

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

CITY OF FRESNO

AND

THE TRUMP ORGANIZATION

The City of Fresno ("City") and The Trump Organization ("Developer") propose to negotiate and do other tasks necessary in anticipation of entering into a development agreement related to what is currently known as the Running Horse golf course and residential development ("Project"). This Memorandum of Understanding ("MOU") is for the purpose of proposing deal points for the development agreement, and so that the parties may have a common understanding of the Project direction and potential goals.

Purpose and Scope of the Project

The purpose of the Project is for the Developer to acquire and complete the Running Horse development as a world class golf course, with integrated residential development and related amenities, all on a schedule that will permit opening of the golf course by May of 2009, and Developer will use best efforts to seek and host a PGA Tour event in the fall of 2009 and thereafter. The City will facilitate property acquisitions and consider other actions to assist in the successful completion of the Project.

Responsibilities of the Parties

1. The City will:
 - 1.1. Use all legally available powers to acquire rights to purchase (including option agreements and contracts for purchase) clear fee title to all real estate parcels not to be acquired by Developer, as set forth the below, in the area of Fresno bounded by Whites Bridge Avenue on the north, Church Avenue on the south, Hughes Avenue on the east, and Marks Avenue on the west (the "Project Area"), including relocation of the Veterans Home site; however, for those parcels owned by Shigeo Hayashi, APN 477-02-121, and Anthony Mello, APN 464-06-013, which were not included in the original Project map and design ("Additional Parcels"), the City will use all legally available powers (not using eminent domain) to negotiate and acquire rights to purchase at an agreed upon price, but the acquisition of the Additional Parcels is not required by nor a condition of this MOU or subsequent development agreement;
 - 1.2. Convey or assign to Developer all purchase rights in the Project Area acquired by City, subject to the requirements of any financing arrangement;
 - 1.3. Assist with financing the Project by considering the issuance of taxable municipal bonds;

- 1.4. Consider vacating or modifying California Avenue where it crosses the Project Area;
 - 1.5. Consider approval of relocation of the clubhouse and cart parking;
 - 1.6. Consider approval of hookup for power/utilities for the pump station;
 - 1.7. Cooperate with Developer to secure water rights, investigate well production rates, and utilization of canal and water basins;
 - 1.8. Consider redesign and/or restriction of Project access points;
 - 1.9. Consider necessary and appropriate rezoning;
 - 1.10. Expedite necessary City approvals of the design and construction of the Project;
 - 1.11. Cooperate to complete approvals of the community facilities district.
- 2. The Developer will:**
- 2.1. Acquire rights to purchase (including option agreements or contracts for purchase) clear fee title to all Project Area parcels presently owned by and which may become owned by (following foreclosure sales or otherwise) La Jolla Loans, Scripps, and IRCRH, which rights will be assignable to City should Developer withdraw from the Project;
 - 2.2. Accept from City conveyance or assignment of all rights to acquire clear fee title to the parcels in the Project Area;
 - 2.3. Arrange for a simultaneous closing through a dual escrow or double escrow ("Closing") of all Project Area parcels under contract with City, so that City is not required to fund purchases, except as may be necessary if municipal bonds are issued to finance the Project, and then ownership to be determined by the terms of the bond issue;
 - 2.4. Consider and approve in advance prices, option fees, and related expenses, at which the City will acquire the Project Area parcels, then agree to pay or fund, via financing, those prices to City or sellers at or before Closing;
 - 2.5. Deposit in advance and/or reimburse City, in the form of cash equivalent and amounts, all to be agreed upon in advance by City and Developer, with such amounts not to exceed the total of amounts City is reasonably likely to incur, for all costs of acquisition and financing that City is likely to incur, including, for example: purchase prices, option fees, escrow charges, title insurance premiums, deposits, appraisal fees, deposits of probable compensation (if eminent domain may be authorized and orders of possession sought), attorney fees and litigation expenses of City and any other person to whom City may be found liable to pay attorney fees, bond issuance costs, interest and other holding costs, regulatory fees, environmental investigation and remediation expenses, and indemnify City for all claims and litigation expenses required to obtain clear title;
 - 2.6. Cooperate with City to litigate and/or compromise mechanics liens claims against the Project Area parcels so that clear title may be obtained;

Approved as to Form:

James T. Sanchez
City Attorney

By: _____

Approved as to Form:

Attorney for The Trump Organization

By: _____

- 2.7. Reimburse and/or indemnify City for losses the City may incur as a result of City contractually committing to purchase or closing upon any Project Area parcels, then the City selling those parcels at a loss if Developer fails to accept conveyance of and pay the purchase price for those parcels or if bond financing is not approved;
- 2.8. Provide additional security as the parties may agree upon to secure the performance of Developer in the form of personal and corporate guarantees, cross collateralization agreements, deeds of trust, certificates of deposit, irrevocable letters of credit, and/or performance and payment bonds;
- 2.9. Cooperate with City to complete the Project, even if clear title to all parcels cannot be timely obtained, if sufficient land area is acquired to enable the Project to be substantially and effectively completed;
- 2.10. Work closely with the City and other agencies to complete the Project;
- 2.11. Use best efforts to seek approval of a PGA Tour event for 2009 and thereafter;
- 2.12. Ensure that the Project has Trump branding.

Nature of this MOU

This is a binding memorandum of understanding in anticipation of the parties entering into a full development agreement and related agreements. The responsibilities listed here are for the purpose of the parties having a mutual understanding of their interests and to facilitate drafting a potential development agreement. The listed responsibilities for the City and any of its agencies are not and cannot be considered contractual with any degree of commitment unless and until they are each approved by the City Council, agency board, and the Mayor, where applicable. It cannot be considered that there is any reasonable likelihood that any of the items listed will be approved or implemented until the complete legal process has occurred, including environmental reviews. There is no pre-commitment here to any use of eminent domain.

City Nonliability

City's obligations under this MOU are contingent upon and limited to appropriated and available funding in each fiscal year. Should sufficient funds not be allocated and available, the activities and services provided for herein may be modified accordingly, or this MOU may be terminated.

Termination of MOU

Until either party hereto has become contractually bound to third parties to perform obligations set out in this MOU, either party may terminate this MOU with 7 days written notice, with or without cause, subject to any obligations then due and owing.

Notice

All notices, requests, determinations, or other correspondence required or allowed by law of this Agreement to be provided by the parties shall be in writing and shall be deemed given 4 days

following deposit in first-class mail postage prepaid (or an equal or better form of delivery) at the following addresses:

City of Fresno
Andrew T. Souza,
City Manager
2600 Fresno Street
Fresno, CA 93721

The Trump Organization
Michael Cohen, Vice President
and Special Counsel
725 Fifth Avenue, 25th Floor
New York, NY 10022

By giving notice, either party may change its address for these purposes.

Capacity of Parties

In pursuit of this MOU the parties shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the other party. Each party shall retain the right to administer this MOU so as to verify that the other party is performing its obligations in accordance with the terms and conditions hereof. Each party shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matters herein.

Assignment and Amendment

No party shall assign, transfer or sub-contract this MOU nor their rights or duties under this MOU without the prior written consent of the other party. The MOU may be modified only by written amendment signed by the authorized agent of each party.

Certification of Authority

The parties acknowledge that each has read and understands the contents of this MOU and is fully authorized to execute it.

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the day and year set out below.

CITY OF FRESNO

THE TRUMP ORGANIZATION

By: _____

By: _____

Name: Andrew T. Souza

Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____