

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: 451-141-05 AND 451-141-16, OWNED BY TEHAL SINGH THIND AND DALJIT KAUR, 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 \$27,000,000 of Project funding 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

231882v1

Resolution No.

WHEREAS, the Project requires the fee acquisition of the real property located at 1474 and 1486 North Blackstone Avenue, Fresno, California, more particularly described as Assessor's Parcel Numbers (APNs) 451-141-05 and 451-141-16, 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 451-141-05 and 451-141-16, addresses of 1474 and 1486 North Blackstone Avenue, Fresno, California and currently owned by Tehal Singh Thind and Daljit Kaur

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 Catrina Auto Detailing (APN 451-141-05) and Shark Auto Sales (APN 451-141-16), operating at the 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 451-141-05 and 16
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:

THAT CERTAIN REAL PROPERTY SITUATE AND BEING A PORTION OF SECTION 34, TOWNSHIP 13 SOUTH, RANGE 20 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND LYING IN THE SOUTH HALF OF LOT 8 OF SALINGER TRACT, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 13 OF PLATS, RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 34, THENCE SOUTH 89°54'15" EAST A DISTANCE OF 70.0 FEET, THENCE SOUTH 0° 03' WEST A DISTANCE OF 25.0 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE SOUTH 0° 03' WEST PARALLEL TO AND DISTANCE 70.0 FEET FROM THE WEST LINE OF SAID SECTION 34 A DISTANCE OF 155 FEET, THENCE SOUTH 89° 54' 15" EAST PARALLEL TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 34. TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD, THENCE NORTH 31° 47' 52" WEST AND ALONG SAID RIGHT OF WAY LINE TO A POINT 25.0 FEET SOUTH OF THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 34; THENCE NORTH 89° 54' 15" WEST PARALLEL TO AND DISTANT 25.0 FEET FROM THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 34 A DISTANCE OF 88.9 FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

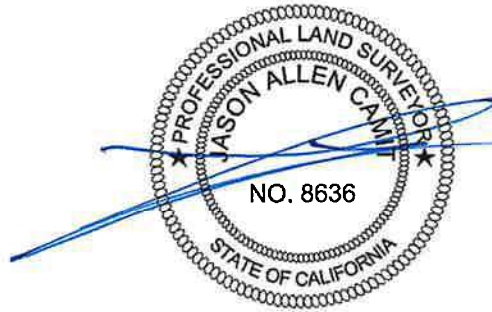
PARCEL 2:

THAT CERTAIN REAL PROPERTY SITUATE AN BEING A PORTION OF SECTION 34, TOWNSHIP 13 SOUTH, RANGE 20 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND LYING IN THE SOUTH HALF OF LOT 8 OF SALINGER TRACT, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 13 OF PLATS, RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 34, THENCE SOUTH 89° 54' 15" EAST A DISTANCE OF 70 0 FEET, THENCE SOUTH 0° 03' WEST PARALLEL TO AND DISTANCE 70.0 FEET FROM THE WEST LINE OF SAID SECTION 34 OF DISTANCE OF 180 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION THENCE CONTINUING SOUTH 0° 03' WEST A DISTANCE OF 50 FEET, THENCE SOUTH 89° 54' 15" EAST PARALLEL TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE

EXHIBIT "A"
Legal Description
(continued)

NORTHWEST QUARTER OF SAID SECTION 34 TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD. THENCE NORTH 31° 47' 52" WEST AND ALONG SAID RIGHT OF WAY LINE TO A POINT 180 FEET SOUTH OF THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 34, THENCE NORTH 89° 54' 15" WEST AND PARALLEL TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 34 TO THE TRUE POINT OF BEGINNING.



7-20-2023