



OPTION AGREEMENT FOR PURCHASE OF REAL PROPERTY

Project: Anderson Dam Project

Grantor: Coyle

Real Estate File No.: 9186-34

Project/Charge No.: 91864005

This Option Agreement for Purchase of Property (**Agreement**) is entered into by and between FRANCES J. COYLE, (**Owner**), and the SANTA CLARA VALLEY WATER DISTRICT, a Special District, created by the California Legislature (**District**). The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the date of this Agreement (**Effective Date**),

RECITALS

WHEREAS, the Owner is the owner of that certain real property located at 2390 Cochrane Road, Morgan Hill, CA, identified as a portion of Santa Clara County Assessor Parcel Number 728-34-011, totaling approximately 1.14 acres, depicted on Exhibit "A" attached hereto and made a part hereof (**Real Property**);

WHEREAS, the Owner has agreed to grant the District the exclusive right and option to purchase the Real Property upon the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the terms and conditions contained in this Agreement and for good and valuable consideration, the receipt and adequacy of which are acknowledged by both parties, the parties hereby agree as follows:

1. **Summary of Agreement Elements.** Subject to the provisions set forth in more detail herein, the primary elements of this Agreement consist of the following:
 - a) Proposed Real Property Purchase: 1.14 acres;
 - b) Real Property right to be acquired upon exercise of option: Fee title of entire parcel;
 - c) Total option consideration: \$81,400.00 (**Option Consideration**);
 - d) Credit: \$10,000.00 of the Option Consideration shall be applied as a credit to the purchase price upon exercise of the option (**Credit**);
 - e) Term of the option: Twelve (12) months (subject to modification by early termination or extension by District pursuant to the terms of the Agreement) (**Term**); and
 - f) Purchase price of the Real Property is \$814,000.00. Exercise of purchase option, \$814,000 less the \$10,000 Credit = \$804,000.00 (**Purchase Price Balance**).

2. **Grant of Option.** Owner hereby grants to the District the exclusive right and option to purchase the Real Property (**Option**) for the Purchase Price and under the other terms and conditions set forth in this Agreement.
3. **Option Consideration and Recordation of Memorandum of Option.** As consideration for the Option granted under this Agreement, District agrees to deliver to Owner within thirty (30) days from the Effective Date, the sum of \$81,400.00, (**Option Consideration**). At the time District delivers the Option Consideration, Owner shall execute and deliver to District a Memorandum of Option in the form of Exhibit "B" attached hereto (**Memorandum of Option**). The exchange of the Option Consideration and executed Memorandum of Option shall be simultaneous. The Option Consideration is nonrefundable to District except in the event of a breach by Owner of any of its obligations under this Agreement, in which case the Option Consideration must be returned, on demand, to District. District may record the Memorandum of Option in the official records of the County of Santa Clara.
4. **Credit.** \$10,000.00 of the \$81,400.00 Option Consideration shall be applied as a credit to the purchase price of the Real Property upon exercise of the option as set forth in this Agreement (**Credit**).
5. **Term of Option.** The "Term" shall begin on the Effective Date and automatically expire on the earliest of the following dates:
 - (a) Twelve (12) months from the Effective Date, unless the Term is extended as provided below in this Section 5;
 - (b) The date on which District has delivered to Owner written notice of the termination of this Agreement; or
 - (c) The date the parties consummate the transfer of the Real Property (the **Close of Escrow** or **Closing**), following the exercise of the Option by the District (which is at the sole and absolute discretion of the District).

Upon payment of an extension fee in the amount of \$81,400 (**Extension Fee**) by the District, the Term shall be extended for TWELVE (12) months after the end of the original Term of Option. If the District elects to extend the Term, the District shall notify the Owner in writing prior to the expiration of the Term and, within fifteen (15) business days thereafter, deliver the Extension Fee to Owner. The Extension Fee is nonrefundable to District except in the event of a breach by Owner of any of its obligations under this Agreement, in which case it must be returned, on demand, to the District.

6. **Purchase Price.** The purchase price for the Real Property is \$814,000.00 (\$814,000 less the Credit of \$10,000.00 = \$804,000.00), (**Purchase Price Balance**), payable in cash upon the Close of Escrow.
7. **CEQA Compliance.** An express condition to District's exercise of this Option is its completion of any environmental review that may be required in connection with the California Environmental Quality Act and related laws and regulations (**CEQA**) and the satisfaction of the District's obligations with respect thereto (**CEQA Compliance**), as

determined by District in its sole and absolute discretion. Notwithstanding anything to the contrary herein, the District has no commitment to any particular use of the Real Property, retains full discretion to consider all options for potential use of the Real Property, and retains full discretion to consider any and all environmental mitigation measures and alternatives for any project subject to review under CEQA, including without limitation, a no-project option.

8. **License to Enter.** During the Term, Owner grants District, its employees, agents, consultants and contractors a license to enter the Real Property to inspect, test or investigate any aspect of the land or buildings to determine the Real Property's suitability for District's acquisition and/or proposed use. Prior to entering the Real Property, District shall give Owner at least five (5) business days written notice, including a reasonably detailed summary of the scope and duration of the proposed activities, and areas required for access. District shall comply with any reasonable conditions set forth by Owner related to such entry.
9. **Title.** District has obtained a Preliminary Title Report Number FSBC-TO14000087 dated May 17, 2018, from Fidelity National Title Company. The following shall be considered "**Permitted Exceptions**" for purposes of this Agreement: (1) property taxes and assessments collected with property taxes, which are at the date of the closing a lien not yet due or payable, (2) property taxes and assessments collected with property taxes, which are at the date of the closing a lien that is due and payable, but not yet delinquent (subject to proration as provided in this Agreement), (3) the lien of supplemental taxes, if any, assessed subsequent to the closing based upon any reassessment pursuant to Chapter 3.5 (commencing with Section 75) of the California Revenue and Taxation Code, to the extent that such supplemental taxes are assessed solely by reason of the change of ownership from Owner to District, and (4) the exceptions described as exception items ___ 5 and 6 as shown in the Preliminary Report.
10. **No Encumbrances.** During the Term, and except as set forth below, Owner shall not convey any interest in the Real Property to any party or otherwise encumber the Real Property without the prior written consent of District. The foregoing restriction shall include, but is not limited to, any lease or license of the Real Property.
11. **Refinancing.** Prior written consent shall not be required for purposes of refinancing or adding new financing to the Real Property during the Term; provided, however, (1) Owner shall provide its lender with a copy of this Agreement, (2) within fifteen business days from obtaining such refinancing or new financing, Owner shall provide District with written notice of any deeds of trust or mortgages arising therefrom, and (3) District's Option under this Agreement shall have priority over any such mortgage or deed of trust.
12. **No Subordination to Subsequent Deeds of Trust.** District's Option under this Agreement shall *not* be subordinate to any deed of trust or mortgage recorded after the Effective Date of this Agreement.
13. **Representation and Warranties of Owner.** Owner makes the following representations and warranties to District, which shall be true and correct as of the Effective Date and as of the date of Closing:

- (a) **Title.** Owner currently owns fee title to the Real Property and Owner has not created or granted any options to purchase the Real Property, right of first refusal to purchase the Property, license of the Real Property, or lease with option to buy the Real Property to any third parties. Owner has the full right, power and authority to execute, deliver and perform its obligations under this Agreement.
- (b) **No Violation.** The entering into and performance by Owner of the transactions contemplated by this Agreement will not violate or breach any agreement, covenant or obligation binding on Owner. This Agreement has been duly authorized and executed by Owner and the parties signing on behalf of Owner, and shall be a valid and binding agreement of Owner.
- (c) **Compliance with Laws.** To Owner's knowledge, after diligent inquiry, neither the Real Property nor any operations thereon violates any laws, regulations or building codes of any governmental or municipal authority having jurisdiction over the Real Property.
- (d) **Contracts.** As of the Closing, there will be no contracts to which Owner is a party for any improvements to the Real Property which have not been paid in full by Owner. Owner shall cause to be discharged any mechanic's liens caused by or on behalf of Owner and arising prior to the Closing.
- (e) **Litigation.** Except as expressly disclosed in writing to the District, no litigation, arbitration or other proceedings is pending or, to Owner's knowledge threatened, that relates to or affects the Owner, the Real Property or its operation, or Owner's performance under this Agreement.
- (f) **Leases.** Owner discloses the following leases presently existing on the Real Property: --NONE--. Owner agrees to hold District harmless and reimburse District for any and all losses and expenses occasioned to District by reason of any tenancy of the Real Property held by any tenant of Owner for any period exceeding one month.
14. **No Brokers' Commission.** The Owner and District each warrant to the other that no person or entity can properly claim a right to a commission, finder's fee, or other compensation with respect to the transaction contemplated by this Agreement.
15. **Successors and Assignment.** This Agreement is binding upon the Owner and District, and their respective administrators, legal representatives, successors-in-interest, executors or assignees. Owner shall not sell, grant, convey or otherwise encumber the Real Property during the Term without the District's written consent.
16. **Notices.** Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the parties at their respective addresses specified below or to such other address as a party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:
- Personal delivery, in which case notice is effective upon delivery;

- Certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt or deemed delivered on the date of any refusal to accept delivery;
- Nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service or effective on the date of any refusal to accept delivery.

To District: Santa Clara Valley Water District
Attention: Real Estate Services Unit Manager
5750 Almaden Expressway
San Jose, CA 95118

To Owner: Frances J. Coyle c/o Shanna Toy
9005 Thurber Lane
Bakersfield, CA 93311
shannatoy@sbcglobal.net

Notices shall be addressed as appears herein, provided that if any party gives notice of change of name or address, notices to the giver of that notice shall thereafter be given as demanded in that notice.

17. **Consummation of Option.** Upon District's written notice of its election to exercise the Option (**Notice of Exercise**), the parties shall do the following within the time limits prescribed herein:

a. DELIVERY OF GRANT DEED

Within ten (10) days following delivery of the Notice of Exercise to Owner, Owner shall deliver to Escrow (as defined below) a fully executed and properly acknowledged Grant Deed in the form attached hereto as Exhibit "C" conveying the Real Property described therein to the District subject only to the Permitted Exceptions set forth in paragraph 9 above. In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed that the parties have herein set forth the whole of their Agreement. The performance of this Agreement constitutes the entire consideration for the Real Property and shall relieve the District of all further obligation or claims on this account, or on account of the location or construction of any public improvement.

b. DISTRICT DEPOSIT OF FUNDS

Within twenty five (25) days following delivery of the Notice of Exercise to Owner and upon Owner's delivery of the Grant Deed into Escrow, District shall deposit with Escrow the sum of \$804,000.00 as the Purchase Price balance.

c. CLOSING COSTS

District shall pay all costs of escrow. District shall pay the costs to record the Grant Deed.

d. POSSESSION

Owner shall have the right to retain possession of the Real Property up to and including the date of Closing upon compliance by Owner with the conditions of this Agreement.

e. ESCROW

This transaction will be handled through an escrow with: Fidelity National Title Company, Escrow No. FSBC-TO14000087 ("**Escrow**"). Escrow shall close this transaction strictly pursuant to and in accordance with written instructions provided to Escrow by District.

18. **Invalidity of Any Provision.** If any provision or portion of a provision of the Agreement is held to be illegal, invalid or unenforceable by a court of competent jurisdiction under present or future laws effective during the term of the Agreement, the legality, validity, and enforceability of the remaining provisions or the balance of such provision shall not be affected thereby.
19. **Independent Counsel.** Owner acknowledges that he/she has been advised of the right to retain legal counsel prior to executing this Agreement and has either obtained such representation or has elected to proceed without it.
20. **Waiver.** No waiver of any provision of this Agreement shall constitute or be deemed a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
21. **Applicable Law.** This Agreement shall be governed by the laws of the State of California.
22. **Attorneys' Fees.** In the event of any litigation between the parties hereto to enforce any of the provisions of this Agreement, the unsuccessful party to such litigation agrees to pay to the successful party all costs and expenses, including reasonable attorneys' fees incurred by the successful party, including without limitation attorneys' fees incurred in enforcing any judgment arising out of such litigation, all of which may be included as part of the judgment rendered in such litigation. The provisions of this Section shall survive any termination of this Agreement or the Closing.
23. **Entire Agreement.** The Agreement contains the entire agreement of the parties and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. Any amendment to the Agreement must be reduced to writing and signed by both parties before it will be effective.
24. **Withdrawal of Offer.** If District has failed to execute this Agreement within six calendar months of the date of its execution by Owner, as shown herein below, then Owner's consent to this Agreement shall be deemed withdrawn and revoked. This Agreement and all other documents delivered to District, including but not limited to the MEMORANDUM OF OPTION and the GRANT DEED, shall be deemed void and returned to Owner forthwith.

District has executed this agreement as of:

June 28, 2018

SANTA CLARA VALLEY WATER DISTRICT

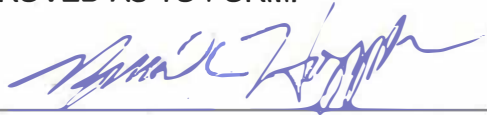
By:



Norma J. Camacho,
Chief Executive Officer

APPROVED AS TO FORM:

By:

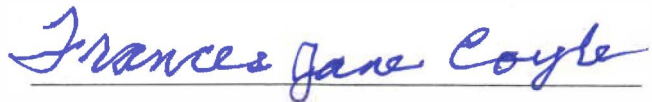


Brian C. Hopper
Senior Assistant District Counsel

Owner has executed this agreement as of:

MAY 25, 2018

OWNER: Frances J. Coyle

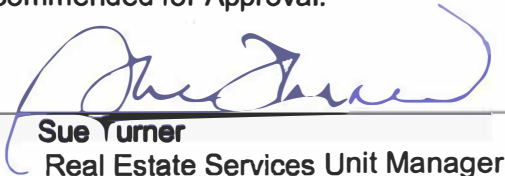


Mailing Address: c/o Shanna Toy

9005 Thurber Lane
Bakersfield, CA 93311

Recommended for Approval:

By:



Sue Turner
Real Estate Services Unit Manager

Exhibit A

DESCRIPTION OF THE PROPERTY

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 728-34-011

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Beginning at a one inch iron pipe in the Northeasterly line of the 14.31 acre parcel of land described in the deed from Catherine Garnett Rhoades to Harold E. Thomas, et ux, dated March 12, 1945, recorded in Book 1249 of Official Records, page 108, Santa Clara County Records, distant thereon S. 11 degrees 17' E. 135.91 feet from the Northerly corner thereof; thence along the Northeasterly line of said 14.31 acre parcel of land S. 11 degrees 17' E. 331.58 feet to a one inch iron pipe; thence leaving said Northeasterly line, S. 78 degrees 43' W. 205.73 feet to a one inch iron pipe; thence N. 11 degrees 17' W. 107.17 feet to a one inch iron pipe; thence N. 78 degrees 43' E. 185.73 feet to a one inch iron pipe; thence N. 11 degrees 17' W. 41.00 feet to a one inch iron pipe; thence S. 78 degrees 43' W. 103.00 feet to a one inch iron pipe; thence N. 11 degrees 09' 20" W. 153.66 feet to a one inch iron pipe; thence N. 65 degrees 05' E. 126.21 feet to the point of beginning, being a portion of said 14.31 acre parcel of land and containing 1.00 acre of land as surveyed by W. J. Hanna & Son, Suveyors, Gilroy, California, in November 1965.

EXHIBIT B

FORM OF MEMORANDUM OF OPTION

RECORD WITHOUT FEE UNDER SECTION 6103
GOVERNMENT CODE OF THE STATE OF CALIFORNIA

AFTER RECORDING RETURN TO:

REAL ESTATE SERVICES UNIT
SANTA CLARA VALLEY WATER DISTRICT
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 728-34-011

DOCUMENT NO.: 9186-34

MEMORANDUM OF OPTION

This Memorandum of Option is made as of _____, 2018, by and between the Santa Clara Valley Water District, a Special District, created by the California Legislature (Optionee), and Frances J. Coyle (Optionor), pursuant to an unrecorded Option Agreement for Purchase of Grant Deed dated _____ between the same parties hereto (Option Agreement).

1. Grant of Option; Agreement of Sale. Subject to the terms and provisions of the Option Agreement, Optionor hereby grants to Optionee the exclusive right and option (Option) to purchase that certain real property located at 2390 Cochrane Avenue, Morgan Hill, Santa Clara County, California, APN 728-34-011 (Real Property), and more particularly described as follows:

(See Attachment 1)

2. Agreement Controlling. This Memorandum of Option is qualified in its entirety by reference to the Option Agreement, the terms and provisions of which shall be controlling in all respects. In the event of any conflict or inconsistency between the Option Agreement and this Memorandum of Option, the terms and provisions of the Option Agreement shall be controlling.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Option as of the date first above written for the purpose of putting third parties on notice of the terms and provisions of the Option Agreement and its effect on the Property.

OPTIONEE:

SANTA CLARA VALLEY WATER DISTRICT, a California special district

By: _____
Norma J. Camacho, Chief Executive Officer

APPROVED AS TO FORM

By: _____
Brian C. Hopper
Senior Assistant District Counsel

OPTIONOR:

FRANCES J. COYLE

ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (seal)

ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
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instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (seal)

RECORD WITHOUT FEE UNDER SECTION 6103
GOVERNMENT CODE OF THE STATE OF CALIFORNIA

AFTER RECORDING RETURN TO:
REAL ESTATE SERVICES UNIT
SANTA CLARA VALLEY WATER DISTRICT
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 728-34-011

Grantee is exempt under section 11922 Revenue
and Taxation Code of the state of California.
Declarant or Agent Determining Tax:

Name, Title

DOCUMENT NO.: 9186-34

GRANT DEED

Frances Coyle, hereinafter "Grantor," does hereby grant to the SANTA CLARA VALLEY
WATER DISTRICT, a Special District, created by the California Legislature (District), all that real
property in the City of Morgan Hill, County of Santa Clara, State of California, described as:

See Exhibit A attached hereto and made a part hereof

Dated this day of , 20

Frances Coyle

EXHIBIT - C

ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } SS

On this ____ day of _____, in the year 20__, before me _____,

Notary Public, personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said County and State

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

☐ Individual

☐ Trustee (s)

☐ Corporate Officer(s): _____

☐ Guardian/Conservator

☐ Partner(s) ☐ Limited ☐ General

☐ Other: _____

☐ Attorney-In-Fact _____

Signer is Representing (Name of Person(s) or Entity (ies))

CERTIFICATE OF CONSENT AND ACCEPTANCE

This is to certify that the interest in real property conveyed by the attached Deed or Grant to the Santa Clara Valley Water District, also referred to herein as the Grantee, is hereby accepted by the undersigned duly authorized agent on behalf of the Board of Directors of said Santa Clara Valley Water District, pursuant to authority conferred by Resolution No. 14-79 of said Board of Directors adopted on the 9th day of September 2014, and the Grantee consents to recordation thereof by its said duly authorized agent.

Dated: _____, 20__

Santa Clara Valley Water District

By: _____
Chief Executive Officer/Clerk of the Board of Directors
(Strike out inapplicable one)

EXHIBIT A

Legal Description

For APN/Parcel ID(s): 728-34-011

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

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DETAIL "A" 1"=300'



This is not a survey of the land and is issued as a matter of information only, and while the same is compiled from information we believe to be correct, no liability is assumed by the Santa Clara County Assessor as to the correctness of said information.

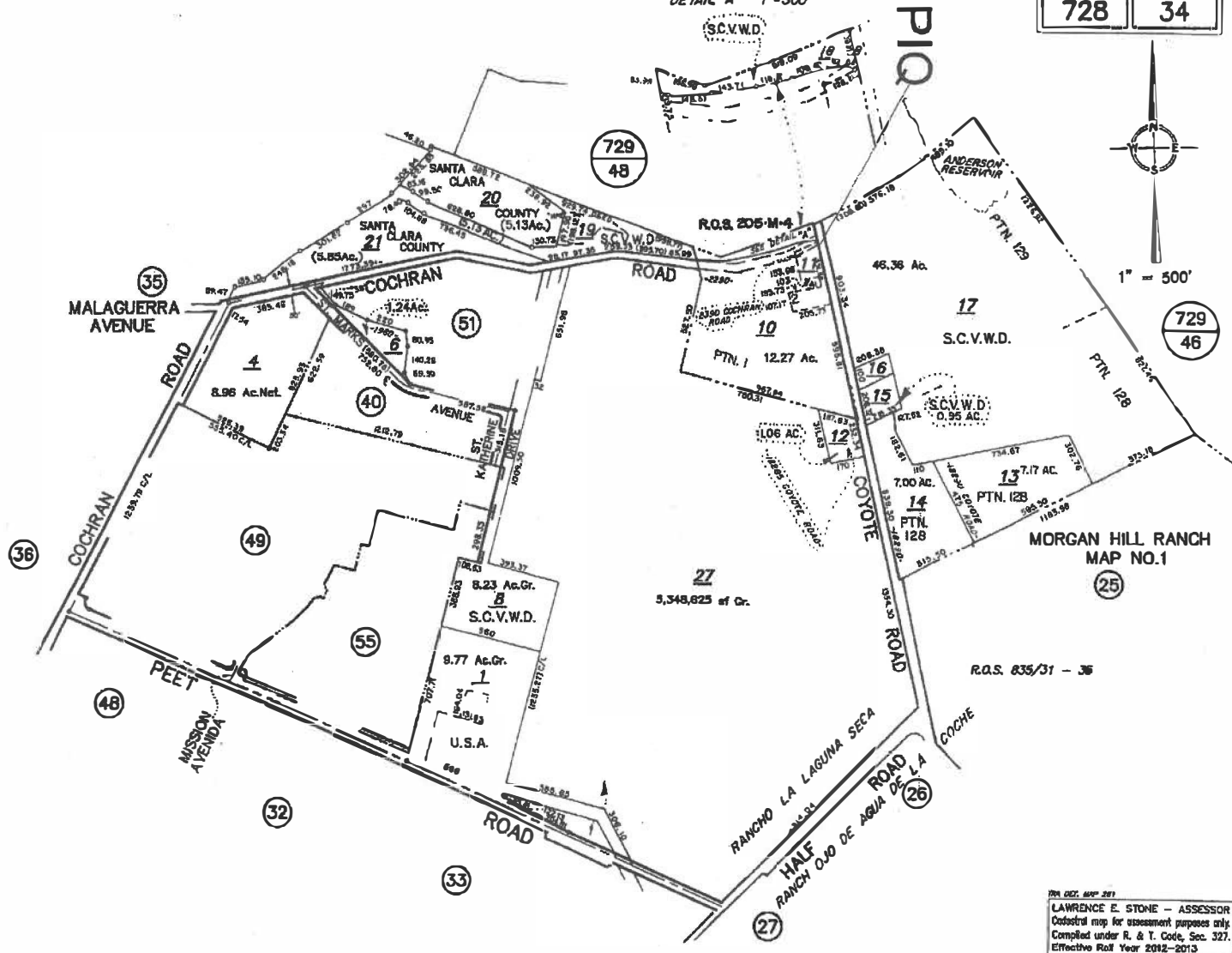


EXHIBIT A

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