

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY BY THE COUNCIL OF
THE CITY OF SANTA BARBARA TO ACQUIRE THE REAL
PROPERTY COMMONLY KNOWN AS 115 KIMBERLY
AVENUE

WHEREAS, the Council of the City of Santa Barbara authorizes the acquisition of property rights for the purposes of replacing the existing structurally deficient Mason Street Bridge;

WHEREAS, the real property described herein is required for the replacement and construction of the Mason Street Bridge; and

WHEREAS, the Council of the City of Santa Barbara finds and determines that notice of its intention to adopt this resolution was duly given as required by law, and on the date and at the time and place fixed for hearing the Council did hear and consider all of the evidence presented.

NOW THEREFORE, THE COUNCIL OF THE CITY OF SANTA BARBARA DOES HEREBY DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. That, on July 23, 2013, after fifteen days written notice to the owner(s) of the property described hereafter, as they appeared on the last equalized County Assessment Roll, the City Council held a hearing for the purpose of allowing the owners thereof and other persons a reasonable opportunity to appear and be heard on the following matters:

- a. That the public interest and necessity require the proposed project;
- b. That the proposed project (as depicted on City Plan No. C-1-4678, a copy of which is permanently on file at the Public Works Department of the City of Santa Barbara, and hereinafter referred to as 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 the offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record;
- e. That the proposed project has been determined to be categorically exempt from further environmental review pursuant to California Environmental Quality Act Regulations 15301 and 15320; and,
- f. Such other and further matters as may be referred to in California Code of Civil Procedure §1245.230.

SECTION 2. That the Council of the City of Santa Barbara does hereby find, determine and declare that:

- a. The public interest and necessity require the proposed project;
- b. 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. All the property described in this resolution is necessary for the proposed project;
- d. 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); and
- e. The proposed project was evaluated in the certified Lower Mission Creek Flood Control (LMCFC) Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (State Clearinghouse No. 1998101061) and an Addendum to the LMCFC Project EIS/EIR dated November, 2011, pursuant to California Environmental Quality Act (CEQA). The certified EIS/EIR determined that there would be unavoidable impacts associated with the project. The Addendum indicates that no new significant impacts or changes in circumstances or regulations would be anticipated since the original EIS/EIR was certified.

The Council of the City of Santa Barbara, as a result of said hearing, has determined that the public interest and necessity require the acquisition by the City of real property required for all activities necessary for the construction of the Mason Street bridge and Mission Creek improvements, and for all related surface and subsurface foundation improvements, and ingress and egress required for the removal, replacement and reconstruction of the Mason Street Bridge and appurtenant facilities within Mission Creek.

The taking of the properties described herein is authorized by Section 19 of Article I of the California Constitution, Section 37350.5 of the California Government Code, and Sections 1240.010 through 1240.125 of the California Code of Civil Procedure.

SECTION 3. That the Council of the City of Santa Barbara does hereby declare that it is the intention of said City to acquire said certain real property described herein in its name in accordance with the provisions of the laws of the State of California with reference to condemnation procedures.

SECTION 4. That the said certain real property is located in the City of Santa Barbara, County of Santa Barbara, State of California, and are more particularly described as follows:

I. 115 KIMBERLY AVENUE PROPERTY (APN 033074-019)

Real property in the City of SANTA BARBARA, County of Santa Barbara, State of California, described as follows:

THAT PORTION OF BLOCK 306 ACCORDING TO THE OFFICIAL SURVEY THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY LINE OF MASON STREET DISTANT THEREON NORTHEASTERLY 155 FEET FROM THE NORTHEASTERLY LINE OF CHAPALA STREET, SAID POINT BEING THE EASTERLY CORNER OF THE TRACT OF LAND DESCRIBED AS PARCEL TWO IN THE DEED TO GUILFORD KIMBERLY, RECORDED FEBRUARY 26, 1919 IN BOOK 170, PAGE 240 OF DEEDS, RECORDS OF SAID COUNTY; THENCE NORTHEASTERLY ALONG SAID STREET LINE 45 FEET TO THE SOUTHWESTERLY LINE OF KIMBERLY AVENUE; THENCE NORTHWESTERLY ALONG SAID LINE OF KIMBERLY AVENUE 150 FEET; THENCE AT RIGHT ANGLES SOUTHWESTERLY 50 FEET; THENCE AT RIGHT ANGLES SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF THE TRACT OF LAND DESCRIBED AS PARCEL ONE IN SAID DEED TO KIMBERLY AND ITS NORTHWESTERLY PROLONGATION, 120 FEET TO THE NORTHWESTERLY CORNER OF SAID TRACT DESCRIBED AS PARCEL TWO IN SAID DEED TO KIMBERLY; THENCE SOUTHEASTERLY ON THE NORTHEASTERLY LINE OF SAID TRACT DESCRIBED AS PARCEL TWO IN SAID DEED TO KIMBERLY 32 FEET, MORE OR LESS, TO SAID LINE OF MASON STREET AND THE POINT OF BEGINNING.

SECTION 5. That the City Attorney is hereby authorized and directed to prepare, institute and prosecute in the name of the City, and is authorized to retain a law firm as Special Counsel for such proceedings, if necessary, in the proper Court having jurisdiction thereof, as may be necessary for the acquisition of the interests to said certain real property. Said counsel is also authorized and directed to obtain a necessary order of court granting to said City the right of immediate possession and occupancy of said certain real property and, at the discretion of the City Attorney, to approve and execute a settlement agreement or stipulated judgment vesting title to the real property described herein on terms and conditions approved by the City Attorney for the best interests of the City.

SECTION 6. That the Environmental Quality Control Act of 1970, as amended, and guidelines adopted pursuant thereto, have been complied with insofar as the above project is concerned by the evaluation of the Lower Mission Creek Flood Control Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR) State Clearinghouse (SCH) No. 1998101061, certified in 2001 and subsequent Addendum dated November, 2011), which is hereby approved and directed to be filed with the City Clerk.