

THE SILVERSTEIN LAW FIRM

A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

ROBERT@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

August 13, 2018

VIA FACSIMILE (805) 568-2249

AND EMAIL

sbcob@co.santa-barbara.ca.us

jcleary@countyofsb.org

rmorgan@co.santa-barbara.ca.us

Santa Barbara County Flood Control & Conservation District
Board of Directors
c/o Clerk of the Board
105 East Anapamu Street, Fourth Fl.
Santa Barbara, CA 93101

Re: Objections to August 14, 2018 Departmental Agenda
Item No. 4 (File No. 18-00575)
324 De La Vina Street, Santa Barbara
Proposed Resolution of Necessity and Authorization for Testing

Honorable Board of Directors:

This firm and the undersigned represent De La Vina Holdings, LLC, owner of the property located at 324 De La Vina Street, Santa Barbara (the "Subject Property").

This letter incorporates by reference and renews all objections contained in our and our client's prior correspondence and comment letters on file in this matter, including but not limited to our January 8, 2018 letter and attachments.

The County has taken little action to remedy the multiple flaws in its precondemnation process vis-à-vis my client – pursuant to mandatory Government Code, Code of Civil Procedure, and Public Resources Code (CEQA) requirements. On that basis, if the County nonetheless proceeds with the disputed agenda items, the County's approvals would be, and continue to be, *void ab initio*.

We remain deeply concerned by the County's unexplained and substantially changed project description for and intended use of my client's property. Those changes are the basis of the current proposed full taking of the property in fee, as opposed to the previously-disclosed partial (and some temporary) easement takings. Why has the

County not gone back to the long-planned partial and temporary easement takings, rather than the current full take? Why has the County never provided us with a clear and supported response? These dramatic changes are further not supported by the required CEQA and other public review and approval processes. The County has failed to respond to our objections on file regarding CEQA and other violations in this process.

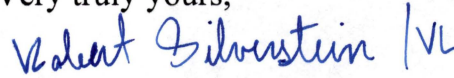
We also note that the County's revised July 17, 2018 "offer" continues to fail to comply with Government Code preconditionation requirements. The \$1,700,000 offer, apparently but not definitely for the 21,828 total square footage, is careless and illegal, including as detailed at pp. 2-6 of our January 8, 2018 objection letter, incorporated by reference in full herein. Previously, the County effectively treated the property as two areas or parcels, divided by the creek, with approximately 5,200 square feet east of the creek. See County's November 21, 2017 offer and "Appraisal Summary Statement." The County's latest actions are as clear as the mud at the bottom of the creek. Among other things, it is unknown whether the de minimus additional \$40,000 now apparently part of the offer as compared with the November 2017 offer (but doubly confusing, since this revised offer is, bizarrely, a downward move from the \$1,760,000 last offered) includes valuation and offer for the 5,200 square feet, or instead, is merely a result of the rising market as between the November 2017 and February 2018 dates of value for the approximately 16,633 square foot difference. Further, in its July 17, 2018 offer, the County has failed to update its February 2018 date of value. Using a 6-month-old date of value in such a rapidly rising market is independently improper, including when, as between prior offers over a shorter period of time, the County updated its date of value.

The "offer" is confusing and improper. Govt. Code § 7267.2 provides in pertinent part: "(a)(1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence." As a result, approval of the Resolution of Necessity, including based on the current offer, is illegal.

Santa Barbara County Flood Control
August 13, 2018
Page 3

Please ensure that this letter is included in the record for this matter. Thank you for your courtesy and prompt attention to these issues.

Very truly yours,

A handwritten signature in blue ink that reads "Robert Silverstein" followed by a stylized monogram "RS".

ROBERT P. SILVERSTEIN

FOR

THE SILVERSTEIN LAW FIRM, APC

RPS:vl

cc: Das Williams (via email dwilliams@countyofsb.org)
Janet Wolf (via email jwolf@countyofsb.org)
Joan Hartmann (via email hartmann@countyofsb.org)
Peter Adam (via email peter.adam@countyofsb.org)
Steve Lavagnino (via email steve.lavagnino@countyofsb.org)
Clerk of the Board (via email sbcob@co.santa-barbara.ca.us)