

REAL PROPERTY EXCHANGE AGREEMENT

This REAL PROPERTY EXCHANGE AGREEMENT (**Exchange Agreement**) is entered into by and between the Santa Clara Valley Water District, a special district organized and existing under the laws of the State of California (**District**), and Francisco J. Arriaga, an unmarried man (**Owner**) with respect to the following:

RECITALS

- A. District owns permanent easement rights to approximately 17,712 square feet (sf) of real property located in an unincorporated area of Santa Clara County at 13975 Murphy Avenue, San Martin, CA in the southwest corner of Assessor's Parcel Number 825-08-054, identified as District Parcel 5027-313.1, and legally described in Exhibit A, attached hereto and incorporated herein by reference (**District Property**).
- B. Owner owns fee title to approximately 13,703 square feet (sf) of real property located in an unincorporated area of Santa Clara County at 13975 Murphy Avenue, San Martin, CA adjoining the District Property, identified as District Parcel 5010-237, being a portion of Assessor's Parcel Number 825-08-054 and legally described in Exhibit B, attached hereto and incorporated herein by reference (**Owners' Property**). For purposes of this Exchange Agreement, the District Property and the Owners' Property may be referred to individually as the (**Exchange Property**) or collectively as the (**Exchange Properties**).
- C. District and Owner desire to exchange District Property for Owners' Property.
- D. District may determine that any real property, or interest therein, held by the District is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease, or otherwise dispose of the property pursuant to to Section 31 of California Water Code, Appendix Chapter 60 (District Act).

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, District and Owner agree to the exchange of properties on the terms and conditions set forth below:

AGREEMENT

Mutual Conveyances: District agrees to convey the District Property to Owner and Owner agrees to convey the Owner's Property to District on the terms and conditions set forth in this Exchange Agreement. This shall constitute full and final consideration for the exchange.

1. **District Property:** The parties agree that the value of the District Property, consisting of an easement over, upon, under and across the Owners' Property to be conveyed to Owner is \$13,300.00.

(a) **Condition of Title.** District shall convey to Owner the easement over, under, upon and across the Owners' Property free of all easements and other non-monetary encumbrances.

(b) **No New Liens.** District shall not, after full execution of this Exchange Agreement, cause or permit any new liens, covenants, conditions, restrictions, easements or any other matter to encumber the portion of Districts' Property located within the area of the easement to be conveyed to Owner by record or otherwise except for matters which do not materially interfere with the Owner's exercise of its easement rights.

2. Owners' Property. The parties agree that the value of the Owners' Property, consisting of land and improvements to be conveyed to the District is \$21,600.00, consisting of \$12,745.00, for land and \$8,775.00, for cost to cure damages.

(a) No Monetary Liens. Owner shall convey to District fee title to the Owners' Property free of all mortgages, deeds of trust, mechanics' liens, and all other monetary liens.

(b) No New Liens. Owner shall not, after full execution of this Exchange Agreement, cause or permit any new liens, covenants, conditions, restrictions, easements or any other matter to encumber title to the Owners' Property by record or otherwise except for matters which do not materially interfere with the use and occupancy of the Owners' Property or affect the value of the Owners' Property.

3. Delivery and Recording of Grant Deed, Easement, and Real Property Taxes. No later than thirty (30) days from the effective date of this Exchange Agreement, District shall deliver to: Old Republic Title Company, 224 Airport Parkway, Suite 170, San Jose, CA 95110, Escrow Number 0616011020-RR, Escrow Officer Randy Romriell (Escrow Holder), executed Grant of Easement Deed or Quitclaim Deed 5027-313.1 for District Property and Owner shall likewise deliver to the office of the Escrow Holder, Escrow Number 0616011020-RR, a Grant Deed executed by Owner for Owners' Property. Each party shall deliver any such additional documents and instruments as Escrow Holder may reasonably require in order to close escrow. The parties shall provide Escrow Holder with their separate instructions for closing escrow consistent with the terms of this Exchange Agreement. The Escrow Holder shall close the escrow and record the grant deed and easement deed/quitclaim deed on such date (Closing Date) as is directed by the parties in their respective escrow instructions. Closing escrow is conditioned upon Old Republic Title Company issuing or being committed to issue a CLTA Owners' Title Insurance policy for each Exchange Property free and clear of all monetary liens.

Real property taxes and assessments, if any, on the Exchange Properties shall be not prorated. Each party shall be responsible for paying property taxes and assessments, including any and all interest and penalties on their respective property up to the date of recordation of the grant deed to the other party.

District shall 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. Removal of Personal Property. Within 30 calendar days of the effective date of this Exchange Agreement, District and Owner shall, at their sole expense, remove or cause to be removed from their respective Exchange Properties any and all personal property, trash, rubbish, and any other materials.

5. Representations and Warranties. Each party, on behalf of itself and the Exchange Property it currently owns, makes the following representations and warranties:

(a) Authority. Each party represents and warrants, as of the date of execution of this Exchange Agreement (i) that it has full legal right, power and authority to execute and fully perform its obligations under this Exchange Agreement and (ii) that the persons executing this Exchange Agreement and other documents required hereunder are authorized to do so.

(b) Indemnification. District shall indemnify, defend, and hold harmless Owner and its officers, employees and agents against any and all claims, liabilities, losses, damages, suits, actions, expenses, and demands of any kind or nature, resulting from or arising out of (i) District's negligent acts, omissions, or willful misconduct, or (ii) resulting from any breach by the District of their representations, warranties or covenants contained in this agreement, except to the extent such loss or damage is caused by or arises out of a breach by, or the negligence or willful misconduct of Owner, its officers, employees or agents.

Owner shall indemnify, defend, and hold harmless District and its officers, employees and agents against any and all claims, liabilities, losses, damages, suits, actions, expenses, and demands of any kind or nature, resulting from or arising out of (i) Owners' negligent acts, omissions, or willful misconduct, or (ii) resulting from any breach by the Owners of their representations, warranties or covenants contained in

this agreement, except to the extent such loss or damage is caused by or arises out of a breach by, or the negligence or willful misconduct of District, its officers, employees or agents.

(c) Real Estate Commissions. District is under no obligation or liability to pay any such commission or compensation to any broker or finder arising from, related to, or in connection with this transaction.

(d) Survival of Warranties and Obligations. The representations and warranties given by the parties in this Section 5, and all obligations under this Exchange Agreement shall survive the delivery of the grant deeds to each party.

6. Conditions to Effectiveness. This Exchange Agreement shall not be binding or effective against District until the District's governing board has adopted a resolution that approves this Exchange Agreement.

7. Possession. Possession of each Exchange Property shall be delivered within 10 calendar days after recordation of the grant deed and easement deed/quitclaim deed.

8. General Provisions.

(a) Counterparts. This Exchange Agreement may be executed in multiple copies, each of which shall be deemed an original, but all of which shall constitute one Exchange Agreement after each party has signed such a counterpart.

(b) Entire Exchange Agreement. This Exchange Agreement, together with all exhibits attached hereto, constitutes the entire Exchange Agreement between the parties with respect to the conveyance of the Exchange Properties.

(c) Further Assurances. The parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Exchange Agreement and the intentions of the parties.

(d) Governing Law/Venue. This Exchange Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California. Any action brought to enforce this Exchange Agreement shall be initiated in the County of Santa Clara, California.

(e) Modification Waiver. No modification, waiver, amendment or discharge of this Exchange Agreement shall be valid unless the same is in writing and signed by both parties.

(f) Severability. If any term, provision, covenant or condition of this Exchange Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Exchange Agreement shall not be affected thereby, and each remaining term, provision, covenant or condition of this Exchange Agreement shall be valid and enforceable to the fullest extent permitted by law.

(g) Successors. All terms of this Exchange Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, legal representatives, successors, and assigns.

(h) Effective Date. The Effective Date of this Exchange Agreement shall be the date upon which approval has been granted by the District governing board as described in Section 6 above.

District has executed this Agreement as of:

10-7-15

Approval Date

Santa Clara Valley Water District

By: _____

~~Beau Goldie~~ **Norma J. Camacho**
Chief Executive Officer


Francisco J. Arriaga

ATTEST:

By: _____

Michele King
Clerk/Board of Directors

APPROVED AS TO FORM:

By: _____

Assistant District Counsel

Recommended for Approval:

By:  _____

Real Estate Agent II

By:  _____

Real Estate Services Unit Manager

Exhibit A

**District Property
5027-313.1
(approximately 17,712 square feet)**

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: K. Comerer
Date: 10/10/14

Date Revised: 11/20/14
Revised By: K. Comerer
Checked by: _____

Date: _____

PROJECT: UPPER LLAGAS CREEK
PROPERTY: SCVWD TO ARRIAGA

File No.: 5027-313.1

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

Being a portion of the lands described in the Easement Deed from Nancy Y. Sugiyama, Patricia Y. Fabiny, Cynthia Y. Johnson, and Kathleen E. Mann to the Santa Clara Valley Water District, a public Entity recorded on August 1, 2006 as Document No. 19043589 of Official Records, Santa Clara County records, being a portion of Parcel Two, as shown on that certain Parcel Map filed on September 19, 2006, in Book 806 of Maps, at pages 25 and 26, said Santa Clara County Records, more particularly described as follows:

BEGINNING at the southwesterly corner of said Santa Clara Valley Water District parcel; thence along the southeasterly and northerly lines of said Santa Clara Valley Water District parcel the following two (2) courses: 1) North 66° 52' 53" East, 350.11 feet to the beginning of a non-tangent curve, concave southerly, having a radius of 495.10 feet, from which the radius point bears South 22° 42' 03" West, and 2) westerly, along said curve, through a central angle of 00° 00' 53", for an arc length of 0.13 feet to the TRUE POINT OF BEGINNING; thence continuing along said northerly line, along said curve, through a central angle of 37° 22' 42", for an arc length of 322.99 feet; thence leaving said northerly line, South 72° 38' 22" East, 1.90 feet; thence South 47° 22' 05" East, 78.98 feet to the beginning of a non-tangent curve, concave southerly, having a radius of 141.00 feet, from which the radius point bears South 00° 14' 13" West; thence easterly, along said curve, through a central angle of 22° 07' 46", for an arc length of 54.46 feet to the beginning of a reverse curve, having a radius of 120.00 feet; thence along said curve, through a central angle of 46° 14' 53", for an arc length of 96.86 feet; thence North 66° 07' 05" East, 81.23 feet to the beginning of a tangent curve to the right, having a radius of 100.00 feet; thence along said curve, through a central angle of 20° 44' 51", for an arc length of 36.21 feet to the TRUE POINT OF BEGINNING.

Containing 17,712 square feet or 0.407 acre of land, more or less.

END OF DESCRIPTION

Page 1 of 2

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.

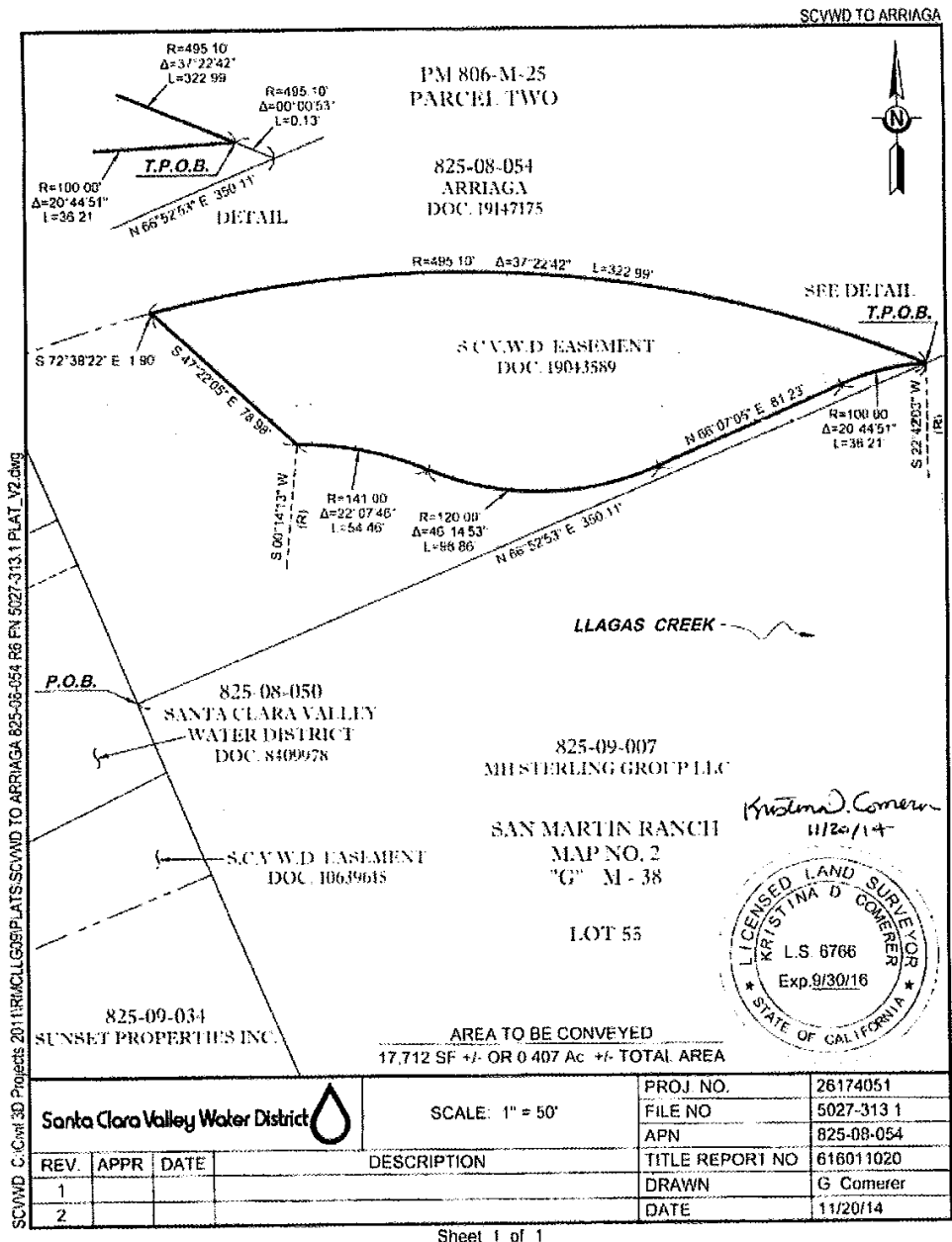
SURVEYOR'S STATEMENT:

Legal description prepared by Cross Land Surveying, Inc. in October 2014 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. Comer, PLS 6766

Date: November 20, 2014





Sheet 1 of 1

Exhibit B

**Owners' Property
5010-237
(approximately 13,703 square feet)**

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: K. Comerer
Date: 08/13/14

Date Revised: 09/27/14
Revised By: K. Comerer
Checked by: _____

Date: _____

PROJECT: UPPER LLAGAS CREEK
PROPERTY: ARRIAGA

File No.: 5010-237

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

Being a portion of the lands described in the Grant Deed from Nancy Y. Sugivama, a married woman, dealing with her sole and separate property; and Kathleen E. Mann, a married woman, dealing with her sole and separate property; and Cynthia Y. Johnson, an unmarried woman; and Patricia Y. Fabiny, a married woman, dealing with her sole and separate property to Francisco J. Arriaga, an unmarried man recorded on October 18, 2006 as Document No. 19147175 of Official Records, Santa Clara County records, being a portion of Parcel Two, as shown on that certain Parcel Map filed on September 19, 2006, in Book 806 of Maps, at pages 25 and 26, said Santa Clara County Records, more particularly described as follows:

BEGINNING at the most southerly corner of said Parcel Two; thence along the southwesterly line of said Parcel Two, North $23^{\circ} 08' 02''$ West, 102.63 feet to the beginning of a non-tangent curve, concave southerly, having a radius of 234.50 feet, from which the radius point bears South $16^{\circ} 56' 39''$ East; thence leaving said southwesterly line, easterly, along said curve, through a central angle of $15^{\circ} 24' 01''$, for an arc length of 63.03 feet; thence North $88^{\circ} 27' 22''$ East, 39.19 feet to the beginning of a tangent curve to the right, having a radius of 141.00 feet; thence along said curve, through a central angle of $23^{\circ} 54' 36''$, for an arc length of 58.84 feet to the beginning of a reverse curve, having a radius of 120.00 feet; thence along said curve, through a central angle of $46^{\circ} 14' 53''$, for an arc length of 96.86 feet; thence North $66^{\circ} 07' 05''$ East, 81.23 feet to the beginning of a tangent curve to the right, having a radius of 100.00 feet; thence along said curve, through a central angle of $20^{\circ} 53' 57''$, for an arc length of 36.48 feet to a point on the southeasterly line of said Parcel Two; thence along said southeasterly line, South $66^{\circ} 52' 53''$ West, 350.27 feet to the POINT OF BEGINNING.

Containing 13,703 square feet or 0.315 acre of land, more or less.

END OF DESCRIPTION

Page 1 of 2

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.

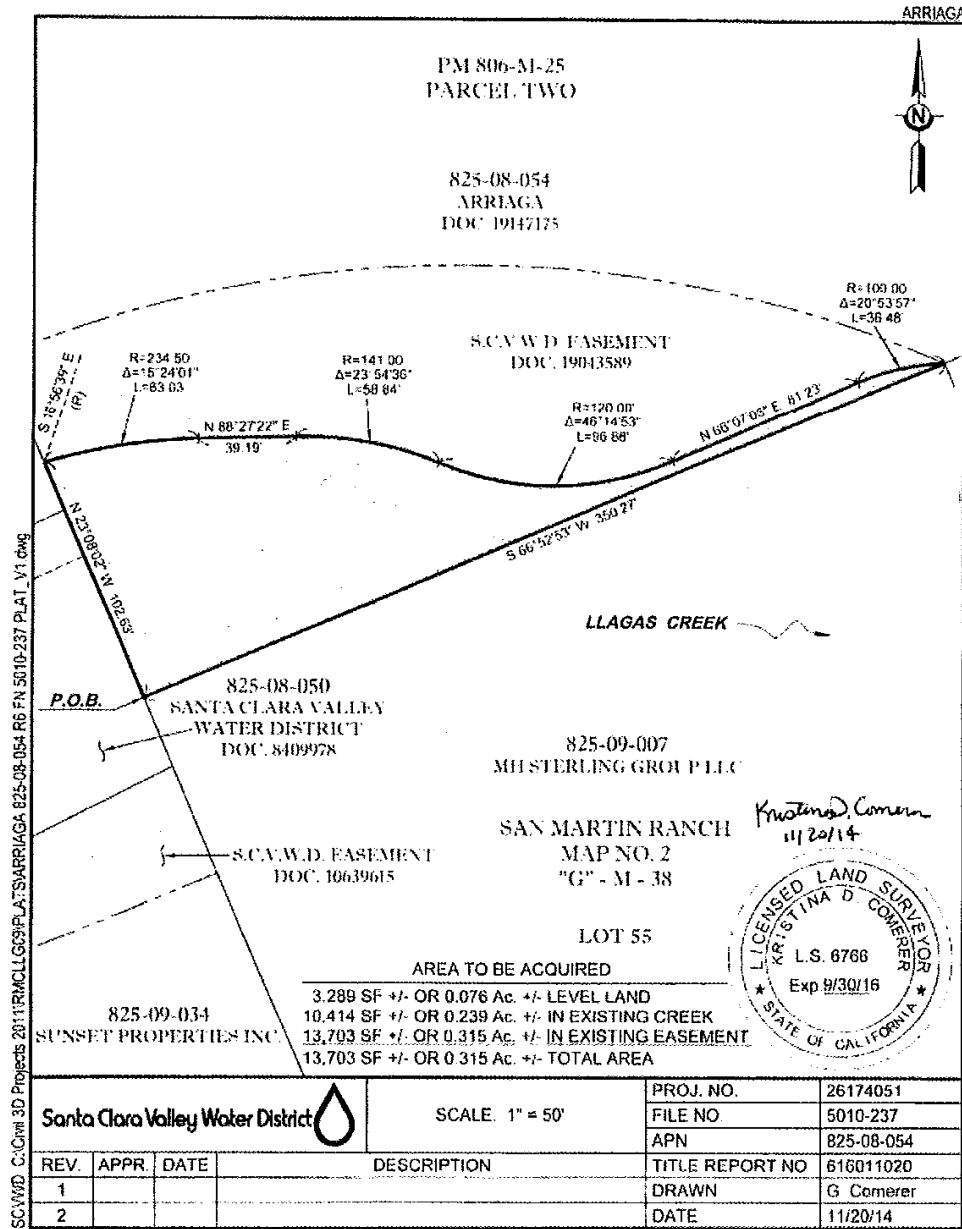
SURVEYOR'S STATEMENT:

Legal description prepared by Cross Land Surveying, Inc. in August 2014 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. Comer, PLS 6766

Date: November 20, 2014





Sheet 1 of 1