

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE COUNCIL
OF THE CITY OF SANTA BARBARA TO ACQUIRE
REAL PROPERTY RIGHTS ON THE PROPERTY
COMMONLY KNOWN AS 311 WEST DE LA
GUERRA STREET

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

SECTION 1. That on March 14, 2017, after fifteen days written notice to the owners of the property described hereafter, as they appeared on the last equalized County Assessment Roll, 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-1-4761, a copy of which is permanently on file at the Public Works Department of the City of Santa Barbara) 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 rights described in the resolution are 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 Guidelines Section 15302; and,
- f. Such other and further matters as may be referred to in Section 1245.230 of the California Code of Civil Procedure.

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 rights described in this resolution are 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 taking of the property rights 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 rights 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 rights are located in the City of Santa Barbara, County of Santa Barbara, State of California, and are more particularly described as follows:

I. MISSION CREEK TEMPORARY CONSTRUCTION EASEMENTS
LOCATED ON 311 WEST DE LA GUERRA STREET

The actual use by City of the Exclusive Temporary Construction Easement on the Real Property shall be for a period of not more than 12 months, which shall commence thirty (30) days from issuance by City of a Notice of Commencement of Construction to Owner, which shall be issued by U.S. Mail, and shall expire exactly one year later ("Expiration Date"). The City shall have the right to extend the Temporary Construction Easement in additional one month increments if City determines that additional time beyond the one-year period is necessary for construction.

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 temporary real property rights required for all activities necessary for the construction of the De La Guerra Street Bridge and Mission Creek improvements, and for all related surface and subsurface foundation improvements, ingress and egress required for the removal, and replacement and reconstruction of the De La Guerra Street Bridge and appurtenant facilities within Mission Creek. The actual use by City of the Exclusive Temporary Construction Easement on the Real Property shall be for a period of not more than 12 months, which shall commence thirty (30) days from issuance by City of a Notice of Commencement of Construction to Owner, which shall be issued by U.S. Mail, and shall expire exactly one year later ("Expiration Date"). The City shall have the right to extend the Temporary Construction Easement in additional one month increments if City determines that additional time beyond the one-year period is necessary for construction. In any event, this Exclusive Temporary Construction Easement shall expire on March 1, 2023. Said rights being Mission Creek Temporary Construction Easements referred to merely for convenient reference herein as Assessor's Parcel Nos. 037-073-003-03 and 037-073-004-03, and more particularly described as follows:

Parcel 037-073-003-03:

That portion of Parcel Two in Block 196 in the City of Santa Barbara, County of Santa Barbara, State of California, described in the Quitclaim Deed recorded August 18, 2004, as Instrument Number 2004-0088113 of Official Records in the Office of the County Recorder for said County being more particularly described as follows:

Commencing at the most westerly corner of said Parcel Two, thence along the northwesterly line of said Block, 196, being the southeasterly right of way line of De La Guerra Street North 42° 28; 58" East, 29.84 feet to the True Point of Beginning;

Thence leaving said northwesterly line South 52° 05' 05" East, 44.14 feet;

Thence North 41° 58' 44" East, 12.32 feet;

Thence North 47° 34' 34" West, 43.89 feet to said northwesterly line;

Thence along said northwesterly line South 42° 28' 58" West, 15.79 feet to the True Point of Beginning.

Containing 228 square feet more or less.

Parcel No. 037-073-004-03:

That portion of Parcel One in Block 196 in the City of Santa Barbara, County of Santa Barbara, State of California, described in the Quitclaim Deed recorded August 18, 2004, as Instrument Number 2004-0088113 of Official Records in the Office of the County Recorder for said County being more particularly described as follows:

Commencing at the most westerly corner of the land described as Parcel Two in said Quitclaim Deed thence along the northwesterly line of said Block 196, being the southeasterly right of way line of De La Guerra Street North 42° 28' 58" East, 29.84 feet to the True Point of Beginning:

Thence, leaving said northwesterly line South 52° 05' 05" East, 44.14 feet;

Thence North 41° 58' 44" East, 12.32 feet;

Thence North 47° 34' 34" West, 43.89 feet to said northwesterly line;

Thence along said northwesterly line South 42°25' 28" West, 15.79 feet to the True Point of Beginning.

Containing 390 square feet more or less.

II. MISSION CREEK PERMANENT EASEMENTS

LOCATED ON 311 W. DE LA GUERRA STREET

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 permanent easements and right of way in the City of Santa Barbara, County of Santa Barbara, State of California, for all purposes relating to surveys, inspections, excavations, construction, operations, maintenance, repair, removal, replacement and reconstruction of surface and subsurface improvements required for public streets, bridge, creek flow, flood control and all appurtenant facilities associated with Mission Creek and nearby public street improvements, located on De La Guerra Street, including the unrestricted right of ingress and egress at all times, and including any required removal at any time of vegetation, improvements, materials, and any other topographic features that may exist within said easements, and providing that the City of Santa Barbara shall have the unilateral and unrestricted right at any time, without specific consent by others, to assign all or portions of its easements described herein, as may become necessary for joint use and convenience for other public purposes, to SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a special district, referred to herein merely as "DISTRICT" for convenience, which shall be accomplished by the execution by the City of Santa Barbara of an assignment deed approved by a resolution adopted by the Council of the City of Santa Barbara for such execution, and by subsequent Certificate of Acceptance adopted by Order of the Board of Directors of DISTRICT prior to recordation of any assignment deed in the Official Records of the County of Santa Barbara to give constructive notice of such assignment, said Mission Creek permanent easements being referred to merely for convenient reference herein as Assessor's Parcel Nos. 037-073-003-02 & 037-073-004-02, and more particularly described as follows:

Parcel No. 037-073-003-02

That portion of Parcel Two in block 196 in the City of Santa Barbara, County of Santa Barbara, State of California described in the Quitclaim Deed recorded August 18, 2004 as Instrument Number 2004-0088113 of Official Records in the Office of the County Recorder for said County being more particularly described as follows:

Beginning at the most westerly corner of said Parcel Two thence along the northwesterly line of said Block 196, being the southeasterly right of way line of De La Guerra Street North 42° 28' 58" East, 29.84 feet;

Thence leaving said northwesterly line South 52° 05' 05" East, 44.14 feet;

Thence South 47° 10' 28" East, 20.00 feet to the southeasterly line of the land described as Parcel One in said Quitclaim Deed;

Thence along said southeasterly line South 42° 28' 58" West, 33.24 feet to the most southerly corner of said Parcel One;

Thence along the southwesterly lines of said Parcel One and said Parcel Two North 47° 31' 02" West, 64.00 feet to the Point of Beginning.

Except therefrom that portion of Parcel Two lying within the County of Santa Barbara and Santa Barbara County Flood Control and Water Conservation District easement for flood control purposes as described in Book 2339 at page 1190 of said Official Records

Containing 311 square feet more or less.

Parcel No. 037-073-004-02

That portion of Parcel One in Block 196 of the City of Santa Barbara, County of Santa Barbara, State of California described in the Quitclaim Deed recorded August 18, 2004, as Instrument Number 2004-0088113 of Official Records in the Office of the County Recorder for said County being more particularly described as follows:

Beginning at the most westerly corner of the land described as Parcel Two in said Quitclaim Deed thence along the northwesterly line of said block 196, being the southeasterly right of way line of De La Guerra Street North 42° 28' 58" East, 29.84 feet;

Thence leaving said northwesterly line South 52° 05' 05" East, 44.14 feet;

Thence South 47° 10' 28" East, 20.00 feet to the southeasterly line of said Parcel One;

Thence along said southeasterly line South 42° 28' 58" West, 33.24 feet to the most southerly corner of said Parcel One;

Thence along the southwesterly lines of said Parcel One and said Parcel Two North 47° 31' 02" West, 64.00 feet to the Point of Beginning.

Except therefrom that portion of said Parcel One lying within the County of Santa Barbara and Santa Barbara County Flood Control and Water Conservation District easement for flood control purposes as described in Book 2286 at page 1036 of said Official Records.

Containing 796 square feet more or less.

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 rights to said certain easements. 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 easements and, at the discretion of the City Attorney, to approve and execute a settlement agreement or stipulated judgment vesting title to the easements described herein on terms and conditions approved by the City Attorney for the best rights of the City. That the City Attorney is authorized to correct any errors and make minor changes to the Resolution and attachments necessary for the conduct of the condemnation action.

SECTION 6. That the Guidelines of the California Environmental Quality Act have been complied with insofar as the above project is concerned by the preparation of a Notice of Exemption, which has been filed with the County Clerk of the Board.