

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF EASEMENT AND RIGHT-OF-WAY FOR PUBLIC PURPOSES OVER, UNDER, THROUGH AND ACROSS REAL PROPERTY FOR THE FOWLER AVENUE AND SHIELDS AVENUE INTERSECTION IMPROVEMENT, AND RELATED PURPOSES AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno proposes to construct an additional eastbound travel lane and bike lane along East Shields Avenue for a distance of 650-feet heading west from North Fowler Avenue and an additional southbound travel lane and bike lane along North Fowler Avenue for a distance of 525-feet heading south from Shields Avenue (Project);

WHEREAS, the proposed Project also includes constructing a curb and gutter on the south side of East Shields Avenue and the west side of North Fowler Avenue within the limits of the Project area defined above;

WHEREAS, the proposed Project also includes the installation of a curb ramp at the southwest corner of East Shields Avenue and North Fowler Avenue, the modification and relocation of existing traffic signals on the southwest corner of East Shields Avenue and North Fowler Avenue, installation of a bus bay along North Fowler Avenue, and relocation of power poles by Pacific Gas and Electric Company.

WHEREAS, the Project was assessed in EA-12-019 under the California Environmental Quality Act (CEQA) and was found to be in conformity with Master Environmental Impact Report No. 10130 and Mitigated Negative Declaration for Plan Amendment A-09-02;

WHEREAS, the Project is necessary to accommodate improvements to the intersection of Shields Avenue and Fowler Avenue including but not limited to through lanes, turn lanes, curbs and gutters.

WHEREAS, the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; it is necessary to acquire street easements from the subject properties to construct the Project; the

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: BC

Resolution No.

design of the Project has been reviewed and it has been determined that the Project cannot be constructed without acquiring the minimal amount of street easements being sought;

WHEREAS, it appears necessary and desirable that the City of Fresno acquire permanent public street easements and rights of way over, under, through and across real property, hereinafter called the "Subject Property", for construction of the Project and related purposes;

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

Project Parcel No.	APN of Subject Property	Location	Owner(s)
1	496-192-10s	Fowler Avenue and Shields Avenue	Forrest Sunrise, a Limited Liability Company

WHEREAS the easement and right-of-way and its general location and extent is described and illustrated in the corresponding attached Exhibit "A";

WHEREAS, it is necessary to acquire street easements from the Subject Property in order to construct the Project; the design of the Project has been reviewed and it has been determined that the Project cannot be constructed without acquiring the minimal amount of street easements being sought;

WHEREAS, the City of Fresno has the power and authority to acquire easements and rights of way by eminent domain in accordance with the California Constitution, California Eminent Domain Law, Section 200 of the Charter of the City of Fresno, and pursuant to Government Code Sections 37350.5 and 40404, and Streets and Highways Code Section 10102;

WHEREAS, in accordance with Section 7267.2 of the Government Code, an offer to purchase has been made to the owner or owners of record of the real property to be acquired within the Project area;

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

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; and

WHEREAS, the easement and right-of-way will be acquired for a public use and in accordance with Code of Civil Procedure Section 1240.010.

NOW, THEREFORE, BE IT RESOLVED by 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 easement and right-of-way that is sought is necessary for the proposed Project.
4. The offer to purchase required by Section 7367.2 of the Government Code has been made to the owner or owners of record.
5. The easement and right-of-way which is sought is situated in the City of Fresno, County of Fresno, State of California, and is more particularly described in Exhibits "A."
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, 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 title to the subject easements in the name of the City for public purposes.
7. Construction funds are available this fiscal year through a local Proposition 111 Gas Tax funds, Citywide Traffic Signal Mitigations Impact Fees and New Growth Area Major Street Impact Fees. Project ID #PW00631, Fund No. 24053, Org No. 189901 has been established to disburse the necessary funds for the acquisition of the easements and to pay for litigation expenses, including staff time.
8. The Controller of the City of Fresno is authorized to disburse out of the above trust account, as approved by the City Attorney, such amounts as may be required including costs, witness fees and attorneys' fees, to acquire possession of or title to the permanent easement and rights of way.

* * * * *

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

I, YVONNE SPENCE, 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 _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Brandon M. Collet Date
Deputy

Attachment: Exhibit A

BMC:prn [65252prn/reso] 07-16-15

EXHIBIT "A"

Page 1 of 2

APN 496-192-10S (portion)
Street easement

A portion of the northeast quarter of Section 28, Township 13 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, more particularly described as follows:

COMMENCING at the northeast corner of said Section 28; thence S 0°25'34" W, along the east line of said northeast quarter, a distance of 30.00 feet to a point on the south right-of-way line of that portion of East Shields Avenue previously dedicated for public road purposes by that deed recorded January 13, 1890 in Book 108 of Deeds at Page 169, Official Records of Fresno County, said point being the TRUE POINT OF BEGINNING of this description; thence N 89°22'05" W, along said south right-of-way line, parallel with and 30.00 feet south of the north line of said northeast quarter, a distance of 660.00 feet to the west line of the east 660.00 feet of said northeast quarter; thence S 0°25'34" W, along said west line, a distance of 20.00 feet; thence S 89°22'05" E, parallel with and 50.00 feet south of the north line of said northeast quarter, a distance of 390.32 feet to the beginning of a tangent curve concave southerly and having a radius of 50.00 feet; thence easterly, along the arc of said curve, through a central angle of 7°43'21", an arc distance of 6.74 feet; thence S 81°38'44" E, tangent to last said curve, a distance of 43.99 feet to the beginning of a tangent curve concave northerly and having a radius of 70.00 feet; thence easterly, along the arc of last said curve, through a central angle of 7°43'21", an arc distance of 9.43 feet; thence S 89°22'05" E, parallel with and 57.00 feet south of the north line of said northeast quarter and tangent to last said curve, a distance of 154.75 feet; thence S 44°22'03" E, a distance of 21.57 feet to a point on the arc of a non-tangent curve concave westerly and having a radius of 9935.00 feet, a radial to said point bears S 89°23'39" E; thence southerly, along the arc of last said curve, through a central angle of 0°29'18", an arc distance of 84.67 feet to the beginning of a reverse curve concave easterly and having a radius of 124.50 feet; thence southerly, along the arc of said reverse curve, through a central angle of 14°02'33", an arc distance of 30.51 feet to the beginning of a reverse curve concave westerly and having a radius of 104.50 feet; thence southerly, along the arc of last said reverse curve, through a central angle of 14°21'58", an arc distance of 26.20 feet to the beginning of a compound curve concave westerly and having a radius of 9942.00 feet; thence southerly, along the arc of said compound curve, through a central angle of 1°24'09", an arc distance of 243.38 feet; thence S 3°03'45" W, non-tangent to last said curve, a distance of 68.65 feet to the north line of that portion of North Fowler Avenue previously dedicated for public street purposes by that Deed of Easement recorded March 1, 1994 as Document No. 94033543, Official Records of Fresno County; thence S 89°22'42" E, along last said north line, a distance of 14.83 feet to the northeast corner of said portion of North Fowler Avenue; thence S 0°25'34" W, along the east line of said portion of North Fowler Avenue, parallel with and 30.00 feet west of the east line of said northeast quarter, a distance of 135.00 feet to the south line of the north 660.01 feet of said northeast quarter; thence S 89°22'05" E, along said south line, a distance of 30.00 feet to the east line of said northeast quarter; thence N 0°25'34" E, along last said east line, a distance of 630.01 feet to the TRUE POINT OF BEGINNING.

Contains an area of 37,297 square feet, more or less.

2013-019
15-A-8924
PWF 11677

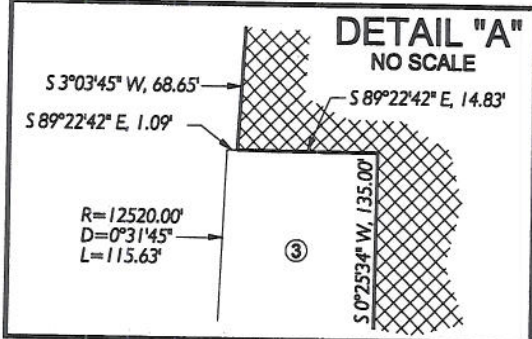
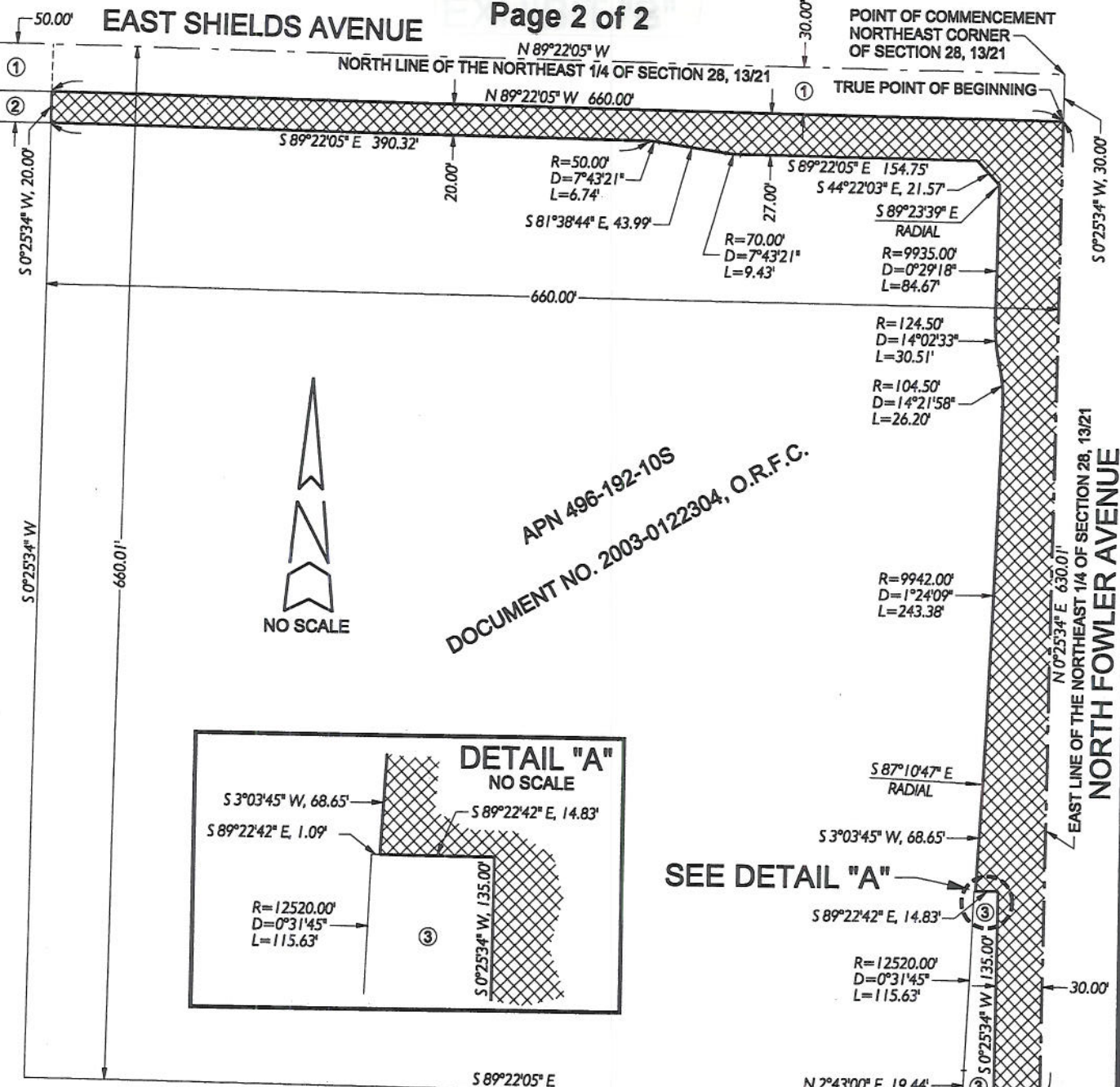


A/12/13

EXHIBIT "A"

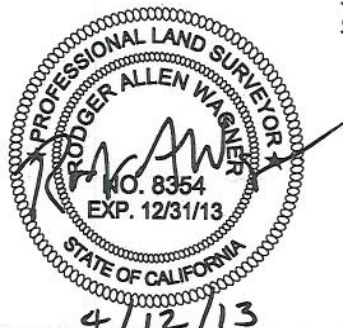
EAST SHIELDS AVENUE

POINT OF COMMENCEMENT
NORTHEAST CORNER
OF SECTION 28, 13/21



- ① = PREVIOUSLY DEDICATED FOR PUBLIC ROAD PURPOSES BY THAT DEED RECORDED 1/13/1890 IN BOOK 108 OF DEEDS AT PAGE 169, O.R.F.C.
- ② = PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY THE MAP OF TRACT NO. 3428 RECORDED IN VOLUME 38 OF PLATS AT PAGE 95, F.C.R.
- ③ = PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY THAT DEED OF EASEMENT RECORDED 3/1/1994 AS DOCUMENT NO. 94033543, O.R.F.C.

INDICATES AREA TO BE DEDICATED
37,297 S.F. ±



REF. & REV. 2013-019 PWF 11677 PLAT 2167	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PWD0631 FUND NO. 24053 ORG. NO. 189901	RES TYPE _____
	PARCEL TO BE DEDICATED TO THE CITY OF FRESNO AS AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES	DR. BY A.J. CH. BY R.A.W. DATE MAR. 19, 2013 SCALE NO SCALE	SHEET NO. 1 OF 1 SHEETS 15-A-8924