

RESOLUTION NO. 2024- _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF FEE INTEREST FOR RIGHTS OF WAY FOR PUBLIC STREET PURPOSES OF APNS: 451-071-17 AND 451-071-34, OWNED BY ARTHUR AND PATRICIA VELASQUEZ, FOR THE CONSTRUCTION OF THE BLACKSTONE MCKINLEY BNSF GRADE SEPARATION PROJECT AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno plans to construct the Blackstone McKinley BNSF Grade Separation Project which will eliminate two existing at-grade railroad crossings of the BNSF mainline tracks at North Blackstone Avenue and East McKinley Avenue by separating train traffic from pedestrians, cyclists, and moving vehicle traffic to an underpass below the BNSF mainline track (Project); and

WHEREAS, the Blackstone Avenue and McKinley Avenue corridors serve as primary routes for the community, the City's Bus Rapid Transit System, emergency vehicles, and is also part of the Blackstone Smart Mobility Plan providing Class IV protected bicycle facilities along Blackstone Avenue through the Project area; and

WHEREAS, the Fresno City Council approved the Measure C Cooperative Project Agreement for the Project and subsequent amendments (collectively the Agreement) which provides approximately \$29,000,000 of Project funding for the right of way phase to date; and

WHEREAS, the Project is statutorily exempt pursuant to California Public Resources Code Section 21080.13(a) and 15282(g) of the California Environmental Quality Act (CEQA) Guidelines; and

1 of 5

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: KAS

Resolution No.

WHEREAS, the Project requires the fee acquisition of the real property located at 1540 and 1560 North Blackstone Avenue, Fresno, California, more particularly described as Assessor's Parcel Numbers (APNs) 451-071-17 and 451-071-34, hereinafter called the "Subject Property," for construction of the Project and related purposes; and

WHEREAS, the design of the Project has been reviewed and it has been determined that the path of the Project, including all projected detours, cannot be constructed without acquiring the Subject Property; and

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

Assessor's Parcel Numbers 451-071-17 and 451-071-34,
addresses of 1540 and 1560 North Blackstone Avenue, Fresno,
California and currently owned by Arthur & Patricia Velasquez

WHEREAS, the Subject Property, and its general location and extent are described in attached Exhibit "A," and

WHEREAS, the Subject Property is the location of Art's Auto Body, operating South of southeast corner of Blackstone and McKinley Avenues; and

WHEREAS, the fee interest acquisition of the Subject Property is necessary for the construction of the Project because the Subject Property is in the direct path of the grade separation and access to the Subject Property will be impeded by the retaining wall required for the Project; and

WHEREAS, the City of Fresno has the power and authority to exercise eminent domain and acquire fee in real property 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 Subject Property; 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.

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 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 Subject Property is situated in the City of Fresno, County of Fresno, State of California, and is more particularly described in Exhibit "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 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 PW00937, Fund 22517, Org 189901, has been established to disburse the necessary funds for the acquisition of 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 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 _____ 2024.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2024
Mayor Approval/No Return: _____, 2024
Mayor Veto: _____, 2024
Council Override Vote: _____, 2024

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Kelsey Seib Date
Deputy City Attorney

Attachment:
Exhibit A

EXHIBIT "A"
Legal Description

APN 451-071-17 and 34
Grant Deed

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

All that portion of Lot 8 of Salinger Tract, according to the map thereof recorded September 18, 1883, in Book 2 Page 13 of Plats, in the office of the Fresno County Recorder, described as follows: Beginning at the Northwest corner of said Lot 8 and running thence East along the North line thereof 167 feet; thence South parallel to the West line of said Lot, 145.16 feet; thence Southeasterly 25.4 feet to a point on the line parallel to and 167 feet South of the North line of said Lot, which point is 141 feet West of the East line of the West 321 feet of said Lot, thence East parallel to the North line of said Lot, 141 feet to the East line of the West 321 feet of said Lot; thence South along the East line of the West 321 feet of said Lot, a distance of 102 feet to the true point of beginning of the herein described property; thence continuing South along the East line of the West 321 feet of said Lot 8 to a point which is 326 feet North of a point which is 351 feet East of the Southwest corner of the Northwest quarter of the Northwest quarter of Section 34, Township 13 South, Range 20 East, Mount Diablo Base and Meridian; thence West 46.5 feet; thence South 26 feet; thence West 63.5 feet; thence South 4 feet; thence West to the Southeast corner of the land conveyed to Minnie M. Johnson, by deed dated February 19, 1927 and recorded March 1, 1927 in Book 760 Page 411 of Official Records; thence North along the East line of said parcel of land conveyed to Minnie M. Johnson by the Deed above mentioned, to the Northeast corner thereof; thence West parallel to the North line of said Lot 8 to a point 33.8 feet East of the West line of Section 34, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, and 15 feet Northeasterly at right angles from the Northeasterly line of the right of way of the Atchison, Topeka & Santa Fe Railway; thence Northwesterly parallel with said right of way line 7.2 feet to the West line of said Lot 8; thence North along said West line to a point which is 269 feet South of the Northwest corner of said Lot 8; thence East parallel to the North line of said Lot 8 to the Southwest corner of that certain parcel of land conveyed to A.G. Beck et ux. by deed dated February 15, 1961 and recorded March 31, 1961 in Book 4533 Page 621 of Official Records as Instrument No. 24707; thence continuing East along the South line of the property conveyed to A.G. Beck et ux. a distance of 121 feet to the true point of beginning;

Excepting therefrom that portion of said property heretofore deeded to the State of California for highway purposes by deed dated April 25, 1951, and recorded May 29, 1951, in Book 3023 Page 92 of Official Records. Document No. 31160.

Also excepting therefrom any portion thereof which lies within the following described property: A 17 foot strip of land lying equally on each side of the following described line in Lot 8 of Salinger Tract, according to the map thereof recorded September 18, 1883, in Book 2 Page 13 of Plats, in the office of the Fresno County Recorder, in the Northwest quarter of Section 34, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, commencing at a point in the East line of Blackstone Avenue distant 11.23 feet more or less South from the South line of McKinley Avenue; thence Southeasterly on a 15° curve concave Southwesterly 435.42 feet more or less to a point; thence South on a

EXHIBIT "A"
Legal Description
(continued)

tangent 86.1 feet more or less to a point distant 226.00 feet more or less Easterly from the East line of said Blackstone Avenue.

PARCEL 2:

A 17 foot strip of land lying equally on each side of the following described line in Lot 8 of Salinger Tract, according to the map thereof recorded September 18, 1883, in Book 2 Page 13 of Plats, in the office of the County Recorder of said County, in the Northwest quarter of Section 34, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, commencing at a point in the East line of Blackstone Avenue distant 11.23 feet more or less South from the South line of McKinley Avenue; thence Southeasterly on a 15° curve concave Southwesterly 435.42 feet more or less to a point; thence South on a tangent 86.1 feet more or less to a point distant 226.00 feet more or less Easterly from the East line of said Blackstone Avenue.

Excepting therefrom all that portion thereof which lies North and Northwesterly of the South line of that certain Parcel of land conveyed to A.G. Beck et ux by deed dated February 15, 1961, and recorded March 31, 1961, in Book 4533, Page 621. of Official Records as Instrument No. 24707. said line also being the North line of Parcel 1 hereinabove described.

PARCEL 3:

Portion of the Northwest quarter of Lot 8 of the Salinger Tract, in the City of Fresno, County of Fresno, State of California, as per Map recorded in Book 2 Page 13. of Plats, in the Office of the County Recorder of said County, described as follows:

Beginning at a point 33.8 feet East of a point in the center line of Blackstone Avenue distant 318.1 feet, Southerly, from the intersection of said center line of Blackstone Avenue with the center line of Mc Kinley Avenue; thence East 195.5 feet; thence Southerly 50 feet to a point 300 feet North of the South line of the Northwest quarter of the Northwest quarter of Section 34, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, thence West 160 feet, more or less to the Northeasterly right of way line of the Atchison, Topeka & Santa Fe Railway Company; thence Northwesterly along said line 60 feet to the point of beginning.

Except that portion conveyed to the State of California by deed recorded July 10, 1944, in Book 2181. Page 454. of Official Records, being all of said land lying Westerly of a line parallel to and 70 feet Easterly from the West line of Section 34, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official Plat thereof.

