



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 15, 2015

**TO:** Mayor and Councilmembers

**FROM:** Facilities Planning and Development, Airport Department

**SUBJECT:** Avigation And Noise Easement For 6300 Hollister Avenue, Goleta

**RECOMMENDATION:** That Council:

- A. Approve and authorize the City Administrator to execute and record a grant deed of avigation and noise easement and agreement imposing conditions on real property by and between 6300 Hollister Associates, LP, and the City of Santa Barbara; and
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Accepting an Avigation and Noise Easement Imposing Conditions on Real Property Known as Assessor's Parcel Number 073-050-046, and Consenting to the Recordation of the Easement Deed in the Official Records, County of Santa Barbara.

### **DISCUSSION:**

An avigation and noise easement is a property right acquired from a landowner to an airport which protects the use of airspace above a property and imposes limitations on land use subject to the terms of the easement. The purpose of the avigation and noise easement is to protect life and property on the ground from aviation impacts and to minimize the effects of neighboring development on airport operations.

On September 16, 2014, the Goleta City Council approved construction of a new 118-room "Marriott Residence Inn" hotel at 6300 Hollister Avenue (APN 073-050-046). Although the proposed hotel would not be constructed under an airfield approach, a portion of the parcel lies within the Runway Protection Zone (RPZ) for Runway 15R. For this reason the City of Goleta imposed a condition of approval on the project requiring the property owner, 6300 Hollister Associates, LP, to grant the City of Santa Barbara an avigation and noise easement. The avigation and noise easement will provide notice to current and future property owners of the effects of airport operations and will establish provisions allowing aircraft using the Airport to have the free and unobstructed right of flight in the airspace above the parcel.

**ATTACHMENT:** Grant Deed of Avigation and Noise Easement

**PREPARED BY:** Andrew Bermond, Project Planner

**SUBMITTED BY:** Hazel Johns, Airport Director

**APPROVED BY:** City Administrator's Office

**Recorded for the Benefit of:**

City of Santa Barbara

**Recording requested by and when recorded  
mail to:**

Santa Barbara Airport  
6012 Firestone Road  
Santa Barbara, CA 93117

and

6300 Hollister Associates, LP  
c/o Russell A. Goodman  
996 S. Seaward Avenue  
Ventura, CA 93001

THE ABOVE SPACE RESERVED FOR RECORDER USE ONLY

**GRANT DEED OF AVIGATION AND NOISE EASEMENT AND AGREEMENT  
IMPOSING CONDITIONS ON REAL PROPERTY**

APN No.: 073-050-046

**RECITALS**

WHEREAS, 6300 Hollister Associates, a California Limited Partnership (herein the "**Grantor**") is the owner in fee simple of that certain parcel of land situated in the County of Santa Barbara commonly known as 6300 Hollister Avenue, Goleta, California and more particularly described in Exhibit A and attached hereto and made a part hereof (herein the "**Grantor's property**"); and,

WHEREAS, City of Santa Barbara, a municipal corporation (herein the "**Grantee**") is the owner of certain properties within the County of Santa Barbara which are described in a Deed from the United States of America to Grantee dated February 24, 1949, which was recorded in Book 861 at Page 33 of the Official Records of the County of Santa Barbara, State of California (herein the "**Dominant Parcel**"); and,

WHEREAS, the Santa Barbara Municipal Airport, (herein the "**Airport**") is operated on the Dominant Parcel which is in close proximity to Grantor's property; and,

WHEREAS, on September 16, 2014, Grantor received approval from the City of Goleta for a Vesting Tentative Map for a two lot subdivision; a Development Plan for a 118-room Hotel; a Development Plan Amendment for the existing Hollister Center research and development office Complex; and related improvements, a portion of which (herein the "**Servient Parcel**") is located within the Santa Barbara County Airport Land Use Plan's Safety Area 1- Clear Zone, with said approvals being conditioned upon Grantor providing Grantee with an avigation easement over the Servient Parcel; and,

WHEREAS, the Servient Parcel is more particularly described in Exhibit B attached hereto and made a part hereof: and

WHEREAS, Grantor and Grantee wish to establish provisions so that aircraft using Airport shall have the right of flight and the right to cause noise, light, and other effects associated with the operation of aircraft in the airspace over and above the Servient Parcel.

NOW, THEREFORE, Grantor, for consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants and conveys to Grantee a perpetual public-use aviation and noise easement in, through, across and over the airspace of the Servient Parcel subject to termination as expressly provided herein and right-of-way for the free and unobstructed flight of aircraft, of any and all kinds now known or hereafter invented, used or designed for navigation or flight in the air, of the class, size and category permitted by law to operate at Airport, as more particularly described below.

1. Grantor understands and acknowledges that the rights herein granted shall include, but not be limited to, the right in such airspace to allow, make and emit such noise, light, vibrations, fumes, exhaust, smoke, air currents, dust fuel particles, radio, television, and other electromagnetic interferences, and all other effects as may be inherent to the operation of aircraft for navigation flight in the air.

2. Grantor hereby full waives, remises and releases any right or cause of action that it may now have or that it may have in the future against Grantee, its successors, and assigns, and covenants not to sue due to such noise, light, vibrations, fumes, exhaust, smoke, air currents, dust fuel particles, radio, television, and other electromagnetic interferences, and all other similar or related effects that may be caused or may have been caused by the operation of aircraft landing at, taking off from, or operating at Airport as permitted under this easement (collectively the "effects"). Said release and covenant shall include, but are not limited to, claims, known or unknown, for damages for physical or emotional injuries, discomfort, inconvenience, property damage, death, interference with use and enjoyment of property, diminution of property values, nuisance, or inverse condemnation or injunctive or other extraordinary or equitable relief arising out of the effects.

3. It is further agreed that Grantee as owner and operator of Airport shall have no duty to avoid or mitigate such damages by, without limitation, setting aside or condemning buffer lands, rerouting air traffic, erecting sound or other barriers, or establishing curfews, noise or other regulations, except to the extent, if any, that such actions are validly required by government authority, Grantor reserves such use, rights and privileges in the Servient Parcel as may be exercised and enjoyed without interference with or abridgment of the rights hereby granted.

4. This Grant of an aviation and noise easement shall not operate to deprive Grantor and its successors or assigns of any rights that it may have from time to time against any other individual aircraft operator for the negligent or unlawful operation of an aircraft.

5. For and on behalf of itself and its successors and assigns, Grantor hereby covenants with Grantee for the direct benefit of the real property constituting Airport that neither Grantor nor its successors in interest or assigns shall hereafter construct or permit the construction or growth of any structure, tree or other object within the Servient Parcel that penetrates an approved approach, transitional, horizontal, or control surface, or that constitutes an obstruction to air navigation, or that obstructs or interferes with the use of the flight easements and rights of way herein granted, or that creates electrical interference with radio communication between any installation upon Airport and aircraft, or that makes it difficult for pilots to distinguish between airport lights and other lights, or that impairs visibility in the vicinity of Airport, or that otherwise endangers the landing, take-off or maneuvering of aircraft. Grantee reserves the

right, upon reasonable notice to Grantor, to mark and light as obstructions to air navigation any such building, structure, tree or other object now upon, or that in the future may be upon, the Servient Parcel, together with the right of ingress to, egress from, and passage over the Servient Parcel for the above purpose, which shall be accomplished at Grantee's expense.

The foregoing notwithstanding, Grantor and Grantee acknowledge, accept and agree that the Servient Parcel may be improved pursuant to the approvals described in the Recitals and that such improvements shall not be deemed in violation or breach of the terms and conditions set forth in this Grant.

6. All promises, covenants, conditions and reservations contained in this easement are made and entered into for the benefit of Grantee. These promises covenants, conditions, and reservations, shall run with the Servient Parcel, described and identified on Exhibit B attached hereto, shall bind Grantor's heirs, administrators, executor, successors and assigns to the maximum extent now or hereafter permitted by statute or case law, and are intended by the parties to comply with California Civil Code section 1468. "Successors and assigns" as used in this paragraph includes, without limitation, invitees, licensees, permittees, tenants, and lessees.

7. The avigation and noise easement, covenants, and agreements described herein shall continue in effect until the Airport shall be abandoned and shall cease to be used for public airport purposes.

IN WITNESS WHEREOF, Grantor and Grantee have caused this grant of easement to be executed on 11/30/15, 2015.

**GRANTOR:**

6300 Hollister Associates, LP  
A California Limited Partnership

By: SRG Hollister, LP  
A California Limited Partnership  
Its: General Partner

By: Regis Contractors, Inc.  
A California Corporation  
Its: General Partner

By:   
Russell A. Goodman  
Vice President

**GRANTEE:**

CITY OF SANTA BARBARA  
Municipal Corporation

\_\_\_\_\_  
City Administrator

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

**APPROVED AS TO CONSENT:**

By: \_\_\_\_\_  
Airport Director

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Assistant City Attorney

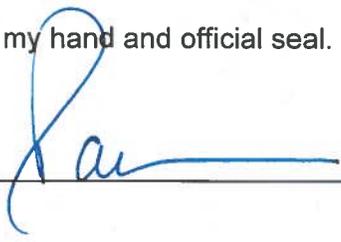
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF ~~SANTA BARBARA~~ Ventura )

On 11/30, 2015 before me, Patti Burbach, Notary Public, personally appeared Russell A. Goodman, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:  (seal)



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF SANTA BARBARA )

On \_\_\_\_\_, 2015 before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_ (seal)

**LEGAL DESCRIPTION**

**EXHIBIT "A"**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GOLETA, COUNTY OF Santa Barbara, STATE OF CA AND IS DESCRIBED AS FOLLOWS:

Parcel One:

That portion of Ranchos Los Dos Pueblos, in the County of Santa Barbara, State of California, described as follows:

Beginning at the Southeasterly corner of the tract of land described in the deed to Raytheon Manufacturing Company, recorded February 28, 1957 as Instrument No. 4219 in Book 1432, Page 370 of Official Records, records of said County, being a point on the Northerly line of Hollister Avenue, as shown on a map of survey filed in Book 24 at Page 52 of Record of Survey, in the Office of the County Recorder of said County; thence leaving said Northerly line of Hollister Avenue and following along the Easterly line of said Raytheon Tract of land, North 3° 22' 25" West, 507.70 feet to a point from which the Northeasterly corner thereof bears North 3° 22' 25" West, 306.84 feet; thence, leaving said Easterly line of said Raytheon Tract of land parallel with the Northerly line of said Hollister Avenue and distant 500.00 feet Northerly therefrom measured at right angles thereto, North 76° 38' East, 70.29 feet; thence, continuing parallel with the Northerly line of Hollister Avenue and distant 500.00 feet Northerly therefrom measured at right angles thereto, North 74° 19' East at 532.75 feet the Southwesterly corner of the tract of land described in the deed to Fulton-Ventura Corporation, a Nevada Corporation, recorded July 21, 1958 as Instrument No. 17238 in Book 1541 at Page 61 of Official Records, records of said County, 932.75 feet to the Southeasterly corner of said last mentioned tract of land on the Westerly line of La Patera Road 60 feet in width, as described in the deed to County of Santa Barbara, recorded in Book 39 at Page 385 of Deeds, records of said County; thence along said Westerly line of said La Patera Road, South 10° 51' 30" East, 501.78 feet to the Northerly line of Hollister Avenue; thence along said Northerly line, South 74° 19' West, 900.65 feet to an angle point therein; thence South 76° 38' West, 168.50 feet to the point of beginning.

EXCEPTING therefrom that portion thereof described in the deed to the County of Santa Barbara, recorded December 7, 1962 as Instrument No. 51965 in Book 1966 at Page 463 of Official Records.

Also excepting therefrom one-half of any and all oil, gas and other hydrocarbon substances within and under the above described property more than 500 feet beneath the surface thereof and/or producible therefrom or therethrough, without, however, any surface rights or right of surface entry with respect thereto, as reserved in deed from James Williams, Jr., as Executor of the Will of James G. Williams, deceased, recorded January 27, 1961 as Instrument No. 2800 in Book 1820, Page 50 of Official Records.

EXCEPTING therefrom that portion thereof described in the deed from Hollister Associates, L.P., a California limited partnership to the City of Santa Barbara, dated September 30, 2010 and recorded December 21, 2010 as Instrument No. 2010-0073252 of Official Records.

Parcel Two:

A non-exclusive easement and right of way for but not limited to vehicular and pedestrian ingress, egress and access, maintenance and repair over and across those portions of the property as reserved in Grant Deed recorded December 21, 2010 as Instrument No. 2010-0073252 of Official Records over driveways connecting Grantor's property to the public right of way known as Hollister Avenue.

APN: 73-050-46



**Exhibit B**  
**Legal Description**

(Area lying within Santa Barbara Airport Approach Zone)

That portion of land located in the City of Goleta, County of Santa Barbara, lying within the parcel of land described in the Grant Deed to 6300 Hollister Associates, L.P, a California Ltd Partnership, filed February 14, 2003 as Instrument Number 2003-0019359 Official Records of said County, described as follows:

Beginning at the northeast corner of said parcel, said point being on the westerly right-of-way of La Patera Lane, sixty feet in width, as shown on Record of Survey filed in Book 114, Page 9, of Record of Surveys, in the Office of the County Recorder of said County; thence,

- 1st along the northerly line of said parcel South 75°21'06" West, a distance of 436.69 feet thence, leaving said northerly line,
- 2nd South 18°59'55" East, a distance of 490.20 feet to a point in the northerly line of that portion of land, described in the Grant Deed to the City of Santa Barbara, filed December 10, 2010 as Instrument Number 2010-0073252 Official Records of said county; thence,
- 3rd along said north line, North 74°28'16" East, a distance of 358.85 feet to the westerly line of La Patera Lane as shown on said Record of Survey; thence,
- 4th along the westerly line of La Patera Lane, North 09°50'03" West, a distance of 484.99 feet to the Point of Beginning.

Containing 193,312 square feet or 4.438 acres more or less.

The bearings and distances recited herein are based upon the California Coordinate System NAD 83, Zone 5, Epoch 1991.35. To obtain ground distance multiply by 1.000060033603817.

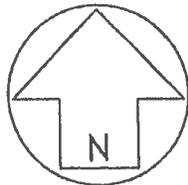
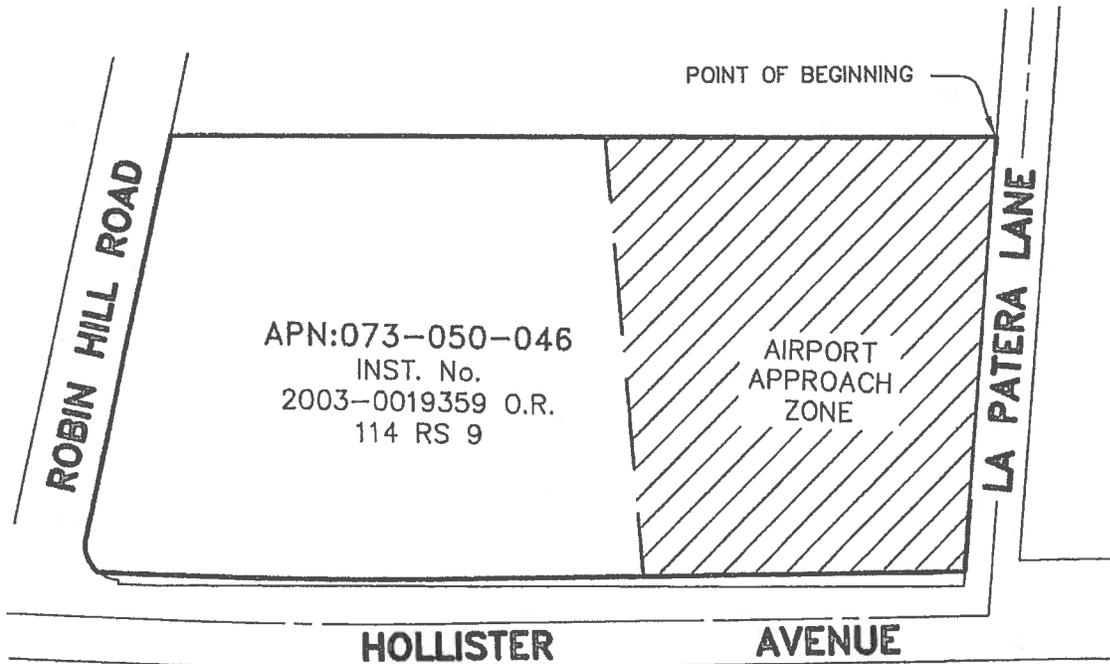
This legal description was prepared as a convenience only and is not intended for use in the division and/or conveyance of land in violation of the Subdivision Map Act of the State of California.

The above described land is graphically shown on Exhibit B attached hereto and made a part of this description by reference thereto.

END OF DESCRIPTION.



5/4/2015



SCALE: 1"=200'



111 East Victoria Street, Santa Barbara, CA 93101  
 Phone: (805) 963-9532 Fax: (805) 966-9801

**EXHIBIT B**  
 OF  
**APPROACH ZONE  
 EASEMENT AREA**  
 CITY OF GOLETA  
 STATE OF CALIFORNIA

W.O. 2064017636 DWG: 17636Legal-Approach Zone.dwg SCALE: 1" = 200' PLOT DATE: 4/17/2015