



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: May 7, 2013

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Adoption Of Resolution Of Necessity For The Cota Street Bridge Replacement Project

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of Necessity by the Council of the City of Santa Barbara to Acquire the Real Property Commonly Known as 230 W. Cota Street.

DISCUSSION:

The Cota Street Bridge Replacement Project (Project) is necessary to replace the structurally deficient bridge over the Lower Mission Creek. The new bridge is proposed to accommodate the same number and sizes of traffic lanes, and pedestrian access. The Project is an approved Federal Highway Administration (FHWA) Bridge Program project with oversight provided by the California Department of Transportation (Caltrans). The properties summarized below must be acquired by the City in accordance with applicable federal and state laws and guidelines due to the City's eligibility for reimbursement of Project costs using funds provided by the FHWA. The project design is 65 percent complete, and the necessary real property interests are currently being acquired as identified on the Attachment.

Project construction is scheduled to begin in the spring of 2014 and has been planned and located in a manner that will be most compatible with the greatest public good and least private injury. Due to the close proximity of the existing residential structures at 221 W. Cota Street, 536 Bath Street, and 230 W. Cota Street to Mission Creek, the work done to widen the creek and construct the Project will impact the structures. As such, the Project requires the full fee acquisition of the two separate duplex properties at 536 Bath Street and 221 W. Cota Street, and a single family residence at 230 W. Cota Street. Other surrounding properties will not be affected in such a way as to require partial or full acquisition as a result of the Project. The current status of the three properties required for acquisition is summarized below.

Cota Street Bridge Property Acquisitions and Status:

Address	Owner	City Offer/Appraisal (Date)	Owner Appraisal (Date)	Owner Counter Offer (Date)	City Counter Offer (Date)	Settlement Price (Date)
536 Bath Street	Martel	\$550,000 (11/8/12)	\$650,000 (12/10/12)	\$650,000 (12/14/12)	\$600,000 (1/10/13)	\$600,000 (2/20/13)
221 W. Cota Street	Grubb	\$600,000 (11/1/12)	\$675,000 (1/18/13)	\$675,000 (1/18/13)	\$630,000 (2/28/13)	\$660,000 (3/21/13)
230 W. Cota Street	Vega Trust	\$575,000 (11/2/12)	none	\$635,000 (1/17/13)	\$579,000 (3/7/13)	Pending negotiations

On April 9, 2013, Council approved execution of the agreements to acquire 536 Bath Street and 221 W. Cota Street. These agreements have been executed by the property owners and the City. The third property at 230 W. Cota Street is still in negotiations for purchase and now requires the adoption of the Resolution of Necessity in order to proceed efficiently within the timeline for property acquisitions and subsequent construction of the Project.

Purpose of Hearing on the Resolution of Necessity

To comply with requirements of the federal and state agencies governing funding of the Project and reimbursement of costs to the City, there must be a determination made by the City of the necessity for the acquisition of the property at 230 W. Cota Street, which is done through the adoption of a Resolution of Necessity (“Resolution”) and the supported findings.

In addition to the adoption of the proposed Resolution, in order to proceed with eminent domain, the law requires that a public hearing be held concerning each of the required property rights being sought by the City and the public necessity for the acquisition of those rights. After the adoption of the Resolution, these findings will be presented in an eminent domain proceeding, should such action become necessary in the future.

In compliance with California Code of Civil Procedure section 1245. 235 et seq., written notice of the scheduled hearing on the Resolution was delivered to the Vega Family Trust, care of Marsha Kvocka, the current property owner of 230 W. Cota Street, on April 16, 2013. The statutory purpose of the notice is to inform Ms. Kvocka of the Council’s intent to hear all evidence in consideration of the possible adoption of the Resolution and to advise her that if she wishes to object to the adoption of the Resolution she must do so in writing within 15 days from receipt of notice of the Council hearing. The notice sent to Ms. Kvocka satisfies all legal noticing requirements for the hearing and provides that her last day to submit a written objection to the adoption of the Resolution of Necessity was May 1, 2013.

As provided in the State Code of Civil Procedure, the public hearing related to the proposed adoption of the Resolution should be limited to discussion of the requisite statutory findings specifically set forth in Section 1240.030 of the state Code of Civil Procedure, namely:

- a. That the public interest and necessity require the proposed Project.
- b. That the proposed Project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury.
- c. That the property described in the resolution is necessary for the proposed Project.
- d. That either the offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

The proposed Resolution should be adopted by Council to authorize the City Attorney to initiate Superior Court eminent domain litigation, if necessary. Pursuant to Section 1245.240 of the California Code of Civil Procedure, the adoption of the proposed Resolution requires approval by five Council members.

EVIDENTIARY FINDINGS

The Project is necessary to replace the existing structurally deficient public bridge and widen Mission Creek for flood control purposes. The Project has been designed and located in a manner that will be most compatible with the greatest public good and the least private injury. As stated above, however, due to the close proximity of the residence at 230 W. Cota Street to the creek and existing bridge, it is necessary to acquire the property in order to efficiently and economically complete the Project. Approximately half of the property at 230 W. Cota Street will be utilized for Mission Creek widening, channel wall construction, and restoration of vegetated creek bank, including continued access for Santa Barbara County Flood Control for emergency flood response. Further, the construction of the new channel wall on east side of Mission Creek will be approximately 4 feet from the existing residence. Channel wall pile and footing construction is expected to result in damage to the residence similar to the damage that occurred to 309 W. Ortega Street during the construction of the Ortega Street Bridge Replacement Project. For that project the residence was situated approximately 5 feet from the constructed channel wall. Significant damage occurred to the 309 W. Ortega Street residence. Similar to the Ortega Street residence, the 230 W. Cota Street residence is of older construction, having been built in 1905, and its structural integrity is questionable. The residence will be protected in place and stabilized during construction in an effort to minimize damage.

The property at 230 W. Cota Street is presently not occupied by the owner or rented out. Full acquisition is necessary to gain control of the property to complete the proposed Project construction and make post construction repairs. The City's real property agent, Hamner, Jewell & Associates have made offers for purchase of the property to the owner as required under Government Code section 7267.2, and will continue negotiation efforts in an attempt to acquire the property without the need for an eminent domain action.

A copy of the Notice of Hearing on the Intent of the City of Santa Barbara to Adopt a Resolution of Necessity to Acquire Property by Eminent Domain, and its attached Exhibit describing the property interest to be acquired by eminent domain, are available for public review at the City Clerk's office located at 735 Anacapa Street, Santa Barbara, California.

ENVIRONMENTAL REVIEW

In addition, the proposed Project was evaluated in the Lower Mission Creek Flood Control Project Environmental Impact Statement/Environmental Report; State Clearinghouse No. 1998101061, certified in 2001, and by subsequent Addendum dated November 2, 2011, pursuant to the California Environmental Quality Act. The environmental findings, reports, permits, and adopting actions have been made available to Council in the Council reading file and to the public at the City Clerk's Office or the public counter of the Community Development building at 630 Garden Street.

BUDGET/FINANCIAL INFORMATION:

There are sufficient funds in the Streets Capital Fund to purchase the required property. The funds include a FHWA reimbursement of 88.53 percent. The City is responsible for 11.47 percent of the eligible acquisition costs.

ATTACHMENT(S): Aerial map of properties to be acquired

PREPARED BY: John Ewasiuk, Principal Civil Engineer/DT/mj

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office

Cota Bridge Replacement Project Property Acquisitions: 536 Bath Street; 221 W. Cota Street; 230 W. Cota Street

