

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA FINDING THAT THE EL ESTERO WASTEWATER TREATMENT PLANT SECONDARY PROCESS IMPROVEMENTS PROJECT IS SUBSTANTIALLY COMPLEX AND, THEREFORE, REQUIRES A CONSTRUCTION CONTRACT RETENTION OF TEN PERCENT

WHEREAS, the City of Santa Barbara ("City") intends on competitively bidding and awarding a contract for the El Estero Wastewater Treatment Plant Secondary Process Improvement Project ("Project");

WHEREAS, Public Contract Code Section 7201(b)(1) states that retention proceeds withheld from any payment by a public entity from the original contractor shall not exceed five percent of the payment;

WHEREAS, Public Contract Code Section 7201(b)(4) states that the retention proceeds withheld from any payment by a public entity may exceed five percent on specific projects where the governing board approves a finding during a properly noticed and normally scheduled public hearing, and prior to advertising for bids, that a project is substantially complex and, therefore, requires a higher retention amount than five percent, and the public entity includes such findings and the actual retention amount in the bid documents;

WHEREAS, on December 16, 2014, pursuant to Public Contract Code Section 7201, the City finds that the Project is substantially complex and requires a higher retention amount than five percent, based on the facts set forth in this Resolution; and

WHEREAS, the City hereby determines and finds that, since the Project is substantially complex, retention proceeds to be withheld from the general contractor shall not exceed ten percent of the contract amount.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. In accordance with the Public Contract Code Section 7201, the City hereby determines and finds that the Project is substantially complex based on the following facts:

- a. The Project construction cost is estimated to be approximately \$16 million and is funded by a State Revolving Fund agreement;

- b. The Project involves significant upgrades to the secondary treatment process within an operational wastewater treatment facility;
- c. Construction requires coordination between multiple disciplines (including structural, mechanical, process, electrical, civil and instrumentation); and
- d. The Contractor must comply with Coastal Development Permit requirements.

SECTION 3. As the Project is determined and found to be substantially complex, the City hereby approves retention proceeds to be withheld from the general contractor in an amount not to exceed ten percent, and that the total retention proceeds to be withheld from the subcontractors by the general contractor shall not exceed ten percent.

SECTION 4. The bid documents for the Project will include this Resolution, and will state that the retention proceeds to be withheld from the general contractor shall not exceed ten percent (10%) of the contract amount.