

Watershed:	Uvas/Llagas
Project:	Upper Llagas Creek
Real Estate File No.:	5027-224 5012-208

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 17-

**DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE
ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL
PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK
FLOOD PROTECTION PROJECT NO. 26174051
(CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *et seq.*)**

WHEREAS, pursuant to a cost-sharing agreement with the City of Morgan Hill, the Santa Clara Valley Water District (District) is working to construct the Upper Llagas Creek Flood Protection Project No. 26174051 (the Project), which will provide flood protection for 1,100 homes, 500 businesses, and over 1,300 acres of agricultural land in southern Santa Clara County; and

WHEREAS, the District is authorized to condemn property for the Project pursuant to Article I, Section 19 of the California Constitution, Part 3, Title 7 of the California Code of Civil Procedure, Section 6 of the Santa Clara Valley Water District Act, and other provisions and principles of law; and

WHEREAS, the property interests to be acquired for the Project are located on 16965 Monterey Road, Morgan Hill, California 95037, Santa Clara County Assessor's Parcel No. 767-09-016, and are described and depicted in Exhibits A and B attached hereto and incorporated herein (Property); and

WHEREAS, the Project cannot be completed without the Property, and acquisition of the Property is accordingly necessary and in the public interest; and

WHEREAS, the use of the Property for the Project will not interfere with or impair any known, existing public uses and, therefore, is compatible with any other public uses pursuant to Code of Civil Procedure section 1240.510; and

WHEREAS, the District has made several offers to the owners of record including on February 7, 2017, pursuant to Government Code section 7267.2 based on the January 11, 2017 appraisal; and

WHEREAS, the District provided by certified mail to all persons whose names appear on the last Equalized County Assessment Roll as having an interest in the Property a notice that the District's Board of Directors would hold a hearing on September 26, 2017 to consider the adoption of a resolution of necessity authorizing the District to acquire the Property by eminent domain; and

DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *ET SEQ.*)

Resolution No. 17-

WHEREAS, the District's notice advised all such interested persons of the time and place for the hearing, their right to be heard in relation to that matter, and that their failure to file a written request to appear and be heard at the hearing within 15 days from the mailing of the notice would result in a waiver of their right to be heard; and

WHEREAS, the District has calendared this Resolution as an item on its Agenda and invited public comment prior to the meeting; and

WHEREAS, the District's Board of Directors held a public hearing on September 26, 2017 to consider the adoption of this resolution, and all interested parties were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the District finds, determines, and hereby declares:

1. The public interest and necessity require the Project;
2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. The Property described and depicted herein in Exhibits A and B is necessary for the Project;
4. The District made the offer required by Government Code section 7267.2 to the owners of record;
5. The District has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property;
6. The District has complied with the requirements of the California Environmental Quality Act (CEQA) for the Project, the District's Board having on June 10, 2014, adopted a Final Environmental Impact Report;
7. The District's Office of the District Counsel and/or its designee is hereby authorized to commence and prosecute an eminent domain proceeding to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure section 1255.010, and to acquire prejudgment possession of the Property as may be necessary for the Project.

DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTERESTS IN REAL PROPERTY BY EMINENT DOMAIN FOR THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT NO. 26174051 (CODE OF CIVIL PROCEDURE SECTIONS 1245.220, *ET SEQ.*)

Resolution No. 17-

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District on by the following vote on October 10, 2017.

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

By: _____
JOHN L. VARELA
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk/Board of Directors

Exhibit A

A Temporary Construction Easement for the construction (and other related activities incidental to construction) of the Upper Llagas Creek Flood Protection Project (Project), under, upon, over and across a portion of the property described in the document recorded on March 14, 1972, as Instrument No. 4211932, Santa Clara County Official Records, situated in the City of Morgan Hill, California, the location of said Temporary Construction Easement being described and depicted in Exhibit "A-1" attached hereto and made a part hereof.

This easement is necessary for the purpose of constructing the Project and related activities incident to construction. This TCE will begin upon effective possession or when the property is first occupied for use for the Project's civil construction, and will continue for a duration of thirty-six continuous months.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

Exhibit A-1

Temporary Construction Easement Interests

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: K. Comerer
Date: 08/04/15

Date Revised: 08/22/15
Revised By: K. Comerer

Checked by: _____ Date: _____

PROJECT: UPPER LLAGAS CREEK
PROPERTY: MORGAN HILL PLAZA

File No.: 5012-208

All of that certain parcel of land situate in the City of Morgan Hill, County of Santa Clara, State of California, more particularly described as follows:

Being a portion of Parcel 3, as shown on the Parcel Map filed on May 3, 1983 in Book 511 of Maps at Pages 46 and 47, said Santa Clara County records, more particularly described as follows:

Parcel 1 (T.C.E. 1)

BEGINNING at the southwesterly corner of said Parcel 3, as shown on said map; thence along the southwesterly and northwesterly lines of said Parcel 3 the following two (2) courses: 1) North 23° 37' 23" West, 59.99 feet and 2) North 66° 22' 37" East, 42.40 feet; thence leaving said northwesterly line, South 41° 43' 12" East, 23.82 feet; thence South 71° 45' 30" East, 55.97 feet to a point on the southeasterly line of said Parcel 3; thence along said southeasterly line, South 66° 22' 37" West, 91.48 feet to the POINT OF BEGINNING.

Containing 3,682 square feet or 0.085 acre of land, more or less.

Parcel 2 (T.C.E. 2)

BEGINNING at the southwesterly corner of said Parcel 3, as shown on said map; thence along the southeasterly line of said Parcel 3, North 66° 22' 37" East, 142.43 feet to the TRUE POINT OF BEGINNING; thence leaving said southeasterly line, North 71° 45' 30" West, 84.78 feet; thence North 41° 43' 12" West, 3.58 feet to a point on the northwesterly line of said Parcel 3; thence along said northwesterly line, North 66° 22' 37" East, 27.86 feet; thence leaving said northwesterly line, South 71° 45' 30" East, 89.89 feet to a point on the southeasterly line of said Parcel 3; thence along said southeasterly line, South 66° 22' 37" West, 30.55 feet to the TRUE POINT OF BEGINNING.

Containing 1,828 square feet or 0.042 acre of land, more or less.

END OF DESCRIPTION

BASIS OF BEARINGS:

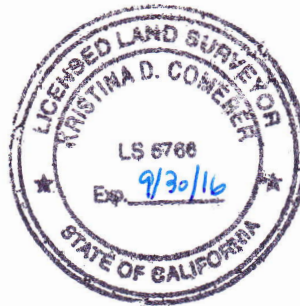
Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

SURVEYOR'S STATEMENT:

Legal description prepared by Cross Land Surveying, Inc. in August 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Kristina D. Comer
Kristina D. Comerer, PLS 6766

Date: Sept. 2, 2015



MORGAN HILL PLAZA

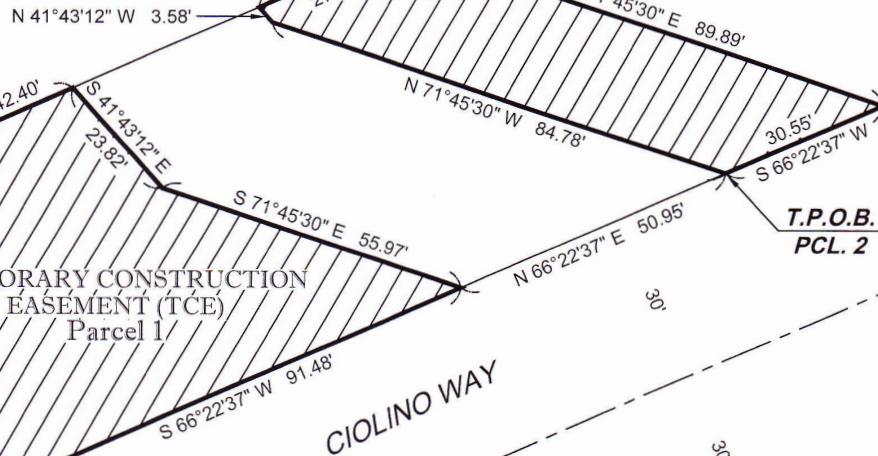
767-09-017
SADE, TRUSTEE



TEMPORARY CONSTRUCTION
EASEMENT (TCE)
Parcel 2

PM 511-M-46 & 47
PARCEL 3

767-09-016
MORGAN HILL PLAZA
DOC. 4211932

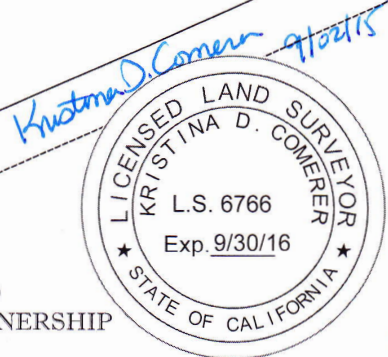


P.O.B.
PCL. 1 & PCL. 2

CIOLINO WAY

T.P.O.B.
PCL. 2

767-09-028
VILLA CIOLINO
ASSOCIATES LTD. PARTNERSHIP



TCE

PARCEL 1 (TCE) = 3,682 SF +/- OR 0.084 Ac. +/- TOTAL AREA
PARCEL 2 (TCE) = 1,828 SF +/- OR 0.042 Ac. +/- TOTAL AREA

Santa Clara Valley Water District



SCALE: 1" = 30'

PROJ. NO.	26174051
FILE NO.	5012-208
APN	767-09-016
TITLE REPORT NO.	616011233
DRAWN	G. Comer
DATE	08/21/15

REV.	APPR.	DATE	DESCRIPTION
1		8/15	CHANGE FILE NO.
2			

Sheet 1 of 1

SCVWD C:\Civil 3D Projects 2011\RMCLLG09\PLATSMORGAN HILL PLAZA 767-09-016 R7B FN 5012-208 PLAT TCE_V2.dwg

Exhibit B

An easement for water management and/or storm water drainage purposes in, upon, over, and across that certain real property in the City of Morgan Hill, County of Santa Clara, State of California, said Easement being described and depicted on Exhibit B-1 attached hereto and made a part hereof.

See Exhibit "B-1" attached hereto and made a part hereof.

This easement area shall be kept clear of any type of building, fences, structure, pavement, or trees unless prior written approval is obtained from the District.

The easement shall include the right to construct, reconstruct, inspect, maintain, and repair a channel, protection works, and appurtenant structures, together with the right to trim or remove such trees or brush within the easement area as may constitute a hazard to persons or property or may interfere with the use of said area for the purpose granted. It also shall include the right to enter upon said land with vehicles, tools, implements, and other materials, take there from and use earth, rock, sand, and gravel for construction, maintenance, and repair of said channel, protection works, and appurtenant structures by said District, its officers, agents, and employees, and by persons under contract with it and their employees whenever and wherever necessary for flood control or storm drainage purposes.

District shall also have the right to mark the location of said described area by suitable markers, but said markers shall be placed in fences or other locations which will not interfere with any reasonable use first party shall make of said strip.

The provisions hereof shall inure to the benefit and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

Exhibit B-1

Permanent Easement Interest

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: K. Comerer
Date: 08/01/15

Date Revised: 08/22/15
Revised By: K. Comerer

Checked by: _____ Date: _____

PROJECT: UPPER LLAGAS CREEK
PROPERTY: MORGAN HILL PLAZA

File No.: 5027-224

All of that certain parcel of land situate in the City of Morgan Hill, County of Santa Clara, State of California, more particularly described as follows:

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BEGINNING at the southwesterly corner of said Parcel 3, as shown on said map; thence along the southeasterly line of said Parcel 3, North 66° 22' 37" East, 91.48 feet to the TRUE POINT OF BEGINNING; thence leaving said southeasterly line, North 71° 45' 30" West, 55.97 feet; thence North 41° 43' 12" West, 23.82 feet to a point on the northwesterly line of said Parcel 3; thence along said northwesterly line, North 66° 22' 37" East, 35.77 feet; thence leaving said northwesterly line, South 41° 43' 12" East, 3.58 feet; thence South 71° 45' 30" East, 84.79 feet to a point on the southeasterly line of said Parcel 3; thence along said southeasterly line, South 66° 22' 37" West, 50.95 feet to the TRUE POINT OF BEGINNING.

Containing 2,859 square feet or 0.066 acre of land, more or less.

END OF DESCRIPTION

BASIS OF BEARINGS:

Bearings and distances described herein are based on the California Coordinate System of 1983, Zone 3, Epoch 2011.43. Multiply herein described distances by 1.00001657 to obtain ground level distances.

SURVEYOR'S STATEMENT:

Legal description prepared by Cross Land Surveying, Inc. in August 2015 and is based on boundary resolution by SCVWD and was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Kristina D. Comer
Kristina D. Comerer, PLS 6766

Date: Sept. 2, 2015



SCVWD C:\Civil 3D Projects 2011\RMCLLG09\PLATSMORGAN HILL PLAZA 767-09-016 R7B FN 5027-224 PLAT_V2.dwg

