

RESOLUTION NO. 2025- _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A PERMANENT EASEMENT AND RIGHT OF WAY FOR PUBLIC STREET PURPOSES THROUGH AND ACROSS PORTIONS OF ASSESSOR PARCEL NUMBER 477-030-27, OWNED BY WAT PHOUTHAPATHANE LAO, A CALIFORNIA NONPROFIT CORPORATION, FOR THE CONSTRUCTION OF THE TRAFFIC SIGNAL INSTALLATION AT CHURCH AVENUE AND WALNUT AVENUE PROJECT AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno plans to construct the Traffic Signal Installation at Church Avenue and Walnut Avenue Project which will install a new traffic signal at the intersection of Walnut and Church Avenues and install curb, gutter, sidewalk, signage, striping, new asphalt paving and street lighting (Project); and

WHEREAS, it is necessary for the Project to acquire a permanent easement and right of way over, under, through, and across the real property located at 2450 South Walnut Avenue, Fresno, California, more particularly described as Assessor's Parcel Number (APN) 477-030-27, hereinafter called the "Subject Property," for construction of the Project and related purposes; and

WHEREAS, the Traffic and Engineering Services Division of the City's Public Works Department has reviewed and approved the plans to construct the Traffic Signal Installation at Church Avenue and Walnut Avenue in a manner that will be compatible with the greatest public good and the least private injury; and

WHEREAS, the design of the Project has been reviewed and it has been determined that the path of the Project cannot be constructed without acquiring the permanent easement and right of way over, under, through, and across the Subject Property; and

WHEREAS, the current ownership of the Subject Property is as follows:

Assessor's Parcel Number 477-030-27, address of 2450 South Walnut Avenue, Fresno, California and currently owned by Wat Phouthapathane Lao, a California nonprofit corporation.

WHEREAS, the permanent easement and right of way to be acquired over, under, through, and across the Subject Property, and its general location and extent are described in attached Exhibits "A-1" and "A-2," and

WHEREAS, the Subject Property is the location of Wat Phouthapathane Lao Fresno, operating on East Grove Avenue west of South Walnut Avenue; and

WHEREAS, the acquisition of a permanent easement and right of way upon the Subject Property is necessary for the construction of the Project because the Subject Property is in the area designated to facilitate the improvements at the southwest corner of East Church Avenue and South Walnut Avenue; and

WHEREAS, the City of Fresno has the power and authority to exercise eminent domain and acquire easements and rights of way for the public use set forth herein in accordance with the Constitution of the State of California, California Eminent Domain Law, Code of Civil Procedure section 1230.010 et seq., and pursuant to Government Code sections 37350.5 and 40404, Streets and Highway Code section 10102, and section 200 of the Charter of the City of Fresno; and

WHEREAS, in accordance with Section 7267.2 of the Government Code, an offer to purchase has been made to the owner of record of the Subject Property; and

WHEREAS, the City and the owner of the Subject Property have not been successful in negotiating the acquisition of the permanent easement over, under, through, and across the Subject Property; and

WHEREAS, the City was informed by the Chief Financial Officer of Wat Phouthapathane Lao, a California nonprofit corporation that the Monk, who was the authorized signor on behalf of the owner of the Subject Property is now deceased; and

WHEREAS, the representatives of Wat Phouthapathane Lao, a California nonprofit corporation are in the process of naming a new authorized signor but have yet to finalize this step; and

WHEREAS, in accordance with Section 1245.235 of the Code of Civil Procedure, notice and reasonable opportunity to respond and be heard on this matter has been given to the persons whose property are to be acquired by eminent domain and whose names and addresses appear on the last equalized county assessment roll; and

WHEREAS, at such time and place, or as soon thereafter as the matter could be heard, the Council received, heard, and considered information pertinent to the matters required by Section 1245.230 of the Code of Civil Procedure to be determined herein.

WHEREAS, the permanent easement and right of way will be appropriated to a public use and in accordance with Code of Civil Procedure section 1240.510, the proposed use will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future.

NOW, THEREFORE, BE IT RESOLVED the Council of the City of Fresno finds, declares, determines, and orders as follows:

1. The public interest and necessity require the proposed Project.
2. The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The permanent easement and right of way that is sought over, under, through, and across the Subject Property is necessary for the proposed Project.
4. The offer to purchase required by Section 7267.2 of the Government Code has been made to the owner of record.
5. The permanent easement and right of way which are sought are situated in the City of Fresno, County of Fresno, State of California, and is more particularly described in Exhibits "A-1" and "A-2."
6. The City Attorney of the City of Fresno is authorized and directed to institute and conduct to conclusion, in the name of the City of Fresno, a proceeding in eminent domain, including arbitration of compensation, in accordance with the provisions of the Constitution of the State of California and the California Eminent Domain Law, to acquire the Subject Property in the name of the City for public purposes.
7. Project ID PW01051, Fund 20104, Org 189901, has been established to disburse the necessary funds for the acquisition of the permanent easement and right of way upon the Subject Property and to pay for litigation expenses, including staff time. There will be no General Fund dollars required to construct the Project.

8. The Controller of the City of Fresno is authorized to disburse out of the above account, as approved by the City Attorney, such amounts as may be required including costs, witness fees and attorneys' fees, to acquire possession of and title to the permanent easement and right of way upon the Subject Property.

9. This resolution shall be effective upon final approval.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2025.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2025
Mayor Approval/No Return: _____, 2025
Mayor Veto: _____, 2025
Council Override Vote: _____, 2025

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Kelsey Seib Date
Deputy City Attorney

Attachments:
Exhibits A-1, A-2

EXHIBIT "A-1"

APN 477-030-27 (portion)
Street Easement

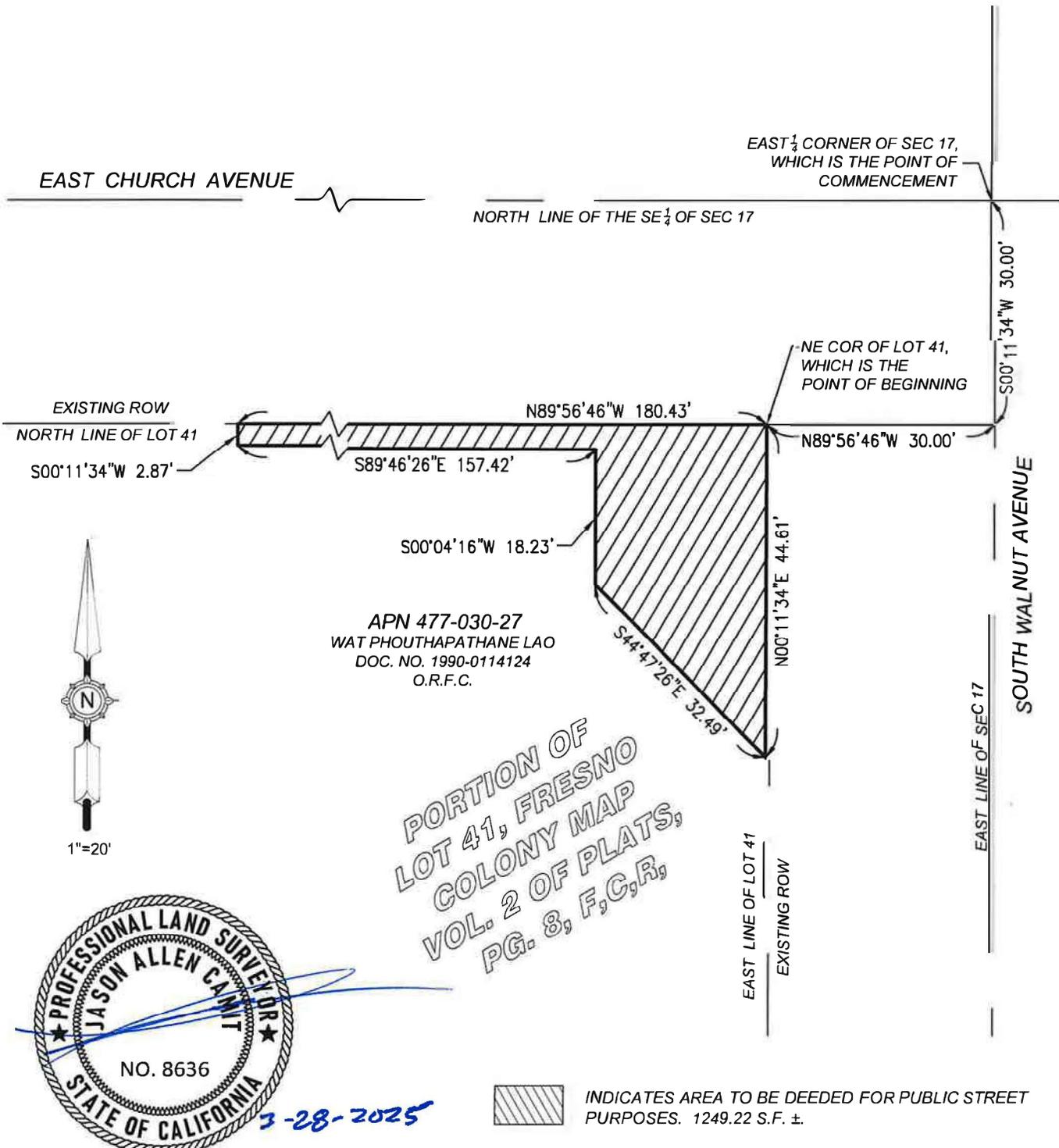
That portion of Lot 41 of Fresno Colony, according to the map thereof, recorded in Volume 2 of Plats, at Page 8, Fresno County Records, lying in the Southeast quarter of Section 17, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

COMMENCING at the East quarter corner of said Section; thence South 00°11'34" West, on the East line of said Section, a distance of 30.00 feet to a point on a line that is parallel with and 30.00 feet South of the North line of said Southeast quarter; thence North 89°56'46" West, on said parallel line, a distance of 30.00 to the Northeast corner of said Lot 41 and to the **POINT OF BEGINNING**; thence North 89°56'46" West, on the North line of said Lot 41, a distance of 180.43 feet to a point on a line that is parallel with and 210.43 feet West of said East line; thence South 00°11'34" West, on last said parallel line, distance of 2.87 feet; thence South 89°46'26" East, a distance of 157.42 feet; thence South 00°04'16" West, a distance of 18.23 feet; thence South 44°47'26" East, a distance of 32.49 feet to the East line of said Lot 41; thence North 00°11'34" East, on said East line, distance of 44.61 feet to the **POINT OF BEGINNING**.

Containing an area of 1249.22 square feet, more or less.



EXHIBIT "A-2"



REF. & REV. 2023-265 PLAT 3053	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. <u>PW01051</u> RES TYPE _____ FUND NO. <u>20104</u> ORG. NO. <u>189901</u>
	TO BE DEEDED TO THE CITY OF FRESNO FOR PUBLIC STREET PURPOSES	DR. BY <u>J.E.H.</u> SHEET NO. <u>1</u> CH. BY <u>J.A.C.</u> OF <u>1</u> SHEETS DATE <u>MAR. 28, 2025</u> SCALE <u>1" = 20'</u> 15-A-10411