

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BBB*  
DATE: OCTOBER 6, 2006

**AGENDA ITEM**  
**E-3**  
**OCT. 11, 2006**

WATERLINE INTERTIE PROJECT HYDRAULIC MODELING

**ITEM**

Consider Authorizing Funding for Hydraulic Modeling by the City of Santa Maria regarding the Waterline Intertie Project (Recommend Approval).

**BACKGROUND**

The City of Santa Maria has requested that the District contribute funding for hydraulic modeling work detailed in the attached proposal by Carollo Engineers to answer the questions posed by Boyle Engineering regarding the capability of the City to provide supplemental water to NCSD at varying demands and at varying take schedules. The City has agreed to pay for Tasks 1 (\$3,781) and 2 (\$6,500) since they would need to perform this work when they were ready to revise the model, however the City wants NCSD to pay for the balance of the analysis (\$44,676) since they would not otherwise do this work.

Mike Nunley of Boyle Engineering has reviewed Carollo's proposal and he believes that the cost for the work involved is reasonable. Mr. Nunley further believes that this work is essential in order to proceed with the final design of the project and that Carollo is the appropriate expert to conduct the work.

Both Jon Seitz and Jim Markman have reviewed the MOU with the City of Santa Maria and both have advised that the MOU is silent as to the relative responsibilities of the two parties in regards to performing hydraulic modeling.

**RECOMMENDATION**

Staff believes that the proposed modeling should be done so that both parties can determine the capabilities of the City to deliver water to NCSD at different locations, at different flows, and at different take schedules. This information is critical to designing the project and understanding the benefits of the project to the District. Staff recommends that the Board approve payments of up to \$44,676 to the City to reimburse the City for Carollo's actual costs to perform Tasks 3 through 9 based on the City's payment for Tasks 1 and 2. Funds for this expenditure should be charged to the Supplemental Water Fund.

**ATTACHMENTS**

CAROLLO PROPOSAL FOR HYDRAULIC MODELING

**CITY OF SANTA MARIA  
WATER MODEL UPDATE TO INCORPORATE WATER DELIVERY TO THE  
NIPOMO COMMUNITY SERVICES DISTRICT**

**SCOPE OF WORK**

**BACKGROUND AND PURPOSE**

Carollo Engineers (CONSULTANT) prepared the Utility Plan Update, Water and Sewer Section, for the City of Santa Maria (CITY) in May 2002. The water system was analyzed based on the Water Atlas and new development plans and was modeled using H2O Net Analyzer Version 6 by MWHSoft. Peak day extended period simulations for Present, 5-Year, 10-Year and Build-Out conditions were conducted. The Nipomo Community Services District (NCSD) would like to supplement its water supply with up to 3,000 acre feet per year beginning in approximately 2009 with the potential to increase this amount to 6,300 acre feet per year in the future. The CITY wants to study the feasibility of delivering these volumes to NCSD at the north end of Blosser Road. The delivery to NCSD will be based on criteria outlined by Boyle Engineering. Time frames will include Present, 5-Year, 10-Year and Build Out.

**SCOPE OF WORK**

**Task 1 - Land Use**

CONSULTANT will review current planned land uses and development time frames with the CITY'S Community Development Department. The Land Use and Planning Map will be updated and modified as necessary to reflect the new land uses, acreages and development time frames.

**Task 2 - Flow Factors**

CONSULTANT will analyze monthly water billing summaries for the categories of Single Family Residential, Multi-Family Residential, Commercial/Institutional, Industrial and Other, estimated per capita water usage rates for various residential types (single family, multi-family, condominiums, senior) and household densities for each residential zone to develop average annual and peak day water flow factors. Billing data, estimated per capita water usage rates and housing projections and density will be supplied by the CITY.

**Task 3 - Operational Assessment**

CONSULTANT will review the operations of the water system with City personnel including the State Water delivery, well production and reservoir management. This includes flow and pressure variations at the State Water Turnout and the Blending and Disinfection Facility, locations of consumer complaints, i.e., low pressures, and historical pressure data at monitoring locations around the City.



#### **Task 4 - Modeling**

CONSULTANT will run Present, 5-Year, 10-Year and Build Out scenarios. The Present model will be used for calibration. Models for 5-Year, 10-Year and Build Out with and without the delivery to NCSD will be run for comparison to determine impacts within the distribution system attributable to the NCSD delivery. Fire-flow analyses will also be run. The updated model prepared by Boyle Engineering that incorporates new development in the northwest portion of the City will be used as the base model. Demands will be updated based on the revised unit flow factors. The models results will include the age of water within the distribution system with and without the NCSD delivery. CONSULTANT will determine the impacts within the distribution system and determine the required upgrades for each time frame.

#### **Task 5 - Cost Estimates**

CONSULTANT will develop planning level cost estimates for any City upgrades required for the 5-Year, 10-Year and Build Out time frames based on today's dollars.

#### **Task 6 - Report**

CONSULTANT will prepare a draft report of the findings. Upon receipt of comments from the CITY, CONSULTANT will make accepted revisions in a final report.

#### **Task 7 - Meetings**

CONSULTANT will attend two meetings. One meeting will be with the Community Development Department. The second meeting will be with CITY staff, NCSD and Boyle Engineering to present the preliminary findings.

#### **Task 8 - On-Call Services**

CONSULTANT will be available to review additional information as necessary concerning the implementation of the delivery of water to NCSD. CONSULTANT will attend two meetings as needed.

#### **Task 9 - Deliverables**

Draft Report - 5 copies including revised Land Use and Planning Map  
Final Report - 10 copies including revised Land Use and Planning Map

**CITY OF SANTA MARIA**  
**WATER MODEL UPDATE TO INCORPORATE DELIVERY TO NIPOMO COMMUNITY SERVICES DISTRICT**

WORK ELEMENT	Wood	Wilcox	Engineer I	CADD	WP	Other Direct Costs	Total
Task 1- Land Use		10		16		\$ 221	\$ 3,781
Task 2 - Flow Factors (including Model update)		24	16			\$ 340	\$ 6,500
Task 3 - Operational Assessment		8				\$ 68	\$ 1,508
Task 4 - Modeling		24	80			\$ 884	\$ 14,404
Task 5 - Cost Estimates		8				\$ 68	\$ 1,508
Task 6 - Report	2	8	8	2	8	\$ 238	\$ 3,864
Task 7 - Meetings	16	16				\$ 2,834	\$ 9,154
<b>TASK SUBTOTAL</b>	<b>18</b>	<b>98</b>	<b>104</b>	<b>18</b>	<b>8</b>		<b>\$ 40,719</b>
<b>RATE</b>	\$ 215	\$ 180	\$ 115	\$ 110	\$ 77		
<b>TASKS 1 THROUGH 7 TOTAL</b>	<b>\$ 3,870</b>	<b>\$ 17,640</b>	<b>\$ 11,960</b>	<b>\$ 1,980</b>	<b>\$ 616</b>	<b>\$ 4,653</b>	<b>\$ 40,719</b>
Task 8 - On-Call Services	16	40				\$ 3,598	\$ 14,238
<b>RATE</b>	\$ 215	\$ 180	\$ 115	\$ 110	\$ 77		
<b>TASK 8 TOTAL</b>	<b>\$ 3,440</b>	<b>\$ 7,200</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 3,598</b>	<b>\$ 14,238</b>
<b>ALL TASKS TOTAL</b>	<b>\$ 7,310</b>	<b>\$ 24,840</b>	<b>\$ 11,960</b>	<b>\$ 1,980</b>	<b>\$ 616</b>	<b>\$ 8,251</b>	<b>\$ 54,957</b>

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: OCTOBER 6, 2006

**AGENDA ITEM**  
**E-4**  
**OCT. 11, 2006**

STRUCTURE STRATEGIC PLAN WORKSHOP

**ITEM**

Receive recommendation from Strategic Plan Steering Committee, set date for workshop and authorize retention of facilitator. (Recommend approval).

**BACKGROUND**

The Strategic Plan Steering Committee (President Vierheilg and Vice-President Winn) met on October 2, 2006. The Steering Committee recommended that the District retain Mr. Charles Beesley to facilitate the workshop (See attached proposal) and that the Workshop be held on Saturday December 9, 2006 at the Blacklake Community Room (if the room can be secured). The Steering Committee's fallback date would be December 2, 2006 should December 9, 2006 not be acceptable to the Board. The Steering Committee further recommended that the Workshop include a review of the potential CSD powers set forth in the CSD Law by staff and a description of land use and circulation planning for Nipomo by the County.

As described in Mr. Beesley's proposal, he is willing to perform the described tasks on a flat fee plus expenses basis with his flat fee at \$2,500 for the workshop and the action plan.

President Vierheilg, Vice President Winn, and/or staff will summarize these recommendations at the Board Meeting and answer questions as appropriate.

**RECOMMENDATION**

It is recommended that your Honorable Board receive the presentation, agree to hold the workshop, select a date for the workshop, authorize staff to retain Mr. Beesley for this work on the terms and conditions set forth in the attached proposal and direct staff to work out all of the details.

**ATTACHMENTS**

BEESLEY PROPOSAL

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## CHARLES BEESLEY

620 Timberleaf Court  
Walnut Creek, CA 94598

Special District Consulting

Phone/Fax 925-935-1270  
cbeesley2001@yahoo.com

September 13, 2006

Bruce Buel, General Manager  
Nipomo Community Services District  
148 S. Wilson Street  
Nipomo  
CA 93444-5320

Dear Bruce:

### **SUBJECT: WORKSHOP PROPOSAL**

As per our discussion September 12, 2006, you had indicated the Board of Directors (Board) of Nipomo Community Services District (District) is considering a Planning Workshop (Workshop) and is interested in having an outside facilitator conduct the Workshop. Let me first express my appreciation for your District's interest in my services. Workshop participants find my "hands on experience" from managing a public agency during the ups and downs of the last 25 years very relevant. I understand their issues and needs and the difficulties special districts face. People attending my workshops have expressed that my style is both effective and helpful for the participants and that the workshops result in a strong consensus that supports identified goals, objectives and action plans. This provides the foundation for workshop success and participant follow up.

You requested that I submit a proposal to conduct the Workshop. The date, time and location have yet to be determined, but it is expected to occur in the community of Nipomo during the latter part of November or December, 2006. Listed below is the proposed scope of services and fees. I have also attached a biography, a draft agenda for the Workshop and a list of relevant clients and references. Please note this proposal is preliminary, and may change based upon further input with the District. I am sending this letter via email as per your request to expedite matters, and will send a signed copy plus business cards and pamphlets for your files.

### **Proposed Scope of Services and Fees**

Board and Management Interviews – Telephone interviews with the Board President, General Manager, including a conference call with other Board members or staff if needed, to review issues and develop an appropriate agenda: No Charge.

Prepare for and Facilitate the Planning Workshop – Two Thousand Dollars (\$2,000). A one-day Workshop for approximately six to ten people: the Board of Directors, General Manager and other relevant staff. The meeting will be open to the public as per the Ralph M. Brown Act. Fees include Workshop preparation, Agenda, background information and facilitation.

Prepare Workshop Report – Five Hundred Dollars (\$500). The District will receive a Draft Report for review and discussion within three weeks of the Workshop. Upon Draft Report feedback, a Final Report will then be submitted for Board review and approval. This report is optional, but is recommended as a District reference document that can also be used as a performance measurement tool.

Estimated Travel Expenses – Five Hundred Dollars (\$500). Fees include mileage to and from the Workshop, meals and lodging. District will be billed for actual expenses unless a Fixed Fee Cost for the entire Proposal is preferred.

If you have any questions please feel free to contact me.

Sincerely,

Charles Beesley  
Special District Consulting



## CHARLES BEESLEY

620 Timberleaf Court.  
Walnut Creek, CA 94598

Special District Consulting

Phone/Fax 925-935-1270  
cbeesley2001@yahoo.com

Dr. Charles (Chuck) Beesley retired as General Manager of the Contra Costa Mosquito & Vector Control District in March 2001 after twenty seven years in public service, and began a new career as a consultant to special districts for management, planning, regulatory, and local government issues. He is utilizing his management skills and experience to facilitate planning, board/management, and teambuilding workshops.

Dr. Beesley became the General Manager of the Contra Costa Mosquito and Vector Control District in 1978. He was trained as an entomologist but adjusted to the challenges of management and led a low profile mosquito abatement district from the brink of extinction after Proposition 13, to a well respected, county-wide mosquito and vector control district. Under his leadership, the district successfully consolidated two mosquito control agencies to become county-wide; absorbed like services from the county for improved efficiencies; built a comprehensive headquarters with state of the art laboratories to test for new and emerging insect-borne diseases; and offset a forty five percent (45%) loss of revenues to the State of California with a per parcel benefit assessment for three hundred thousand (3000,000) parcels throughout the county, to maintain operational and emergency capabilities and expand programs.

Dr. Beesley has been very active in local government issues and studies such as funding allocations and reorganization studies and has represented special districts before legislative committees. He has also served on the boards of local, state and national, administrative and technical, organizations and served two terms (2000-2002) as the President of the California Special Districts Association (CSDA).

Dr. Beesley has experience dealing with diverse groups of people, including his own large governing board (twenty two members). He successfully introduced, and established, interest based bargaining to represent employees as an option to the traditional meet and confer negotiation process. The interest based approach develops common principles to reach agreements rather than focusing on differences between labor and management. This process is often incorporated into his workshops to reconcile conflicting interests, reach agreements and develop action plans.

Dr. Beesley has facilitated planning workshops for state and national associations and led his own special district through several successful strategic planning workshops. He is now a consultant to special districts and conducts planning, teambuilding, and General Manager training workshops, and is currently a presenter for the CSDA Governance Academy. He also performs special studies for districts on a variety of issues, such as service reviews and expansions.



## CHARLES BEESLEY

620 Timberleaf Court  
Walnut Creek, CA 94598

Special District Consulting

Phone/Fax 925-935-1270  
cbeesley2001@yahoo.com

### PARTIAL LIST OF REFERENCES


<u>Name</u>	<u>Title</u>	<u>Agency/Address</u>	<u>Phone Number</u>
David Aranda	General Manager	Stallion Springs CSD 28500 Stallion Springs Drive Tehachapi, CA 93561	661-822-3268
Pete Kampa	General Manager	General Manager Twain Harte CSD P.O. Box 649 Twain Harte, CA 95383	209-586-3172
Bill Miller	General Manager	North of the River Municipal Water District 4000 Rio Del Norte Street Bakersfield, CA 93308	661-393-5411
Stacey Mortensen	Executive Director	San Joaquin Regional Rail Commission, Altamont Commuter Express (ACE) 949 E. Channel Street Stockton, CA 95202	209-944-6221
Tom Mulvihill	General Manager	Indian Wells Valley Water District 500 W. Ridgecrest Blvd. Ridgecrest, CA 93556	760-384-5555
Craig Murray, P.E.	General Manager	Carpinteria Sanitary District 5300 Sixth Street Carpinteria, CA 93013	805-684-7214
Michael Payne	General Manager	Yorba Linda Water District 4622 Plumosa Drive Yorba Linda CA 92886	714-777-3018
John Yeakley	General Manager	Bear Valley CSD 28999 South Lower Valley Rd Tehachapi, CA 93561-9637	661-821-4428

**NIPOMO COMMUNITY SERVICES DISTRICT  
PLANNING WORKSHOP**

**DRAFT AGENDA**

<u>Time</u>	<u>Item</u>	<u>Description</u>	<u>Person</u>
8:30 AM	1	Welcome and introductions	Board President, GM
8:35	2	Workshop format and process	Facilitator
8:40	3	Board and staff expectations	“ “
9:00	4	Review Strategic Planning Principles	“ “
9:30	6	Identify issues, priorities	
10:00		BREAK	
10:15	7	Discuss issues, priorities	Facilitator
11:00	8	Develop action plans	“ “
12:00 PM		LUNCH	
12:30	9	Finalize action plans	“ “
3:00	10	Review any outstanding issues	“ “
3:15	11	Summarize agreements	“ “
3:30	12	Review Board and staff expectations	“ “
4:00	13	Adjourn	Board President
4:05	14	Post workshop review	Facilitator President, GM



TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL   
DATE: OCTOBER 6, 2006

**AGENDA ITEM  
E-5  
OCT. 11, 2006**

CONSIDER OPPOSING PROPOSITION 90

**ITEM**

Consider Opposing Proposition 90 on the November 7, 2006 Statewide Ballot (Recommend Adopting Oppose Position).

**BACKGROUND**

Attached is the State Attorney General's Analysis of Proposition 90 including a reprint of the text of Proposition 90. As described in the attachment, Proposition 90 would re-write the state constitution to restructure the process and the standards that public agencies would use when they propose to take private land for public purpose through the eminent domain process. As drafted, Proposition 90 would substantially increase the cost for public works projects and add substantial uncertainty to the feasibility of building public works projects. In regards to NCSD, passage of Proposition 90 would increase the cost of future water and sewer projects and increase the difficulty of implementing capital improvement upgrades such as water line looping.

**RECOMMENDATION**

Staff believes that Proposition 90 creates unreasonable barriers to implementation of public works projects and would substantially add to the cost of future NCSD Public Works Projects. Staff recommends that your Honorable Board adopt an Oppose Position on Proposition 90.

**ATTACHMENTS**

PROPOSITION 90 ANALYSIS

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**GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY. INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Bars state and local governments from condemning or damaging private property to promote other private projects or uses.
- Limits government's authority to adopt certain land use, housing, consumer, environmental and workplace laws and regulations, except when necessary to preserve public health or safety.
- Voids unpublished eminent domain court decisions.
- Defines "just compensation."
- Government must occupy condemned property or lease property for public use.
- Condemned private property must be offered for resale to prior owner or owner's heir at current fair market value if government abandons condemnation's objective.
- Exempts certain governmental actions.

**Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Increased annual state and local government costs to pay property owners for (1) losses to their property associated with certain new laws and rules, and (2) property acquisitions. The amount of such costs is unknown, but potentially significant on a statewide basis.

**ANALYSIS BY THE LEGISLATIVE ANALYST****SUMMARY**

This measure amends the California Constitution to:

- Require government to pay property owners for substantial economic losses resulting from some new laws and rules.
- Limit government authority to take ownership of private property.

This measure applies to all types of private property, including homes, buildings, land, cars, and "intangible" property (such as ownership of a business or patent). The measure's requirements apply to all state and local governmental agencies.

cover a variety of government requirements, including statutes, ordinances, and regulations.)

In some cases, government requirements can reduce the value of private property. This can be the case, for example, with laws and rules that (1) limit development on a homeowner's property, (2) require industries to change their operations to reduce pollution, or (3) restrict apartment rents.

**PROPOSAL**

This measure requires government to pay property owners if it passes certain new laws or rules that result in substantial economic losses to their property. Below, we discuss the types of laws and rules that would be exempt from the measure's requirements and those that might require government compensation.

**What Laws and Rules *Would Not* Require Compensation?**

All *existing* laws and rules would be exempt from the measure's compensation requirement. New laws

State and local governments pass laws and other rules to benefit the overall public health, safety, or welfare of the community, including its long-term economy. (In this analysis, we use the term "laws and rules" to



★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

and rules also would be exempt from this requirement if government enacted them: (1) to protect public health and safety, (2) under a declared state of emergency, or (3) as part of rate regulation by the California Public Utilities Commission.

**What Laws and Rules *Could* Require Compensation?**

While the terms of the measure are not clear, the measure provides three examples of the types of new laws and rules that could require compensation. These examples relate to land use and development and are summarized below.

- ***Downzoning Property.*** This term refers to decisions by government to reduce the amount of development permitted on a parcel. For example, a government action to allow construction of three homes on an acre where five homes previously had been permitted commonly is called “downzoning.”
- ***Limitations on the Use of Private Air Space.*** This term generally refers to actions by government that limit the height of a building. For example, a government rule limiting how tall a building may be to preserve views or maintain historical character often is called a limitation of “air space.”
- ***Eliminating Any Access to Private Property.*** This term could include actions such as closing the only public road leading to a parcel.

In addition to the examples cited above, the broad language of the measure suggests that its provisions could apply to a variety of future governmental requirements that impose economic losses on property owners. These laws and rules could include requirements relating, for example, to employment conditions, apartment prices, endangered species, historical preservation, and consumer financial protection.

**Would Government Pay Property Owners for All Losses?**

Under current law and court rulings, government usually is required to compensate property owners for losses resulting from laws or rules if government’s action deprives the owners of virtually all beneficial use of the property.

This measure specifies that government must pay property owners if a new law or rule imposes “substantial economic losses” on the owners. While the measure does not define this term, dictionaries define “substantial” to be a level that is fairly large or considerable. Thus, the measure appears to require government to pay property owners for the costs of many more laws and rules than it does today, but would not require government to pay for smaller (or less than substantial) losses.

**EFFECTS ON STATE AND LOCAL GOVERNMENTS**

The measure’s provisions regarding economic losses could have a major effect on future state and local government policymaking and costs. The amount and nature of these effects, however, is difficult to determine as it would depend on how the courts interpreted the measure’s provisions and how the Legislature implemented it. Most notably:

- ***How Many Laws and Rules Would Be Exempt From the Requirement That Government Pay Property Owners for Losses?*** The measure does not require government to compensate property owners under certain circumstances (such as actions to protect public health and safety). If these exemptions were interpreted broadly (rather than narrowly), fewer new laws and rules could require compensation.
- ***How Big Is a Substantial Economic Loss?*** If relatively small losses (say, less than a 10 percent reduction in fair market value) to a property owner required compensation, government could be required to pay many property owners for costs resulting from new laws and rules. On the other hand, if courts ruled that a loss must exceed 50 percent of fair market value to be a substantial economic loss, government would be required to pay fewer property owners.

Under the measure, state and local governments probably would modify their policymaking practices to try to avoid the costs of compensating property owners for losses. In some cases, government might decide not to create laws and rules because of these costs. In other cases, government might take alternative approaches to achieving its goals. For example, government could:



ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

- Give property owners incentives to voluntarily carry out public objectives.
- Reduce the scope of government requirements so that any property owners' losses were not substantial.
- Link the new law or rule directly to a public health and safety (or other exempt) purpose.
- Restricting the purposes for which government may take property.
- Increasing the amount that government must pay property owners.
- Requiring government to sell property back to its original owners under certain circumstances.

There probably would be many cases, however, where government would incur additional costs as a result of the measure. These would include situations where government anticipated costs to compensate property owners at the time it passed a law—as well as cases when government did not expect to incur these costs. The total amount of these payments by government to property owners cannot be determined, but could be significant on a statewide basis.

Below, we discuss the major changes proposed by the measure, beginning with the situations under which government could—and could not—take property.

### Under What Circumstance Could Government Take Property?

Under the measure, government could take private property to build public roads, schools, parks, and other government-owned public facilities. Government also could take property and lease it to a private entity to provide a public service (such as the construction and operation of a toll road). If a public nuisance existed on a specific parcel of land, government could take that parcel to correct the public nuisance. Finally, government could take property as needed to respond to a declared state of emergency.

### LIMITING GOVERNMENT AUTHORITY TO TAKE PROPERTY

Eminent domain (also called “condemnation”) is the power of local, state, and federal governments to take private property for a public use so long as government compensates the property owner. (In some cases, government has given the power of eminent domain to private entities, including telephone and energy companies and nonprofit hospitals. In this analysis, these private entities are included within the meaning of “government.”)

### What Property Takings Would Be Prohibited?

Before taking property, the measure requires government to state a “public use” for the property. The measure narrows the definition of public use in a way that generally would prevent government from taking a property:

Over the years, government has taken private property to build roads, schools, parks, and other public facilities. In addition to these uses of eminent domain, government also has taken property for public purposes that do not include construction of public facilities. For example, government has taken property to: help develop higher value businesses in an area, correct environmental problems, enhance tax revenues, and address “public nuisances” (such as hazardous buildings, blight, and criminal activity).

- **To Transfer It to Private Use.** The measure specifies that government must maintain ownership of the property and use it only for the public use it specified when it took the property.
- **To Address a Public Nuisance, Unless the Public Nuisance Existed on That Particular Property.** For example, government could not take *all* the parcels in a run-down area unless it showed that each and every parcel was blighted.
- **As Part of a Plan to Change the Type of Businesses in an Area or Increase Tax Revenues.** For example, government could not take property to promote development of a new retail or tourist destination area.

### PROPOSAL

This measure makes significant changes to government authority to take property, including:



★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

In any legal challenge regarding a property taking, government would be required to prove to a jury that the taking is for a public use as defined by this measure. In addition, courts could not hold property owners liable to pay government's attorney fees or other legal costs if the property owner loses a legal challenge.

**How Much Would Government Have to Pay Property Owners?**

Current law requires government to pay "just compensation" to the owner before taking property. Just compensation includes money to reimburse the owner for the property's "fair market value" (what the property and its improvements would sell for on an open market), plus any reduction in the value of remaining portions of the parcel that government did not take. State law also requires government to compensate property owners and renters for moving costs and some business costs and losses.

The measure appears to increase the amount of money government must pay when it takes property. Under the measure, for example, government would be required to pay more than a property's fair market value if a greater sum were necessary to place the property owner "in the same position monetarily" as if the property had never been taken. The measure also appears to make property owners eligible for reimbursement for a wider range of costs and expenses associated with the property taking than is currently the case.

**When Would Government Sell Properties to Former Owners?**

If government stopped using property for the purpose it stated at the time it took the property, the former owner of the property (or an heir) would have the right to buy back the property. The property would be assessed for property tax purposes as if the former owner had owned the property continuously.

**EFFECTS ON STATE AND LOCAL GOVERNMENTS**

Government buys many hundreds of millions of dollars of property from private owners annually.

Relatively few properties are acquired using government's eminent domain power. Instead, government buys most of this property from *willing* sellers. (Property owners often are aware, however, that government could take the property by eminent domain if they did not negotiate a mutually agreeable sale.)

A substantial amount of the property that government acquires is used for roads, schools, or other purposes that meet the public use requirements of this measure—or is acquired to address specific public nuisances. In these cases, the measure would not reduce government's authority to take property. The measure, however, likely would increase somewhat the amount that government must pay property owners to take their property. In addition, the measure could result in willing sellers increasing their asking prices. (This is because sellers could demand the amount that they would have received if the property were taken by eminent domain.) The resulting increase in government's costs to acquire property cannot be determined, but could be significant.

The rest of the property government acquires is used for purposes that do not meet the requirements of this measure. In these cases, government could not use eminent domain and could acquire property only by negotiating with property owners on a voluntary basis. If property owners demanded selling prices that were more than the amount government previously would have paid, government's spending to acquire property would increase. Alternatively, if property owners did not wish to sell their property and no other suitable property was available for government to purchase, government's spending to acquire property would decrease.

Overall, the net impact of the limits on government's authority to take property is unknown. We estimate, however, that it is likely to result in significant net costs on a statewide basis.



PROP 90 GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY.  
INITIATIVE CONSTITUTIONAL AMENDMENT. ★ ★ ★

ARGUMENT IN FAVOR OF PROPOSITION 90

*Proposition 90 stops eminent domain abuse!*

Local governments can take homes, businesses, and churches through unfair use of eminent domain. They can also take away your property value with the stroke of a pen.

We are three average Californians, and it happened to us.

Local governments unfairly tried to take our property away from us and turn it over to developers to build condos, hotels, and other commercial projects.

Why? Because these developers are politically connected, and their projects will generate more tax revenue for local governments.

*If government can take our property, it can take yours too.*

- Manuel Romero had eminent domain used against his family restaurant so that a Mercedes-Benz dealership next door could use the space for a parking lot.
- Bob Blue had eminent domain used against his small luggage store—in his family for almost sixty years—so that a luxury hotel could be built.
- Pastor Roem Agustin had his church threatened with condemnation so that a developer could build condominiums.

It's wrong for senior citizens, small business owners, or anyone who can't fight back to be forced to give up their property so wealthy developers can build giant retail stores, shopping malls, and upscale housing developments.

*Government can also take property without compensating property owners.*

When governments pass regulations that reduce the value of your property, it's called regulatory taking. When this happens you should be compensated by the government for your lost value.

Government should not be able to take your home—outright or through regulations that reduce the value of your property—without it being for a legitimate PUBLIC use and without paying for what it takes.

That's simple fairness.

*That's why California needs Proposition 90, the Protect Our Homes Act.*

Proposition 90 will:

- restore homeowners' rights that were gutted last year by the Supreme Court's outrageous *Kelo* decision. That ruling allows eminent domain to be used to take homes and businesses and turn them over to private developers.
- return eminent domain to legitimate public uses, such as building roads, schools, firehouses, and other needs that serve the public and not the financial interests of the government and powerful developers.
- restrict government's ability to take away people's use of their property without compensating them.

*Those who benefit financially from the status quo are spending millions to mislead voters and claim the sky is falling.*

Opponents are engaging in scare tactics in order to divert attention from their REAL MOTIVE—maintaining the status quo so they can continue to profit from taking our private property.

For example, opponents falsely claim that the measure will hurt the enforcement of environmental regulations. But all existing California environmental laws and regulations are expressly protected.

The Protect Our Homes Act protects *all of us*—and helps families for future generations—while stopping government from taking your property simply to boost tax revenue.

*Save our homes and businesses.*

Please vote YES on Proposition 90.

For more information, visit [www.protectourhomes2006.com](http://www.protectourhomes2006.com).

**MANUEL ROMERO**, Eminent Domain Abuse Victim

**BOB BLUE**, Eminent Domain Abuse Victim

**PASTOR ROEM AGUSTIN**, Eminent Domain Abuse Victim

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 90

Of course we can all agree that Californians deserve protection from eminent domain abuse. And, if Prop. 90 was a well-designed reform of eminent domain, many thoughtful Californians would support it.

However, the out-of-state drafter of Prop. 90 is attempting a bait and switch on voters. This poorly-written proposition is loaded with unrelated and far-reaching provisions that will harm, not protect, homeowners and be very expensive for all California taxpayers.

We can't afford to be misled.

The hidden provisions in Prop. 90 create a new category of lawsuits that allow wealthy landowners and corporations to sue for huge new payouts. These lawsuits and payouts would cost California taxpayers billions of dollars every year.

That's why groups representing taxpayers, homeowners, businesses, police and fire, environmentalists, and farmers all urge you to Vote NO on 90.

THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA says: "*Prop. 90 would fundamentally change our system of*

*representative democracy and put the interests of a few above the well-being of ALL Californians.*"

Prop. 90 is anti-taxpayer and anti-homeowner.

That's why THE LEAGUE OF CALIFORNIA HOMEOWNERS OPPOSES PROP. 90 and says: "*Prop. 90 is a trap that actually hurts homeowners. It would cost taxpayers billions and erode basic laws that protect our communities, our neighborhoods, and the value of our homes.*"

Say NO to the Taxpayer TRAP. Vote NO on 90.

[www.NoProp90.com](http://www.NoProp90.com)

**KENNETH W. WILLIS**, President  
League of California Homeowners

**CHIEF MICHAEL L. WARREN**, President  
California Fire Chiefs Association

**JACQUELINE JACOBBERGER**, President  
League of Women Voters of California

90



GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY. PROP  
★ ★ ★ INITIATIVE CONSTITUTIONAL AMENDMENT. 90

**ARGUMENT AGAINST PROPOSITION 90**

The handful of wealthy landowners that paid to put Prop. 90 on the ballot are trying a classic bait and switch on California voters.

They want you to believe Prop. 90 is about eminent domain. That's the bait. But, hidden in the fine print of the measure is the trap—a far-reaching section unrelated to eminent domain that would lead to huge new costs for *all California taxpayers*.

Prop. 90 would change California's constitution to enable large landowners and corporations to demand huge payouts from state and local taxpayers just by *claiming* a law has harmed the value of their property or business—no matter how important the law may be or far-fetched the claim.

According to William G. Hamm, formerly California's nonpartisan legislative analyst, "PROP. 90 could require **BILLIONS OF DOLLARS IN NEW TAXPAYER COSTS EACH YEAR**, if communities and the state continue to pass or enforce basic laws to protect neighborhoods, limit unwanted development, protect the environment, restrict unsavory businesses, and protect consumers."

With no limit on the total costs, Prop. 90 traps taxpayers into signing a *blank check*. We all pay, while large landowners and corporations reap windfall payouts.

Here's an example of how the "taxpayer trap" works:

If local voters pass a measure to limit a new development to 500 houses—instead of 2,000 houses that a developer *wants* to build—under Prop. 90, the developer could demand a payment for the value of the remaining 1,500 houses. Even if local community services and infrastructure would be strained by the larger development, Prop. 90 would put taxpayers at risk for payment.

Prop. 90 is not just limited to land-use laws. Read the official analysis. Statewide consumer protection laws, restrictions on telemarketing, and worker protections would all trigger new demands for payouts.

As a result, Prop. 90 would lead to thousands of expensive lawsuits that would tie up our courts and result in added bureaucracy and red tape.

The cost of these lawsuits and payouts would rob local communities of billions of dollars in limited resources that fund fire and police protection, paramedic response, schools, traffic congestion relief, and other vital services. That's why the CALIFORNIA FIRE CHIEFS ASSOCIATION, CALIFORNIA POLICE CHIEFS ASSOCIATION, and CALIFORNIA SCHOOL BOARDS ASSOCIATION oppose Prop. 90.

PROP. 90 *would trap taxpayers in a LOSE-LOSE situation*. If communities act to protect their quality of life, taxpayers could be forced to make huge payouts. Or, if communities couldn't afford the payouts, basic quality-of-life protections simply couldn't be enacted. That's why conservation groups, including the CALIFORNIA LEAGUE OF CONSERVATION VOTERS and the PLANNING AND CONSERVATION LEAGUE, warn the measure would drastically limit our ability to protect California's coastline, open spaces, farmland, air and water quality.

For more information on Prop. 90, visit [www.NoProp90.com](http://www.NoProp90.com).

When you vote, please join groups representing California taxpayers, firefighters, law enforcement officers, educators, small businesses, land conservationists, the environment, and homeowners.

Say NO to the TAXPAYER TRAP. Vote NO on PROPOSITION 90.

**CHIEF MICHAEL L. WARREN**, President  
California Fire Chiefs Association

**CHIEF STEVE KRULL**, President  
California Police Chiefs Association

**EDWARD THOMPSON, JR.**, California Director  
American Farmland Trust

**REBUTTAL TO ARGUMENT AGAINST PROPOSITION 90**

**DON'T BE FOOLED BY SPECIAL INTERESTS!!!**

Proposition 90 protects our fundamental right to own—and keep—our homes and private property. It's called the "AMERICAN DREAM," and government should not be in the business of destroying it.

Proposition 90 fixes the Supreme Court's outrageous *Kelo* decision.

Opponents—those who profit most from abusing eminent domain and taking private property—are shamelessly trying to mislead you and distort what Proposition 90 does.

Opponents say read the fine print. WE AGREE. You'll see:

Proposition 90 MAINTAINS EVERY current state and local environmental, consumer protection, and public safety law and regulation. Read Section 6, which states, "the provisions added to this section shall not apply to any statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment."

Proposition 90 HAS NOTHING TO DO with funding for police or firefighters.

The public health and safety are PROTECTED. The Legislature can enact ANY NEW LAW to ensure public health and safety.

Proposition 90 protects YOU from politicians who reward their campaign contributors by taking your private property and giving it to someone else.

The REAL opponents of Proposition 90 are those who profit by TAKING OUR HOMES AND SMALL BUSINESSES—greedy government bureaucrats who want higher taxes and mega-developer campaign contributors who make millions using agricultural land, residential neighborhoods, businesses, and churches seized through eminent domain to develop strip malls and other projects. IF THEY WIN, WE LOSE.

PROTECT OUR HOMES: VOTE YES ON 90.

**MIMI WALTERS**, Honorary Chair  
California Protect Our Homes Coalition

**MARTYN B. HOPPER**, California Director  
National Federation of Independent Business (NFIB)

**JOHN M. REVELLI**, Eminent Domain Abuse Victim



(e)(1) In the case of a corporation that is an "S corporation" for purposes of this part for its first taxable year for which it has in effect a valid federal S election, there shall be allowed as a deduction in determining that corporation's "subchapter C earnings and profits" at the close of any taxable year the amount of any consent dividend (as provided in paragraph (2)) paid after the close of that taxable year.

(2) In the event there is a determination that a corporation described in paragraph (1) has "subchapter C earnings and profits" at the close of any taxable year, that corporation shall be entitled to distribute a consent dividend to its shareholders. The amount of the consent dividend may not exceed the difference between the corporation's "subchapter C earnings and profits" determined under subdivision (d) at the close of the taxable year with respect to which the determination is made and the corporation's "subchapter C earnings and profits" for federal income tax purposes at the same date. A consent dividend must be paid within 90 days of the date of the determination that the corporation has "subchapter C earnings and profits." For this purpose, the date of a determination means the effective date of a closing agreement pursuant to Section 19441, the date an assessment of tax imposed by this section becomes final, or the date of execution by the corporation of an agreement with the Franchise Tax Board relating to liability for the tax imposed by this section. For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part, a corporation must make the election provided in Section 1368(e)(3) of the Internal Revenue Code.

(3) If a corporation distributes a consent dividend, it shall claim the deduction provided in paragraph (1) by filing a claim therefor with the Franchise Tax Board within 120 days of the date of the determination specified in paragraph (2).

(4) The collection of tax imposed by this section from a corporation described in paragraph (2) shall be stayed for 120 days after the date of the determination specified in paragraph (2). If a claim is filed pursuant to paragraph (3), collection of that tax shall be further stayed until the date the claim is acted upon by the Franchise Tax Board.

(5) If a claim is filed pursuant to paragraph (3), the running of the statute of limitations on the making of assessments and actions for collection of the tax imposed by this section shall be suspended for a period of two years after the date of the determination specified in paragraph (2).

SEC. 10. Section 24586 is added to the Revenue and Taxation Code, to read:

24586. (a) The Franchise Tax Board shall annually determine the total amount of the fees generated by increases in the tax rates for tax years beginning January 1, 2007, and thereafter pursuant to Revenue and Taxation Code Sections 23151, 23181, 23183, 23501, and 23811, and notify the Controller of that amount.

(b) The Controller shall transfer the amount determined under subdivision (a), less the direct, actual costs of the Franchise Tax Board and the Controller for the collection and administration of funds under this article, to the California Clean Money Fund, established pursuant to Section 91133 of the Government Code, for use in funding clean and fair elections for non-federal statewide and state legislative elections. Upon appropriation by the Legislature, the Controller shall transfer the amount of reimbursement for direct actual costs incurred by the Franchise Tax Board and the Office of the Controller in the administration of this fund.

(c) All funds deposited in the California Clean Money Fund shall be allocated, in accordance with Section 91133 of the Government Code, to the Fair Political Practices Commission for disbursement for the purposes and in the manner described in Section 91133 of the Government Code.

(d) This section shall remain in effect so long as Chapter 12 (commencing with Section 91015) of Title 9 of the Government Code, also known as the California Clean Money and Fair Elections Act of 2006, requires the establishment and maintenance of the California Clean Money Fund.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 12. This chapter shall be deemed to amend the Political

Reform Act of 1974 as amended and all of its provisions that do not conflict with this chapter shall apply to the provisions of this chapter.

SEC. 13. Severability

(a) The provisions of this act are severable. If any provision or portion of provision of this act or the application of any provision of this act to any person or circumstance is held to be invalid by a court of competent jurisdiction, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application.

(b) In adopting this measure, the People specifically declare that the provision of this act adding Section 91139 to the the Government Code shall be severable from the remainder of this act, and the People specifically declare their desire and intent to enact the remainder of this act even if that provision were not to be given full or partial effect. The People recognize that a Montana law prohibiting corporate contributions or expenditures in connection with a ballot measure election was invalidated in 2000 by a divided panel of the Ninth Circuit Court of Appeals in *Montana Chamber of Commerce v. Argenbright*, but believe that the majority opinion in that case incorrectly interpreted relevant decisions of the United States Supreme Court in this area and that more recent decisions of the Supreme Court support the People's rationale for limiting corporate campaign spending in order to eliminate the distorting effects of corporate wealth on the electoral process. Moreover, the People are adopting the prohibitions in this act based upon an evidentiary record and history of California ballot measure elections that compellingly demonstrates the need for the narrowly tailored restrictions contained herein.

SEC. 14. Construction and Amendment

This act shall be broadly construed to accomplish its purposes. This act may be amended to further its purposes by a statute, passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the California Fair Political Practices Commission for distribution to the news media and to every person who has requested the Commission to send copies of such bills to him or her. Any such amendment must be consistent with the purposes and must further the intent of this act. Notwithstanding this provision, amendments to adjust for changes in the cost of living may be made pursuant to Section 91145.

SEC. 15. Effective Date

This act shall become effective immediately upon its approval by the voters and shall apply to all elections held on or after January 1, 2007.

SEC. 16. Conflicting Ballot Measures

(a) If a conflict exists between the provisions of this measure and the provisions of any other measure approved by the voters at the same election, the provisions of this measure shall take effect except to the extent that they are in direct and irreconcilable conflict with the provisions of such other measure and the other measure receives a greater number of affirmative votes.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting ballot measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting ballot measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and shall be given full force of law.

PROPOSITION 90

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. STATEMENT OF FINDINGS

(a) The California Constitution provides that no person shall be deprived of property without due process of law and allows government to take or damage private property only for a public use and only after payment to the property owner of just compensation.

(b) Despite these constitutional protections, state and local





governments have undermined private property rights through an excessive use of eminent domain power and the regulation of private property for purposes unrelated to public health and safety.

(c) Neither the federal nor the California courts have protected the full scope of private property rights found in the state constitution. The courts have allowed local governments to exercise eminent domain powers to advance private economic interests in the face of protests from affected homeowners and neighborhood groups. The courts have not required government to pay compensation to property owners when enacting statutes, charter provisions, ordinances, resolutions, laws, rules or regulations not related to public health and safety that reduce the value of private property.

(d) As currently structured, the judicial process in California available to property owners to pursue property rights claims is cumbersome and costly.

SEC. 2. STATEMENT OF PURPOSE

(a) The power of eminent domain available to government in California shall be limited to projects of public use. Examples of public use projects include, but are not limited to, road construction, the creation of public parks, the creation of public facilities, land-use planning, property zoning, and actions to preserve the public health and safety.

(b) Public use projects that the government assigns, contracts or otherwise arranges for private entities to perform shall retain the power of eminent domain. Examples of public use projects that private entities perform include, but are not limited to, the construction and operation of private toll roads and privately-owned prison facilities.

(c) Whenever government takes or damages private property for a public use, the owner of any affected property shall receive just compensation for the property taken or damaged. Just compensation shall be set at fair market value for property taken and diminution of fair market value for property damaged. Whenever a property owner and the government cannot agree on fair compensation, the California courts shall provide through a jury trial a fair and timely process for the settlement of disputes.

(d) This constitutional amendment shall apply prospectively. Its terms shall apply to any eminent domain proceeding brought by a public agency not yet subject to a final adjudication. No statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment that results or has resulted in a substantial loss to the value of private property shall be subject to the new provisions of Section 19 of Article I.

(e) Therefore, the people of the state of California hereby enact "The Protect Our Homes Act."

SEC 3. Section, 19 of Article I of the California Constitution is amended to read:

SEC. 19. (a)(1) Private property may be taken or damaged only for a stated public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. Private property may not be taken or damaged for private use.

(2) Property taken by eminent domain shall be owned and occupied by the condemnor, or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased to entities that are regulated by the Public Utilities Commission or any other entity that the government assigns, contracts or arranges with to perform a public use project. All property that is taken by eminent domain shall be used only for the stated public use.

(3) If any property taken through eminent domain after the effective date of this subdivision ceases to be used for the stated public use, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property for the fair market value of the property before the property may be otherwise sold or transferred. Notwithstanding subdivision (a) of Section 2 of Article XIII A, upon reacquisition the property shall be appraised by the assessor for purposes of property taxation at its base year value, with any authorized adjustments, as had been last determined in accordance with Article XIII A at the time the property was acquired by the condemnor.

(4) The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to

be the probable amount of just compensation.

(b) For purposes of applying this section:

(1) "Public use" shall have a distinct and more narrow meaning than the term "public purpose"; its limiting effect prohibits takings expected to result in transfers to nongovernmental owners on economic development or tax revenue enhancement grounds, or for any other actual uses that are not public in fact, even though these uses may serve otherwise legitimate public purposes.

(2) Public use shall not include the direct or indirect transfer of any possessory interest in property taken in an eminent domain proceeding from one private party to another private party unless that transfer proceeds pursuant to a government assignment, contract or arrangement with a private entity whereby the private entity performs a public use project. In all eminent domain actions, the government shall have the burden to prove public use.

(3) Unpublished eminent domain judicial opinions or orders shall be null and void.

(4) In all eminent domain actions, prior to the government's occupancy, a property owner shall be given copies of all appraisals by the government and shall be entitled, at the property owner's election, to a separate and distinct determination by a superior court jury, as to whether the taking is actually for a public use.

(5) If a public use is determined, the taken or damaged property shall be valued at its highest and best use without considering any future dedication requirements imposed by the government. If private property is taken for any proprietary governmental purpose, then the property shall be valued at the use to which the government intends to put the property, if such use results in a higher value for the land taken.

(6) In all eminent domain actions, "just compensation" shall be defined as that sum of money necessary to place the property owner in the same position monetarily, without any governmental offsets, as if the property had never been taken. "Just compensation" shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.

(7) In all eminent domain actions, "fair market" value shall be defined as the highest price the property would bring on the open market.

(8) Except when taken to protect public health and safety, "damage" to private property includes government actions that result in substantial economic loss to private property. Examples of substantial economic loss include, but are not limited to, the downzoning of private property, the elimination of any access to private property, and limitations on the use of private air space. "Government action" shall mean any statute, charter provision, ordinance, resolution, law, rule or regulation.

(9) A property owner shall not be liable to the government for attorney fees or costs in any eminent domain action.

(10) For all provisions contained in this section, "government" shall be defined as the State of California, its political subdivisions, agencies, any public or private agent acting on their behalf, and any public or private entity that has the power of eminent domain.

(c) Nothing in this section shall prohibit the California Public Utilities Commission from regulating public utility rates.

(d) Nothing in this section shall restrict administrative powers to take or damage private property under a declared state of emergency.

(e) Nothing in this section shall prohibit the use of condemnation powers to abate nuisances such as blight, obscenity, pornography, hazardous substances or environmental conditions, provided those condemnations are limited to abatement of specific conditions on specific parcels.

SEC. 4. IMPLEMENTATION AND AMENDMENT

This section shall be self-executing. The Legislature may adopt laws to further the purposes of this section and aid in its implementation. No amendment to this section may be made except by a vote of the people pursuant to Article II or Article XVIII of the California Constitution.

SEC. 5. SEVERABILITY

The provisions of this section are severable. If any provision of this section or its application is held invalid, that finding shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 6. EFFECTIVE DATE

This section shall become effective on the day following the election






pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

The provisions of this section shall apply immediately to any eminent domain proceeding by a public agency in which there has been no final adjudication.

Other than eminent domain powers, the provisions added to this section shall not apply to any statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment that results in substantial economic loss to private property. Any statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment that is amended after the date of enactment shall continue to be exempt from the provisions added to this section provided that the amendment both serves to promote the original policy of the statute, charter provision, ordinance, resolution, law, rule or regulation and does not significantly broaden the scope of application of the statute, charter provision, ordinance, resolution, law, rule or regulation being amended. The governmental entity making the amendment shall make a declaration contemporaneously with enactment of the amendment that the amendment promotes the original policy of the statute, charter provision, ordinance, resolution, law, rule or regulation and does not significantly broaden its scope of application. The question of whether an amendment significantly broadens the scope of application is subject to judicial review.



TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL   
DATE: OCTOBER 6, 2006



TEFFT STREET LIFT STATION FENCE REPLACEMENT

**ITEM**

Discuss options for replacement of Tefft Street Lift Station Fence (Provide Direction to Staff).

**BACKGROUND**

The current fence surrounding the Tefft Street Sewer Lift Station (SE corner of Tefft and Carrillo) is 6-foot-high chain link, which is not one of the fence materials approved in the Olde Towne Nipomo Design Standards. Replacement options include Decorative Steel, Wrought Iron, Anodized Aluminum, or Wood. Given the location of the lift station and the need for security, staff recommends that the material be sturdy metal that allows for a sheriff's deputy to see inside of the enclosure. Staff recommends that the Board not use wood because of the threat of vandalism and the occlusion of view into the enclosure.

If the fence is to be replaced, staff further recommends that a security trip wire be added to the existing SCADA signal at the site.

**RECOMMENDATION**

It is recommended that your Honorable Board discuss the various options and provide direction to staff regarding material preferences and the addition of a security trip wire so that staff can solicit bids.

**ATTACHMENTS**

NONE.

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