



RIGHT OF WAY AGREEMENT

FC 121 (05-20-21)

Project: Coyote Creek Flood Protection
Grantor: Ferraro
Real Estate File No.: 4021-323
Project/Charge No.: 26174043

This is an agreement ("Agreement") between the SANTA CLARA VALLEY WATER DISTRICT, a Special District created by the California Legislature, hereinafter referred to as "Valley Water," and PATRICK T. FERRARO AND CARI LYNN (HOYT) FERRARO, TRUSTEES OF THE PATRICK AND CARI FERRARO TRUST, hereinafter referred to as "Grantor" (whether singular or plural). It is agreed between the parties hereto as follows:

1. WHOLE AGREEMENT

Grantor owns the real property located in San Jose, California, as more particularly identified as Santa Clara County Assessor Parcel Number (APN) 467-51-070 ("Subject Property"). Valley Water desires to purchase the Subject Property as described in Exhibit A attached hereto and incorporated herein.

This Agreement, together with the document described in Section 2, constitutes the entire agreement of the parties. The performance of this Agreement constitutes the entire consideration for the Subject Property described in this Agreement and shall constitute the entire payment of all claims including all interest and damages including severance.

2. DELIVERY OF DOCUMENT

Valley Water Grant Deed File No. 4021-323, in the form of a Grant Deed covering the Subject Property particularly described therein ("Deed") will be executed and delivered by Grantor to Grantee's representative, Senior Real Estate Agent Ken Anderssohn, for the purpose of recording the Deed and conveying Subject Property to Valley Water.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

- A. The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for said document and shall relieve Valley Water of all further obligation or claims on this account, or on account of the location or construction of the proposed public improvement.
- B. Valley Water requires the Subject Property as described in the Deed for Valley Water purposes, a public use for which Valley Water has the authority to exercise the power of eminent domain. Grantor is compelled to sell, and Valley Water is compelled to acquire the Subject Property.

Both Grantor and Valley Water recognize the expense, time, effort, and risk to both parties in determining the compensation for the Subject Property by eminent domain litigation. The compensation set forth herein for the Subject Property is in compromise and settlement, in lieu of such litigation.

3. PURCHASE AND TITLE

Valley Water shall pay Grantor the sum of Eight Hundred Thirty Thousand Dollars (\$830,000.00) for the Subject Property conveyed by the above document when title thereto vests in Valley Water free and clear of all liens, encumbrances, taxes, assessments, and leases (recorded and/or unrecorded), except:

- A. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code if unpaid at the close of escrow.
- B. Covenants, conditions, restrictions, and reservations of record, or contained in the above referenced deed.
- C. Easements or rights of way over said land for public or quasi-public utility or public street purposes, if any.

Valley Water shall also pay costs of escrow and recording fees incurred in this transaction including documentary stamp tax, if required by law, and title insurance policy expenses.

4. PRORATION OF TAXES

Since Valley Water is acquiring fee simple title under the terms of this Agreement, taxes shall be prorated in accordance with the California Revenue and Taxation Code Section 5086 as of the date of recordation of the Deed. All real property taxes that can be paid at the date of close of escrow will be paid by Grantor.

Valley Water shall have the authority to deduct and pay from the Purchase Price shown in Section 3 above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien at the close of escrow.

5. PAYMENT OF MORTGAGE OR DEED OF TRUST

Any and all moneys due under this agreement shall, upon demand, be made payable to the beneficiary or mortgagee entitled thereto under any trust deed or mortgage upon the property, up to and including the total amount of any unpaid indebtedness secured by such trust deed or mortgage.

6. LEASE WARRANTY

Grantor warrants that there are no oral or written leases on all or any portion of the Subject Property exceeding a period of one month, and Grantor further agrees to hold Valley Water harmless and reimburse Valley Water for any and all losses and expenses

occasioned to Valley Water by reason of any tenancy of the Subject Property held by any tenant of Grantor for any period exceeding one month.

7. DISMISSAL OF EMINENT DOMAIN [NOT USED]

8. POSSESSION

Grantor shall have the right to retain possession of the Subject Property up to and including the date of recording of the Deed conveying title to the property acquired herein to Valley Water, contingent upon Grantor compliance with the conditions of this Agreement. Any occupation of the Subject Property by the Grantor after recordation of the Deed shall be approved and authorized by Valley Water under separate agreement, to be executed prior to close of escrow.

10. ESCROW

This transaction will be handled through an escrow with:

First American Title Company, Escrow No. 7131093

Grantor and Valley Water agree that escrow shall close within thirty (30) days of Valley Water's delivery of the Deeds to the escrow company described herein and that the Deeds record within forty-eight (48) hours of close of escrow.

11. ITEMS INCLUDED IN SALE

All existing fixtures and fittings that are attached to the property are included in the purchase price described in Section 3 and shall be transferred free of liens and without seller warranty. Items to be transferred shall include, but not be limited to, any and all existing electrical, mechanical, lighting, plumbing and heat fixtures, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes and related equipment, telephone wiring, air conditioning systems, garage door openers and remote controls, attached fireplace equipment, mailbox, in-ground landscaping, including trees and shrubs, water softeners, and water purifiers. Grantor is allowed to remove any and all components, equipment, hardware, and software associated with the security systems and alarms.

12. CONTAMINATION

The acquisition price of the Subject Property being acquired stated herein above reflects the fair-market value of the Subject Property without the presence of contamination. If the Subject Property is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal, State or local law, Valley Water's estimated costs of remediation will be withheld from the acquisition price in escrow until said remediation is complete to the satisfaction of the appropriate regulatory agency and Valley Water. Grantor may elect to remediate any such contamination to the satisfaction of the appropriate regulatory agency at Grantor's sole expense. In such case, Grantor

and Valley Water agree that escrow will close only after said regulatory clearance has been obtained by the Grantor and has been delivered to Valley Water.

13. INCENTIVE PAYMENT PROGRAM

In addition to the offer of just compensation/approved appraised value for the Subject Property described in Section 4, it is agreed by and between the parties hereto that Valley Water will include an incentive payment to Grantor in the amount of (\$83,000.00) for the timely signing of this Agreement. This incentive payment offer expires thirty (30) days from the Initiation of Negotiations or the date of receipt of this Offer to Purchase 10/11/2024.

The incentive payment is calculated as 10% of the offer of just compensation/approved appraised value for the Subject Property, with a minimum payment of \$1,000 and maximum payment of \$100,000. The incentive payment will be paid separately and immediately to the Grantor as soon as Valley Water has the signed Agreement from the Grantor.

14. CONTINGENT ON CEQA CERTIFICATION

Valley Water is currently assessing the environmental impacts of the Project on the Property and expects to have the Final California Environmental Quality Act (CEQA) document ready for Valley Water Board of Directors (Board) consideration in February 2025 or sooner. This Offer to Purchase is contingent upon Board **approval** of the Final CEQA document.

When the Board approves the Final CEQA document, Valley Water will promptly notify Grantor in writing of this contingency being satisfied. Grantor shall, within 10 (ten) calendar days of this notification about Board approval of the Final CEQA document, deliver the partially executed Deed to Valley Water as described in Section 2 above. Valley Water staff shall obtain CEO acceptance of the Deed and subsequently deliver the fully executed Deed and payment for the Subject Property to our local title and escrow company as identified in Section 10 above. If the Board does not approve the Final CEQA document, Valley Water will have no further obligations under this Agreement, other than the incentive payment discussed in Section 13 above.

Valley Water has executed this agreement
as of:

SANTA CLARA VALLEY WATER DISTRICT

By _____
Rick L. Callender, Esq.
Chief Executive Officer

ATTEST: MICHELE L. KING, CMC

Clerk/Board of Directors

Grantor has executed this agreement as of:

OCT. 30, 2024

GRANTOR



PATRICK T. FERRARO, TRUSTEE



CARI LYNN (HOYT) FERRARO,
TRUSTEE

351 Brookwood Avenue
San Jose, CA 95116-2742

Recommended for Approval:

By Jacqui Carrasco
Jacqui Carrasco, Associate Real
Estate Agent

By Ken Anderssohn
Ken Anderssohn, Senior Real Estate
Agent

EXHIBIT "A"

(3 pages total)

Santa Clara Valley Water District
San Jose, Ca 95118

PROJECT: COYOTE CREEK FLOOD
PROTECTION PROJECT (CCFPP)

RESU FILE NO.: 4021-323
BY: B. Bains

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, as described in that certain Deed recorded as Document Number 25541138 filed on October 6, 2023, in the Office of the Recorder, County of Santa Clara, State of California, more particularly described as follows:

All of the lands described in that certain Deed recorded as Document Number 25541138 filed on October 6, 2023, in the Office of the Recorder, County of Santa Clara, State of California.

Containing 12,959 square feet of land, more or less.

SURVEYOR'S STATEMENT:

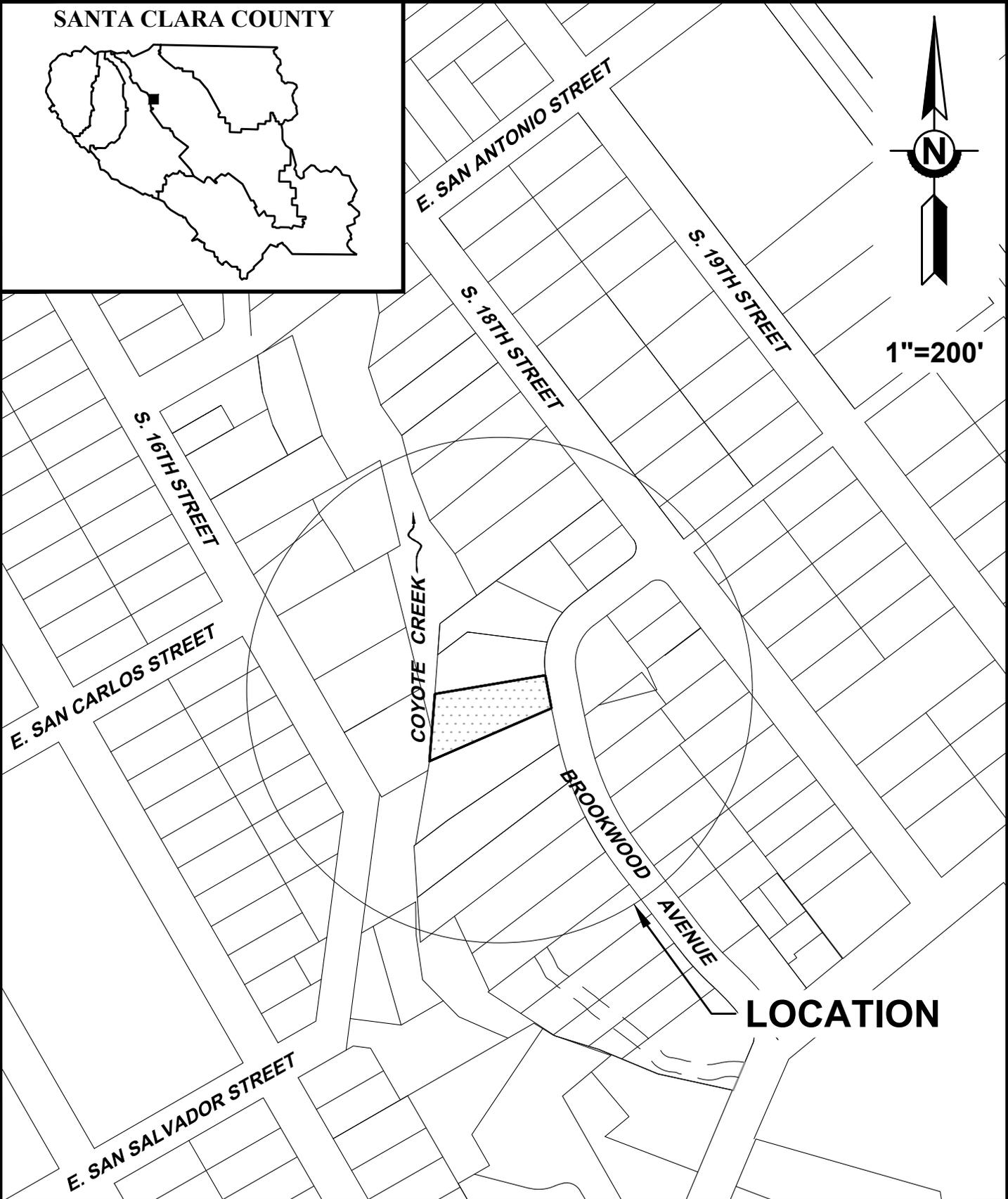
The description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.


Jessica DeMartini, PLS 9095

8/1/24
Date



SCVWD S:\REQUESTS\COYOTE CREEK\2023_14712 Working\Office\ROW\Plats and Legal Descriptions\Reach 7467-51-070 FERRARO\4021-323 FEE\2023-147_4021-323 FEE.dwg



SANTA CLARA VALLEY WATER DISTRICT 	COYOTE CREEK FLOOD PROTECTION PROJECT		RESU FILE NO.	4021-323
			APN	467-51-070
			LSMU REQUEST NO.	2023-147
			DRAWN	B. BAINS

SCVWD S:\REQUESTS\COYOTE CREEK\2023_14712 Working\Office\ROW\Plats and Legal Descriptions\Reach 7\467-51-070 FERRARO\4021-323 FEEI\2023-147_4021-323 FEE.dwg

COYOTE CREEK

GOODE AND
FREY TRUSTEE
DOC. 24202019
467-51-069

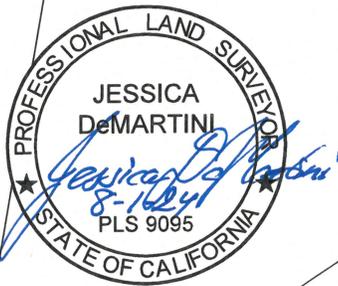


BROOKWOOD
AVENUE

FERRARO
DOC. 25541138
467-51-070
AREA: 12,959 SQ. FT. ±

BERKOWITZ JOYCE
TRUSTEE
DOC. 23126207
467-51-071

S.C.V.W.D.
DOC. 18755151
467-39-003



SANTA CLARA VALLEY WATER DISTRICT



SCALE: 1" = 30'

RESU FILE NO.	4021-323
APN	467-51-070
LSMU REQUEST NO.	2023-147
DRAWN	B. BAINS

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