

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC PURPOSES OVER, UNDER, THROUGH, AND ACROSS A PORTION OF THE REAL PROPERTY LOCATED AT 1929 E. ASHLAN AVENUE IN THE CITY OF FRESNO (APN: 428-233-18), OWNED BY THE ESTATE ADALBERTO ZUNIGA, FOR THE PURPOSE OF CONSTRUCTING A PUBLIC SIDEWALK ON THE NORTH AND SOUTH SIDE OF ASHLAN AVENUE BETWEEN NORTH EFFIE STREET AND STATE ROUTE 41 AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno proposes the construction of a public sidewalk on the north and south side of East Ashlan Avenue between North Effie Street and State Route 41 (the Project); and

WHEREAS, the Project will provide an Americans with Disabilities Act-compliant travel path for pedestrians, and comply with the City and State Complete Street Goals by making the area attractive to all modes of transportation; and

WHEREAS, the Project was assessed in Environmental Assessment Number EA-17-021, dated September 27, 2017, under the California Environmental Quality Act (CEQA) and it was determined that the Project falls within the Class 1 Categorical Exemption set forth in CEQA Guidelines, section 15301 as this Resolution of Necessity is for the acquisition of property for the minor alteration of existing public facilities involving negligible expansion of the use of East Ashlan Avenue for a pedestrian sidewalk, between North Effie Street and State Route 41, and within Class 3 Categorical Exemption set forth in CEQA Guidelines section 15303 as the Project

1 of 6

Date Adopted:
Date Approved:
Effective Date:
City Attorney Approval:



Resolution No.

consists of limited private parcels which are located in a developed urban area, designated as corridor-center mixed used planned use, and substantially surrounded by urban uses. Furthermore, it was determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project; and

WHEREAS, the Project is necessary to provide safe pedestrian passage on the north and south side of East Ashlan Avenue between North Effie Street and State Route 41; and

WHEREAS, the Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; and

WHEREAS, it appears necessary and desirable that the City of Fresno acquire the 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:

Project Parcel No.	APN of Subject Property	Location	Owner(s)
1	428-233-18	1929 E. Ashlan Avenue	The Estate of Adalberto Zuniga

WHEREAS the easement and right-of-way to be acquired and their general location and extent is described and illustrated in the corresponding attached Exhibits "A" and "B", and

WHEREAS, it is necessary to acquire an easement and right-of-way from the Subject Property to construct the 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 easement and right-of-way being sought; and

WHEREAS, all other easements and rights-of-way necessary to complete the Project, except across the Subject Property, have been acquired; and

WHEREAS, the City of Fresno has the power and authority to acquire easements and right-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, Streets and Highway Code section 10102; and

WHEREAS, in accordance with Section 7267.2 of the Government Code, an offer to purchase the necessary easement and right-of-way from the Subject Property Owner has been made to the owner or owners of record of the real property to be acquired within the Project area, unless the owner could not be located with reasonable diligence; 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 Subject Property Owner whose Subject Property is to be acquired by eminent domain and whose name 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 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 by the Council of the City of Fresno 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 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 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 Exhibits "A" and "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 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 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 easement and

right-of-way and to pay for litigation expenses, including staff time. Project I.D. # PW00767, Fund No. 22048, 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 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 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 _____ 2019.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Raj Singh Badhesha Date
Senior Deputy City Attorney

Attachments:

Exhibit "A"
Exhibit "B"

EXHIBIT A

All that real property located in the City of Fresno, County of Fresno, State of California, more particularly described as:

The Southerly 10.0 feet of Lot 73 of Tract No. 1140, Ashlan Terrace, as per the map thereof recorded in Volume 15 of Plats, Pages 15 and 16, Fresno County Records.

EXCEPTING therefrom the Southerly 4.0 feet of Lot 73 of Tract No. 1140, Ashlan Terrace, as per the Document 80174, recorded in Book 6066, Page 560, Fresno County Records.

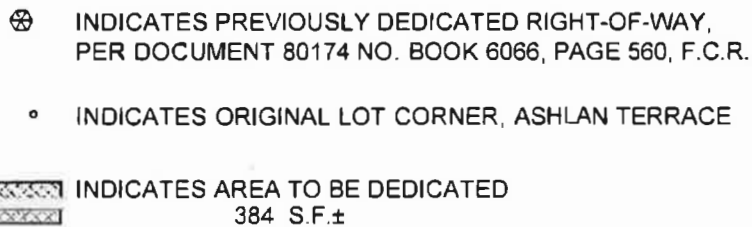
For the purpose of this description, the South boundary of said Lot 73 is assumed to be 40 feet North of the South boundary of Section 15, Township 13 South, Range 20 East, Mount Diablo Base and Meridian.

APN: 428-233-18



2018-052
15-A-9475

ASHLAN TERRACE
PLAT VOL. 15, PG. 16, F.C.R.



REF. & REV. 2018-052 PLAT 1856	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ ID <u>PW00099</u> CC <u>CP001</u>	SHEET NO <u>1</u> OF <u>1</u> SHEETS
		FUND NO <u>22050</u> RES TYPE <u> </u>	
	PARCEL TO BE DEDICATED TO THE CITY OF FRESNO AS AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES	ORG NO <u>10001</u>	DR. BY <u>J BECK</u>
			CH. BY <u>J CAMI?</u>
			DATE <u>FEB 28, 2018</u>
			SCALE <u>NO SCALE</u>
			15-A-9475