



RESOLUTION NO. 2007-206

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF PERMANENT EASEMENTS AND RIGHTS OF WAY FOR PUBLIC PURPOSES OVER, UNDER, THROUGH AND ACROSS REAL PROPERTIES FOR THE CONSTRUCTION OF MARKS AVENUE AND WEBER AVENUE INTERSECTION PROJECT AND RELATED PURPOSES AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE

WHEREAS, the City of Fresno proposes a street widening project on Marks and Weber Avenues in the City of Fresno, a public use, with related improvements to effectively carry out the principle purpose pursuant to Code of Civil Procedure Section 1240.120(a) ("Project"); and,

WHEREAS, the proposed Project will provide the additional street right of way needed to develop including new right and left turn lanes on Weber Avenue, new right and left turn lanes on Marks Avenue, a new traffic signal at the intersection of Marks and Weber Avenue, and necessary curb, gutter, sidewalks, pavement striping and signage.

WHEREAS, the Project was assessed in EA-02-46 under the California Environmental Quality Act ("CEQA") and was found to be categorically exempt under CEQA; and

WHEREAS, the Project is necessary to minimize traffic congestion, provide for more efficient movement of traffic, provide for fewer delays and improve air quality. It should also enhance ingress and egress to adjacent businesses; and

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 street easements from the subject properties in order to improve the intersection to improve the flow of traffic and reduce delays in the area; the design of the project has been reviewed and some changes have been made, but the project cannot be constructed without acquiring the minimal amount of permanent street easements being sought; and

WHEREAS, it appears necessary and desirable that the City of Fresno acquire permanent public street easements and rights of way over, under, through and across real properties (affecting two (2) parcels), hereinafter called the "Subject Properties", for construction of the Project and related purposes; and

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

Adopted 6-12-07
Approved 6-22-07
Effective 6-22-07



Project Parcel No.	APN of Subject Property	Location	Owner(s)
1	433-080-11	3320 N. Weber Avenue	Derald J. Henkel
2	433-010-30	Northwest corner of Marks and Weber	David J. Scoffone and Catherine Ann Scoffone

WHEREAS the permanent easements and rights of way to be acquired are designated Project Parcel Numbers 1 and 2, and their general location and extent are described and illustrated in the corresponding attached Exhibits "A" and "B", and

WHEREAS, the general location of the Project, and its relation to the Subject Properties and the permanent easements and rights of way to be acquired is illustrated in the attached Exhibits "A" and "B", and

WHEREAS, it is necessary to acquire street easements from the Subject Properties in order to widen the street to meet ever-increasing traffic demands; the design of the project has been reviewed and changes made to minimize the effects on the individual parcels, but the project cannot be constructed without acquiring the permanent street easements sought and the temporary construction easements to be used 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 within 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 permanent easements and rights 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 proposed 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 and rights of way that are sought are necessary for the proposed Project.
4. The offer to purchase required by Section 7367.2 of the Government Code has been made to the owner of record.
5. The permanent easement and rights of way which are sought are situated in the City of Fresno, County of Fresno, State of California, and are more particularly described in Exhibits 'A' and illustrated in 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, 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 title to the subject easements in the name of the City for public purposes.
7. Project ID PW00158, Fund 20102, Org 189901 has been established to disburse the necessary funds for the acquisition of the easements 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 attorneys' fees, to acquire possession of or title to the permanent easement and rights of way.

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

I, REBECCA E. KLISCH, 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 12th day of June, 2007.

AYES : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
NOES : None
ABSENT : None
ABSTAIN : None

Mayor Approval: June 22, 2007

Mayor Approval/No Return: N/A, 2007

Mayor Veto: N/A, 2007

Council Override Vote: N/A, 2007

REBECCA E. KLISCH
City Clerk

BY: Rebecca Klisch
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: [Signature]
KATHERINE E. BRADLEY
Deputy City Attorney

KEB:sn [41312sn/RESO] 6/6/07

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, described and shown as follows:

EXHIBIT "A"
Parcel 1

APN 433-080-11 (portion)
Street easement

That portion of Lots 41 and 42 of Perrin Colony No. 6, according to the map thereof recorded in Book 1 of Record of Surveys at Page 2, Fresno County Records, situated in the Southwest Quarter of Section 19, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof and more particularly described as follows;

COMMENCING at the point of intersection of the westerly prolongation of the south line of Parcel "B" of Parcel Map No. 79-11, according to the map thereof recorded in Book 31 of Parcel Maps at Page 99, Fresno County Records, with the west line of said Lot 42 of Perrin Colony No. 6; thence S 0°00'00" W, along said west line of said Lot 42, a distance of 69.66 feet to the TRUE POINT OF BEGINNING of this description; thence continuing S 0°00'00" W, along said west line, a distance of 100.52 feet to the northeasterly right-of-way line of that portion of North Weber Avenue described as Parcel No. 3 and dedicated for public highway purposes by that Indenture recorded March 6, 1930 in Book 1067 at Page 107, Official Records of Fresno County; thence S 41°54'26" E, along said northeasterly right-of-way line, a distance of 211.50 feet to the northwesterly corner of Outlot "A" as shown on the map of Tract No. 1176, Northwest Tract, according to the map thereof recorded in Book 16 of Plats at Page 78, Fresno County Records, said Outlot "A" also being a portion of said Lot 41 of Perrin Colony No. 6; thence N 89°10'02" E, along the north line of said Outlot "A", a distance of 27.86 feet; thence, leaving said north line, N 41°54'26" W, parallel with and 21.00 feet, measured at right angles, northeasterly of said northeasterly right-of-way line of North Weber Avenue, a distance of 229.81 feet to the beginning of a tangent curve concave northeasterly and having a radius of 22.00 feet; thence northerly, along the arc of said curve, through a central angle of 41°54'26", an arc distance of 16.09 feet; thence N 0°00'00" E, tangent to said curve and parallel with and 10.00 feet east of said west line of said lot 42, a distance of 15.71 feet; thence N 10°06'34" W, a distance of 56.97 feet to the TRUE POINT OF BEGINNING.

Contains an area of 5,354 square feet, more or less.

2006-260
15-A-8161
PWF 10824
D:\DATA\Weber & Marks\APN 433-080-11.doc



PARCEL 1

EXHIBIT "B"

(SHEET 1 OF 2)

PARCEL "B"
 PARCEL MAP NO. 79-11
 BK. 31 OF P.M.S. AT PG. 99, F.C.R.

PREVIOUSLY DEEDED BY INSTRUMENT
 RECORDED IN BOOK 6750 PAGE 85 O.R.F.C.
 AS SHOWN ON PARCEL MAP NO. 79-11

APN 433-080-15

THE SOUTH LINE OF PARCEL "B" OF PARCEL MAP NO. 79-11

POINT OF COMMENCEMENT

THE WEST LINE OF LOT 42
 OF PERRIN COLONY NO. 6

TRUE POINT OF BEGINNING

APN 433-080-11

LOT 42
 PERRIN COLONY NO. 6
 R.O.S. BK. 1, PG. 2, F.C.R.

SEE SHEET 2
 FOR DETAIL

1' WIDE OUTLOT "A" OFFERED FOR DEDICATION FOR
 FUTURE ROAD BY MAP OF TRACT NO. 1176, NORTHWEST
 TRACT. NO EVIDENCE FOUND THAT OUTLOT "A" WAS
 EVER ACCEPTED FOR ROAD PURPOSES

APX. NORTH LINE OF LOT 41 PERRIN COLONY NO. 6

LOT 41

WEST FOUNTAIN WAY

PREVIOUSLY DEDICATED BY MAP OF TRACT NO. 1176

PREVIOUSLY DEDICATED BY A
 DEED OF EASEMENT RECORDED
 JUNE 2, 1997 AS DOCUMENT
 NO. 97070175 O.R.F.C.

18

17

NORTHWEST TRACT
 BK. 16 OF PLATS, PG. 78, F.C.R.

1

2

WEST ANDREWS
 AVENUE



INDICATES AREA TO BE DEDICATED
 5,354 S.F. ±

D:\DATA\Weber & Marks\APN 433-080-11 Sheet 1.dcd

REF. & REV.
 2006-260
 PWF 10824
 PLAT 2050
 REVISED 5/02/07 AJ

CITY OF FRESNO
 DEPARTMENT OF PUBLIC WORKS

PARCEL TO BE DEDICATED TO THE CITY OF FRESNO
 AS AN EASEMENT AND RIGHT-OF-WAY FOR
 PUBLIC STREET PURPOSES

PROJ. ID. PW00158 KRA 0101001000
 FUND NO. 20102 RES TYPE
 ORG. NO. 189901

DR. BY AJ
 CH. BY D.H.C.
 DATE SEPT. 25, 2006
 SCALE NO SCALE

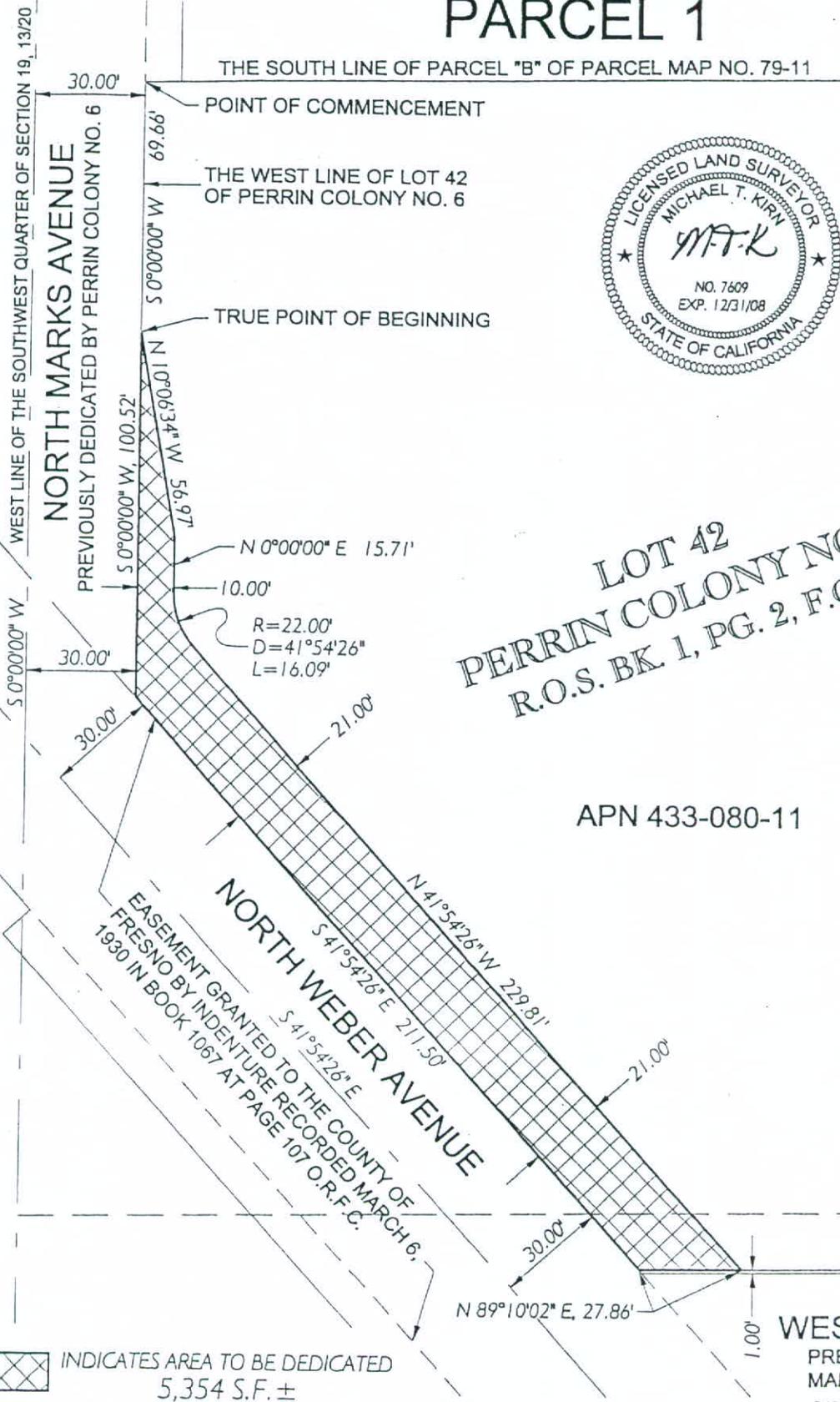
SHEET NO. 1
 OF 2 SHEETS
 15-A-8161

PARCEL 1

EXHIBIT "B"

(SHEET 2 OF 2)

THE SOUTH LINE OF PARCEL "B" OF PARCEL MAP NO. 79-11



INDICATES AREA TO BE DEDICATED
5,354 S.F. ±

D:\DATA\Weber & Marks\APN 433-080-11 Sheet 2.dcd

REF. & REV.
2006-260
PWF 10824
PLAT 2050
REVISED 5/02/07 AJ

CITY OF FRESNO
DEPARTMENT OF PUBLIC WORKS

PARCEL TO BE DEDICATED TO THE CITY OF FRESNO
AS AN EASEMENT AND RIGHT-OF-WAY FOR
PUBLIC STREET PURPOSES

PROJ. ID.	PW00158	KRA	0101001000
FUND NO.	20102	RES TYPE	
ORG. NO.	189901		
DR. BY	AJ	SHEET NO.	2
CH. BY	D.H.C.	OF	2 SHEETS
DATE	SEPT. 25, 2006		
SCALE	NO SCALE		

15-A-8161



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, described and shown as follows:

EXHIBIT "A"
Parcel 2

APN 433-010-30 (portion)
Street easement

That portion of Lot 39 of Winterton Tract, according to the map thereof recorded in Book 3 of Record of Surveys at Page 21, Fresno County Records, situated in the Southeast Quarter of Section 24, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof and more particularly described as follows;

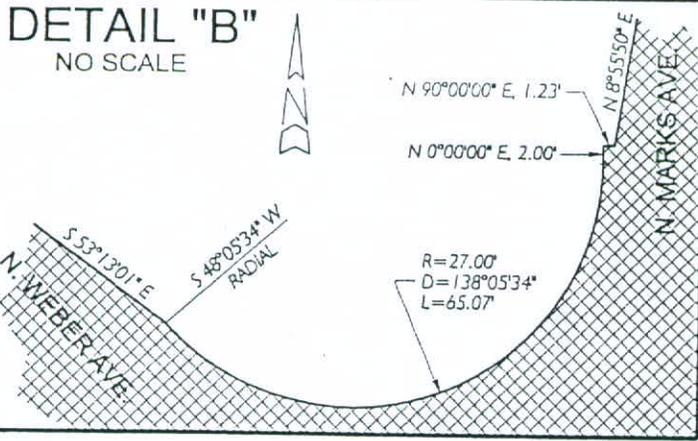
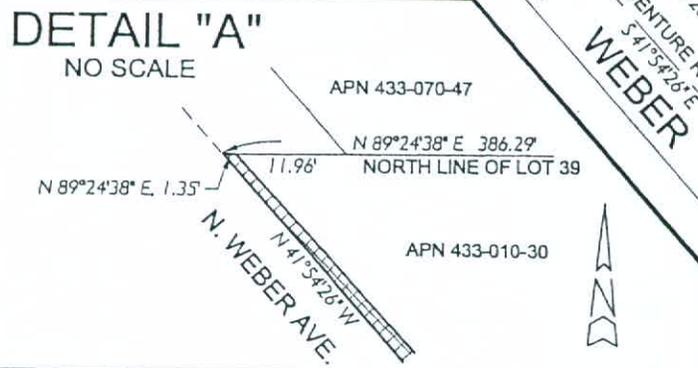
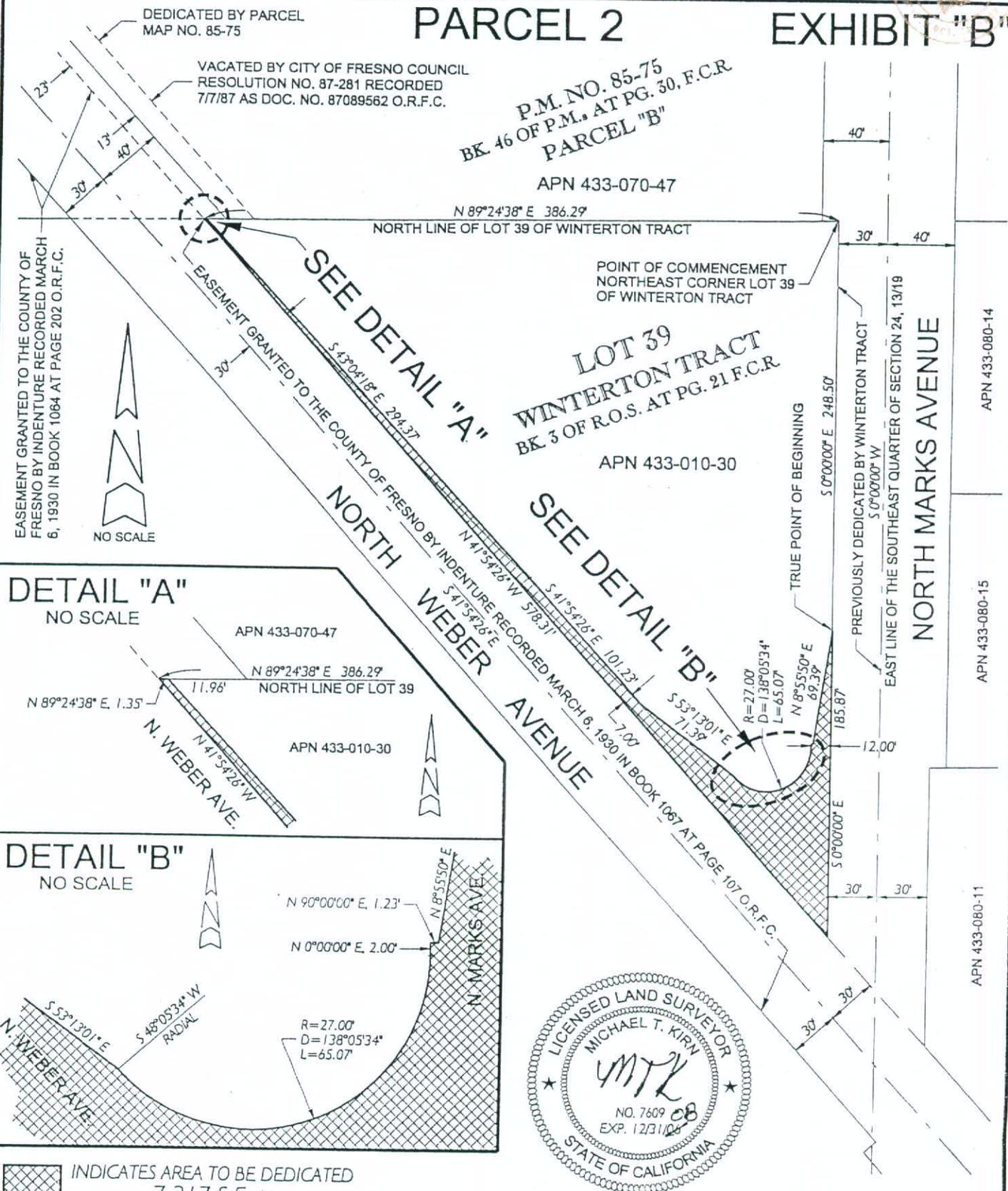
COMMENCING at the northeast corner of said Lot 39 of Winterton Tract; thence S 0°00'00" E, along the east line of said Lot 39, a distance of 248.50 feet to the TRUE POINT OF BEGINNING of this description; thence continuing S 0°00'00" E, along said east line, a distance of 185.87 feet to the northeasterly right-of-way line of that portion of North Weber Avenue described as Parcel No. 3 and dedicated for public highway purposes by that Indenture recorded March 6, 1930 in Book 1067 at Page 107, Official Records of Fresno County; thence N 41°54'26" W, along said northeasterly right-of-way line, a distance of 578.31 feet to the north line of said Lot 39 of Winterton Tract; thence N 89°24'38" E, along said north line, a distance of 1.35 feet; thence S 43°04'18" E, a distance of 294.37 feet; thence S 41°54'26" E, parallel with and 7.00 feet northeasterly of said northeasterly right-of-way line of North Weber Avenue, a distance of 101.23 feet; thence S 53°13'01" E, a distance of 71.39 feet to a point on the arc of a non-tangent curve concave northerly and having a radius of 27.00 feet, a radial to said point bears S 48°05'34" W; thence easterly, along the arc of said non-tangent curve, through a central angle of 138°05'34", an arc distance of 65.07 feet; thence N 0°00'00" E, tangent to last said curve, parallel with and 12.00 feet west of said east line of said Lot 39, a distance of 2.00 feet; thence N 90°00'00" E, a distance of 1.23 feet; thence N 8°55'50" E, a distance of 69.39 feet to the TRUE POINT OF BEGINNING.

Contains an area of 7,317 square feet, more or less.



PARCEL 2

EXHIBIT "B"



INDICATES AREA TO BE DEDICATED
7,317 S.F. ±

D:\DATA\Weber & Marks\APN 433-010-30.dcd

REF. & REV. 2006-259 PWF 10824 PLAT 2049 REVISED 11/8/06	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS		PROJ. ID. PWD00158 FUND NO. 20102 ORG. NO. 189901	KRA 0101001000 RES TYPE
	PARCEL TO BE DEDICATED TO THE CITY OF FRESNO AS AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES		DR. BY A.J. CH. BY D.H.C. DATE SEPT. 26, 2006 SCALE NO SCALE	SHEET NO. 1 OF 1 SHEETS 15-A-8160

June 13, 2007

RECEIVED

Council Adoption: 6/12/07

Mayor Approval:

Mayor Veto:

Override Request:



TO: MAYOR ALAN AUTRY

2007 JUN 25 AM 8:41

FROM: REBECCA E. KLISCH, CMC
City Clerk

CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 6/12/07, Council adopted the attached Resolution No. 2007-206 entitled **Acquisition of easement, 3320 N. Weber Avenue, and street easement at N/W corner of Marks and Weber**, Item No. 9:30 a.m. – 1, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before June 25, 2007. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)


Alan Autry, Mayor

Date: 6/22/07

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:	
Noes	:	
Absent	:	
Abstain	:	