



TO: Mayor and Councilmembers

FROM: Charles W. Ebeling, Public Works Director

CONTACT: Gerald Comati, Project Manager

SUBJECT: Hollister Avenue Bridge Project (CIP #9033) - Resolution of Necessity for Parcel 071-090-036.

RECOMMENDATION:

Adopt, by a two-thirds majority vote, City Council Resolution No. 20-__ entitled "A Resolution of the City Council of the City of Goleta, California Adopting a Resolution of Necessity for the Acquisition of Certain Parcels, Identified as Assessor Parcel Number 071-090-036, required for the Hollister Avenue Bridge Project."

BACKGROUND:

The City of Goleta's Hollister Avenue Bridge replacement project over San Jose Creek Channel, located in Old Town Goleta, has been in development for a number of years and is considered one of the highest priority transportation projects in the City. The objectives of the City's San Jose Creek Channel Capacity Improvement and Fish Passage Project are to provide capacity for 100-year storm events as well as a fish-passable design through the length of the San Jose Creek concrete channel. The first phase of this important project was successfully constructed in 2014 with 4,100 linear feet of channel capacity and fish passage improvements. The second phase is the Hollister Avenue Bridge Project. The project will complete the remaining channel capacity and fish passage improvements located at the northern end of the San Jose Creek Channel and will replace the existing Hollister Avenue Bridge over the channel.

The existing Hollister Avenue Bridge contains reactive aggregate which is causing the structure to deteriorate. The existing bridge also represents an obstruction to the 100-year storm capacity of the downstream channel. The bridge has been classified by Caltrans as both Structurally Deficient and Functionally Obsolete, and bridge replacement funds have been programmed under the Federal Highway Bridge Program (HBP).

In August of 2015, the City approved a Mitigated Negative Declaration (MND) under the California Environmental Quality Act (CEQA) for the Hollister Avenue Bridge Project and Caltrans approved a Categorical Exclusion (CE) under the National Environmental

Policy Act (NEPA). With these two actions, the preliminary engineering and environmental phase of this project was concluded. In the last few years, final design, acquisition of required right-of-way and securing of all permits have been pursued. Since 2015, final design has advanced to near completion, the permitting is nearing completion and the negotiated settlement of acquisition of rights of way have been completed. For those rights-of-way that a negotiated settlement could not be reached by May 2019, eminent domain needed to be utilized for their acquisition. On May 21, 2019, the City Council approved a Resolution of Necessity for the City to exercise eminent domain over the properties that had not been able to reach settlement at that time. Staff is recommending City Council adopt a Resolution of Necessity for another right-of-way that is necessary for the Hollister Avenue Bridge Project.

Schedule and Funding

Funding for all phases of the Hollister Avenue Bridge Project is through the HBP, which will fund approximately 88.5% of the cost. The remaining funding is through various City funds. The Federal Construction funding is competitive and until all rights-of-way for the project are secured, the programmed federal construction phase funding cannot be allocated. Consequently, delays in securing all needed rights-of-way for the project could delay start of construction by up to one year.

DISCUSSION:

The Resolution of Necessity is a necessary and statutorily required prerequisite for the City to exercise its power to acquire property by eminent domain and is simply a determination that the property interest is necessary for the public project. Eminent domain is the power of the government to take private property for a public purpose through a court procedure that assures just compensation is paid. This action will not commit the City to the use of eminent domain but will allow the City to do so if a voluntary solution is not achieved in time to maintain the funding and construction schedule for the project.

The acquisition being sought today is in addition to the acquisition of the original properties approved in May 2019 that were part of the Resolution of Necessity to condemn. Given the previous Resolution of Necessity adopted on May 21, 2019, for the "interested" party's (property owner) property, the interested party has elected to waive the right of notice for this new Resolution of Necessity.

The scope of this meeting is limited, pursuant to California Code of Civil Procedure Section 1240.030, to determination of the following questions:

1. Does the public interest and necessity require the project?
2. Is the project planned or located in the manner that will be most compatible with the greatest public good and the least private injury?
3. Is the property sought to be acquired necessary for the project?

Staff believes that the proposed Hollister Avenue Bridge Project meets these criteria as

further explained below.

The public interest and necessity require the project

The historic capacity of the San Jose Creek Channel allowed for containment of a 25-year flood event. Consequently, during larger rain events, the channel would overtop and large portions of Goleta Old Town including Hollister Avenue would flood. Significant flooding events occurred in 1995 and 1998. To retain the 100-year flood waters within the channel and eliminate breakouts and flooding in Old Town, the San Jose Creek Channel Capacity Improvements Project was developed by the City. This project consists of two phases. The first phase widened approximately 4,000 linear feet of channel and was completed in 2014. The second and final phase, the Hollister Avenue Bridge Project, will complete the remaining channel widening (at the north end) and replace the Hollister Avenue Bridge over the channel. The existing Hollister Avenue Bridge over the San Jose Creek Channel was constructed in 1964. The concrete structure contains reactive aggregate which is causing it to deteriorate and the bridge represents an obstruction to the 100-year flood water capacity of the San Jose Creek Channel. Completion of the Hollister Avenue Bridge Project will complete the flood improvement project and thereby contribute to the reduction of the flood plain within Old Town Goleta and will replace a structurally deficient bridge along Hollister Avenue.

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

The Hollister Avenue Bridge project replaces and improves the existing Hollister Avenue Bridge, which is structurally deficient, and replaces the remaining under-sized portion of the San Jose Creek Channel immediately downstream of the bridge.

The property sought to be acquired necessary for the project

The acquisition identified in Attachment 1 is a permanent easement for flood control purposes that the City needs in order to construct the Hollister Avenue Bridge Project. The Exhibit in Attachment 1 shows the location of the parcel and the easement that is needed to construct the project. The property is required to construct the Hollister Avenue Bridge replacement over San Jose Creek Channel and the related channel capacity improvements. The attached Resolution identifies the parcel and the corresponding type of take, which is a Permanent Easement. There are no other viable project alternatives that would result in fewer impacts to private property.

The construction of the project will affect the APN listed in the table below:

Address	Project	APN #	Parcel #	Take Description	Area (SF)	Owner
5544 Hollister Ave, Goleta, CA 93117	Hollister Avenue Bridge	071-090-036	HB-9-1	Permanent Easement for Flood Control Purposes	2,628	John E. Newland and Amet Newland

Based on the Order of Possession secured by the City in November 2019 for other portions of this same property for the same project (Hollister Avenue Bridge Project), the property owner has stipulated to add the additional acquisition area to the existing eminent domain complaint in order to amend the original complaint with this new acquisition.

The property owners have stipulated to waive the right to make any objections, including right-to-take objections to the additional acquisition being acquired pursuant to applicable law, including but not limited to, Code of Civil Procedure section 1250.340, subdivisions (b) and (c).

The property owners have stipulated that the City Council may adopt a new Resolution of Necessity (Resolution No. 19-28) to acquire the additional property needed. The property owners have stipulated to waive their rights to be given notices of and to appear at this hearing on such Resolution of Necessity, and to be heard on the matters referred to in Code of Civil Procedure sections 1240.030 and 1245.210 *et seq.*

As related to the additional acquisition, the property owners have stipulated to waive any and all rights, claims, or suit they may have with respect to (1) any requirement that Goleta comply with the statutory offer requirements contained in Government Code section 7267.2 prior to the adoption of a Resolution of Necessity; (2) any right-to-take challenge set forth in Code of Civil Procedure section 1250.350 *et seq.*; and (3) Goleta's right-to-take possession of the property.

Adoption of the attached Resolution of Necessity will allow the original complaint to be amended with the additional acquisition and through a court stipulation the additional property will be added to the Order of Possession, which the court has already granted with respect to the original property included in the original complaint.

This action in no way diminishes the ability of the property owner to receive satisfactory compensation for the property from the City of Goleta. The benefit of this process is that construction and right-of-way negotiations can move forward on parallel tracks.

GOLETA STRATEGIC PLAN

Hollister Avenue Bridge Project is one of the highest priority capital transportation improvement projects for the City of Goleta and is consistent with the Goals in the Goleta Strategic Plan entitled "Strengthen Infrastructure" and "Return Old Town to the Vital Center of the City." This project moves the City closer toward realizing its vision as defined within the City's Strategic Plan.

FISCAL IMPACTS:

Funds for the acquisition of the easements required for the construction of the Hollister Avenue Bridge project is included in the approved FY 2019/20 budget. As such, no additional appropriations are required at this time.

ALTERNATIVES:

Council could choose not to adopt the Resolution of Necessity and direct staff to continue to negotiate with the property owners. However, if the Council does not adopt the Resolution of Necessity and the City is unable to finalize negotiations by August 2020, the project construction delivery schedule could be jeopardized.

Reviewed By:

Legal Review By:

Approved By:



Kristine Schmidt
Assistant City Manager



Michael Jenkins
City Attorney



Michelle Greene
City Manager

ATTACHMENTS:

1. Resolution No. 20-__ entitled "A Resolution of the City Council of the City of Goleta, California Adopting a Resolution of Necessity for the Acquisition of Certain Parcels, Identified as Assessor Parcel Number 071-090-036, Required for the Hollister Avenue Bridge Project".

ATTACHMENT 1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA
ADOPTING A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF CERTAIN
PARCELS, IDENTIFIED AS ASSESSOR PARCEL NUMBER 071-090-036, REQUIRED
FOR THE HOLLISTER AVENUE BRIDGE PROJECT

RESOLUTION NO. 20__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GOLETA, CALIFORNIA ADOPTING A RESOLUTION OF
NECESSITY FOR THE ACQUISITION OF A CERTAIN PARCEL,
IDENTIFIED AS ASSESSOR PARCEL NUMBER 071-090-036,
REQUIRED FOR THE HOLLISTER AVENUE BRIDGE PROJECT**

WHEREAS, the existing Hollister Avenue Bridge over San Jose Creek Channel is structurally deficient and is an obstruction to the flow of 100-year flood water within San Jose Creek Channel; and

WHEREAS, the Hollister Avenue Bridge Project, including the replacement of the structurally deficient and functionally obsolete existing Hollister Avenue Bridge and the completes capacity improvements to the San Jose Creek Channel as well as the acquisition of necessary property, is consistent with all applicable provisions of the City's General Plan; and

WHEREAS, construction of the Hollister Avenue Bridge Project will require certain interests in private property to be acquired for the new bridge and capacity improvements to San Jose Creek Channel; and

WHEREAS, the City of Goleta has authority under California Streets & Highways and Government Code sections to acquire the real property described herein for the purposes of the Hollister Avenue Bridge Project; and

WHEREAS, on May 21, 2019 the City Council approved a Resolution of Necessity for all the property required for the Hollister Avenue Bridge Project; and

WHEREAS, subsequent to the May 21, 2019 City Council approval of a Resolution of Necessity for the Hollister Avenue Bridge Project, the City filed the complaints in eminent domain to acquire the needed property, and in November 2019, the City obtained possession of the properties by order from the Court; and

WHEREAS, the acquisition being sought today is an additional acquisition from one of the original properties that were part of the Resolution of Necessity to condemn approved in May 2019; and

WHEREAS, the interests sought to be acquired are identified as follows and shown in the attached:

Address	Project	APN #(s)	Parcel #	Take Description	Area (SF)	Owner
5544 Hollister Ave, Goleta, CA 93117	Hollister Avenue Bridge	071-090-036	HB-9-2	Permanent Easement for Flood Control Purposes	2,628	John & Amet Newland

WHEREAS, an offer of compensation required by Section 7267.2 of the Government Code, has been made to the respective owner or owner of record.

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

SECTION 1: AUTHORITY

The City of Goleta has the authority to acquire property through the exercise of the power of eminent domain pursuant to California Government Code Section 37350.5.

SECTION 2: PUBLIC USE

The property sought to be acquired herein is for the public purpose of constructing the Hollister Avenue Bridge Project.

SECTION 3: PROPERTY INTERESTS

The following private property interest is needed for the Hollister Avenue Bridge Project and is sought to be acquired:

Address	Project	APN #(s)	Parcel #	Take Description	Area (SF)	Owner
5544 Hollister Ave, Goleta, CA 93117	Hollister Avenue Bridge	071-090-036	HB-9-2	Permanent Easement for Flood Control Purposes	2,628	John & Amet Newland

The legal definitions, legal description and map for the above parcel is attached to this resolution as Exhibit A.

SECTION 4: HEARING

The owners of record for the above-referenced parties have stipulated to waive their rights to be given notices of and to appear at this hearing on such Resolution of Necessity and to be heard on the matters referred to in Code of Civil Procedure sections 1240.030 and 1245.210 et seq.

SECTION 5: FINDINGS

Having duly heard and considered this matter at a hearing on June 2, 2020, the City Council finds and hereby declares:

- a. The public interest and necessity require the proposed Hollister Avenue Bridge Project.
- b. The proposed Hollister Avenue Bridge Project is designed, planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The private property interests described in this resolution are necessary for the proposed Hollister Avenue Bridge Project.
- d. The offer of compensation required by Section 72 has been made to owners of record.

SECTION 6: ADOPTION

This resolution is adopted by at least two-thirds vote of the members of the City Council as required pursuant to California Code of Civil Procedure section 1245.240.

SECTION 7:

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 2nd day of June 2020.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

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

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO
HEREBY CERTIFY that the foregoing Resolution No. 20-__ was duly adopted by
the City Council of the City of Goleta at a regular meeting held on the 2nd day of
June, 2020, by the following roll call vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

EXHIBIT A to Resolution

**City of Goleta. June 2, 2020
Hollister Avenue Bridge Project
Resolution of Necessity**

City of Goleta. June 2, 2020
Hollister Avenue Bridge Project
Resolution of Necessity

Legal Definitions, Legal Description and Exhibit
for:

5544 Hollister Avenue
Goleta, CA 93117
John & Amet Newland
APN: 071-090-036
Parcels: HB-9-2

LEGAL DEFINITIONS
City of Goleta
Hollister Avenue Bridge Project
As to APN 071-090-036

“Permanent Easement for Flood Control Purposes” refers to a permanent easement for the construction, installation, maintenance and repair of flood control related improvements including wing walls, rip-rap and articulated revetments. This easement includes the rights of ingress and egress to and from the easement area, as herein described, across adjacent lands for which Grantee has already secured rights from Grantor.

This permanent easement shall be in, on, over, along, under, through and across that certain land situated in the City of Goleta, County of Santa Barbara, State of California, more particularly described and depicted in the attached Exhibit, attached hereto and incorporated herein by this reference (the “Easement Area”).

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement, except with the prior written consent of Goleta, its successors and assigns.

No other easement shall be granted on, under or over the easement without the prior written consent of Goleta, its successors and assigns.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

Goleta shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

The ground elevations of the easement upon completion of construction shall not be further increased or decreased without the prior written consent of Goleta.

EXHIBIT
(Permanent Easement for Flood Control Purposes Legal Description)

Parcel: HB-9-2

A portion of land in the City of Goleta, County of Santa Barbara, State of California, being a portion of land described in the deed to John E. Newland and Amet Newland recorded August 3, 1965 as instrument No. 27220 in Book 2115, Page 457 of Official Records, in the office of the County Recorder of said County.

Said portion of land is described as follows:

Beginning at the southeasterly terminus of a line shown as S 78°18'14" E, 33.52 feet, per Record of Survey in Book 179, Pages 39 to 40, in the office of the County Recorder of said County; thence,

- 1st Along the westerly line of said land described per deed, N 02°54'42" E, 68.62 feet; thence,
- 2nd S 78°17'21" E, 44.00 feet to a point on the easterly line of an easement for flood control purposes described per Instrument No. 9290, Book 2342, Page 476 of Official Records; thence,
- 3rd Along said easterly line, S 11°42'39" W, 67.81 feet to a point on the southerly line of said land described per deed; thence,
- 4th Along said southerly line, N 78°18'14" W, 33.50 feet to the **Point of Beginning**.

Containing an area of 2,628 square feet, more or less.

Bearings and distances as shown herein are based upon the California Coordinate System of 1983 (CCS83) Zone 5. This real property description was prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

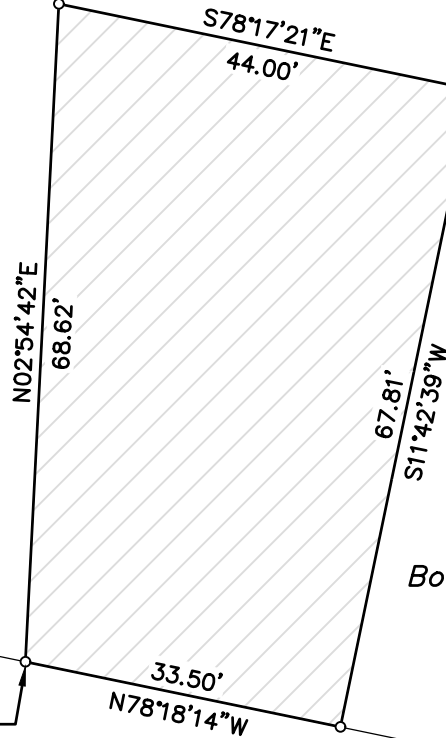
Signature: Shane C Sobecki
Shane C. Sobecki, PLS

Date: 05/19/20



Parcel B
Parcel Map No. 12,482
Book 24, Pages 41 & 42
APN 071-090-089

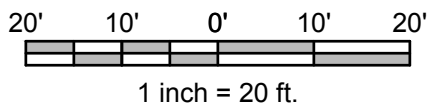
80' WIDE FLOOD
CONTROL EASEMENT
INST. No. 9290
2342/476 O.R.



INST. No. 27220
Book 2115, Page 457 O.R.
APN 071-090-036

INST. No. 51515
Book 2024, Page 975 O.R.
APN 071-090-037

HOLLISTER
AVE.



LEGEND

P.O.B. Point of Beginning



HB-9-2
PERMANENT EASEMENT FOR
FLOOD CONTROL PURPOSES
APN 071-090-036
HOLLISTER AVENUE
CITY OF GOLETA
2,628 SQ FT

MNS
ENGINEERS INC
201 N. Calle Cesar Chavez, Ste 300
Santa Barbara, CA 93103
805.692.6921 Phone

ENGINEERING
PLANNING
SURVEYING
CONSTRUCTION MANAGEMENT