



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: April 11, 2017

TO: Mayor and Councilmembers

FROM: Engineering Division, Public Works Department

SUBJECT: Notice Of Intent To Adopt A Resolution Of Necessity To Acquire Real Property Interests For The De La Guerra Street Bridge Replacement Project

RECOMMENDATION:

That Council adopt, by reading of title only, unless a timely request for hearing is received, A Resolution of Necessity of the Council of the City of Santa Barbara to Acquire Real Property Rights on the Property Commonly Known as the De La Guerra Square Owners' Association Located at 314, 316, and 318 West De La Guerra Street.

DISCUSSION:

The De La Guerra Street Bridge Replacement Project (Project) will replace the structurally deficient bridge over the Lower Mission Creek. The new bridge is proposed to be widened within the creek to increase flood conveyance in accordance with the approved Lower Mission Creek Flood Control Project, and will accommodate the same number of traffic lanes and continue to provide pedestrian access on both sides of the bridge. The Project is an approved Federal Highway Administration (FHWA) Bridge Program project with oversight provided by the California Department of Transportation (Caltrans) through the Highway Bridge Program.

Project construction is scheduled to begin in the spring of 2019, pending the availability of City matching funds. Due to the close proximity of residential properties at 311, 317, and 326 West De La Guerra Street, and the residential condominiums at 314, 316, and 318 West De La Guerra Street, known as the De La Guerra Square Owners' Association (HOA Property), it is necessary to acquire permanent and temporary easements for both the construction and long-term access and maintenance of the new bridge structure and creek wall improvements. No fee ownership rights or properties in whole are being acquired by the City. The temporary easements are needed for the purpose of demolishing the existing bridge and construction of the new bridge. The permanent easements are for access to and maintenance of the new creek wall structure and related flood control purposes for the Santa Barbara County Flood Control and Water Conservation District. The necessary temporary easement for the HOA Property is shown in Attachment 1. It 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 95 percent complete.

On September 6, 2016, Council approved execution of the agreements to acquire real property interests at 317 and 326 West De La Guerra Street. On March 14, 2017, Council adopted a Resolution of Necessity (RON) declaring that the acquisition of certain permanent and temporary easement rights at 311 West De La Guerra Street were necessary for construction of the Project. Similarly, staff is now requesting that Council adopt a resolution of necessity declaring that acquisition of a temporary easement on the HOA Property is necessary for construction of the Project. A new appraisal report and counter offer was recently made to the owners of the HOA Property. The City and the HOA property Owners have been unable to come to an agreement regarding acquisition of the temporary easement. The City now requires the adoption of a RON in order to proceed within the timeline for property acquisitions to enable the completion of the right of way and final design phases of the Project. With the RON in place, legal action can proceed if needed, for acquisition of the temporary easement from the HOA Property. City staff will continue to negotiate with the HOA Property owners once the RON has been adopted in the hope that a successful settlement outside of litigation may be reached.

Attachment 2 summarizes the current status of the acquisition of all property rights necessary for completion 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 HOA Property. This is done through the adoption of a RON and the supported findings.

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. Should the RON be adopted, these findings would be presented in an eminent domain proceeding in Superior Court if such action were to 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 RON was delivered to the HOA Property owners at 314, 316, and 318 West De La Guerra Street, on March 24, 2017. The statutory purpose of the notice is to inform the owners of Council's intent to hear all evidence in consideration of the possible adoption of the RON and to advise the owners that, if they wish to object to the adoption of the RON, they must do so in writing within 15 days from the date of notice of the Council hearing. The notice sent to the HOA Property owners satisfies all legal noticing requirements for the hearing and provides that the last day to submit a written objection to the adoption of the RON is April 8, 2017.

As provided in the State Code of Civil Procedure, the public hearing related to the proposed adoption of the RON should be limited to discussion of the requisite statutory findings that are specifically set forth in Section 1240.030 of the California 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 RON 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 to widen Lower 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. Due to the close proximity of the common area driveway at the HOA Property to the creek and existing bridge, it is necessary to acquire the temporary construction easement on the HOA Property, for a period not to exceed two years, in order to efficiently and economically complete the Project.

The City's real property agent, Hamner, Jewell & Associates, has made offers for purchase of the temporary construction easement to the owners as required under Government Code section 7267.2, and will continue negotiation efforts in an attempt to acquire the property interest 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 Real Property Interests by Eminent Domain is available for public review at the City Clerk's office located at 735 Anacapa Street, Santa Barbara, California.

Environmental Review

The proposed Project was evaluated in the Lower Mission Creek Flood Control Project Environmental Impact Statement/Environmental Impact 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 in the Council reading file, and

to the public at the City Clerk's Office, and at 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 interests. The funds include a FHWA reimbursement of 88.53 percent. The City is responsible for 11.47 percent of the eligible acquisition costs.

- ATTACHMENTS:**
1. Exhibit of the temporary easement to be acquire at the HOA Property
 2. De La Guerra Street Bridge Project Easement Acquisitions Summary and Status

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

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office

Temporary Easement (approx.) HOA Property 314, 316, 318 West De La Guerra Street



De La Guerra Street Bridge Project Easement Acquisitions Summary and Status

Address	Owner	City Appraisal Offer (Date)	Owner Appraisal (Date)	City Counter Offer (Date)	Owner Counter Offer (Date)	City Final Offer (Date)	Settlement (Date)
311 West De La Guerra Street	Kollenborn	\$5,300 (4/22/16)	\$100,000 (9/23/16)	\$15,000 (12/27/16)	\$60,00 (10/4/16)	\$20,000 (2/8/17)	Pending negotiations
314, 316, 318 West De La Guerra Street	De La Guerra Square Owners' Association	\$3,200 (4/22/16)	none	none	none	\$3,660 (2/20/17)	Pending negotiations
317 West De La Guerra Street	Davis, et al	\$7,600 (4/22/16)	none	none	none	none	Settled (9/6/16)
326 West De La Guerra Street	Metropolitan Equities	\$3,000 (4/22/16)	none	none	none	none	Settled (9/6/16)