

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 APN: 451-071-35, OWNED BY ART A. TERZIAN 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 has provided 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

WHEREAS, the Project requires the fee acquisition of the real property located at 1730 East McKinley Avenue, Fresno, California, and more particularly described as Assessor's Parcel Number (APN) 451-071-35, 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, On April 5, 2022, Mr. Terzian executed a Trust Transfer Deed, purportedly transferring title to the Granett Investment Trust Dated 8-8-85, c/o Avedis A. Terzian, Trustee. On April 6, 2022, the Deed was recorded with the Fresno County Recorder as Document Number 2022-0044152. The transfer was not insured or verified by a title company. The City has been unable to obtain a copy of the Trust to verify the transfer; and

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

Assessor's Parcel Number 451-071-35, address of 1730 East McKinley Avenue, Fresno, California and currently owned by Art A. Terzian.

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

WHEREAS, the fee interest acquisition of the Subject Property is necessary for the construction of the Project; and

WHEREAS, the City of Fresno has the power and authority to exercise eminent domain and acquire in fee 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 owner of the Subject Property has not engaged in negotiations nor provided a counter offer to purchase 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; and

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

Attachments:
Exhibit A

EXHIBIT "A"
Legal Description

APN 451-071-35
Grant Deed

PARCEL 1:

THAT PORTION OF THE NORTHWEST QUARTER OF LOT 8, SALINGER TRACT, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 13 OF PLATS, FRESNO COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 8, DISTANT 321 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 8; THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF SAID LOT 8, A DISTANCE OF 167 FEET; THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID LOT 8, A DISTANCE OF 141 FEET; THENCE NORTHWESTERLY 25.4 FEET TO A POINT WHICH IS 145.16 FEET SOUTH OF THE NORTH LINE OF SAID LOT, AND 154 FEET WEST OF THE EAST LINE OF THE PARCEL HEREIN DESCRIBED; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID LOT 8, A DISTANCE OF 145.16 FEET TO THE NORTH LINE OF SAID LOT; THENCE EASTERLY 154 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

THAT PORTION OF LOT 8 OF SALINGER TRACT, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 2 PAGE 13 OF PLATS, FRESNO COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT AND RUNNING THENCE EAST ALONG THE NORTH LINE THEREOF, 167 FEET; THENCE SOUTH PUBLIC ROAD 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; TH EAS PARALLEL TO THE NORTH LINE OF SAID LOT, 141 FEET TO THE EAST LINE OF THE WEST 321 FEET OF SAID LOT, BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH ALONG THE EAST LINE OF THE WEST 321 FEET OF SAID LOT, A DISTANCE OF 102 FEET; THENCE WEST AND PARALLEL TO THE NORTH LINE OF SAID LOT 8, A DISTANCE OF 121 FEET; THENCE NORTH AND PARALLEL WITH THE EAST LINE OF THE WEST 321 FEET OF SAID LOT, A DISTANCE OF 102 FEET TO A POINT ON A LINE PARALLEL TO AND 167 FEET SOUTH OF THE NORTH LINE OF SAID LOT 8 AND A DISTANCE OF 121 FEET WEST OF THE TRUE POINT OF BEGINNING; THENCE EAST ALONG SAID LINE BEING PARALLEL TO AND 167 FEET SOUTH OF THE NORTH LINE OF SAID LOT, A DISTANCE OF 121 FEET TO THE TRUE POINT OF BEGINNING.

