

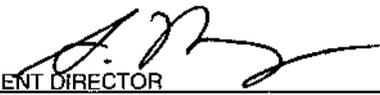
AGENDA ITEM NO.

1 D

COUNCIL MEETING

05/01/14

APPROVED BY

  
 DEPARTMENT DIRECTOR

  
 CITY MANAGER

May 1, 2014

**FROM:** SCOTT L. MOZIER, PE, Director  
Public Works Department

**BY:** SCOTT TYLER, PE, City Traffic Engineer/Division Manager  
Public Works Department, Traffic and Engineering Services Division

ALAN JAMES, Supervising Engineering Technician  
Public Works Department, Traffic and Engineering Services Division

AJ

**SUBJECT:** Actions pertaining to the summary vacation of a portion of a public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue (Council District 5)

1. Adopt a finding of Categorical Exemption per staff determination, pursuant to Sections 15301/Class 1, 15304/Class 4 and 15311/Class 11 of the California Environmental Quality Act (CEQA) Guidelines, Environmental Assessment No. S-13-022
2. Adopt the attached resolution ordering the summary vacation of a portion of a public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue

## RECOMMENDATIONS

Staff recommends that the City Council:

1. Adopt a finding of Categorical Exemption per staff determination, pursuant to Sections 15301/Class 1, 15304/Class 4 and 15311/Class 11 of the California Environmental Quality Act (CEQA) Guidelines, Environmental Assessment No. S-13-022.
2. Adopt the attached resolution ordering the summary vacation of a portion of a public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue.

## EXECUTIVE SUMMARY

Gary Giannetta Engineering, on behalf of LiDestri Foods, Inc., is requesting the vacation of a portion of public street easement on the southeast corner of East Butler Avenue and South Temperance Avenue as described in Exhibit "A" and shown on Exhibit "B" of the attached resolution. The purpose for the vacation is to eliminate excess public street right-of-way so that it can be incorporated into the LiDestri Foods, Inc., property and used as an extension of the existing parking lot. The Traffic and Engineering Services Division, other City departments and utility agencies reviewed this proposal and determined that there are no public utility facilities

## REPORT TO THE CITY COUNCIL

Summary vacation at the southeast corner of Butler and Temperance Avenues

May 1, 2014

Page 2

within the area proposed for vacation and that the area proposed for vacation is unnecessary for present or prospective public street purposes.

### **BACKGROUND**

Gary Giannetta Engineering, on behalf of LiDestri Foods, Inc., is requesting the vacation of a portion of public street easement on the southeast corner of East Butler Avenue and South Temperance Avenue as described in Exhibit "A" and shown on Exhibit "B" of the attached resolution. The easement was granted to the County of Fresno by that Grant of Easement recorded June 14, 1991, as Document No. 91070601, Official Records of Fresno County. The area was annexed into the City of Fresno in February, 2004. The easement appears to have been dedicated for a right turn pocket onto east bound Butler Avenue that was never constructed. Street improvements required for a subdivision in the vicinity have been constructed to the ultimate alignment approved by the City of Fresno. This alignment did not utilize the entire area granted to the County resulting in excess public street right-of-way no longer needed for public use. The purpose for the vacation is to eliminate this excess public street right-of-way so that it can be incorporated into the LiDestri Foods, Inc., property and used as an extension of their existing parking lot.

The Traffic and Engineering Services Division, other City departments and utility agencies reviewed this proposal and determined that there are no public utility facilities within the area proposed for vacation and that the area proposed for vacation is unnecessary for present or prospective public street purposes.

The provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public street easement that is considered excess right-of-way not required for street or highway purposes and has no public utility facilities within the area to be vacated. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required.

The vacation, if approved by the Council, will become effective when the vacating resolution is recorded in the office of the Fresno County Recorder.

The City Attorney's Office has reviewed and approved the attached resolution as to form.

### **ENVIRONMENTAL FINDINGS**

Staff has performed a preliminary environmental assessment of this project and has determined that this project is exempt under Sections 15301/Class 1, 15304/Class 4 and 15311/Class 11 of the California Environmental Quality Act (CEQA) Guidelines.

Section 15301/Class I consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures and facilities, including, existing streets, sidewalks, gutters and similar facilities involving negligible or no expansion of the use beyond that existing at the time of the lead agency's determination. Section 15304/Class 4 consists of minor public or private alterations in the condition of land which do not involve the removal of healthy, mature, scenic trees. Section 15311/Class 11 consists of

## REPORT TO THE CITY COUNCIL

Summary vacation at the southeast corner of Butler and Temperance Avenues

May 1, 2014

Page 3

construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to small parking lots.

The proposed project consists of constructing a parking lot and retaining wall and vacating 22,650 square feet of a public easement. The vacation, a  $\pm 0.52$  acre piece of land will be an expansion of  $\pm 1\%$  of the existing land use, which will result in a negligible expansion of the current land use. The project also involves negligible expansion for the existing facility because this vacated area will mostly consist of required frontage landscaping and a retaining wall, which are minor alterations to the land and accessory structures. These alterations will not require removal of healthy, mature, or scenic trees.

The property is zoned M-1 which is consistent with adopted plans and policies. The subject property is surrounded by urban uses and has no value as habitat for endangered, rare or threatened species and will not cause any significant environmental impacts related to traffic, noise, and air or water quality. No significant effects would occur as a result of the proposed project. Therefore, the above described project complies with the conditions described in Sections 15301/Class 1, 15304/Class 4 and 15311/Class 11 of the CEQA Guidelines. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.

### **LOCAL PREFERENCE**

Not applicable because the vacation of a public easement does not involve bidding or contracting.

### **FISCAL IMPACT**

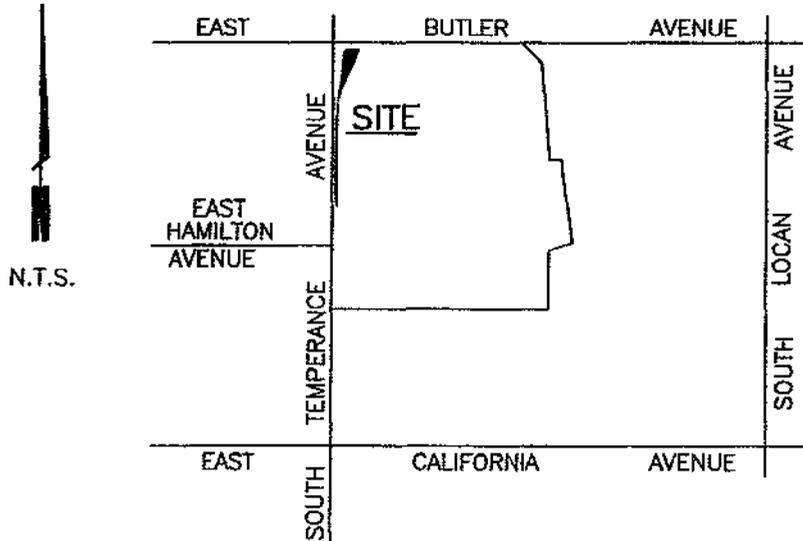
This project is located in Council District 5. There will be no City funds involved with this vacation. LiDestri Foods, Inc. has paid all processing fees to cover staff cost in accordance with the Master Fee Schedule. There will be an increase in property tax revenue due to the increase in taxable area.

Attachments: 1. Vicinity Map  
                  2. Resolution  
                  3. Environmental Assessment No. S-13-022

P.W. File No. 11775

# ATTACHMENT 1

## VICINITY MAP



**PREPARED BY:**  
GARY GIANNETTA  
1119 "S" STREET  
FRESNO, CA. 93721  
(559) 264-3590

**CITY OF FRESNO  
CATEGORICAL EXEMPTION  
ENVIRONMENTAL ASSESSMENT NO. S-13-022**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY  
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS  
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

**APPLICANT:** Willie Bynum  
568 S. Temperance Avenue  
Fresno, CA 93727

**PROJECT LOCATION:** 568 South Temperance Avenue  
APNs: 313-051-02, 04, 26

**PROJECT DESCRIPTION:** The project was filed by Willie Bynum of LiDestri Foods, Inc., and pertains to a portion of the 65 acres of Lidestri property located on the east side of South Temperance Avenue between East Butler and East Church Avenues. The applicant proposes to install 17 visitor parking stalls in continuation of the existing stalls on site adjacent to South Temperance Avenue. A retaining wall will be constructed as a continuation of the existing retaining wall. The rest of the site is currently being developed as approved under Conditional Use Permit Application No. C-05-237. The project also includes a proposed vacation of a portion of a public easement at the southeast corner of East Butler and South Temperance Avenues, along South Temperance Avenue directly abutting Lidestri's existing property. The total area being vacated is approximately 22,650 square feet. The property is zoned M-1/UGM (Light Manufacturing/Urban Growth Management).

**This project is exempt under Sections 15301/Class 1, 15304/Class 4 and 15311/Class 11 of the State of California CEQA Guidelines.**

**EXPLANATION:**

The following Categorical Exemptions apply to the proposed project:

- Section 15301/Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures and facilities, including, existing streets, sidewalks, gutters and similar facilities involving negligible or no expansion of the use that of existing at the time of the lead agency's determination.
- Section 15304/Class 4 consists of minor public or private alterations in the condition of land which do not involve the removal of healthy, mature, scenic trees.
- Section 15311/Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to small parking lots.

The proposed project consists of constructing a parking lot and retaining wall and vacating

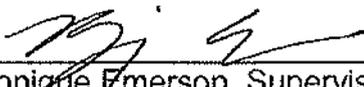
EA No. S-13-022  
March 31, 2014

22,650 square feet of a public easement. The vacation, a  $\pm$  0.52 acre piece of land will be an expansion of  $\pm$  1% of the existing land use, which will result in a negligible expansion of the current land use. The project also involves negligible expansion for the existing facility because this vacated area will mostly consist of required frontage landscaping and a retaining wall, which are minor alterations to the land and accessory structures. These alterations will not require removal of healthy, mature, or scenic trees.

The property is zoned M-1 which is consistent with adopted plans and policies. The subject property is surrounded by urban uses and has no value as habitat for endangered, rare or threatened species and will not cause any significant environmental impacts related to traffic, noise, and air or water quality. No significant effects would occur as a result of the proposed project. Therefore, the above described project complies with the conditions described in Sections 15301/Class 1, 15304/Class 4 and 15311/Class 11 of the CEQA Guidelines. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.

Date: March 31, 2014

Prepared By:

  
\_\_\_\_\_  
Bonique Emerson, Supervising Planner  
City of Fresno  
Development and Resource Management Department  
(559) 621-8277

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
FRESNO, CALIFORNIA, TO ORDER THE SUMMARY  
VACATION OF A PORTION OF THE PUBLIC STREET  
EASEMENT AT THE SOUTHEAST CORNER OF EAST  
BUTLER AVENUE AND SOUTH TEMPERANCE AVENUE

WHEREAS, the Council has elected to proceed under the provisions of the Public Streets, Highways, and Service Easements Vacation Law (Division 9, Part 3 of the California Streets and Highways Code), and specifically Chapter 4 (commencing with Section 8330) thereof, to summarily vacate a portion of the public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue as described in Exhibit "A" and shown on Exhibit "B" which are attached and incorporated in this Resolution; and

WHEREAS, the easement was granted to the County of Fresno by a Grant of Easement recorded June 14, 1991, as Document No. 91070601, Official Records of Fresno County, the property was annexed into the City of Fresno in 2004, and was dedicated for a right turn pocket onto east bound Butler that was never constructed; and

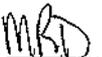
WHEREAS, street improvements required for a subdivision in the vicinity have been constructed to the ultimate alignment approved by the City of Fresno and this alignment did not utilize the entire area granted to the County resulting in excess public street right-of-way no longer needed for public use; and

WHEREAS, the purpose for the vacation is to eliminate this excess public street right-of-way so that it can be incorporated into the LiDestri Foods, Inc. property and

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Resolution No.

used as an extension of their existing parking lot; and

WHEREAS, the Traffic and Engineering Services Division, other City departments and utility agencies reviewed this proposal and determined that there are no public utility facilities within the area proposed for vacation and that the area proposed for vacation is unnecessary for present or prospective public street purposes; and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public street easement that is considered excess right-of-way not required for street or highway purposes and has no public utility facilities within the area to be vacated. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required; and

WHEREAS, staff has performed a preliminary environmental assessment of this project and has determined that this project is exempt under Sections 15301/Class 1, 15304/Class 4, and 15311/Class 11 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, the Council desires to summarily vacate a portion of the public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue as described in Exhibit "A" and shown on Exhibit "B".

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Based upon the review and consideration of the environmental documentation provided, the adoption of the proposed vacation is in the best interest of

the City of Fresno. The Council finds this project is exempt under Sections 15301/Class 1, 15304/Class 4, and 15311/Class 11 of the California Environmental Quality Act (CEQA) Guidelines and that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

2. A portion of the public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue as described in Exhibit "A" and shown on Exhibit "B" is hereby vacated.

3. The City Clerk of the City of Fresno shall certify to the passage of this Resolution and shall cause a certified copy, attested by the Clerk under the seal of the City of Fresno, to be recorded in the Office of the County Recorder of the County of Fresno, State of California.

4. This vacation shall become effective on the date this resolution is recorded.

5. From and after the date this resolution is recorded, a portion of the public street easement at the southeast corner of East Butler Avenue and South Temperance Avenue as described in Exhibit "A" and shown on Exhibit "B" shall no longer constitute a public street easement.

///

///

\* \* \* \* \*

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 \_\_\_\_\_, 2014.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2014  
Mayor Approval/No Return: \_\_\_\_\_, 2014  
Mayor Veto: \_\_\_\_\_, 2014  
Council Override Vote: \_\_\_\_\_, 2014

YVONNE SPENCE, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
CITY ATTORNEY'S OFFICE

BY: \_\_\_\_\_  
Mary Raterman-Doidge  
Deputy

Attachments: Exhibits "A" and "B"

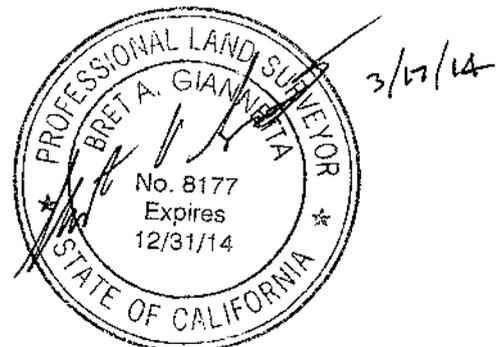
PW File No. 11775

**Exhibit "A"**  
**Page 1 of 2**

Parcel 1

That portion of the Southwest Quarter of Section 11, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the West Quarter corner of said Section 11; thence South 89°42'36" East along the North line of said Southwest Quarter, a distance of 159.00 feet; thence South 0°17'24" West, a distance of 30.00 feet to the Northeast corner of that portion of South Temperance Avenue previously dedicated by that Grant of Easement recorded June 14, 1991 as Document No. 91070601, Official Records of Fresno County; thence South 22°29'34" West, along the East right-of-way line of said portion of South Temperance Avenue, a distance of 14.04 feet to the Southwest corner of that portion of East Butler Avenue previously dedicated by that Deed of Easement recorded August 16, 2012 as Document No. 2012-0114902, Official Records of Fresno County, said Southwest corner being the TRUE POINT OF BEGINNING; thence continuing South 22°29'34" West, along said East right-of-way line, a distance of 320.36 feet to a point 30.00 feet East of the West line of said Southwest Quarter, said point being the Northeast corner of that portion of South Temperance Avenue previously vacated by that Fresno County resolution for Vacation No. A80-22 recorded May 5, 1981 as Document No. 40760 in Book 7717 at Page 555, Official Records of Fresno County, said point also being the beginning of a non-tangent curve whose radius point bears South 67°33'04" East; thence Southwesterly along the Northerly boundary of said previously vacated portion of South Temperance Avenue and along said non-tangent curve, having a radius of 600.00 feet, through a central angle of 5°27'00", an arc distance of 57.07 feet to the beginning of a non-tangent curve whose radius point bears South 84°09'42" East; thence Northeasterly along last said non-tangent curve, having a radius of 1,940.00 feet, through a central angle of 2°14'19", an arc distance of 75.80 feet; thence North 24°43'00" East, a distance of 13.92 feet to the beginning of a non-tangent curve whose radius point bears North 82°09'12" West; thence Northeasterly along last said non-tangent curve, having a radius of 2,064.00 feet, through a central angle of 4°50'20", an arc distance of 174.32 feet; thence North 3°00'28" East, a distance of 68.98 feet; thence North 46°38'56" East, a distance of 28.95 feet to the Westerly prolongation of the South right-of-way line of said previously dedicated portion of East Butler Avenue; thence South 89°42'36" East, along said Westerly prolongation, parallel with and 43.00 feet South of the North line of said Southwest Quarter, a distance of 85.66 feet to the TRUE POINT OF BEGINNING.



**Exhibit "A"**  
**Page 2 of 2**

Parcel 2

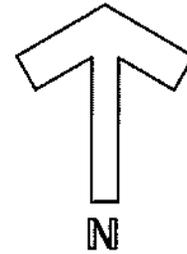
That portion of the Southwest Quarter of Section 11, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, described as follows:

BEGINNING at a point on the West line of said Southwest Quarter, which bears North 0°09'15" West, a distance of 1,539.12 feet from the Southwest corner of said Section 11; thence North 0°09'15" West, along said West line to a point which bears South 0°09'15" East, a distance of 596.04 feet from the West Quarter corner of said Section 11; thence Northeasterly along a curve tangent to said West line and concave to the East, having a radius of 1,940.00 feet, through a central angle of 5°49'12", an arc distance of 197.06 feet to the East right-of-way line of South Temperance Avenue that resulted from the previous vacation by that Fresno County resolution for Vacation No. A80-22 recorded May 5, 1981 as Document No. 40760 in Book 7717 at Page 555, Official Records of Fresno County, being a line parallel with and 10.00 feet East of said West line; thence South 0°09'15" East along said East right-of-way line to a point 1,539.12 feet North from said Southwest corner and 10.00 feet East from said West line; thence 10.00 feet to the Point of Beginning.



PARCEL 1 - POINT OF BEGINNING  
 THE WEST QUARTER  
 CORNER OF SECTION  
 11-14/21

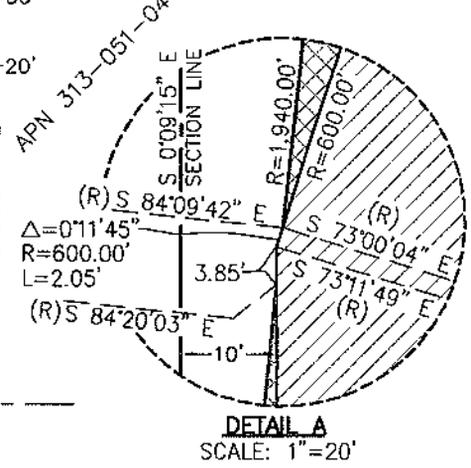
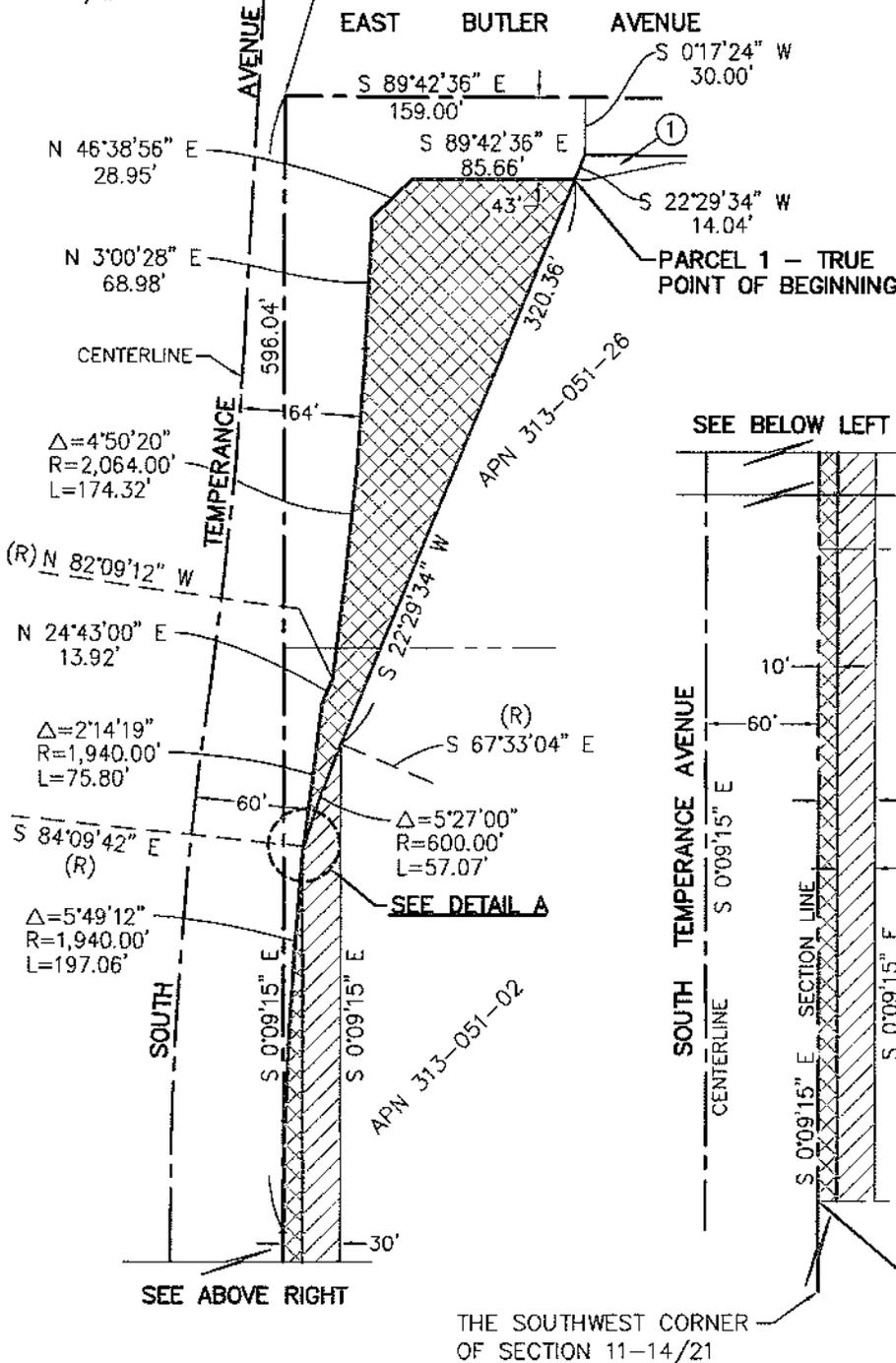
# EXHIBIT "B"



SCALE: 1' = 100'



① INDICATES AREA PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY THAT DEED OF EASEMENT RECORDED AUGUST 16, 2012 AS DOCUMENT NO. 2012-0114902, O.R.F.C.



- (R) INDICATES RADIAL BEARING FROM BEGINNING OF NON-TANGENT CURVE TO THE RADIUS POINT.
- INDICATES AREA TO BE VACATED, EASEMENT PREVIOUSLY DEEDED TO THE COUNTY OF FRESNO FOR ROAD PURPOSES, JUNE 14, 1991 AS DOCUMENT NO. 91070601, OFFICIAL RECORDS OF FRESNO COUNTY.
- INDICATES AREA PREVIOUSLY VACATED AS PER COUNTY VACATION NO. A80-22, MAY 5, 1981 AS DOC. NO. 40700, OFFICIAL RECORDS OF FRESNO COUNTY.

**PREPARED BY:**  
 GARY GIANNETTA  
 1119 "S" STREET  
 FRESNO, CA. 93721  
 (559) 264-3590

3/5/14

REF. & REV. ACC'T NO. FILE NO. C-05-237R PWF 11775	<b>CITY OF FRESNO</b>		PROJ. ID. _____ FUND NO. _____ ORG. NO. _____
	A PORTION OF SECTION 11, T 14 S, R 21 E, M.D.B. & M. <b>TO BE VACATED</b>		DR. BY: B. GIANNETTA CH BY: _____ DATE: _____ SCALE: AS NOTED
			SHEET NO. <b>1</b> OF <b>1</b> SHEET

**This page intentionally left blank.**