

AVENUE 280 WIDENING AND PUBLIC UTILITY TRAIL EASEMENT PROJECT

Owner: Rise Church

APN: 119-690-049

**AGREEMENT FOR PURCHASE
OF REAL PROPERTY**
Fee Title and Permanent Easement

THIS AGREEMENT is made and entered into by and between the COUNTY OF TULARE, hereinafter referred to as COUNTY, and Rise Church, hereinafter referred to as OWNER.

Whereas, OWNER has conditionally delivered to COUNTY, an executed Grant Deed conveying the real property (hereinafter referred to as the PROPERTY) described therein to COUNTY with regard to the following:

- A. COUNTY requires the PROPERTY, a property not now appropriated to a public use, for constructing or improving a public roadway project known as the Avenue 280 Widening Project and a permanent Public Utility and Trail Easement, a public use. Said PROPERTY is described in Exhibits "A" and "A-1" and depicted in Exhibit "B" and "B-1" attached hereto.
- B. Because COUNTY may exercise the power of eminent domain to acquire, OWNER is compelled to sell; and because COUNTY requires the property for the Public Project, COUNTY is compelled to buy. As such, the acquisition of the PROPERTY is an involuntary conversion of the PROPERTY from private to public use.
- C. Both OWNER and COUNTY recognize the expense, time, effort, and risk to both OWNER and COUNTY in resolving a dispute over compensation for the PROPERTY by eminent domain litigation; and the compensation set forth herein is in compromise and settlement, in lieu of such litigation.
- D. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said Grant Deed, Easement Deed and TCE and shall relieve COUNTY of all further obligation or claims of whatever kind or nature on this account, or on account of the construction of the proposed public improvement in the manner proposed, including, but not limited to, claims arising out of its location, grade, or restriction of private access rights. OWNER acknowledges that COUNTY has informed OWNER as to the plans for the construction of the proposed public improvement in the manner proposed.

The parties do hereby agree as follows:

1. DEMISE OF PROPERTY

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OWNER agrees to sell to COUNTY and COUNTY agrees to purchase from OWNER pursuant to the terms and conditions set forth in this AGREEMENT, the real property interests identified herein and collectively referred to as the PROPERTY, whereas said PROPERTY is required for the construction of the **Avenue 280 Widening and Public Utility Trail Easement Project**, hereinafter referred to as the "PROJECT".

2. PURCHASE PRICE AND ESCROW

COUNTY shall pay OWNER the sum of \$31,000, the "Purchase Price", for the PROPERTY, PUBLIC UTILITY TRAIL EASEMENT and TEMPORARY CONSTRUCTION EASEMENT, which the parties agree includes and is allocated as follows:

The sum of \$5,216, for fee title;
The sum of \$2,627, for Public Utility Trail Easement
The sum of \$19,135, for damages. OR Cost to Cure Damages
The sum of \$3,874 for severance damages
Total compensation rounded up to \$31,000, by the appraiser.

The Escrow Agent shall deliver the Purchase Price to OWNER when title to the property rights vest in COUNTY free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases (recorded and/or unrecorded), and taxes unless otherwise indicated in the Escrow Instructions.

This transaction shall be handled through an escrow at First American Title Company, hereinafter "Escrow Agent", under Escrow Number 5405-4970147, hereinafter "Escrow", located at 211 East Caldwell Avenue Visalia, CA 93277.

3. DELIVERY OF DOCUMENTS/ESCROW

The Grant Deed, Public Utility Trail Easement Deed, Temporary Construction Easement and Escrow Instructions shall be executed and delivered by OWNER to COUNTY for the purpose of placing them into Escrow. COUNTY shall not be deemed to have accepted delivery of the PROPERTY until such time as the Grant Deed is recorded in the Official Records of the County of Tulare, California. The Temporary Construction Easement, if used, may or may not be recorded, as determined by COUNTY. COUNTY shall pay all costs to close Escrow, including escrow fees, reconveyance fees, document preparation fees, delivery charges, and recording fees as may be incurred in this transaction.

4. PAYMENT OF MORTGAGE OR DEED OF TRUST

Upon demand by a mortgagee under a mortgage, or a beneficiary under a deed of trust, recorded against the PROPERTY, made in writing to COUNTY prior to the close of Escrow, COUNTY may, through Escrow, make payable to the mortgagee or beneficiary entitled there under, an amount not to exceed the Purchase Price under this AGREEMENT. If this section is made applicable by the demand above described, then the mortgagee or beneficiary shall, at the close

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of Escrow, furnish the OWNER with good and sufficient receipt showing the monies thus tendered through Escrow credited against the indebtedness secured by said mortgage or deed of trust.

5. POSSESSION

OWNER agrees and hereby grants to COUNTY and its authorized agents and contractors permission to enter upon the PROPERTY described herein for purposes of performing activities related to and incidental to the construction of the PROJECT, inclusive of the right to remove and dispose of any improvements, prior to the OWNER receiving the Purchase Price. Such possession and use of the PROPERTY by COUNTY may commence on the date of full execution of this agreement by all parties.

6. RECONSTRUCTION OF OWNER'S REMAINDER PROPERTY

OWNER further understands and agrees that included in the amount shown in Clause 2 above are monies being paid to OWNER to perform the following work:

See Exhibit "D" – Special Provisions

COUNTY will also, at time of project construction and at no expense to OWNER, construct new driveway approach, as necessary, to serve the property remainder.

7. LEASE WARRANTY

OWNER warrants there are no oral or written leases on any portion of the PROPERTY and OWNER further agrees to hold COUNTY harmless and reimburse COUNTY for any and all of its losses and expenses occasioned by reason of any lease of said Land by any tenant of OWNER.

8. COUNTY'S USE AND LIABILITY

COUNTY shall indemnify, defend, and hold harmless OWNER, its directors, officers, affiliates, agents, and employees from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, caused by COUNTY's activities allowed by this Agreement except and in proportion to the extent caused by an act or omission of OWNER or OWNER's agents, representatives, employees, consultants and/or contractors. The foregoing indemnity shall also be inapplicable to any adverse condition or defect on or affecting the PROPERTY not caused by COUNTY or its employees, agents, contractors, or subcontractors but discovered or impacted during their activities; provided, however, that COUNTY's indemnification obligations shall apply to the extent such adverse condition or defect is exacerbated by COUNTY's actions.

Furthermore and subject to the work outlined in Clause 8 above, COUNTY agrees to assume responsibility for any damages to OWNER's Remainder Property caused by reason of COUNTY's use of the PROPERTY under this AGREEMENT, and will, at COUNTY's option, either repair or pay for such damage.

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9. NOTICES

Any notice that either party may or is required to give the other shall be in writing, and shall be either personally delivered or sent by regular U.S. Mail, to the following address:

TO COUNTY:

General Services
Property Management

5953 So. Mooney Boulevard
Visalia, CA 93277

TO OWNER:

Rise Church

Pastor Jarred McClintick
5702 West Caldwell Avenue
Visalia, CA 93277

10. SEVERABILITY

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being impaired.

11. GOVERNING LAW

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California.

12. PUBLIC PURPOSE

COUNTY requires the PROPERTY for the PROJECT, and COUNTY can seek to acquire the PROPERTY through the exercise of its power of eminent domain.

13. AUTHORITY AND EXECUTION

This AGREEMENT, which is valid, only when executed by COUNTY, constitutes the complete understanding and agreement of the parties hereto and no oral representation shall in any manner vary the terms hereof or be binding.

14. ESCROW

While OWNER and COUNTY anticipate that escrow will close as provided herein, in the event that a dispute arises during the course of said escrow between OWNER, COUNTY and/or the escrow holder, or between OWNER and any third-party claimant to any or all of the proceeds of said escrow, and it becomes necessary for COUNTY to file a condemnation action then:

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A. COUNTY shall remain in possession and the compensation provided for in this agreement shall draw interest as prescribed at the apportionment rate calculated by the Controller as the rate of earning by the Surplus Money Investment Fund for each six-month period. OWNER shall be entitled to receive interest on the sum received as compensation pursuant to this agreement for OWNER's interest in the Property beginning at the date of possession provided for in Paragraph 5 herein.

B. OWNER waives all claims and defenses challenging COUNTY's right to acquire the PROPERTY by eminent domain in the event that COUNTY files any subsequent eminent domain proceeding, and agrees that the COUNTY has the right to acquire the PROPERTY by eminent domain and that the public interest and necessity require the project; the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; the PROPERTY is necessary for the project; and an offer in an amount no less than the full amount of the COUNTY's approved appraisal was made to OWNER. OWNER agrees that the total amount of compensation that shall be awarded is the sum provided in Paragraph 2 plus interest as provided in Paragraph 16 A herein.

16. OWNER'S INDEMNIFICATION

OWNER covenants and agrees to indemnify and hold COUNTY harmless from any and all claims that third parties may make or assert with respect to the title to the property and any improvements therein. The OWNER's obligation to indemnify COUNTY shall not exceed the purchase price.

17. INDEMNITY AND WHOLE HARMLESS CLAUSE RELATING TO HAZARDOUS SUBSTANCES

OWNER warrants that, to the best of OWNER's knowledge, the PROPERTY (including surface and subsurface soils, groundwater on and underneath the Property) is free of petroleum products, and other hazardous materials (including, without limitation, "hazardous substances," "hazardous materials," or "toxic substances" as defined by Section 311 of the Clean Water Act (33 U.S.C. section 1251, et seq.), Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and "Hazardous waste and substances" as defined by Sections 25117 and 25316 of the California Health and Safety Code. County reserves the right, however, to require OWNER to remediate, and/or pay remediation costs relating to, hazardous substance which OWNER knew or should have known existed or was present at the Subject Property, and failed to disclose. OWNER agrees to indemnify and hold COUNTY harmless against any and all claims arising out of the existence of hazardous substances or hazardous waste in the soil or ground water.

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18. ENTIRE AGREEMENT

The performance of this AGREEMENT constitutes the entire consideration for the conveyances from OWNER and shall relieve COUNTY of all further obligation or claim on this account, or on account of the location, grade or construction of the proposed public improvement and related facilities and/or structures.

No addition or modification of any term or provision shall be effective unless set forth in writing and signed by both OWNER and COUNTY.

This AGREEMENT shall bind the respective heirs, personal representatives, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as follows:

OWNER: Rise Church

Dated this 28 day of July, 2016

Stephen Atkins
Printed Name: STEPHEN ATKINS
Title: C.F.O. / ELDER
Authorized Signer

Dena Galovich
Printed Name: Dena Galovich
Title: Secretary
Authorized Signer

COUNTY OF TULARE

Dated this _____ day of _____, 20_____

BY _____
Chairman, Board of Supervisors

Recommended By:

Robert Newby
Robert Newby
Property Specialist IV

Approved as to Form:
County Counsel

Jennifer Nielsen
By: Deputy County Counsel
#20151883

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EXHIBIT "A"

Avenue 280
Road Right of Way
APN: 119-690-049
Owner: Valley Bible Church

EXHIBIT "A"

That portion of Lot 9 of Correctory Map of Hidden Acres in the City of Visalia, County of Tulare, State of California per map recorded in Book 40, Page 57 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at the Southeast corner of said Lot 9;
Thence, South 89°50'50" West, 179.76 feet along the South line of said Lot 9;
Thence, Northwesterly along a 20 foot radius tangent curve, concave to the Northeast, through a central angle of 89°44'42", an arc distance of 31.33 feet;
Thence, departing the South line of said Lot 9, South 44°50'17" East, 9.20 feet;
Thence, South 89°16'09" East, 193.27 feet to a point in the East line of said Lot 9;
Thence, South 00°24'28" East, 10.39 feet to the point of beginning.

Containing 2,318 s.f., more or less


James S. Winton, RCE 18094 10.27.15
Date



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EXHIBIT "B"

Avenue 280
Utility and Trail Easement
APN: 119-620-049
Owner: Valley Bible Church

EXHIBIT "A"

That portion of Lot 9 of Correctory Map of Hidden Acres in the City of Visalia, County of
Tulare, State of California per map recorded in Book 40, Page 57 of Maps, in the Office
of the County Recorder of said County, described as follows:

Beginning at a point in the East line of said Lot 9, said point being
North 00°24'28" West, 10.39 feet of the Southeast corner of said Lot 9;

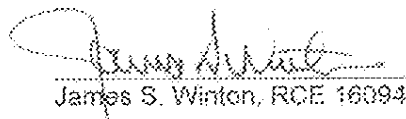
Thence, North 89°16'09" West, 193.27 feet;

Thence, North 44°50'17" West, 8.57 feet;

Thence, South 89°16'09" East, 199.27 feet to a point in the East line of said
Lot 9;

Thence, South 00°24'28" East, 6.00 feet to the point of beginning.

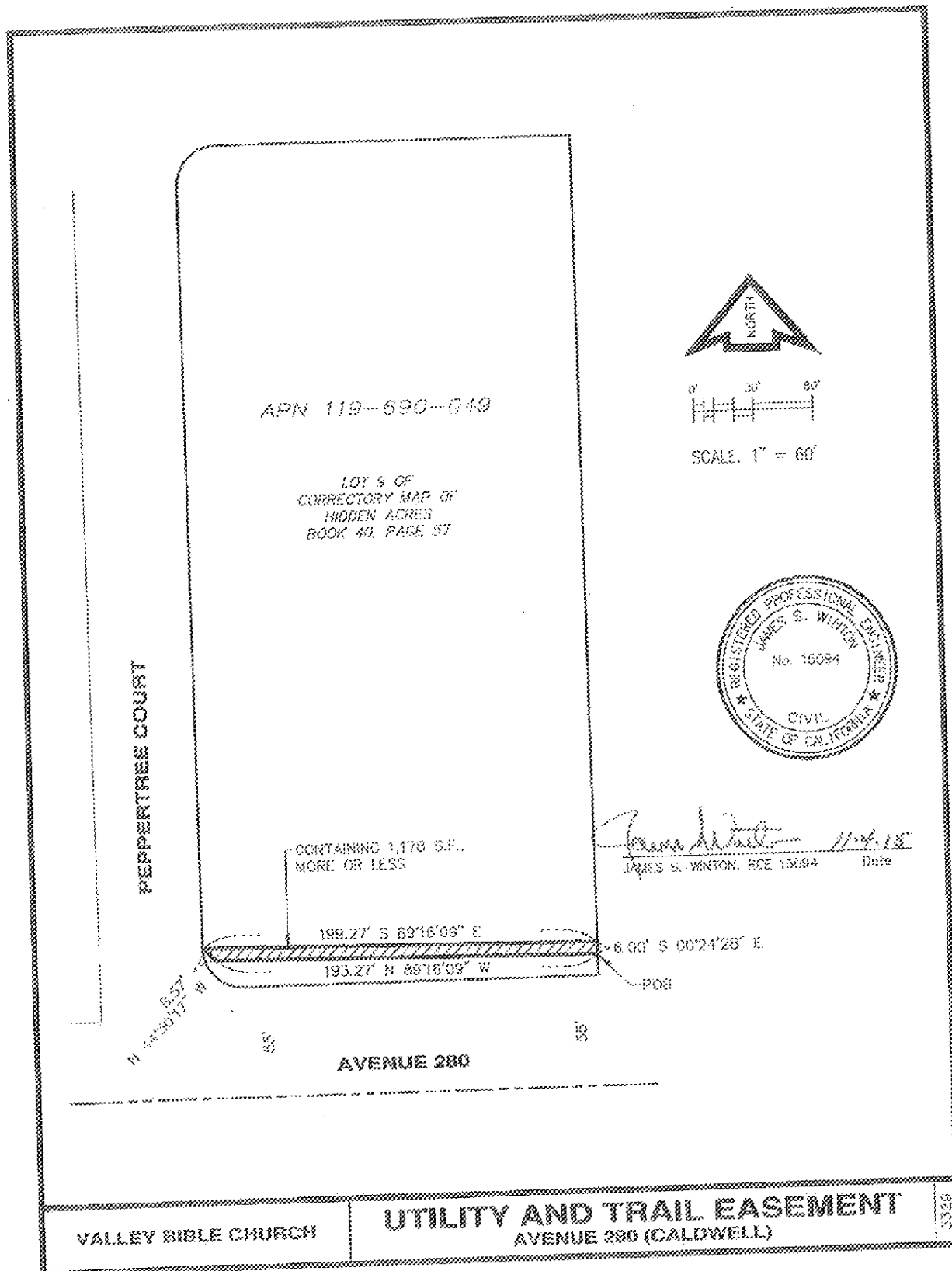
Containing 1,178 s.f., more or less


James S. Winton, RCE 16094 11/07/15
Date



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EXHIBIT "B-1"



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**EXHIBIT "D"
Special Provisions**

Owner: Valley Bible Church, a Non-Profit Corporation
 APN: 119-690-049

Construction Contract Work

It is mutually agreed and understood that at no expense to the grantor(s) and at the time of construction, the COUNTY will provide the following:

1. None

Improvements

It is mutually agreed and understood that the purchase price recited in Paragraph 2 includes compensation to Grantor for the following improvements:

ITEM	Amount
<i>Asphalt 558 feet x \$4.00</i>	\$2,232
<i>Parking wheel stops 2 x \$50</i>	\$100
<i>Concrete Block Wall 27 feet x \$13.00</i>	\$351
<i>Concrete walkway -136 s.f. x \$5.00</i>	\$680
<i>Concrete curbing 62 l.f. x \$16.00</i>	\$992
<i>Brick mailbox -1 box x \$1,500</i>	\$1,500
<i>Grass with sprinklers -- 1,854 s.f. \$1.50</i>	\$2,781
<i>Tree & Shrubs -- lump sum \$2,000</i>	\$2,000
<i>River Rock -- 540 s.f x 1.85</i>	\$999
<i>Monument sign -- 1 x \$5,000</i>	\$5,000
<i>Parking lot light -- 1 light x \$2,500</i>	\$2,500
	\$19,135

SEVERANCE DAMAGES

Improvement Type	Improvement Size	Replacement Cost per Unit	Plus Profit Factor -- 15%	Less Amount Already Paid	Net Cost to Cure
Sprinklers	Lump Sum	\$3,000	\$450	-\$1,576	\$1,874
Monument Sign	Lump Sum	\$5,000	\$750	-\$3,750	\$2,000
				Total	\$3,874

Total Severance Damages is \$3,874.