AGREEMENT FOR PURCHASE AND SALE OF A STREET EASEMENT AND ESCROW INSTRUCTIONS
3388 West Clinton Avenue - APN: 442-071-10
Clinton Avenue and Valentine Avenue Improvements
City Project No.: PW00678

The JOSE HUERTA, hereinafter called the "Seller(s)," without regard to number or gender, hereby offers to sell to the CITY OF FRESNO, a municipal corporation, hereinafter called the "Buyer," the hereinafter described street easement on the following terms and conditions:

1. The real property which is the subject of this Agreement is situated in the City of Fresno, County of Fresno, State of California, hereinafter referred to as the "Subject Property," being a street easement approximately 1,311 square feet in size contained within Assessor's Parcel Number 442-071-10 and which is more particularly described as:

Exhibits "A" and "B" relative to a permanent street easement and by reference made a part of hereof.

2. The total purchase price for the subject property, including any cost to cure damages shall be the sum of **THIRTY FIVE THOUSAND FOUR HUNDRED AND 00/100 ($35,400.00)** as just compensation for this property.

3. Seller(s) acknowledge that the Buyer has the power to acquire the subject property for public purposes by eminent domain. If title does not pass to the Buyer within the time provided by this Agreement, the Buyer may begin eminent domain proceedings to acquire such possession or title. The parties agree and stipulate that the net sum payable to Seller(s) 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 Seller(s). Seller(s) waive all other defenses in said proceeding.

4. It is understood and agreed by and between the parties hereto that the easement described on 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 Buyer and Seller(s) that, notwithstanding other provisions of this Agreement, the right of possession and use of the subject properties by the Buyer, including the right to remove and dispose of improvements within the permanent street easement, shall commence on April 26, 2019 or the 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 easement and can convey the subject property free and clear of all liens, encumbrances, and restrictions of record except for the title exceptions noted in 7.b below.

7. The sale shall be completed through an escrow to be opened at Fidelity National Title Company, Escrow No. 2011900135, located at 7475 North Palm Avenue, Suite 107, Fresno, CA 93711. Said escrow shall be opened upon the following terms and conditions, and the Seller and Buyer by their signature to this Agreement make this paragraph their escrow instructions:

a. The City shall deposit the sums specified in Paragraphs 2 of this Agreement and the closing costs in escrow upon receipt of a demand and statement from said title company therefor.

b. Payment of said sums, less Seller's cost to clear title, if any, may be made to Seller only when escrow holder possesses and is in a position to deliver to the Buyer a fully executed and recorded easement deed to the Subject Property and when said escrow holder stands ready to issue to the Buyer a standard title insurance policy guaranteeing a title to said property to the Buyer free and clear of all liens, encumbrances and restrictions of record, except for: Items 2 - 18, contained in the Preliminary Title Report No. 2011900135-BW dated December 19, 2018 from Fidelity National Title Company.

c. It is understood that Seller shall be responsible for the payment of all taxes, penalties, redemptions, and costs allocable to the subject property. It is further Seller's responsibility to apply to the County Tax Collector for any refund or decrease in taxes which may be granted.

d. The escrow fee, cost of policy of title insurance, recording fees (if any), and all other closing costs shall be paid by the City. Seller will pay any cost to convey the title to the subject property in the condition described in 7.b above.

e. Disbursements of the purchase price to be in the amounts, at the times, and in all respects in accordance with the terms and conditions and subject to the limitations 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. 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.

11. It is understood and agreed that as a condition precedent hereto, this Agreement shall have no force and effect until approved 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 Buyers, their heirs, executors, administrators, successors in interest, and assigns

Signature Page

This Agreement is executed by the City of Fresno by and through the Public Works Director or his designee of the City of Fresno pursuant to authority granted by the Council of the City of Fresno on

_____

RECOMMENDED FOR APPROVAL

BY: Colleen Karby Date 4/3/19
Colleen Karby
Senior Real Estate Agent

BY: _____ Date 4-3-19
R. Scott Beyelia
Supervising Real Estate Agent

CITY OF FRESNO

BY: _____ Date _____
Scott Mozier, PE, TE
Public Works Director

MAILING ADDRESS:
City of Fresno
Public Works Department
2600 Fresno Street, Room 4019
Fresno, CA 93721-3623

ATTEST:
YVONNE SPENCE, CMC
City Clerk

BY: _____ Date _____
Deputy

SELLER: JOSE HUERTA, a single man

BY: _____ Date 4/3/2019
Jose Huerta

MAILING ADDRESS:
Jose Huerta
4291 W. Vasser Ave.
Fresno, CA 93722

PHONE NUMBER:
559-244-1782

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

BY: _____ Date 5.17.19
RAJ SINGH BADHESHA, DEPUTY

EXHIBIT "A"

APN 442-071-10 (portion)
Street easement

The following land is situated in the City of Fresno, County Of Fresno, State of California, described as follows:

That portion of Lot 13 of Victoria Colony, according to the map thereof recorded in Volume 4 of Plats, at Page 61, Fresno County Records, lying in the northeast quarter of Section 25, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, more particularly described as follows:

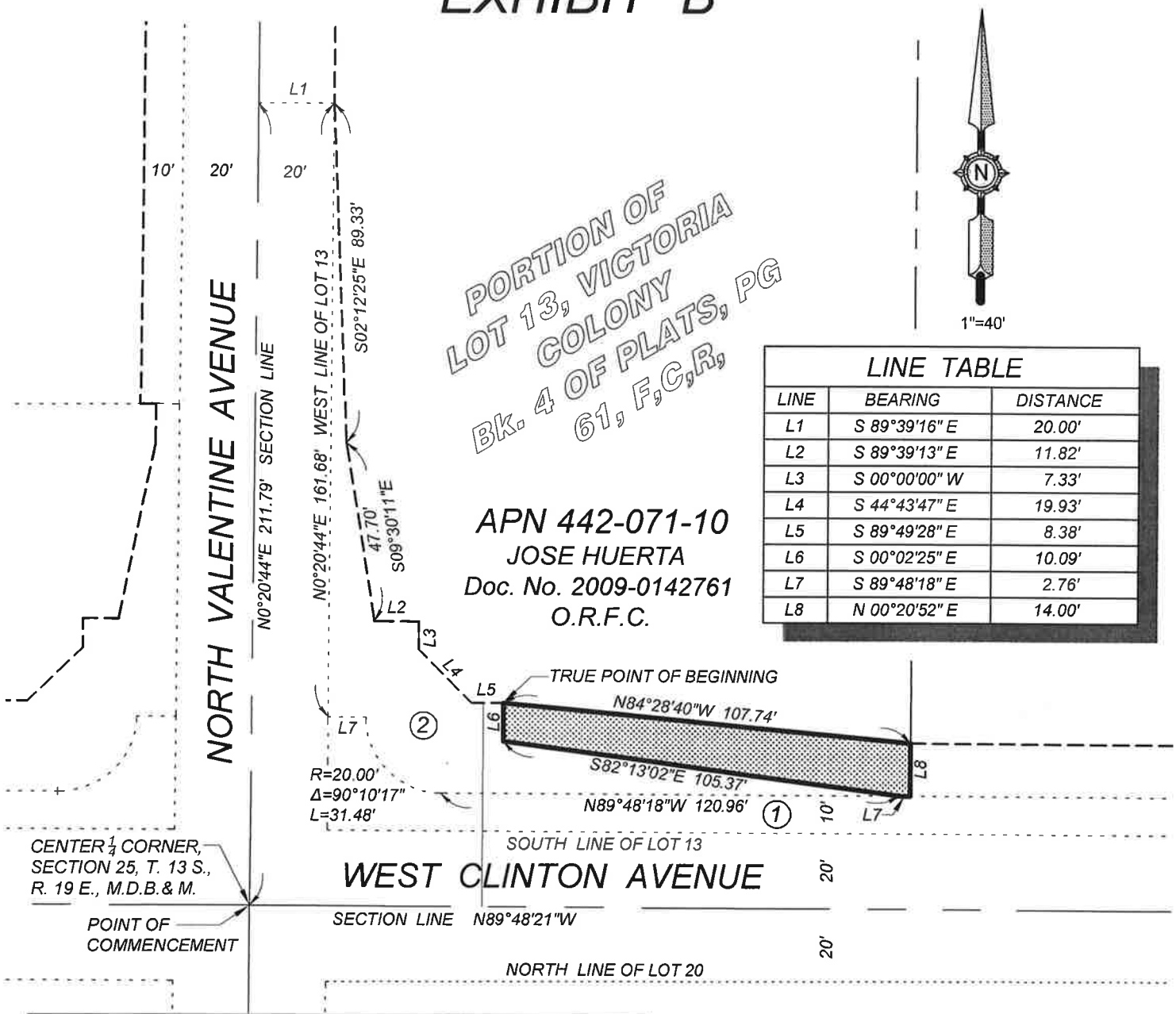
Commencing at the center quarter corner of said Section 25; thence North 0°20'44" East, on the east line of northeast quarter of said Section 25, a distance of 211.79 feet; thence South 89°39'16" East, a distance of 20.00 feet to a point on the westerly line of said Lot 13; thence leaving said westerly line, South 2°12'25" East, on the easterly line of that portion of land dedicated as an easement for public street purposes as described in deed recorded August 24, 2017, as Instrument No. 2017-0106451, Official Records Fresno County, a distance of 89.33 feet; thence South 9°30'11" East, continuing on said line, a distance of 47.70 feet; thence South 89°39'13" East, continuing on said line, a distance of 11.82 feet; thence South 0°00'00" West, continuing on said line, a distance of 7.33 feet; thence South 44°43'47" East, continuing on said line, a distance of 19.93 feet to the northerly right-of-way line as described in said deed; thence South 89°49'28" East, continuing on said line, a distance of 8.38 feet to the TRUE POINT OF BEGINNING; thence South 0°02'25" East, continuing on last said line, a distance of 10.09 feet; thence South 82°13'02" East, continuing on said line, a distance of 105.37 feet to the northerly line of that portion of land dedicated as an easement for public street purposes in deed recorded March 21, 1972, as Instrument No. 25571, Official Records Fresno County; thence South 89°48'18" East, on last said north line, a distance of 2.76 feet to the easterly line of that portion of land described in deed recorded October 14, 2009, as Instrument No. 2009-0142761, Official Records Fresno County; thence North 0°20'52" East, on last said easterly line, a distance of 14.00 feet; thence North 84°28'40" West, leaving said easterly line, a distance of 107.74 feet to the ***TRUE POINT OF BEGINNING***.

Containing an area of 1,311 square feet, more or less.

Note:
Plat map in Volume 4, of Plats at Page 61, Fresno County Records shows two subdivisions. The first is the "Map of Subdivision of Block Number 3 of Spinks Addition to Selma". The second map is the "Map of Victoria Colony", which is what this description is based on.

12-18-19

EXHIBIT "B"



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 89°39'16" E	20.00'
L2	S 89°39'13" E	11.82'
L3	S 00°00'00" W	7.33'
L4	S 44°43'47" E	19.93'
L5	S 89°49'28" E	8.38'
L6	S 00°02'25" E	10.09'
L7	S 89°48'18" E	2.76'
L8	N 00°20'52" E	14.00'

LEGEND

① = PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES RECORDED MARCH 21, 1972, IN BOOK 6002, AT PAGES 995-997, AS DOCUMENT NO. 25571, O.R.F.C.

② = PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES RECORDED AUGUST 24, 2017, , AS DOCUMENT NO. 2017-0106451, O.R.F.C.

INDICATES AREA TO BE DEDICATED FOR PUBLIC STREET PURPOSES. 1,311 S.F. ±.

PROFESSIONAL LAND SURVEYOR
JASON ALLEN CAMIT
NO. 8636
STATE OF CALIFORNIA

12-18-18

REF.& REV.	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PW00678 RES TYPE FUND NO. 22048 ORG. NO. 189901
2018-0XX 15-A-9XXX PLAT 2149	AREA TO BE DEDICATED FOR PUBLIC STREET PURPOSES.	DR. BY J.A.C. CH. BY DATE DEC. 18, 2018 SCALE 1" = 40'
		SHEET NO. 1 OF 1 SHEETS