

# Public Hearing to Consider Adoption of Resolution of Necessity: Coyote Creek Flood Management Measures Project

March 14, 2023

# Findings to be Made at RON Hearing

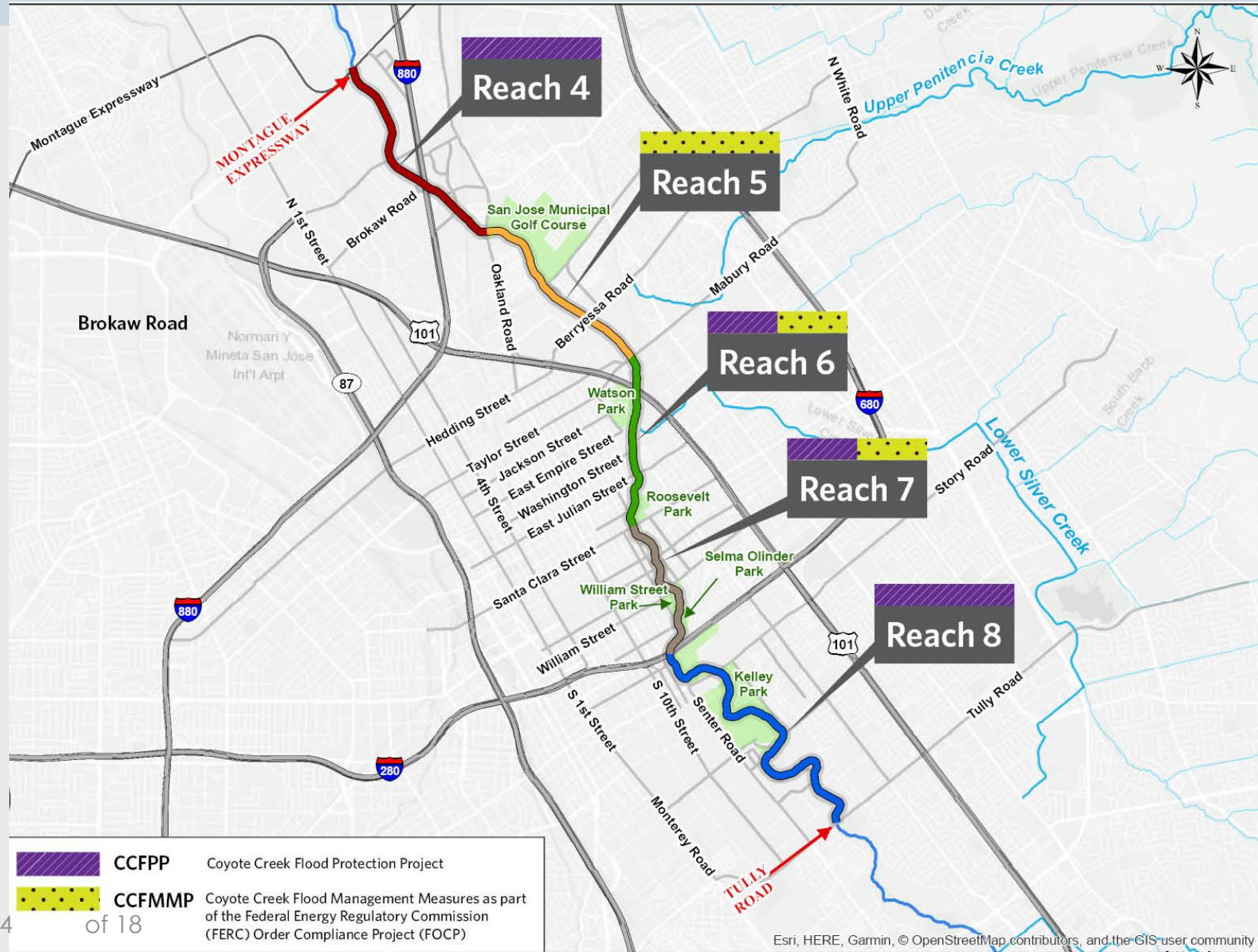
- Establish the public need for the project;
- Establish that project designed/located in manner most compatible with greatest public good and least private injury;
- Determine the property is necessary for the project
- Establish offer required by Section 7267.2 of the Government Code was made to record owner(s)

# Public Necessity for the Proposed Project

- **Finding:** The public interest and necessity require the proposed project:
  - ▶ Provide flood protection from floods up to the level that occurred on February 2017 (approximately a 20-year flood event) along portions of Coyote Creek from Old Oakland Road to Interstate 280
  - ▶ Enhancement to creek's habitat
  - ▶ Reduce long-term maintenance



# Coyote Creek Flood Management Measures Project



# Existing Constraints on Project Design

- The Geography and Footprint of the Creek determines which Private Properties will be impacted
  - ▶ Private Property is Located on Both Sides of the Creek
  - ▶ The Creek is Located In and Flows Through Private Property

# Project Design Serves the Greatest Public Good with the Least Private Injury

- **Finding:** The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
- Achieved through Holistic Approach to Project Design
- Apply Hydraulic Modeling to
  - ▶ Reduce scour
  - ▶ Reduce erosion
  - ▶ Reduce long term maintenance
  - ▶ Prevent induced flooding

# Project Design Serves the Greatest Public Good with the Least Private Injury

- Achieved through Holistic Approach to Project Design
- Avoid Private Structures
  - ▶ Examine the Possibility of Locating Project Features In a Manner that Minimizes Impacts to Private Structures
- Preserve Habitat of Greater Environmental Value
  - ▶ Minimize disturbance to native vegetation
  - ▶ Preserve, enhance, and create aquatic habitat
- Align project features with existing creek alignment



# Other Project Benefits

- Remove legacy trash and debris
- Preserve natural creek footprint and open space
- Increase native vegetation
- Improved maintenance access





# CEQA Compliance

- The Federal Energy Regulatory Commission Order Compliance Project (FOCP) was determined to be exempt from CEQA review pursuant to the statutory exemption for specific actions necessary to prevent or mitigate an emergency under CEQA guidelines §15269(c) and Public Resources Code §21080(b)(4)
- Valley Water filed a Notice of Exemption for FOCP with Santa Clara County Clerk-Recorder Office on June 29, 2020.
- This acquisition is part of the CCFMMP, which is included in the FOCP and continues to be exempt from CEQA pursuant to the above-cited provisions.

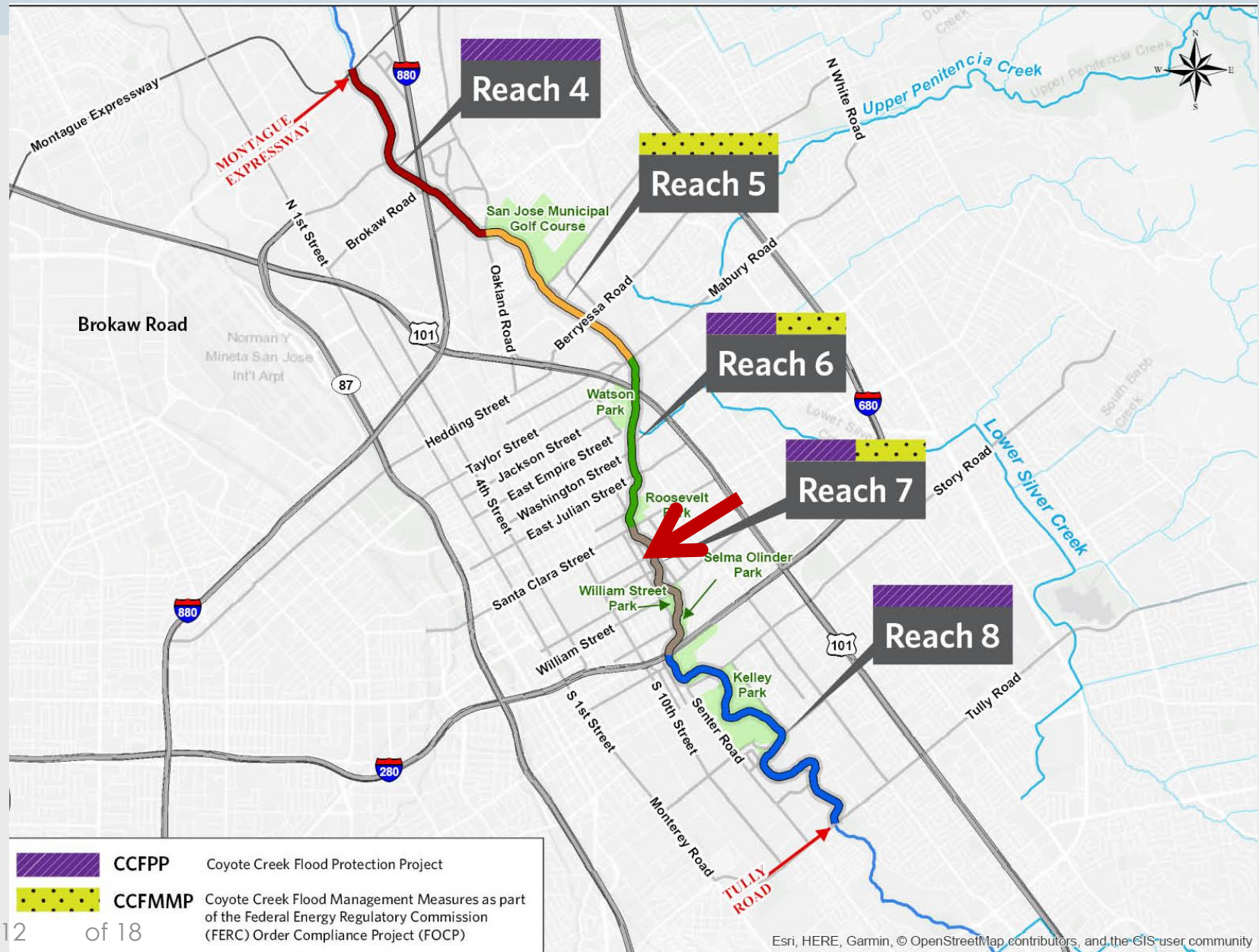
# Property Acquisitions Necessary for Project

- Project requires acquisition of 33 Properties in Reaches 5, 6, & 7
  - ▶ 7 acquired & 9 acquisitions going through final approval
- A Resolution of Necessity due to impasse is proposed for 1 property in Reach 7 owned by the following owner of record:
  - ▶ Ananya Kaewphokha

# Kaewphokha Property: Least Private Injury

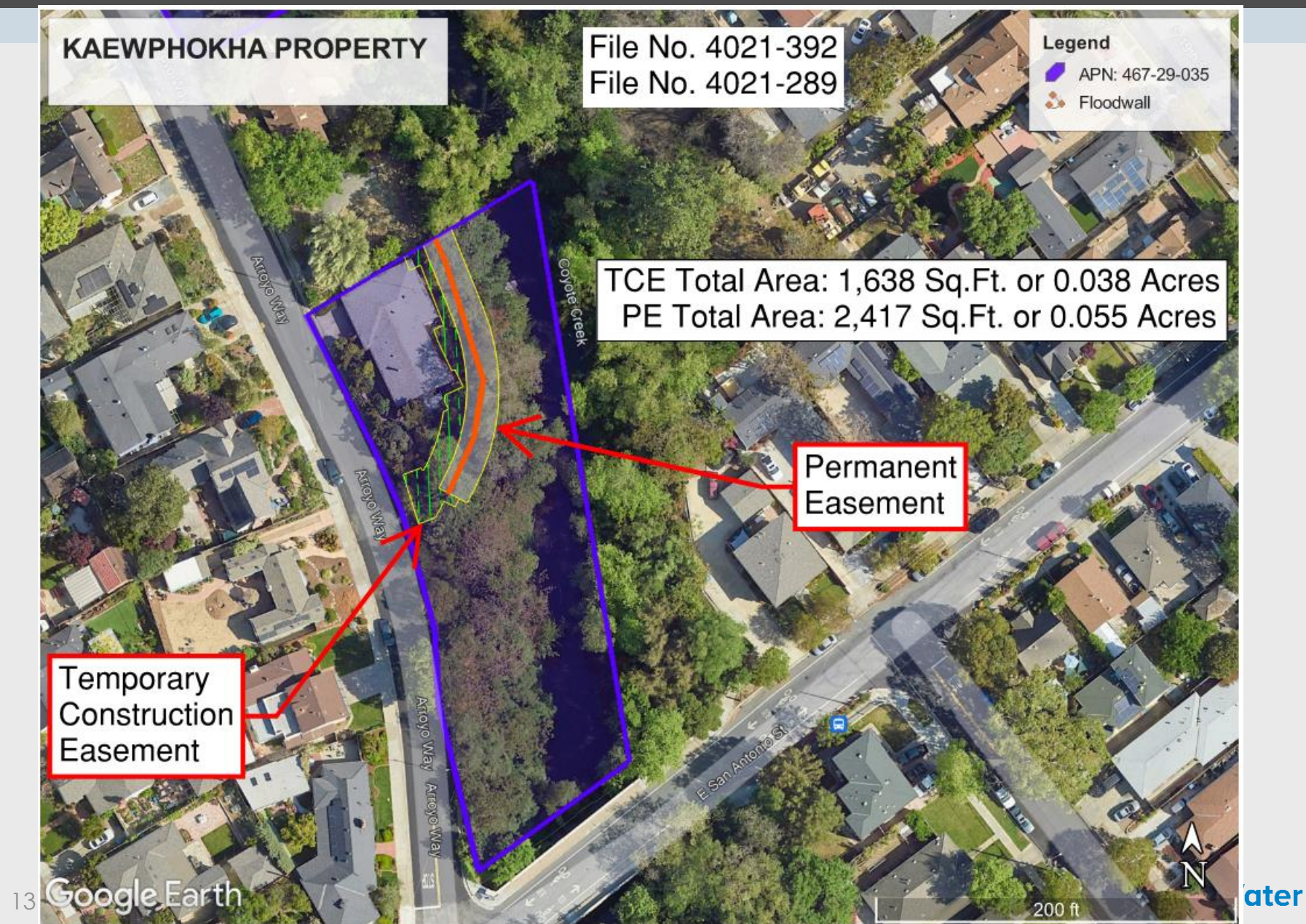
- The acquisition area is in back of the property behind the structure
- A 10' floodwall will be constructed between the structure and the creek.
- The proposed area to be acquired does not impact any existing private structures or access to these structures
- After project is constructed, the area will be returned to its existing use

# Coyote Creek Flood Management Measures Project





# Kaewphokha Property Exhibit





# Kaewphokha Property is Necessary for the Project

- This property is necessary for the project because the floodwall is on this property.
- Access to maintain the floodwall is necessary.
- Construction activities also require that a separate portion of the property be temporarily accessible to construct the floodwall.
- Finding: The property described in the resolution is necessary for the proposed project.

# Gov. Code Section 7267.2(a) Offer

- **Finding:** The Offer of Just Compensation as Required by Section 7267.2(a) of the Gov. Code in an amount not less than the appraised value of the interest to be acquired has been made to the owners of record.
- On November 22, 2022, Valley Water sent a final written offer to Ananya Kaewphokha via certified mail for the Full Amount established as Just Compensation.
- The Amount of Just Compensation was not less than Fair Market Value established by an Approved Appraisal.

# Kaewphokha Property – Acquisition Chronology

DATE	ACTION
September 7, 2022	NODA sent to property owner
November 22, 2022	Offer package sent to property owner*
December 16, 2022	Spoke to property owner representative
January 12, 2022	Sent email to property owner representative
January 13, 2022	Spoke to property owner representative

\*Item is not to be distributed to the public for protection of Owner's privacy.  
Just compensation is not part of this RON hearing.

# Discussion and Decision

- This completes the District's presentation regarding acquisition of the Kaewphokha Property.
- After the Board receives comments from the property owner and public, staff is ready to answer questions.

# Public Hearing to Consider Adoption of Resolution of Necessity: Coyote Creek Flood Management Measures Project

March 14, 2023