AGREEMENT FOR PURCHASE AND SALE OF A PG&E EASEMENT AND ESCROW INSTRUCTIONS

Almy Avenue and Roy Avenue Street Widening
APN 329-162-01
City Project Number: PW00694

Dolphas Trotter, Darsene Holly, Wardell Trotter and Michael Trotter, hereinafter called the "Grantor," without regard to number or gender, hereby offers to sell to the CITY OF FRESNO, a municipal corporation, hereinafter called the "City," the hereinafter described street easement on the following terms and conditions:

1. The street easement which is the subject of this Agreement, and which is hereinafter for convenience referred to as the "subject property," being a street easement approximately 101 square feet in size and is located within Assessor's Parcel Numbers 329-162-01 which is situated in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

Exhibit "A" and "B" relative to a permanent street easements, hereto attached and reference made a part of hereof

2. The purchase price for the subject property shall be the sum of FOUR HUNDRED DOLLARS ($400.00) as just compensation for the street easement.

3. Sellers acknowledge that the City has the power to acquire the subject properties for public purposes by eminent domain. If title does not pass to the City within the time provided by this Agreement, the City may begin eminent domain proceedings to acquire such possession or title. The parties agree and stipulate that the net sum payable to Sellers hereunder shall be conclusively deemed to be the total just compensation payable in such proceedings, and this Agreement may be filed with the court as stipulation upon which judgment may be entered in the eminent domain proceeding as to the just compensation to be paid to Sellers. Sellers waive all other defenses in said proceeding.

4. It is understood and agreed by and between the parties hereto that the street easement in Exhibit "A" and depicted on Exhibit "B", is a permanent easement and right of way for public street purposes.

5. It is agreed and confirmed by the City and Seller(s) that, notwithstanding other provisions of this Agreement, the right of possession and use of the subject property by the City, including the right to remove and dispose of improvements within the permanent street easement, shall commence on July 31, 2015, or close of escrow controlling this transaction, whichever occurs first, and the amount shown in Paragraph 2 above includes, but is not limited to, full payment for such possession and use , including damages, if any, from said date.

6. Seller represents and warrants that it has the authority to make the offer herein made, and that it holds fee title to said real property.

7. The sale shall be acquired by the City of Fresno which shall handle the transaction via an internal escrow.

a. The City shall pay the Grantor(s) the sums due directly by check.

b. The escrow fee, cost of policy of title insurance, recording fees (if any), and all other closing costs shall be paid by the City.

c. Disbursements of the purchase price shall be in accordance with the terms and conditions of this Agreement.

8. Miscellaneous Provisions:

a. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provision of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

b. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement any rights and duties hereunder shall be in Fresno, California.

c. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

d. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability or any one provision in this Agreement shall not affect the other provisions.

e. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

f. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

g. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment.

h. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

i. Exhibits and Attachments. Each Exhibit and Attachment referenced herein is by such reference incorporated into and made a part of this Agreement for all purposes.

j. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both the City and the Sellers.

9. Time is of the essence of each and every term, condition, and covenant hereof.

10. It is understood and agreed that as a condition precedent hereto, this Agreement shall have no force and effect until approved or otherwise authorized by the Council for the City of Fresno. This Agreement is to remain open for one hundred and twenty (120 days) from the date hereof, and that upon its duly authorized execution within said time by the City, this Agreement shall become a contract for the purchase and sale of subject property binding upon Sellers and City, their heirs, executors, administrators, successors in interest, and assigns.

11. Environmental Indemnity Seller shall indemnify, hold harmless, and defend the Buyer, its officers, agents, employees, and volunteers from any liability, loss, fines, penalties, forfeitures, claims, expenses, and costs, whether incurred by the Seller, Buyer, or any other third party, arising directly or indirectly from the release, presence or disposal of any hazardous substances or materials (as now or hereafter defined in any law, regulation, or rule) in, on, or about the Property on or before Closing. This indemnity shall include, without limitation, any claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), or any other federal, state or local law whether statutory or common law, ordinance, or regulation. Costs or losses covered will include, without limitation, consultants, engineering, investigator fees, clean up or disposal costs and attorneys' fees, and damages. Upon written notice from the Buyer, the Seller, at Seller's sole cost and expense, shall immediately assume the defense of any claims, suit or action brought against the City by any public body, individual, partnership, corporation or other legal entity, relating to any matter covered by this paragraph. Seller's obligations under this indemnity shall survive the close of escrow and the recording of the grant deed.

SIGNATURE PAGE TO FOLLOW

SIGNATURE PAGE

This Agreement is executed by the City of Fresno by and through the Assistant Public Works Director or his designee of said City pursuant to authority granted by the Council of the City of Fresno on November 10, 2014 Resolution No. 2014-176

RECOMMENDED FOR APPROVAL

BY Cathy Rodriguez
Cathy Rodriguez
Senior Real Estate Agent
Date 7/14/15

BY Craig L Hansen
Craig L. Hansen
Supervising Real Estate Agent
Date July 14, 2015

CITY OF FRESNO

Andrew J. Benelli, Assistant Director
for Department of Public Works

Address of City:
City of Fresno
Public Works Department
2600 Fresno Street, Room4019
Fresno, CA 93721-3623

SELLERS:

BY: _____
Dolphas Trotter, deceased
Date _____

BY: _____
Darsene Holly, deceased
Date _____

BY: _____
Wardell Trotter
Date

BY: _____
Michael Trotter
Date 6/25/2015

Address of Sellers:

2470 Pico Avenue
Clovis, CA 937611

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By Cindy Bruer 9/11/15
Deputy

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By _____ 9.4.15
RAJ SINGH BADHESHA, Deputy

APN 329-162-01