

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 17-

**DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE
ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL
PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK
FLOOD PROTECTION PROJECT NO. 26174051
(CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*)**

WHEREAS, pursuant to a cost-sharing agreement with the City of Morgan Hill, the Santa Clara Valley Water District (District) is working to construct the Upper Llagas Creek Flood Protection Project No. 26174051 (the Project), which will provide flood protection for 1,100 homes, 500 businesses, and over 1,300 acres of agricultural land in southern Santa Clara County; and

WHEREAS, the District is authorized to condemn property for the Project pursuant to Article I, Section 19 of the California Constitution, Part 3, Title 7 of the California Code of Civil Procedure, Section 6 of the Santa Clara Valley Water District Act, and other provisions and principles of law; and

WHEREAS, the property interests to be acquired for the Project are located on 13875 Murphy Avenue, San Martin, California 95046, Santa Clara County Assessor's Parcel No. 825-09-007, and are described and depicted in Exhibit A attached hereto and incorporated herein (Property); and

WHEREAS, the Project cannot be completed without the Property, and acquisition of the Property is accordingly necessary and in the public interest; and

WHEREAS, the use of the Property for the Project will not interfere with or impair any known, existing public uses and, therefore, is compatible with any other public uses pursuant to Code of Civil Procedure section 1240.510; and

WHEREAS, the District has made several offers to the owners of record including on April 19, 2016, and January 19, 2017, pursuant to Government Code section 7267.2 based on an October 10, 2016 appraisal; and

WHEREAS, the District provided by certified mail to all persons whose names appear on the last Equalized County Assessment Roll as having an interest in the Property a notice that the District's Board of Directors would hold a hearing on September 26, 2017 to consider the adoption of a resolution of necessity authorizing the District to acquire the Property by eminent domain; and

WHEREAS, the notice advised all such interested persons of the time and place for the hearing, their right to be heard in relation to that matter, and that their failure to file a written request to appear and be heard at the hearing within 15 days from the mailing of the notice would result in a waiver of their right to be heard; and

WHEREAS, the District has calendared this Resolution as an item on its Agenda and invited public comment prior to the meeting; and

WHEREAS, the District's Board of Directors held a public hearing on September 26, 2017 to consider the adoption of this resolution, and all interested parties were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the District finds, determines, and hereby declares:

1. The public interest and necessity require the Project;
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The Property described and depicted herein in Exhibit A is necessary for the Project;
4. The District made the offer required by Government Code section 7267.2 to the owners of record;
5. The District has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property;
6. The District has complied with the requirements of the California Environmental Quality Act (CEQA) for the Project, the District's Board having on June 10, 2014, adopted a Final Environmental Impact Report;
7. The District's Office of the District Counsel and/or its designee is hereby authorized to commence and prosecute an eminent domain proceeding to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure section 1255.010, and to acquire prejudgment possession of the Property as may be necessary for the Project.

Determining and Declaring the Public Necessity for the Acquisition of Certain Real Property or Interests in Real Property by Eminent Domain for the Upper Llagas Creek Flood Protection Project No. 26174051 (Code Of Civil Procedure Sections 1245.220, *Et Seq.*)

Resolution No. 17-

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on by the following vote on October 10, 2017.

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: _____
JOHN L. VARELA
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk/Board of Directors

Exhibit A

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: K. Comerer
Date: 08/17/14

Date Revised: 08/15/16
Revised By: K. Comerer
Checked by: _____

Date: _____

PROJECT: UPPER LLAGAS CREEK
PROPERTY: MH STERLING GROUP

File No.: 5027-94

All of that certain parcel of land situate in the unincorporated area of Santa Clara County, State of California, more particularly described as follows:

Being a portion of the lands described in the Grant Deed from Jerry L. Shumate and Victoria A. Shumate, as Trustees, or Successor Trustee, of the Shumate Family Trust, dated 9/13/90, to MH Sterling Group, LLC, a California Limited Liability Company, recorded on October 12, 2007 as Document No. 19615222 of Official Records, Santa Clara County records, being a portion of Lot 55 as shown on that certain Map entitled "San Martin Ranch Map No. 2", filed on January 27, 1893 in Book "G" of Maps, at Pages 38 and 39, said Santa Clara County Records, more particularly described as follows:

BEGINNING at the most westerly corner of said Lot 55; thence along the northwesterly line of said Lot 55, North 66° 52' 53" East, 350.27 feet to the beginning of a non-tangent curve, concave southwesterly, having a radius of 100.00 feet, from which the radius point bears South 02° 58' 58" East; thence leaving said northwesterly line, southeasterly, along said curve, through a central angle of 83° 39' 50", for an arc length of 146.02 feet to the beginning of a reverse curve, having a radius of 100.00 feet; thence along said curve, through a central angle of 35° 17' 52", for an arc length of 61.61 feet; thence South 44° 37' 00" East, 13.11 feet to the beginning of a tangent curve to the right, having a radius of 318.00 feet; thence along said curve, through a central angle of 11° 31' 27", for an arc length of 63.96 feet; thence South 33° 05' 32" East, 131.53 feet to the beginning of a tangent curve to the right, having a radius of 318.00 feet; thence along said curve, through a central angle of 07° 19' 16", for an arc length of 40.63 feet; thence South 25° 46' 17" East, 152.03 feet to the beginning of a tangent curve to the right, having a radius of 400.00 feet; thence along said curve, through a central angle of 02° 33' 12", for an arc length of 17.83 feet; thence South 23° 13' 05" East, 68.52 feet to a point on the southeasterly line of said Lot 55; thence along said southeasterly line and the southwesterly line of said Lot 55 the following two (2) courses: 1) South 66° 51' 58" West, 473.80 feet and 2) North 23° 08' 02" West, 660.14 feet to the POINT OF BEGINNING.

Containing 293,187 square feet or 6.731 acres of land, more or less.

END OF DESCRIPTION

BASIS OF BEARINGS:

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

SURVEYOR'S STATEMENT:

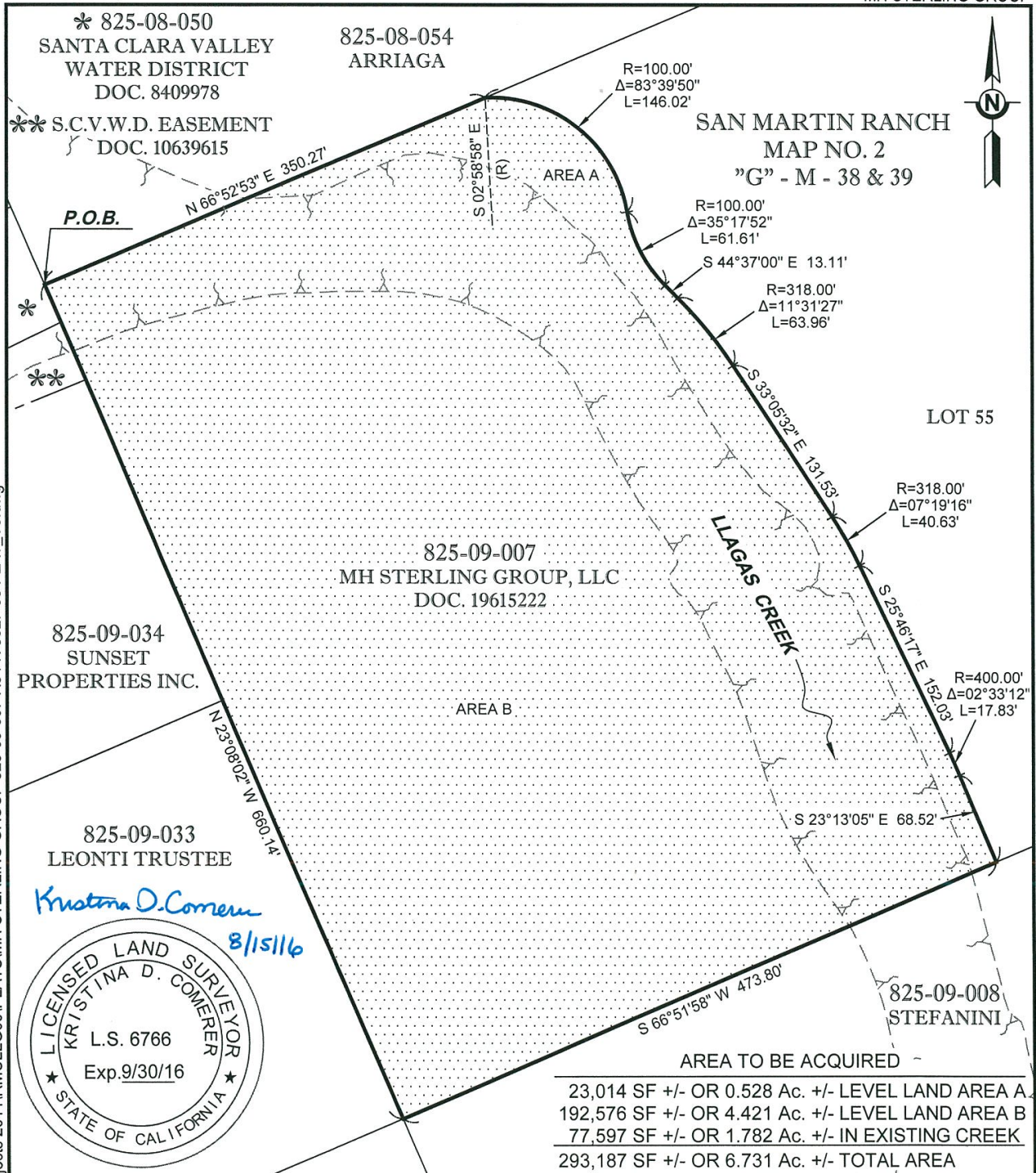
Legal description prepared by Cross Land Surveying, Inc. in August 2014 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Kristina D. Comer
Kristina D. Comer, PLS 6766

Date: Aug. 15, 2016



SCVWD C:\Civil 3D Projects 2011\RMCLLG09\PLATSMH STERLING GROUP 825-09-007 R6 FN 5027-95 PLAT_V3.dwg



Santa Clara Valley Water District



SCALE: 1" = 100'

REV.	APPR.	DATE	DESCRIPTION	TITLE REPORT NO.	DATE
1		8/16	CHANGE PARCEL CONFIGURATION	DRAWN	G. Comerer
2				DATE	08/12/16