



# Santa Clara Valley Water District

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**File No.:** 18-0378

**Agenda Date:** 6/12/2018

**Item No.:** 3.7.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Acquisition of Real Property Interests from One Hanson, LLC, for the Lower Berryessa Creek Flood Protection Project, Phase 2, Project No. 40174005, APN No. 022-31-020, Real Estate File No. 4018-22 and Real Estate File No. 4018-29 (Milpitas) (District 3).

### **RECOMMENDATION:**

- A. Authorize the Chief Executive Officer to execute a Right of Way Agreement between One Hanson, LLC, and the District, for acquisition of a permanent easement and a temporary construction easement, located at 1 Hanson Court, Milpitas, CA, based upon the terms and conditions as set forth in the Agreement;
- B. Authorize the Chief Executive Officer to accept the Easement Deed (4018-22) from One Hanson, LLC; and
- C. Authorize the Chief Executive Officer to accept the Temporary Construction Easement (4018-29) from One Hanson, LLC.

### **SUMMARY:**

In April 2010, the Board adopted Resolution No. 10-31, specifying its intention to consider undertaking a work of improvement for the Lower Berryessa Creek Flood Protection Project (Project). A portion of the Project includes Lower Calera Creek that begins at the Lower Berryessa Creek confluence and continues approximately 500 feet upstream of Arizona Avenue. The Lower Calera Creek portion of the project is currently in design which is anticipated to be completed in August of 2018 with construction to begin in November of 2018. Construction of the improvements along Lower Calera Creek will result in the need to acquire a permanent easement (Deed 4018-22) (Attachment 2) and temporary construction easement (Deed 4018-29) (Attachment 3) from One Hanson, LLC. Authorization and approval of this acquisition is recommended to allow the Project to progress into construction later this year.

### ***Project Background***

The Lower Berryessa Creek Project, which extends approximately 1.6 miles from its confluence with Lower Penitencia Creek upstream to Calaveras Boulevard, is part of a series of flood protection improvements within the City of Milpitas. This Project will protect the surrounding area by removing

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approximately 1,800 parcels from the 1% floodplain and provide improved maintenance access to the channel. Construction of the Lower Berryessa Creek Project is being undertaken in 2 phases. Phase 1 was completed in December 2016 and included improvements from the Lower Penitencia Creek confluence up to Abel Street. Phase 2A is currently under construction and includes approximately 1.1 miles of channel improvements upstream of Jacklin Road/Abel Street to Calaveras Boulevard. Lower Calera Creek is Phase 2B, which extends from the confluence with Lower Berryessa Creek to approximately 500 feet upstream of Arizona Avenue.

### ***Right-of-Way***

Acquisition of a 13,943-square foot permanent easement for water management and/or storm drainage purposes and a 726-square foot temporary construction easement from One Hanson, LLC will promote the goals and objectives of the Lower Berryessa Creek Flood Protection Project. The location of the permanent easement is shown on the subject map and plat (See Exhibit A to Attachment 2). The location of the temporary construction easement is shown on the subject map and plat (See Exhibit A to Attachments 3).

A Hazardous Substance Liability Assessment (HSLA) was performed for the property. Results are summarized in the HSLA Memorandum dated April 6, 2018. (Attachment 4). The results indicate that excess soil generated during construction at the site can be reused at off-site commercial/industrial sites or disposed of as non-hazardous waste at a Class II or Class III landfill.

### **FINANCIAL IMPACT:**

The purchase price of the permanent easement and temporary construction easement is \$775,200.00. An appraisal provided by a licensed appraiser established the appraised value for the real property interests as \$417,156.00 as of August 1, 2017. The owner accepted this value for the real property interests. Subsequent to this appraisal, \$358,028.00, has been added to the purchase price to reimburse the owner for one half the actual cost of relocating a City of Milpitas water line that was within a valid city easement and within the area to be acquired by the District. Attached is an itemization of water line relocation costs (Attachment 5). Staff has determined that both the District's project and the owner's development of the overall property requires the water line be relocated to an area outside of the District project. This purchase price represents just compensation of the real property interest being acquired. In addition, as provided in the Right of Way Agreement (Attachment 1), the District will pay all title, escrow and recording costs. These costs are estimated to be about \$3,000.00. Adequate project funds are budgeted in FY18 for this acquisition.

### **CEQA:**

On December 13, 2011, the Board certified the Final Environmental Impact Report (EIR) for the Lower Berryessa Creek Project, Resolution No. 11-78. The Final EIR covered acquisition of permanent and temporary easements required to implement the project, including the subject easements at the Lower Calera Creek element. The "Notice of Determination" is attached (Attachment 6).

**ATTACHMENTS:**

- Attachment 1: Right of Way Agreement
- Attachment 2: Easement Deed
- Attachment 3: Temporary Construction Easement
- Attachment 4: HSLA Waiver Memorandum
- Attachment 5: Itemization of Water Line Relocation Costs
- Attachment 6: Notice of Determination

**UNCLASSIFIED MANAGER:**

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