

**AGREEMENT FOR EXCHANGE OF REAL PROPERTIES  
AND JOINT ESCROW INSTRUCTIONS**

**APN 442-020-15, Central Unified School District  
APN 442-280-14, Fresno City Blessings Church, Inc.**

This Agreement for Exchange of Real Properties and Joint Escrow Instructions ("**Agreement**") is entered into and effective on [REDACTED], 2018 ("**Effective Date**") by and between the following parties:

Church

Attn: Pastor Paulus Kristano  
Fresno City Blessing Church, Inc. ("**Church**")  
4665 N. First Street  
Fresno, CA 93726  
Email: [fresnocityblessing@yahoo.com](mailto:fresnocityblessing@yahoo.com)  
Phone: (559) 228-3222

District

Attn: Kelly Porterfield, Assist. Superintendent, CBO  
Central Unified School District ("**District**")  
4605 N. Polk Avenue  
Fresno, CA 93722  
Email: [kporterfield@centralusd.k12.ca.us](mailto:kporterfield@centralusd.k12.ca.us)  
Phone: (559) 274-4700 ext. 63105

Church and District are also referred to in this Agreement collectively as the "**Parties**" and separately as a "**Party**".

This Agreement consists of the following Sections and Exhibits:

Section 1	Recitals, Representations, and Warranties
Section 2	Description and Condition of Properties
Section 3	Exchange of Properties
Section 4	Joint Escrow Instructions
Section 5	Term and Termination of Agreement
Section 6	Dispute Resolution
Section 7	General Provisions

Attachment 1	Consent of Escrow Agent (form)
Attachment 2	Grant Deed – District Property (form)
Attachment 3	Grant Deed – Church Property (form)

[Remaining page intentionally left blank]

## SECTION 1 RECITALS, REPRESENTATIONS, AND WARRANTIES.

- 1.1 CHURCH REPRESENTATIONS AND WARRANTIES. In addition to other express agreements of Church contained herein, the matters set forth in this Section 1.1 constitute representations and warranties by Church, which shall be true and correct as of the Effective Date and the Closing Date.
- 1.1.1 ORGANIZATION. Church is a non-profit religious organization, duly organized pursuant to and conducting business in accordance with California laws. Church is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a)(3)) of the United States Internal Revenue, 26 U.S.C. section 7701(a)(3).
- 1.1.2 OWNERSHIP AND AUTHORITY TO CONVEY ALL INTERESTS IN CHURCH PROPERTY. Church owns the real property described in Section 2.1.1 below and hereinafter referred to as Church Property. Church has the full right, power, and authority to dispose or otherwise convey the Property to District. Church has secured, or will secure before the Closing Date, all appropriate consents necessary to consummate this Agreement and convey the Property to District.
- 1.1.3 AUTHORITY TO EXECUTE AND DELIVER AGREEMENT. Church has the full right, power, and authority to execute this Agreement and all documents required of Church under this Agreement, and to perform all obligations required of Church under this Agreement. Church's execution and delivery of this Agreement has been duly authorized and approved by all requisite action of Church and the consummation of the transactions contemplated hereby by Church will be duly authorized and approved by all requisite action of Church, and no other authorizations or approvals, whether of another governmental agencies or otherwise, will be necessary in order for Church to enter into and to comply with this Agreement.
- 1.1.4 HAZARDOUS MATERIALS. To the best of Church's knowledge, (A) Church has not, during the period of Church's ownership of the Church Property, placed any Hazardous Materials on or under the Church Property in violation of any Hazardous Material Laws, which would create any hazardous waste liability for Church in connection with the Church Property; (B) prior to the date Church acquired its interest in the Church Property, the Church Property did not contain Hazardous Materials in violation of applicable law and the Church Property does not now contain Hazardous Materials in violation of applicable law; and (C) Church has not stored or caused to be stored upon or under the Church Property any Hazardous Materials in violation of Hazardous Materials Laws, and Church has no actual knowledge or reason to know that any of Church's predecessors-in-interest stored or caused to be stored any Hazardous Materials on the Church Property in violation of Hazardous Materials Laws. As used herein, "**Hazardous Materials**" and "**Hazardous Material Law**" mean and refer to any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to those substances, materials or wastes regulated under any of the following statutes or regulations promulgated thereto: (A) any "hazardous substance" within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. ("**CERCLA**"); the California

Hazardous Substance Account Act, Cal. Health and Safety Code § 25300 et seq.; the Porter-Cologne Water Quality Act, Cal. Water Code § 13000 et seq.; or the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; (B) any "hazardous waste" within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; or (C) any other substance, chemical, waste, toxicant, pollutant or contaminate regulated by any federal, state or local law, statute, rule, regulation or ordinance for the protection of health or the environment, including, without limitation, any petroleum products or fractions thereof.

- 1.1.5 CHURCH'S USE CONFORMING. To the best of Church's knowledge, (A) Church's ownership and maintenance of the Property is in conformance with all applicable laws, regulations, ordinances and codes. Church has no actual knowledge or reason to know of any alleged violation of any governmental law, regulation, ordinance or code applicable to the Property; and (B) Church has not received and is not aware of any notification from any Governmental Agency having jurisdiction over the Property, requiring any work to be done on or affecting the Property.
  - 1.1.6 NO LIENS SECURING PAYMENT OR OTHER OBLIGATIONS ON PROPERTY. The Property is not encumbered, or will not be encumbered on the Closing Date, by liens securing payment for other obligations, which, if not performed, would entitle a third party or entity to foreclosure on the Property as collateral.
  - 1.1.7 NO PENDING TRANSACTIONS, SUITS, OR PROCEEDINGS. To the best of Church's knowledge, there are no transactions, claims, suits, proceedings or investigations, pending or, to the best of Church's knowledge, threatened against or affecting Church or the Property, which would prevent Church from meeting any of its obligations under this Agreement or which would materially and adversely affect the Property.
  - 1.1.8 NO OTHER AGREEMENTS. There are no agreements, whether oral or written, affecting or relating to the right of any party with respect to the possession of the Property or any portion thereof that are obligations that will affect the Property or any portion thereof subsequent to the recordation of the Grant Deed related thereto, except as otherwise agreed to in writing by District.
  - 1.1.9 DOCUMENTS TRUE. All documents that Church delivers to District pursuant to this Agreement are true, correct, and complete copies of originals, and any and all information prepared by Church or at Church's direction and supplied to District is true, correct, and complete.
  - 1.1.10 OMISSIONS AND MISREPRESENTATIONS. Church's representations, warranties, and document or written information provided to District by or on behalf of Church in connection with this Agreement contain true and correct statements.
- 1.2 DISTRICT REPRESENTATIONS AND WARRANTIES. In addition to any other express agreements of District contained herein, the matters set forth in this Section 1.2 constitute representations and warranties by District which shall be true and correct as of the Effective Date and the Closing Date.

- 1.2.1 ORGANIZATION. District is a California public school district duly organized and validly existing and in good standing under the laws of the State of California with full power to enter into this Agreement, and District is duly qualified to transact business in California.
- 1.2.2 OWNERSHIP AND AUTHORITY TO CONVEY ALL INTERESTS IN DISTRICT PROPERTY. District owns the real property described in Section 2.1.2 below and hereinafter referred to as District Property. District has the full right, power, and authority to dispose or otherwise convey the District Property to Church. District has secured, or will secure before the Closing Date, all appropriate consents necessary to consummate this Agreement and convey the District Property to Church.
- 1.2.3 AUTHORITY; BINDING EFFECT OF DOCUMENTS. The execution and delivery of this Agreement has been, or will be, duly authorized and approved by all requisite actions and no other authorizations or approvals will be necessary to enable District to enter into or to comply with this Agreement.
- 1.2.4 HAZARDOUS MATERIALS. To the best of District's knowledge, (A) District has not, during the period of District's ownership of the District Property, placed any Hazardous Materials on or under the District Property in violation of any Hazardous Material Laws, which would create any hazardous waste liability for District in connection with the District Property; (B) prior to the date District acquired its interest in the District Property, the District Property did not contain Hazardous Materials in violation of applicable law and the District Property does not now contain Hazardous Materials in violation of applicable law; and (C) District has not stored or caused to be stored upon or under the District Property any Hazardous Materials in violation of Hazardous Materials Laws, and District has no actual knowledge or reason to know that any of District's predecessors-in-interest stored or caused to be stored any Hazardous Materials on the District Property in violation of Hazardous Materials Laws. As used herein, "**Hazardous Materials**" and "**Hazardous Material Law**" mean and refer to any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to those substances, materials or wastes regulated under any of the following statutes or regulations promulgated thereto: (A) any "hazardous substance" within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. ("**CERCLA**"); the California Hazardous Substance Account Act, Cal. Health and Safety Code § 25300 et seq.; the Porter-Cologne Water Quality Act, Cal. Water Code § 13000 et seq.; or the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; (B) any "hazardous waste" within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; or (C) any other substance, chemical, waste, toxicant, pollutant or contaminate regulated by any federal, state or local law, statute, rule, regulation or ordinance for the protection of health or the environment, including, without limitation, any petroleum products or fractions thereof.
- 1.2.5 DISTRICT'S USE CONFORMING. To the best of District's knowledge, (A) District's ownership and maintenance of the District Property is in conformance

with all applicable laws, regulations, ordinances and codes. District has no actual knowledge or reason to know of any alleged violation of any governmental law, regulation, ordinance or code applicable to the District Property; and (B) District has not received and is not aware of any notification from any governmental agency having jurisdiction over the District Property, requiring any work to be done on or affecting the District Property.

- 1.2.6 NO LIENS SECURING PAYMENT OR OTHER OBLIGATIONS ON PROPERTY. The District Property is not encumbered, or will not be encumbered on the Closing Date, by liens securing payment for other obligations, which, if not performed, would entitle a third party or entity to foreclosure on the District Property as collateral.
  - 1.2.7 NO PENDING TRANSACTIONS, SUITS, OR PROCEEDINGS. To the best of District's knowledge, there are no transactions, claims, suits, proceedings or investigations, pending or, to the best of District's knowledge, threatened against or affecting District or the District Property, which would prevent District from meeting any of its obligations under this Agreement or which would materially and adversely affect the District Property.
  - 1.2.8 NO OTHER AGREEMENTS. There are no agreements, whether oral or written, affecting or relating to the right of any party with respect to the possession of the District Property or any portion thereof that are obligations that will affect the District Property or any portion thereof subsequent to the recordation of the Grant Deed related thereto, except as otherwise agreed to in writing by Church.
  - 1.2.9 DOCUMENTS TRUE. All documents that District delivers to Church pursuant to this Agreement are true, correct, and complete copies of originals, and any and all information prepared by District or at District's direction and supplied to Church is true, correct, and complete.
  - 1.2.10 OMISSIONS AND MISREPRESENTATIONS. District's representations, warranties, and document or written information provided to Church by or on behalf of District in connection with this Agreement contain true and correct statements.
- 1.3 PURPOSE OF AGREEMENT. By entering into this Agreement, the Parties desire to set forth the terms and conditions regarding the exchange and conveyance of the Church Property and the District Property (collectively "**Properties**" and may also be referred to separately as "**Property**"), and the construction of certain improvements.

## SECTION 2 DESCRIPTION AND CONDITION OF PROPERTIES.

### 2.1 LEGAL DESCRIPTIONS.

- 2.1.1 DISTRICT PROPERTY. The District Property that is the subject of this Agreement and owned by District consists of one parcel of vacant and unimproved land containing approximately 17,747 square feet ("**District Property**") within the real property designated as Assessor Parcel Number ("**APN**") 442-020-15, located on the southeast quadrant of N. Valentine Avenue and W. Clinton Avenue, in the City of Fresno, County of Fresno, and State of

California. The legal description and map of the District Property are attached hereto as part of Attachment 2.

- 2.1.2 CHURCH PROPERTY. The real property that is the subject of this Agreement and owned by Church consists of one parcel of vacant and unimproved land containing approximately 9,100 square feet (“Church Property”) within the real property designated as Assessor Parcel Number (“APN”) 442-280-14, located on the east line of N. Valentine, immediately south of Hanh Phan Tilley Elementary School, in the City of Fresno, County of Fresno, and State of California. The legal description and map of the Church Property are attached hereto as part of Attachment 3.

## 2.2 ENTRY UPON PROPERTIES.

- 2.2.1 CHURCH PROPERTY. After execution of this Agreement, upon 48 hours prior written notice to Church, District and its designated agent(s) and independent contractor(s) shall have the right to enter upon the Church Property to conduct surveys, soil tests, investigations, and studies. Such activities shall comply with all applicable laws and regulations, and not substantially interfere with Church’s use and maintenance of the Church Property. Church and Church’s agents shall reasonably cooperate with District provided that such surveys, soil tests, investigations, and studies shall be at District’s sole cost and expense. District agrees to repair any damage caused by District or its agents or independent contractors to the Church Property. District agrees to indemnify and hold Church and the Church’s officers, employees, and agents harmless from any and all claims, losses, costs, damages, and expenses caused by District’s entry onto the Church Property and/or the conduct of any surveys, soil tests, investigations, and/or studies on the Church Property by District or its employees, agents or independent contractors.

- 2.2.2 DISTRICT PROPERTY. After execution of this Agreement, upon 48 hours prior written notice to District, Church and its designated agent(s) and independent contractor(s) shall have the right to enter upon the District Property to conduct surveys, soil tests, investigations, and studies. Such activities shall comply with all applicable laws and regulations, and not substantially interfere with District’s use and maintenance of the District Property. District and District’s agents shall reasonably cooperate with Church provided that such surveys, soil tests, investigations, and studies shall be at Church’s sole cost and expense. Church agrees to repair any damage caused by Church or its agents or independent contractors to the District Property. Church agrees to indemnify and hold District and District’s officers, employees, and agents harmless from any and all claims, losses, costs, damages, and expenses caused by Church’s entry onto the District Property and/or the conduct of any surveys, soil tests, investigations, and/or studies on the District Property by Church or its employees, agents or independent contractors.

- 2.3 “AS IS” CONDITION. District shall purchase the Property in its “as is” condition as of the Closing Date.

OR

**2.3 INSPECTION/SUITABILITY REVIEW OF PROPERTY.** District shall have the right pursuant to Section 4.2.5 below to inspect, review, and determine the condition and suitability of the Property and to approve or disapprove of the suitability and condition of the Property.

### **SECTION 3 EXCHANGE AND CONVEYANCE OF PROPERTIES; CONSTRUCTION OF PUBLIC STREET AND INSTALLATION OF FENCE.**

**3.1 EXCHANGE AND CONVEYANCE OF PROPERTIES.** Church and District understand and agree that the conveyance of the Church Property is for the purposes of the District constructing a public street (Weldon Avenue) thereon, with the City having ownership of the Church Property with the constructed public street and assuming all obligations to operate, maintain, and repair the Church Property with the constructed public street. Accordingly, the Parties agree, in accordance with and subject to the terms and conditions of this Agreement, as follows: (A) Church shall convey to City all of Church's rights, title, and interests in and to the Church Property including, without limitation, all rights, title, and interests of Church as stated below in this Section 3.1; and (B) District shall convey to Church, and Church shall accept from District, all of District's rights, title, and interests in and to the District Property including, without limitation, all rights, title, and interests of District as stated below in this Section 3.1. The form of each Grant Deed for conveyance of the District Property and Church Property is attached respectively as Attachment 2 and Attachment 3.

**3.1.1 WATER RIGHTS, UTILITY RIGHTS, AND DEVELOPMENT RIGHTS.** All water rights, wastewater rights, utility rights, and development rights associated with or appurtenant to the Property, including, without limitation, (A) all rights to water located on or under the Property, (B) all rights to receive or install water and wastewater service on or for the Property from governmental or quasi-governmental authority or utility company providing or regulating the same, which allow for the development of the Property, (C) all taps, commitments for taps, written commitments of any nature from any governmental or quasi-governmental authority or utility company relating to the availability, connection, and/or hook-up of water and/or wastewater service to the Property; and (D) all rights associated with or appurtenant to the Property to receive or install other utility services, including, but not limited to, electricity, gas, and telephone.

**3.1.2 LICENSES AND PERMITS.** All transferable certificates, licenses, permits, authorizations, approvals, no action letters, and similar assurances (including, without limitation, all environmental permits, zoning variances, plat approvals, site plan approvals, development permits, and/or building permits) granted or issued by a private person or by any governmental or quasi-governmental authority to Church with respect to the Property and that are required to evidence the full compliance of the Property with all applicable legal requirements, together with any and all applications pending with respect to any of the foregoing.

**3.1.3 ABUTTER'S RIGHTS.** All abutter's rights to such portions of all public streets, alleys, and rights of way that abut the Property.

**3.1.4 TENEMENTS, EASEMENTS, AND RIGHTS OF WAY.** All tenements, hereditaments, easements, access rights, common area rights, landscaping, and parking rights benefiting the Property.

**3.1.5 IMPROVEMENTS.** Any improvements situated on, over, and/or under the Property.

**3.1.6 OTHER INTERESTS.** All other rights, interests, privileges, and appurtenances used or connected with the beneficial use or enjoyment of the Property and the interests described in Sections 3.1.1 through 3.1.5 above and all other interests, privileges, and properties as may be expressly specified in this Agreement to be sold, assigned, or conveyed, as applicable, by Church to District or District to Church.

Until the Church Property is conveyed to District and the Grant Deed related thereto is recorded, all risks, liabilities, casualties, and losses arising out of or related to the Church Property shall be the sole responsibility of Church. Until the District Property is conveyed to Church and the Grant Deed related thereto is recorded, all risks, liabilities, casualties, and losses arising out of or related to the District Property shall be the sole responsibility of District.

- 3.3 CONSTRUCTION OF PUBLIC STREET.** The Property shall be used for the purposes of constructing a public street (Weldon Avenue) and other related improvements. Grantee shall, at its cost and liability, construct or contract to construct the public street and other improvements thereon as Grantee determines necessary and proper in accordance with applicable laws, regulations, codes, and ordinances. The Property with the constructed street will be owned by the City, which shall be responsible for operating, maintaining, and repairing the Property and the constructed street.
- 3.4 INSTALLATION OF FENCE.** District, at its cost and liability, shall install a chain-link fence that is six feet high to separate Church's real property from Weldon Avenue. Unless otherwise agree by District and Church, the installation of the chain-link fence shall to be completed by District within 30 days of the Close of Escrow. Church grants entry upon and access to Church's real property to stage and install the chain-link fence. Upon District's completion of the chain-link fence, Church shall own the chain-link fence and have all obligations, at Church's sole cost and liability, to operate, maintain, and repair the chain link fence.
- 3.5 NO MONETARY PAYMENT.** The Parties agree that each Property, together with the mutual benefits to be derived from this Agreement, constitute sufficient consideration for the other Property, and no Party is obligated to pay the other Party any monetary consideration for the exchange and conveyance of the Properties and the mutual benefits to be derived from this Agreement.

#### **SECTION 4 JOINT ESCROW INSTRUCTIONS.**

- 4.1 OPENING OF ESCROW.** Promptly after execution of this Agreement but no later than 15 days after the Effective Date, the Parties shall open escrow ("**Escrow**") with Title Company ("**Escrow Agent**"), located at Street address, City, California and deliver to Escrow Agent a fully executed original or copy of this Agreement.

**4.1.1 CONSENT OF ESCROW AGENT.** Escrow Agent shall execute the Consent of Escrow Agent ("**Escrow Consent**"), the form of which is attached as Attachment 1 hereto, and deliver a fully executed Escrow Consent to the Parties. The Parties



shall promptly execute and deliver to Escrow Agent any separate or additional escrow instructions customarily used by Escrow Agent for transactions similar to the one that is the subject of this Agreement, provided that no provision in any such separate or additional instructions shall alter the provisions of this Agreement unless expressly set forth in a writing executed by the Parties.

4.1.2 **ESCROW FEES.** The Parties agree to pay equally/District agrees to pay/Church agrees to pay escrow fees and costs that are customary in Fresno County, California (collectively “**Escrow Fees**”), except the expense of the Title Policy for each Property, shall be paid in Cash by the Parties equally. The cost of the Title Policy shall be paid in accordance with Section 4.3 below. Any taxes and commission fees shall be paid in accordance with Section 4.4 below. In the event of a dispute between the Parties regarding the custom for payment of fees and costs in Fresno County, Escrow Agent’s determination shall be final.

4.2 **CONDITIONS PRECEDENT TO CLOSE OF ESCROW.** The obligations of the Parties to complete the transaction pursuant to this Agreement is subject to the satisfaction, at or before the Close of Escrow, of the conditions set forth below (separately “**Condition Precedent**” and collectively “**Conditions Precedent**”). A Condition Precedent set forth in this Section 4.2 may only be waived in a writing executed by the Party in whose benefit such a Condition Precedent is provided.

4.2.1 **CONDITION PRECEDENT NO. 1: CHURCH’S PERFORMANCE, REPRESENTATIONS, AND WARRANTIES.** Church shall have duly performed each and every undertaking, covenant, and agreement to be performed by it under this Agreement, Church’s representations and warranties to District set forth in Section 1.1 shall be true and correct in all respects at and as of the Closing Date. This Condition Precedent is for the benefit of District and may only be waived in a writing executed by District.

4.2.2 **CONDITION PRECEDENT NO. 2: DISTRICT’S PERFORMANCE, REPRESENTATIONS, AND WARRANTIES.** District shall have duly performed each and every undertaking, covenant, and agreement to be performed by it under this Agreement and District’s representations and warranties to Church set in this Agreement shall be true and correct in all respects at and as of the Closing Date. This Condition Precedent is for the benefit of Church and may only be waived in a writing executed by Church.

4.2.3 **CONDITION PRECEDENT NO. 3: CONDITION OF TITLE.** A Party shall convey good and marketable title to its Property by Grant Deed to the other Party free and clear of all debts, liens, assessments, and encumbrances, unless specifically approved by the other Party in writing as set forth in Section 4.2.3.2 below. This Condition Precedent, as it pertains to the Church Property, is for the benefit of District and may only be waived in a writing executed by District. This Condition Precedent, as it pertains to the District Property, is for the benefit of Church and may only be waived in a writing executed by Church.

4.2.3.1 **PRELIMINARY TITLE REPORT.** Each Party shall obtain a preliminary title report for its Property issued by Name of Title Company/Escrow Agent/a title company chosen by District (“**Title Company**”), together with legible copies of all recorded documents and platted easements

as prepared by the Title Company described in the preliminary title report (separately referred to as **"Preliminary Title Report"** and collectively **"Preliminary Title Reports"**). Each Party, at its sole cost and expense, may obtain and, if obtained, shall provide to the other Party and Title Company, an ALTA survey (**"ALTA Survey"**) satisfactory to permit Title Company to issue an ALTA Extended Title Policy. Any such ALTA Survey shall be obtained in sufficient time to permit compliance with the terms of this Section 4.2.3.

4.2.3.2 REVIEW AND APPROVAL/DISAPPROVAL OF PRELIMINARY TITLE REPORT; TERMINATION OF AGREEMENT. The Party to which a Property will be conveyed pursuant to this Agreement (**"Transferee Party"**) shall be entitled to review and approve or disapprove any and all matters contained in the Preliminary Title Report for said Property and the ALTA Survey, if any. The Transferee Party shall deliver to the Party that owns the Property (**"Owner Party"**), within 15 days of the Transferee Party's receipt of the Preliminary Title Report for the Property, a written notice of the Transferee Party's approval or disapproval of matters contained in the Preliminary Title Report. Unless the Parties agree otherwise in writing, the Owner Party shall cure all matters disapproved by the Transferee Party on or before the Closing Date. If the Owner Party does not cure the matter(s) disapproved by the Transferee Party, the Transferee Party may terminate this Agreement in accordance with Section 5.2 below and the Parties' obligations thereafter shall be governed by Section 5.3 below.

4.2.4 CONDITION PRECEDENT NO. 4: TITLE POLICY. A policy of title insurance that complies with the following conditions shall be issued in the name of District in the case of the Church Property and in the name of Church in the case of the District Property. This Condition Precedent, as it pertains to the Church Property, is for the benefit of District and may only be waived in a writing executed by District. This Condition Precedent, as it pertains to the District Property, is for the benefit of Church and may only be waived in a writing executed by Church.

4.2.4.1 Escrow Agent shall procure from Title Company: (A) a policy of title insurance as requested by District with a liability limit of \$ [REDACTED] for the Church Property and insuring fee title vested in District; and (B) a policy of title insurance as requested by Church with a liability limit of \$ [REDACTED] for the District Property and insuring fee title vested in Church.

4.2.4.2 If a Party requests any reasonable title insurance endorsements, Escrow Agent shall procure the same from Title Company. Each Party shall pay for all title insurance endorsements that it requests; however and unless the Parties agreed otherwise in writing, the Owner Party shall pay for any endorsements necessary to cure any matters on the Preliminary Title Report that are disapproved by the Transferee Party and for which the Owner Party has agreed to allow cure by endorsement.

**4.2.5 CONDITION PRECEDENT NO. 5: DISTRICT INSPECTION/SUITABILITY REVIEW OF CHURCH PROPERTY.**

**4.2.5.1** District shall have until the Closing of Escrow to inspect and review the suitability of the Church Property for District's use, including, without limitation, any governmental land use regulations, zoning ordinances, and the physical condition of the Church Property (including hazardous materials, environmental, radon gas, geotechnical and soils assessments and the availability of all School Site Approvals, as defined below ), collectively "**Feasibility Matters**," and to approve or disapprove, in District's sole and absolute discretion, the Feasibility Matters and provide Church and Escrow Agent written notice thereof. District shall be solely responsible for any and all costs incurred by District in connection with its inspection and/or review of the Property and Feasibility Matters. "**School Site Approvals**" means all approvals necessary to determine that the Property can be used immediately as part of a public street under all applicable federal, state and local laws, rules and regulations, which shall include, but not be limited to, those required by the California Department of Education, the Department of Toxic Substances Control, the California Environmental Quality Act ("**CEQA**"), the California Education Code, the California Government Code, applicable state regulations, as well as all other approvals required by law to utilize the Property as part of a public street.

**4.2.5.2** If District is not satisfied that the Property will be suitable for use as part of a public street, District has no obligation to accept the Church Property in exchange for the District Property, and District may terminate this Agreement pursuant to Section 5.2.5 below.

**4.2.5.3** This Condition Precedent is for the benefit of District and may only be waived in a writing executed by District.

**4.3 CLOSE OF ESCROW.** Escrow shall close ("**Close of Escrow**") for conveyance of the Church Property to District and conveyance of the District Property to Church on the date on which each requirement set forth below has been satisfied or waived ("**Closing Date**") but no later than **60** days following the date that Escrow is opened, unless the Parties agree to an extension of the **60** days:

**4.3.1 SATISFACTION OR WAIVER OF CONDITIONS PRECEDENT.** Each Condition Precedent in Section 4.2 has been satisfied by the Party required to do so or waived in a writing executed by the Party in whose benefit the Condition Precedent is provided.

**4.3.2 DELIVERIES BY PARTIES.** The Parties shall make the following deliveries no later than **10** days before the expected Closing Date:

**4.3.2.1 FEES AND COSTS.** Each Party shall deliver to Escrow Agent the Party's portion of the Escrow Fees and recording charges assessed by the County Recorder (except where District is exempt from payment thereof under Government Code section 27383). **District**

shall deliver to Escrow Agent the cost of the Title Policy for the Church Property. Church shall deliver to Escrow Agent the cost of the Title Policy for the District Property.

- 4.3.3.2 GRANT DEEDS. District shall deliver to Escrow Agent a grant deed conveying ownership and title of the District Property from District to Church ("**District Property Grant Deed**"), the form of which shall be substantially similar to Attachment 2 attached hereto. Church shall deliver to Escrow Agent a grant deed conveying ownership and title of the Church Property from Church to District ("**Church Property Grant Deed**"), the form of which shall be substantially similar to Attachment 3 attached hereto. Escrow Agent shall hold the District Property Grant Deed in trust for the benefit of District until the Close of Escrow, at which time Escrow Agent shall record the District Property Grant Deed and thereafter deliver it to Church. Escrow Agent shall hold the Church Property Grant Deed in trust for the benefit of Church until the Close of Escrow, at which time Escrow Agent shall record the Church Property Grant Deed and thereafter deliver it to District.

- 4.3.3.3 PROPERTY DOCUMENTS. The Owner Party shall deliver to the Transferee Party all material documents in the Owner Party's possession ("**Property Documents**") relating to the Owner Party's Property, such delivery to occur within 30 days of the Effective Date of this Agreement. Church shall cooperate with District to obtain and provide existing documents that are not in Church's possession relating to the Church Property and that may be reasonably required by governmental agencies in connection with the approval of the Church Property as part of a public street ("**Other Property Documents**"), as long as the Other Property Documents can be provided without the consent of any person or entity or, if any such consent is required, the consent can be obtained without Church incurring any expense or paying any consideration.

Church hereby represents that it has delivered or will deliver to District true and correct copies of the Property Documents and Other Property Documents related to the Church Property. District hereby represents that it has delivered or will deliver to Church the Property Documents related to the District Property. The Parties agree that all such documents are solely for informational purposes and without any representation or warranty whatsoever as to the accuracy of the information contained in such documents. The Parties acknowledge that it and any other party is not entitled to rely on the information contained in the Property Documents or the Other Property Documents, and that each Party shall perform its own independent diligence with respect to its decision to accept the Property.

#### 4.4 TAXES, FEES, AND COSTS.

- 4.4.1 TAXES. Church shall be solely responsible for the payment of any and all taxes related to the Church Property that, as of the Closing Date, exists, have been

assessed on or against the Property, or are due. District is a tax exempt public entity and is not responsible for any ad valorem taxes.

**4.4.2 COMMISSION FEES.** Church/District shall be solely responsible for the payment of commission due to \_\_\_\_\_.

**4.5 DELIVERY OF DOCUMENTS AND EXCESS FUNDS UPON CLOSE OF ESCROW.** At or promptly after the Close of Escrow, Escrow Agent shall:

4.5.1 Deliver a copy of each non-recorded document to each Party as may be requested by such Party.

4.5.2 Deliver to Church or District, as the case may be, any funds that each deposited with Escrow Agent and that were not necessary to close Escrow.

The obligations required of Escrow Agent by this Section 4.5 shall survive the termination of this Agreement.

**4.6 COOPERATION AND OTHER ACTIONS.** The Parties acknowledge that it may be necessary to execute documents other than those specifically referred to herein in order to complete the exchange of the Properties. The Parties shall cooperate with each other by executing such other documents or taking such other action as may be reasonably necessary to complete the transaction contemplated by this Agreement and close Escrow on the Properties in accordance with the intent of the Parties as evidenced in this Agreement. The obligations set forth in this Section 4.6 shall survive the termination of this Agreement.

**SECTION 5 TERM AND TERMINATION OF AGREEMENT.**

**5.1 TERM OF AGREEMENT.**

5.1.1 **TERM AND TERMINATION.** This Agreement is effective on the Effective Date and continues in full force and effect thereafter until and including the Closing Date and any written extension thereto ("**Term**") and, unless terminated during the Term in accordance with Section 5.2 below or is stated otherwise in this Agreement, shall terminate at 12:00 midnight on the Closing Date without any notice or action by either Party.

5.1.2 **SURVIVAL; NO MERGER.** Any provision in this Agreement that by its nature applies after, or is specifically stated to survive, after the Closing Date, Close of Escrow, or termination of this Agreement shall so survive. This Agreement and each provision contained herein, including all warranties and representations, shall survive the Close of Escrow and shall not merge in or into the Grant Deed. All representations, warranties, agreements, and obligations of the Parties shall, despite any investigation made by a Party, survive the Close of Escrow and shall inure to the benefit of and be binding on the Parties' successors and assigns.

**5.2 TERMINATION DURING TERM.** During the Term, this Agreement may only be terminated by a Party pursuant to one or more of the following:



- 5.2.1 **FAILURE TO SATISFY CONDITIONS PRECEDENT.** In the event that a Condition Precedent is not satisfied or not waived pursuant to Section 4.2 above, the non-defaulting Party may terminate this Agreement by providing written notice of termination to the other Party and Escrow Agent, which written notice shall specify the reason(s) for the termination and provide the defaulting Party with **10** days ("**Satisfaction Period**") within which to satisfy the Condition(s) Precedent. Upon expiration of the Satisfaction Period and if the defaulting Party has not satisfied the Condition(s) Precedent, this Agreement shall terminate at 12:00 midnight on the last day of the Satisfaction Period without any notice or action by either Party or Escrow Agent.
- 5.2.2 **FAILURE TO CURE DISAPPROVED MATTERS IN PRELIMINARY TITLE REPORT.** Unless the Parties agree otherwise in writing or the Owner Party cures, on or before the Closing Date, all matters disapproved by the Transferee Party, the Transferee Party may terminate this Agreement by providing written notice of termination to the Owner Party and Escrow Agent, which written notice shall specify the reason(s) for such termination and provide the Owner Party with **10** days ("**Title Cure Period**") within which to cure the disapproved matter(s). Upon expiration of the Title Cure Period and if the Owner Party has not cured the disapproved matter(s), this Agreement shall terminate at 12:00 midnight on the last day of the Title Cure Period without any notice or action by either Party or Escrow Agent.
- 5.2.3 **MATERIAL BREACH OF AGREEMENT AND REQUIRED DOCUMENTS.** A Party may terminate this Agreement before the Closing Date upon the other Party's material breach of one or more provisions of this Agreement or material violation of its warranties and representations that it made in this Agreement or documents required to be submitted pursuant to this Agreement. A Party intending to terminate this Agreement pursuant to this Section 5.2.3 shall provide the breaching Party with written notice at least **10** days ("**Material Breach Cure Period**") before the effective termination date of this Agreement. Such notice by the non-breaching Party shall specify: (A) the provision(s) of this Agreement that are claimed to have been materially breached by the breaching Party, (B) the acts or omissions of the breaching Party that constitute a material breach of this Agreement, and (C) the corrective actions and/or remedies requested from the breaching Party; and provide the breaching Party with an opportunity to cure the material breach within the Material Breach Cure Period unless the non-breaching Party shall agree in writing to an extension of the Material Breach Cure Period before the expiration of the Material Breach Cure Period. Upon expiration of the Material Breach Cure Period and any mutually agreed upon time extension, and if the breaching Party has not corrected the material breach and provided written notice of completion of such corrective action to the non-breaching Party, this Agreement shall terminate effective at 12:00 midnight the last day of the Material Breach Cure Period without any notice or action by either Party or Escrow Agent.
- 5.2.4 **MUTUAL AGREEMENT.** The Parties may agree in a writing executed by them to terminate this Agreement, which writing shall state, at a minimum, the effective date of termination of this Agreement.
- 5.2.5 **DISTRICT DISAPPROVAL OF SUITABILITY OF PROPERTY.** District may terminate this Agreement, if pursuant to Section 4.2.5 above, District is not

satisfied that the Property will be suitable for use as part of a public street. District shall provide Church and Escrow Agent with written notice of the termination of this Agreement pursuant to this Section 5.2.5.

### 5.3 RIGHTS AND OBLIGATIONS UPON TERMINATION.

5.3.1 TERMINATION PURSUANT TO SECTIONS 5.2.1, 5.2.2 OR 5.2.3. Upon termination of this Agreement pursuant to Section 5.2.1, 5.2.2 or 5.2.3 above, the defaulting Party shall pay all fees, charges, and expenses, including all expenses in connection with issuance of the Preliminary Title Reports and other title matters, incurred by Escrow Agent before the effective date of termination of this Agreement (collectively “**Escrow Cancellation Fees**”).

5.3.2 TERMINATION PURSUANT TO SECTION 5.2.4 OR 5.2.5. Upon termination of this Agreement pursuant to Section 5.2.4 or 5.2.5 and unless the Parties agree in writing otherwise, the Parties shall each pay one-half of the Escrow Cancellation Fees.

### 5.4 EMINENT DOMAIN.

5.4.1 If, on or before the Closing Date, any action or proceeding is commenced for the condemnation or exercise of the rights of eminent domain of the Property or any portion thereof, or if the Owner Party is notified by any condemning authority of the intent to commence such action or proceeding (“**Condemnation**”) and if such Condemnation would materially and adversely affect the use or operation of the Property, or reduce or eliminate access to the Property, the Transferee Party may: (A) terminate this Agreement or (B) proceed to close Escrow without modifying the terms and conditions of this Agreement, on the condition that the Owner Party will assign and turn over to the Transferee Party, and the Transferee Party will be entitled to keep, all awards for the Condemnation that accrue to the Owner Party. The Owner Party shall notify the Transferee Party of any notice of Condemnation of all or any portion of the Property within 10 days after the Owner Party’s receipt of such notice. The Transferee Party shall exercise its option(s) as providing in this Section 5.4.1 within 10 days after the Transferee Party receives the Owner Party’s notice. If necessary, the Parties shall agree to extend the Closing Date in order to provide the Transferee Party the full 10-day period to make such election.

5.4.2 The Owner Party shall not negotiate, resist, or stipulate to any Condemnation without the Transferee Party’s written consent.

5.4.3 Upon termination of this Agreement pursuant to Section 5.4.1 above, the **Owner Party** shall pay all of the Escrow Cancellation Fees. If this Agreement is terminated due to the exercise of eminent domain on both Properties, the Parties shall each pay one-half of the Escrow Cancellation Fees.

## SECTION 6 DISPUTE RESOLUTION.

Unless specifically provided otherwise in this Agreement, the Parties shall meet and confer in good faith to resolve any disputes between them arising out of, resulting from, or relating to this Agreement, including any dispute relating to this Agreement that arises or occurs after the

termination of this Agreement. If the Parties are unable to agree upon a resolution during the meet-and-confer process, the Parties shall submit the dispute to a mediator, with each Party to pay one-half of the mediator's fees and costs. Each Party shall bear its own attorney's fees and costs that it may incur to participate in the mediation. Except for an action to obtain injunctive relieve to preserve the status quo and/or prevent irreparable injury or harm pending the completion of the meet-and-confer required by this Section, a Party may not commence a civil action regarding or relating to this Agreement until after compliance with this Section.

## **SECTION 7 GENERAL PROVISIONS.**

- 7.1 **TIME OF THE ESSENCE.** Time is of the essence in the performance of the Parties' obligations under this Agreement.
- 7.2 **APPLICABLE LAW, VENUE, AND INTERPRETATION.** The provisions of this Agreement are to be construed in all cases as a whole, according to their fair meaning, and not strictly for or against any Party. This Agreement, and the Parties' rights and obligations, are to be governed by and interpreted in accordance with California laws. All claims, disputes, and lawsuits arising out of or in connection with this Agreement shall be resolved or adjudicated in accordance with California laws without giving effect to its conflict of law provisions and in the appropriate state or federal court in the county in which the Property is located, State of California, provided that nothing in this Agreement constitutes a waiver of immunity to suit by District.
- 7.3 **ENTIRE AGREEMENT, AMENDMENT, AND WAIVER.** This Agreement constitutes the Parties' entire agreement and understanding, and is a complete and exclusive statement of the terms of the Parties' agreement pursuant to Code of Civil Procedure section 1856. This Agreement cannot be modified orally, and is to be modified only by a written instrument executed by the Parties. Any failure by a Party to comply with any covenant, term, or condition of this Agreement may be waived only in writing by the Party in whose favor a covenant, term, or condition of this Agreement runs. A Party's failure to insist upon strict compliance with or to enforce any covenant, term, or condition of this Agreement shall not constitute a waiver of, or estoppel with respect to the covenant, term, or condition. A Party's waiver of any covenant, term, or condition of this Agreement shall not be deemed or constitute a waiver by that Party of any other provision of this Agreement, and such waiver shall also not constitute a continuing waiver unless the Party making the waiver expressly agree to in writing.
- 7.4 **EXECUTION BY FACSIMILE OR IN COUNTERPARTS.** The Parties may sign this Agreement in counterparts such that their signatures may be on separate signature pages. A copy, facsimile, or an original of this Agreement, with all signatures appended together, shall be deemed a fully executed agreement. Signatures transmitted by facsimile or other electronic means shall be deemed original signatures.
- 7.5 **SEVERABILITY.** If a court of competent jurisdiction holds any provision of this Agreement void, illegal, or unenforceable, this Agreement shall remain in full force and effect and shall be interpreted as though such provision was not a part of this Agreement. The remaining provisions shall be construed to preserve the Parties' intent and purpose in this Agreement, and the Parties shall negotiate in good faith to modify any invalidated provisions to preserve each Party's anticipated benefits under this Agreement.



- 7.6 **BINDING EFFECT.** This Agreement is for the benefit of and shall be binding on the Parties and their respective predecessors, successors, governing bodies, principals, officers, employees, agents, representative, and assigns (if such assigns are made in accordance with this Agreement). Nothing in this Agreement creates any contractual relationship between any Party and any third party or gives any third party any claim or right of action against any Party.
- 7.7 **ASSIGNMENT OR TRANSFER.** A Party shall not assign or transfer any of its rights or obligations under this Agreement without the written consent of the other Party.
- 7.8 **NO PARTNERSHIP OR JOINT VENTURE.** A Party shall not, by virtue of this Agreement, in any way or for any reason be deemed to have become a partner of the other Party in the conduct of its business or otherwise or a joint venturer. By virtue of this Agreement, there shall not be deemed to be a joint enterprise between the Parties.
- 7.9 **CUMULATIVE RIGHTS AND REMEDIES.** Unless specifically provided in this Agreement, no right or remedy in this Agreement provided to any Party is exclusive of any other remedy or right, and each and every right or remedy shall be cumulative and in addition to any right or remedy provided under this Agreement, or now or hereafter existing at law or in equity.
- 7.10 **NOTICES.** All notices and communications required or permitted under this Agreement shall be deemed duly given if in writing and delivered personally, sent by a reputable overnight courier services (with package tracking capability), or sent by certified mail, return receipt requested, first class postage prepaid, addressed to the other Party to the contact person at the address stated on page 1 of this Agreement. A Party may change its designated representative and/or address for receiving notices and communications under this Agreement by notifying the other Party of the change in writing and in the manner described in this Section.
- 7.11 **HEADINGS.** The headings in this Agreement are provided for the convenience of the Parties and in no way define, limit, extend or describe the scope or intent of this Agreement or of any of the provisions of this Agreement. If any conflict or inconsistency exists between any heading and any provision, the provision, and not the heading, shall govern and control the construction of this Agreement.
- 7.12 **LEGAL REPRESENTATION.** Each Party has or has had the opportunity to retain and consult with its own legal counsel with respect to this Agreement.

[Signatures on separate page]

In consideration of the premises and the mutual covenants set forth in this Agreement and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, execute this Agreement by each Party's duly authorized agent below. Each person executing this Agreement on behalf of a Party represents that he or she is authorized to execute on behalf of, and to commit and bind the Party to this Agreement.

CENTRAL UNIFIED SCHOOL DISTRICT

FRESNO CITY BLESSING CHURCH, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

//

**ATTACHMENT 1**  
**CONSENT OF ESCROW AGENT**

Name of Escrow Agent:  
Address:  
City/State/Zip:  
Phone No.:  
Email:


The undersigned, on behalf of the Escrow Agent stated above, hereby agrees to all of the following:

1. Accept the Agreement for Exchange of Real Properties and Joint Escrow Instructions (Agreement) between Fresno City Blessing Church, Inc. and Central Unified School District.
2. Be Escrow Agent under the Agreement.
3. Be bound by the Agreement and any amendments thereto in the performance of the duties as Escrow Agent.
4. Not to assign or transfer any of Escrow Agent's obligations under the Agreement without the written consent of District and Church.

The undersigned represents that he or she is authorized to execute on behalf of, and to commit and bind Escrow Agent.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

//

**ATTACHMENT 2**

[Grant Deed – District Property (form)]

DRAFT

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Attn: **Name, Title**  
Fresno City Blessing Church, Inc.  
4665 N. First Street  
Fresno, CA 93726

SPACE ABOVE FOR RECORDER'S USE

**APN: 442-280-15**

## GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CENTRAL UNIFIED SCHOOL DISTRICT ("Grantor") hereby grants to FRESNO CITY BLESSING CHURCH, INC. ("Grantee"), subject to the conditions set forth herein, the real property ("Property") situated in the County of Fresno, State of California and more particularly described as follows:

See Exhibits A and B attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, Grantor has caused its name to be affixed hereto and this instrument to be executed by its duly authorized representative.

Dated: \_\_\_\_\_

**GRANTOR: Central Unified School District**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

[attach notary public statement and official seal]

GRANT DEED  
EXHIBIT A

[Attach legal description of District Property]

DRAFT

GRANT DEED  
EXHIBIT B

[Attach map of District Property]

DRAFT

**ATTACHMENT 3**

[Grant Deed – Church Property (form)]

DRAFT



**Recording Requested By:**  
Public Works Department  
City of Fresno  
No Fee-Gov't. Code Sections  
6103 and 27383

**When Recorded, Mail To:**  
Public Works Department  
City of Fresno  
2600 Fresno Street  
Fresno, CA. 93721-3623  
ATTN: Right-of-way Section

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**APN: 442-280-14**

GRANT DEED  
FOR PUBLIC STREET PURPOSES

For a valuable consideration, receipt of which is hereby acknowledged, FRESNO CITY BLESSING CHURCH, INC., GRANTOR, hereby GRANTS to the City of Fresno, a municipal corporation, GRANTEE, a right-of-way for public street purposes in fee simple title, being all that certain real property situated in the City of Fresno, County of Fresno, State of California, more particularly described and shown as follows:

See Exhibits "A" and "B", which are attached and incorporated herein.

FRESNO CITY BLESSING CHURCH, INC.

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Attach notary public statement and official seal]

## CONDITIONS – PUBLIC STREET

1. LICENSE FOR PUBLIC STREET CONSTRUCTION. Grantor and Grantee grant to Central Unified School District (“District”) a license to enter upon and access the Property for the purposes of constructing a public street, Weldon Avenue. District shall, at its cost and liability, construct or contract to construct the public street and other improvements thereon as District determines necessary and proper in coordination with Grantee and in accordance with applicable laws, regulations, codes, and ordinances. The license, subject to any extension by agreement of Grantee and District, shall be for a period of        days (“**License Period**”), commencing on the date stated in District’s written notice to Grantee as the date on which the construction of the public street will commence and terminating on the later of the date on which the construction is completed or expiration of the License Period.
2. OPERATION, MAINTENANCE, AND REPAIR OF PUBLIC STREET. Grantee shall use the real property for the sole purpose of operating, maintaining, and repairing the public street. Grantee shall, at its sole cost and liability, be responsible for maintaining, operating, and repairing the public street or making other improvements thereon in accordance with applicable laws, regulations, codes, and ordinances.

//

GRANT DEED  
EXHIBIT A

[Attach legal description of Church Property]

DRAFT

GRANT DEED  
EXHIBIT B

[Attach map of Church Property]

DRAFT