

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING THE DISPOSITION OF A CERTAIN 0.264-ACRE EXCESS PORTION OF THE VIC TRACE RESERVOIR PROPERTY KNOWN AS ASSESSOR'S PARCEL NUMBER 035-033-013 TO THE OWNERS OF THE ADJACENT PARCELS OF THE REAL PROPERTY COMMONLY KNOWN AS 1557, 1547 AND 1537 LA CRESTA CIRCLE IN THE CITY OF SANTA BARBARA

WHEREAS, in 1953, the City purchased 14.99 acres of land for the construction of the ten million gallon Vic Trace Reservoir, which is an important part of the City's water distribution system. The Vic Trace Reservoir property is known as 740 Dolores Drive, Santa Barbara County Assessor's Parcel APN 035-033-013;

WHEREAS, in 1974, a subdivision map of the property adjacent to Vic Trace Reservoir, now commonly known as La Cresta Estates, was approved by the City Council. When grading occurred to allow development of La Cresta Estates, the City permitted a fill embankment for three lots (Lots 4, 5 and 6, now known respectively as 1557, 1547 and 1537 La Cresta Circle) and a drainage swale at the bottom of the slope to be constructed on the City's Vic Trace Reservoir property;

WHEREAS, the "Agreement To Comply With A Condition Of Approval Of Subdivision Of La Cresta Estates" recorded on May 13, 1974, as Instrument No. 17052, in Book 2515 at Page 680 of Official Records, allowed the subdivider and successor owners of the three lots access to the Vic Trace property as required to maintain the slope areas;

WHEREAS, in 1975, the City Council approved a single permit that allowed the original property owners of the three lots to relocate the Vic Trace fence from the property line at the top of the fill embankment to the bottom of the slope;

WHEREAS, the excess Vic Trace property, consisting of the fill embankment and the drainage swale, is not now needed and will not in the future be needed by the City for the operation of Vic Trace Reservoir and is considered excess City land;

WHEREAS, in order to fully acknowledge and give constructive notice regarding the original unrecorded permit approved by Council in 1975, the three property owners at 1537, 1547, and 1557 La Cresta Circle were recently granted Minor Encroachment Permits by the City Public Works Director to acknowledge their long use and maintenance of the excess portions of City's property to the fence line. These individual Minor Encroachment Permits were recorded on April 25, 2011, as Instrument Nos. 2011-0024646, 0024645 and 0024644, respectively, all of Official Records, to run with each of the affected lots;

WHEREAS, in order to avoid future confusion, it is recommended that the City sell and permanently assign responsibility to the three lot owners, and their successors, for their

respective portions of the slope area on the Vic Trace Reservoir property. In particular, it is recommended that the combined land area of 0.264 acres (a total of 11,482 square feet), as each of the respective portions are identified in the individual Minor Encroachment Permits, be sold at a recommended value of \$1.00 per square foot to the property owners of the three lots. This value estimated by City staff was derived by using comparable sales of nearby undeveloped and invalid slope areas with adjustments made to consider risk management and maintenance issues that relate to the steep slope and the drain area on the City's excess land and to account for use reservations by the City; and

WHEREAS, City Charter Section 520 requires the approval of the disposal of this excess City land by Council ordinance.

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Administrator is authorized, subject to review as to form by the City Attorney, to execute a Land Purchase Agreement with Nicholas J. Whelan and Cynthia A. Whelan, Trustees of The Whelan 2005 Revocable Trust, dated March 17, 2005, the owners of the property at 1537 La Cresta Circle, authorizing the sale of 3,213 square feet (0.074 acres) of excess slope land underlying a portion of Vic Trace Reservoir at 740 Dolores Drive, in the sale amount of \$3,213, subject to certain reservations by the City of development rights and restrictive covenants for residential yard improvements only on such excess land, as particularly set forth and described in the respective Grant Deed.

SECTION 2. The City Administrator is authorized, subject to review as to form by the City Attorney, to execute a Land Purchase Agreement with Riccardo W. Nargie and Linda R. Nargie, Trustees of the Nargie Family Trust, dated February 8, 1993, the owners of the property at 1547 La Cresta Circle, authorizing the sale of 5,491 square feet (0.126 acre) of excess slope land underlying a portion of Vic Trace Reservoir at 740 Dolores Drive, in the sale amount of \$5,491, subject to certain reservations by the City of development rights and restrictive covenants for residential yard improvements only on such excess land, as particularly set forth and described in the respective Grant Deed.

SECTION 3. The City Administrator is authorized, subject to review as to form by the City Attorney, to execute a Land Purchase Agreement with James R. Fenkner & Tatiana A. Tikhonova, Trustee(s), A Very Useful American Family Trust 2009, dated May 11, 2009, the Owners of the Property at 1557 La Cresta Circle, authorizing the sale of 2,778 square feet (0.064 acre) of excess slope land underlying a portion of Vic Trace Reservoir at 740 Dolores Drive, in the sale amount of \$2,778, subject to certain reservations by the City of development rights and restrictive covenants for residential yard improvements only on such excess land, as particularly set forth and described in the respective Grant Deed.

SECTION 4. That upon the receipt by the City of all required purchase monies and associated fees paid by each respective property owner, and upon the execution by each property owner of a required Certificate of Voluntary Merger, as set forth in their respective Land Purchase Agreement, and following the effective date of this Ordinance, the City Clerk is authorized to record each of the Grant Deeds, together with an attached copy of this Ordinance certified by the City Clerk, and to record each of the Certificates of Voluntary Merger, all in the Official Records, in the Office of the County Recorder, Santa Barbara County.