



RIGHT OF WAY AGREEMENT

FC 121 (05-20-21)

Project: Anderson Dam Tunnel Project

Grantor: Janice M. Schultz, Trustee

Real Estate File No.: 9186-49

Project/Charge No.: 91864005

This is an agreement between the SANTA CLARA VALLEY WATER DISTRICT, hereinafter referred to as "Valley Water," and Janice M. Schultz, Surviving Trustee of The Schultz Family Trust dated July 24, 1996, Janice M. Schultz, Trustee of The Janice Schultz Survivor's Trust dated July 24, 1996, Janice M. Schultz, Trustee of The Thomas Schultz Bypass Trust dated July 24, 1996, hereinafter referred to as "Grantor" (whether singular or plural). It is agreed between the parties hereto as follows:

1. WHOLE AGREEMENT

This constitutes the entire agreement of the parties. The performance of this agreement constitutes the entire consideration of the property or interest described in said document (hereinafter called "the property") and shall constitute the entire payment of all claims including all interest and damages including severance.

2. DELIVERY OF DOCUMENT

Deed Document No. 9186-49, in the form of a grant deed covering the property particularly described therein has been executed and delivered by Grantor to Edna Campero, Real Estate Agent for Valley Water for the purpose of conveying said 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 the 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 property interests described in Deed Document No. 9186-49 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 property.

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

3. PURCHASE AND TITLE

Valley Water shall pay Grantor the sum of Two Million Nine Hundred Forty-two Thousand Five Hundred Dollars (\$2,942,500.00) for the property conveyed by the above document when title thereto vests in Valley Water free and clear of all liens, encumbrances, taxes, assessment 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 all 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

In the event that the Valley Water acquires fee 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 conveying title to the Valley Water.

Valley Water shall have the authority to deduct and pay from the amount shown in clause 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 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 property held by any tenant of Grantor for any period exceeding one month.

7. DISMISSAL OF EMINENT DOMAIN

Grantor consents to the dismissal as to the property of any eminent domain action by Valley Water wherein the property is included, and also waives any and all claims to any money that may now be on deposit in that action or any litigation expenses pursuant to California Code of Civil Procedure Section 1268.610 . This agreement is full consideration for all claims of damage that may have arisen by reason of any such eminent domain action and/or the public project for which this property is acquired.

8. POSSESSION

Grantor shall have the right to retain possession of the property up to and including the date of recording of the deed conveying title to the property acquired herein to Valley Water upon compliance by Grantor with the conditions of this agreement.

9. ESCROW

This transaction will be handled through an escrow with:

Old Republic Title Company, Escrow No. 0616021499-IM

Grantor and District agree that escrow will close and the deed record on a date selected by Grantor but not later than 5/31/23.

10. ITEMS INCLUDED IN SALE

All existing fixtures and fittings that are attached to the property are included in the purchase price 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, water purifiers, and security systems and alarms.

11. HAZARDOUS MATERIALS – ACTUAL KNOWLEDGE

Grantor acknowledges and agrees that, without any independent investigation or due diligence, she has no actual knowledge of the presence of hazardous materials, or any other matters of significance, adversely affecting the Property Grantor shall have no liability for any hazardous materials discovered by Valley Water after close of escrow.

Valley Water has executed this agreement as of:

Date

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:

12/12/2022
Date

By: Janice M Schultz, Trustee
Janice M. Schultz, Surviving Trustee of
The Schultz Family Trust dated July 24,
1996

By: Janice M Schultz, Trustee
Janice M. Schultz, Trustee of The Janice
Schultz Survivor's Trust dated July 24,
1996

By: Janice M Schultz, Trustee
Janice M. Schultz, Trustee of The Thomas
Schultz Bypass Trust dated July 24, 1996

Address:
17530 Hoot Owl Way
Morgan Hill, CA 95037

Recommended for Approval:

By _____
Associate Real Estate Agent

By _____
Unit Manager