



Agenda Item B.1
PUBLIC HEARING
Meeting Date: August 12, 2019

TO: Planning Commission Chair and Members

FROM: Charles W. Ebeling, P.E., T.E., Director of Public Works

CONTACT: Laura M. Bridley, Contract Planner
Marti Milan, P.E., Principal Civil Engineer

SUBJECT: General Plan Conformity Determination for Cathedral Oaks right-of-way acquisition from Caltrans; Portion of right-of-way adjacent to APN 079-090-038 (eastern portion); Case No. 19-066-GC

RECOMMENDATION

It is recommended that the Planning Commission:

1. Adopt Resolution 19-____, entitled "A Resolution of the Planning Commission of the City of Goleta, California, Reporting that the Acquisition of a 5,043 square foot portion of Caltrans right-of-way adjacent to Assessor Parcel Number 079-090-038 is in Conformance with the Goleta General Plan/Coastal Land Use Plan Pursuant to Section 65402 of the Government Code" (Attachment 1).
2. Direct staff to file a Notice of Exemption that this action is not subject to the California Environmental Quality Act (CEQA), provided as Attachment 2.

BACKGROUND

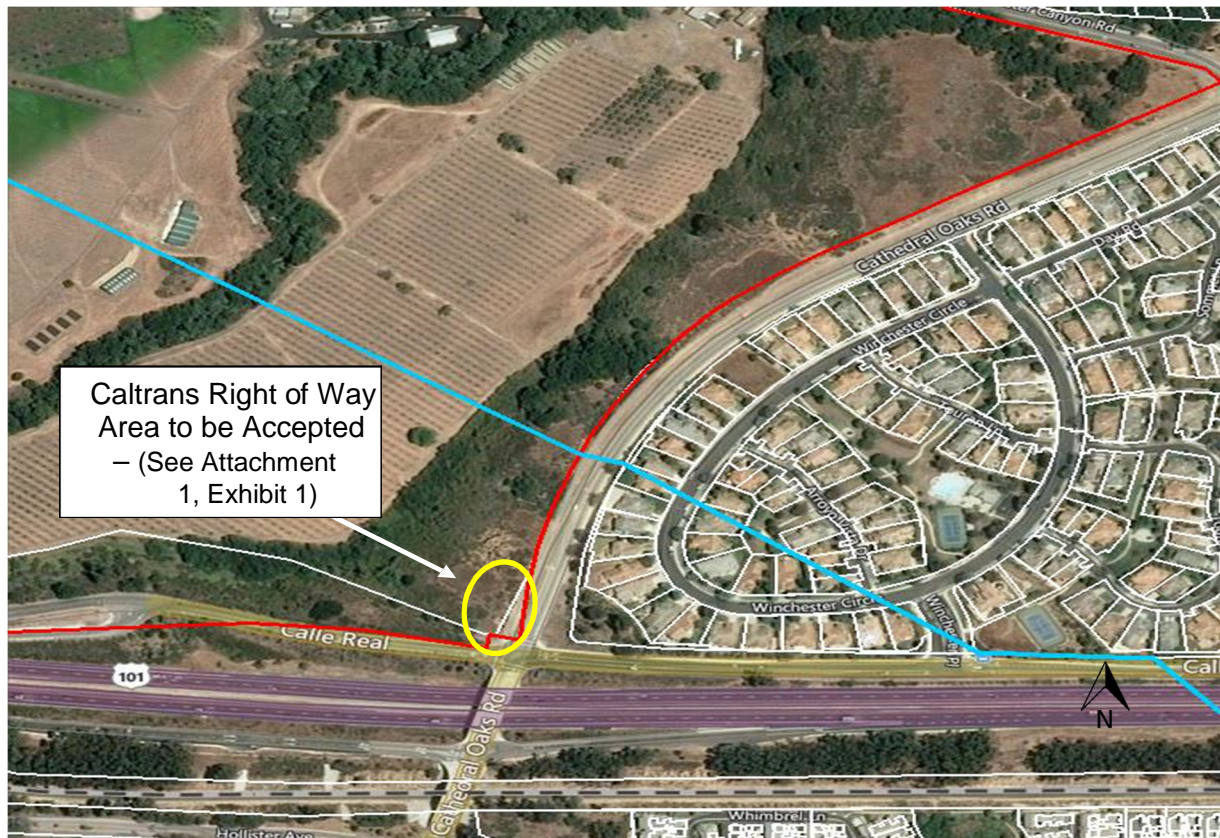
Section 65402 of the California Government Code requires Planning Commission review prior to any acquisition, disposition, vacation, or abandonment of any real property by the City. The Planning Commission is required to determine and report to the City Council as to whether the location, purpose, and extent of such proposed real property transaction is in conformance with the General Plan/Coastal Land Use Plan (General Plan).

The Cathedral Oaks Interchange project was a joint project between Caltrans and the City of Goleta, following work started by Santa Barbara County prior to Goleta's incorporation. On September 10, 2007, the City Planning Commission adopted Resolution 07-03, 07-04 and 07-05, finding consistency of the project with the General Plan/Local Coastal Plan, approving a Mitigated Negative Declaration and a Development Plan for the interchange project. Caltrans and the City applied jointly to the Coastal Commission and secured a Coastal Development Permit (04-07-116) in 2009 (see Attachment 3).

The funding, design, construction and completion details were further outlined in a Cooperative Agreement with Caltrans that outlines the City's acceptance of this right-of-way area (see Attachment 4, Caltrans District Agreement #05-CA-0178). In order to complete the realignment of Cathedral Oaks at Calle Real, Caltrans secured a portion of the adjoining APN 079-090-038 (formerly APN 079-090-020) as a separate parcel for public right-of-way (ROW), contiguous to the City's existing ROW on Cathedral Oaks Road and Calle Real. After completion of the project, Caltrans determined that this area was a collateral facility and that it was no longer necessary as part of the completed interchange. Since that time, Caltrans and the City have worked together to transfer this separate parcel of public ROW to the City. This General Plan/Coastal Land Use Plan consistency determination is one of the final steps required for this transfer to be completed.

Acquisition of this ROW from Caltrans also allows the City to maintain this section of Cathedral Oaks Road, including the Class I bicycle path on the western side of Cathedral Oaks, consistent with sound engineering and public facility management practices. The approximate location of the area to be transferred to the City is outlined in yellow in Figure 1 below. This area was calculated by Caltrans to be 5,043.21 square feet, and is shown on the Appraisal Map provided in Exhibit 1 to Attachment 1.

**Figure 1
Vicinity Map**



DISCUSSION

Under Section 65402 of the Government Code, the Planning Commission is required to review the location, purpose, and extent of all real property acquisitions and report on their conformance to the General Plan. The purpose of the Planning Commission review is to acknowledge the objectives and policy standards established in the General Plan.

As noted above, the City made a General Plan Consistency determination of the Cathedral Oaks Interchange project in 2007 but this small area had not been included in the project plans developed at that time. While this area is located adjacent to but outside the City limits, that does not change the need to determine its acquisition consistent with the City of Goleta General Plan/Coastal Land Use Plan per GC Section 65402 because the City is the agency acquiring it and must make this determination.

The Transportation and Circulation Element (Chapter 3) of the City's General Plan/Coastal Land Use Plan sets forth goals and policies regarding the completion of multiple capital improvement projects, as shown on Figure 7-3, Transportation Improvement Plan map. The Cathedral Oaks overcrossing was one of the first capital projects completed by the City, and transfer of this public ROW area from Caltrans to the City is one of the final steps related to that project.

Additionally, acceptance of this right-of-way from Caltrans is consistent with the following City of Goleta General Plan/Local Coastal Land Use Plan policies:

- Figure 7-3 and policies TE 3.3.c, 3.4 and 3.5 (Location and Design Standards and function of Minor Arterials and Major Collector streets): *Acquisition of the ROW area from Caltrans is consistent with the definition and function of Minor Arterial designation of Cathedral Oaks Road and the Major Collector designation of Calle Real.*
- TE 3.9 (Right-of-Way Dedications and Improvements): *Acquisition of the ROW area has been determined appropriate by the City, consistent with this policy's statement that existing and future rights-of-way may vary along different segments within the same designation and appropriate ROW dedications shall be established by the City Engineer.*
- Figure 7-6 and TE 11.1, 11.2, 11.3 and 11.5 (Bikeway Plan Map, Bikeway Transportation Plan, Design Guidelines and Bicyclist Safety): *Acquisition of this ROW area from Caltrans will allow Goleta to maintain the Class I bicycle path along the west side of Cathedral Oaks Road and the existing Class II bicycle path along Calle Real.*

Location

The acceptance of this ROW area from Caltrans aligns with City ROW already used for Cathedral Oaks Road and Calle Real. Although this area is currently within the County of Santa Barbara, that does not affect the City's ability to accept this land from Caltrans.

The City and County jurisdictional lines will remain the same upon the City's acceptance of this ROW area.

Purpose

As mentioned above, acceptance of this small land area by the City allows the City to maintain the adjoining Cathedral Oaks Road ROW, its bike lane, curb, gutter and travel lanes in an optimal manner. Ownership of this parcel adjacent to City right-of-way is appropriate.

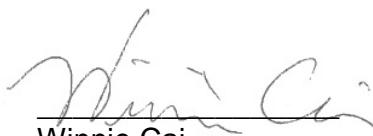
ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 *et seq.*, the "CEQA Guidelines"), the proposed General Plan conformity determination does not constitute a "project" for the purposes of CEQA because the determination will not result in direct or indirect physical changes in the environment and there is no possibility it will have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5).). The proposed determination simply fulfills the City's obligation under Government Code Section 65402 to find land acquisitions in conformance with the General Plan. Any subsequent improvement to the property will be separately examined in accordance with CEQA.

SUMMARY AND CONCLUSION

The acceptance of the 5,043-square foot parcel for right-of-way purposes adjacent to Cathedral Oaks Road at Calle Real for the continued purpose of public access is consistent with the City General Plan/Coastal Land Use Plan. Therefore, after review of the proposed acquisition of this public ROW from Caltrans, staff recommends that the Planning Commission adopt the attached Resolution memorializing the Planning Commission's report to the City Council that the proposed acquisition conforms with the General Plan.

Legal Review By:



Winnie Cai
Assistant City Attorney



Peter Imhof, Director
Planning and Environmental
Services, Planning Commission
Secretary

Approved By:



Charles W. Ebeling, P.E., T.E.,
Director of Public Works

ATTACHMENTS:

1. A Resolution of the Planning Commission of the City of Goleta, California, Reporting that the Acquisition of a 5,043-square foot portion of Caltrans right-of-way adjacent to Assessor Parcel Number 079-090-038 is in Conformance with the Goleta General Plan/Coastal Land Use Plan Pursuant to Section 65402 of the Government Code

Exhibit 1: Right-of-Way Director's Quitclaim Deed Map, DK 1-6-1-01-01, 8-15-2017 showing parcel adjacent to APN 079-090-038, Cathedral Oaks Road and Calle Real

2. CEQA Notice of Exemption
3. Coastal Development Permit 04-07-116, approved by California Coastal Commission in 2009
4. Cooperative Agreement Goleta and Caltrans District 5 (#05-CA-0178)

ATTACHMENT 1

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA, CALIFORNIA, REPORTING THAT THE ACQUISITION OF A 5,043-SQUARE FOOT PORTION OF CALTRANS RIGHT-OF-WAY ADJACENT TO ASSESSOR PARCEL NUMBER 079-090-038 IS IN CONFORMANCE WITH THE GOLETA GENERAL PLAN/COASTAL LAND USE PLAN PURSUANT TO SECTION 65402 OF THE GOVERNMENT CODE

RESOLUTION NO. 19-____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA, CALIFORNIA, REPORTING THAT ACQUISITION OF A 5,043-SQUARE FOOT PORTION OF CALTRANS RIGHT-OF-WAY ADJACENT TO ASSESSOR PARCEL NUMBER 079-090-038 IS IN CONFORMANCE WITH THE GOLETA GENERAL PLAN / COASTAL LAND USE PLAN PURSUANT TO SECTION 65402 OF THE GOVERNMENT CODE

WHEREAS the Goleta General Plan / Coastal Land Use Plan (General Plan) is a comprehensive, long-term plan that guides land use and physical development of the geographic area of the incorporated City of Goleta (City) limits; and

WHEREAS the General Plan provides policy direction regarding land uses that are intended to serve the community based on the buildout of the community as anticipated by the General Plan through the year 2030; and

WHEREAS the City has the ability to acquire, dispose of, vacate or abandon real property in conformance with its General Plan; and

WHEREAS Government Code Section 65402(a) requires that no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, until the location, purposes and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the Planning Commission as to the conformity with the General Plan; and

WHEREAS on September 10, 2007, the City Planning Commission approved the Cathedral Oaks Interchange Project, including approval of a Mitigated Negative Declaration, Development Plan (City Case 05-037-DP) and made findings of General Plan Consistency for the extent of the Project at that time; and

WHEREAS the California Coastal Commission approved the Cathedral Oaks Interchange Project upon a joint application by the City of Goleta and Caltrans, through Coastal Development Permit number 04-07-116, allowing the City and Caltrans to proceed with construction of the Project that was completed in 2011; and

WHEREAS City and Caltrans have worked to complete all post-construction steps, including transfer of remnant right-of-way areas secured by Caltrans but no longer needed by that agency for public road purposes under its purview and the current Project to transfer 5043.21 square feet of Caltrans right-of-way adjacent to APN 079-090-038 is a final step in that process; and

WHEREAS the City reviewed the Project's environmental impacts under the California Environmental Quality Act (CEQA) (Pub. Resources Code §§21000 et seq., "CEQA"), the regulations promulgated thereunder (14 CCR §§15000 et seq., the "CEQA Guidelines"), and the City's Environmental Guidelines; and

WHEREAS the City determined that the Project is exempt from environmental review pursuant to Sections 15061(b)(3) (Common Sense Exemption) and Section 15378(b)(5) (Project) of the CEQA Guidelines; and

WHEREAS a conveyance to or from a government entity is exempt from the parcel map requirement of the Subdivision Map Act (Gov. Code § 66482(a)(2)) and Municipal Code (GMC § 16.01.040(H)); and

WHEREAS, on August 12, 2019, the Planning Commission conducted a duly noticed public hearing on the location, purpose, and extent of the acquisition of the 5043.21 square foot portion of Caltrans right-of-way adjacent to Assessor Parcel Number (APN) 079-090-038 (7985 Winchester Canyon Road, Goleta CA) at which time all interested persons were given an opportunity to be heard; and

WHEREAS the extent of the acquisition is the approximately 5043.21 square foot portion of Caltrans right-of-way adjacent to Assessor Parcel Number (APN) 079-090-038, as shown on the Caltrans Director's Quitclaim Deed map, DK 10601-01-01, dated August 15, 2017, and as shown in Exhibit 1 of this resolution, and incorporated by reference; and

WHEREAS APN 079-090-020 is located on the northwest corner of the intersection of Cathedral Oaks Road and Calle Real and the portion of Caltrans ROW adjacent to this parcel and to be transferred immediately abuts City of Goleta ROW; and

WHEREAS the General Plan/Coastal Land Use Plan includes completion of the Cathedral Oaks Interchange Project on Figure 7-3, Transportation Improvement Plan map, and the current transfer of ROW is a final step for that Project; and

WHEREAS the Planning Commission has considered the entire administrative record, including the staff report and oral and written testimony from interested persons.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Goleta as follows:

SECTION 1. Recitals

The Planning Commission hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2. Reporting of Conformity and Report to the City Council

Pursuant to Section 65402 of the Government Code, the Planning Commission has evaluated the location, purpose, and extent of the acquisition of right-of-way area adjacent to APN 079-090-038 and finds that the location, purpose and extent of the acquisition conforms to the General Plan, which supports the acquisition and use of this property for a City-owned City Hall. The Planning Commission hereby directs staff to report this finding to the City Council.

SECTION 3. Documents

The General Plan and other relevant materials are in the custody of the City Clerk, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California, 93117.

SECTION 4. Certification

The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this _____ day of August 2019.

JENNIFER SMITH, CHAIR

ATTEST:

APPROVED AS TO FORM:

DEBORAH LOPEZ
CITY CLERK

WINNIE CAI
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Planning Commission Resolution No. 19-__ was duly adopted by the Planning Commission of the City of Goleta at a regular meeting held on the ____ day of August, 2019, by the following vote of the Commission members:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH LOPEZ
CITY CLERK

ATTACHMENT 1, EXHIBIT 1

**Caltrans Director's Quitclaim Deed map, DK 10601-01-01, dated
August 15, 2017**



RANCHO LOS DOS PUEBLOS

PARCEL MAP NO 11,501

COUNTY OF SANTA BARBARA

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.

DK 10601-01-01

AREA 5,480 SF

PTN PARCEL "B"

UNINCORPORATED AREA
CITY OF GOLETA

CATHEDRAL OAKS ROAD

CITY OF GOLETA

TRACT
13974
181 Maps 32-27

Sta. 554+62.45
188.53' R+.

28.79'

198.00'

R=1,252.00'
 $\Delta=9^{\circ}20'41''$
L=204.20'

CALLE REAL

23.74'

State Right of Way

POINT OF BEGINNING

R=4,973.37'
 $\Delta=0^{\circ}43'31''$
L=62.96'

ROUTE SB-101



BOOK 4 HIGHWAY MAPS, PAGES 524-526

558+07.12 EC

557

556

555

554

553

552+06.49 BC

STATE OF CALIFORNIA
CALIFORNIA STATE TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY
DIRECTOR'S QUITCLAIM DEED
DK 10601-01-01

SCALE: 1" = 100'

FEET 0 50 100 200

DRAFTED BY	DATE	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
PP, AF	08-15-2017	05	SB	101	26.76-26.80	2	2

ATTACHMENT 2

**Notice of Exemption for Cathedral Oaks 65402
Planning Commission consideration August 12, 2019**

NOTICE OF EXEMPTION (NOE)

To: ☐ Office of Planning and Research
P.O. Box 3044, 1400 Tenth St. Rm. 212
Sacramento, CA 95812-3044

From: City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

☒ Clerk of the Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101



Subject: Filing of Notice of Exemption

Project Title:

Government Code Section 65402 determination regarding the City of Goleta's acquisition of right-of-way from Caltrans, west of Cathedral Oaks Road and north of Calle Real, to be used for City of Goleta right-of-way purposes. Case No. 19-066-GC.

Project Applicant:

City of Goleta Public Works Department

Project Location (Address and APN):

Public right-of-way adjacent to APN 079-090-038, along the west side of Cathedral Oaks Road, north of Calle Real, Goleta Ca, 93117, County of Santa Barbara.

Description of Nature, Purpose and Beneficiaries of Project:

General Plan Conformity Determination in accordance with Government Code Section 65402 associated with the City's acquisition of right-of-way from Caltrans. Once accepted, the City will Goleta will continue to use, maintain and improve said right-of-way consistent with its Capital Improvement Program and normal maintenance procedures.

Name of Public Agency Approving the Project:

Planning Commission of the City of Goleta

Name of Person or Agency Carrying Out the Project:

City of Goleta

Exempt Status: *(check one)*

- ☐ Ministerial (Sec. 15268)
- ☐ Declared Emergency (Sec. 15269 (a))
- ☐ Emergency Project (Sec. 15269 (b) (c))
- ☐ Categorical Exemption: *(Insert Type(s) and Section Number(s))*
- ☒ Other Statutory Exemption: (15061(b)(3) and Section 15378(b)(5))

Reason(s) why the project is exempt:

Pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000 et seq., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq.), Section 15061(b)(3) and Section 15378(b)(5), the proposed acquisition does not qualify as a "project" for the purposes of CEQA because the acquisition will not result in direct or indirect physical

NOTICE OF EXEMPTION (NOE)

changes in the environment and there is no possibility the acquisition will have a significant effect on the environment.

City of Goleta Contact Person, Telephone Number, and Email:

Laura Bridley, Contract Planner; 805-896-2153; lbridley@cityofgoleta.org

Marti Milan, Principal Civil Engineer; 805 961-7562; mmilan@cityofgoleta.org

Signature

Title

Date

If filed by the applicant:

1. Attach certified document of exemption finding
2. Has a Notice of Exemption been filed by the public agency approving the project?

☐Yes

☐No

Date received for filing at OPR: _____

Note: Authority cited: Section 21083 and 211110, Public Resources Code

Reference: Sections 21108, 21152.1, Public Resources Code

ATTACHMENT 3

**Coastal Development Permit 4-07-116
Approving Cathedral Oaks Overcrossing, signed March 2009**

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



Page 1 of 10
Date: March 10, 2009
Permit Application No. 4-07-116

COASTAL DEVELOPMENT PERMIT

On February 5, 2009, the California Coastal Commission granted to California Department of Transportation (Caltrans) & City of Goleta, permit 4-07-116, subject to the attached Standard and Special Conditions, for development consisting of: Reconstruct the existing Hollister Avenue/Highway 101 intersection, including replacement of the existing overpass structures over the highway and Union Pacific Railroad (UPRR), and realignment with Cathedral Oaks Road. This permit is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Santa Barbara County at Highway 101, at Hollister Avenue and Cathedral Oaks Road, City of Goleta (includes portion of APN 079-210-48). Also includes a small adjacent area within APN 079-090-20 in the unincorporated area of Santa Barbara County.

Issued on behalf of the California Coastal Commission by,

PETER DOUGLAS
Executive Director

Shana Gray
FOR Lee Otter
Coastal Planner

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

3-24-09

Date

Rosmarie Coyle
Permittee

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



Page 1 of 10
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PRC 6/24/09

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3/18/09

Date

Paul Martiny

Permittee

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Revised Project Plans.**
 - A. PRIOR TO ISSUANCE of this coastal development permit (CDP), four sets of final project plans shall be submitted for review and approval by the Executive Director. The revised construction plans shall show the adjusted road configuration/design southeasterly of the (future) intersection of Hollister Avenue and the extended Cathedral Oaks Road, as modified to achieve maximum feasible retention of existing large trees in accordance with Special Condition no. 2.d(6), below. Specifically, the revised construction plans shall show that trees numbered 9 and 11-15 will be retained—unless, for any particular tree, permittee demonstrates to the satisfaction of the Executive Director that such retention is not feasible (Ref.: previously-submitted tree removal plan, file document "Project Development/Sheet Q-4," plotted Jan.12, 2009).
 - B. The permittee (Caltrans & City of Goleta) shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Environmental Avoidance, Minimization & Mitigation requirements.**
 - a. Incorporation of City conditions. The permittee shall comply with all environmental avoidance, minimization, and mitigation measures identified in the project *Natural Environment Study (NES)*, Caltrans District 5, May 2005, and referenced by the City of Goleta's approval (Conditions of Approval attached, as Exhibit 5). By reference, conformance with these mitigation measures is required as a condition of this permit, unless otherwise modified by any other condition of this permit including, but not limited to, changes to mitigation measures

identified below regarding bat roosts, nesting bird habitats, tree retention, and modification of landscaping plans to serve as a habitat enhancement plan.

b. Exclusion of construction activities from adjacent ESHAs. The project's identified environmental avoidance measures provide for exclusion of construction impacts to nearby environmentally sensitive habitat areas, including upland habitat for *Santa Barbara honeysuckle* and a culvert outlet scour pool that may periodically function as *California red-legged frog* (CLRF) habitat. Ecologically sensitive area (ESA) designations, excluding all construction equipment and personnel, will be established around each.

Direct impacts to aquatic habitat are neither proposed nor authorized. To minimize upland disturbances, the ESA will be applied to contiguous vegetated habitat areas that will be retained within 300 ft. of the scour pool, as delineated in the above-referenced NES report. The NES report also lists 18 additional specific measures for CRLF protection, reflecting the Endangered Species Act Section 7 consultation with the U.S. Fish & Wildlife Service. Permittee agrees to observe all identified CRLF protection measures.

c. Measures to protect bat roosts. The NES report includes specific measures for replacement of bat roosting habitat found within the existing railroad overhead structure. These measures, detailed in the attached Findings, shall be supplemented, or modified, as follows:

1) Replacement bat roosting habitat required. The proposed new railroad overcrossing shall be designed with sufficient crevice and cavity capacity on the underside of the bridge to accommodate the entire peak period bat population(s) from the existing railroad overcrossing (approx. 2,000 animals). The dimensions and total surface area of the crevices shall be optimized for the two species known to occupy the site, the Mexican free-tailed bat and pallid bat; and, shall in other respects approximately replicate the habitat conditions of the existing bat roost area.

Unless sufficient crevice space is integral to the new bridge design, the required capacity shall be obtained through installation of bat habitat units of an appropriate proven design (e.g., the "Oregon Wedge" or the "Type 1/Type 2 Bat Habitat"), which shall be affixed to or within the bridge structure. See Exhibit 7, attached.

2) Alternate bat roosting habitat measures. If biological monitoring reveals that in-bridge bat habitat replacement measures will not be sufficient to fully offset the removal of the existing roosting habitat, alternate bat roost devices may be used, subject to approval of the Executive Director. Such alternate device shall be of a proven design that will provide the same level of suitable roosting environment required by these species of bats.

Potentially acceptable alternate devices include, but are not limited to, off-bridge free-standing bat roost structures. Any such free-standing mitigation structure shall provide equal or greater roosting habitat than that which would be afforded on-bridge; shall be installed on publicly-owned lands or railroad right of way or conservation easement within the immediate vicinity of the project limits; and, shall be permanently marked to prevent removal or disturbance (e.g., "Mitigation Structure—Do Not Disturb"). Prior to installation, the design and location of the mitigation structure shall be submitted for review and approval by the Executive Director, in consultation with the City of Goleta.

d. Red-tailed hawk and other nesting bird protection measures. The nearest observed hawk nest is in a large eucalyptus tree approximately 150 ft. distant from the area to be cleared for the proposed Cathedral Road extension (Exhibit 11, attached). Other eucalyptus trees on the site, near the observed nesting site, serve as buffers and sentinel trees, and represent *potential* nesting habitat for raptors and other birds. The NES report recommends that disturbance of nesting raptors be avoided during nesting season. According to best available information, this period is Feb.15-Aug.15 of each year. Consistent with this information, permittee shall implement enhanced measures for protecting bird nesting habitat within the eucalyptus stand, as follows:

1) Pre-construction bird surveys required. Permittee shall ensure that a qualified biologist, with experience in conducting bird surveys, shall conduct bird surveys 30 calendar days prior to construction activities to detect any active bird nests in the eucalyptus trees to be impacted, and any other such habitat within 500 feet of the construction area (exclusive of the freeway itself and other areas that can not be safely or legally accessed on foot). The last survey must be conducted 3 calendar days prior to the initiation of clearance/construction.

2) Construction Monitoring. The permittee shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications as the biological monitor. The biological monitor shall be present during all construction activities within 300 ft. (500 ft. for raptors) of an identified nest that is actively used by raptors or federally or state-listed species, state fully-protected species or state species of concern. A qualified biologist shall be present at all relevant construction meetings and during all significant construction activities to ensure that nesting birds are not disturbed by construction related noise. The qualified biologist shall be onsite monitoring birds and noise every day at the beginning of the project during the period of concentrated heavy equipment use.

3) Disturbance during nesting prohibited. If an active raptor, rare, threatened, endangered, or species of concern nest is found, clearing/construction activities within 300 ft. (500 ft. from any identified raptor nest) shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting.

If an active nest of a raptor, federally or state-listed species, state fully-protected species or state species of concern is found, Caltrans will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. Caltrans will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.

Construction activities may occur within 300 ft. (500 ft. for raptors) from an active nest of any raptor, rare, threatened, endangered, or species of concern only if noise levels generated by the construction activities will not increase noise levels beyond a peak of 80 dB at any active nesting sites. If construction noise exceeds 80 dB sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches offsite, use of muffler, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft. for raptors) of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete. In support of this, a focused nest site noise impact study shall be conducted concurrent with the pre-construction bird surveys required in number 2.d.1

above. The peak noise level criterion of 80 dB may be reduced to a peak criterion value between 68 and 80 dB based on the results of the focused noise impact study.

4) Temporary exclusionary fencing. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing, except where already within a fenced ESA. The 300/500 foot temporary buffer areas may be adjusted to exclude barren and/or non-contiguous areas not part of the potential nesting habitat, such as the freeway, railroad, surface streets, quarry (borrow) sites, and residential neighborhoods separated by the freeway. Construction personnel shall be instructed on the sensitivity of the area, and the importance of staying outside the exclusionary fencing around the ESA.

5) Documentation of compliance. Permittee Caltrans shall ensure that the project biologist records the results of the recommended protective measures described above, to document compliance with applicable State and Federal laws pertaining to protection of nesting birds.

6) Maximum feasible tree retention. In the vicinity of the new Cathedral Oaks-Hollister Avenue intersection, modification of the curb and gutter design, installation of protective guardrails between the trees and motor traffic, retaining walls, grading adjustments or other appropriate measures shall be employed to achieve maximum feasible retention of existing large mature trees near the nesting site. These identified large trees near this future intersection are numbered 9 & 11-15 on the previously-submitted tree removal plan (file document "Project Development/Sheet Q-4," plotted Jan.12, 2009).

PRIOR TO ISSUANCE of this Coastal Development Permit, a revised table of trees to be removed shall be provided, together with plan detail to identify the measures to be employed to protect each of these identified trees (or an explanation of why retention of the identified tree is not feasible). Feasibility considerations shall include, but not be limited to, public safety standards, operational requirements, public access needs, aesthetics, tree sustainability during project life, relative habitat value, and cost in proportion to benefit. This requirement shall be fulfilled concurrently with Special Condition 1, above, regarding submittal of revised construction plans.

7) Habitat enhancement plan. To achieve maximum feasible tree cover near the observed raptor nesting site, a *habitat enhancement plan* shall be submitted for Executive Director review and approval PRIOR TO COMMENCEMENT OF SITE CLEARING OR OTHER DEVELOPMENT. The project Landscape Planting and Revegetation Plan, as revised in accordance with Special Condition 4 below, may be submitted in satisfaction of this requirement.

3. Environmental Monitoring.

Permittee shall submit environmental monitoring reports documenting installation and effectiveness of the avoidance, minimization, and mitigation measures identified in the above-referenced NES report, for review and approval of the Executive Director. These reports shall be prepared by the USF&WS-approved biologist (i.e., the Project Biologist) assigned to the project. The required reports shall be in writing, brief, and submitted consistent with the following timing and informational requirements:

- a. commencing with a baseline conditions report prior to commencement of site clearing work, documenting any changed conditions since May 2005, and including any updated recommendations for bat roost replacement;
- b. after installation of sediment containment measures and equipment exclusion barriers near drainageways, but prior to commencement of clearing or grading;
- c. while construction is in progress, prior to the onset of the rainy season (Nov. 1 of each year, unless another date is specified by the Executive Director);
- d. while construction is in progress, following the end of the wet season (March 31 of each year, unless another date is specified by the Executive Director);
- e. after bat habitat mitigation measures are in place, but prior to demolition of the existing railroad overhead structure;
- f. upon completion of project; and,
- g. each year, at the height of bat roosting activity, for purposes of determining the effectiveness of the installed bat habitat mitigation measures (for three years following installation of the measures). Such annual reports shall also report success of the approved landscape plan/habitat enhancement plan required to offset loss of raptor nesting habitat.

The submitted monitoring reports shall also identify any adjustments needed to effectively achieve the adopted mitigation objectives. Any substantive modifications of the mitigation program shall be subject to prior review and approval by the Executive Director. Any such adjustment requiring modification of project design will potentially necessitate amendment of this permit.

4. Final Landscaping & Revegetation Program

a. Revised Landscape Planting and Revegetation Plans. PRIOR TO COMMENCEMENT OF SITE CLEARING OR OTHER DEVELOPMENT. permittee shall submit a revised Landscape Planting and Revegetation Plan, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the criteria set forth below:

- 1) The required final Landscape Planting and Revegetation Plans shall encompass all areas of the project site, including, but not limited to, areas of the site within City of Goleta right-of-way as well as the Caltrans right-of-way. Separate plan sheets may be submitted for the City's portion.
- 2) The final Landscape Planting and Revegetation plans shall provide for mulching, erosion control and replanting of all exposed natural soil areas remaining within (60) days after construction is completed. These requirements shall also apply to: the on-site quarry (borrow) area; areas along the southbound on/off ramps; and the area seaward of the railroad (UPRR) right of way, including the road surfaces to be vacated and scarified.

3) The final Landscape Planting and Revegetation Plans shall provide for enhancement of woodland and raptor habitat on site by providing for new woodland habitat within the quarry area ("borrow site"), the vacated southbound off-ramp, and the vacated portions of Hollister Avenue.

In particular, the plan shall provide for strategic tree retention and planting in the vicinity of the known raptor nesting site, to enhance the overall quality of nesting habitat. Existing mature trees shall be retained to the maximum extent feasible, and new plantings provided at appropriate densities. In addition, larger tree plantings (e.g., 36" box size) shall be intermingled with the permanent (smaller) tree plantings, as appropriate, to provide for interim raptor habitat enhancement until the smaller plantings are well-established. - all on CT ROW! - along SB on

The total woodland habitat area shown for replanting on the final Landscape Planting and Revegetation Plans shall offset the cleared woodland area at a ratio of 2:1 or better (so that the total area replanted will include at least 2.74 acres of tree species suitable for red-tailed hawk nesting). All such plantings shall be within lands or conservation easements owned or controlled by either permittee. The total crown area of the trees to be planted, together with existing trees to be retained within the site's biologic study area (BSA) as defined in the NES, shall be at least 6.62 acres or more at tree maturity.

4) Selection of species and varieties of plantings shall emphasize drought tolerance and compatibility with native plant habitats nearby, and should complement the aesthetic treatment approved for the Highway 101 overpass structure, consistent with the recommendations by the City of Goleta.

Except for tree replacement intended to supplement or provide monarch butterfly habitat, landscaping shall consist primarily of native plant species that are appropriate to the surrounding region (e.g., sycamore or oak) and shall be of local genetic stock. Consistent with recommendations by the City of Goleta, these indigenous plantings may be augmented by selected specimens of other California native tree species known to be utilized by red-tailed hawks and other raptors (e.g., Bigleaf maple, Monterey cypress). The redbud species listed for the preliminary plan shall be corrected to indicate the local native variety. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the landscaped areas of the site.

5) The submitted landscape and revegetation plans shall specify reliance on reclaimed water as the primary plant establishment and irrigation measure. Any permanent irrigation installations shall be identified.

6) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;

b. Conformance with approved plans. All development shall conform to the approved landscaping, revegetation and erosion control plans. Permittee shall undertake site revegetation in accordance with the approved final Landscape Planting and Revegetation Plans. Any changes to the approved plans shall be reported to the Executive Director. No changes to the approved final site/development plans shall occur without an amendment to the

coastal development permit, unless the Executive Director determines that no amendment is legally required.

c. Monitoring of landscape/habitat enhancement plantings. Five years from the date after construction is completed, the permittee shall submit to the Executive Director, a Landscaping and Revegetation Program Monitoring Report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

5. Interim Erosion Control & Construction Best Management Practices Plan

A. PRIOR TO COMMENCEMENT OF SITE CLEARING OR OTHER DEVELOPMENT, permittee shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices plan, prepared by licensed civil engineer or qualified water quality professional. The consulting civil engineer/water quality professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan is in conformance with the following requirements:

1) Erosion Control Plan

- (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas to be protected on the site (i.e., the ESAs) shall be clearly delineated on the plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps); temporary drains and swales; sand bag barriers; silt fencing; stabilize any stockpiled fill with geofabric covers or other appropriate cover; install geotextiles or mats on all cut or fill slopes; and close and stabilize open trenches as soon as possible.
- (e) The erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

2) Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices plan, shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

6. Supplemental GHG Analysis Minimization Measures

Permittee shall implement all minimization measures listed in the supplemental Supplemental Greenhouse Gases (GHG) Analysis (Exhibit 12), including: 1) use of reclaimed water, to reduce electricity demand; 2) landscaping, to reduce surface warming and promote photosynthesis; 3) use of special Portland cement formulations containing fly ash, to reduce GHG emissions resulting from cement production; and, 4) installation of energy-efficient lighting fixtures. A final landscaping and revegetation program, specifying the use of reclaimed water, shall be implemented over the entire project area (see Special Condition 4, above). Special fly-ash Portland cement formulations shall be utilized, as proposed by permittee. Further, the permittee shall coordinate with the applicable electrical power utility to encourage the installation of LED traffic signals and other energy-efficient fixtures.

7. Conformance with Plans

The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Such reportable changes include any alteration that could potentially affect the kind, location, intensity or other substantive aspect of the approved development, or any avoidance, minimization or mitigation measure to be employed in conjunction with the approval.

In event the proposed change will require modification of the development approved by this permit, or modification of the mitigation measures required under the terms of this permit, permittee shall submit a timely request for Executive Director review of materiality, as provided by Commission Regulations (Section 13166(b)). If the change is determined to be material, then it shall be reviewed in accordance with the process prescribed for amendments of coastal development permits, as detailed in Commission Regulations, Sections 13164 & 13166.

8. Required Agency Approvals

By acceptance of this permit, the applicant agrees to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project (including the California Department of Fish and Game, Regional Water Quality Control Board and the U.S. Army Corps of Engineers).

ATTACHMENT 4

**Cooperative Agreement, Goleta and Caltrans District 5
#05-CA-0178**

District Agreement #05-CA-0178
05-SB-101-PM 26.9
05-371500 – Project
05-0M1400 – Improvements
Replace Hollister Overcrossing
and Ellwood Overhead

COOPERATIVE AGREEMENT

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON 11/21/05, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and

CITY OF GOLETA,
a body politic and a municipal
corporation of the State of
California, referred to herein
as "CITY"

RECITALS

- (1) STATE and CITY, pursuant to Streets and Highways Code section 130, are authorized to enter into a Cooperative Agreement for improvements to State highways, contiguous local roadways and structures within the City of Goleta.
- (2) STATE desires to replace the Hollister Avenue Overcrossing (Bridge No. 51-123), including the construction of sidewalks and Class II bicycle lanes to accommodate pedestrian and bicycle access, on State Route 101 at Post Mile 26.9, referred to herein as "PROJECT" (E.A. 371500).
- (3) CITY desires to relocate the Hollister Avenue Overcrossing and replace and relocate the adjacent railroad overhead (Bridge No. 51C-130, known as the Ellwood Overhead) for improved alignment with CITY's Cathedral Oaks Road, including modified and relocated ramps, an extension of Cathedral Oaks Road, and connections at Calle Real and Hollister Avenue, referred to herein as "IMPROVEMENTS" (E.A. 0M1400).
- (4) The County of Santa Barbara (COUNTY) was the lead agency for all phases of PROJECT and IMPROVEMENTS prior to the incorporation of the CITY in 2002. COUNTY began preparation of the Project Approval and Environmental Documentation (PA&ED) phase (expired Agreement #05-CA-0060; Document #03771) and has transferred all work used to prepare the draft Project Report (DPR) and draft environmental document (DED) to CITY, including that of the consultants contracted by COUNTY. COUNTY also began work on Plans, Specifications and Estimates (PS&E) concurrently with work on PA&ED. Both phases for PROJECT and IMPROVEMENTS are well underway. STATE and CITY will jointly fund the remaining capital and support costs for completion of the final PA&ED and PS&E documents.
- (5) STATE is agreeable to taking the lead for both PROJECT and IMPROVEMENTS, including finishing work started by COUNTY on PA&ED and PS&E, and advertising, awarding and administering the construction contract for PROJECT and IMPROVEMENTS.
- (6) For the purpose of this Agreement, STATE's share of funding is from the Seismic Retrofit Program, and CITY's share of funding is from the Highway Bridge Replacement and Rehabilitation (HBRR)

Program, State Transportation Improvement Program, [(Regional Improvement Program) STIP-(RIP)], and local funds including matching funds for the HBRR Program as shown on Exhibit A, attached hereto and made a part of this Agreement.

(7) It is anticipated that Federal-aid funds will be allocated for financing PROJECT and IMPROVEMENTS costs, which are eligible for Federal-aid participation and STATE and CITY will bear the remainder of the costs as set forth on Exhibit A.

(8) STATE and CITY mutually desire to cooperate and specify herein the terms and conditions under which PROJECT and IMPROVEMENTS are to be engineered, constructed, financed and maintained.

SECTION I

STATE AGREES:

(1) To finalize PA&ED (obtain approvals for circulation of the DED and DPR, prepare the final (ED) and final (PR) for approval of PROJECT and IMPROVEMENTS and administer the public hearing process) started but not completed by COUNTY.

(2) To finalize (PS&E) started but not completed by COUNTY for PROJECT and IMPROVEMENTS.

(3) To submit a billing in the amount of \$50,000 upon STATE's commencement of PS&E work for IMPROVEMENTS. Said billing represents CITY's initial deposit for PS&E development and design costs for IMPROVEMENTS.

(4) Thereafter, to prepare and submit to CITY quarterly invoices for actual PS&E work as development of IMPROVEMENTS proceeds (see Exhibit A for detailed PS&E cost estimate information).

(5) That all right of way acquisition for PROJECT and/or IMPROVEMENTS shall be completed by STATE. Should any new right of way be needed for IMPROVEMENTS, STATE will transfer title to CITY free and clear of all encumbrances detrimental to CITY's present and future uses.

(6) To be responsible for all coordination, approvals, easements, permits and permissions required of and by railroad and utility companies for PROJECT and IMPROVEMENTS.

(7) To pay an amount equal to 0% of the actual right of way acquisition costs for PROJECT and IMPROVEMENTS as shown on Exhibit A.

(8) Upon completion of any appraisal of property needed to complete PROJECT and/or IMPROVEMENTS, to submit to CITY an initial invoice for right of way acquisition costs for IMPROVEMENTS.

(9) Upon completion of right of way activities for PROJECT and IMPROVEMENTS, to invoice CITY for any additional amount required beyond CITY's initial deposit for right of way acquisition performed by STATE.

(10) Fifteen (15) days prior to STATE's bid advertising date of a construction contract for PROJECT and IMPROVEMENTS, to submit an initial invoice in the amount of \$50,000 for PROJECT and IMPROVEMENTS. Said invoice represents CITY's share for one month's estimated cost of construction engineering (E.A. 05-0M1403) and one month's estimated construction (E.A. 05-0M1404) cost for IMPROVEMENTS.

(11) Thereafter, to prepare and submit to CITY monthly invoices for estimated expenditures for construction engineering and construction one month in advance as construction of IMPROVEMENTS proceeds (see Exhibit A for details of estimated construction engineering and construction costs).

(12) To use funding from the Seismic Retrofit Program to cover all costs for PA&ED of PROJECT, and PS&E and construction of PROJECT including:

- a. Work required to replace the Hollister Ave overcrossing structure;
- b. work necessary to conform to Calle Real and the new Ellwood Overhead up to the connection with that CITY overhead structure;
- c. demolition of the existing Hollister Ave overcrossing structure;
- d. work required to construct sidewalks between Calle Real and Ellwood Overhead.

(13) To advertise, award and administer the construction contract for PROJECT and IMPROVEMENTS.

(14) To construct PROJECT and IMPROVEMENTS by contract in accordance with STATE's PS&E.

(15) To consult with CITY on all contract change orders for IMPROVEMENTS with an estimated cost increase of over \$10,000 before implementation except when necessary for the safety of motorists and/or pedestrians or for the protection of property.

(16) To administer contract change orders for IMPROVEMENTS in accordance with STATE's PS&E and subject to the satisfaction and approval by CITY.

(17) To provide CITY monthly reports of actual expenditures made by STATE for IMPROVEMENTS during construction. STATE will monitor the actual expenditures monthly to assure that CITY's payments will always be sufficient to fully cover all IMPROVEMENTS costs.

(18) To be responsible for ensuring that all Federal policies, procedures, and provisions are included in the final PS&E for PROJECT and IMPROVEMENTS.

(19) To be responsible for project closeout of IMPROVEMENTS and final reporting as required for State Administered Federally funded projects (i.e., claims, Disadvantaged Business Enterprise (DBE) utilization, as-builts, monumentation, etc.).

(20) Within one year of acceptance of construction contract for PROJECT and IMPROVEMENTS and all work incidental thereto, to furnish CITY with a detailed statement of the portion of preliminary engineering, right of way, construction and construction engineering costs to be borne by CITY for IMPROVEMENTS, including resolution of any construction-related claims which have been allowed to the construction contractor. After completion of STATE's final accounting for IMPROVEMENTS, any unexpended RIP will revert to RIP of the STIP, and any unexpended Federal HBRR authorized for IMPROVEMENTS will be disencumbered. Should any local match for HBRR funds remain, those funds will be refunded to CITY. If STATE's cost for IMPROVEMENTS are higher than the STIP (RIP), HBRR and/or local match for HBRR funding authorized for IMPROVEMENTS, STATE will invoice CITY for any additional amount required to complete CITY's financial obligations pursuant to this Agreement.

SECTION II

CITY AGREES:

(1) STATE is authorized to obligate \$2,800,000 of Federal HBRR funds as programmed in the 2004 Federal Transportation Improvement Program (FTIP) for State administered CITY's IMPROVEMENTS covered under Federal Project number BRLS-5481(003), EA 927410L.

(2) To allow STATE to obligate future additional Federal HBRR funds that may be programmed for IMPROVEMENTS.

(3) To deposit, within twenty-five (25) days of receipt of invoice therefor (which invoice will be forwarded immediately upon STATE's commencement of PS&E work), the amount of \$50,000, which figure represents STATE's immediate need to cover initial PS&E and right of way support costs for IMPROVEMENTS.

(4) Thereafter, to pay STATE's quarterly invoices within twenty-five (25) days of receipt of invoices for PS&E work as design of IMPROVEMENTS proceeds.

(5) To pay an amount equal to one hundred percent (100%) of the total actual right of way costs for PROJECT and IMPROVEMENTS, estimated to be \$350,000, from the HBRR Program, STIP (RIP) and local funding.

(6) To deposit within twenty-five (25) days of receipt of invoice therefor (which invoice will be forwarded upon completion of appraisal of property needed for PROJECT and/or IMPROVEMENTS) moneys needed for right of way capital activities including match for Federal HBRR funding.

(7) To pay STATE within twenty-five (25) days of receipt of invoice therefor, any additional right of way costs needed to complete CITY's obligation under this Agreement after acquisition activities are completed.

(8) To deposit within twenty-five (25) days of receipt of STATE's invoice, which invoice will be forwarded to CITY fifteen (15) days prior to STATE's bid advertising date of a construction contract for PROJECT and IMPROVEMENTS, the amount of \$50,000. Said invoice represents CITY's share for one month's estimated cost of construction engineering and one month's estimated construction cost for IMPROVEMENTS.

(9) To pay one hundred percent (100%) of the actual construction cost (estimated to be \$6,353,000), and construction engineering costs (estimated to be \$928,900) using HBRR, STIP (RIP) and local funding for IMPROVEMENTS, including the cost of IMPROVEMENTS construction-related claims, and the cost of STATE defense of any of those claims, as determined after completion of work and upon final accounting of costs.

(10) To pay the invoices for IMPROVEMENTS construction engineering and construction costs within twenty-five (25) days of receipt of invoices and in accordance with Articles (10) and (11) of Section I of this Agreement.

(11) To pay all costs for development, design and construction of IMPROVEMENTS, including, but not limited to:

- a. Work required to replace the Ellwood overhead structure;
- b. work required on the proposed Cathedral Oaks Road to conform to Hollister Avenue and the new overcrossing structure;
- c. demolition of the existing railroad overhead structure;
- d. all ramp work associated with the realignment, including extending the southbound off ramp, constructing the new southbound on ramp, and modifying the northbound on ramp to State Route 101;
- e. any realignment that may be required on Cathedral Oaks Road east of Calle Real;
- f. improvements at the Hollister Avenue/Cathedral Oaks Avenue intersection.

(12) Should any new right of way be required for IMPROVEMENTS, CITY will accept title of such right of way purchased by STATE for IMPROVEMENTS.

(13) Any hazardous waste discovered on any proposed right of way to be acquired in the name of the STATE will be remediated at no cost to STATE in accordance with Article (8) under Section III of this Agreement.

(14) To provide coordination with CITY departments, committees, commissions, County and California Coastal Commission, as needed, to provide timely resolution to aesthetic, architectural, design review and permit requirements. Approvals required by CITY processes for IMPROVEMENTS will be completed prior to Milestone 275, General Plans, as shown in Exhibit B.

SECTION III

IT IS MUTUALLY AGREED:

(1) All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature in the annual State Budget Act, and the allocation of funds by the California Transportation Commission to STATE for the purposes of fulfilling STATE's obligations herein.

(2) Should any portion of PROJECT and/or IMPROVEMENTS be financed with Federal Funds or State Gas Funds, all applicable laws, rules and policies relating to the use of such funds shall apply notwithstanding other provisions of this agreement.

(3) CITY has budgeted \$192,600 for preliminary engineering, right-of-way and construction engineering support costs, and an additional \$1,486,300 from the HBRR Program and \$229,600 from STIP (RIP) are accessible to STATE for support costs for PS&E, right of way and construction engineering work for IMPROVEMENTS. (See Exhibit A for detailed information pertaining to support costs.) If these support costs are exceeded, STATE will invoice CITY for those additional costs.

(4) If cultural, archaeological, paleontological, or other protected resources are encountered during investigative studies or construction of PROJECT and/or IMPROVEMENTS, STATE shall stop work in that area until a qualified professional can evaluate the nature and significance of the find; until a plan is approved for the removal or protection of that resource; and until responsibilities for costs thereof are determined.

(5) For the purpose of this Agreement, any hazardous material or contamination found within the area of PROJECT and IMPROVEMENTS shall be classified in two categories, HM-1 and HM-2. Hazardous material or contamination of an HM-1 category shall be defined as that level or type of contamination which State or Federal regulatory control agencies having jurisdiction have determined must be remediated by reason of its mere discovery, regardless of whether it is disturbed by PROJECT and IMPROVEMENTS or not. Hazardous material or contamination of a HM-2 category shall be defined as that level or type of contamination which said regulatory control agencies would have allowed to remain in place if undisturbed or otherwise protected in place should PROJECT and IMPROVEMENTS not proceed.

(6) STATE shall perform, or cause to be performed, all required remedy or remedial action, as defined in Division 20, Chapter 6.8 et seq. of the Health and Safety Code, of any hazardous material or contamination of an HM-1 category found during investigative studies and construction of PROJECT. CITY shall perform, or cause to be performed, all same defined required remedy or remedial action of any hazardous material or contamination of a HM-1 category found during investigative studies for and construction of IMPROVEMENTS. Whether STATE and CITY decide to proceed with PROJECT and IMPROVEMENTS or not, STATE shall sign the HM-1 manifest and pay all costs for required remedy or remedial action for PROJECT and CITY shall sign the HM-1 manifest and pay all costs for required remedy or remedial action for IMPROVEMENTS. If STATE determines, in its sole judgment, that costs for remedy or remedial action within the existing State right of way and/or within the local road right of way are increased as a result of the decision to proceed with PROJECT and IMPROVEMENTS, those costs will be considered part of STATE's costs for PROJECT and CITY's costs for IMPROVEMENTS.

(7) CITY shall perform, or cause to be performed, the remedy or remedial action of any hazardous material or contamination of an HM-2 category found during investigative studies and construction at CITY's expense if CITY decides to proceed with IMPROVEMENTS. CITY shall sign any HM-2 manifest if IMPROVEMENTS proceed and HM-2 material must be removed in lieu of being treated in place. If CITY decides to not proceed with IMPROVEMENTS, there will be no obligation to either CITY or STATE other than CITY's duty to cover and protect HM-2 material left in place.

(8) If hazardous material or contamination of either HM-1 or HM-2 category is found during construction on new right of way acquired by STATE for IMPROVEMENTS, CITY shall perform, or cause to be performed, all required remedy or remedial action and/or protection at CITY's expense and shall guarantee STATE that said new right of way is clean prior to transfer of title to STATE. The generator of the hazardous material or, if none can be identified or found, the present property owner, whether a private entity or a local public agency, or CITY, as a last resort, shall sign the manifest.

(9) STATE will exert every effort to fund the remedy or remedial action for which STATE is responsible. In the event STATE is unable to provide funding, CITY will have the option to either delay further construction of PROJECT and IMPROVEMENTS until STATE is able to provide funding or proceed with the remedy or remedial action at CITY's expense without any subsequent reimbursement by STATE.

(10) Locations subject to remedy or remedial action and/or protection include utility relocation work required for PROJECT and IMPROVEMENTS. Costs for remedy and remedial action and/or protection shall include but not be limited to, the identification, treatment, protection, removal, packaging, transportation, storage, and disposal of such material.

(11) The party performing the hazardous material cleanup shall be responsible for the development of the necessary remedy and/or remedial action plans and designs. Remedial actions proposed by CITY on the State highway right of way shall be pre-approved by STATE and shall be performed in accordance with STATE's standards and practices and those standards mandated by the Federal and State regulatory agencies.

(12) The estimated total obligations of the parties to this Agreement as specified in Exhibit A do not include costs of claims related to the construction contract allowed, the costs of defense of those claims, and the costs of any unforeseen encounters of the type described in Articles (4) through (11) of this Section III. Additional costs and responsibilities for any required actions that exceed the budgeted costs of PROJECT and IMPROVEMENTS shall be covered by amendment to this Agreement. STATE may be required to stop work on PROJECT and IMPROVEMENTS until additional funding is secured and/or restore the site of PROJECT and IMPROVEMENTS to a condition of safe operation, using any then unexpended funds for PROJECT and IMPROVEMENTS, if those additional funds are not made available for PROJECT and IMPROVEMENTS.

(13) STATE's goal for utilization of Disadvantaged Business Enterprise (DBE) will be included in the construction contract. The contract goal will be based on a technical analysis of contract items and certified DBE subcontractors in the area. STATE will award construction contract to the lowest responsible bidder who meets the goal or who made, in the sole judgment of STATE, a good faith effort to do so.

(14) After opening of bids for construction of PROJECT and IMPROVEMENTS, CITY's estimate of cost of IMPROVEMENTS will be revised based on actual bid prices. CITY's required deposit under Article (8) of Section II of this Agreement will be increased or decreased to match said revised estimate. If the estimated deposit increase or decrease is less than \$1,000, no refund or demand for additional deposit will be made until final accounting of costs for IMPROVEMENTS.

(15) Prior to advertising of bids for the construction contract for PROJECT and IMPROVEMENTS, CITY may terminate this Agreement in writing, provided that CITY pays STATE for all PROJECT and IMPROVEMENTS-related costs incurred by STATE, under terms of this Agreement.

(16) If, upon opening of bids for PROJECT and IMPROVEMENTS, the lowest responsible bid is not more than 10% over the Engineer's Estimate, STATE and CITY may conduct a joint review of the bids for IMPROVEMENTS immediately following opening of bids and prior to submittal of STATE District 5's letter of recommendation to award to STATE's Office Engineer in Sacramento, if so requested by CITY. After the joint review and within the time allowed for award, STATE may award the construction contract for PROJECT and IMPROVEMENTS.

(17) If upon review of the aforementioned bids, CITY, by written notice to STATE's District 5 Office, elects to not proceed with IMPROVEMENTS, thereby causing STATE to reject all bids, CITY agrees to pay STATE for all PROJECT and IMPROVEMENTS-related costs incurred by STATE, including all legal costs and damages resulting from rejection of all bids for IMPROVEMENTS.

(18) If, upon opening of bids for IMPROVEMENTS, it is found that the lowest responsible bid exceeds the Engineer's Estimate by more than 10%, STATE shall notify and consult with CITY for an alternative course of action. If, after fifteen (15) days, a course of action is not agreed upon, this Agreement shall be deemed to be terminated by mutual consent pursuant to Article (19) of this Section III.

(19) If termination of this Agreement is by mutual consent, STATE will bear 100% of all PROJECT-related costs, including utility relocation costs, and CITY will bear 100% of all IMPROVEMENTS-related costs, including utility relocation costs, incurred by STATE prior to termination, except that any utility relocation costs shall be prorated in accordance with STATE's/CITY's respective responsibility for utility relocation costs.

(20) If existing public and/or private utilities conflict with PROJECT and IMPROVEMENTS construction or violate STATE's encroachment policy, STATE shall make all necessary arrangements with the owners of such utilities for their protection, relocation or removal. STATE shall inspect the protection, relocation or removal. If there are costs of such protection, relocation or removal which STATE and CITY must legally pay, STATE and CITY shall bear the cost within their respective jurisdiction. If any protection, relocation or removal of utilities is required, such work shall be performed in accordance with STATE's policy and procedure for those facilities located within the limits of work providing for the improvement to the State highway and in accordance with CITY policy for those facilities outside of the limits of work providing for the improvement to the State highway.

(21) In the construction of said work, STATE will furnish a representative to perform the functions of a Resident Engineer, and CITY may, if it so desires and at no cost to STATE, also furnish a representative. Said representative and Resident engineer will cooperate and consult with each other, but the decisions of STATE's Resident Engineer shall prevail as final, binding and inclusive in all matters concerning the PROJECT and IMPROVEMENTS.

(22) Upon completion and acceptance of the PROJECT and IMPROVEMENTS construction contract by STATE, STATE will accept control of and maintain, at its own cost and expense, those portions of PROJECT and IMPROVEMENTS lying within STATE's right of way, except local roads delegated to CITY for maintenance. STATE will maintain, at STATE expense, the entire structure below the deck surface of the CITY local road overcrossing, i.e. the Hollister (Cathedral Oaks) Overcrossing structure.

(23) CITY will accept control of and maintain at its own cost and expense those portions of PROJECT and IMPROVEMENTS lying outside of STATE's right of way except as provided for in Article (22) of this Section III. CITY will maintain, at CITY's expense, the entire structure above the deck surface and any appurtenances of the CITY local road overcrossing, i.e., the Hollister (Cathedral Oaks) Overcrossing structure.

(24) The cost of any engineering or maintenance referred to herein in this Agreement shall include all direct and indirect costs (functional and administrative overhead assessment) attributable to such work, applied in accordance with STATE's standard accounting procedures.

(25) Execution of this Agreement by CITY grants to STATE the right to enter upon CITY owned lands to construct PROJECT and IMPROVEMENTS.

(26) The costs referred to herein cover only "matching funds" based on the assumption Federal-aid funds will be allocated for HBRR funding and RIP funding of the costs as shown on Exhibit A. In the event that Federal-aid participation is not secured, either party may terminate this Agreement at any time prior to award of the construction contract for PROJECT and IMPROVEMENTS.

(27) Upon completion of all work under this Agreement, ownership and title to materials, equipment and appurtenances installed within STATE's right of way will automatically be vested in STATE, and materials, equipment and appurtenances installed outside of STATE's right of way will be vested in CITY. No further agreement will be necessary to transfer ownership as hereinabove stated.

(28) Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the maintenance of State highways different from the standard of care imposed by law.

(29) Neither STATE nor any officer or employee thereof is responsible for any damage or liability occurring by reasons of anything done or omitted to be done by CITY in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code section 895.4, CITY shall fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code section 810.8) occurring by reason of anything done or omitted to be done by CITY in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

(30) Neither CITY nor any officer or employee thereof is responsible for any damage or liability occurring by reasons of anything done or omitted to be done by STATE in connection with any work, authority or jurisdiction delegated to STATE under this Agreement. It is understood and agreed that, pursuant to Government Code section 895.4, STATE shall defend, indemnify and save harmless CITY and all its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code section 810.8) occurring by reason of anything done or omitted to be done by STATE in connection with any work, authority or jurisdiction delegated to STATE under this Agreement.

(31) No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

(32) Except as otherwise provided in Articles (15), (18) and (19) of this Section III, those portions of Agreement pertaining to the construction of PROJECT and IMPROVEMENTS shall terminate upon completion and acceptance of the construction contract for PROJECT and IMPROVEMENTS by STATE, or on June 30, 2011, whichever is later. However, the ownership, operation, maintenance, indemnification and claims clauses shall remain in effect until terminated or modified in writing, by mutual agreement. Should any construction-related claim arising out of IMPROVEMENTS be asserted against STATE, CITY agrees to extend the termination date of this Agreement and provide additional funding as required to cover CITY's share of costs or execute a subsequent agreement to cover those eventualities.

STATE OF CALIFORNIA
Department of Transportation

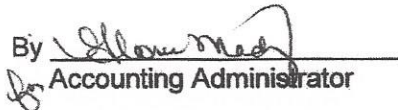
WILL KEMPTON
Director

By 
R. GREGG ALBRIGHT
District 5 Director

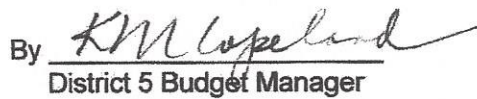
Approved as to form & procedure:

By 
Attorney, Department of
Transportation

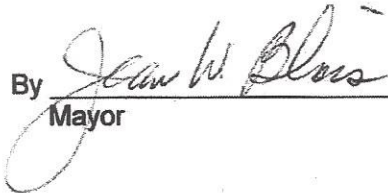
Certified as to funds & procedure:

By 
Accounting Administrator

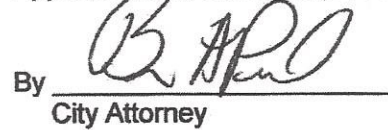
Certified as to funds:

By 
District 5 Budget Manager

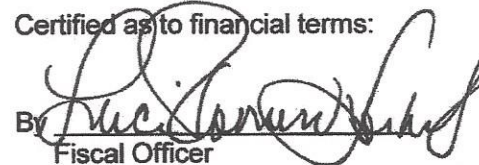
CITY GOLETA
130 Cremona Drive, Suite B
Goleta, CA 93117

By 
Mayor

Approved as to form and procedure:

By 
City Attorney

Certified as to financial terms:

By 
Fiscal Officer

Approved as to content:

By 
Community Services Director

EXHIBIT A
ESTIMATE OF COSTS
Hollister OC (Cathedral Oaks)

EA 05-37150 –PROJECT	
	Seismic Retrofit Program
Preliminary Engineering Support	\$932,000
Construction Engineering Support	\$468,000
Total Support	\$1,400,000
Right-of-Way Capital	0
Construction Capital	\$3,600,000
Total	\$5,000,000

- Seismic Retrofit Program Capital FY08

EA 05-0M140 – IMPROVEMENTS				
Phase	STIP (RIP)	HBRR Program	Local Funds HBRR Match	Total
Preliminary Engineering Support	\$109,300 11.7%	\$729,400 78.2%	\$94,500 10.1%	\$933,200 100%
Construction Engineering Support	\$105,000 11.3%	\$729,400 78.5%	\$94,500 10.2%	\$928,900 100%
R/W Support	\$15,300 33.0%	\$27,500 59.3%	\$3,600 7.7%	\$46,400 100%
Total Support	\$229,600 12.0%	\$1,486,300 77.9%	\$192,600 10.1%	\$1,908,500 100%
Right-of-Way Capital	\$111,000 31.7%	\$211,600 60.5%	\$27,400 7.8%	\$350,000 100%
Construction Capital	\$860,400 13.5%	\$4,862,600 76.5%	\$630,000 9.9%	\$6,353,000 100%
Total Improvements	\$1,201,000 13.9%	\$6,560,500 76.2%	\$850,000 9.9%	\$8,611,500 100%

The status of programming of the funding is as follows:

- City has applied for HBRR Program funds for the replacement of the Ellwood Overhead. These funds were originally in the name of the County of Santa Barbara for this project. The funds are now in the City of Goleta's name. Authorization to proceed with preliminary engineering was granted on September 2, 2004. Funds in the amount of \$366,000 (\$268,800 Federal) are currently under Local Assistance EA 05-92741L but will be combined with EA 05-0M140.
- SBCAG approved moving STIP (RIP) funds (\$1,201,000) from EA 05-4611U, Ekwill-Fowler Extension project, to EA 05-0M140 by STIP amendment on August 19, 2004. The STIP amendment was approved by the CTC at the January CTC meeting (STIP Amendment 045-009). Funds for right-of-way and support cost in FY06 and construction capital in FY08.
- Local funds will be committed by City Council Resolution prior to execution of Cooperative Agreement.
- Engineering and Right-of-Way support costs escalated at rate of 2% to FY2006 and FY2008 respectively.
- Right-of-Way capital costs escalated at rate of 5% to FY2008.
- Construction capital costs escalated at rate of 3.5% to FY2008.

EXHIBIT B
ESTIMATED SCHEDULE
Hollister OC (Cathedral Oaks)

M221 – Bridge Site Data	1/02/2006
M225 – Reg Right-of-Way	03/17/2006
M275 – Structure General Plans	06/01/2006
M380 – PS&E to Headquarters	08/01/2007
M410 – Right-of-Way Certification	11/19/2008
M460 – Ready to List	03/01/2009
M500 – Approve Construction Contract	08/01/2009
M600 – Contract Acceptance	01/18/2012
M800 – End Project	07/01/2012



CITY OF GOLETA CITY COUNCIL MEETING

Monday, November 7, 2005

Minute Order


- B.1. Execution of Cooperative Agreement with Caltrans for the design and Construction of the Hollister/Cathedral Oaks Interchange Project

Recommendation: Authorize the City Manager to execute a Cooperative Agreement with Caltrans for the Design and Construction of the Hollister/Cathedral Oaks Interchange project.

MOTION: Councilmembers Connell/Brock to authorize the City Manager to execute a Cooperative Agreement with Caltrans for the Design and Construction of the Hollister/Cathedral Oaks Interchange project.

VOTE: Motion was approved by a unanimous vote.

ATTEST:


DEBORAH CONSTANTINO
DEPUTY CITY CLERK

