

CITY OF YUBA CITY  
STAFF REPORT

**Date:** October 15, 2019  
**To:** Honorable Mayor & Members of the City Council  
**From:** Public Works Department  
**Presentation by:** Diana Langley, Public Works Director

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**Summary**

**Subject:** Exchange Agreement with the Church of Jesus Christ of Latter-Day Saints for Properties Located on Civic Center Boulevard

**Recommendation:** Authorize the Mayor to execute an Exchange Agreement with the Church of Jesus Christ of Latter-Day Saints for properties located on Civic Center Boulevard (APN's 59-120-001, and a triangular portion of APN 59-010-119)

**Fiscal Impact:** City Property Valuation (APN 59-120-001) - \$80,000  
Church Property Valuation (Triangular Portion) - \$5,857.50  
Valuation Difference - \$74,142.50 to City less closing costs

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**Purpose:**

To exchange properties for the beneficial use of the City and the Church of Jesus Christ of Latter-Day Saints

**Background:**

In June 2019, representatives of the Church of Jesus Christ of Latter-Day Saints (Church) approached staff regarding the City-owned landscaped parcel located at the southwest corner of Butte House Road and Civic Center Boulevard (Attachment 1), identified as APN 59-120-001. The Church is interested in purchasing the property as it is directly adjacent to their property located at 1477 Butte House Road.

The Church hired CBRE of Sacramento to prepare an appraisal, and the property, approximately half acre in size, appraised at \$80,000, based on \$3.75 per square foot. When the Church hired a local surveyor to prepare an ALTA Survey, it was discovered that the Church still owns a triangular strip of land, approximately 1,562 square feet in size, located between the east edge of Civic Center Field and Civic Center Boulevard (Attachment 2).

**Analysis:**

Staff worked with the City Attorney and the Church to prepare the attached Exchange Agreement and Joint Escrow Instructions (Agreement). Key points of the Agreement are as follows:

**City-Owned Property**

- City agrees to sell the property located at the southwest corner of Butte House Road and Civic Center Boulevard to the Church for \$80,000

- Church agrees to recordation of a Construction Covenant against the property that states the Church will commence material construction of its new temple at 1470 Butte House Road within five (5) years from recordation of the Construction Covenant. If the construction does not commence within the five (5) year period, the City will have the option to re-purchase the property for \$80,000.
- Church agrees to a Conservation Easement stating that the Church shall:
  - Preserve, trim and maintain the trees and landscaping in good condition and repair
  - Promptly remove any diseased or dead trees and/or landscaping and replace same at the Church's sole cost and expense
  - Keep the property free from any trash and rubbish
  - Not use or allow the property to be occupied or used by people

**Church-Owned Property**

- Church agrees to sell the sliver of land located between the east edge of Civic Center Field and Civic Center Boulevard to the City for \$3.75 per square foot, which equates to \$5,857.50.

**Inspection Review Period**

- Each party has 60 days from effective date for inspection review.

**Closing Date**

- Closing shall occur within 30 days after expiration of the inspection period but no later than January 30, 2020.

**Fiscal Impact:**

With a City property valuation of \$80,000 and a Church property valuation of \$5,857.50, the net difference to the City is \$74,142.50 less closing costs. The cost for title insurance for the City-owned property, and escrow fees, to be split between both parties, will be deducted from the proceeds.

**Alternatives:**

1. Do not authorize the sale of the City-owned property at the southwest corner of Butte House Road and Civic Center Boulevard to the Church.
2. Do not purchase the triangular portion of the Church's property (APN 59-010-119) located between Civic Center Field and Civic Center Boulevard.
3. Establish different terms for the Exchange Agreement.

**Recommendation:**

Authorize the Mayor to execute an Exchange Agreement with the Church of Jesus Christ of Latter-Day Saints for properties located on Civic Center Boulevard (APN's 59-120-001, and a triangular portion of APN 59-010-119).

**Attachments:**

1. Map – Southwest corner of Butte House Road and Civic Center Boulevard
2. Map – Triangular strip of land located between Civic Center Field & Civic Center Blvd
3. Exchange Agreement and Joint Escrow Instructions

Prepared by:

*/s/ Diana Langley*

Diana Langley  
Public Works Director

Submitted by:

*/s/ Michael Rock*

Michael Rock  
City Manager

Reviewed by:

Finance

RB

City Attorney

SC

# ATTACHMENT 1

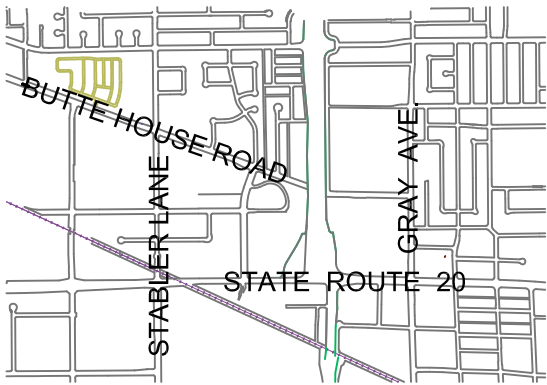
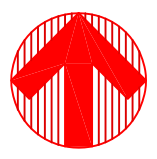
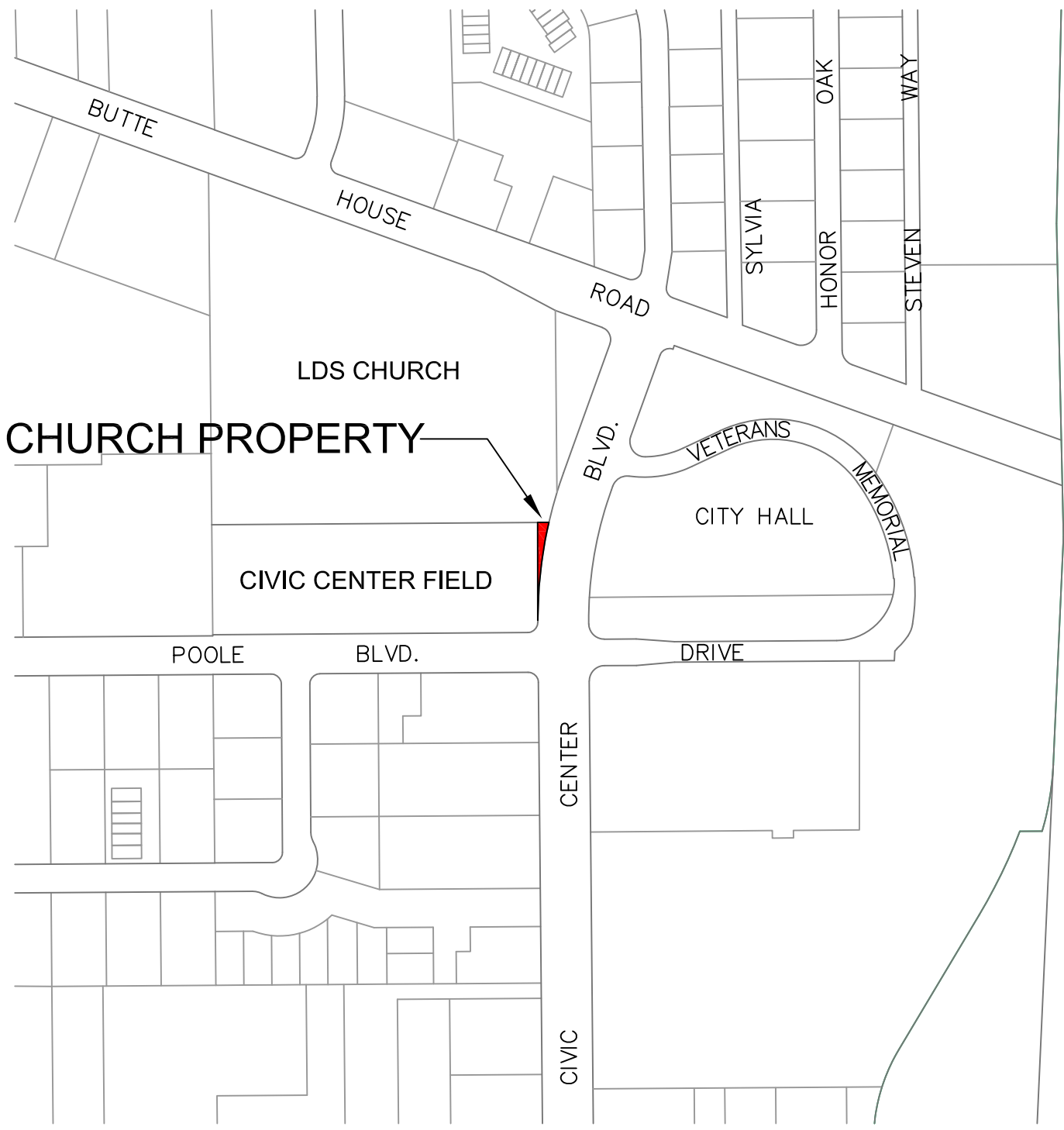
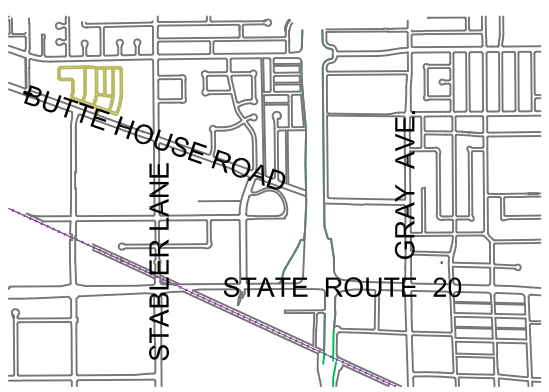


EXHIBIT  
CITY-OWNED PROPERTY  
APN 59-120-001



## ATTACHMENT 2

EXHIBIT  
CHURCH-OWNED PROPERTY  
PORTION OF APN 59-010-119



# ATTACHMENT 3



## EXCHANGE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS EXCHANGE AGREEMENT AND JOINT ESCROW INSTRUCTIONS is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between CITY OF YUBA CITY, a California municipal corporation (“City”), and THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“Church”).

### RECITALS

A. The City owns the triangular shaped parcel of real property consisting of approximately 21,344 square feet located at the southwest corner of Butte House Road and Civic Center Boulevard in the City of Yuba City, Sutter County, State of California (APN 59-120-001), which property is legally described and depicted on **Exhibit A**, together with the landscaping located thereon (“City Property”).

B. The Church owns the improved real property immediately adjacent to the west of the City Property which is commonly identified as 1477 Butte House Road, Yuba City (APN 59-010-120) and legally described and depicted on **Exhibit B** (“Church Property”).

C. City also owns the unimproved real property to the south of the Church Property which is located at the northwestern corner of Poole Blvd and Civic Center Blvd in Yuba City (APN 59-010-119) (“Additional City Property”).

D. Along the southern eastern edge of the Church Property, a very small triangular portion of land is unusable by the Church and cuts into the Additional City Property which triangular piece is legally described on **Exhibit C** and depicted on **Exhibit C-1** (“Triangle Portion”).

E. Upon the covenants, terms, conditions and provisions set forth in this Agreement, the parties desire to transfer (i) the City Property to the Church, and (ii) the Triangle Portion to the City.

### AGREEMENTS

NOW, THEREFORE, in consideration of the promises, covenants, representations and warranties hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and the Church agree as follows:

1. **DEFINITIONS.** All capitalized terms which are not otherwise defined herein shall have the meanings set forth in **Addendum 1**.

2. **EXCHANGE OF PROPERTIES.** The parties agree to exchange the City Property and Triangle Portion (jointly the “Properties”) in AS-IS condition and upon the terms and conditions in this Agreement. For purposes of this Agreement, the Party that is acquiring a Property is hereinafter referred to as the “Acquiring Party,” the transferring Party is referred to as the “Transferring Party” and the respective Property being acquired by the Acquiring Party is referred to as the “Acquisition Property” and the respective Property being conveyed is referred to as the “Transfer Property.” The parties hereby agree that it is a condition to the Closing that each party performs with respect to its respective conveyance of its Transfer Property and acquisition of the respective Acquisition Property, and that one party’s breach with respect to a conveyance of its Transfer Property or the acquisition of the Acquisition Property shall be deemed the failure of a condition precedent to Closing for the benefit of the other party hereto and this Agreement shall terminate at the election of the other party.

**3. VALUATION OF PROPERTIES; ADDITIONAL CONSIDERATION.**

**3.1. Exchange Values of Properties.** The parties agree that the value of the Properties are as follows:

(i) **City Property Valuation.** The City Property has a value of Eighty Thousand Dollars (\$80,000).

(ii) **Triangle Portion Valuation.** The Triangle Portion has a value of Five Thousand Eight Hundred Fifty-Seven Dollars and Fifty Cents Dollars (\$5,857.50).

**3.2. Valuation Difference.** At Closing, the Church owes to the City the sum of Seventy-Four Thousand One Hundred Forty-Two Dollars and Fifty Cents (\$74,142.50) which is the difference in the values of the Properties ("**Valuation Difference**").

**3.3. Additional Consideration.** As additional consideration, the Church agrees that the City Property shall be subject to (i) Construction Obligations set forth in the Grant Deed in the form of **Exhibit D** conveying the City Property to the Church ("**City Property Deed**"); and (ii) the Conservation Easement in the form of **Exhibit E** to be recorded against the City Property at the Closing restricting the City Property ("**Conservation Easement**").

**4. DEPOSIT.**

**4.1 Deposit.** The Church shall deliver the sum equal to One Thousand Dollars (\$1,000) ("**Deposit**") to the Escrow Agent within three (3) Business Days of the Effective Date.

**4.2 Payment at Closing.** The Church shall deposit in Good Funds the Valuation Difference less the Deposit with Escrow Agent on or before the Closing Date.

**4.3 Escrow Agent.** All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Agent with any bank doing business in California and may be disbursed to any other general escrow account or accounts.

**5. INSPECTION REVIEW PERIOD.** During the Inspection Review Period, Acquiring Party shall have the right to inspect the Property and to conduct the Inspection Review as more fully set forth below.

**5.1 Inspection Review.** Commencing upon Opening of Escrow, Transferring Party grants Acquiring Party, its agents and employees, a limited license to enter upon the Acquisition Property for the purpose of conducting engineering surveys, soil tests, investigations or other studies reasonably necessary to evaluate the condition of the Acquisition Property, which studies, surveys, reports, investigations and tests shall be done at Acquiring Party's sole cost and expense.

Prior to entry onto the Acquisition Property, Acquiring Party shall (i) notify Transferring Party the date and purpose of each intended entry together with the names and affiliations of the persons entering the Acquisition Property; (ii) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Acquisition Property during or after such investigation; (iii) comply with all applicable laws and governmental regulations; (iv) allow an employee of Transferring Party to be present at Transferring Party's election; (v) keep the Acquisition Property free and clear of all materialmen's liens, lis pendens and other liens arising out of the entry and work performed under this provision; (vi) maintain or assure maintenance of workers' compensation insurance

(or state approved self-insurance) on all persons entering the Acquisition Property in the amounts required by the State of California; (vii) provide to Transferring Party prior to initial entry a certificate of insurance evidencing that Acquiring Party 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 TWO MILLION DOLLARS (\$2,000,000) which insurance names Transferring Party as additional insured; (viii) return the Acquisition Property to substantially its original condition following Acquiring Party's entry; (ix) provide Transferring Party copies of all third party studies, surveys, reports, investigations and other tests derived in conjunction with this Agreement with the right to use same ("**Reports**"); and (x) to take the Acquisition Property at closing subject to any title exceptions caused by Acquiring Party exercising this right to enter.

Acquiring Party agrees to indemnify, and hold Transferring Party free and harmless from and against any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) which Transferring Party may suffer or incur as a consequence of Acquiring Party's exercise of the license granted pursuant to this Section 5.1 or any act or omission by Acquiring Party, any contractor, subcontractor or material supplier, engineer, architect or other person or entity acting by or under Acquiring Party (except Transferring Party and its agents) with respect to the Acquisition Property, excepting any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) arising from the mere discovery by Acquiring Party of any hazardous materials or conditions, and excepting any claims that arise out of the negligence or misconduct of Transferring Party. Acquiring Party's obligations under this Section shall survive termination of this Agreement for any reason.

The parties agree that breach of any entry or restoration conditions in this Section by a party shall constitute a material breach of this Agreement by that party.

## **5.2 Inspection Materials.**

a. **City to Deliver.** City, at City's expense, on or before the City's Delivery Date, shall deliver or cause to be delivered to the Church the Inspection Materials (listed on **Exhibit F-1**). To City's actual knowledge, none of the information contained in any of the Inspection Materials is false, untrue, or misleading. Further, City agrees to immediately update the Inspection Materials from the Effective Date until Closing upon City's obtaining of any new or additional information or documentation constituting any of the foregoing.

b. **Church to Deliver.** The Church, at the Church's expense, on or before the Church's Delivery Date, shall deliver or cause to be delivered to the City the Inspection Materials (listed on **Exhibit F-2**). To Church's actual knowledge, none of the information contained in any of the Inspection Materials is false, untrue, or misleading. Further, the Church agrees to immediately update the Inspection Materials from the Effective Date until Closing upon the Church's obtaining of any new or additional information or documentation constituting any of the foregoing.

**5.3 Natural Hazard Disclosure Report.** Within three (3) Business days of the Opening of Escrow, Escrow Agent shall cause a commercial natural hazard disclosure report with environmental information to be issued by GeoAssurance ("**NHD Report**") for both Properties to be delivered to the Acquiring Party to review and approved during the Inspection Review Period.

**5.4 Notice of Acceptance of Property Condition and Termination Right.** At any time prior to the expiration of the Inspection Review Period, Acquiring Party shall have the right to approve the condition of the Acquisition Property in its sole and absolute discretion by delivering to the Transfer Party a Notice of Acceptance of Property Condition. If Acquiring Party has not delivered to Transferring Party, a Notice of Acceptance of Property Condition, in the time and manner provided for the giving of notice as set forth in this Agreement, prior to the expiration of the Inspection Review Period, then (a) this Agreement shall be deemed terminated, except for any agreements or covenants that survive termination, and (b) the Deposit less any cancellation charges shall be returned to the Church.

**5.5 Transferring Party's Cooperation.** The Transferring Party shall reasonably cooperate (at no cost, expense, or liability to the Transferring Party) with Acquiring Party and Acquiring Party's consultants, agents, employees, and contractors in connection with Acquiring Party's Inspection Review, including without limitation, in any requests to obtain information about the Transfer Property then in the possession of the Transferring Party or its consultants, agents, employees, and contractors. In addition, the Transferring Party shall aid Acquiring Party in obtaining any reliance letters from Transferring Party's consultants, agents, and representatives.

**5.6 Certificate of Compliance.** With respect to the transfer of the Triangle Portion by the Church to the City, City shall provide a certificate of compliance for the Church Property to be recorded at the Closing after recordation of the Triangle Portion Deed ("**Certificate of Compliance**").

## **6. TITLE REVIEW.**

**6.1. Title Review.** The Title Company shall deliver a current Title Report within five (5) Business Days of the Opening of Escrow to the Acquiring Party for the Acquisition Property. Acquiring Party shall have until the expiration of the Title Objection Period to review the Title Report and provide Title Objections thereto. If Acquiring Party fails to provide any response either (i) accepting all items described or shown on the Title Report, or (ii) indicating its Title Objections within the Title Objection Period, then the condition of title to the Property reflected on the Title Report will be deemed disapproved. If the Title Objections are made within the Title Objection Period, City shall determine, in its sole discretion as to each Title Objection, whether or not the Transferring Party is willing or able to eliminate or obtain affirmative coverage over each of the Title Objections. Within ten (10) days after receipt of Acquiring Party's Title Objections, Transferring Party shall notify Acquiring Party in writing as to those Title Objections that Transferring Party will cause to be cured, eliminated or insured over at the Closing. Notwithstanding the foregoing, Transferring Party shall be obligated to eliminate any deeds of trust, mortgages, judgment liens, mechanics' liens, materialmen's liens and other liens (collectively, "**consensual liens**") recorded against the Property. If: (A) Transferring Party's written notice indicates that Transferring Party is unable or unwilling to eliminate or provide affirmative coverage over any Title Objections (other than consensual liens), upon terms acceptable to Acquiring Party in Acquiring Party's sole discretion, or (B) Transferring Party fails to respond to the Title Objections within the period of time provided above, then Acquiring Party may (i) waive the Title Objections that Transferring Party was unwilling or unable to cure by delivering a Notice of Acceptance of Property Condition, or (ii) Acquiring Party may terminate this Agreement by either delivering a termination notice or failing to deliver a Notice of Acceptance of Property Condition, whereupon the Deposit (less cancellation charges) shall be returned to Acquiring Party, and except as otherwise provided herein, neither Acquiring Party nor Transferring Party shall have any further right, liability, duty or obligation under this Agreement, except for agreements or covenants that specifically survive termination.

**6.2. Amendments to Title Report.** If at any time during the effective period of this Agreement the Title Report is amended, modified or changed, Acquiring Party shall have until the later of (a) the Title Objection Period, or (b) the earlier of (i) ten (10) Business Days after receipt of such

amended Title Report and all documentation referred to therein, or (ii) the Closing Date, in which to review such amendment, modification or change and provide any Title Objections related thereto to Transferring Party. Not more than (5) days after Transferring Party's receipt of any such Title Objections, Transferring Party shall notify Acquiring Party in writing as to those Title Objections that Transferring Party will cause to be cured, eliminated or insured over at the Closing. If Transferring Party's written notice indicates that Transferring Party is unable or unwilling to eliminate or provide affirmative coverage over any such Title Objections to the amended Title Report, upon terms acceptable to Acquiring Party in Acquiring Party's sole discretion, then Acquiring Party within ten (10) Business Days, and notwithstanding Acquiring Party's delivery of any prior Notice of Acceptance of Property Condition, may (1) waive the Title Objections that Transferring Party was unwilling or unable to cure and consummate the Exchange Agreement subject to the other terms and conditions in this Agreement, or (2) Acquiring Party may terminate this Agreement by either giving a termination notice or failing to deliver a Notice of Acceptance of Property Condition, whereupon the Deposit less cancellation charges shall be returned to Acquiring Party, and except as otherwise provided herein, neither Acquiring Party nor Transferring Party shall have any further right, liability, duty or obligation under this Agreement, except for agreements or covenants that specifically survive termination.

**6.3. Title Policies.** At Closing, the Title Company shall issue to the Acquiring Party the Title Policy for the Acquisition Property in the amount of the valuation of the Acquisition Property (as set forth in Section 3.1 subject only to the Permitted Exceptions, to be paid pursuant to Section 7.4.2 ("**Title Policy**"). Acquiring Party may obtain such endorsements as Acquiring Party may reasonably require or desire (to be paid for by the party referenced in Section 7.4.2, except to the extent Transferring Party has agreed to pay for any such endorsements with respect to Transferring Party's curing of any Title Objection). If Acquiring Party desires to obtain an ALTA extended coverage Acquiring Party's title policy, Acquiring Party shall pay the additional cost for the extended coverage. The Title Policy to be delivered to each Acquiring Party are jointly referred to as the "**Title Policies.**"

## **7. CLOSING DELIVERIES; ESCROW INSTRUCTIONS; CLOSING COSTS.**

**7.1. City's Closing Deliveries.** At least two (2) Business Days prior to the Closing, City shall deliver, or cause to be delivered, to Escrow Agent and the Church, as applicable:

- 7.1.1. The City Property Deed fully executed and properly acknowledged by City;
- 7.1.2. The Conservation Easement fully executed and acknowledged by City;
- 7.1.3. If applicable, a General Assignment and Bill of Sale in the form of Exhibit I fully executed by City, evidencing the assignment and transfer of any and all Inspection Materials ("**General Assignment**");
- 7.1.4. A Certificate of Acceptance executed by the City to be attached to the Triangle Portion Deed prior to recordation;
- 7.1.5. A settlement statement signed by City, which is reasonably acceptable to City and accurately reflects the payments, credits, and prorations required herein;
- 7.1.6. Any documents including an owner's certificate as reasonably required by the Title Company as reasonably required;
- 7.1.7. The Certificate of Compliance for the Church Property;

7.1.8. Such other funds, instruments and documents as may be reasonably requested by The Church or Escrow Agent, or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to City's prior approval thereof, which approval shall not be unreasonably withheld, delayed or conditioned).

**7.2. Church's Closing Deliveries.** At least two (2) Business Days prior to the Closing, the Church shall deliver to Escrow Agent:

7.2.1 All funds required to be paid by the Church including, but not limited to, the Valuation Difference less the Deposit and all expenses to be paid by the Church;

7.2.2 The Conservation Easement fully executed and acknowledged by the Church;

7.2.3 The Lot Tie Agreement fully executed and acknowledged by the Church;

7.2.4 The "Acceptance by Grantee" fully executed and acknowledged by the Church to be attached to the City Property Deed prior to recordation;

7.2.5 The grant deed conveying the Triangle Portion in the form attached as Exhibit H fully executed and acknowledged by the Church ("**Triangle Portion Deed**");

7.2.6 A settlement statement signed by the Church, which is reasonably acceptable to the Church and accurately reflects the payments, credits and prorations required herein;

7.2.7 If applicable, the General Assignment fully executed by the Church, evidencing the assignment and transfer of all Inspection Materials; and

7.2.8 Such other funds, instruments and documents as may be reasonably requested by City or Escrow Agent, or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to the Church's prior approval thereof, which approval shall not be unreasonably withheld, delayed or conditioned).

**7.3. Escrow Provisions.**

**7.3.1 Escrow Instructions.** Sections 1 through 4, 6, 7, 8, 11, 14 through 19, 22 through 29, and 31 constitute the escrow instructions to Escrow Agent. If required by Escrow Agent, the Church and City agree to execute Escrow Agent'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 Agent, but about which Escrow Agent need not be concerned. The Church and City will receive Escrow Agent's general provisions directly from Escrow Agent and will execute such provision upon Escrow Agent'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 Agent only. The Church and City agree to execute additional instructions, documents and forms provide by Escrow Agent that are reasonably necessary to close Escrow.

**7.3.2 General Escrow Provisions.** Escrow Agent shall deliver the Title Policy for the Acquisition Property to the Acquiring Party and instruct the Sutter County Recorder to mail (i) the City

Property Deed and the Certificate of Compliance to the Church; and (ii) the Lot Tie Agreement, the Conservation Easement, and the Triangle Portion Deed to the City, at the applicable address for said party as set forth in Section 15 after recordation.

**7.3.3 Termination and Cancellation of Escrow.** If Escrow fails to close as provided in this Agreement, either party may elect to cancel this Escrow upon written notice to the other party and Escrow Agent. Upon cancellation, Escrow Agent is instructed to return all funds and documents then in Escrow to the respective depositor of the same with Escrow Agent. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights the Church or City may have against each other arising from the Escrow or this Agreement.

**7.3.4 Information Report.** Escrow Agent shall file and the Church and City agree to cooperate with Escrow Agent 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 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. The Church and City also agree that the Church and City, their respective employees and attorneys, and Escrow Agent 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 the Church nor City shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

**7.3.5 No Withholding as Foreign City.** The Transferring Party represents and warrants to the Acquiring Party that the Transferring Party is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 and that it will deliver to Acquiring Party on or before the Close of Escrow a non-foreign affidavit on Escrow Agent's standard form pursuant to Internal Revenue Code Section 1445(b)(2) (“**FIRPTA Affidavit**”).

**7.3.6 Prorations and Closing Costs.**

**7.3.6.1 Attorney's Fees.** Except as expressly set forth in this Agreement, each party must bear its own costs (including attorneys' fees) in connection with its negotiation, due diligence investigation and conduct of this transaction.

**7.3.6.2 Title Costs.** At Closing, the Transferring Party shall pay the premium for a standard ALTA non-extended owner's title policy (“**Standard Coverage**”) insuring the Transfer Property in the amount of the valuation of the respective Property as set forth in Section 3.1. The Acquiring Party will be responsible for the cost of any extended coverage in an amount equal to the difference between the extended coverage and the Standard Coverage, and any endorsements, to the extent the Transferring Party does not agree to purchase such endorsements in order to cure any title defects.

**7.3.6.3 Recording Fees.** Recording fees for the City Property Deed and the Certificate of Compliance shall be paid by the Church. Recording fees for (i) the Triangle Deed, (ii) the Lot Tie Agreement and (iii) the Conservation Easement shall be the responsibility of City which, as a governmental entity, is exempt from recording fees.

**7.3.6.4 Escrow Fees.** Escrow fees shall be split equally between the parties.

**7.3.6.5 Real Estate Taxes.** As City is exempt from real estate taxes, no proration of such taxes shall be made for the City Property. Real estate taxes for the Triangle Parcel shall be prorated to the Closing.

**7.3.6.6 NHD Reports.** The Transferring Party shall be responsible for the cost of the NHD Report for the Transfer Property.

**7.3.6.7 Utility Charges.** All municipal charges or utilities shall be prorated to the parties as of the Closing Date for the respective Properties. The Transferring Party shall provide a summary of any utility charges to the Acquiring Party with a copy to Escrow at least five (5) days prior to the Closing Date.

**7.3.6.8 Documentary Transfer Taxes.** City shall pay documentary transfer taxes for the transfer of the City Property. The transfer by the Church of the Triangle Portion is exempt under R&T Code 11922.

**7.3.6.9 Other Charges.** All other closing costs shall be allocated between parties in the manner customary for commercial real estate transactions in the metropolitan area or city in which the Properties are located.

**7.4. Possession.** The Acquiring Party shall be entitled to possession of the Acquisition Property on the Closing Date.

**7.5. Authority of City Manager.** City designates its City Manager or his designee, in his sole and exclusive discretion on behalf of the City, shall have the authority to approve written requests for extending any deadline under this Agreement. All extensions shall be in writing and executed by the City Manager or his designee.

## **8. CONDITIONS PRECEDENT AND CONTINGENCIES TO THE CLOSING.**

**8.1 Conditions Precedent to Church's Obligations.** The Church's obligation to close, fund, and consummate the exchange transaction is specifically conditioned and contingent on the fulfillment, satisfaction, and/or completion of all of the following:

- a. City's delivery of each of the items described in Section 7.2 above.
- b. The Title Company commits to issue the Title Policies pursuant to Section 6.
- c. City's delivery of the City Property Deed for recordation at the Closing.
- d. City's delivery of a Certificate of Compliance ("COC") for the Church Property as existing after the conveyance of the Triangle Portion which COC shall be recorded at the Closing.
- e. City's satisfaction of all other obligations of City described in this Agreement.



- f. The parties agreeing on other agreements that will be assigned and/or terminated at Closing and then negotiating the terms of any assignment or termination agreement necessary to effectuate such.
- g. City is not in breach of its obligations under this Agreement.

The conditions set forth in this Section 8.1 are for the benefit of the Church, and the Church may waive any or all of the conditions and proceed to Closing

**8.2 Conditions Precedent to City's Obligations.** City's obligation to close and consummate the exchange transaction is specifically conditioned and contingent on the fulfillment, satisfaction, and/or completion of all of the following:

- a. The Church's delivery of the Valuation Difference (less the Deposit) as provided in Section 3 of this Agreement.
- b. The Church's delivery of all documents required in Section 7.1 including the Triangle Portion Deed, the Lot Tie Agreement and the Construction Covenant for recordation at Closing.
- c. The Title Company commits to issue the Title Policies pursuant to Section 6.
- d. The Church's satisfaction of all other obligations of the Church described in this Agreement.
- e. The Church is not in default under this Agreement.

The conditions set forth in this Section 8.2 are for the benefit of City, and City may waive any or all of the conditions and proceed to Closing.

## **9. REPRESENTATIONS, WARRANTIES AND COVENANTS.**

**9.1. Representations and Warranties.** Each Transferring Party, to the best of knowledge of the Transferring Party, as of the Effective Date and as of the Closing, represents and warrants to the Acquiring Party each of the following.

- a. **Authority and/or Capacity.** Transferring Party is duly formed, validly existing and authorized to do business under the laws of the State of California.
- b. **Binding Agreement.** Upon Transferring Party's execution of this Agreement, this Agreement shall be binding and enforceable against Transferring Party in accordance with its terms, and upon Transferring Party's execution of the additional documents contemplated by this Agreement, such additional documents shall be binding and enforceable against Transferring Party in accordance with their terms.
- c. **Good and Marketable Title.** Transferring Party has good, marketable, and insurable sole, fee simple, record title to the Transfer Property.
- d. **Encumbrances.** The Transfer Property is not currently encumbered by any mortgages or leases and no third party is in possession or has the right to possession of same.

- e. **No Condemnation.** Transferring Party has not received any written notice of condemnation or eminent domain proceedings with respect to the Transfer Property, and no condemnation or eminent domain proceedings or negotiations have been commenced or threatened in connection with the Transfer Property.
- f. **No Litigation or Investigation.** There are no actions, suits, proceedings or investigations, at law or in equity, or before any governmental agency, courts, tribunals, panels, or similar adjunctive bodies pending or threatened, affecting or involving the Transfer Property or any portion thereof.
- g. **Hazardous Materials.**
  - i. Except as expressly set forth in any of the Inspection Materials or otherwise disclosed in the NHD Report, to Transferring Party's knowledge, (i) there are no Hazardous Materials in, on, over, under or around the Transfer Property, (ii) there are no wells, underground storage tanks, covered surface impoundments or other potential sources of Hazards Materials on the Transfer Property, (iii) there has been no storage, use, manufacture, generation, distribution, refinement, production, transportation, disposal, treatment or release of any Hazardous Materials in, on, over, under or around the Transfer Property, and (iv) all previous owners of the Transfer Property, have complied with all Environmental Laws with respect to the Transfer Property.
  - ii. From the Effective Date through the Close of Escrow, the Transferring Party shall not cause or permit the presence, storage, use, manufacture, generation, distribution, refinement, production, transportation, disposal, treatment or release of any Hazardous Materials in, on, over, under or around the Transfer Property.
  - iii. Except as expressly set forth in any of the Inspection Materials, to Transferring Party's knowledge without any investigation, there are no Hazardous Materials on, under, or in any neighboring or adjacent properties which, through soil or groundwater migration, or through any other transfer, seepage, or leakage, could have moved to (or could be currently moving to) the Transfer Property.
- h. **Inspection Materials.** Transferring Party has delivered or will deliver within the time period described in Section 5.2, to the Acquiring Party copies of all Inspection Materials of any kind in Transferring Party's (or its agents') possession. Except as disclosed in the Inspection Materials, Transferring Party has not entered into, and has no knowledge of, any other contracts, leases, or other agreements of any kind (whether written or oral) with respect to the Transfer Property or any portion(s) thereof. In addition, as of the Closing, Transferring Party has delivered to the Acquiring Party any and all updated information and documentation of any kind related to the Inspection Materials (i) that have been received by Transferring Party during the effective period of this Agreement, or (ii) of which Transferring Party has received notice during the effective period of this Agreement.
- i. **No Defaults.** Transferring Party is not in default under any contracts or agreements of any kind related to the Transfer Property which contracts or agreements will survive the Closing.
- j. **Utilities.** Not applicable.

- k. **Current Compliance.** To the Transferring Party's knowledge, the Transfer Property is currently in compliance with all applicable federal, state, and local laws, codes, statutes, ordinances, rules, and regulations.
- l. **Floodplain/Endangered Species.** Transferring Party has no knowledge of any endangered species, wetland, protective plant life, geophysical feature or attribute or other physical attribute of the Transfer Property that may prohibit or limit the development thereof. The Transfer Property is not within the 100-year flood plain.

All representations and warranties by Transferring Party set forth in this Agreement shall survive for a period of one (1) year following the Closing.

**9.2. Covenants.** Commencing on the Effective Date, Transferring Party shall:

- a. Not enter into any contracts, leases, or agreements related in any way to the Transfer Property which would survive the Closing;
- b. Not cause, permit, or allow any encumbrance or lien to be placed on the Transfer Property, or any document or agreement to be recorded against the Transfer Property which would survive the Closing; and
- c. Maintain the Transfer Property in the state as of the Effective Date.

**10. RISK OF LOSS.** The risk of loss with respect to the Transfer Property will be upon Transferring Party until the Close of Escrow.

**11. BROKERS.** Each party represents and warrants to the other party that they have not dealt with any other broker or finder in connection with this Agreement or the Exchange Transaction. Each party indemnifies the other against, and agree to hold the other harmless from, any claim, demand or suit for any brokerage or real estate commission, finder's fee or similar fee or charge with respect to this Agreement or the Exchange Transaction based on any act by or agreement or contract with the indemnifying party asserted by anyone, and for all losses, obligations, costs, expenses and fees (including reasonable attorneys' fees) incurred by the other party on account of or arising from any such claim, demand or suit.

**12. REMEDIES.**

**13.1 Non Defaulting Party's Remedies.** In the event of a Default by a party, the non-defaulting party shall give defaulting party written notice of such default and thereafter defaulting party shall have ten (10) Business Days to cure such default (or such longer period if such is reasonably necessary in order to cure the default, not to exceed thirty (30) days, and then only if non-defaulting party commences such cure within the initial ten (10) Business Day period and thereafter diligently pursues the cure to completion). In the event that the non-defaulting party fails to cure a Default within the cure period, the non-defaulting party may, as its remedies for such Default: (i) waive the effect of such Default and proceed to consummate this Agreement; (ii) cancel this Agreement in accordance with Section 13 below; (iii) bring an action for specific performance of this Agreement; and/or (iv) seek and obtain any other remedy at law or in equity. The non-defaulting party's rights and remedies set forth in this Section 12 shall be cumulative and the pursuit or obtaining of any one remedy does not preclude the pursuit or obtaining of any other remedy.

**13. TERMINATION.** If the Church or City elects to terminate this Agreement pursuant to a right granted herein, the terminating party shall give written notice of the termination to the other party and Escrow Agent. Upon termination by notice as set forth in the preceding sentence, or upon an automatic termination in accordance with the terms of the Agreement, Escrow Agent shall disburse the Deposit less cancellation charges and return all documents deposited in the Escrow to the party who supplied the documents. Upon delivery of money and documents, this Agreement and the Escrow will be deemed terminated, and except as expressly provided in this Agreement, neither party will have any further liability or obligation under this Agreement. Upon termination of the Agreement because of a default by a party, the provisions of Section 12 shall apply and the defaulting party shall be liable for and shall pay any escrow termination fees or costs.

**14. ATTORNEYS' FEES.** If there is any litigation between the parties to enforce or interpret any provisions or rights under this Agreement, the unsuccessful party in such litigation, as determined by the court, shall pay to the successful party, as determined by the court, all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the successful party, such fees to be determined by the court sitting without a jury.

**15. NOTICES.** Except as otherwise required by law, any notice, demand or request given in connection with this Agreement shall be in writing and shall be given by (i) personal delivery, (ii) overnight courier service, or (iii) certified US mail, return receipt requested, postage or other delivery charge prepaid. In all events, notice shall only be deemed given if properly addressed to City or the Church, as applicable. Such notices will be deemed properly addressed if the following addresses (or at such other address as City or the Church or the person receiving copies may designate in writing given in accordance with this Section) are used:

City: City of Yuba  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Attn: Michael Rock, City Manager  
Email: [mrock@yubacity.net](mailto:mrock@yubacity.net)

With a copy to: Aleshire & Wynder, LLP  
2125 Kern Street, Suite 307  
Fresno, CA 93721  
Attn: Shannon Chaffin, City Attorney  
Email: [schaffin@awattorneys.com](mailto:schaffin@awattorneys.com)

Church: The Church of Jesus Christ of Latter-day Saints  
50 East North Temple, 10<sup>th</sup> Floor  
Salt Lake City, UT 84150  
Attn: Director, Special Purpose Real Estate  
Email: [nate.pugsley@Churchofjesuschrist.org](mailto:nate.pugsley@Churchofjesuschrist.org)

With a copy to: Kirton McConkie  
50 East South Temple, Suite 400  
Salt Lake City, UT 84111  
Attn: Rob Walker  
Email: [rwalker@kmclaw.com](mailto:rwalker@kmclaw.com)

Escrow Agent:

Old Republic National Title Insurance Company  
898 North 1200 West, Suite 101  
Orem, UT 84057  
Attn: Hillary Morgan  
Email: [hmorgan@oldrepublictitle.com](mailto:hmorgan@oldrepublictitle.com)

Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery; on the date of delivery to the overnight courier service, if such a service is used; and on the date of deposit in the mail, if mailed. Notice shall be deemed to have been received on the date on which the notice is either actually received or delivery is refused. Copies of all notices given to City or the Church shall be given to Escrow Agent; provided, however, any omission on the part of either party to provide a copy of the applicable notice to Escrow Agent shall not affect the effectiveness of the notice if properly provided to the other parties as described above.

**16. ADDITIONAL ACTS.** The parties agree to promptly execute and deliver such other documents and perform such other acts as may be reasonably necessary to carry out the purposes and intent of this Agreement.

**17. GOVERNING LAW; JURISDICTION.** To the fullest extent possible, this Agreement shall be governed by, and construed and enforced in accordance with, the laws of California, without regard to any conflicts of law issues. Jurisdiction for any actions shall be in Sutter County.

**18. BUSINESS DAYS.** If this Agreement requires any act to be done or action to be taken on a date which is not a Business Day, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding Business Day after such date.

**19. WAIVER.** The waiver by any party hereto of any right granted to it hereunder shall not be deemed to be a waiver of any other right granted hereunder, nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.

**20. SURVIVAL.** Only where specifically so provided herein shall any of the covenants, agreements, representations, and warranties set forth in this Agreement survive the Closing. All indemnity provisions shall survive termination of this Agreement for any reason and shall survive the Closing. Any such matters that survive Closing pursuant to the terms of this Agreement shall be subject to any time limitations set forth herein and shall not merge into the deed conveying the Transfer Property, assignment or other instrument executed or delivered pursuant hereto.

**21. COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same document and agreement. A copy, facsimile or email transmission of any part of this Agreement, including the signature page, shall have the same force and effect as an original.

**22. ASSIGNMENT.** The Church shall have the right to assign, transfer or convey any of its rights and interests under this Agreement to an affiliate, subsidiary, or parent company of the Church provided (i) such assignee is also then the owner of the Church Property; (ii) the assignment and assumption agreement is in a form acceptable to the City; and (iii) an executed copy of same is delivered to the Escrow Holder and City. Notwithstanding the assignment, the Church shall not be relieved of liability under this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

23. **ENTIRE AGREEMENT; AMENDMENT.** This Agreement sets forth the entire understanding of the parties with respect to the matters set forth herein as of the date hereof, and supersedes all prior oral and written agreements, discussions and understandings of the parties hereto as to the matters set forth herein, and cannot be altered or amended except pursuant to an instrument in writing signed by both the Church and City.

24. **CONSTRUCTION.** This Agreement is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. City and the Church hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

25. **INTERPRETATION.** If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intentions as expressed in this Agreement, which shall be deemed to prevail and control.

26. **HEADINGS.** The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

27. **NO THIRD-PARTY BENEFICIARY.** No term or provision of this Agreement or the Exhibits hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, partnership, company, corporation or other entity that not a party hereto (including, without limitation, any broker), and no such other person, firm, partnership, company, corporation or other entity shall have any right or cause of action hereunder.

28. **SEVERABILITY.** If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof so long as removing the severed portion does not materially alter the overall intent of this Agreement.

29. **TIME OF ESSENCE.** City and the Church hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof and that failure to timely perform any of the conditions, obligations, or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable by the non-defaulting party) default under this Agreement by the party so failing to perform.

30. **NON-COLLUSION.** No official, officer, or employee of the City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of the City 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. City 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, and City official, officer, or employee, any money, consideration, or other thing of value as a

result or consequence of obtaining or being awarded this Agreement. City 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 City official, officer, or employee, as a result or consequence of obtaining or being awarded any agreement. City 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.

**Church's Initials:** \_\_\_\_\_

**31. EXHIBITS.** The exhibits and addendums summarized below are attached hereto and incorporated herein by reference.

|                    |                                                      |
|--------------------|------------------------------------------------------|
| <b>Addendum</b>    | Definitions                                          |
| <b>Exhibit A</b>   | Legal Description & Depiction of City Property       |
| <b>Exhibit B</b>   | Legal Description & Depiction of Church Property     |
| <b>Exhibit C</b>   | Legal Description & Depiction of Triangle Portion    |
| <b>Exhibit D</b>   | City Property Deed with Construction Covenant        |
| <b>Exhibit E</b>   | Conservation Easement                                |
| <b>Exhibit F-1</b> | Summary of Inspection Materials from City            |
| <b>Exhibit F-2</b> | Summary of Inspection Materials from Church          |
| <b>Exhibit G-1</b> | Notice of Acceptance of Property Condition by City   |
| <b>Exhibit G-2</b> | Notice of Acceptance of Property Condition by Church |
| <b>Exhibit H</b>   | Triangle Portion Deed                                |
| <b>Exhibit I</b>   | General Assignment & Bill of Sale                    |

**[SIGNATURES ON FOLLOWING PAGE]**

**REMINDER NOTE: Parties must initial Sections 12.2 and 30, as applicable.**

IN WITNESS WHEREOF, City and the Church have executed this Agreement as of the Effective Date.

**CITY:**

CITY OF YUBA CITY,  
a California municipal corporation

By: \_\_\_\_\_  
Shon Harris, Mayor

**CHURCH:**

THE CHURCH OF JESUS CHRIST OF LATTER-  
DAY SAINTS, a Utah corporation sole,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Authorized Agent

**ATTEST:**

\_\_\_\_\_  
Patricia Buckland, City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Shannon Chaffin, City Attorney



**ESCROW AGENT ACCEPTANCE**

This Exchange Agreement (“**Agreement**”), and the Deposit, are received and accepted and the Escrow is opened this \_\_\_\_ day of \_\_\_\_\_, 2019. Escrow Agent hereby agrees to act as the Escrow Agent as defined in the Agreement and to perform its duties in accordance with the provisions of the Agreement. Further, Escrow Agent agrees to act as “the person responsible for closing” the Exchange Transaction within the meaning of Section 6045(a) of the Internal Revenue Code of 1986, as amended, and to file all forms and returns required thereby.

ESCROW AGENT:     Old Republic National Title Insurance Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## ADDENDUM 1

### DEFINITIONS

- 1.1 Acquiring Party** - The Party that is acquiring a Property.
- 1.2 Acquisition Property** - The respective Property being acquired by the Acquiring Party from the Transferring Party.
- 1.3 Additional City Property** – The parcel of real property (described in Recital C) which is to the south of the Church Property.
- 1.4 Agreement** – This Exchange Agreement, including all exhibits and schedules attached hereto.
- 1.5 Business Day** – A day other than a Saturday, Sunday or day on which banking institutions in California are authorized or required by law to be closed.
- 1.6 Church’s Delivery Date** – Five (5) Business Days after the Opening of Escrow.
- 1.7 Church Property** – The Church Property (as defined in Recital A) which is owned by the Church as of the Effective Date.
- 1.8 City’s Delivery Date** – Five (5) Business Days after the Opening of Escrow.
- 1.9 City Property** - The City Property (as defined in Recital A), together with (i) all landscaping and other improvements, if any, related thereto; (ii) City’s right, title and interest as the property owner in any land lying in any street, road or avenue in front of or adjoining, such City Property but excluding all easements and other rights held by City as a governmental agency; (iii) the water, oil, gas, sand, gravel, and mineral rights of any kind whatsoever related or appurtenant to such City Property, if any, which may be described in the Title Report; and (iv) the Inspection Materials.
- 1.10 City Property Deed** – A grant deed for the City Property in form attached as **Exhibit D** conveying the title of the Property from City to The Church which includes the Construction Covenant.
- 1.11 Closing or Close of Escrow** - The consummation of the Exchange Transaction, as evidenced by: (i) satisfaction of all conditions to closing set forth herein; (ii) recording of the City Property Deed, the Lot Tie Agreement, the Conservation Easement, the Triangle Portion Deed and the Certificate of Compliance, in **that** order; and (iii) the delivery to, and distribution by, Escrow Agent of all required funds and documents.
- 1.12 Closing Date** – On or before the date that is thirty (30) days after the expiration of the Inspection Review Periods but, in no event, later than January 31, 2020.
- 1.13 Conservation Easement** – The Grant of Conservation Easement in the form attached hereto as **Exhibit E**.
- 1.14 Construction Covenant.** The Church’s commitment to commence construction of the new temple on the Church Property within five (5) years from the Closing or City has the option to repurchase the Property. The Construction Covenant is set forth in the City Property Deed.
- 1.15 Default** – Any default by a party of its agreements, covenants, representations, warranties or obligations under this Agreement.
- 1.16 Deposit** – The Deposit which is to be delivered by the Church to Escrow Agent pursuant to **Section 3.2**.
- 1.17 Effective Date** – The date of this Agreement is executed by City after approval by the City Council of the City of Yuba at a public hearing.

**1.18 Environmental Laws** – Any and all federal, state, local, or municipal environmental law, act, edict, directive, decree, rule, statute, ordinance, or regulation, including without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et. seq., (ii) the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 5101, et. seq., (iii) the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et. seq., (iv) the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et. seq., (v) the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et. seq., and (vi) state or local environmental laws, and (vii) any regulations related to any of the foregoing.

**1.19 Escrow** – The escrow created with the Escrow Agent pursuant to this Agreement.

**1.20 Escrow Agent** – Old Republic National Title Insurance Company; Attn: Hillary Morgan; 898 North 1200 West, Suite 101, Orem, UT 84057; telephone number: (801) 753-7711; email: [hmorgan@oldrepublictitle.com](mailto:hmorgan@oldrepublictitle.com).

**1.21 Exchange Transaction** – The exchange transaction contemplated by this Agreement.

**1.22 Good Funds** - A wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California.

**1.23 Hazardous Materials** – Any (a) hazardous, harmful, or toxic waste, substance, material, or product (including, without limitation, any and all petroleum based products) as presently defined by or under any Environmental Laws, or (b) other substance, material, or product prohibited, limited, or regulated by or under any such Environmental Laws.

**1.24 Inspection Materials** –The materials, writings, documents, leases, contracts, agreements, correspondence, notices, memorandums, letters, surveys, title reports, title commitments, plans, plats, reports, studies, and other information described in Section 5.2 and specifically listed on Exhibits F-1 & F-2.

**1.25 Inspection Review** – The right of the Acquiring Party to conduct, review, and approve any investigations, inspections, tests, reports, analyses, studies, or other matters deemed necessary, prudent, or desirable by Acquiring Party (in the Acquiring Party's sole discretion) to determine (i) the condition and/or fitness of the Acquisition Property, and (ii) the feasibility and/or desirability of acquiring the Acquisition Property.

**1.26 Inspection Review Period** – The period of time from the Effective Date through the date that is sixty (60) days after the Effective Date (or the next Business Day if such date lands on a weekend or holiday).

**1.27 Local Authorities** – Any and all governmental and other entities, agencies, and/or authorities with jurisdiction of any kind over all or any portion of the Properties. Any one of the Local Authorities may be referred to herein as a “**Local Authority**.”

**1.28 Lot Tie Agreement** -- A lot tie agreement between the Church Property and the City Property in a form acceptable to City as the City which is to be recorded at the Closing.

**1.29 Notice of Acceptance of Property Condition** – A written notice delivered from the Acquiring Party to the Transferring Party set forth in Section 5.3 of this Agreement stating the Acquiring Party's intent to purchase the Acquisition Property in accordance with the terms and conditions of this Agreement. The form of such notices is attached hereto as Exhibits G-1 & G-2.

**1.30 Opening of Escrow** – The date of delivery to and acceptance by Escrow Agent of a fully executed original of this Agreement together with Deposit and Escrow Agent executes the “Escrow Agent Acceptance” form following the signature page(s) of this Agreement.

**1.31 Permitted Exceptions** – All taxes and assessments against the Acquisition Property which are not yet due and payable as of the Closing Date, all other matters affecting title to the

Acquisition Property contained in the applicable Title Report or shown on the Survey to the extent such matters are accepted by the Acquiring Party pursuant to the provisions of Section 6.1 of this Agreement and any exception caused by the Acquiring Party's entry onto the Acquisition Property. At Closing, the City Property shall also be subject to the Conservation Easement and Lot Tie Agreement.

**1.32 Properties** – Both parcels of Property being exchanged under this Agreement.

**1.33 Property** – The City Parcel and the Triangle Portion which are being exchanged under this Agreement

**1.34 Survey** – An ALTA survey of the City Property, prepared at the Church's request and sole cost and expense which shall be certified to the Church by an experienced surveyor who is licensed in California.

**1.35 Title Company** – Old Republic Title Insurance Company.

**1.36 Title Objections** – The Acquiring Party's objections to any easements, liens, encumbrances, survey items, or other exceptions or matters in the Title Report and/or the Survey for the Acquisition Property. Any one of the Title Objections may be referred to individually as a "**Title Objection.**"

**1.37 Title Objection Period** – Same as the Inspection Review Period.

**1.38 Title Policy** – An ALTA non-extended owner's policy of title insurance (or, in the Acquiring Party's discretion, the Acquiring Party may elect to obtain an extended owner's policy of title insurance) for the Acquisition Property in the amount of the applicable valuation set forth in Section 3.1, insuring the Acquiring Party as the fee owner of the Acquisition Property, subject only to the Permitted Exceptions. The costs of the Title Policy shall be allocated between the parties as set forth in Section 7.4.2.

**1.39 Title Report** – A preliminary report for each Acquisition Property issued by the Title Company together with links to legible copies of all instruments or documents referred to in such preliminary report with a plotting of any easements.

**1.40 Transfer Property** – The Property owned by the Transferring Party which is being transferred under this Agreement to the Acquiring Party.

**1.41 Transferring Party** – The Property owned by the party as of the Effective Date which is being transferred to the Acquiring Party.

**1.42 Triangle Portion** – The portion of the Church Property along the southeastern edge described in Recital D, together with (i) all landscaping and other improvements, if any, related thereto; (ii) Church's right, title and interest as the property owner in any land lying in any street, road or avenue in front of or adjoining thereto; (iii) the water, oil, gas, sand, gravel, and mineral rights of any kind whatsoever related or appurtenant to such property, if any, which may be described in the Title Report; and (iv) the Inspection Materials.

**1.43 Valuation** – The amount described in Section 3 as the agreed value of each Property.

**1.44 Valuation Difference** – The difference in the Valuations of the Properties which amount is to be paid by the Church to City at Closing.

**EXHIBIT A**

**LEGAL DESCRIPTION & DEPICTION OF THE CITY PROPERTY**

That certain real property in the City of Yuma, County of Sutter, State of California legally described as:

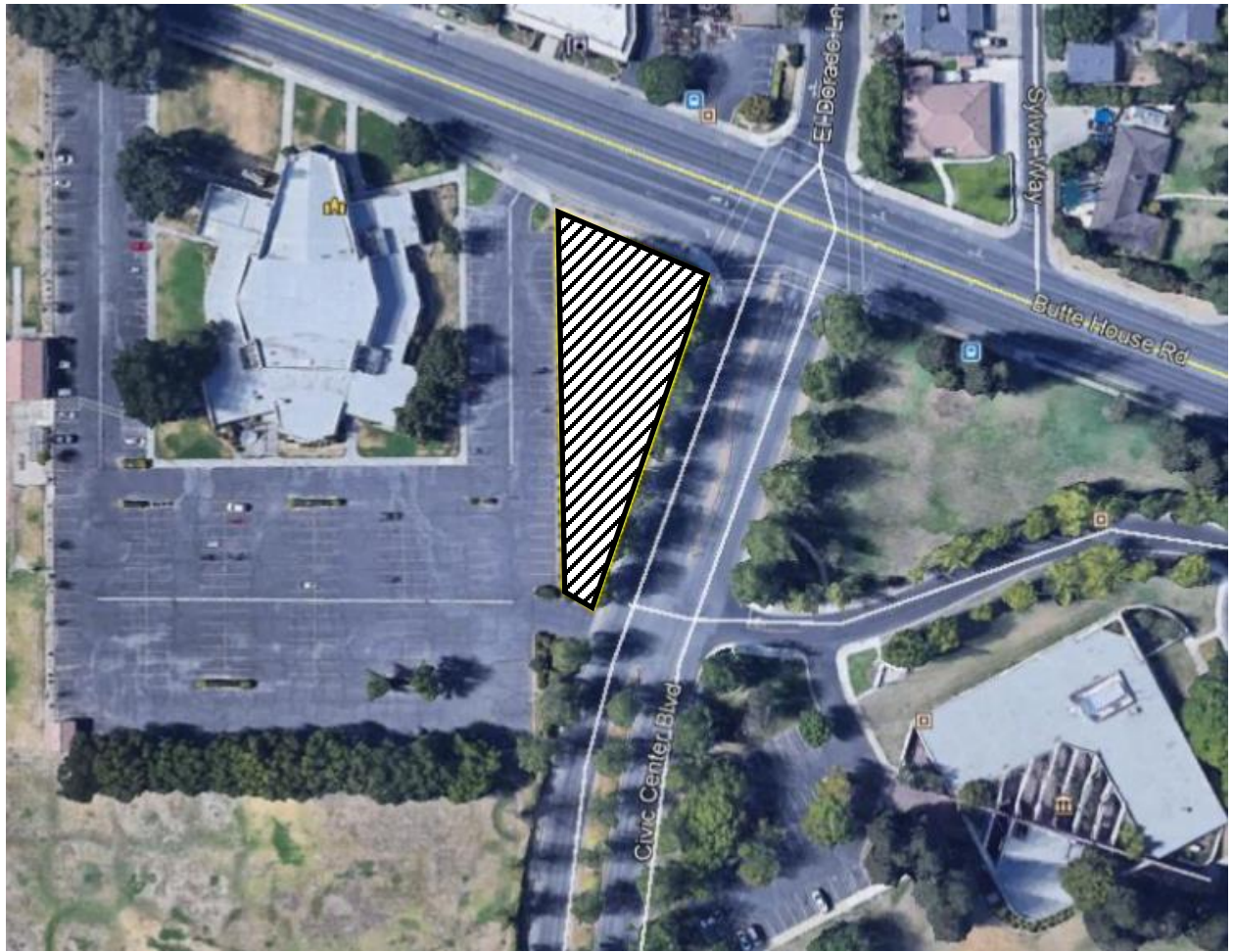
All that certain real property situate in County of Sutter, State of California, being a portion of Section 16, Township 15 North, Range 3 East, M.D.M., in Sutter County, California being a portion of Parcel 1 as shown on Parcel Map no. 269 filed in book 2 of Parcel Maps, page 19, Sutter County Records more particularly described as follows:

**Commencing** at a point on the west line of Parcel 1 as shown on said Parcel Map no. 269, said point being North 00° 31' 05" West a distance of 216 feet from the right of way of Poole Boulevard and also being the northwest corner of the parcel deeded to the City of Yuba City as described in Document No. 2008-0020057, Sutter County Records; thence along the north line of said deeded parcel, North 89° 36' 09 East a distance of 640.00 feet to the northeast corner of said deeded parcel and the **Point of Beginning** of herein described parcel; thence from said point of beginning along the projection of the north line of said deeded parcel North 89° 36' 09 East a distance of 23.52 feet to the west line of Civic Center Boulevard per book 918 page 532 of Sutter County Official Record ; thence along said west line of Civic Center Boulevard and the arc of a non-tangent curve, having a radius of 850.00 feet, and chord bearing of S06°19'46"W, through a central angle of 13°19'49" a distance of 197.76 feet to the east line of the parcel deed to the City of Yuba City as described in Document No. 2008-0020057, Sutter County Records; thence leaving said curve and west line, along said east line, North 00° 31' 05" West a distance of 195.96 feet more or less to the **Point of Beginning**. Containing 1,549 square feet more or less.

The Basis of Bearings for this description is the same as shown on Parcel Map no. 269 filed in Book 2 of Parcel Maps at Page 19, Sutter County Records.

**END OF DESCRIPTION**





## EXHIBIT B

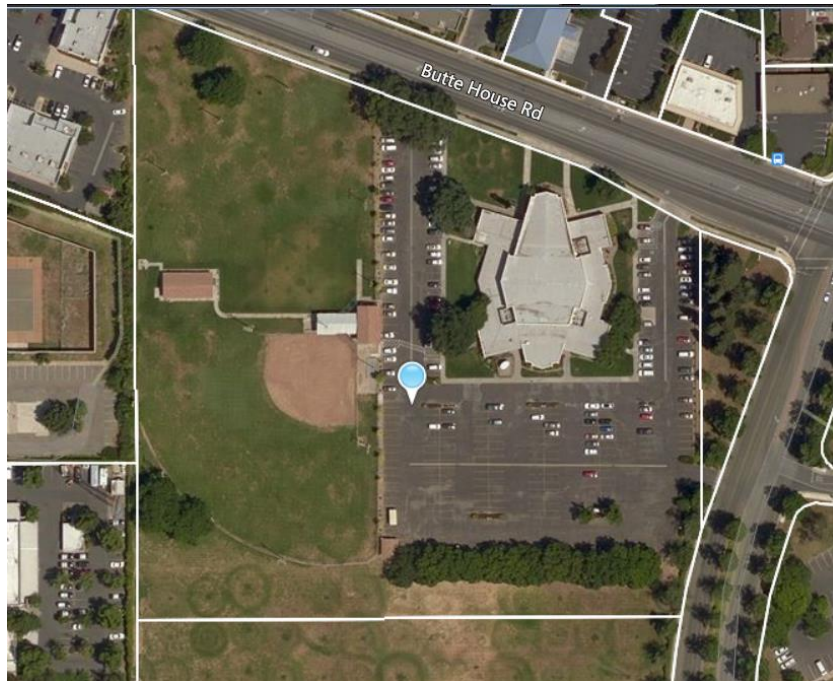
### **LEGAL DESCRIPTION & DEPICTION OF THE CHURCH PROPERTY**

That certain real property in the City of Yuma, County of Sutter, State of California legally described as:

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF SUTTER, STATE OF CALIFORNIA, BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 15 NORTH, RANGE 3 EAST, AND A PORTION OF PARCEL 1 OF PARCEL MAP NO. 269, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SUTTER COUNTY, CALIFORNIA ON FEBRUARY 4, 1976, IN BOOK 2 OF PARCEL MAPS, PAGE 19, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF POOLE BOULEVARD AND THE WESTERLY PROPERTY LINE OF SAID PARCEL 1; THENCE NORTH  $0^{\circ} 31' 05''$  WEST ALONG THE WESTERLY PROPERTY LINE OF PARCEL 1, 216.00' TO A POINT; THENCE NORTH  $89^{\circ} 36' 09''$  EAST ALONG A LINE PARALLEL TO THE SOUTHERLY BOUNDARY LINE OF PARCEL 1, 640.00' TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CIVIC CENTER BOULEVARD THIS RIGHT OF WAY LINE BEING 40' OFFSET WESTERLY OF THE EASTERLY PROPERTY LINE OF PARCEL 1; THENCE SOUTH  $0^{\circ} 31' 05''$  EAST ALONG THE WESTERLY RIGHT OF WAY LINE OF CIVIC CENTER BOULEVARD, 195.96' TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST WITH A RADIUS OF 20.00 FEET; AND AN ARC DISTANCE OF 31.46' TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF POOLE BOULEVARD; THENCE SOUTH  $89^{\circ} 36' 09''$  WEST ALONG THE NORTHERLY RIGHT OF WAY OF POOLE BOULEVARD A DISTANCE OF 619.95' TO THE POINT OF BEGINNING.

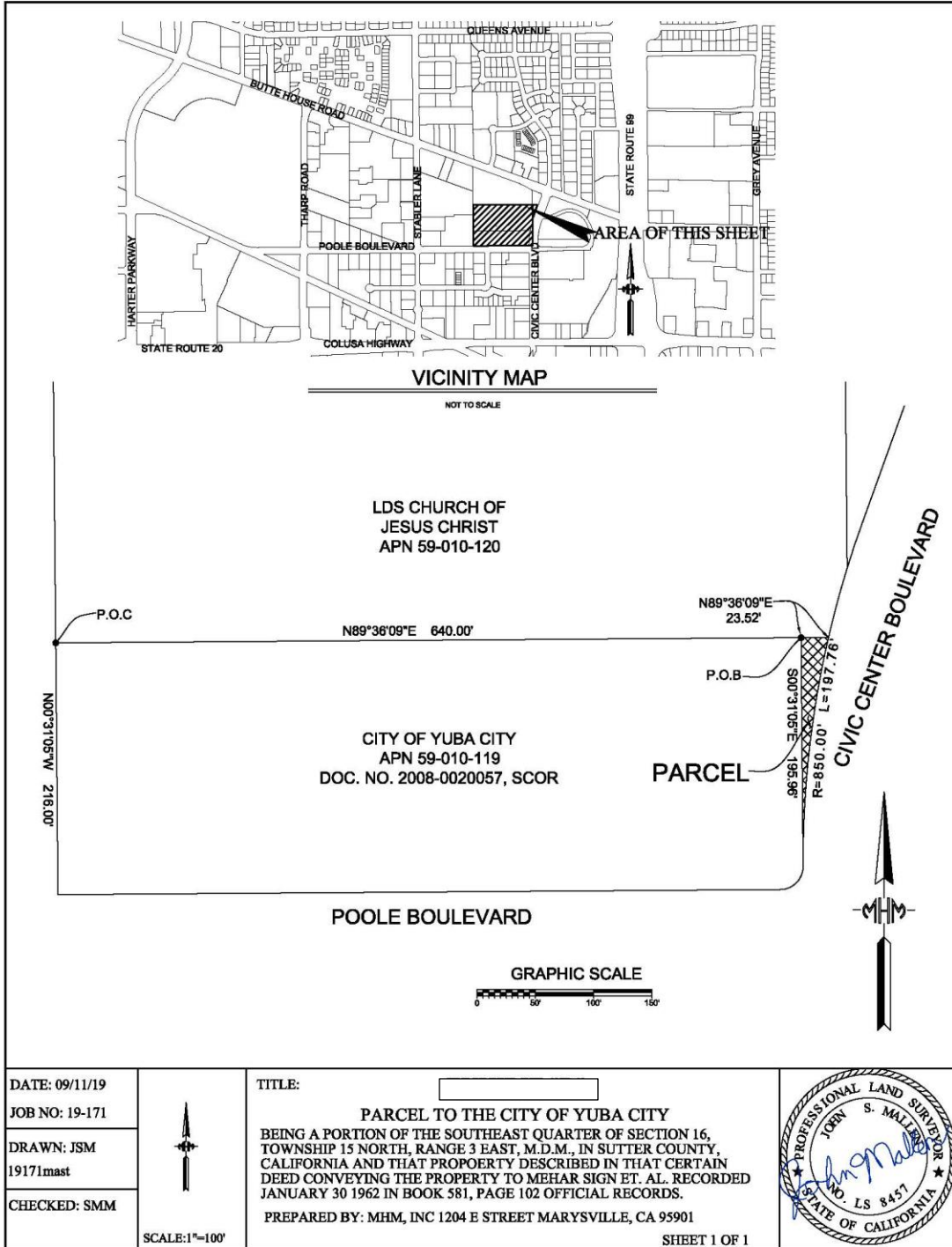
PORTION APN: 59-010-026



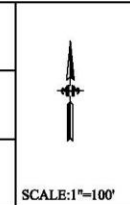
**EXHIBIT C**

**LEGAL DESCRIPTION & DEPICTION OF TRIANGLE PORTION**

That certain real property in the City of Yuma, County of Sutter, State of California legally described as:



DATE: 09/11/19  
 JOB NO: 19-171  
 DRAWN: JSM  
 19171mast  
 CHECKED: SMM



TITLE:   
**PARCEL TO THE CITY OF YUBA CITY**  
 BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 16,  
 TOWNSHIP 15 NORTH, RANGE 3 EAST, M.D.M., IN SUTTER COUNTY,  
 CALIFORNIA AND THAT PROPOERTY DESCRIBED IN THAT CERTAIN  
 DEED CONVEYING THE PROPERTY TO MEHAR SIGN ET. AL. RECORDED  
 JANUARY 30 1962 IN BOOK 581, PAGE 102 OFFICIAL RECORDS.  
 PREPARED BY: MHM, INC 1204 E STREET MARYSVILLE, CA 95901





**EXHIBIT D**

**CITY PROPERTY DEED WITH CONSTRUCTION COVENANT**

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

The Church of Jesus Christ of Latter-day Saints  
50 East North Temple, 10<sup>th</sup> Floor  
Salt Lake City, UT 84150  
Attn: Nate Pugsley

APN. 59-120-001  
THE UNDERSIGNED GRANTOR DECLARES that the  
documentary transfer tax (computer on full value) is  
\$ \_\_\_\_\_

(Space Above This Line for Recorder's Office Use Only)  
(Exempt from Recording Fee per Gov. Code §6103)

**GRANT DEED**  
**(With Option to Repurchase)**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged and subject to the covenants set forth below the CITY OF YUBA CITY, a municipal corporation (“Grantor”) grants to THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“Grantee”), all of its rights, title, and interest in that certain real property in the City of Yuba City, County of Sutter, State of California, as more particularly described in Exhibit A attached hereto and incorporated by this reference (“Property”) **BUT EXCLUDING** all existing rights of way and utility easements for municipal purposes in the adjacent streets known as Civic Center Boulevard and Butte House Road..

In additional to the payment of the purchase price to Grantor and as additional material consideration for this conveyance to Grantee, Grantee covenants for itself and any successors in interest for the benefit of Grantor, as follows:

**1. CONSTRUCTION COVENANT.**

**1.1. Construction Covenant.** Grantee covenants and agrees to commence material construction of its new temple on that certain City Property located adjacent to the Property which is commonly known as 1470 Butte House Road (APN 59-010-120) and legally described on Exhibit B (“Adjacent Property”) within five (5) years from recordation of this Grant Deed (“Covenant Term”).

**1.2. Termination Provisions.** Upon satisfaction of the Construction Covenant defined in Section 1.1 and Grantee’s written request, Grantor shall execute, acknowledge and record a document to release the Development Covenant (including the Option to Purchase below) from the public record (“Release”).

**2. RE-PURCHASE OPTION.** If Grantee is in default of the Construction Covenant and prior to the recordation of the Release (defined in Section 1.2), Grantor shall have the option to buy back the Property (“Option”) from Grantee for the amount established as the valuation of the Property which was agreed to in the Exchange Agreement and Escrow Instructions between Grantor and Grantee pursuant to which this Grant Deed was executed and recorded, by delivering written notice to Grantee (“Option Purchase Price”). Upon Grantor’s exercise of the Option, Grantee shall promptly cooperate with

opening escrow to facilitate the transfer of the Property to Grantor for the Option Purchase Price which will include standard provisions and allocation of costs pursuant to standard practice in Sutter County but shall specifically include issuance of an ALTA non-extended owners title policy insuring Grantor in the amount of the Option Purchase Price and subject to only those exceptions which exist at the date this Deed is recorded in the Official Records of Sutter County. At closing, Grantor shall have the right to take possession of the Property free of any claims or rights of possession.

3. **NOTICE.** Except as otherwise required by law, any notice, demand or request given in connection with this Deed shall be in writing and shall be given by (i) personal delivery, (ii) overnight courier service, or (iii) certified US mail, return receipt requested, postage or other delivery charge prepaid. In all events, notice shall only be deemed given if properly addressed to Grantor or Grantee, as applicable. Such notices will be deemed properly addressed if the following addresses (or at such other address as Grantor or Grantee or the person receiving copies may designate in writing given in accordance with this Section) are used:

Grantor: City of Yuba  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Attn: Michael Rock, City Manager

With a copy to: Aleshire & Wynder, LLP  
2125 Kern Street, Suite 307  
Fresno, CA 93721  
Attn: Shannon Chaffin, City Attorney

Grantee: The Church of Jesus Christ of Latter-day Saints  
50 East North Temple, 10<sup>th</sup> Floor  
Salt Lake City, UT 84150  
Attn: Director, Special Purpose Real Estate

With a copy to: Kirton McConkie  
50 East South Temple, Suite 400  
Salt Lake City, UT 84111  
Attn: Rob Walker

Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery; on the date of delivery to the overnight courier service, if such a service is used; and on the date of deposit in the mail, if mailed. Notice shall be deemed to have been received on the date on which the notice is actually received or delivery is refused. Copies of all notices given to Grantor or Grantee shall be given to Escrow Agent; provided, however, any omission on the part of either party to provide a copy of the applicable notice to Escrow Agent shall not affect the effectiveness of the notice if properly provided to the other parties as described above.

4. **CALIFORNIA LAW.** The Covenants contained in this Grant Deed shall be construed in accordance with the laws of the State of California.
5. **INTERPRETATION.** If an ambiguity or question of intent or interpretation arises, then the terms of this Grant Deed, including but not limited to, the Covenants, shall be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party to this Grant Deed, including but not limited to, the Covenants, by virtue of the authorship of any of the provisions of this Grant Deed.

6. **SEVERABILITY.** If any provision of this Grant Deed or portion thereof, or the application to any person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, the remainder of the covenants contained in this Grant Deed, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby.
7. **ATTORNEY'S FEES.** In the event any action or suit is brought by a party hereto against another party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other party arising out of this Grant Deed, then in that event the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees, expert witness fees, accounting and engineering fees, and any other professional fees resulting therefrom.

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

**GRANTOR:**

CITY OF YUBA CITY,  
a California municipal corporation

By: \_\_\_\_\_  
Shon Harris, Mayor

Dated: \_\_\_\_\_, 20\_\_

**ATTEST:**

\_\_\_\_\_  
Patricia Buckland, City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Shannon Chaffin, City Attorney

**ACCEPTANCE BY GRANTEE**

By its acceptance of this Grant Deed, Grantee hereby agrees as follows:

1. Grantee expressly understands and agrees that the terms of this Grant Deed shall be deemed to be covenants running with the land and shall apply to all of the Grantee's successors and assigns.
2. The provisions of this Grant Deed are hereby approved and accepted.

Dated: \_\_\_\_\_, 20\_\_

**GRANTOR:**

THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole,

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

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

Its: Authorized Agent

**Exhibit A**

**Legal Description of the Property**

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

**Exhibit B**

**Legal Description of the Adjacent Property**

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

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF SUTTER, STATE OF CALIFORNIA, BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 15 NORTH, RANGE 3 EAST, AND A PORTION OF PARCEL 1 OF PARCEL MAP NO. 269, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SUTTER COUNTY, CALIFORNIA ON FEBRUARY 4, 1976, IN BOOK 2 OF PARCEL MAPS, PAGE 19, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF POOLE BOULEVARD AND THE WESTERLY PROPERTY LINE OF SAID PARCEL 1; THENCE NORTH  $0^{\circ} 31' 05''$  WEST ALONG THE WESTERLY PROPERTY LINE OF PARCEL 1, 216.00' TO A POINT; THENCE NORTH  $89^{\circ} 36' 09''$  EAST ALONG A LINE PARALLEL TO THE SOUTHERLY BOUNDARY LINE OF PARCEL 1, 640.00' TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF CIVIC CENTER BOULEVARD THIS RIGHT OF WAY LINE BEING 40' OFFSET WESTERLY OF THE EASTERLY PROPERTY LINE OF PARCEL 1; THENCE SOUTH  $0^{\circ} 31' 05''$  EAST ALONG THE WESTERLY RIGHT OF WAY LINE OF CIVIC CENTER BOULEVARD, 195.96' TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST WITH A RADIUS OF 20.00 FEET; AND AN ARC DISTANCE OF 31.46' TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF POOLE BOULEVARD; THENCE SOUTH  $89^{\circ} 36' 09''$  WEST ALONG THE NORTHERLY RIGHT OF WAY OF POOLE BOULEVARD A DISTANCE OF 619.95' TO THE POINT OF BEGINNING.

PORTION APN: 59-010-026



**EXHIBIT E**

**CONSERVATION EASEMENT**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

Yuba City  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Attn: Michael Rock, City Manager

APN: 59-120-001

Exempt from recording fees under Govt. Code 6103

**GRANT OF CONSERVATION EASEMENT  
(California Civil Code Section 815 et seq)**

THIS GRANT OF CONSERVATION EASEMENT ("**Agreement**") is made this \_\_\_\_\_, 20\_\_, by THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole ("**Grantors**") in favor of YUBA CITY, a municipal corporation ("**Grantee**").

**RECITALS:**

- A. Grantors own in fee that certain City Property more particularly described in Exhibit A ("**Property**").
- B. Grantor acquired the Property from Grantee pursuant to a purchase and sale agreement which specifically required that, as material consideration for the sale of the Property to Grantee, that Grantee would execute this Agreement to preserve the Property as natural and forested condition in perpetuity.

NOW THEREFORE, for valuable consideration, Grantors grants a conservation easement in accordance with Civil Code Section 815 et seq. as follows:

1. **Effective Date.** This Agreement shall be effective as of the day it is recorded in the Official Records of Sutter County, California ("**Effective Date**").
2. **Conservation Easement.** As of the Effective Date, Grantor irrevocably grants and conveys a conservation easement in accordance with Civil Code Section 851, et seq. to Grantee in perpetuity in gross to protect natural and forested area over, under and across the Property ("**Conservation Easement**").
3. **Grantors' Duties.** At all times Grantor shall (i) preserve, trim and maintain the trees and landscaping in good condition and repair; (ii) promptly remove any diseased or dead trees and/or landscaping and replace same at Grantor's sole cost and expense; (iii) keep the Property free from any trash and rubbish; and (iv) not use or allow the Property to be occupied or used by people. Grantor may add more trees or landscaping and to subsequently remove such additional trees or landscaping without Grantee's consent. Provided Grantor obtains all applicable permits, complies in all applicable laws and ordinances and obtains Grantee's prior written approval specifically



referencing this Conservation Easement, Grantor may, at its sole cost and expense, fence or otherwise protect the Property to prevent any third parties from entering or damaging the Property. Grantor shall promptly pay prior to delinquency all City Property taxes or assessments applicable to the Property.

4. **Grantee's Right of Entry.** Grantee shall have the right (but not the duty) to inspect, protect, or otherwise prevent or mitigate a violation of the Conservation Easement from time to time.
5. **Grantors' Representations.** As of the Effective Date, Grantor represents and warrants to Grantee that (i) it owns the Property, and (ii) has the authority to execute and deliver this Agreement which shall be binding on the Property without the consent of any third party.
6. **Benefit and Burden.** This Agreement and the Conservation Easement shall run with and burden the Property. All obligations, terms, conditions, and restrictions imposed by this Agreement shall be deemed covenants and restrictions running with the land, shall be limitations on the use of the Property, and shall bind the Grantor and its successors and assigns.
7. **Enforcement.** The Conservation Easement may be enforced as provided in Civil Section 815.7.
8. **Amendment.** No modification or amendment to this Agreement shall be valid unless made in writing executed by Grantors and Grantee and recorded in the Official Records of Sutter County.
9. **Assignment.** Grantee may assign the Conservation Easement in whole or in part to any other entity or organization authorized to acquire or hold conservation easements under Civil Code Section 815.3.
10. **Notice.** Any notice, demand or request given in connection this Agreement shall be in writing and shall be given by (i) personal delivery, (ii) overnight courier service, or (iii) certified US mail, return receipt requested, postage or other delivery charge prepaid. In all events, notice shall only be deemed given if properly addressed to Grantor or Grantee, as applicable. Such notices will be deemed properly addressed if the following addresses (or at such other address as Grantor or Grantee or the person receiving copies may designate in writing given in accordance with this Section) are used:

Grantee: City of Yuba City  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Attn: Michael Rock, City Manager

With a copy to: Aleshire & Wynder, LLP  
2125 Kern Street, Suite 307  
Fresno, CA 93721  
Attn: Shannon Chaffin, City Attorney

Grantor: The Church of Jesus Christ of Latter-day Saints  
50 East North Temple, 10<sup>th</sup> Floor  
Salt Lake City, UT 84150  
Attn: Nate Pugsley

With a copy to: Kirton McConkie  
50 East South Temple, Suite 400  
Salt Lake City, UT 84111  
Attn: Rob Walker

11. **Entire Agreement.** This Agreement together with the exhibits hereto, each of which are incorporated herein by this reference, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements with respect to the Conservation Easement.
12. **Miscellaneous.** This offer shall be governed by the laws of the State of California. In the event of a dispute under this Agreement, the prevailing party shall be entitled to recover their attorney's fees and costs.

IN WITNESS WHEREOF, Grantors have executed this Agreement to be effective as of the date it is recorded in the Public Records.

**GRANTOR:**

THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole

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

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

Its: Authorized Agent

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the City of Yuba City (“**City**”) accepts the conservation easement set forth in the GRANT OF CONSERVATION EASEMENT dated \_\_\_\_\_, 20\_\_ (“**Agreement**”) executed by THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole in favor of the City.

DATED: \_\_\_\_\_, 20\_\_

CITY OF YUBA CITY, a municipal corporation

By: \_\_\_\_\_  
Public Works Director Diana Langley

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

That certain real property in the City of Yuba City, County of Sutter, State of California described as follows:

STATE OF UTAH )

:ss

COUNTY OF SALT LAKE )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared before me \_\_\_\_\_, personally known to me to be an Authorized Agent of THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, who acknowledged before me that he signed the foregoing instrument as Authorized Agent for THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, and that the seal impressed on the within instrument is the seal of said corporation; and that said instrument is the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said corporation and that said corporation executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the State of Utah

**EXHIBIT F-1**

**SUMMARY OF INSPECTION MATERIALS FROM CITY**

**NONE**

**EXHIBIT F-2**

**SUMMARY OF INSPECTION MATERIALS FROM CHURCH**

**ALTA survey  
No other materials.**

**EXHIBIT G-1**

**CHURCH'S NOTICE OF ACCEPTANCE OF PROPERTY CONDITION**

\_\_\_\_\_, 2019

City of Yuba  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Attn: Michael Rock, City Manager

**RE: NOTICE OF ACCEPTANCE OF PROPERTY CONDITION  
APN. 59-120-001 ("Property")**

Dear Mr. Rock:

The Church of Jesus Christ of Latter-day Saints ("**Church**") hereby notifies the City of Yuba, a municipal corporation ("**City**"), of its approval of the condition of the Property and its intent to proceed to closing pursuant to Section 5.4 of that certain Exchange Agreement and Joint Escrow Instructions dated as of \_\_\_\_\_, 2019 between the City and the Church.

Very truly yours,

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS,  
a Utah corporation sole

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

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

Title: Authorized Agent



**EXHIBIT G-2**

**CITY'S NOTICE OF ACCEPTANCE OF PROPERTY CONDITION**

\_\_\_\_\_, 2019

The Church of Jesus Christ of Latter-day Saints  
50 East North Temple, 10<sup>th</sup> Floor  
Salt Lake City, UT 84150  
Attn: Director, Special Purpose Real Estate

**RE: NOTICE OF ACCEPTANCE OF PROPERTY CONDITION**  
**Portion of APN. \_\_\_\_\_ (“Triangle Portion”)**

Dear \_\_\_\_\_:

The City of Yuba City (“**City**”) hereby notifies The Church of Jesus Christ of Latter-day Saints (“**Church**”), of its approval of the condition of the Triangle Portion and its intent to proceed to closing pursuant to Section 5.4 of that certain Exchange Agreement and Joint Escrow Instructions dated as of \_\_\_\_\_, 2019 between the City and the Church (“**Exchange Agreement**”). The Triangle Portion is defined in the Exchange Agreement.

Very truly yours,

CITY OF YUBA CITY, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: City Manager

**EXHIBIT H**

**TRIANGLE PORTION DEED**

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

City of Yuba City  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Attn: Michael Rock, City Manager

APN.  
THE UNDERSIGNED GRANTOR DECLARES that the  
transaction is exempt under Govt Code 11922

(Space Above This Line for Recorder's Office Use Only)  
(Exempt from Recording Fee per Gov. Code §6103)

**GRANT DEED**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole ("**Grantor**"), grants to the CITY OF YUBA CITY, a municipal corporation ("**Grantee**"), all of its rights, title, and interest in that certain real property in the City of Yuba City, County of Sutter, State of California, as more particularly described in Exhibit A attached hereto and incorporated by this reference ("**Property**").

Subject to easements, rights, rights of way, reservations, conditions, restrictions, covenants, taxes and assessments of record or enforceable in law or equity.

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

**GRANTOR:**

THE CHURCH OF JESUS CHRIST OF LATTER-  
DAY SAINTS, a Utah corporation sole,

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

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

Its: Authorized Agent

**Exhibit A**

**Legal Description of the Property**

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

**Exhibit B**

**Legal Description of the Adjacent Property**

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

STATE OF UTAH )

:ss

COUNTY OF SALT LAKE )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, personally known to me to be an Authorized Agent of THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, who acknowledged before me that he signed the foregoing instrument as Authorized Agent for THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, and that the seal impressed on the within instrument is the seal of said corporation; and that said instrument is the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said corporation and that said corporation executed the same.

WITNESS my hand and official seal.

---

Notary Public for the State of Utah

**EXHIBIT I**  
**GENERAL ASSIGNMENT AND BILL OF SALE**

THIS GENERAL ASSIGNMENT AND BILL OF SALE (“**Assignment**”) is entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between CITY OF YUBA CITY, a California municipal corporation (“**Assignor**”), and THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“**Assignee**”).

**RECITALS**

A. Assignor presently owns the City Property described in Exhibit A, attached hereto and incorporated herein by this reference, and any and all improvements and personal property located thereon (“**Property**”).

B. Pursuant to that certain Exchange Agreement and Joint Escrow Instructions, dated as of \_\_\_\_\_, 20\_\_\_, between Assignor and Assignee (as may have been amended from time to time, the “**Agreement**”), Assignor is, simultaneously with the execution of this Assignment, transferring to Assignee all of its right, title, and interest in the Property (“**Property Transfer**”) under the terms and conditions more fully set forth in the Agreement.

C. In connection with the Property Transfer, Assignor desires to assign, transfer, give and convey to Assignee, and Assignee desires to acquire from Assignor, any of Assignor’s interest, in and to the following described rights, interests and property relating to the Property which Assignor holds as the Church of the Property but not as a governmental entity.

**AGREEMENTS**

FOR VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee each hereby agree as follows:

1. **Effective Date.** This Assignment shall be effective concurrently with the recordation of the City Property Deed conveying the Property to Assignee.

2. **Bill of Sale.** Assignor hereby transfers, grants, assigns, and conveys to Assignee all of Assignor’s right, title and interest in and to all personal property relating to the Property as specifically listed on Exhibit 1 attached hereto (collectively, the “**Personal Property**”). Assignor hereby warrants full and complete ownership of and good title to, the Personal Property transferred herein, the right to sell the same and that there are no liens, encumbrances or charges thereon or against the same and to defend the title and possession transferred to the Assignee against all lawful or unlawful claims.

3. **Assignment.** Assignor assigns, transfers, sets over, and conveys to Assignee, the Inspection Materials as listed on Exhibit 2 attached hereto.

4. **Binding Effect.** This Assignment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

5. **Construction; Definitions.** This Assignment shall be construed according to California law. Capitalized terms used and not otherwise defined herein shall have the meanings given to such terms in the Agreement.

**6. Counterparts.** This Assignment may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date.

**ASSIGNOR:**

CITY OF YUBA CITY,  
a California municipal corporation

By: \_\_\_\_\_  
Shon Harris, Mayor

ATTEST:

\_\_\_\_\_  
Patricia Buckland, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Shannon Chaffin, City Attorney

**ASSIGNEE:**

THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation sole,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Authorized Agent