City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO.	1 I
COUNCIL MEETING	04-23-09
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

April 23, 2009

FROM: PATRICK N. WIEMILLER, Director
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
Public Works Department, Engineering Division

SUBJECT: ADOPT A MITIGATED NEGATIVE DECLARATION AND AFFIRM THE APPROVAL OF A PROGRAMMATIC CATEGORICAL EXCLUSION AND APPROVE THE ACQUISITION OF ONE FEE SIMPLE ACQUISITION AT THE CORNER OF HERNDON AVENUE AND WEBER AVENUE FROM PROPERTY OWNED BY DAVID T. AND RITA F. HINOJOSA AND NICANOR F. HINOJOSA (COUNCIL DISTRICT 2)

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATIONS

Staff recommends that the City Council:

1. Affirm the finding of a Categorical Exclusion pursuant to Programmatic Categorical Exclusion Agreement entered into between Caltrans and the Federal Highway Administration on November 18, 2003.

2. Adopt Mitigated Negative Declaration No. E200710000241 for the widening and installation median islands, curbs, gutters, sidewalks, bike/pedestrian paths and driveways at the intersections of Herndon Avenue and Weber Avenue; Herndon and Golden State Boulevard.

3. Approve the acquisition of one fee simple parcel from property owned by David T. and Rita F. Hinojosa and Nicanor F. Hinojosa and authorize the Public Works Director or his designee to accept the grant deed for the property and to execute the Agreement for Purchase and Sale of Real Property and complete the acquisition through escrow.

EXECUTIVE SUMMARY

The Design Services Division of Public Works Department has designed a street widening project along Herndon Avenue between Weber and Freeway 99. Federal financing has been authorized to participate in the project under Federal Project No., CML 5060 (122). The project will widen

Herndon Avenue, Weber Avenue and Golden State Boulevard to dedicated left and right turn lanes and dedicated through lanes in each direction.

The owners have signed the appropriate documents to provide the additional street right of way depicted on Assessor's Parcel Map No. 504-105-06 on the attached Exhibit "A". The value of the acquisition was established by an independent, professional appraiser and negotiations to acquire the parcel were initiated on November 10, 2008. The appraised value of the parcel was $95,250.

The property owners, David T. and Rita F. Hinojosa and Nicanor F. Hinojosa have agreed to the City's acquisition for the negotiated amount of $107,100. The owner has agreed to the amount of compensation offered by the City and signed the Agreement for Purchase and Sale and the Deed of Easement. With City Council approval of the acquisition, the transaction will be processed through escrow.

KEY OBJECTIVE BALANCE

The Key Objective of Customer Satisfaction is realized by the property owner through the conclusion of a voluntary agreement. Employee Satisfaction results from the acquisition of land in a timely manner. Financial Management goals are achieved by completing the right of way acquisition without significant legal and staff expenses that would be incurred if eminent domain were pursued.

BACKGROUND

Beginning in 2007, the Public Works Department began the process to plan improvements to the Herndon Avenue and Golden State Boulevard intersection to improve traffic movement and reduce delays at the intersection. It is anticipated to advertise bids for construction in August 1, of 2009. In order to maintain this schedule an application for permission to construct must be filed with Caltrans by June 1, 2009. Prior to filing the application for permission to construct, the City must demonstrate that it has possession or control of the necessary right of way. The Federal funds are retained by having the right of way certified by June 1, 2009 is $5,000,000 dollars. An appraisal for the acquisition of parcel was obtained October 24, 2008 and the written offer was transmitted to the property owner on November 10, 2008. The owners felt that staffs appraisal was low and thus under State law hired their own appraisal which came back at an appraised value of $119,000. Staff worked with the owners in effort to make sure that the Federal funding would not be lost and that just compensation was provided to the owners. In an effort to avoid further possible legal expenses, time delays and appraisal costs, the owner and staff agreed to acquire the parcel at the compromised amount of $107,100.

COMPLIANCE WITH NEPA AND CEQA

As stated above, Federal funds are paying for a significant percentage of this project. As such, the City must ensure that this project has fully complied with the National Environmental Policy Act as well as with the California Environmental Quality Act. To comply with NEPA, Caltrans approved a Categorical Exclusion for this project in June, 2007. Caltrans approval of the Categorical Exclusion was done pursuant to a Programmatic Categorical Exlusion agreement entered into between Caltrans and the Federal Highway Administration on November 18, 2003. Staff recommends that the City Council affirm Caltrans finding of a Categorical Exclusion.

To comply with the California Environmental Quality Act, City staff caused to have prepared an Initial Study and Mitigated Negative Declaration. The Mitigated Negative Declaration was filed with Fresno County Clerk's office on May 14, 2007, with number E200710000241. To date, City staff has not received comments from individuals and/or agencies challenging the analysis and conclusions contained in the Initial Study and Mitigated Negative Declaration. As such, staff recommends that the City Council adopt the finding of a Mitigated Negative Declaration.

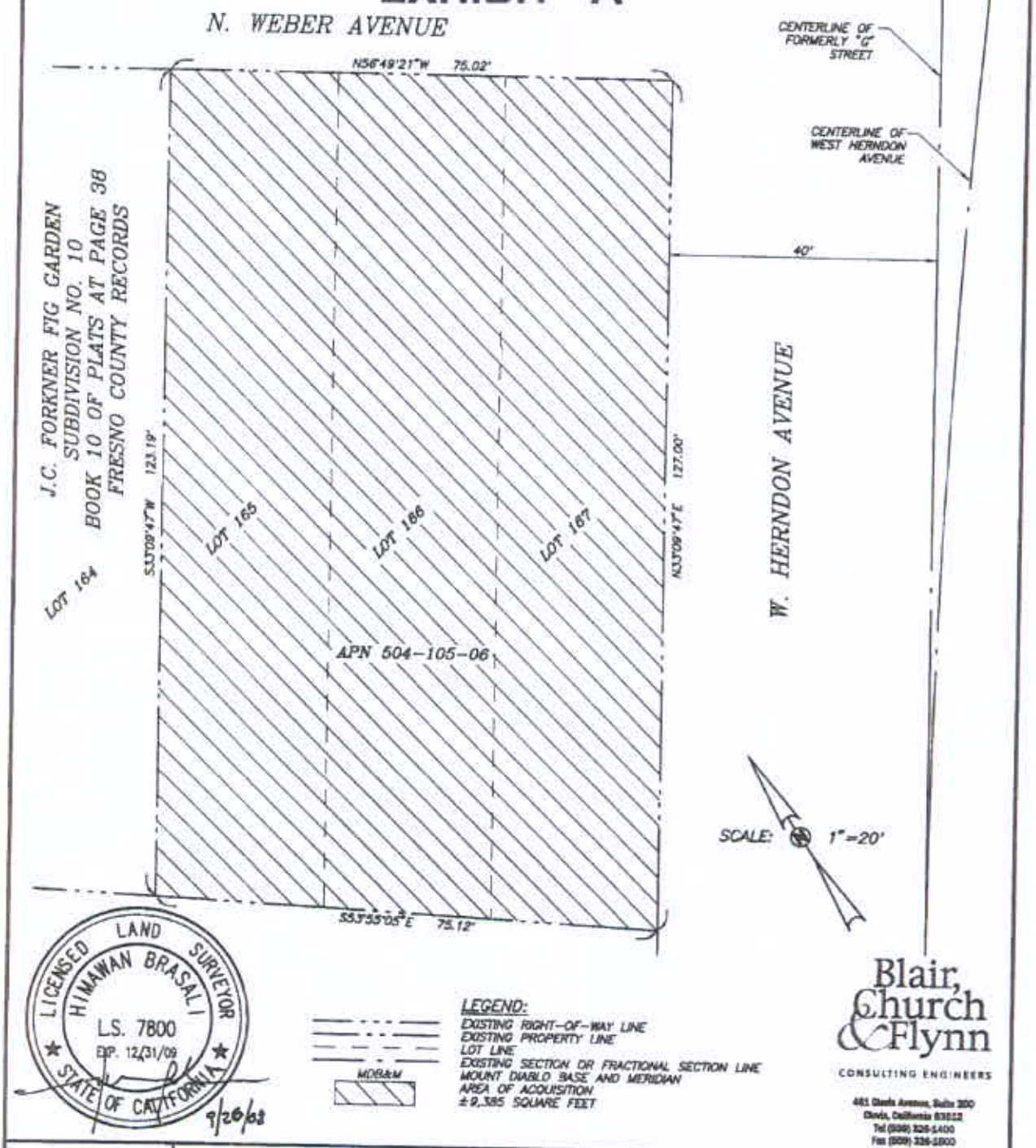
FISCAL IMPACT

Funds for acquisition of this property at the Herndon Avenue and Golden State Boulevard intersection are partially funded by Federal Project No. CML 5060 (122) and City of Fresno Project No. PW00306, Fund 22048, ORG 189901 and KRA 0101001000.

PNW/SLM/PC/eam
Apprv Acq Cor Herndon-Weber Hinojosa 4-23-09

Attachment: Exhibit "A"

EXHIBIT "A"



REF. & REV.	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PW00306 KRA 0101001000 FUND NO. 22048 RES TYPE ORG. NO. 189901	
2008-039 PWF 10814 PLAT 1342	PARCEL TO BE GRANTED TO THE CITY OF FRESNO WEST HALF, SECTION 4, T.13 S., R.19 E., M.D.B.&M.	DR. BY JCA CH. BY HB DATE 8/17/2007 SCALE 1"=20'	SHEET NO. 1 OF 1 SHEETS 15-A-8417

Drawing: P:\205-0229\dwg-legal\dwg\205229lg10.dwg: Layout1 - BCF.ctb
Plot by: himawan Sep 26, 2008 - 9:11am

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO ADOPT A MITIGATED NEGATIVE DECLARATION AND AFFIRM THE APPROVAL OF A PROGRAMMATIC CATEGORICAL EXCLUSION AND APPROVE THE ACQUISTION OF ONE FEE SIMPLE ACQUISTION AT THE CORNER OF HERNDON AVENUE AND WEBER AVENUE FROM PROPERTY OWNED BY DAVID T. AND RITA F. HINOJOSA AND NICANOR F. HINOJOSA

WHEREAS, the Design Services Division of Public Works Department has designed a street widening project along Herndon Avenue between Weber and Freeway 99; and

WHEREAS, Federal financing has been authorized for the project under Federal Project No., CML 5060 (122); and

WHEREAS, in order to retain the federal funding, the right of way must be certified by June1, 2009; and

WHEREAS, City has entered into a Purchase and Sale Agreement with David T. and Rita F. Hinojosa and Nicanor Hinojosa to purchase the subject property ("Agreement"); and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno, based upon the testimony and information presented at the hearing and upon review and consideration of the environmental documentation provided, as follows:

1. The Council finds and determines that the foregoing recitals are true and correct.

2. The Council finds and declares that the actions authorized hereby constitute and are with respect to municipal affairs of the City and the statements, findings, and determinations of the Council set forth herein are true and correct.

3. The Council finds that the Herndon Avenue and Golden State Boulevard Reconstruction Project meets the requirements for the Categorical Exclusion provided for in the 2003 Programmatic Categorical Exclusion Agreement entered into between the California Department of Transportation and the Federal Highway Administration on November 19, 2003 and therefore affirms the California Department of Transportation's (date) adoption of a Programmatic Categorical Exclusion.

4. The Council finds that with the mitigation measures included with the Initial Study and Mitigated Negative Declaration, (State Clearinghouse No. 2007021046), the Herndon Avenue and Golden State Boulevard Reconstruction Project clearly will not have any significant effects on the environment. Therefore, Council hereby adopts the finding of a Mitigated Negative Declaration set forth in Environmental Assessment No. E200710000241, (State Clearinghouse No. 2007021046.)

5. The City Manager, or designees, are individually and collectively authorized and directed to take all steps that may be necessary to negotiate and finalize the Agreement and related documents all as substantively consistent with this resolution, and to take any other actions and execute any other documents that are reasonably required to carry out the Agreement, all as consistent with this resolution.

6. This resolution shall take effect upon its final passage.

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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 _____ day of _____, 2009.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2009

Mayor Approval/No Return: _____, 2009

Mayor Veto: _____, 2009

Council Override Vote: _____, 2009

REBECCA E. KLISCH
City Clerk

BY:_____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: Laurie A. Avedisian
Laurie A. Avedisian, Deputy

LAA:cg; 48868cs/reso -4/9/09