


REPORT TO CITY COUNCIL

Approved by:



City Manager

Council Meeting of: April 1, 2020

Agenda Number: D-6

SUBJECT:

Consideration of Adopting a Resolution Approving the Sale of Parcels 12 and 13 totaling 4.2 acres within Freedom Industrial Park located on the northwest intersection of West Pecan Avenue and South Pine Street to Span Development, LLC for the appraised value of \$421,792 (APN: 009-331-002 & 009-331-003)

RECOMMENDATION:

Staff recommends that the City Council (Council) adopt a resolution approving the sale of two City owned parcels within Freedom Industrial Park (FIP) to Span Development, LLC (Span).

SUMMARY:

The City currently owns three parcels of real property within FIP. The Council previously directed staff to seek developers, thus the two subject parcels were listed on the multiple listing service for buyers intending to build employment-generating projects. A formal appraisal was prepared to establish the fair market value of the parcels. The parcels total approximately 4.2 acres and were appraised at \$2.30 per square foot, for a total appraised value of \$421,792. Span has accepted the established value. Initially, the City owned 6 parcels totaling approximately 32.9 net acres. Not including the two subject parcels, the City has sold 3 parcels totaling 9.4 acres. Should the Council agree to sell the two subject parcels, the City would retain control of 18.9 acres to be used as the City's future Corporation Yard. The City's Transit Facility is nearing completion at the Corporation Yard.

DISCUSSION:

FIP was developed in partnership by the City and Span in an effort to spur economic development following the Great Recession (c. 2010). Span owned the over 90-acre parcel. The City partnered with Span and agreed to install off-site improvements along West Pecan Avenue and South Pine Street in return for approximately 32.9 acres of real property (See Attachment 2 for aerial map and Attachment 3 for a Parcel Map). Span funded the construction of the internal streets and

infrastructure within the industrial park. The costs to the City of off-site improvements totaled approximately \$4.55 million.

Since the completion of the off-site improvements, the City and Span have aggressively marketed the industrial park. To date, three industrial projects have been completed or are nearing completion, not including the City’s own Transit Center. Span has also submitted plans to the City to develop another nearly 37,000 square foot (sf) building that mirrors a recently completed building in FIP. The following table provides an overview of the 17 parcels in FIP and their status.

Table 1: Status of Parcels in FIP		
<i>Parcel</i>	<i>Acreage</i>	<i>Status</i>
1	3.6	Vacant ¹
2	3.8	Vacant ¹
3	4	Vacant ¹
4	3.7	Vacant ¹
5	4	Vacant ²
6	4.3	Vacant ²
7	6	Vacant ²
8	6.3	Vacant ²
9	7.9	Vacant. To be developed by Deerpointe Group
10	10.9	Deerpointe Group
11	18.9	Future City Corporation Yard. Partially developed with Transit Center
12	2.15	Subject Site
13	2.06	
14	2.9	TranPak, Inc. (nearly complete)
15	3.1	TranPak, Inc. (nearly complete)
16	3.4	Recently completed ±37,000 sf building
17	3.4	Span submitted plans to construct a ±37,000 sf building

¹ Span controls parcels 1-4. Span is marketing the four parcels as one large parcel in hopes of attracting a large user.

² Span controls parcels 5-8. Span is in discussions with a potential tenant to construct an approximately 124,000 sf industrial building.

Given the lack of available industrial space in the City, Span expressed an interest in purchasing the two subject parcels to develop an approximately 60,000 sf speculative building. Span intends on breaking ground within 24 months. Should Span not commence construction within the specified time period, the City would have the option, at its discretion, to repurchase the property

at the current appraised value of \$421,792 (refer to Attachment 1.B, *Option Agreement for Purchase and Sale of Real Property*).

Worth noting is that the City previously sold three parcels within the industrial park. The three parcels were sold at market rate and all are either developed or under development. Table 2 provides a summary of the six parcels that the City acquired as part of the partnership, their value, and status.

Table 2: Status of City-acquired Parcels in FIP				
<i>Parcel</i>	<i>Acreage</i>	<i>Status</i>	<i>Price per sf^{1,2}</i>	<i>Value</i>
11	18.9	Future City Corporation yard	\$2.30	\$1,923,609
12	2.15	Subject site (Feb. 2020)	\$2.30	\$421,792
13	2.06			
14	2.9	Sold to TranPak, Inc. (July 2019)	\$2.10	\$521,154
15	3.1			
16	3.4	Sold to Span (Sept. 2017)	\$2.02	\$297,410
Total Value of City-acquired Parcels				\$3,163,965

¹ Values reflect appraised value at the time of sale.

² An appraisal was not completed for the City's Future Corporation Yard. For value purposes, a square foot value of \$2.30 was assumed based on the most recent appraisal in the industrial park.

CITY INVESTMENT

As noted above, the City invested approximately \$4.55 million for off-site improvements. Table 3 provides a summary of the various funding sources.

Table 3: City's Financial Contribution in Freedom Industrial Park	
<i>Major Funding Sources</i>	<i>Funding Amount</i>
Regional Surface Transportation Program (RSTP)	\$1,744,875
Local Transportation Fund (LTF)	\$1,382,000
Development Impact Fee (water; part that was not oversized, thus not eligible for reimbursement)	\$253,700
<i>Development Impact Fees (reimbursable to developers unless other noted)</i>	
Water Pipe	±\$22,000
Storm Drain	\$436,641

Median Island (Major Road)	\$176,954
Arterial & Collector	\$443,210
Traffic Signal	\$49,727
Public Works yard (not reimbursable)	\$40,450
Total of Major Funding Sources	\$4,549,557

In summary, the City expended roughly \$4.55 million and gained control of 32.9 acres. The City previously sold 3 parcels for a total of \$818,564 and has an offer for 2 more parcels for \$421,792. While the City has partially developed its future Corporation Yard, if one were to place a value of \$1,923,609 on the Corporation Yard land based on the most recent appraisal of \$2.30 per sf, the City would receive nearly \$3.2 million in land value for its total \$4.55 million investment.

It is important to keep in mind that while the City did not recoup \$4.55 million in land value, if a private developer had constructed the off-site improvements similar to the City, they would have been eligible for approximately \$1.13 million in Development Impact Fee (DIF) reimbursements for the installation of some of the improvements along the two major roadways, S. Pine Street and W. Pecan Avenue as highlighted in Table 3. This has the result of reducing the approximate cost to the City to just the *Major Funding Sources* identified in Table 3.

As summarized in Table 4, the City invested \$3,421,025 or only about \$257,060 more than the value of the real property that the City acquired.

Table 4: Investment Summary	
<i>Item</i>	<i>Funding Amount</i>
City contribution (see Table 3 for funding sources)	\$4,549,557
- Property value received (see Table 2 for details)	\$3,163,965
- DIF reimbursement (see Table 3 for details)	\$1,128,532
Approximate City investment (includes \$40,450 of non-reimbursable DIF)	\$257,060

FINANCIAL IMPACT:

The fair market value was determined by a professional appraiser. The appraisal for the two parcels totaled \$421,792 based on a market value of \$2.30 per square foot.

ALTERNATIVES:

As an alternative to staff’s recommendation, the Council may:

1. Not approve the resolution, thereby not approving the land sale.
2. Request that staff clarify or provide additional information.

ATTACHMENTS:

1. Resolution
 - A. Agreement For Purchase And Sale of Real Property And Joint Escrow Instructions
 - B. Option Agreement for Purchase and Sale of Real Property
2. Aerial map of Freedom Industrial Park
3. Parcel map of Freedom Industrial Park
4. Recent photos of the recent development in the industrial park

1. Resolution

Resolution No. 20-_____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS FOR SALE OF REAL ESTATE (PARCELS 12 AND 13 WITHIN THE FREEDOM INDUSTRIAL PARK) TO SPAN DEVELOPMENT, LLC, A WYOMING LIMITED LIABILITY COMPANY FOR \$421,792 (APN: 009-331-002 AND 009-331-003) AND APPROVING RELATED OPTION AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

WHEREAS, the City currently owns three parcels within Freedom Industrial Park that are for sale to buyers intending to build industrial buildings capable of housing employment-generating businesses; and

WHEREAS, the City Council previously authorized staff to list for sale City-owned lots within the Freedom Industrial Park to be developed by private business; and

WHEREAS, the City intends to maintain ownership of one of the parcels for its use within Freedom Industrial Park; and

WHEREAS, the City caused an appraisal to be completed by a licensed appraiser to establish the fair market value of Parcels 12 and 13; and

WHEREAS, the City retained Peter S. Cooper, MAI of Cooper & Associates Real Estate Appraisers, Inc., to prepare an independent appraisal of the two parcels; and

WHEREAS, an appraisal was prepared and submitted to the City on March 4, 2020; and

WHEREAS, when combined, the two parcels total approximately 4.21 net acres and are valued at \$2.30 per square foot, or \$421,792 in total; and

WHEREAS, Span Development, LLC (Span) has proposed to purchase Parcels 12 and 13 within Freedom Industrial Park at the appraised fair market value amount of \$421,792 for the purpose of constructing a building; and

WHEREAS, the Agreement For Purchase And Sale of Real Property And Joint Escrow Instructions ("Agreement") for City's sale of Parcels 12 and 13 within the Freedom Industrial Park ("Agreement") has been prepared for the sale of the parcels to Span Development, LLC at the appraised fair market value; and

WHEREAS, Span has expressed its desire to construct an approximately 60,000 square foot building on the property to meet growing demand; and

WHEREAS, the City wishes to ensure that development occurs on the property and wishes to enter an Option Agreement to purchase the property back in the event Span does not obtain a building permit to develop the two parcels within twenty-four (24) months from the close of escrow and Span agrees to such Option Agreement; and

WHEREAS, the Option Agreement provides that if Span does not obtain a building permit within twenty (24) months of the close of escrow, the City, at its sole discretion, may re-purchase the property at the appraised value of \$421,792; and

WHEREAS, the City shall notify Span of its intention to repurchase the property ninety (90) days before the end of the 24-month period identified above; and

WHEREAS, the City and Buyers have agreed upon the terms of the Agreement and the Option Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

1. The above recitals are true and correct.
2. The City Council approves the Agreement For Purchase And Sale Of Real Property And Joint Escrow Instructions for the purchase of Parcels 12 and 13 within Freedom Industrial Park for the sales price of \$421,792, a copy of which is attached hereto as Exhibit A and incorporated by reference.
3. The City Council approves the Option Agreement for Purchase and Sale of Real Property (Parcels 12 and 13 within Freedom Industrial Park).
4. The Mayor is authorized to execute the Agreements.
5. The City Manager is authorized to take all actions and execute documents as necessary pursuant to the Escrow Instructions included in the Agreement.
6. This resolution is effective immediately upon adoption.

* * * * *

1A. Agreement For Purchase And Sale of Real Property And
Joint Escrow Instructions

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

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS (“**Agreement**”) is made this ___ day of _____, 2020, (“**Agreement Date**”) by and between the CITY OF MADERA, a municipal corporation (“**Seller**”), and Span Development LLC, a Wyoming limited liability company (“**Buyer**”).

R E C I T A L S

A. Seller owns that certain unimproved real property located in the City of Madera, County of Fresno, State of California totaling approximately 4.21 acres of vacant land zoned Industrial in the Freedom Industrial Park of the City and identified as APN 009 331 002 and APN 009 331 003 (“**City Property**”).

B. Seller desires to sell the City Property to Buyer and Buyer desires to buy the City Property.

C. A legal description of the City Property will be provided by Escrow Holder.

D. Seller and Buyer wish to enter an Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions upon the terms and conditions more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. PURCHASE AND SALE OF PROPERTY. Pursuant to the terms and conditions of this Agreement, Buyer hereby agrees to purchase from Seller and Seller agrees to sell to Buyer, the Property in AS-IS condition. No personal property is included in this transaction.

2. OPENING OF ESCROW. Within five (5) days after the execution of this **Agreement** by both **Buyer** and **Seller**, the parties shall open an escrow (“**Escrow**”) with Chicago Title Company, Sue Meyer, (“**Escrow Holder**”) whose address is 7330 N. Palm Avenue, Suite 101, Fresno, CA 93711; phone number (559) 451-3700 by causing an executed copy of this Agreement to be deposited with Escrow Holder together with Buyer’s Deposit (as defined in Section 3.2 below) (“**Opening of Escrow**”).

3. PURCHASE PRICE; DEPOSIT; PAYMENT OF PURCHASE PRICE.

3.1 Purchase Price. The purchase price for the Property is Four Hundred Twenty One Thousand Seven Hundred Ninety Two Dollars (\$421,792.00) (“**Purchase Price**”).

3.2 Deposit. Concurrently with Opening of Escrow, Buyer shall deposit with Escrow Holder the sum equal to Twenty Five Thousand Dollars (\$25,000) (“**Deposit**”) to be held by Escrow Holder for the benefit of the parties and applied against the Purchase Price at Closing (as

defined in Section 5) or released, refunded or forfeited in accordance with the terms of this Agreement. The deposit shall be refundable to Buyer if Buyer exercises its option to terminate the Purchase and Sale Agreement on or before the last day of the Due Diligence Period (as defined below). If Buyer does not exercise its option to terminate the Purchase and Sale Agreement, the Deposit shall become non-refundable and applicable to the Purchase Price. If escrow fails to close due to a material breach of the Purchase and Sale Agreement by Buyer, the Deposit shall be released from escrow to Seller as liquidated damages, and Seller agrees that this amount shall constitute Seller's sole and exclusive remedy. If escrow fails to close due to a material breach of the Purchase and Sale Agreement by Seller, the Deposit shall be released to Buyer.

3.3 Payment of Purchase Price. On or before 1:00 p.m. on the business day preceding the Closing Date or such earlier time as required by Escrow Holder in order to close Escrow on the Closing Date, Buyer shall deposit into Escrow the balance of the Purchase Price in Good Funds.

3.4 Good Funds. Prior to Closing, all funds deposited in Escrow shall be in "Good Funds" which shall mean a wire transfer of funds from a financial institution located in the State of California.

4. CLOSING FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER.

4.1 Seller. Seller agrees that on or before 12:00 noon on the day preceding the Closing Date, Seller will deposit or cause to be deposited with Escrow Holder all of the following:

- a. A grant deed conveying fee simple title to the City Property substantially in the form attached hereto as Exhibit A executed by Seller ("**Grant Deed**").
- b. A Non-Foreign Affidavit as required by federal law.
- c. Such funds and other items and instruments as may be necessary in order for Escrow Holder or the Title Company to comply with this Agreement.

4.2 Buyer. Buyer agrees that on or before 12:00 noon on the day preceding the Closing Date, Buyer will deposit with Escrow Holder all additional funds and all of the following:

- a. A Preliminary Change of Ownership Statement completed in the manner required in Madera County.
- b. Such funds and other items and instruments as may be necessary in order for Escrow Holder or the Title Company to comply with this Agreement.

4.3 Recordation, Completion and Distribution of Documents. Escrow Holder shall confirm that any documents signed in counterpart are matching documents and shall combine the signature pages thereof so as to create fully executed documents. Escrow Holder will date all the documents with the date of Close of Escrow. Escrow Holder will cause the Grant Deed to be recorded when it can issue the Owner's Title Policy in accordance with Section 6.2, and holds for the account of Buyer and Seller, respectively, the funds and items described above to be delivered

to Buyer and Seller, respectively, through Escrow, less costs, expenses and disbursements chargeable to the parties pursuant to this Agreement.

5. CLOSING DATE; OPTIONS TO EXTEND CLOSING; TIME IS OF ESSENCE.

5.1 Closing Date. Escrow shall close within thirty (30) days after Opening of Escrow (“**Closing Date**”). The Parties may mutually extend the Closing Date for two (2) additional thirty (30) days periods (the “**Extension Periods**”) by providing written notice to Escrow Holder prior to the expiration of the Closing Date or the first Extension Period.

5.2 Definition of Closing. The terms “**Close of Escrow**” and/or “**Closing**” mean the time Grant Deed is recorded in the Official Records of Madera County.

5.3 Time is of Essence. The parties specifically agree that time is of the essence of this Agreement.

5.4 Possession. Upon the Close of Escrow, possession of the Property shall be delivered to Buyer.

6. TITLE POLICY.

6.1 Approval of Title.

(a) Promptly following execution of this Agreement but in no event later than five (5) days following Opening of Escrow, a preliminary title report shall be issued by Chicago Title Company (“**Title Company**”), describing the state of title of the Property, together with legible copies of all exceptions and a map plotting all easements (“**Preliminary Title Report**”). Within fifteen (15) business days after Buyer's receipt of the Preliminary Title Report, Buyer shall notify Seller in writing (“**Buyer's Title Notice**”) of Buyer's disapproval of any matters contained in the Preliminary Title Report (“**Disapproved Exceptions**”).

(b) In the event Buyer delivers Buyer's Title Notice within said period, Seller shall have a period of ten (10) days after receipt of Buyer's Title Notice in which to notify Buyer of Seller's election to either (i) agree to attempt to remove the Disapproved Exceptions prior to the Close of Escrow; or (ii) decline to remove any such Disapproved Exceptions (“**Seller's Notice**”). If Seller notifies Buyer of its election to decline to remove the Disapproved Exceptions, or if Seller is unable to remove the Disapproved Exceptions (other than any obligations of Buyer under Section 7), Buyer may elect either to terminate this Agreement and the Escrow or to accept title to the Property subject to the Disapproved Exception(s). Buyer shall exercise such election by delivery of written notice to Seller and Escrow Holder within five (5) days following the earlier of (i) the date of written notice from Seller that such Disapproved Exception(s) cannot be removed; or (ii) the date Seller declines, in writing, to remove such Disapproved Exception(s).

(c) Upon the issuance of any amendment or supplement to the Preliminary Title Report which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement; provided, however, that Buyer's initial period of review and approval or disapproval of any such additional exceptions shall be limited to five (5) days following receipt of notice of such additional exceptions.

(d) Nothing to the contrary herein withstanding, Buyer shall be deemed to have automatically objected to all leases, deeds of trust, mortgages, judgment liens, federal and state income tax liens, delinquent general and special real property taxes and assessments and similar monetary encumbrances affecting the Property (excluding any such items caused by Buyer), and Seller shall discharge any such non-permitted title matter of record prior to or concurrently with the Close of Escrow except as otherwise specifically provided in this Agreement.

6.2 Owner's Title Policy. At the Close of Escrow, an ALTA owner's non-extended policy of title insurance shall be furnished to Buyer ("**Owner's Title Policy**") insuring title to the Property vested in Buyer, containing only (i) non-delinquent real property taxes and assessments and (ii) exceptions approved by Buyer in accordance with Section 6.1. The amount of the insurance coverage shall be in the amount of the Purchase Price. The cost of the Owner's Title Policy shall be paid by Seller. If Buyer elects to obtain an extended ALTA owner's policy, Buyer shall be responsible to secure a survey at its own cost and expense which shall be delivered to the Title Company not less than thirty (30) days prior to Closing and Buyer shall be responsible to pay for any additional premium. The Title Policy shall include extended coverage or endorsements that Buyer may request but at Buyer's expense.

7. DUE DILIGENCE AND DUE DILIGENCE PERIOD. For a period of fourteen (14) days following the Opening of Escrow ("**Due Diligence Period**"), Buyer shall have the right to perform any investigations, inspections, and review of documents as Buyer may reasonably determine in order to assess its willingness to purchase the Property pursuant to the terms of this Agreement.

7.1 Review and Approval of Documents and Materials. Within five (5) days of the Opening of Escrow, Seller shall deliver to Buyer any and all documents, existing leases, reports, surveys, environmental assessments, engineering reports for the Property and other materials in Seller's possession or under its control or that of its agents, respecting the Property, including any hazardous substance conditions report concerning the Property, any natural hazard zone disclosure report, (collectively, "**Materials**"). During the Due Diligence Period, Buyer may review and evaluate the Materials to determine whether the Property is appropriate for Buyer's proposed use, in its sole discretion

7.2 Buyer's Due Diligence. During the Due Diligence Period, Buyer and its agents may, at Buyer's sole expense, conduct tests and physical inspections of the property, including building inspections and environmental site assessments desired by Buyer. Buyer shall also conduct such investigations with regard to zoning, building codes, and availability of permits and approvals for its intended construction and use of the Property, as it deems prudent in its sole discretion. Buyer shall provide evidence to Seller that Buyer has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than ONE MILLION DOLLARS (\$1,000,000) which insurance names Seller as additional insured. Buyer shall keep the Property free and clear of all mechanic liens, lis pendens and other liens arising out of the entry and work performed under this paragraph and, only to the extent necessary, shall maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) on all persons entering the Property in the amounts required by the State of California. Buyer shall promptly restore the Property to the condition that it was in prior to those tests and inspections and shall indemnify, defend and hold

Seller harmless from all damages, costs, loss, expense (including attorney fees) and liability resulting from Buyer's activities, acts, and omissions on the Property, including, but not limited to, mechanic liens.

Notwithstanding anything to the contrary contained in this Agreement, (i) the defense, indemnity, and hold harmless provision contained in this Section shall not apply to the extent such liabilities arise in connection with the sole negligence or willful misconduct of Seller, its employees, agents, contractors, licensees or invitees and (ii) provided further that Buyer shall have no liability to Seller or to its employees, agents, or contractors by reason of, nor shall Buyer have any duty to indemnify, defend, or hold any person or entity harmless from or against, any liabilities, including, without limitation, any claim for diminution in value of the Property or for environmental remediation or clean-up costs, resulting directly from Buyer having merely discovered and/or reported (to the extent required by applicable law) any adverse physical condition, title condition, environmental condition, or other defect with respect to the Property. The foregoing provisions shall survive the Closing or any termination of this Agreement. At Closing, Buyer shall take the Property subject to any title exceptions caused by Buyer exercising this license to enter the Property.

7.3 Buyer's Termination Right. Buyer shall have the right at any time on or before the expiration of the Due Diligence Period to terminate this Agreement for any reason. Buyer may exercise its right to terminate by delivering written notice of termination to Seller and Escrow Agent ("Termination Notice") on or before the expiration of the Due Diligence Period. Upon the timely delivery of such Termination Notice, (i) Escrow Agent shall immediately return the Deposit (less any cancellation charges) to Buyer without the need for further instruction or approval of the parties, and (ii) this Agreement shall automatically terminate and be of no further force or effect and neither party shall have any further rights or obligations hereunder. Notwithstanding anything contained herein to the contrary, if Buyer fails to provide a Termination Notice, and Seller is not in default under this Agreement and has performed all conditions precedent to the close of escrow, then Buyer shall be conclusively deemed to have elected to approve its Due Diligence of the Property.

8. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

8.1 Conditions to Buyer's Obligations. The obligations of Buyer under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Buyer of each of the following conditions precedent ("**Buyer's Conditions Precedent**"):

- (a) Title Company will issue the Owner's Title Policy as specified in Section 6.2.
- (b) Buyer has not issued a Termination Notice in accordance with Section 7.3.
- (c) Escrow Holder holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement.
- (d) Seller is not in default of its obligations under this Agreement.

8.2 Conditions to Seller's Obligations. The obligations of Seller under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Seller of the following conditions precedent (“**Seller’s Conditions Precedent**”):

- (a) Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.
- (b) Title Company will issue the Owner’s Title Policy as specified in Section 6.2.
- (c) Buyer is not in default of its obligations under this Agreement.

9. LIMITED REPRESENTATIONS AND WARRANTIES. Seller hereby makes the following covenants, representations, and warranties and acknowledges that Buyer’s execution of this Agreement has been made and Buyer’s acquisition of the City Property will be made in material reliance by Buyer on these covenants, representations, and warranties: Seller has the authority to enter into this Agreement and to perform all covenants and obligations and make all representations and warranties set forth in this Agreement; there are no defects in title to the City Property, or any portion thereof, which is not of record or that have not been disclosed in writing to Buyer and the Escrow Holder; the City Property does not violate any Federal, State, County, City, or other building, zoning, fire, health codes or ordinances, or other governmental regulations applicable to the City Property; there are no actions, suits, claims, legal proceedings or other matters pending and, to the knowledge of Seller, there are no threatened actions, suits, claims, legal proceedings or other matters, involving or affecting the City Property, or any portion thereof, at law, in equity or otherwise, before any court or governmental agency; to the best of Seller’s knowledge, any and all handling, transportation, storage, treatment or usage of hazardous substances that has occurred on the City Property, or any portion thereof, during the period of Seller’s ownership has been in compliance with all environmental requirements and has not resulted in a release of any hazardous substances above, on, or beneath the City Property, or any portion thereof, or any adjoining or other property; and to the best of Seller’s knowledge, except as otherwise disclosed to Buyer in writing, any currently known hazardous substances that might be present above, on, or beneath the City Property, or any portion thereof, do not exceed those concentrations that would violate current applicable laws and regulations and there are no underground storage tanks at the City Property. Subject only to the above representations and warranties, Buyer shall acquire the Property in its “AS IS” condition and shall be responsible for any and all defects in the Property.

10. ESCROW PROVISIONS.

10.1 Escrow Instructions. Sections 1 through 6, inclusive; 8, 10, 13 and 14 constitute the escrow instructions to Escrow Holder. If required by Escrow Holder, Buyer and Seller agree to execute Escrow Holder's standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail. The terms and conditions in sections of this Agreement not specifically referenced above are additional matters for information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder’s general provisions directly from Escrow Holder and will execute such provision

upon Escrow Holder's request. To the extent that the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller agree to execute additional instructions, documents and forms provide by Escrow Holder that are reasonably necessary to close Escrow.

10.2 General Escrow Provisions. Escrow Holder shall deliver the Owner's Title Policy to the Buyer and instruct the Madera County Recorder to mail the Grant Deed to Buyer at the address set forth in Section 14 after recordation. All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Madera County, California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be according to that party's instructions.

10.3 Real Property Taxes. Seller is exempt from real property taxes. All general and special real property taxes and assessments shall be prorated to the Close of Escrow on the basis of a thirty (30) day month and a three hundred sixty-day (360) year.

10.4 Payment of Costs.

- a. **Cost Allocation.** Seller shall pay the costs for the Owner's Title Policy, documentary transfer taxes and one-half (1/2) of the escrow costs ("**Seller's Charges**"). Buyer shall pay one-half (1/2) of the escrow costs and be responsible for any recording charges ("**Buyer's Charges**"). All other costs of Escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of Escrow Holder for major commercial real estate transactions in the Madera area.
- b. **Closing Statement.** At least two (2) days prior to the Closing Date, Escrow Holder shall furnish Buyer and Seller with a preliminary escrow closing statement which shall include each party's respective shares of costs. The preliminary closing statement shall be approved in writing by the parties. As soon as reasonably possible following the Close of Escrow, Escrow Holder shall deliver a copy of the final Escrow closing statement to the parties.

10.5 Termination and Cancellation of Escrow. If Escrow fails to close as provided above, either party may elect to cancel this Escrow upon written notice to the other party and Escrow Holder. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights Buyer or Seller may have against each other arising from the Escrow or this Agreement.

10.6 Information Report. Escrow Holder shall file and Buyer and Seller agree to cooperate with Escrow Holder and with each other in completing any report ("**Information Report**") and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form 1099-B as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto. Buyer and Seller also agree that Buyer and Seller, their respective

employees and attorneys, and escrow Holder and its employees, may disclose to the Internal Revenue Service, whether pursuant to such Information Report or otherwise, any information regarding this Agreement or the transactions contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e), and further agree that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

10.7 No Withholding as Foreign Seller. Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or an out-of-state seller under California Revenue and Tax Code Section 18805 and that it will deliver to Buyer on or before the Close of Escrow a non-foreign affidavit on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulations promulgated thereunder and a California Form 590-RE.

11. NON-COLLUSION. No official, officer, or employee of the Seller has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of the Seller participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interest found to be "remote" or "non-interest" pursuant to California Government Code Sections 1091 and 1091.5. Seller warrants and represents that (s)he/it has not paid or given, and will not pay or give, to any third party including, but not limited to, any official, officer, or employee of Buyer, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded this Agreement. Seller further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any official, officer, or employee of Buyer, as a result or consequence of obtaining or being awarded any agreement. Seller is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Seller's Initials: _____

12. DEFAULT

12.1. DEFAULT OF BUYER; LIQUIDATED DAMAGES. IF BUYER SHOULD DEFAULT UNDER THIS AGREEMENT, THEN BUYER AND SELLER AGREE THAT SELLER WILL INCUR DAMAGES BY REASON OF SUCH DEFAULT BY BUYER OR FAILURE OF ESCROW TO CLOSE ON OR BEFORE THE CLOSING DATE, WHICH DAMAGES SHALL BE IMPRACTICAL AND EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO ASCERTAIN. BUYER AND SELLER, IN A REASONABLE EFFORT TO ASCERTAIN WHAT SELLER'S DAMAGES WOULD BE IN THE EVENT OF SUCH DEFAULT BY BUYER HAVE AGREED BY PLACING THEIR INITIALS BELOW THAT THE DEPOSIT SHALL BE DEEMED TO CONSTITUTE A REASONABLE ESTIMATE OF SELLER'S DAMAGES UNDER THE PROVISIONS OF SECTION 1671 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. IN THE EVENT OF AND FOR

SUCH DEFAULT BY BUYER, THE DEPOSIT SHALL BE SELLER'S SOLE MONETARY REMEDY THEREFOR, UNLESS BUYER WRONGFULLY REFUSES TO CAUSE ESCROW HOLDER TO CANCEL THE ESCROW, IN WHICH INSTANCE SELLER SHALL ALSO BE ENTITLED TO ALL COSTS AND EXPENSES, INCLUDING ACTUAL ATTORNEYS' FEES INCURRED BY SELLER WHICH MAY RESULT FROM BUYER'S WRONGFUL FAILURE TO CANCEL THE ESCROW AND THIS AGREEMENT. FURTHERMORE, THE FOREGOING LIMITATION OF DAMAGES SHALL NOT APPLY TO ANY INDEMNIFICATION OBLIGATIONS OF BUYER.

Seller's Initials

Buyer's Initials

12.2 Default by Seller. If all conditions precedent to Seller's obligations to sell the Property have occurred but Seller fails to Close under this Agreement for any reason other than the default by Buyer under this Agreement, Buyer shall have the right to either (i) terminate this Agreement and receive the return of the Deposit or (ii) bring an action for specific performance.

13. NOTICES. All notices required or permitted under this Agreement shall be in writing and shall be served on the parties at the addresses set forth below. Any such notices shall, unless otherwise provided herein, be given or served (i) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (ii) by overnight delivery using a nationally recognized overnight courier, or (iii) by personal delivery. Notice deposited in the mail in the manner hereinabove described shall be effective upon receipt or rejection of such notice. Notice given in any other manner shall be effective only if and when received (or rejected) by the party to be notified between the hours of 8:00 a.m. and 5:00 p.m. California time of any business day with delivery made after such hours to be deemed received the following business day. A party's address may be changed by written notice to the other party; however, no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

To Buyer: Span Development LLC, a Wyoming Limited Liability Company
1841 Howard Road
Madera, CA 93637

To Seller: City of Madera
Attention: Arnoldo Rodriguez, City Manager
205 W. 4th Street
Madera, CA 93637

14. GENERAL PROVISIONS.

14.1 Assignment. Buyer shall have the right to assign this Agreement and any interest or right hereunder or under the Escrow without the prior written consent of the Seller. This Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns.

14.2 Attorney's Fees. In any action between the parties hereto, seeking enforcement of any of the terms and provisions of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled, to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

14.3 Interpretation; Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement; and venue shall be exclusively in Madera County. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

14.4 No Waiver. No delay or omission by either party in exercising any right or power accruing upon the compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

14.5 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

14.6 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.7 Merger. This Agreement and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby and all prior to contemporaneous agreements, understandings, representations and statements (including letters of intent), oral or written, are merged herein and shall be of no further force or effect.

14.8 Execution of Documents. The parties agree to execute such instructions to Title Company and such other instruments and to do such further acts as may be reasonably necessary to carry out the provisions of this Agreement.

14.9 Inducement. The making, execution and delivery of this Agreement by the parties hereto have been induced by no representations, statements, warranties or agreements other than those expressly set forth herein.

14.10 Relationship of Parties. Notwithstanding anything to the contrary contained herein, this Agreement shall not be deemed or construed to make the parties hereto partners or joint venturers, or to render either party liable for any of the debts or obligations of the other, it being the intention of the parties to merely create the relationship of Seller and Buyer with respect to the Property to be conveyed as contemplated hereby.

14.11 No Personal Liability. No member, officer, director, official, employee, agent or contractor of Seller or Buyer shall be personally liable in the event of any default or breach by Seller or Buyer or for any amount which may become due to Buyer or Seller or on any obligations under the terms of the Agreement.

14.12 Force Majeure. If either party is delayed or prevented from performing any act required in this Agreement by reason of any event beyond the reasonable control of either party, including without limitation, by labor disputes, fire, unusual delay in deliveries, weather or acts of God, terrorism, delay in the issuance of permits or approvals, acts of governmental entities, unavoidable casualties or any other such causes beyond such party's control, then the time herein fixed for completion of such obligation(s) shall be extended by the number of days that such party has been delayed.

14.13 Representation by Counsel. Each party hereto represents and agrees with each other that it has been represented by or had the opportunity to be represented by, independent counsel of its own choosing, and that it has had the full right and opportunity to consult with its respective attorney(s), that to the extent, if any, that it desired, it availed itself of this right and opportunity, that it or its authorized officers (as the case may be) have carefully read and fully understand this Agreement in its entirety and have had it fully explained to them by such party's respective counsel, that each is fully aware of the contents thereof and its meaning, intent and legal effect, and that it or its authorized officer (as the case may be) is competent to execute this Agreement and has executed this Agreement free from coercion, duress or undue influence.

14.14 Execution in Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

14.15 Exhibits. Exhibit A is attached hereto and incorporated herein by reference.

14.16 Real Estate Brokers. Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this transaction with the following real estate brokers ("Brokers") and/or their agents ("Agents"):

- a. Seller's Brokerage Firm: Newmark Pearson Commercial, A Division of Pearson Realty, License No. 00020875 is the Broker of both Buyer and Seller (dual agent).
- b. Seller's Agent, Nick Audino, SIOR/Kyle Riddering License No. 01231272/01094434 is both the Seller's Agent and the Buyer's Agent (dual agent).
- c. Buyer's Brokerage Firm: Newmark Pearson Commercial, A Division of Pearson Realty, License No. 00020875 is the Broker of both Buyer and Seller (dual agent).
- d. Buyer's Agent, Nick Audino, SIOR/Kyle Riddering License No. 01231272/01094434 is both the Buyer's Agent and the Seller's Agent (dual agent).
- e. The Parties acknowledge that other than the Brokers and Agents listed above, there are no other brokers or agents representing the Parties or due any fees and/or commissions under this Agreement
- f. The Parties represent and warrant to each other that they have not had any contact or dealings regarding the Property through any person representing Buyer and/or Seller other than the Brokers or Agents named in this Paragraph 14.16 who can claim a right to a commission or finder's fee as a procuring cause of the sale of the Property.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions as of the Agreement Date.

BUYER:

SPAN DEVELOPMENT LLC,
A Wyoming limited liability company

By: _____
Timothy Mitchell, President

_____, 2020

SELLER:

CITY OF MADERA,
a municipal corporation

By: _____
Arnoldo Rodriguez, City Manager

_____, 2020

ATTEST:

Alicia Gonzales, City Clerk

APPROVED AS TO FORM:

MONTOY LAW CORPORATION

Hilda Cantu Montoy, City Attorney

**EXHIBIT A TO PURCHASE SALE AGREEMENT
GRANT DEED**

**Recording requested by and
When Recorded Return to:**

Alicia Gonzales, City Clerk

APN.

THE UNDERSIGNED GRANTOR
DECLARES that the documentary transfer tax
(computer on full value) is \$_____.

(Space Above This Line for Recorder's Office Use
Only)

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged and subject to the covenants set forth below the CITY OF MADERA, a municipal corporation (“**Grantor**”) grants to Span Development, LLC, a Wyoming limited liability company (“**Grantee**”), that certain unimproved real property in the City of Madera, County of Fresno, State of California, as more particularly described in Exhibit A attached hereto and incorporated by this reference (“**Property**”), together with Seller’s right, title and interest in and to any and all privileges, easements, rights of way and other rights and appurtenances solely related to the ownership of the Property but *excluding* any easements for rights of way, utilities or other rights held by the City of Seller as a municipality.

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed on its behalf as of the date written below.

CITY OF MADERA,
a municipal corporation

ATTEST:

By: _____
Arnoldo Rodriguez, City Manager

Alicia Gonzales, City Clerk

_____, 2020

**EXHIBIT A TO GRANT DEED
LEGAL DESCRIPTION OF THE PROPERTY**

That certain real property located in the City of Fresno, County of Fresno, State of California, and is described as follows:

TO BE ADDED BY ESCROW

1B. Option Agreement for Purchase and Sale of Real Property

**OPTION AGREEMENT FOR PURCHASE AND SALE
OF REAL PROPERTY**

THIS OPTION AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY ("Option Agreement") is made and entered as of March ____, 2020, ("Effective Date") by and between CITY OF MADERA, a municipal corporation ("City" or "Optionee"), and Span Development LLC, a Wyoming limited liability company ("Span" or "Optionor"). The City and Span are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. On _____, 2020, the Parties entered into that certain Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions ("Purchase and Sale Agreement"), whereby the City sold that certain unimproved real property located in the City of Madera, County of Fresno, State of California totaling approximately 4.21 acres of vacant land zoned Industrial in the Freedom Industrial Park of the City and identified as APN 009 331 002 and APN 009 331 003 ("Option Property"). A copy of the Purchase and Sale Agreement is attached hereto as Exhibit "A" and incorporated herein by this reference.

B. Span desires, as Optionor, to grant the City, as Optionee, an option to purchase back the Option Property on the terms and conditions contained in this Option Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants of the Parties in this Option Agreement, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

OPTION

1. Grant of Option. Subject to the City's timely delivery of the Option Consideration, as set forth in Section 2 below, Span grants to the City the right and option to purchase the Option Property ("Option") back from Span, at the Purchase Price in the Purchase and Sale Agreement, in the event Span fails to obtain necessary building permits and/or to begin development on the Option Property, within two (2) years of the close of escrow, as noted in the Purchase and Sale Agreement.

2. Option Consideration. Within ten (10) business days of the Effective Date, the City shall deliver to escrow the sum of One Hundred and 00/100 Dollars (\$100.00) as consideration for the Option granted herein ("Option Consideration"). Upon receipt of such Option Consideration, escrow shall immediately release the Option Consideration to Span. This Option Consideration shall be nonrefundable.

3. Option Period. The option period within which the Option granted herein may be exercised shall commence on the date which is two (2) years from the Close of Escrow, as

noted in the Purchase and Sale Agreement ("Option Period"), and shall terminate, if not exercised by the City, on the date which is three (3) years from the Close of Escrow.

4. Escrow. Upon mutual execution of this Option Agreement, the Parties shall deposit with escrow, an executed copy of this Option Agreement.

5. Exercise of Option. The City shall exercise its Option by delivering to Span, on or before the expiration of the Option Period, written notice of the City's intent to exercise the Option ("Notice of Exercise").

6. Termination of Option. If the Option is not exercised by the City or payment(s) is/are not timely received prior to the expiration of the Option Period, the Option shall expire and this Option Agreement shall be of no further force or effect.

7. Possession and Control of Property. Span shall have the exclusive possession and control of the Option Property for the term of this Option Agreement and maintain the same unless and until the City exercises its Option.

8. Failure of the City to Exercise Option. If the City fails to exercise the Option within the Option Period and in accordance with the terms and conditions stated herein, then the Option and the rights of the City shall automatically and immediately terminate without notice. In such event, except for obligations which specifically survive termination, neither party shall have any further obligation to the other party. Thereafter, the City shall, upon ten (10) days' written request, properly execute, acknowledge, and deliver to Span any additional release, quitclaim deed, and/or any other document required by Span or a title insurance company to establish and verify the termination of this Option Agreement and the end of its legal effect. The obligations set forth in the foregoing sentence survive termination of the Option Agreement.

9. Memorandum of Option. Concurrently with the execution and delivery of this Option Agreement, Span and the City shall execute a memorandum of option in the form attached hereto as Exhibit "B" ("Memorandum"). The Parties shall cause the Memorandum to be recorded in the Official Records of the County Recorder upon the City's payment of the Option Consideration and release thereof to Seller.

10. Notice. Any and all notices, demands or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to any another party if served either personally or if deposited in the U.S. mail, certified or

registered, postage prepaid, return receipt requested or delivered by overnight mail by a reputable overnight courier. If such notice, demand or other communication be served personally, service shall be conclusively deemed made at the time of such personal service. If such notice, demand or other communication be given by mail, such shall be conclusively deemed given forty-eight (48) hours after the deposit thereof in the U.S. mail addressed to the party to whom such notice, demand or other communication is to be given as hereinafter set forth:

To Span: Span Development, LLC
 1841 Howard Road
 Madera, CA 93637

To City: City of Madera
 Attn: Arnoldo Rodriguez, City Manager
 205 W. 4th Street
 Madera, CA 93637

Any party hereto may change its address for the purpose of receiving notices, demands or other communications as herein provided by a written notice given in the manner aforesaid to the other party or parties hereto.

11. Successors. This Option Agreement shall inure to the benefit of and be binding upon the parties to this Option Agreement, their respective heirs, and personal representatives. Until such time as the City delivers the Notice of Exercise, the City shall not assign its rights or obligations under this Option Agreement to any party without the prior written consent of Span.

12. Remedies. Provided the City timely delivers the Notice of Exercise and is not otherwise in default of this Option Agreement, if Span materially defaults under this Option Agreement, then the City shall be entitled to pursue its right to specifically enforce this Option Agreement or to terminate this Agreement. In the event the City terminates this Option Agreement, Span shall immediately return all sums paid to Span by the City and except as otherwise provided, neither party will have any further obligations under this Option Agreement.

13. Attorneys' Fees. Should either party hereto be required to retain counsel for the purposes of enforcing or preventing the breach of any provision hereof, the prevailing party shall be entitled, in addition to such other relief as may be granted, to be reimbursed by the

losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys' fees and costs for the services rendered to such prevailing party.

14. Governing Law. This Option Agreement has been negotiated and entered into in the State of California and shall be governed by the laws of the State of California.

15. Time is of the Essence. Time is expressly declared to be of the essence of this Option Agreement.

16. Effective Date. Effective Date is the last date set forth opposite the signatures of the parties at the end of this Option Agreement.

IN WITNESS WHEREOF, the parties have executed this Option Agreement as of the Effective Date.

OPTIONEE:

CITY OF MADERA

a California Municipal corporation

By:

Arnoldo Rodriguez, City Manager

Dated: April __, 2020

OPTIONOR:

SPAN DEVELOPMENT, LLC

a Wyoming limited liability company

By: _____
Timothy Mitchell, President

Dated: April __, 2020

ATTEST:

By:

Alicia Gonzales, City Clerk

APPROVED AS TO FORM:

MONTOY LAW CORPORATION

By:

Hilda Cantu Montoy, City Attorney

EXHIBIT "A"

PURCHASE AND SALE AGREEMENT

EXHIBIT "B"

"MEMORANDUM OF OPTION"

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

|

(Space Above for Recorder's Use)

MEMORANDUM OF OPTION

SPAN DEVELOPMENT, LLC, a Wyoming limited liability company ("Optionor/Span") and the CITY OF MADERA, a California municipal corporation ("Optionee/the City") and have entered into that certain Option Agreement dated March ___, 2020 ("**Option Agreement**").

The Option Agreement grants certain rights to City with respect to the property legally described in **Exhibit A** attached hereto and made a part hereof ("**Property**") including the right to purchase the Property in accordance with the terms of the Option Agreement. This Memorandum of Option Agreement has been recorded to give notice to all interested persons of the existence of the Option Agreement and of the right, title and interest of the City thereunder for the purpose of preserving its rights under the Option Agreement as against any person who might otherwise acquire an interest in the Property without actual notice of the City's rights under the Option Agreement.

This Memorandum of Option was signed by the undersigned on the _____ day of March 2020.

OPTIONEE:

CITY OF MADERA
a California municipal corporation

By: _____

Dated: March ____, 2020

OPTIONOR:

SPAN DEVELOPMENT, LLC,
a Wyoming limited liability company

By: _____

Dated: March ____, 2020

ACKNOWLEDGMENT(S)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____ } ss.
County of _____ }

On _____ before me, _____
_____, Notary Public, personally appeared

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

My Commission Expires: _____

ACKNOWLEDGMENT(S)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____ } ss.
County of _____ }

On _____ before me, _____
_____, Notary Public, personally appeared

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

My Commission Expires: _____

2. Aerial map of Freedom Industrial Park

Attachment 2:
Aerial Map of
Freedom
Industrial Park



3. Parcel map of Freedom Industrial Park

Attachment 3: Parcel Map of Freedom Industrial Park

Deerpoint

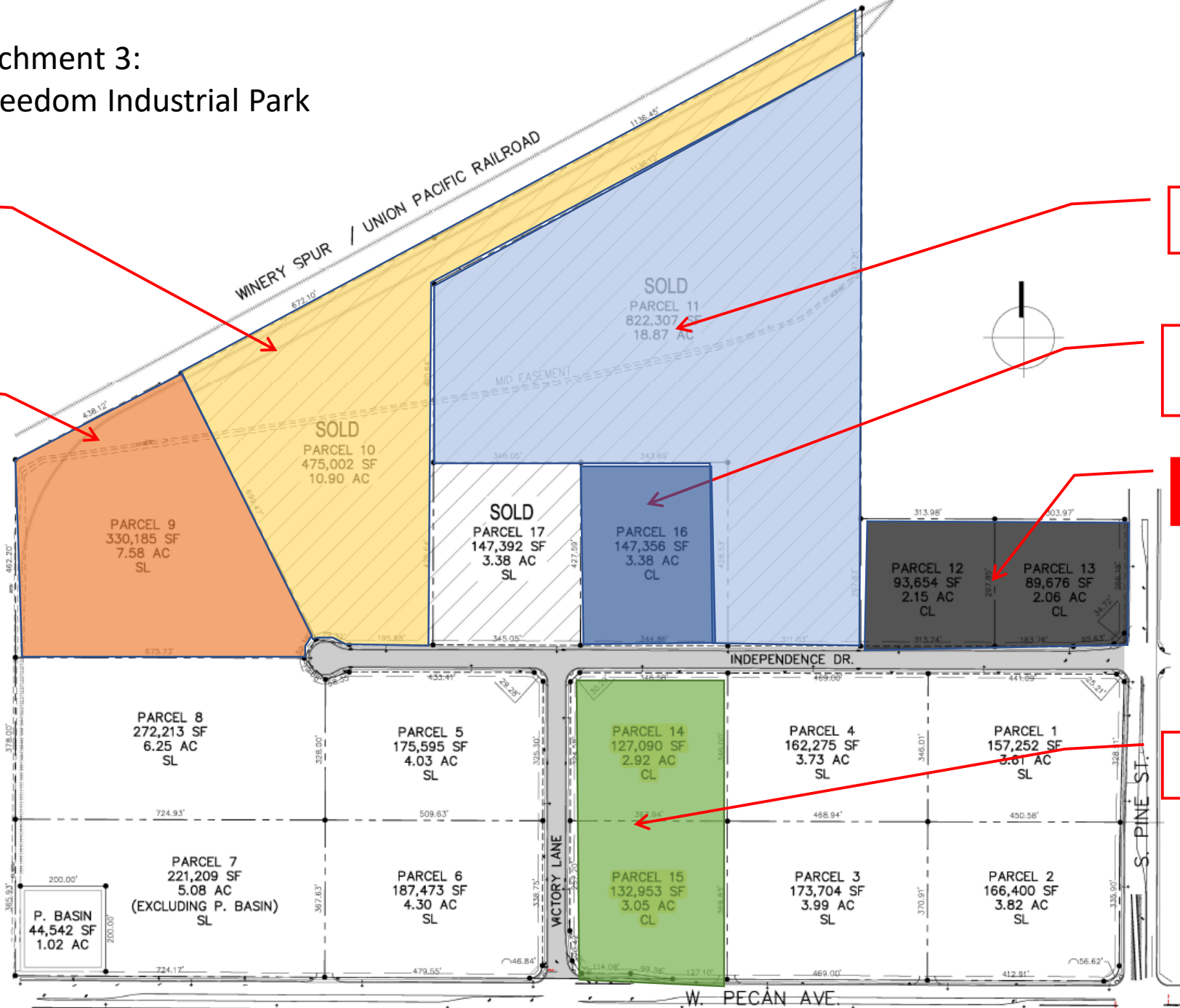
Deerpoint
Expansion

City Yard

Recently
completed

Subject Site

Tranpak



4. Recent photos of the recent development in the industrial park

Transit Ctr.

Deerpoint

Tranpak





Deerpoint

Subject site

Tranpak