



# Santa Clara Valley Water District

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**File No.:** 17-0238

**Agenda Date:** 4/25/2017

**Item No.:** 3.3.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Stipulation for Judgment in Eminent Domain to Resolve the Condemnation Proceeding Entitled County of Santa Clara v. Santa Clara Valley Water Conservation District; et al., Santa Clara County Superior Court Case No. 114CV265661.

### **RECOMMENDATION:**

Approve the Stipulation for Judgment in Eminent Domain (Case No. 114CV265661) and grant the District Counsel or its designee authority to execute the stipulation on behalf of the District.

### **SUMMARY:**

On or about May 29, 2014, the County of Santa Clara (County) served a Complaint in Eminent Domain against the Santa Clara Valley Water District (District), et al. The County seeks to procure property interests from the District on several parcels (APNs 583-22-006, -007, and -015) for the public purpose of constructing improvements described as the Alamitos Creek Bridge Project ("Project"). The County seeks to condemn right-of-way easements, a non-exclusive temporary construction easement, and a storm water biotreatment facility maintenance easement. The Project includes improving safety by straightening the roadway at Alamitos Creek Bridge, replacing the bridge structure, and widening the travel lanes.

As you may recall, while the District initially attempted to work with the County to complete the sale of the property without litigation, the District was unable to gain any assurance that the County would comply with the District's Water Resources Protection Ordinance (WRPO). The County informed the District that it was unable to include language in the deeds or stipulation that would subject the County's acquired right-of-way interests to the District's Water Resources Protection Ordinance because to do so would jeopardize their grant funding. In response, the District related that it needed assurance that the County would comply with the District's WRPO permitting process prior to any construction on District Facilities. In lieu of securing a recorded obligation, the District and County have agreed to memorialize the County's promise to comply with the District's WRPO in a letter executed by the County Director of Roads and Airports (Attachment 1). Even though the executed letter lacks the enforceability of a recorded covenant or stipulated judgment, the letter is an assurance from the County that it will comply with the permitting process for this Project, and the County will be hard pressed to deny its obligation in the unlikely event it becomes necessary to enforce the WRPO through litigation.

On April 29, 2016, the Board considered and approved a proposed stipulation for judgment for this eminent domain case. Subsequent to the Board's approval, the County of Santa Clara (County) developed issues with another party in this case, San Jose Water Company (SJWC), concerning property rights involved in this matter. The County and SJWC have now settled those issues and the Stipulation for Judgment has been amended to add terms resolving the issues between the County and SJWC (See Attachment 2). The District will receive the stated just compensation of six thousand eight hundred dollars (\$6,800) arising from the County's condemnation of these property rights. The Stipulation includes standard releases of all claims which the District made or could have made in this eminent domain action; a full release and discharge by all three parties for all claims and liabilities of any kind or nature existing at the time of executing this Stipulation or claimed to exist at the time of this Stipulation relating to the eminent domain action and/or to the County's project; and a mutual California Civil Code Section 1542 release by all parties.

Attachment 2 is the proposed Stipulation recommended by the District Counsel and District staff which sets forth the resolution of this matter between all parties, including SJWC. The District Counsel and District staff believe that this is the appropriate course of action to resolve this matter. The executed Stipulation will become part of the Final Order issued to resolve this matter on behalf of the Board of Directors and the District. If the Board declines to approve the Stipulation, a closed session will be scheduled to resolve this matter.

**FINANCIAL IMPACT:**

The District will receive six thousand eight hundred dollars (\$6,800) as just compensation for the property interests acquired by the County through this condemnation litigation.

**CEQA:**

The recommended action does not constitute a project under California Environmental Quality Act (CEQA) because it does not have a potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

Attachment 1: Letter of Assurance from SC County Director of Roads and Airports

Attachment 2: Stipulation for Judgment in Eminent Domain

**UNCLASSIFIED MANAGER:**

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