

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 CONSTRUCTION OF VETERANS BOULEVARD, A SIX LANE EXPRESSWAY CONNECTING HERNDON AVENUE TO SHAW AVENUE, AND RELATED PURPOSES AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno proposes the construction of a six-lane road facility to be known as Veterans Boulevard, which would generally extend from West Shaw Avenue in the south to Herndon Avenue in the north, and would include an interchange on State Route 99 about one mile south of the existing Herndon Avenue interchange and about one mile north of the existing Shaw Avenue interchange (the "Project"); and

WHEREAS, the proposed Project will provide sufficient right-of-way for a standard partial cloverleaf interchange at Veterans Boulevard and Highway 99, a bridge over Golden State Boulevard, a bridge over the Union Pacific Railroad tracks, and a connector ramp from Golden State Boulevard to Veterans Boulevard; and

WHEREAS, the Project was assessed in SCH No. 2010021054 under the California Environmental Quality Act ("CEQA") and was found to be of no significant impact; and

WHEREAS, the Project is necessary to connect ramp from Golden State Boulevard to Veterans Boulevard and Highway 99; and

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Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: SGM

Resolution No.

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 the street easement from the subject property in order to construct, as a component of the extension of Veterans Boulevard and Barstow Avenue; 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 easement being sought; and

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

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

APN of Subject Property	Location	Owner(s)
505-060-74	On Barstow Avenue S/E of Veterans Boulevard	The 1979 Ehrlich Investment Trust

WHEREAS, the easement and right-of-way to be acquired and their general location and extent are described in the attached Exhibit "A"; and

WHEREAS, it is necessary to acquire the street easement from the Subject Property in order to construct 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; and

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; and

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 for the Project area; and

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; 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 easement and right-of-way will be acquired for a public use as provided by Code of Civil Procedure Section 1240.010.

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

1. The public interest and necessity require the proposed Project.
2. The proposed Project is planned or located in a 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 7267.2 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 the attached 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, proceedings 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 easement in the name of the City for public purposes.

7. Construction funds are available this fiscal year through a (dollar to dollar match between) Measure C Tier 1 funds, Citywide Regional Street Impact fees, State Transportation Improvement Program (STIP) funding, Regional Transportation Mitigation Fees (RTMF) and Federal Transportation funds. Project I.D. # PW00669, Fund No. 22504, Org. No. 189901, has been established to disburse the necessary funds for the acquisition 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 attorney's fees, to acquire possession of or title to the easement and right-of-way, and possession.

* * * * *

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 _____, 2017.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2017
Mayor Approval/No Return: _____, 2017
Mayor Veto: _____, 2017
Council Override Vote: _____, 2017

YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Seth Mehrten Date
Deputy City Attorney

EXHIBIT "A"

APN 505-060-74 (portion)
Street easement

A portion of the southeast quarter of Section 9, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, as shown on that Record of Survey recorded in Book 58 of Record of Surveys at Pages 8 through 18, Fresno County Records, more particularly described as follows:

COMMENCING at the center quarter corner of said Section 9; thence S 0°04'32" W, along the west line of said southeast quarter, a distance of 30.00 feet to a point on the south right-of-way line of that portion of West Barstow Avenue previously dedicated as a right-of-way for a public road by that deed recorded November 11, 1904 in Book 328 of Deeds at Page 11, Official Records of Fresno County, said point being the TRUE POINT OF BEGINNING of this description; thence N 89°49'00" E, along said south right-of-way line, parallel with and 30.00 feet south of the north line of said southeast quarter, a distance of 118.28 feet; thence, leaving said south right-of-way line, S 31°16'43" W, a distance of 104.79 feet; thence S 25°02'05" W, a distance of 151.65 feet to said west line; thence N 0°04'32" E, along said west line, a distance of 226.58 feet to the TRUE POINT OF BEGINNING.

Contains an area of 12,536 square feet, more or less.

The bearings and distances described herein above, are based on the California Coordinate System of 1983 (1991.35), Zone 4, as shown on that Record of Survey recorded in Book 58 of Record of Surveys at Pages 8 through 18, Fresno County Records. Multiply by 1.000063 to obtain ground distances.



7/3/15