



# Santa Clara Valley Water District

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**File No.:** 21-0339

**Agenda Date:** 5/11/2021

**Item No.:** 6.3.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Acquisition of Real Property from Srinivasarao B. Parimi and Madhavi Rao Parimi, for the Coyote Creek Flood Management Measures Project as part of the Federal Energy Regulatory Commission Order Compliance Project, under the Anderson Dam Seismic Retrofit Project No. 91864005, APN 467-29-038 and 467-29-039, Real Estate File No. 4021-285. (San Jose) (District 2).

### **RECOMMENDATION:**

Approve and authorize the Chief Executive Officer (CEO) to execute the Right of Way Agreement No. 4021-285; and to accept the Grant Deed No. 4021-285.

### **SUMMARY:**

Santa Clara Valley Water District (Valley Water) staff recommends acquisition of residential real property located at 48-60 South 17<sup>th</sup> Street and 70 South 17<sup>th</sup> Street, in San Jose, California owned by Srinivasarao B. Parimi and Madhavi Rao Parimi according to the terms of Right of Way Agreement No. 4021-285 (Attachment 1). These two adjacent properties are shown on the plat and description of Grant Deed No. 4021-285 (Attachment 2). Acquisition of these properties is necessary to implement flood risk reduction elements of the Coyote Creek Flood Management Measures Project (CCFMMP) including restoring these real properties to a natural riparian corridor along Coyote Creek.

### **PROJECT BACKGROUND**

Valley Water's Board committed to prioritize and accelerate a portion of the Coyote Creek Flood Protection Project (CCFPP) to implement flood improvements along Coyote Creek to protect against a flood event equivalent to the February 2017 flood or approximately a 20-year flood event. The CCFPP project limits comprise approximately nine miles of Coyote Creek, between Montague Expressway and Tully Road, all within the City of San José. Construction of the CCFPP is expected to be completed by November 2025.

The Federal Energy Regulatory Commission (FERC) has jurisdiction over Anderson Dam, located on Coyote Creek in Morgan Hill, and its associated safety measures. Pursuant to FERC's authority, for public health and safety reasons, on February 20, 2020, Valley Water received an Order from FERC to further reduce risks to public safety by implementing certain risk reduction measures for dam operation and design. These measures include the construction of the Anderson Dam Tunnel Project (ADTP) anticipated to be completed in December of 2023. As a result of the water releases from the

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tunnel after its completion, flood management measures, including the elements identified by the CCFMMP are necessary to prevent flooding within urbanized areas of San José. Valley Water identified the CCFMMP, which is approximately 40-percent of the CCFPP, in response to the FERC Order. The CCFMMP will be constructed by December 2023.

The overall flood risk reduction objective protecting areas of Coyote Creek against a flood event approximately equivalent to the February 2017 flood event will be met by the completion of both the CCFMMP and the CCFPP. This combination is referred to as the “Project.”

During the planning process, the flood reduction alternatives for certain low-lying homes along Coyote Creek were narrowed down to either home elevation or acquisition and restoration to natural riparian habitat. Each identified low-lying property would be evaluated further during the design phase, while also soliciting the owner’s preference, to determine the most suitable of the two alternatives for each property.

The properties located at 48-60 South 17<sup>th</sup> Street and 70 South 17<sup>th</sup> Street, have been identified as properties where flood reduction measures of either elevation or acquisition and restoration to natural riparian habitat are required. As a result of Valley Water public outreach, Mr. Srinivasarao B. Parimi and Madhavi Rao Parimi, owners of these properties, learned of the project and approached Valley Water for additional information about the possibility of selling one or both properties to Valley Water.

Both Valley Water Real Estate and Design staff studied and discussed the benefits of an early acquisition of the Parimi properties. It was determined by the Project team that acquiring these two properties now will expedite real estate related tasks on this urgent and fast-paced project and reduce the risks of higher project costs due to rising property values and other unknown factors. Valley Water Real Estate staff initiated the process of a voluntary acquisition and ordered title reports and appraisals.

The properties are presently rental units occupied by four separate tenants. Valley Water will continue to rent the properties until the Project requires that the properties be vacated. It is anticipated that the properties will need to be vacated by July 2022. The current tenants will be entitled to relocation payments and assistance provided by Valley Water. Associated Right of Way Services (AR/WS), Valley Water’s consultant, is currently conducting a market study and developing a relocation plan that will be presented to the Board for review and approval at a future Board meeting. The tenants of the Properties will not be asked to vacate until after said relocation plan has been approved by the Board, and tenants will be given a minimum of 90 days advanced written notice to move, as required by the Uniform Relocation Act. After receiving separate appraisals for each property from Valley Water’s independent licensed appraiser, Valley Water made separate offers through its representative, AR/WS, to acquire both properties at the appraised values, totaling \$3,175,000.00. Consistent with Valley Water Board governance policies, the owners and Staff have negotiated and have agreed to sell both properties to Valley Water for a total price of \$3,492,500.00.

While the property owners have an option to obtain an independent appraisal, the owners have chosen to forego this independent appraisal.

In summary, the planning phase identified nine low-lying properties in the CCFFMP that would need to be either elevated or acquired, based on a feasibility analysis to take place during the design phase and while also soliciting the owner's desired option. The owners of 48-60 South 17th Street and 70 South 17th Street have approached Valley Water to voluntarily sell the properties and would like to complete the sale of the properties by the end of June 2021. By acquiring two of the nine identified properties early in the project, Valley Water stands to benefit both financially through cost savings and schedule, and associated staff coordination time.

Staff believes that \$3,492,500.00 represents a fair negotiated settlement within a reasonable price range. Due to the short time frame associated with the design and construction phases of the CCFMMP due to its connection with the ADTP schedule, staff recommends that the Board approve the proposed compensation and the terms of the right-of-way agreement.

**FINANCIAL IMPACT:**

The Anderson Dam Seismic Retrofit Project No. 91864005 is included in the current Five-Year 2021-25 Capital Improvement Program (CIP) and the Draft Five-Year 2022-26 CIP, and in the Board-adopted FY 2020-21 Budget. The purchase price of the two properties is \$3,492,500.00 and there is sufficient funding in the Project's Fiscal Year 2020-21 budget to encumber this purchase. The Project is funded by Water Utility Enterprise Fund (Fund 61).

**CEQA:**

This project is exempt pursuant to CEQA Guidelines §15325 which exempts transfer of ownership of interests in land to prevent encroachment of development into flood plains. This acquisition is also part of the Federal Energy Regulatory Commission Order Compliance Project (FOCP) and therefore qualifies for the statutory exemption under CEQA guidelines Section §15269 and under Public Resources Code §21080(b)(4) which exempts Emergency Projects to prevent or mitigate an emergency. Any future activities on these properties would undergo full CEQA review prior to implementation.

**ATTACHMENTS:**

Attachment 1: Right of Way Agreement No. 4021-285  
Attachment 2: Grant Deed No. 4021-285

**UNCLASSIFIED MANAGER:**

Rechelle Blank, 408-630-2615