RESOLUTION NO. 2011 - 89

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, APPROVING THE REVERSION TO ACREAGE OF FINAL MAP OF TRACT 4983, LOTS 1 THROUGH 53 INCLUSIVE.

WHEREAS, the City of Fresno approved a Final Map for Tract 4983 on December 20, 2005; and

WHEREAS, on December 20, 2005, the City also approved Subdivision Agreement Final Map of Tract 4983 (hereafter "Subdivision Agreement") relating to public improvements and for improvement security in accordance with the Subdivision Map Act (Government Code Section 66410 *et seq.*); and

WHEREAS, the time for performance by Ennis Homes, Inc. (Subdivider) under the Subdivision Agreement has expired and none of the required improvements have been made; and

WHEREAS, Ennis Homes, Inc. has gone through a bankruptcy and sold the property; and

WHEREAS, the City may proceed with default proceedings and/or make a demand on the surety for completion of the public improvements; and

WHEREAS, the City on its own motion may, by resolution, initiate reversion to acreage proceedings as authorized by the Subdivision Map Act (Government Code section 66499.11 *et seq.)*; and

WHEREAS, on December 16, 2010, the City adopted Resolution No. 2010-293 to initiate proceedings for reversion to acreage of the Final Map of Tract 4983; and

WHEREAS, notice of breach of the Subdivision Agreement has been sent to the current property owner and the property owner consents to reversion to acreage of subject property, having notified the City on March 11, 2011, that property owner wishes to cooperate with the proposed reversion to acreage action; and

WHEREAS, the Council finds that all owners of an interest in the real property within the subdivision have consented to reversion; and

WHEREAS, the Council finds that none of the improvements required to have been made within the time allowed by the Subdivision Agreement have been made; and

Adopted 5-12-11
Approved 5-12-11
Effective 5-12-11

2011-89

WHEREAS, the Council finds that dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes, in accordance with the reversion map included herein as Exhibit "A"; and

WHEREAS, a public hearing has been noticed pursuant to Section 66451.3 of the California Government Code and has this date been held concerning the proposed reversion to acreage.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FRESNO RESOLVES AND DETERMINES AS FOLLOWS:

1. The Council approves the reversion to acreage of Final Map of Tract 4983, Lots 1 through 53 inclusive, with the following requirements:
    a. A portion of the previously paid fees shall be retained in accordance with Section 66499.17 of the California Government Code, in order to accomplish the purposes of the reversion proceeds of the Subdivision Map Act and to offset the City's cost to complete the reversion to acreage, which has been determined to be $14,800.
    b. The previous dedications shall be vacated as shown on Exhibit "A", thereby reserving the previously dedicated public street right-of-way at the northeast corner of the intersection of Cornelia Avenue and Dakota Avenue for future installation of traffic signal equipment.
2. The Council authorizes the refund of fees and deposits held by the City of Fresno to the current owner of the property and the release of all improvement security, except those retained pursuant to Government Code Section 66499.17.
3. The Council directs staff to return to the Council within 45 days with an Amendment to the Annual Appropriations Resolutions to provide appropriations in the necessary funds and accounts in order to provide for the refund of fees and deposits.
4. The reversion shall be effective upon the final map being filed for record by the County Recorder, in accordance with Government Code Section 66499.18.

//

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the Council of the City of Fresno adopted the foregoing Resolution at a regular meeting, held the 12th day of May, 2011.

REBECCA E. KLISCH, City Clerk

By: Rebecca E Klisch

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Hilda Cantú Montoy
Special Counsel to the City

Ayes: Baines, Borgeas, Olivier, Quintero, Westerlund, Brand
Noes: None
Absent: Xiong
Abstain: None

REVERSION TO ACREAGE FOR TRACT NO. 4983

Sheet One of Two Sheets

IN

CITY OF FRESNO

FRESNO COUNTY, CALIFORNIA

CITY OF FRESNO

2600 FRESNO STREET

FRESNO, CALIFORNIA 93721

(559) 621-2489

OWNER'S STATEMENT

THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND WITHIN THIS SUBDIVISION, HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP AND OFFER FOR DEDICATION FOR PUBLIC USE THE PARCELS AND EASEMENTS SPECIFIED ON SAID MAP AS INTENDED FOR PUBLIC USE FOR THE PURPOSES SPECIFIED THEREIN.

VIC–NIC VI, LLC
A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____

FIDELITY NATIONAL TITLE COMPANY
A CALIFORNIA CORPORATION

BY: _____

BY: _____

NOTARY ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
COUNTY OF _____ } S.S.

ON THIS _____ DAY OF _____, 20___, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S)____ SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED TO ME THAT____ EXECUTED THE SAME IN ____ AUTHORIZED CAPACITY(IES), AND THAT BY _____SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), (OR THE ENTITY UPON WHICH THE PERSON(S) ACTED,) EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

_____
SIGNATURE OF NOTARY

_____
PRINT NOTARY'S NAME

IN THE COUNTY OF _____.
MY COMMISSION EXPIRES _____.
COMMISSION NUMBER _____.

NOTARY ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
COUNTY OF _____ } S.S.

ON THIS _____ DAY OF _____, 20___, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S)____ SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED TO ME THAT____ EXECUTED THE SAME IN ____ AUTHORIZED CAPACITY(IES), AND THAT BY _____SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), (OR THE ENTITY UPON WHICH THE PERSON(S) ACTED,) EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

_____
SIGNATURE OF NOTARY

_____
PRINT NOTARY'S NAME

IN THE COUNTY OF _____.
MY COMMISSION EXPIRES _____.
COMMISSION NUMBER _____.

LEGAL DESCRIPTION

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 13 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THE EAST ONE HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE NORTHERLY AND PARALLEL WITH THE EASTERLY LINE OF CORNELIA AVENUE TO THE NORTH LINE OF DAKOTA AVENUE; THENCE EASTERLY ALONG THE NORTHERLY LINE OF DAKOTA AVENUE 30 FEET TO THE TRUE POINT OF BEGINNING. THENCE EASTERLY ALONG THE NORTHERLY LINE OF DAKOTA AVENUE 112 FEET; THENCE NORTHERLY AND PARALLEL WITH THE EASTERLY LINE OF CORNELIA AVENUE 130 FEET; THENCE WESTERLY AND PARALLEL WITH THE NORTHERLY LINE OF DAKOTA AVENUE 112 FEET; THENCE SOUTHERLY AND PARALLEL WITH THE EASTERLY LINE OF CORNELIA AVENUE TO THE POINT OF BEGINNING.

AND ALSO EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE NORTH AND PARALLEL TO THE EAST LINE OF CORNELIA AVENUE A DISTANCE OF 30 TO THE NORTH LINE OF DAKOTA AVENUE; THENCE EAST ALONG THE NORTH LINE OF DAKOTA AVENUE A DISTANCE OF 142 FEET TO THE SOUTHEAST CORNER OF THE LAND CONVEYED TO LEROY SABBATINI, et ux, BY DEED DATED APRIL 13, 1966 AND RECORDED APRIL 22, 1966, IN BOOK 5303 PAGE 703 OF OFFICIAL RECORDS, INSTRUMENT NO. 30905, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE EAST ALONG THE NORTH LINE OF DAKOTA AVENUE A DISTANCE OF 158.33 FEET TO A POINT 30 FEET WEST OF THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE NORTH AND PARALLEL WITH SAID WEST LINE A DISTANCE OF 227.85 FEET; THENCE WEST AND PARALLEL WITH THE NORTH LINE OF DAKOTA AVENUE A DISTANCE OF 158.53 FEET TO A POINT, SAID POINT BEING LOCATED IN THE NORTHERLY PROLONGATION OF THE EAST LINE OF THE BEFORE MENTIONED SABBATINI LAND; THENCE SOUTH ALONG SAID NORTHERLY PROLONGATION AND THE EAST LINE OF SAID SABBATINI TRACT OF LAND A DISTANCE OF 227.85 FEET, MORE OR LESS TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 13 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 23; THENCE NORTH 89°58'06" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 961.17 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 00°00'20" EAST, A DISTANCE OF 257.85 FEET; THENCE NORTH 89°58'06" EAST, A DISTANCE OF 30.00 FEET; THENCE SOUTH 00°00'20" WEST, A DISTANCE OF 257.85 FEET; THENCE SOUTH 89°58'06" WEST, A DISTANCE OF 30.00 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 13 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 23; THENCE NORTH 89°58'06" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 690.79 FEET; THENCE 00°00'56" WEST, A DISTANCE OF 160.00 FEET TO THE TRUE POINT OF BEGINNING, THENCE CONTINUING NORTH 00°00'56" WEST, A DISTANCE OF 85.45 FEET; THENCE NORTH 44°58'35" EAST, A DISTANCE OF 17.54 FEET, THENCE NORTH 89°58'35" EAST, A DISTANCE OF 99.60 FEET; THENCE SOUTH 00°00'56" EAST, A DISTANCE OF 97.85 FEET; THENCE SOUTH 89°58'06" WEST, A DISTANCE OF 112.00 FEET TO THE POINT OF BEGINNING.

RECORDER'S CERTIFICATE

DOCUMENT NO. _____ FEE:$_____

FILED THIS _____ DAY OF _____, 20___, AT ___M. IN VOLUME _____

OF PLATS, AT PAGES _____, AT THE REQUEST OF CITY OF FRESNO.

FRESNO COUNTY RECORDS
PAUL DICTOS, C.P.A., RECORDER

BY: _____
DEPUTY

LICENSED LAND SURVEYOR
HIMAWAN BRASALI
LS. 7800
EXP. 12/31/11
STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE PARCELS OF LAND AS SHOWN HEREON ARE SUBSTANTIALLY AS THEY WERE PRIOR TO THE THE RECORDING OF TRACT NO. 4983 AND ANY ALTERATIONS THEREOF, THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL HAVE BEEN REVERSED.

_____ _____
SCOTT MOZIER, PE 54417 DATE
LICENSE EXPIRES 12-31-2011
CITY ENGINEER

CONSULTING LAND SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND THAT I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.

ACTING FOR THE CITY OF FRESNO:
BLAIR, CHURCH AND FLYNN, CONSULTING ENGINEERS
451 CLOVIS AVENUE, SUITE 200, CLOVIS, CA 93612

_____ _____
HIMAWAN BRASALI, LS 7800 DATE
LICENSE EXPIRES 12-31-2011

CITY CLERK'S CERTIFICATE

I HEREBY CERTIFY THAT THE COUNCIL OF THE CITY OF FRESNO, BY RESOLUTION NO. _____ ADOPTED ON _____, APPROVED THE WITHIN MAP AND ACCEPTED ON BEHALF OF THE PUBLIC PARCELS OF LAND AND EASEMENTS OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION, AND APPROVED THE ABANDONMENT OF THOSE PUBLIC STREETS AND/OR PUBLIC EASEMENTS NOT SHOWN ON THE MAP AND NOTED AS ABANDONED BY THE FILING OF THIS MAP.

REBECCA KLISCH, CMC
CITY CLERK

BY: _____ _____
DEPUTY DATE

THIS PROPERTY IS SUBJECT TO:

1. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "HAZARD SUBSTANCES CERTIFICATE AND INDEMNITY AGREEMENT" RECORDED DECEMBER 30, 2004 AS INSTRUMENT NO. 2004-0291508 OF OFFICIAL RECORDS.
2. THE HEREIN SUBJECT PROPERTY LIES WITHIN THE BOUNDARIES OF FRESNO IRRIGATION DISTRICT.
3. THE HEREIN SUBJECT PROPERTY LIES WITHIN THE BOUNDARIES OF FRESNO METROPOLITAN FLOOD CONTROL DISTRICT AND MAY BE SUBJECT TO THE POTENTIAL OF THE PAYMENT OF DARINAGE FEES AND/OR THE REQUIREMENT OF CONSTRUCTION OF DRAINAGE FACILITIES AS A CONDITION OF DEVELOPMENT, RECONSTRUCTION, ADDITIONS OR ALTERATIONS ASSOCIATED WITH SAID LAND.
4. THE HEREIN SUBJECT PROPERTY LIES WITHIN THE BOUNDARIES OF THE IMPROVEMENT DISTRICT SHOWN BELOW AND IS SUBJECT TO ANY AND ALL ASSESSMENTS LEVIED THEREUNDER.

NAME OF DISTRICT: CITY OF FRESNO COMMUNITY FACILITIES DISTRICT #2 (MENLO ROOS)

INCORPORATED OCT. 12, 1885 CITY OF FRESNO

REVERSION TO ACREAGE FOR TRACT NO. 4983

Sheet Two of Two Sheets

IN

CITY OF FRESNO

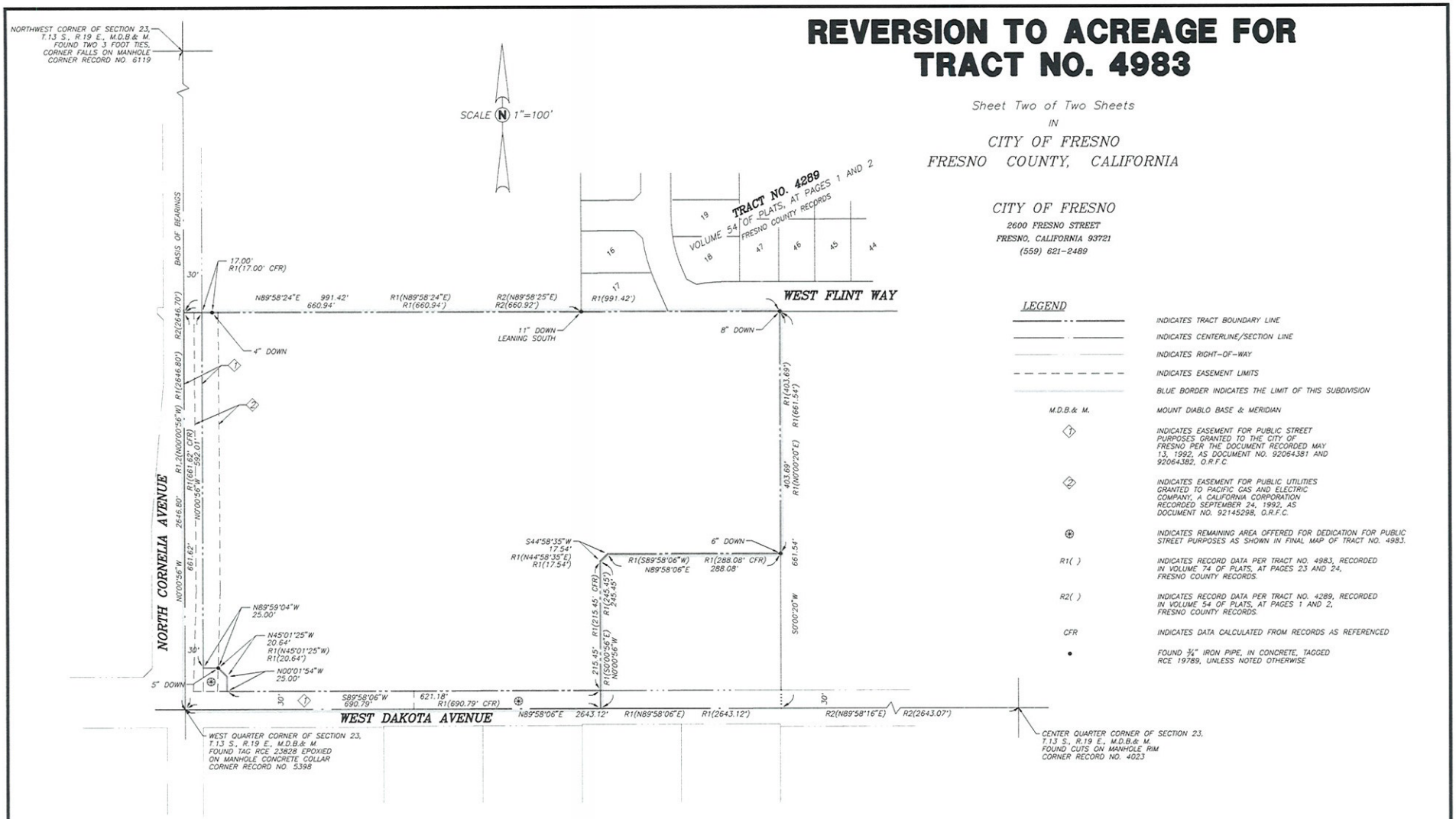
FRESNO COUNTY, CALIFORNIA

CITY OF FRESNO

2600 FRESNO STREET

FRESNO, CALIFORNIA 93721

(559) 621-2489



LEGEND

	INDICATES TRACT BOUNDARY LINE
	INDICATES CENTERLINE/SECTION LINE
	INDICATES RIGHT-OF-WAY
	INDICATES EASEMENT LIMITS
	BLUE BORDER INDICATES THE LIMIT OF THIS SUBDIVISION
M.D.B.& M.	MOUNT DIABLO BASE & MERIDIAN
1	INDICATES EASEMENT FOR PUBLIC STREET PURPOSES GRANTED TO THE CITY OF FRESNO PER THE DOCUMENT RECORDED MAY 13, 1992, AS DOCUMENT NO. 92064381 AND 92064382, O.R.F.C.
2	INDICATES EASEMENT FOR PUBLIC UTILITIES GRANTED TO PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION RECORDED SEPTEMBER 24, 1992, AS DOCUMENT NO. 92145298, O.R.F.C.
⊕	INDICATES REMAINING AREA OFFERED FOR DEDICATION FOR PUBLIC STREET PURPOSES AS SHOWN IN FINAL MAP OF TRACT NO. 4983.
R1( )	INDICATES RECORD DATA PER TRACT NO. 4983, RECORDED IN VOLUME 74 OF PLATS, AT PAGES 23 AND 24, FRESNO COUNTY RECORDS.
R2( )	INDICATES RECORD DATA PER TRACT NO. 4289, RECORDED IN VOLUME 54 OF PLATS, AT PAGES 1 AND 2, FRESNO COUNTY RECORDS.
CFR	INDICATES DATA CALCULATED FROM RECORDS AS REFERENCED
•	FOUND ¾" IRON PIPE, IN CONCRETE, TAGGED RCE 19789, UNLESS NOTED OTHERWISE

BASIS OF BEARINGS

THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 13 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE AND MERIDIAN, WAS TAKEN TO BEAR NORTH 00°00'56" WEST, AS SHOWN ON THE MAP OF TRACT NO. 4289, RECORDED IN VOLUME 54 OF PLATS AT PAGES 1 AND 2, FRESNO COUNTY RECORDS.

NOTE:

ALL AREAS OFFERED FOR DEDICATION FOR PUBLIC STREET PURPOSES AS SHOWN ON FINAL MAP OF TRACT NO. 4983, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 74 OF PLATS, AT PAGES 23 AND 24, FRESNO COUNTY RECORD, IS CONSTITUTE ABANDONED BY THE FILING OF THIS MAP, EXCEPT THOSE AREAS NOTED ON THIS MAP.

INCORPORATED OCT. 12, 1885 CITY OF FRESNO