARCEL NO. _____

_____, 19_____

PROJECT DESCRIPTION _____

(Herein referred to as Grantor)

OFFER OF SALE OF LAND

This Agreement evidences:

1. That _____, hereinafter referred to as "deed"), describing the following real property:

has been signed by the undersigned Grantor, together with escrow instructions relating thereto, and handed to _____, Agent for the Redevelopment Agency of the City of Fresno, (hereinafter referred to as "the Agency"), for acceptance or return by the Agency.

2. That the parties have set forth herein the whole of their agreements.

3. That the purchase price of said real property shall be the sum of \$_____, free and clear of all liens, encumbrances, restrictions, easements, assessments, delinquent taxes, rights of possession, claims to rights of possessions and recorded and/or unrecorded leasehold interests and easements except:

Unpaid non-delinquent prorated as of close of escrow.
Urban Renewal Plan.

4. That all expenses of escrow, examination of title and of recording the Deed shall be paid by the Agency, except the costs of any required documentary stamps.

5. That in consideration of the execution of this agreement by the Grantor, the Agency will continue to negotiate and endeavor to obtain other agreements generally similar in character, from owners of real property in the vicinity of the real property above described.

6. That the Grantor shall have no claim or cause of action against the Agency except such as may arise by reason of this agreement.

7. That the rights given by the Grantor to the Agency hereunder are exclusive and irrevocable, and at any time within 120 days from the date hereof, or thereafter until this agreement is terminated, the Agency may file said escrow instructions and said Deed with the escrow holder names therein, and pay into the escrow the purchase price of said property. Upon the recordation of said Deed, monies due the Grantor shall become immediately due and payable.

8. That should the Agency not deposit said escrow instructions with the escrow holder within a period of 120 days from the date hereof, this agreement shall remain in full force thereafter until the Grantor shall terminate this agreement by giving 30 days prior written notice to the Agency of such termination, whereupon, the Agency shall file the escrow instructions and Deed within said 30 days or return all documents delivered to it by the Grantor, and this agreement shall be of no further effect thereafter except as hereinafter provided.

9. That the Agency may at any time prior to the recordation of the deed, terminate the agreement and all liability to Grantor hereunder, by returning the to Grantor all documents received from said Grantor.

EXHIBIT B

of said premises through escrow, the Agency may at any time prior to recordation of such Deed, proceed to acquire the premises by eminent domain proceedings, and the Grantor agrees, as an independent stipulation which shall survive the expiration or termination of this offer, that the just compensation to which the Grantor shall be entitled in such eminent domain action shall be the purchase price above stated, which price the Grantor hereby declares to be the fair market value of said premises, inclusive of every interest therein, other than those interests excepted in Paragraph 3.

11. That loss or damage to the real property, or any improvements thereon, by fire or other casualty, occurring prior to the recordation of the Deed shall be at the risk of Grantor.

12. That written notice, as mentioned in this Agreement, may be delivered personally, or by depositing such notice property addressed in the ordinary United States mail in any Post Office or mail box in the City of Fresno, California enclosed in an envelope address to the person to whom the notice is given and at the address specified below.

13. Grantor shall retain possession of the property conveyed up to and including the date of recordation of the Deed. All rents derived from tenant-occupied property up to and including the date of recordation of Deed shall be paid to the Grantor. All rents derived from tenant-occupied property subsequent to the date of recordation of Deed shall be paid to the Grantee, the Redevelopment Agency of the City of Fresno. Rentals will be prorated in escrow by the title companies involved in accordance with supplemental escrow instructions accompanying this transaction.

14. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the properties hereto, and the Agency is expressly given the right to assign this agreement and its rights hereunder.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

Grantor
Address

APPROVED FOR FORM AND LEGALITY

By _____

RECOMMENDED FOR APPROVAL

By _____

Ex-Officio Executive Director

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

AGREEMENT FOR
PURCHASE OPTION AND RIGHT OF ACCESS

This agreement, made this 22nd day of October, 1993, by and between WELLS FARGO BANK, N.A., formerly known as BANK OF AMERICA NT&SA AS TRUSTEE UNDER THE WILL OF IRENE H. DODD, DECEASED, hereafter referred to as "Owner"(s) and the Redevelopment Agency of the City of Fresno, hereafter referred to as "Agency", pertains to real property subject to an existing land lease, located at 866 to 888 Broadway in the City and County of Fresno, also known as Assessor's Parcel Number 468-284-24, as shown on the attached Exhibit "A".

RECITALS

WHEREAS, Owner(s) hold fee title to land, exclusive of all improvements, located at 866 to 888 Broadway, Fresno, California (hereafter, "the subject Property"); and

WHEREAS, Agency is interested in the development of a baseball stadium to the east of the intersection of Tulare and Broadway Streets; and

WHEREAS, Agency desires to acquire an exclusive option to purchase Subject Property for fair market value at such time as it may exercise its option during the term hereof; and

WHEREAS, Owner(s) desire(s) to give Agency such a purchase option, for valuable consideration as hereafter set forth; and

WHEREAS, Owner and Agency believe that it is in their common interest to enter into this Agreement concerning the Subject Property.

NOW, THEREFORE, the parties agree as follows:

November 30 93
E: *Elvia Somerville*

DEPUTY

1

EXHIBIT C-3

Section 1: Agreement For Purchase Option. Owner hereby grants to Agency the exclusive right to purchase the Subject Property at its fair market value to be determined by an independent appraiser as of the date of exercise of this option, or as otherwise determined by an agreed arbitrator.

Section 2: Option Period. The option period created by this Agreement shall remain in effect for twelve (12) months from the date of execution.

Section 3: Consideration For Option and Right of Access. The Owner shall receive payment in the amount of FIVE HUNDRED DOLLARS (\$500.00) within 30 calendar days following the date this Agreement is formally approved by the Agency. If, for any reason, this Agreement is not approved by Agency's Board of Directors, no payment shall be made to the Owner and this Agreement shall be of no force or effect.

Section 4: Assignment. The parties agree that their respective interests in this Agreement shall be assignable to a third party, provided reasonable prior notice of assignment is given and the Assignee expressly agrees to comply with all terms of this Agreement.

Section 5: Right of Access; Appraisal. Owner hereby grants the Agency, its agents or assigns, access to the Subject Property on 24 hours' prior notice and further agrees to allow access to enclosed or locked areas. Any damage to the property caused by Agency, its agents or assigns, will be repaired by Agency. Site visits will be done in a manner which will not interfere with Owner's (or Owner's tenants') use of the Subject Property. During the period of this option, Agency shall have the right to, at its sole expense, commission an appraisal of Subject Property by a professional real estate appraiser to determine its then fair market value.

Section 6: Warranties. Owner warrants he/they/it own the Subject Property and has/have marketable and insurable fee simple title to the Subject Property.

Section 7: Completion of Purchase; Purchase Price. In the event Agency elects to exercise its purchase option, Agency shall:

- (a) Notify Owner in writing of its decision to exercise the option.
- (b) Within 10 days thereafter, submit a written offer to purchase the Subject Property for the price established by the appraiser commissioned by Agency.
- (c) Notify all nonresidential occupants of the Subject Property of eligibility for relocation assistance benefits and payments, as of the purchase offer date, as provided pursuant to Section 7260 of the California Government Code. No housing is being acquired and no payments to parties claiming residential tenancy will be made.
- (d) Utilize the standard "Offer of Sale of Land", a copy of which is attached as Exhibit "B". Upon opening of an escrow, Agency shall also pay all escrow and title insurance fees but shall not be responsible for payment of recorded liens, encumbrances, or delinquent taxes, if any.

Section 8: Owner Option To Contest Appraisal; Arbitration. If the Owner(s) disagree(s) with the offered purchase price of the Subject Property as established by the real estate appraiser commissioned by Agency pursuant to this Agreement, Owner(s) may commission his/their/its own appraisal of Subject Property and thereafter negotiate with Agency for a different sale price. Owner(s) and Agency agree, however, that if no agreement is reached on a sale price, Owner(s) will sell and Agency will purchase Subject Property at a price to be determined through binding arbitration before an arbitrator who shall be certified by the designation of "Member of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards." Said arbitrator shall be selected by the parties from among those MAI's who have offices in the City of Fresno.

Section 9: Time is of the Essence. It is expressly agreed by the parties hereto that time is of the essence to this Agreement.

Section 10: Entire Agreement. This Agreement, with attachments, constitutes the entire agreement between the parties, and this Agreement supersedes any oral statements by either party unless amended, modified, supplemented or terminated except as set forth herein unless each of the parties hereto consents in writing.

Section 11: Attorney's Fees. If any legal action or proceeding, other than the valuation of the property, arising out of or relating to this Agreement is brought by either party, the prevailing party shall be entitled to recover from the other party in addition to any other relief that may be granted, reasonable attorneys' fees, costs and expenses.

Section 12: Binding Effect. The provisions of this Agreement shall bind the respective, heirs, executors, personal representatives, administrators, successors and assigns of the parties hereto.

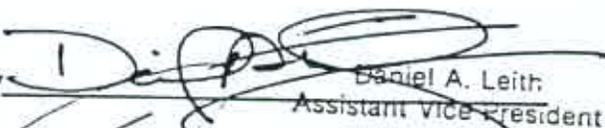
Section 13: Court Approval. Should Agency elect to acquire the subject property, said acquisition is subject to Superior Court approval.

Section 14: Existing Lease. Should Agency elect to acquire the subject property, said acquisition is subject to the existing lease currently in effect on the property or subject to the Agency's acquisition of the leasehold interest in the subject property

Section 15: Further Assurance. The parties hereto agree to execute any additional documents that may be necessary to effectuate the intent and purpose of this Agreement.

PROPERTY OWNER

REDEVELOPMENT AGENCY OF
THE CITY OF FRESNO

By  Daniel A. Leith
Assistant Vice President

By Michael A. Beimer

By 
DREY W. ANDERSON
VICE PRESIDENT

MAILING ADDRESS:
Wells Fargo Bank, N.A.
Central Valley Real Estate
Attn: Daniel A. Leith
5262 North Blackstone Avenue
Fresno, CA 93710

ATTEST:

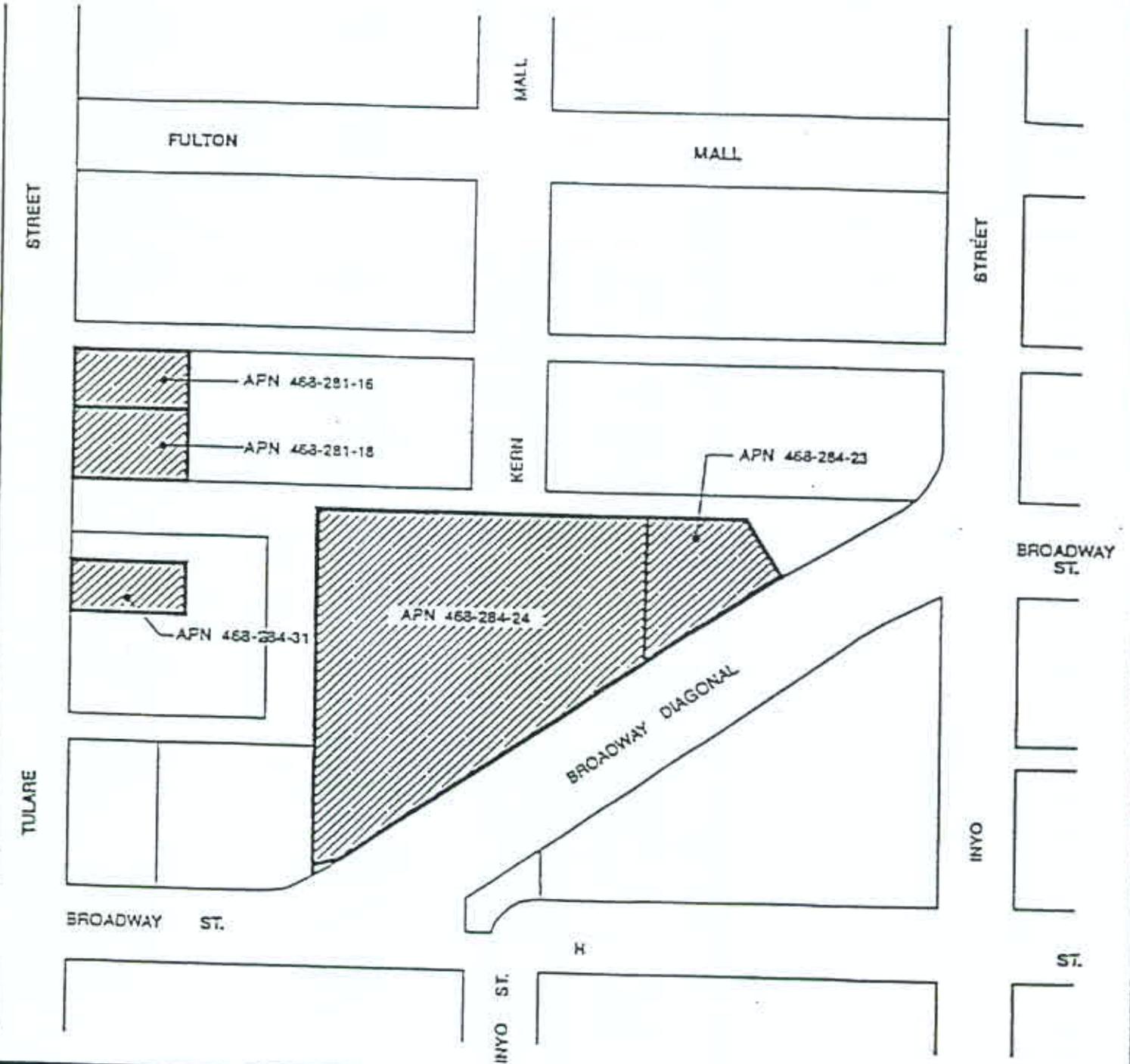
APPROVED AS TO FORM:

Jacqueline L. Ryle
City Clerk

James P. Lough
City Attorney

By Elvia Somerville
Deputy

By Edwin A. Oser, Asst.



City of
FRESH
 Department Of Economic Resources

DRAWN BY: Du DATE: 4/19/83
 CHK'D BY: _____ DATE: _____

PAGE NO. 1

EXHIBIT A

_____, California
_____, 19_____

ASSESSOR'S PARCEL NO. _____
PROJECT DESCRIPTION _____

(Herein referred to as Grantor)

OFFER OF SALE OF LAND

This Agreement evidences:

1. That _____ thereinafter referred to as "deed"), describing the following real property:

has been signed by the undersigned Grantor, together with escrow instructions relating thereto, and handed to _____, Agent for the Redevelopment Agency of the City of Fresno, (hereinafter referred to as "the Agency"), for acceptance or return by the Agency.

2. That the parties have set forth herein the whole of their agreements.

3. That the purchase price of said real property shall be the sum of \$_____, free and clear of all liens, encumbrances, restrictions, easements, assessments, delinquent taxes, rights of possession, claims to rights of possessions and recorded and/or unrecorded leasehold interests and easements except:
Unpaid non-delinquent prorated as of close of escrow.
Urban Renewal Plan.

4. That all expenses of escrow, examination of title and of recording the Deed shall be paid by the Agency, except the costs of any required documentary stamps.

5. That in consideration of the execution of this agreement by the Grantor, the Agency will continue to negotiate and endeavor to obtain other agreements generally similar in character, from owners of real property in the vicinity of the real property above described.

6. That the Grantor shall have no claim or cause of action against the Agency except such as may arise by reason of this agreement.

7. That the rights given by the Grantor to the Agency hereunder are exclusive and irrevocable, and at any time within 120 days from the date hereof, or thereafter until this agreement is terminated, the Agency may file said escrow instructions and said Deed with the escrow holder names therein, and pay into the escrow the purchase price of said property. Upon the recordation of said Deed, monies due the Grantor shall become immediately due and payable.

8. That should the Agency not deposit said escrow instructions with the escrow holder within a period of 120 days from the date hereof, this agreement shall remain in full force thereafter until the Grantor shall terminate this agreement by giving 30 days prior written notice to the Agency of such termination, whereupon, the Agency shall file the escrow instructions and Deed within said 30 days or return all documents delivered to it by the Grantor, and this agreement shall be of no further effect thereafter except as hereinafter provided.

9. That the Agency may at any time prior to the recordation of the deed, terminate the agreement and all liability to Grantor hereunder, by returning the to Grantor all documents received from said Grantor.

EXHIBIT B

10. That even though the Agency may have accepted this offer, nevertheless, in lieu of completing the purchase of said premises through escrow, the Agency may at any time prior to recordation of such Deed, proceed to acquire the premises by eminent domain proceedings, and the Grantor agrees, as an independent stipulation which shall survive the expiration or termination of this offer, that the just compensation to which the Grantor shall be entitled in such eminent domain action shall be the purchase price above stated, which price the Grantor hereby declares to be the fair market value of said premises, inclusive of every interest therein, other than those interests excepted in Paragraph 3.

11. That loss or damage to the real property, or any improvements thereon, by fire or other casualty, occurring prior to the recordation of the Deed shall be at the risk of Grantor.

12. That written notice, as mentioned in this Agreement, may be delivered personally, or by depositing such notice property addressed in the ordinary United States mail in any Post Office or mail box in the City of Fresno, California enclosed in an envelope address to the person to whom the notice is given and at the address specified below.

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14. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the properties hereto, and the Agency is expressly given the right to assign this agreement and its rights hereunder.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

Grantor

Address

APPROVED FOR FORM AND LEGALITY

By _____

RECOMMENDED FOR APPROVAL

By _____

Ex-Officio Executive Director

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

EXHIBIT "E"

PROJECT PROCESS SCHEDULE AND MILESTONES

TASK	DATE
1. City Council/Redevelopment Agency Initiation of project related plan amendments and authorization to prepare Level I Hazardous Substances Evaluation.	11/03/93
2. Receive project description, illustrations and operational statements from stadium developer.	12/03/93
4. Complete Level I Hazardous Substances Evaluation.	12/06/93
5. Distribute project entitlements, plan amendments and environmental assessment request for comment.	12/08/93
6. City Council/Redevelopment Agency authorization to prepare Level II Hazardous Substances Evaluation and stormwater drainage improvement plans.	01/18/94
7. City Council/Redevelopment Agency acceptance of Downtown Baseball Stadium Processing Agreement for consideration.	02/08/93
8. Complete Level II Hazardous Substances Evaluation.	03/10/94
9. Complete Environmental Assessment Initial Study and staff analysis of plan amendments and project entitlements.	03/21/94
10. Conduct Housing and Community Development Commission hearings.	03/23/94

11. Conduct Planning Commission Public Hearing to consider project related plan amendments, entitlements and environmental findings. 04/06/94
12. Conduct City Council/Redevelopment Agency Public Hearing to consider project related plan amendments, entitlements, environmental findings, appropriation of funds and disposition and development agreement. 04/26/94
13. Pending project approval, City of Fresno/Redevelopment Agency and Stadium Developer execute the "Disposition and Development Agreement" consistent with "Processing Agreement" and conditions of approval. 04/29/94
14. Establish project site demolition, public improvement and stadium construction schedules identifying timeline for processing all necessary engineering and construction plans and permit applications; the target date for issuance of a building permits; and, date of project completion. 04/26/94
15. Scheduled close of escrow to convey project site parcels to stadium developer. 05/31/94

11. Conduct Planning Commission Public Hearing to consider project related plan amendments, entitlements and environmental findings. 04/06/94
12. Conduct City Council/Redevelopment Agency Public Hearing to consider project related plan amendments, entitlements, environmental findings, appropriation of funds and disposition and development agreement. 04/26/94
13. Pending project approval, City of Fresno/Redevelopment Agency and Stadium Developer execute the "Disposition and Development Agreement" consistent with "Processing Agreement" and conditions of approval. 04/29/94
14. Establish project site demolition, public improvement and stadium construction schedules identifying timeline for processing all necessary engineering and construction plans and permit applications; the target date for issuance of a building permits; and, date of project completion. 04/26/94
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