



Agenda Item No. \_\_\_\_\_

File Code No. 330.03

# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** June 29, 2010

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Resolution For Purchase Of Property At 306 West Ortega Street For The Ortega Street Bridge Replacement Project

### **RECOMMENDATION:**

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara to Acquire and Accept Certain Property Interests Located at 306 West Ortega Street, and, Subject to Review and Approval by the City Attorney as to Their Form, Authorizing the Public Works Director to Execute Three Agreements, Being an Agreement for Acquisition of Real Property with Escrow Instructions, an Option to Purchase Agreement, and an Interim Vacancy Agreement, and Any Escrow Documents that May be Required, All Relating to the Proposed Ortega Street Bridge Replacement Project, and Consenting to the Recordation of the Related Grant Deed in the Official Records, County of Santa Barbara.

### **EXECUTIVE SUMMARY:**

The Ortega Street Bridge (Bridge) Replacement Project (Project) will replace the existing bridge over Lower Mission Creek. The Project is an approved Federal Highway Bridge Program project with oversight provided through Caltrans. Construction of the Project is scheduled to begin in the spring of 2011.

The City must purchase various property interests for the Project, as shown on Attachment 1, and as outlined on Attachment 2.

Agreements have been executed with all other owners of property interests needed for the Project. The proposed Agreements with Mission Creek Properties, LLC (Mission Creek Properties), which owns the property at 306 West Ortega Street, will allow the City's purchase of the last remaining property interest needed to complete the project. At its meeting on May 18, 2010, Council adopted Resolution No. 10-030 authorizing the City Attorney to initiate those steps necessary for a Superior Court Eminent Domain action, if required, in order to gain timely possession of the property at 306 West Ortega Street, along with an adjacent access easement and a parking easement. However,

Mission Creek Properties has signed the prepared Agreements to enable the City to purchase and take early possession of the property. The subject Resolution is proposed to authorize the Public Works Director to execute the related Agreements, and it will now not be necessary for the City to initiate an Eminent Domain action at this time.

**DISCUSSION:**

Since January 2010, efforts have been ongoing to obtain Agreements, signed by Mission Creek Properties, to enable the City's purchase of certain property interests at 306 West Ortega Street. The necessary property is located on a portion of a larger property that contains one commercial unit (the Corner Market) and eleven residential units. The units, all owned by Mission Creek Properties, are known as 306, 308, and 310 West Ortega Street, and 701, 705, and 709 Bath Street.

Upon the presentation of the City's approved offer to purchase the necessary property interests, Mission Creek Properties expressed concern regarding the loss of its rental unit. Mission Creek Properties was also concerned about the possible loss of a significant frontage portion of the larger property, and potential impacts of the adjacent easements on future development of the site. Mission Creek Properties subsequently obtained an appraisal of the necessary property interests by an independent fee appraiser for review and consideration by all interested parties.

As reported at the meeting on May 18, 2010, based on discussions and reviewed data, it was expected that Mission Creek Properties would sign the Agreements. However, it was recommended that Council adopt Resolution No. 10-030 to authorize the City Attorney to initiate steps in Eminent Domain in order to gain timely possession of the required property interest in the event mutually acceptable acquisition terms could not be agreed to.

The Agreements, now signed and delivered to the City for follow-up, include the following:

1. Agreement for Acquisition of Real Property with Escrow Instructions
2. Option to Purchase Agreement
3. Interim Vacancy Agreement

The proposed Resolution is recommended to authorize the execution of the Agreements by the Public Works Director.

Agreement for Acquisition of Real Property with Escrow Instructions

Among the most significant elements, this Agreement provides:

- The City's purchase of the property and adjacent easements for consideration in the amount of \$400,000, together with applicable escrow costs.
- A right of first refusal by Mission Creek Properties, under a separate Option to Purchase Agreement, to allow its repurchase of any excess portion of the

property remaining after the completion of the Project, for the price of \$400,000, without warranty by the City.

- Possession of the necessary property by the City immediately following adoption by Council of the subject Resolution and execution of the Agreement, with intent to keep the Project on its optimum construction schedule.
- City's acquisition will be implemented through an escrow, with issuance of an applicable title insurance policy at the close of escrow.
- Acknowledgment that the City would have acquired (and will acquire) the needed property interests by Eminent Domain in the event clear title cannot otherwise be obtained through escrow proceedings.

#### Option to Purchase Agreement

Among the most significant elements, this Agreement provides:

- An option to Mission Creek Properties to allow it to purchase any excess portion of the property at 306 West Ortega Street remaining after the completion of the Project.
- The option purchase price payable to the City will be \$400,000.
- Any purchase of such excess property will be without warranty by the City.
- Such option may be exercised within sixty (60) days of written notice by the City.
- If such option is not exercised, it will be deemed terminated and any excess portion of the property may be disposed by the City.
- If the option is exercised, the purchase will be accomplished through escrow.
- Escrow costs shall be shared in accordance with customary local practices.

This Agreement is proposed to allow Mission Creek Properties to repurchase any portion of the property that may be determined excess after the Project has been completed. This will address certain concerns originally expressed by Mission Creek Properties regarding loss of the rental unit at 306 West Ortega Street.

#### Interim Vacancy Agreement

Among the most significant elements, the Interim Vacancy Agreement includes the following provisions:

- City shall rent the residential unit at 306 West Ortega Street, commencing at the time the existing tenants are relocated from the site, to make way for the Project.
- Mission Creek shall not allow occupation by any new tenant who may become eligible for relocation assistance, pursuant to applicable laws and guidelines.
- City shall pay rent in the amount of \$1,675 per month, which is the existing rent paid by current tenants.
- For any partial month caused by mid-month close of escrow, City shall pay rent in the prorated amount of \$55.83 per day.

### Tenant Relocation

The entire property owned by Mission Creek Properties is comprised of one commercial unit and eleven residential units, including the unit at 306 West Ortega Street, currently occupied by tenants. Although this unit is not scheduled to be removed to make way for the Project, the current tenants will be displaced because the unit will not be habitable during the bridge replacement work. Therefore, steps are ongoing, in accordance with applicable state laws and guidelines, to relocate the tenants to acceptable replacement housing. If the Agreements are approved as recommended, the unit will then remain vacant during construction as set forth in the proposed Interim Vacancy Agreement.

### Future Disposition of Excess Properties

It is anticipated that certain property interests acquired for the Project will be determined excess after the Project has been completed. In particular, based on preview of available data, it appears likely that portions of the property at 306 West Ortega Street, and the property acquired earlier at 309 West Ortega Street, will become excess and available for disposition. At that time, any remaining property at 306 West Ortega Street will be offered first to Mission Creek Properties in accordance with the Option to Purchase Agreement recommended herein. Then, in accordance with applicable laws and guidelines, any remaining portion of the property at 309 West Ortega Street, and the property at 306 West Ortega Street, if not purchased by Mission Creek Properties under its option, will be offered for sale on the local real estate market in accordance with Municipal Code requirements.

All proceeds received for the sale of the anticipated excess properties will be deposited into the appropriate Streets Capital Funds for use in upcoming federally funded projects where matching funds by the City will be required.

### **BUDGET/FINANCIAL INFORMATION:**

The table shown on Attachment 3 summarizes all estimated Project costs. The total cost is estimated at \$6,790,400, with combined costs estimated at \$2,150,000 for acquiring the necessary property interests.

In addition to payment of costs for the purchase of all properties and various easements required for the Project, it is necessary to pay all costs for the relocation of displaced occupants pursuant to federal and state laws and guidelines. Once all displaced occupants have been relocated to replacement dwellings, the final costs will be known. The associated right of way and construction costs will also be shared between the City (11.47%), and grant funding (88.53%), in accordance with applicable guidelines and the formula shown on Attachment 3.

There are sufficient appropriations in the Streets Capital Fund to cover the City's costs.

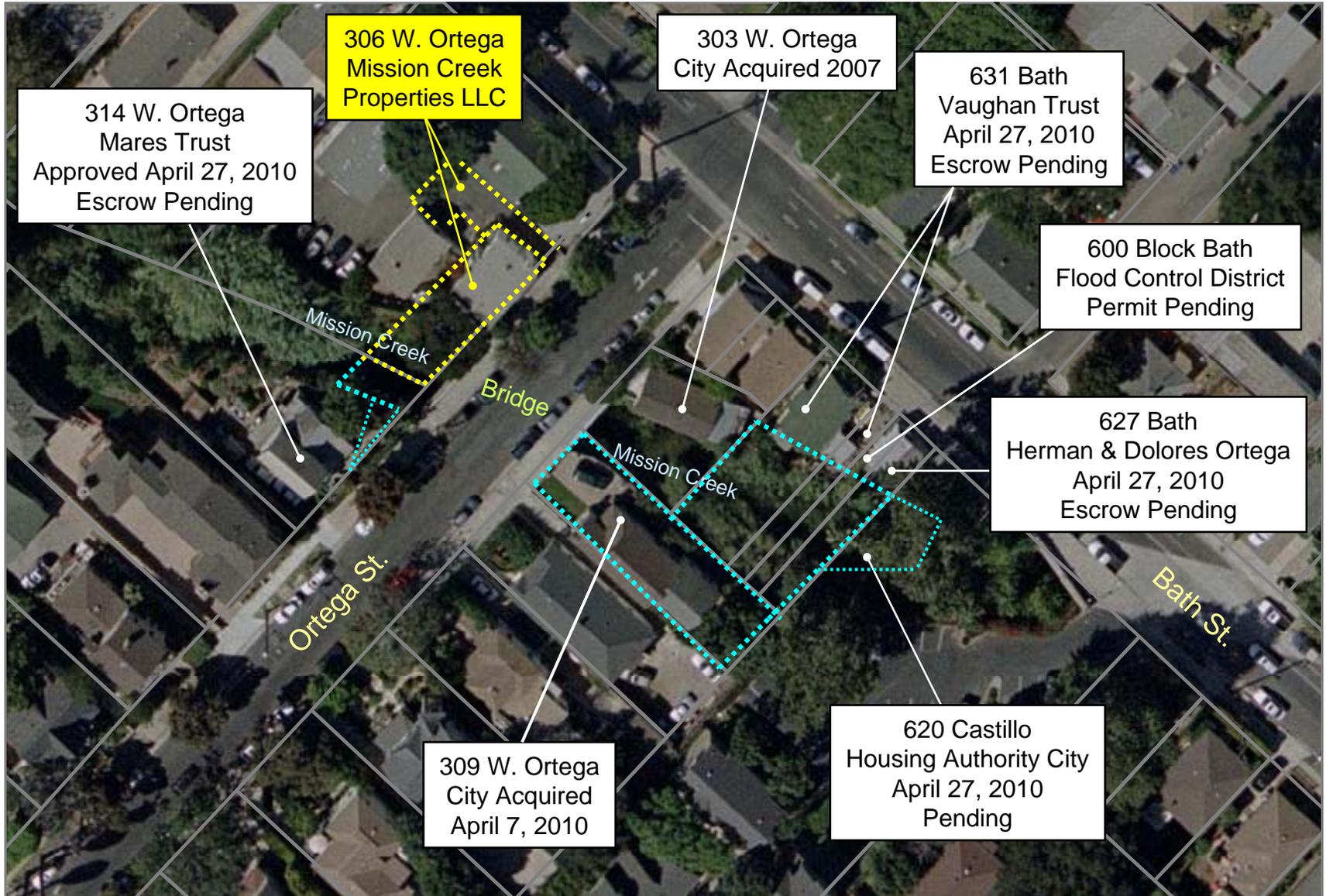
Council Agenda Report  
Resolution For Purchase Of Property At 306 West Ortega Street For The Ortega Street  
Bridge Replacement Project  
June 29, 2010  
Page 5

**ATTACHMENT(S):** 1) Project Area Aerial Photo  
2) Acquisitions and Easements Needed for the Project  
3) Estimated Total Project Cost

**PREPARED BY:** John Ewasiuk, Principal Civil Engineer/DI/sk

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office



**PROJECT AREA AERIAL PHOTO**

## ATTACHMENT 2

### Acquisitions And Easements For Ortega Street Bridge Replacement Project

The properties and easements needed for the Ortega Street Bridge Replacement Project are identified below.

Address	Description	Status
303 West Ortega Street, City Property	Entire Property Acquired; Structure Located Within Mission Creek Work Area	City Acquired 2007
<b>306 West Ortega Street, Mission Creek Properties LLC</b>	<b>Portion Property to be Acquired in Fee, along with Easement for Access, and Along with Easement for Parking; Structure Located Within Mission Creek Work Area</b>	<b>Resolution proposed to approve: (1) Agreement for Acquisition of Real Property; (2) Option to Purchase Agreement; and (3) Interim Vacancy Agreement</b>
309 West Ortega Street, Manuel & Juana Figueroa	Entire Property Acquired; Structure Within Mission Creek Work Area	City Acquired and Closed Escrow on April 7, 2010; Approved by Agreement 23,296
314 West Ortega Street, Mares Family Trust	Temporary Construction Easement and Mission Creek Easement Acquired; Released Narrow Strip of Land within Mission Creek	City Acquired Easements on April 27, 2010, by Agreement 23,410; Escrow Pending
620 Castillo Street, Housing Authority of City	Temporary Construction Easement Acquired for Work in Mission Creek	City Acquired Easement on April 27, 2010, by Agreement 23,413; Payment Pending
627 Bath Street, Herman & Dolores Ortega	Mission Creek Easement Acquired for Alignment of Mission Creek	City Acquired Easement on April 27, 2010, by Agreement 23,411; Escrow Pending
600 Block Bath Street, County Flood Control District	Encroachment Permit for Work in Mission Creek	Issuance of Permit by County Flood Control District Pending
631 Bath Street, Vaughan Trust	Mission Creek Easement Acquired for Alignment of Mission Creek	City Acquired Easement on April 27, 2010, by Agreement 23,412; Escrow Pending

**ATTACHMENT 3**

**ORTEGA BRIDGE REPLACEMENT PROJECT**

ESTIMATED TOTAL PROJECT COST

<b>PROJECT PHASE</b>	<b>HBP SHARE</b>	<b>CITY SHARE</b>	<b>ESTIMATED COSTS</b>
Design Phase *	\$707,760	\$176,940	\$884,700
Right-of-way Phase	\$1,903,395	\$246,605	\$2,150,000
Construction Phase	\$3,324,920	\$430,780	\$3,755,700
<b>Totals</b>	<b>\$5,936,075</b>	<b>\$854,325</b>	<b>\$6,790,400</b>

The table above shows total estimated Project costs. The Project is currently in the right of way phase and funds have been authorized up to \$2,150,000 (per written approval by Caltrans).

Caltrans is overseeing the City's steps to purchase all properties and easements for the Project, since 88.53% of the City's eligible right of way and construction costs will be reimbursed by the Federal Highway Bridge Program through Caltrans. The City will be responsible for 11.47% of these eligible costs.

The shared acquisition costs relating to the Property and easements to be purchased at 306 West Ortega Street are outlined as follows:

City @ 11.47%	=	\$45,880
HBP @ 88.53%	=	<u>\$354,120</u>
Total Combined Acquisition Costs	=	\$400,000

Based on the approved appraisals, previous acquisition costs, negotiated agreements, estimated relocation costs, and anticipated management costs, the Project right of way phase total costs are expected to have a surplus of authorized funds.

- \* The Design Phase of this Project included 80% Federal Highway Bridge Program reimbursement with the City responsible for 20% of eligible Design costs.