

Memorandum

Date: August 6, 2018

To: Clerk of the Board of Supervisors, County of Santa Barbara



From: Scott D. McGolpin, Director, Public Works Department
Janette Pell, Director, General Services Department

Subject: Item D-5 Lower Mission Creek Flood Control Project (De La Vina Holdings, LLC) Fee Acquisitions, Second Supervisorial District (APN: 037-245-018)

Cc: Tom Fayram, Deputy Director, Water Resources
James Cleary, General Services

The attached Resolution of Necessity has been updated to reflect a general statement of the public use for which the Subject Property is being acquired and the necessity of acquiring it for the improvement of the Lower Mission Creek Flood Control Project.

Amendment to the provisions to the Resolution:

A. DISTRICT has approved the acquisition of the real property in connection with the Lower Mission Creek Flood Control Project ~~Reach 2B Phase II & 3~~, herein referred to as the "Project", described as County Assessor Parcel No. 037-245-018, ("Subject Property") and as more fully set forth below; and

J. The Subject Property is necessary for the Lower Mission Creek Flood Control Project ~~as part of Reach 2B Phase II and 3~~, herein

Amendment to pass and adoption:

PASSED AND ADOPTED by the Board of Directors of the Santa Barbara County Flood and Water Conservation District, State of California, this the _____ day of ~~July~~ August, 2018, by the following vote:

If you have any questions, please contact Janette (805) 568-2626 or Scott at (805)568-3010.

Thank you.

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA BARBARA
COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

IN THE MATTER OF INSTITUTING
PROCEEDINGS AND MAKING A
FINDING OF PUBLIC NECESSITY FOR
THE ACQUISITION OF CERTAIN
PROPERTY BY THE SANTA BARBARA
COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
FROM DE LA VINA HOLDINGS, LLC

RESOLUTION NO. _____
(4/5 vote required)

BE IT RESOLVED that the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District, State of California, does hereby find and determine as follows:

A. DISTRICT has approved the acquisition of the real property in connection with the Lower Mission Creek Flood Control Project, herein referred to as the "Project", described as County Assessor Parcel No. 037-245-018, ("Subject Property") and as more fully set forth below; and

B. The Subject Property is being acquired for all the uses and purposes concerning flood control, and for such purposes under the authority of:

1. Article I, Section XIX of the California Constitution; and
2. Code of Civil Procedure; Section 1240.010, 1240.110, 1240.120, 1230.020 and 1240.020;
3. California Government Code Sections 25350.5 and 40404;;
and,
4. California Water Code and Water Code Appendix Section 74-1, et seq., Section 74-5(12).

C. The Subject Property is within the County of Santa Barbara, State of California, located at 324 De La Vina Street, in the City of Santa Barbara, Assessor Parcel No. 037-245-018, as more fully described in Exhibit "A" and shown in Exhibit "B", attached hereto and made a part hereof; and

D. That the DISTRICT recognizes its prior approval of the Project, pursuant to California Environmental Quality Act (CEQA) Guidelines sections 15096 and 15162, was based upon the scope of the project description covered by the Environmental Impact

Statement/Environmental Impact Report (EIS/EIR) for the Lower Mission Creek Flood Control Project as well as the Findings and Statement of Overriding Considerations accepted by the Board of Directors as a Responsible Agency on May 10, 2011. The DISTRICT has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the acquisition of the fee interest in the Subject Property is within the boundaries of the DISTRICT and hereinafter described as necessary for the benefit of the DISTRICT in the public interest; and

F. That pursuant to Code of Civil Procedure Section 1245.235, notice and an opportunity to be heard was given to the person(s) shown on the last equalized County assessment roll for the real property to be acquired herein and said person(s) was provided with a proper Appraisal Summary Statement and Eminent Domain Process; and

G. That pursuant to Government Code Section 7267.2 the owner(s) of record was offered and provided a written summary of the just compensation for the fee interest in the Subject Property sought to be acquired; and

H. That the public interest and necessity require the acquisition of the Subject Property hereinafter described for public use, namely, flood control purposes related to the Lower Mission Creek Flood Control Project; and

I. That the Lower Mission Creek Flood Control Project has been planned to improve capacity and safety of flood waters and is located along the existing flood channel in a manner to be most compatible with the greatest public good and least private injury; and

J. That the Subject Property is necessary for the Lower Mission Creek Flood Control Project.

NOW, THEREFORE it is found, determined and resolved by at least two-thirds (2/3) vote of this Board of Directors, as follows:

1. The Subject Property is located within the DISTRICT's boundaries and described as 324 De La Vina Street, in the State of California, County of Santa Barbara, City of Santa Barbara, Assessor Parcel No. 037-245-018, as set forth in Exhibit "A" and shown in Exhibit "B", attached hereto and incorporated by reference herein.

2. The public interest and necessity require the Project.

3. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

4. The property described in the Resolution is necessary for the Project.

5. That the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record.

6. The DISTRICT has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources.

7. The County Counsel of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Sandifer, and Murphy are authorized and directed to perform all acts necessary on behalf of the DISTRICT for the acquisition of said fee interest in the real property, and to do any and all other things in connection with such proceedings as in his/her or their judgment may be necessary or convenient to the successful conclusion of said proceeding or proceedings, including obtaining of an Order for Immediate Possession, the preparation, filing, amendment, dismissal, etc. of all pleadings and stipulations that in the opinion of Counsel are necessary for the processing of the litigation.

8. The County Counsel and the Director of the Public Works Department are hereby authorized to expend funds available to the DISTRICT for the acquisition of the fee interest in the real property.

BE IT RESOLVED that the Subject Property described in Exhibit "A" and shown in Exhibit "B", be acquired by eminent domain in the name of the Santa Barbara County Flood Control and Water Conservation District for flood control purposes, as specified herein and County Counsel of the County of Santa Barbara and its Special Eminent Domain Counsel are hereby authorized, empowered, and directed to prepare and prosecute in the name of the DISTRICT such proceeding or proceedings in the proper Court having jurisdiction thereof, as are necessary for such acquisition, and are authorized, at their discretion are authorized to apply for an order or orders fixing the amount of such security in the way of money deposits as said Court may direct, and or an order or orders permitting said DISTRICT to take immediate possession and use of said real property for the public purposes.

PASSED AND ADOPTED by the Board of Directors of the Santa Barbara County Flood and Water Conservation District, State of California, this the _____ day of August, 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

SANTA BARBARA COUNTY
FLOOD CONTROL and WATER
CONSERVATION DISTRICT


ATTEST:
MONA H. MIYASATO
COUNTY EXECUTIVE OFFICER
EX OFFICIO CLERK OF THE BOARD
OF DIRECTORS OF THE SANTA
BARBARA COUNTY FLOOD
CONTROL & WATER
CONSERVATION DISTRICT

By: _____
Das Williams, Chair


By: _____
Deputy

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
THEODORE FALLATI, CPA
AUDITOR-CONTROLLER



Scott Greenwood
Deputy County Counsel



Betsy Schaffer
Deputy Auditor-Controller

EXHIBIT "A"

Fee simple absolute in,

PARCEL DD 641-01-04

That part of the portion of Block 270 of the City of Santa Barbara, Santa Barbara County, described in the document filed for record June 5, 1959, in Volume 1632 of said county's Official Records at page 356 which lies:

1A. southwesterly of that record course of "PARCEL NO. 1" described as having a length of "160.5 feet" in the above cited document;

1B. northwesterly of that record course described as having a length of "130.21 feet" in the document filed April 10, 1943, in volume 570 of said county's Official Records at page 186 (hereafter to be referred to as 570-O.R.-186); and is northwesterly of course A and northeasterly of course B described in the following:

Beginning at that point in the southwesterly side line of De la Vina Street which is the northwesterly terminus of that record course 1 described in the instrument filed for record April 10, 1986 as Document No. 1986-020184 of said Official Records, said side line bears N47°36'17"W; thence (A), N43°02'13"E 158.24 feet to the point which is collinear with the northwesterly and southeasterly termini of that record course described as having a length of "105.42" feet in 570-O.R.-186; thence (B), S45°34'44"E 25.00 feet to the northwesterly terminus of said "105.42" foot course, said terminus is also the southwesterly terminus of the above cited "130.21" foot course; thence (C), along said "105.42" foot course S45°34'44"E 6.37 feet to the point of intersection with the record course 3 described in Final Order of Condemnation Number 162192 filed for record September 6, 1990 as Document . Number 90-059006 of Official Records (hereafter to be referred to as F. O. C.); thence (D), along said record course 3 N69°54' 41"E 123.38 feet to the easterly terminus thereof; thence (E), along record course 2 described in said F. O. C. (which is described therein as a curve to the left having a radius of 2100 feet, with a central angle of 06°32'00", and an arc length of 239.46 feet) to the northeasterly terminus thereof—said curve is also described as commencing from a point in the southwesterly side line of Chapala Street and as being tangent to a line that bears S48°36' 18"W.

EXCEPTING FROM THIS CONVEYANCE that part of Block 270 of the City of Santa Barbara described in the instrument filed September 22, 1983 as Document No. 83-50556 of said Official Records.

EXCEPTING AND RESERVING THEREFROM all abutter's rights including access rights in and to the state freeway referred to as U. S. Highway 101.

