

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF EASEMENTS AND RIGHTS OF WAY FOR PUBLIC STREET PURPOSES OVER, UNDER, THROUGH AND ACROSS PORTIONS OF APN: 479-050-04, OWNED BY RUTH MCDONALD AND FLORINE PARISH FOR THE CONSTRUCTION OF A PUBLIC SIDEWALK ALONG A PORTION OF SOUTH WALNUT AVENUE AND EAST GROVE AVENUE AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno (City) proposes to widen and improve South Walnut Avenue, East Church Avenue, South Martin Luther King Junior Boulevard, and East Jensen Avenue including new pavement, curb, gutter, sidewalk, trails, traffic signals, street lighting and landscaping (Project), and

WHEREAS, the Project requires an additional ten feet of right of way on the sidewalks from the front of each parcel on the east side of East Walnut Avenue; and

WHEREAS, it appears necessary and desirable that the City acquire a permanent easement, public utility easement, and right of way for public street and other purposes over, under, through and across real property, hereinafter called the "Subject Properties," for construction of the Project and related purposes; and

WHEREAS, the permanent easement, public utility easement, and right of way acquisitions from the Subject Properties are necessary to construct and complete the public sidewalk on South Walnut Avenue between East Church Avenue and East Grove Avenue, construct necessary public utilities, and improve pedestrian safety; and

WHEREAS, dedications and acquisitions have already been made from

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Resolution No. _____

properties near the Subject Properties to accommodate the Project; and

WHEREAS, the Engineering Division of the City's Department of Public Works has designed the public sidewalk on South Walnut Avenue between East Grove Avenue and East Church Avenue in a manner that will be most 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 Project cannot be constructed without acquiring the permanent easement, public utility easement, and right of way being sought; and

WHEREAS, the Project was assessed in Environmental Assessment No. P21-06568 dated May 17, 2022, under the California Environmental Quality Act (CEQA) Guidelines and it was determined that the Project falls within Sections 15301/Class 1, 15303/Class 3, and 15304/Class 4. The Project will make improvements to existing public facilities to reconstruct pavement, install curb, gutter, and ramps to meet ADA regulations, add signage and striping to include both Class I and Class II bike lanes, adjustment of water valve lids and sewer manhole covers to finished grade, landscaping, and traffic signal modification. The proposed street improvements are minor, do not constitute an expansion of use, and will improve the public right-of-way without increasing road capacity. The Project involves negligible expansion of the existing use and will have substantially the same purpose. None of the exceptions to the Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to the Project; and

WHEREAS, the current ownership of the Subject Properties are as follows:

Assessor's Parcel Number 479-050-04, address of 2487
South Walnut Avenue and currently owned by Ruth

McDonald and Florine Parish

WHEREAS, the permanent easement, public utility easement, and right of way to be acquired over, under, through, and across the Subject Properties, and its general location and extent are described and depicted in attached Exhibit "A" and Exhibit "B," 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 owners of record of the real property to be acquired within the Project area; 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; and

WHEREAS, the permanent easement, public utility 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 Project.
2. The 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, public utility easement, and right of way that is sought is necessary for the Project.
4. The offer to purchase required by Section 7267.2 of the Government Code has been made to the owner(s) of record.
5. The permanent easement, public utility 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 and depicted in Exhibit "A" and Exhibit "B".
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 permanent street easement, public utility easement, and right of way in the name of the City for public purposes.
7. The Project is budgeted in the Council adopted current fiscal year City

budget which provides the necessary funds for the acquisition of the permanent street easement, public utility easement, and right of way, and to pay for litigation expenses, including staff time.

8. Project ID PW00842, Fund 22048, Org 189901, has been established to disburse the necessary funds for the acquisitions of the permanent easement, public utility easement, and right of way and to pay for litigation expenses, including staff time. There will be no General Fund dollars required to construct the project.

9. The Controller of the City of Fresno is authorized and directed 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 or title to the permanent easement, public utility easement, and right of way.

* * * * *

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

I, TODD STERMER, City Clerk of the City of Fresno, certify that the forgoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Tracy N. Parvanian Date
Supervising Deputy City Attorney

Attachments:

Exhibit A – Legal description and depiction of street easement
Exhibit B – Legal description and depiction of public utility easement

EXHIBIT A

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
Public Works Department
City of Fresno
2600 Fresno Street
Fresno, CA. 93721-3623
ATTN: Right-of-way Section

SPACE ABOVE THIS LINE FOR RECORDER'S USE
PW 2022-16268

APN 479-050-04 (portion)

DEED OF EASEMENT

Ruth McDonald, an unmarried woman and Florine Parish, an unmarried woman, GRANTORS, hereby GRANT to the City of Fresno, a municipal corporation, GRANTEE, an easement and right-of-way for public street purposes over, under, through and across all that real property situated in the City of Fresno, County of Fresno, State of California, more particularly described and shown as follows:

See Exhibits "A" and "B", which are attached and incorporated herein

Ruth McDonald, and unmarried woman and Florine Parish, an unmarried woman

Ruth McDonald

Dated: _____

Florine Parish

Dated: _____

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT-OF-WAY ACQUISITION

Public Street Easement
APN 479-050-04 (Portion)

That portion of that certain Parcel of land granted by Deed recorded January 9, 2002, as Document No. 2002-0003737, Official Records of Fresno County, lying in the Northwest Quarter of the Southwest Quarter of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

BEGINNING at the Southwest corner of said Parcel;

thence North 0°11'34" East, along the West line of said Parcel, a distance of 216.14 feet to the Northwest corner of said Parcel;

thence South 89°44'29" East, along the North line of said Parcel, a distance of 10.00 feet a point of intersection thereof with a line which is parallel with and 10.00 feet East of said West line;

thence South 0°11'34" West, along said parallel line, a distance of 177.83 feet;

thence South 44°46'16" East, a distance of 11.79 feet;

thence North 90°00'00" East, a distance of 4.66 feet;

thence South 0°15'53" West, a distance of 3.18 feet;

thence South 64°44'06" East, a distance of 63.48 feet, to a point of intersection thereof with the South line of said Parcel;

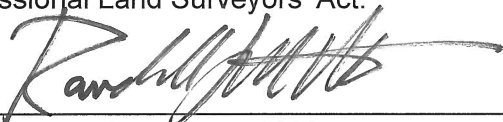
thence North 89°44'06" West, along the South line of said Parcel, a distance of 80.48 feet to the **POINT OF BEGINNING**.

Containing an area of 3,357 square feet or 0.08 acres, more or less.

The above described easement is graphically depicted on the attached Exhibit "B" and made a part of this description by reference thereto.

END DESCRIPTION

This legal description was prepared by me, or under my direction, in accordance with the Professional Land Surveyors' Act.



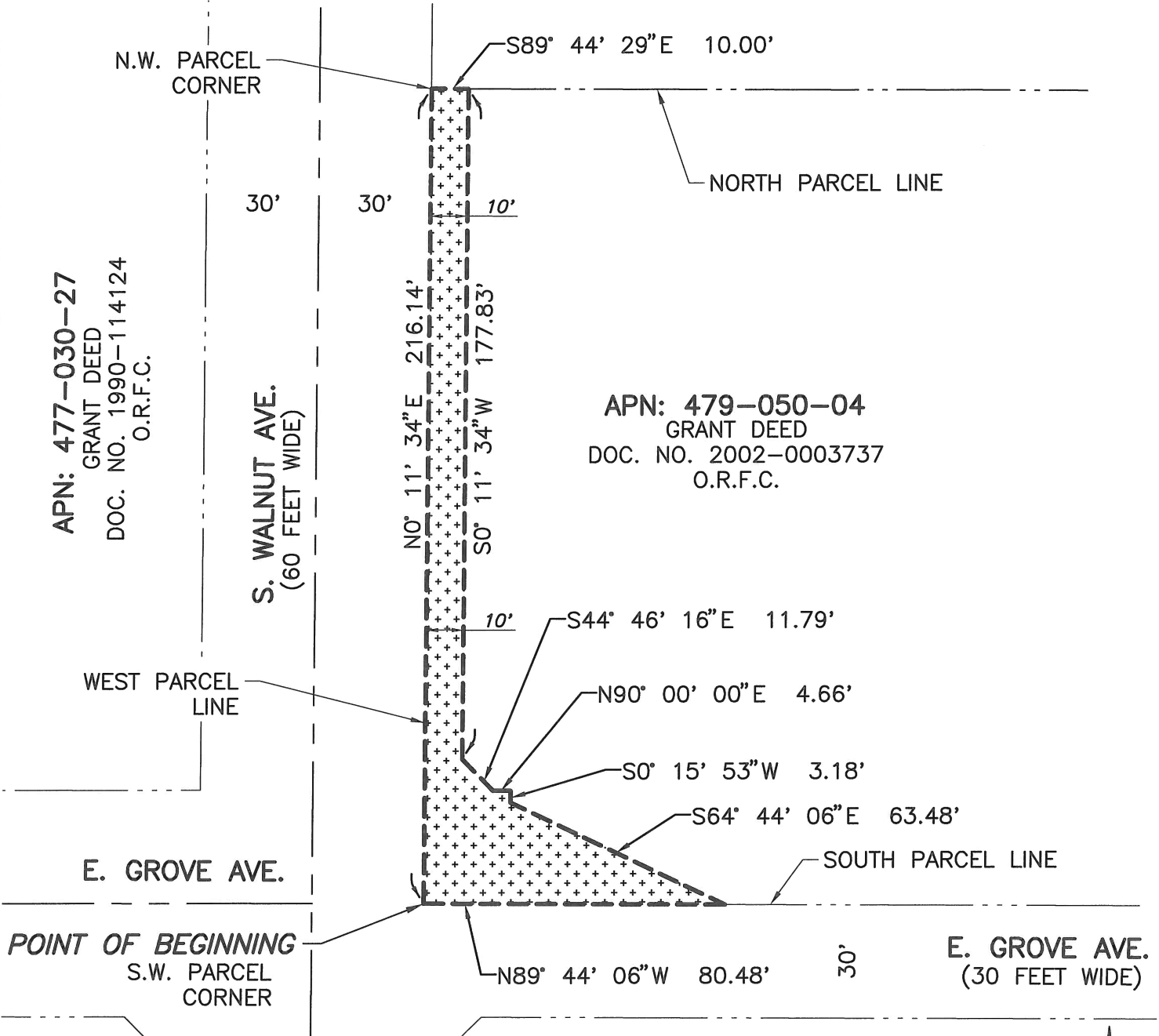
Date: September 3, 2022

Randell Scott West, PLS 8663
Blair, Church & Flynn




2022-099
15-A-10128
PLAT 3054

EXHIBIT "B"



LEGEND:

- SECTION LINE OR CENTERLINE
- - - PROPERTY LINE
- - - - PROPOSED RIGHT-OF-WAY LINE
- · - · - EXISTING RIGHT-OF-WAY LINE
- O.R.F.C. OFFICIAL RECORDS FRESNO COUNTY
-  INDICATES AREA TO BE DEDICATED AS PUBLIC STREET RIGHT-OF-WAY, CONTAINING AN AREA OF ±3,357 S.F.



SCALE: 1" = 40'

REF. & REV. 2022-099 15-A-10128 PLAT 3054	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. _____ RES TYPE _____ FUND NO. _____ ORG. NO. _____
	AREA TO BE DEDICATED FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES.	DR. BY: LL CH. BY: RSW DATE: 9/3/22 SCALE: 1" = 40'

SHEET NO. 1
 OF 1 SHEETS

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
Public Works Department
City of Fresno
2600 Fresno Street
Fresno, CA. 93721-3623
ATTN: Right-of-way Section

SPACE ABOVE THIS LINE FOR RECORDER'S USE
PW 2022-16334

APN 479-050-04

DEED OF EASEMENT

Ruth McDonald and Florine Parish, GRANTOR(S), hereby GRANT to the City of Fresno, a municipal corporation, GRANTEE, a public utility easement over, under, through and across all that real property situated in the City of Fresno, County of Fresno, State of California, more particularly described and shown as follows:

See Exhibits "A" and "B", which are attached and incorporated herein

TOGETHER WITH the right to enter upon said Real Property and to use equipment and materials thereon by agents and employees of said City and agents and employees of any public utility corporation as defined in Section 216 of the California Public Utilities Code whenever necessary for the purpose of constructing, reconstructing, enlarging, operating or repairing of public utilities and appurtenances thereto. Said easement shall be maintained by GRANTOR(S) free of any surface obstructions so that GRANTEE may have vehicular access at all times.

By: _____
Ruth McDonald

Dated: _____

By: _____
Florine Parish

Dated: _____

EXHIBIT "A"
LEGAL DESCRIPTION

APN 479-050-04
Public Utility Easement

That portion of that certain Parcel of land granted by Deed, recorded January 9, 2002, as Document No. 2002-003738, of Official Records of Fresno County, lying in the South half of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, in the City of Fresno, County of Fresno, State of California, more particularly described as follows:

COMMENCING at the Northwest corner of said Parcel;

thence South 0°11'34" West, along the West line of said Parcel, a distance of 74.80 feet;

thence South 89°48'26" East, a distance of 10.00 feet to the **POINT OF BEGINNING**;

thence continuing South 89°48'26" East, a distance of 9.00 feet to a point of intersection thereof with a line which is parallel with and 19.00 feet East of the West line of said Parcel;

thence South 0°11'34" West, along said parallel line, a distance of 11.00 feet;

thence North 89°48'26" West, a distance of 9.00 feet to the point of intersection thereof with a line which is parallel with and 10.00 feet East of the West line of said Parcel;

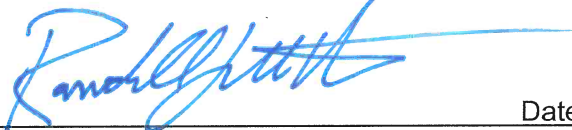
thence North 0°11'34" East, along last said parallel line, a distance of 11.00 feet, to the **POINT OF BEGINNING**.

Containing an area of 99 square feet, more or less.

The above described easement is graphically depicted on the attached Exhibit "B" and made a part of this description by reference thereto.

END DESCRIPTION

This legal description was prepared by me, or under my direction, in accordance with the Professional Land Surveyors' Act.



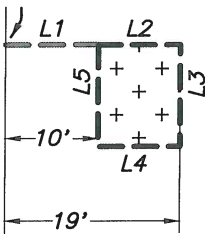
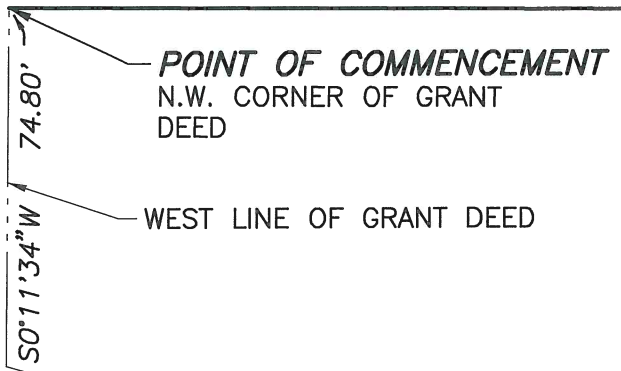
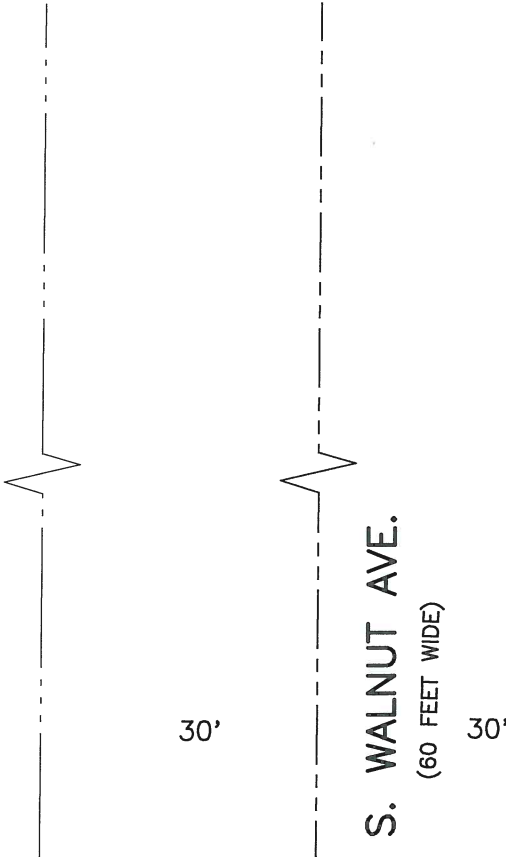
Date: November 14, 2022

Randell Scott West, PLS 8663
Blair, Church & Flynn Consulting Engineers



EXHIBIT "B"

APN: 479-050-05



POINT OF COMMENCEMENT
N.W. CORNER OF GRANT
DEED

WEST LINE OF GRANT DEED

APN: 479-050-04

GRANT DEED
DOC. NO. 2002-003738
O.R.F.C.



Randell Scott West
11/14/2022

LEGEND:

- SECTION LINE
- PROPERTY LINE
- PROPOSED EASEMENT
- EXISTING RIGHT-OF-WAY LINE
- O.R.F.C. OFFICIAL RECORDS FRESNO COUNTY
- INDICATES AREA TO BE GRANTED FOR PUBLIC UTILITY EASEMENT, CONTAINING AN AREA OF ±99 S.F.

LINE TABLE		
Line #	Bearing	Distance
L1	S89° 48' 26"E	10.00
L2	S89° 48' 26"E	9.00
L3	S0° 11' 34"W	11.00
L4	N89° 48' 26"W	9.00
L5	N0° 11' 34"E	11.00

REF. & REV.
2022-165
15-A-10194
PLAT 3054

CITY OF FRESNO
DEPARTMENT OF PUBLIC WORKS

AREA TO BE GRANTED FOR
PUBLIC UTILITY EASEMENT

PROJ. ID. PW00842 RES TYPE -
FUND NO. 22048
ORG. NO. 189901

DR. BY RCR
CH. BY RSW
DATE 10/26/22
SCALE 1"=20'

SHEET NO. 1
OF 1 SHEETS