

PURCHASE AND SALE AGREEMENT- DIRECT SALE

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THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of _____ by and between the City of Bakersfield ("City") and Peyton Mills, ("Purchaser").

Recitals

A. City owns the real property commonly known as: 020-482-12 & 13 Remnants and more particularly described as set forth in Exhibit A1 and depicted on Exhibit "A2" attached hereto.

B. Purchaser is Peyton Mills

C. The parties wish to provide terms and conditions for Purchaser's purchase of the Property from City.

NOW THEREFORE, the parties agree as follows:

Section 1. Purchase and Sale

City shall sell the Property to Purchaser and Purchaser shall purchase the Property from City on the terms and conditions stated in this Agreement.

Section 2. Purchase Price

The purchase price for the Property shall be \$ 1.00 The Purchase Price shall be paid by Purchaser as set forth below.

Section 3. Closing and City Council Approval

Purchaser understands and agrees that this sale is subject to the approval by the Bakersfield City Council. In the event the Bakersfield City Council fails to approve the sale, all monies paid by the Purchaser will be refunded without interest. City makes no representations or warranty concerning the Bakersfield City Council's approval of this sale.

Section 4. Close of Escrow

City will maintain an internal escrow at no charge to Purchaser. Purchaser may open an external escrow at Purchaser's expense but selection of the escrow company is subject to City's approval, which City may withhold for any reason within its discretion. Should Purchaser elect to open an escrow, Purchaser agrees to pay any and all fees associated with the escrow, and any and all recording fees, documentary transfer taxes or any other real estate transaction fees involved in the transaction.

Section 5. Closing Costs and Prorations

Purchaser shall pay all recording fees and the premium, if any, for the title insurance policy referred to herein. Prorations of real property taxes and assessments, rents, interest, and other expenses of the Property shall be prorated as of the date of recordation of the deed.

Section 6. Title

The Property is believed to be free of any liens, court judgments, loans, Deeds of Trust, and delinquent or unpaid property taxes. The sale of the Property is subject to all matters of public record and any easements, or reservations not of record or that which is reserved by the City. City does not assume any liability for any possible encumbrances on the Property.

Purchaser understands and agrees that the right, title, and interest in the Property to be conveyed shall not exceed that vested in the City, and that City will furnish no policy of title insurance. If a policy of title insurance is desired, Purchaser may obtain one at Purchaser's sole expense. The Property is being conveyed subject to any special assessments, restrictions, reservations or easements of record and subject to any reservations contained in the deed. Purchaser may examine any information City has relative to these matters. Purchaser has been given the opportunity to request and inspect all documents, if any, within City possession regarding the condition of the property.

Section 7. Condition of Property

Purchaser waives any further right to inspect the Property and conduct tests thereon. The Property is sold "AS IS" in its present physical condition as of the date of this Agreement. Purchaser acknowledges and agrees that they are acquiring the property in its present state and condition as of the date of this Agreement, with all defects, both patent and latent, and with all faults of the property whether known or unknown, presently existing or that may hereafter arise, including, without limitation, all existing conditions, if any, of lead paint, mold or other environmental health hazards. Purchaser acknowledges and agrees that the City has not made, does not make and specifically negates and disclaims

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any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express, implied, oral or written, past, present or future, of, as to, concerning or with respect to the condition of the property.

City makes no representation regarding the potential for development, subdivision, zoning, or re-zoning of the Property. Purchaser shall be responsible for compliance with any and all local codes and ordinances for permitted land uses of any kind.

Section 8. No Assignment

Purchaser shall not assign all or any part of the Purchaser's interest in this Agreement without first having obtained the written consent of City. Any total or partial assignment shall not relieve Purchaser of Purchaser's obligation to this Agreement.

Section 9. Disclaimers

The Property and the fixtures and personal property contained therein, if any, are not new, and have been subject to normal wear and tear. Purchaser understands that City makes no express or implied warranty with respect to the condition of any of the Property, fixtures or personal property. City makes no oral or written representation regarding the age of improvements, the size and square footage of the parcel or building, or the location of property lines. Apparent boundary line indicators such as driveways, fences, hedges, walls, or other barriers may not represent the true boundary lines which may only be determined by a surveyor. If any of these issues are important to Purchaser's decision to purchase, then Purchaser should investigate the Property independently. Purchaser acknowledges that it has not relied upon any representations by City with respect to the condition of the Property, the status of permits, zoning, or code compliance. Purchaser is to satisfy itself concerning these issues.

Section 10. Indemnification

Purchaser shall defend, indemnify, and hold City and City's elected and appointed officers, agents, and employees free and harmless from and against any and all liabilities, damages, claims, costs, and expenses (including and without limitation to attorney's fees, legal expenses and costs, and consultant's fees, and investigation and remediation costs) arising in whole or in part from the existence of Hazardous Substances or Hazardous Substance Conditions. This indemnity is intended to address that liability for which City may be responsible solely out of its mere ownership of said Property. This provision shall survive transfer of title to said Property and any rescission of said transfer.

When used in this Agreement, "Hazardous Substance" shall mean any substance whose nature and/or quantity of existence, use, manufacture, disposal of effect, render it subject to federal, state, or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare, including the Comprehensive Environmental Response Compensation and Liability Act or Resource Conservation and Recovery Act as now in effect.

When used in this agreement, "Hazardous Substance Condition" shall mean the existence on or under Property of a hazardous substance that requires remediation and/or removal and/or to be otherwise mitigated pursuant to applicable law.

Section 11. Destruction of Improvements

If the improvements of the Property are destroyed, materially damaged, or found to be materially defective as a result of such damage prior to Close of Escrow or approval by the Bakersfield City Council, Purchaser may terminate the transaction by written notice delivered to City, and all Deposits shall be returned to Purchaser.

Section 12. Commissions

Each party represents and warrants to the other party that no broker or finder or other real estate agent is entitled to any commission, finder's fee or other compensation resulting from any action on its part. Purchaser and City each agree to indemnify the other and defend and hold harmless the other party from and against any loss, cost, or expense, including attorney's fees, incurred by such party, and against any claims, causes of action or the like brought by any broker, finder or similar agent for a commission or fee on account of this Agreement. This section does not prohibit a Purchaser from obtaining a broker at their own expense.

Section 13. Effective Headings

The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

Section 14. Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties.

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Section 15. Counterparts

This Agreement may be executed simultaneously in one (1) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one (1) and the same instrument.

Section 16. Binding on Successors and Assigns

This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective legal representatives, successors, and assigns.

Section 17. Attorney's Fees

If any legal action, arbitration or other proceeding is brought involving a dispute between the parties or arising out of the execution of this Agreement or sale of the Property, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees incurred in such action or proceeding, in addition to any other relief to which such party may be entitled.

Section 18. Agreement to Perform Necessary Acts

Each party agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions in this Agreement.

Section 19. No Third-party Beneficiaries

This Agreement is for the sole benefit of the parties hereto. There are no third-party beneficiaries, intended or otherwise.

Section 20. Notices

All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the person to whom notice is to be given or, on the second (2nd) day after mailing if mailed to the party to whom notice is to be given, by First Class Mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To City at: Renee Williams, City of Bakersfield, 1600 Truxtun Avenue, Bakersfield, CA 93301

To Purchaser at: Peyton Mills, 4200 La Mirada Avenue, Bakersfield, CA 93309

Any party may change its address for purposes of this paragraph by giving the other party written notice of the new address to the other party contained herein.

Section 21. Governing Law

This Agreement has been negotiated and entered into in the State of California and shall be governed by, construed and enforced in accordance with the laws of the State of California and according to its fair meaning, and not in favor of or against any party.

Section 22. Severability

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all the other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

Section 23. Survival of Representations and Warranties

All covenants, representations, warranties, and other agreements under this Agreement shall survive the Close of Escrow.

Section 24. Time is of the Essence

Time is of the essence and performance of this Agreement in respect to all provisions of this Agreement that specify a time for performance, and failure to comply with this provision shall be a material breach of this Agreement.

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Section 25. Saturdays, Sundays, and Holidays

If any date by which an election or a notice must be given falls on a Saturday, Sunday or holiday, then the date by which an election or notice must be given is extended to 5:00 p.m. on the next business day following such Saturday, Sunday or holiday.

Section 26. Waiver

No breach of any provision of this Agreement can be waived unless in writing. Waiver of any one breach of a provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law.

Section 27. Vesting

Title shall be vested as follows: Peyton Mills, a single individual

☐ as Husband and Wife

☒ A Single Man/Woman

☐ A Married Man/Woman as his/her sole and separate property

☐ as Joint Tenants

☐ as Tenants in Common

☐ Other (specify) _____

Section 28. Additional Terms & Conditions

Additional Terms & Conditions ☐ are/ ☒ are not attached.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

City of Bakersfield "City"

Peyton Mills, "Purchaser"

By: _____
Karen Goh, Mayor

Peyton Mills

Approved as to Form:

By: _____
Virginia Gennaro, City Attorney

Approved as to Content:

By: _____
Nick Fidler, Public Works Director

Countersigned:

By: _____
Randy McKeegan, Finance Director

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EXHIBIT "A1"
REMNANT PARCEL
LEGAL DESCRIPTION

APN 020-482-12 and 13

THAT CERTAIN REAL PROPERTY BEING A PORTION OF LOT 12 AND LOT 13, AS THE SAME IS SHOWN ON THE MAP OF TRACT NO. 3486, IN CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, RECORDED IN BOOK 20 OF MAPS AT PAGE 135, OFFICE OF THE RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 13, OF TRACT NO. 3334 (BOOK 18 OF MAPS, PAGE 135, OFFICE OF THE RECORDER OF SAID COUNTY) SAID POINT LYING ON THE EASTERLY LINE OF SAID LOT 13, TRACT NO. 3486;

THENCE, ALONG SAID EASTERLY LINE, SOUTH 19°42'46" EAST 80.09 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, TRACT NO. 3334;

THENCE, ALONG THE SOUTHWESTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID LOT 13, TRACT NO. 3334, SOUTH 70°19'58" WEST 5.00 FEET;

THENCE, NORTH 19°42'36" WEST 80.09 FEET;

THENCE, ALONG THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID LOT 13, TRACT NO. 3334, NORTH 70°17'48" EAST 5.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 400 SQUARE FEET, MORE OR LESS.

Reserving unto Grantor and its' successors and assigns an easement for sound wall foundation and maintenance purposes. There shall be no abutter's rights, including rights of access, appurtenant to the above described real property in and to the adjacent State freeway.

BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 5 (2004.00). THE DISTANCES SHOWN HEREIN ARE GRID DISTANCES. GROUND DISTANCES MAY BE OBTAINED BY DIVIDING GRID DISTANCES BY THE COMBINATION FACTOR OF 0.99996406.

SEE PLAT ATTACHED HERETO AS EXHIBIT "A2" AND BY THIS REFERENCE MADE PART HEREOF.

PREPARED UNDER MY SUPERVISION:



LINWOOD A. CARLETON, JR., P.L.S.
P.L.S. 6594, EXP. 12-31-21

10/14/20
DATE



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EXHIBIT A2