



**TO:** Mayor and Councilmembers

**FROM:** Charles W. Ebeling, Public Works Director

**CONTACT:** Gerald Comati, Project Manager

**SUBJECT:** Permanent Easement from Santa Barbara Nissan Required for Hollister Avenue Bridge Project (Project No. 9033)

**RECOMMENDATION:**

Authorize the City Clerk to accept a Permanent Easement from Santa Barbara Nissan (APN 071-090-089) required for the construction of Hollister Avenue Bridge Project.

**BACKGROUND:**

The Hollister Avenue Bridge project has been in development for a number of years and is considered one of the highest priority transportation projects in the City. To construct the Hollister Avenue Bridge project, right-of-way acquisition is required within San Jose Creek on the north side of Hollister Avenue. This right-of-way acquisition is needed to allow construction of the transition basin between the natural creek (up-stream) and the San Jose Creek concrete channel, which begins at the Hollister Avenue Bridge.

**DISCUSSION:**

The permanent easement needed from Santa Barbara Nissan is located within the banks of San Jose Creek (APN 071-090-089). City staff have been working closely with Santa Barbara Nissan to secure the permanent easement. The easement is needed for the City to be able to construct the new Hollister Avenue Bridge, for the transition basin located immediately upstream of the bridge, and for bridge and channel maintenance responsibilities.

On June 8, 2020, the City Planning Commission adopted a resolution finding that all of the acquisitions required for the Hollister Avenue Bridge project, including the one discussed in this staff report (APN 071-090-089), conform to the City General Plan under Section 65402 of the Government Code.

Staff is recommending that the City Council authorize the City Clerk to accept the permanent easement (Attachment 1).

**FISCAL IMPACTS:**

There is no fiscal impact related to the City’s acceptance of this easement. However, the settlement agreement, under which this easement was negotiated, includes a lump sum payment of \$20,000 to Santa Barbara Nissan as compensation for the easement as well as other benefits the City will gain from the settlement agreement. The Hollister Avenue Bridge project (Project No. 9033) is included in the FY 2020/2021 budget and there is sufficient funding available for the proposed easement payment through the settlement agreement. The following table shows the current funding for the project.

<b>9033 Hollister Avenue Bridge Project</b>				
<b>Account</b>	<b>Fund Type</b>	<b>FY 2020/21 Adopted Budget</b>	<b>YTD Actual/ Encumbrance</b>	<b>Available Budget</b>
220-90-9033-57050 (Right-of-Way)	Transportation DIF	\$ 2,306,951	\$ 10,000	\$ 2,296,951
401-90-9033-57050 (Right-of-Way)	HBP - Grant	\$ 50,000	\$ 0	\$ 50,000
205-90-9033-57070 (Design)	Measure A	\$ 76,865	\$ 17,620	\$ 59,245
220-90-9033-57070 (Design)	Transportation DIF	\$ 817,635	\$ 100,844	\$ 716,791
401-90-9033-57070 (Design)	HBP - Grant	\$ 1,558,871	\$ 284,596	\$ 1,274,275
401-90-9033-57071 (Construction)	HBP - Grant	\$ 14,396,500	\$ 0	\$ 14,396,500
<b>Total</b>		<b>\$ 19,206,822</b>	<b>\$ 413,060</b>	<b>\$ 18,793,762</b>

**ALTERNATIVES:**

The City Council may elect to not accept the permanent easement from Santa Barbara Nissan. Doing so would prevent the City from completing the right-of-way process necessary to secure federal funding for construction, delay the project schedule, and may jeopardize the federal grant funding and the project.

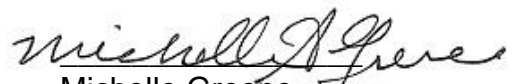
**Reviewed By:**

**Legal Review By:**

**Approved By:**

  
 Kristine Schmidt  
 Assistant City Manager

  
 Michael Jenkins  
 City Attorney

  
 Michelle Greene  
 City Manager

**ATTACHMENTS:**

1. Easement Deed and Certificate of Acceptance for Permanent Easement from the Santa Barbara Nissan (APN 071-090-089)

# **ATTACHMENT 1**

**Easement Deed and Certificate of Acceptance for Permanent  
Easement from Santa Barbara Nissan (APN 071-090-089)**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

CITY OF GOLETA  
130 Cremona Drive, Suite B  
Goleta, California 93117

No Recording Fee Pursuant to Gov't Code §§ 6103 and 27383  
No Documentary Transfer Tax Pursuant to California Revenue & Taxation Code §11922

(Space above this line is for Recorder's use)

FLOOD EASEMENT

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, **SANTA BARBARA NISSAN, LLC** ("Grantors") does hereby grant to the **CITY OF GOLETA**, a municipal corporation of the State of California ("Grantee"), and its successors and assigns, a perpetual nonexclusive easement and right of way for flood control purposes over, across, under and on that certain property in the County of Santa Barbara, State of California, described on the attached **Exhibit "B-1"** and depicted on the attached **Exhibit "B-2"** (such rights being described hereafter as the "Easement" and the area affected by thereby, the "Easement Area") including, but not limited to, the right to (a) flood the Easement Area by submerging the same with waters, (b) allow water to flow onto or pond water on the Easement Area, (c) permit surface and subsurface waters to be placed onto the Easement Area; (d) deposit or allow mud, debris, silt or minerals or other like or similar matter contained in the water to be deposited on the Easement Area; (e) remove dirt, soil, earth, silt, trees, vegetation, debris, and other materials from the Easement Area; (f) design, construction, and on-going maintenance of a flood control transition basin to be installed on the Property and on-going maintenance of the Hollister Avenue Bridge which will be constructed on adjacent property, including, without limitation, any temporary use of the Property for construction and maintenance purposes and (g) any other activities necessary for flood control purposes (collectively, "Flood Control Activities"), The Property that is the subject of the Easement is located in the County of Santa Barbara, State of California, and is described in **Exhibit "A"** attached hereto ("Property"). This Easement is granted and is subject to the rights contained in the easement for flood control purposes recorded April 1, 1971 in Book 2342 Page 476 in Santa Barbara County Official Records by Norval Fast and Marion Sepulveda to County of Santa Barbara and Santa Barbara County Water Conservation District.

The rights granted herein shall be without notice to Grantor or any third party.

GRANTOR(S)

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
(mailing address)

\_\_\_\_\_  
(city) (state) (zip code)

Document No. \_\_\_\_\_

**Exhibit "A"**  
**Legal Description of Property**

Return to:  
Real Property Division

9290

BOOK 2342 PAGE 476

RECORDED AT REQUEST OF  
Real Property Division  
BOOK 2342 PAGE 476

APR 1 2 06 PM '71

OFFICIAL RECORDS  
SANTA BARBARA CO., CALIF.  
RITA VAN BUSKIRK, RECORDER

Project No. 324  
Project: San Jose Creek  
(071-090-23 & 38)  
Parcel No. 4.1

NO FEE

**EASEMENT DEED**

No Tax Due

NORVAL C. FAST as to an undivided 1/2 interest and MARION A. SEPULVEDA as to an undivided 1/2 interest,

do hereby GRANT to the COUNTY OF SANTA BARBARA AND THE SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, bodies corporate and politic, a perpetual easement and right of way for flood control purposes including the right to remove dirt, soil, earth, silt, trees, vegetation, debris or other materials, in, over, under and across the real property in the County of Santa Barbara, State of California, described as:

Those portions of Tracts 4 & 5 as shown upon the "Map of the Subdivision of the Estate of P. E. Kellogg" recorded February 2, 1901 in Book 1 at Page 90 of Maps and Surveys and that portion of Tract 5 being a portion of Tract A - Partition Map made for Executrix of Joseph Sexton Estate recorded in Book 11, Page 172 of Maps & Surveys, Rancho La Goleta, being:

A strip of land, eighty feet (80.00') in width, the centerline described as follows:

Beginning at the intersection of the centerlines of Hollister Avenue and San Jose Creek (Station 289 + 68.78 of Hollister Avenue and Station 62 + 02.70 of San Jose Creek) as shown on a map of Hollister Avenue (Sheet 2 of 2) in File No. P3341 (dated November 1962) of the Road Engineering Department, County of Santa Barbara; said Hollister Avenue centerline bearing North 71°45'51" West becomes Basis of Bearings: North 70°46'09" West; thence 1st, Northerly along the arc of a curve to the right, concave Easterly, with a chord bearing North 10°07'17" East 24.09 feet, a central angle of 3°08'43" and a radius of 438.84 feet, for a distance of 24.09 feet; thence 2nd, North 11°41'39" East 195.21 feet to the beginning of a curve to the left, concave Westerly, with a central angle of 11°41'39" and a radius of 350.00 feet; thence 3rd, Northerly along the arc of last mentioned curve for a distance of 71.44 feet; thence 4th, North 81.06 feet to the beginning of a curve to the right, concave Southeasterly, with a central angle of 36°17'07" and a radius of 350.00 feet; thence 5th, Northeasterly along the arc of last mentioned curve for a distance of 221.65 feet; thence 6th, North 36°17'07" East 80.92 feet to the beginning of a curve to the left, concave Westerly, with a central angle of 46°03'27" and a radius of 350.00 feet; thence 7th, Northerly along the arc of last mentioned curve for a distance of 281.35 feet; thence 8th, North 9°46'20" West 98.03 feet to the beginning of a curve to the right, concave Northeasterly with a central angle of 3°08'22" and a radius of 350.00 feet; thence 9th, Northwesterly along the arc of last mentioned curve 19.18 feet to a point in the Southerly line of Tract 10 of the Patterson Subdivision (J.D.) as recorded in Miscellaneous Records Book B, Page 500 (said Tract 10 shown on a map filed in Book 32, Page 21 of Record of Surveys) being end of this easement.

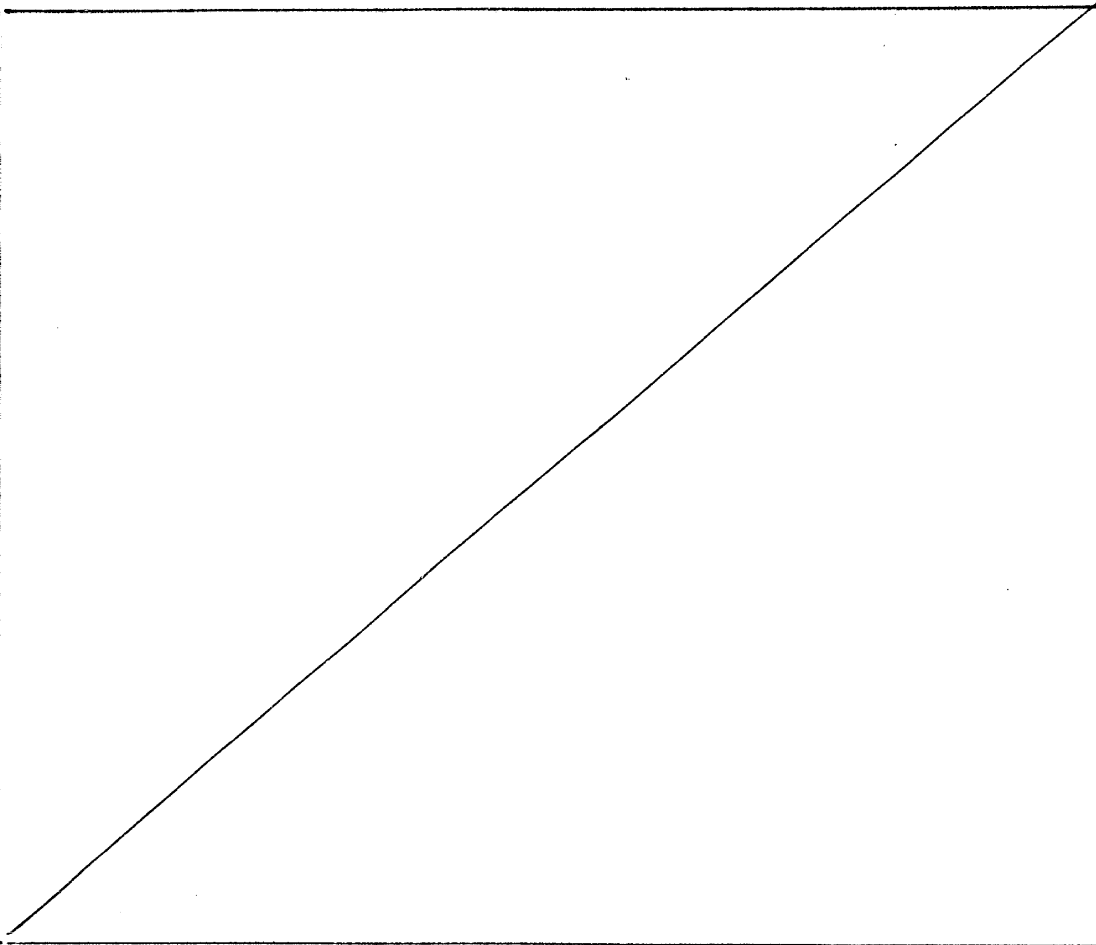
9290

BOOK 2342 PAGE 477

Folio No. 324  
San Jose Creek  
Parcel 4.1 (Fast)

Sidelines of this easement to extend from the centerline of Hollister Avenue to the Southerly line of above mentioned Tract 10 and its Westerly projection.

Excepting therefrom any portion not lying within the tract of land "In the Matter of the Estate of Justus C. Fast, Deceased." (Norval C. Fast, et al) as recorded on April 13, 1960 in Book 1733, Page 211 of Official Records.





Grantors, for themselves, their heirs, successors and assigns, do hereby release grantee, its officers, employees and agents, from any and all liability arising out of the use of said land for the purposes stated or implied herein.

Dated: Feb 19, 1971

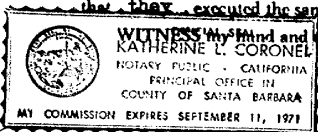
*Norval C. Fast*  
NORVAL C. FAST

*Marion A. Sepulveda*  
MARION A. SEPULVEDA

ACKNOWLEDGMENT OF GRANTOR

STATE OF CALIFORNIA, COUNTY OF Santa Barbara ss.  
On March 3, 1971, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Norval C. Fast and Marion A. Sepulveda

known to me to be the persons whose name s are subscribed to the within Instrument, and acknowledged that they executed the same.



*Katherine L. Coronel*

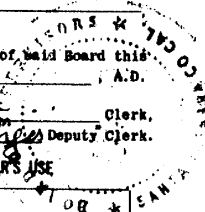
CERTIFICATE OF ACCEPTANCE

State of California, ss.  
County of Santa Barbara,

THIS IS TO CERTIFY that the interest in real property covered by the Deed or Grant dated Feb. 19, 1971, from Norval C. Fast as to an undivided 1/2 interest and Marion A. Sepulveda as to an undivided 1/2 interest,

to the County of Santa Barbara, State of California, a political corporation and/or governmental agency, is hereby accepted by Order of the Board of Supervisors of the County of Santa Barbara on March 29, 1971 and the grantee consents to recordation thereof by its duly authorized officer.

WITNESS my hand and the seal of said Board this 29th day of March, 1971 A.D.  
J. E. LEWIS, Clerk.  
By *Janet Schlessinger* Deputy Clerk.



APPROVALS

Approved as to form by County Counsel on July 1, 1963	THIS SPACE FOR COUNTY RECORDER'S USE
CARL E. VOGEL RIGHT OF WAY AGENT COUNTY COURT HOUSE SANTA BARBARA, CALIF.	

Recorded at request of, and return to:  
Santa Barbara County Right of Way Dept.,  
Court House, Santa Barbara, California

9290

BOOK 2342 PAGE 479

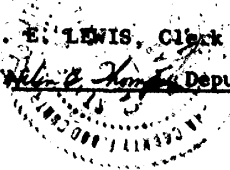
STATE OF CALIFORNIA, )  
COUNTY OF SANTA BARBARA, ) SS:

THIS IS TO CERTIFY that the interest in real property conveyed by the Easement Deed, dated February 19, 1971 from Norval C. East as to an undivided 1/2 interest and Marion A. Sepulveda as to an undivided 1/2 interest to the County of Santa Barbara, State of California and Santa Barbara County Flood Control & Water Conservation District, a political corporation and/or governmental agency, is hereby accepted by Order of the Board of Directors of the County of Santa Barbara Flood Control District on March 29, 1971 and the grantee consents to Recordation thereof by its duly authorized officer.

WITNESS my hand and the seal of said Board this 29th day of March, A.D. 1971.

J. E. LEWIS, Clerk

BY [Signature] Deputy Clerk



/// / END OF DOCUMENT / / / /

**Exhibit "B -1"**  
**Legal Description of the Easement Area**

EXHIBIT  
(Permanent Easement for Flood Control Purposes Legal Description)

Parcel: HB-9-1

A portion of land in the City of Goleta, County of Santa Barbara, State of California, being a portion of Parcel B of Parcel Map No. 12,482 recorded in Book 24, Pages 41 and 42 of Parcel Maps, 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, said point also being the southeasterly corner of said Parcel B; thence,

- 1st Along the easterly line of said Parcel B, N 02°54'42" E, 68.62 feet; thence,
- 2nd N 78°17'21" W, 36.00 feet to a point on the westerly line of an easement for flood control purposes described per Instrument No. 9290, Book 2342, Page 476 of Official Records; thence,
- 3rd Along said westerly line, S 11°42'39" W, 88.07 feet; thence,
- 4th S 87°55'30" E, 13.17 feet to a point on the easterly line of said Parcel B; thence along the easterly and southerly lines of said Parcel B the following two courses,
- 5th N 11°41'46" E, 18.04 feet; thence,
- 6th S 78°18'14" E, 33.52 feet to the **Point of Beginning**.

Containing an area of 3,046 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



**Exhibit "B -2"**  
**Depiction of the Easement Area**

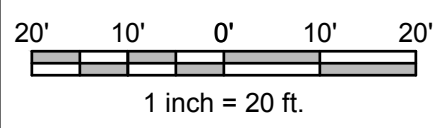
Parcel B  
 Parcel Map No. 12,482  
 Book 24, Pages 41 & 42  
 APN 071-090-089

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-9-1  
 PERMANENT EASEMENT FOR  
 FLOOD CONTROL PURPOSES  
 APN 071-090-089  
 HOLLISTER AVENUE  
 CITY OF GOLETA  
 3,046 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



CERTIFICATE OF ACCEPTANCE  
Pursuant to Section 27281 of the  
California Government Code

This is to certify that the interest in real property conveyed by the Flood Easement dated \_\_\_\_\_, 2020, from Santa Barbara Nissan, LLC to City of Goleta, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of Goleta, pursuant to the authority conferred by Resolution No. \_\_\_\_\_, adopted by the City Council of the City of Goleta on \_\_\_\_\_, 2020, and the City of Goleta consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 2020

CITY OF GOLETA



**CERTIFICATE OF ACCEPTANCE**

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

GOVERNMENT CODE SECTION 27281

This is to certify that the interest in real property conveyed by the FLOOD EASEMENT dated \_\_\_\_\_, 2020, from SANTA BARBARA NISSAN, LLC, to the **CITY OF GOLETA** a municipal corporation, is hereby accepted by the undersigned City Clerk on behalf of the City of Goleta pursuant to authority conferred by Resolution No. **08-01** of the Goleta City Council adopted on **January 15, 2008**, and the City of Goleta as **(GRANTEE)** consents to the recordation thereof by its duly authorized officer.

Dated:

CITY OF GOLETA

\_\_\_\_\_

By: \_\_\_\_\_

Deborah S. Lopez  
City Clerk