

STAFF REPORT

To: Coastside County Water District Board of Directors

From: Mary Rogren, General Manager

Agenda: July 9, 2024

Report

Date: July 5, 2024

Agenda/Title: Adoption of Resolution of Necessity to acquire certain interests in property owned by Mary Alice Cozzolino, Trustee of the James and Alice Cozzolino Trust, for the Highway 92 Potable Water Pipeline Emergency Restoration Project

Recommendation/Motion:

Adopt Resolution 2024-02 determining that the public interest and necessity require the acquisition of certain interests in property owned by Mary Alice Cozzolino, Trustee of the James and Alice Cozzolino 1988 Family Trust ("Resolution of Necessity").

Background:

In the interest of public health and safety, staff proposes that the Board of Directors ("Board") hold a public hearing and adopt a Resolution of Necessity to acquire certain interests in property for the Highway 92 Potable Water Pipeline Emergency Restoration Project ("Project"). The subject property is located on San Mateo Road, also known as "Highway 92," County of San Mateo, California, identified as San Mateo County Assessor's Parcel Numbers 056-341-180, 190, 200, 210 & 230 and 056-331-110, 056-331-120 & 130. The parcels are owned by Mary Alice Cozzolino, Trustee of the James and Alice Cozzolino 1988 Family Trust ("Owner"). The property interests that the District seeks to acquire from this particular owner are permanent water pipeline easements, permanent access easements, a temporary access easement, and temporary construction easements, as shown on the attached plat maps and described in the attached legal descriptions ("Property").

The Resolution of Necessity must be adopted by a vote of two-thirds of the entire membership of the Board. By adopting the Resolution of Necessity, the Board will authorize District legal counsel to commence eminent domain proceedings to acquire the Property. The adoption of the resolution presumptively establishes the extent and necessity of the acquisition.

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Discussion:

The purpose of the Project is to relocate a water pipeline from and along Highway 92 and adjacent private property (including Owner's property) to a location on private property that is further away from Highway 92 and areas vulnerable to flooding from Pilarcitos Creek to ensure the continued supply of potable water and water for fire protection to properties located along Highway 92. In addition, the emergency water pipeline project will enhance the access and safety of the District's water infrastructure and promote environmental protection. The Project has been designed in coordination with the Owner to minimize disruptions to the private property interests.

To complete the Project, the District needs to acquire property rights from four property owners. These acquisitions are being pursued in accordance with state and federal law, and diligent efforts have and continue to be made to acquire the easements through negotiated settlements. The District negotiated with the property owners for approximately 5 months after making a formal offer, in addition to several months of working with each owner during the project design phase to accommodate the particular needs and characteristics of each property. The District has successfully negotiated with two of the four property owners and has already obtained easements from those two owners. However, negotiated settlements may not be achievable in all instances, and some of the property rights may need to be acquired through a timely condemnation process.

Project Location and History

The Owner's property is located between 2-3 miles east from the downtown core of the City of Half Moon Bay, CA along San Mateo Road (Highway 92), which is one of the main traffic routes into Half Moon Bay. The Owner owns several parcels that include a variety of characteristics due to their topography and location, including frontage along San Mateo Road, irrigated row crops/agricultural uses, improved parcels containing warehouses, barns, residences, and parking, and sloped/hillside areas. Because of the variety of characteristics, the District's appraiser produced four separate appraisals to accurately reflect the highest and best use of the "Larger Parcel," which refers to the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use.

The District currently owns water pipeline infrastructure adjacent to Highway 92 that serves 45 residential, commercial, and agricultural customer accounts along Highway 92. The District's 12-inch-diameter welded steel water main was installed in the 1950s and extends approximately 14,000 linear feet along the south side of Highway 92. Segments of the pipeline are within the banks of Pilarcitos Creek, and it crosses the creek and its

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tributaries at several locations. The District's current infrastructure is installed within a 10-foot public utility easement. An 8-inch-diameter high pressure gas main owned and operated by Pacific Gas and Electric Company (PG&E) and a fiber optics line run parallel to the water line within the portions of the easement boundary.

The Half Moon Bay region experienced early winter storm events from December 27, 2022, to January 1, 2023, which caused a major flooding event. Flows overtopped the banks of Pilarcitos Creek and its tributaries and caused major bank slides and erosion. Following the storm on December 31, 2022, the District was notified that approximately 450 linear feet of its water main had become exposed and was suspended above Pilarcitos Creek unsupported by soil. The District took immediate action to assess the damage and initiate emergency protective measures, including installation of approximately 650 feet of 2-inch high-density polyethylene (HDPE) as a temporary above-ground bypass. The existing, damaged 12-inch pipe was cut and capped at each end of the bypass and abandoned in place.

The 2-inch bypass was the most expedient temporary solution for the District to maintain domestic service to the 18 residential, commercial, and agricultural accounts located downstream of the damaged pipe. However, the current configuration is undersized and significantly reduces available downstream capacity, and the District is not able to provide sufficient fire flow to the three fire hydrants east of the emergency bypass. Additionally, given that the bypass is installed above grade, it is at risk of being damaged and is not suitable for long-term use. Therefore, emergency and exigency conditions persist until the pipeline can be permanently restored.

Benefits of the Project include: (1) ensuring reliable potable water and fire protection to the residents and businesses along Highway 92; (2) relocating pipeline facilities in a location that is less vulnerable to flooding risks, and away from the high-pressure PG&E gas main; (3) improving District access to the water main, as the current location along Highway 92 makes access difficult; (4) removing the temporary bypass, which is at risk of being damaged and currently provides insufficient capacity for fire flows; (5) improving public safety and access because if a main break occurred, resolving the issue would impede traffic and access to Half Moon Bay; (6) promoting environmental health because currently, the pipeline crosses the creek above-grade, and a break could cause environmental harm and cause the District to incur fines or penalties. The proposed Project crosses the creek below grade.

The Project improvements are necessary to allow the District to continue to provide reliable water service to its customers along Highway 92. The Project scope includes installation of approximately 3,790 linear feet of new 10-inch ductile iron pipe (DIP) and 380 linear feet of 6-inch DIP installed by open trench construction and approximately

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1,480 linear feet of 12-inch high-density polyethylene (HDPE) pipe installed at three creek crossings by horizontal directional drilling (HDD). A significant portion (approximately 2,700 linear feet) of the entire Project will be installed within an easement previously acquired by the District from the Owner in 2017. The Project also includes service reconnections and new hydrants serving the Owner's property. In sum, this Project will create a permanent solution that will provide reliable water service to the community and better serve public health and safety.

POWER OF EMINENT DOMAIN AND RESOLUTION OF NECESSITY

The California Constitution, California Eminent Domain Law at Code of Civil Procedure section 1230.010 et seq., including but not limited to sections 1240.010, 1240.020, 1240.030, 1240.040, and 1240.220, and California Water Code section 31040, authorize the District to acquire property by eminent domain. Before filing a condemnation action for any property interests, the District must satisfy certain procedural prerequisites, including obtaining an appraisal, presenting a formal offer, providing notice to the property owners of their right to attend a public hearing regarding a Resolution of Necessity, and adopting a Resolution of Necessity.

The District, in adopting the Resolution of Necessity, must make certain determinations. The notice to the property owners must inform the owners of their right to appear and be heard on the following issues, as follows:

- (A) The public interest and necessity require that the Project be undertaken;
- (B) The Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury;
- (C) The acquisition of the property described in the resolution is necessary for the Project; and
- (D) Either the offer required by section 7267.2 of the Government Code has been made to the owners, or the offer has not been made because the owner cannot be located with reasonable diligence.

(Code Civ. Proc. § 1245.230.)

- 1) The Public Interest and Necessity Require That the Project Be Undertaken.

The public interest and necessity require that the Project be undertaken.

In developing this Project, the District and its consultants concluded that there was a compelling need to relocate the water pipeline serving the community alongside Highway 92.

As outlined above, the Property is necessary to complete the Project and allow the District to provide safe, reliable water service and safeguard its infrastructure. The Project will promote public interest and public health and safety replacing the undersized, emergency bypass with a permanent water main in a location that increases safety, reliability, access, and promotes environmental protection. The proposed alignment will allow the District to inspect and maintain its infrastructure and relocates it away from a pressurized gas transmission main. The new location is far superior to the existing alignment because it will remove the over-grade stream crossings which are more impactful to the environment and create a greater risk of a pipe break. In the event of a main break, the new alignment will avoid major disruptions to traffic access to Half Moon Bay, increasing public safety and convenience. In addition, the Project will result in a new pipeline that is in a more secure location and provide reliable water service to the residences and businesses. This public benefit will increase the community's use and enjoyment of their homes and increase public safety.

2) The Project Is Planned and Located in the Manner That Will Be Most Compatible with the Greatest Public Good and Least Private Injury.

The Project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

District staff has worked with private consultants to conduct substantial investigations and studies regarding the Project, including consideration of alternative designs. The District considered the possibility of in-kind replacement of the pipe in its existing alignment. However, the proposed Project alignment is highly preferable because it promotes long-term safety and public health. Specifically, the realigned pipeline would reduce the risk of future damage from creek erosion in both the damaged portion of the pipe and the area immediately to the east of the damaged portion, where extensive erosion occurred. The pipeline would be realigned away from the high-pressure PG&E gas main, and Highway 92, which would make construction and future operation and maintenance activities easier and less hazardous. The HDD installations under the creek would be approximately perpendicular to the creek flow, minimizing the risk of hydrofracture, and the HDD installations would largely be staged in open farm fields and minimize disruption to residents. Finally, the open trench portions of the pipeline

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would largely be installed in gravel roads and unimproved farm fields, which would allow for quick construction and minimize the need for repaving.

Staff worked with private consultants to design the Project to minimize the impact to private properties. Representatives from the District's consultant, EKI Environment and Water, Inc. ("EKI"), met on site with the Owner three times during the design process to review the Project alignment and plan the Project in a manner to minimize disruptions to the Owner. Based on the Owner's input, EKI built in work restrictions to the Project's scope and timing to accommodate certain areas and uses of the property; for example, work windows exclude construction on certain parcels during high-value seasons to the Owner (including limiting construction during September 1 - December 31 to accommodate operation of a pumpkin patch and Christmas tree farm). The District agreed to work to ensure access to the Owner at all times during the project. The District agreed to place restrictions on heavy equipment and trucks from crossing bridges on the Owner's property to minimize impacts to the property's internal infrastructure. The District also agreed to add additional hydrants and fire protection for the benefit of the Owner's property at the District's cost. After the Project is completed, the District will restore the properties to "like or better" condition.

The District negotiated in good faith with the Owner for many months on these topics before making its formal offer. The District's engineer has accommodated specific requests such as maintaining access and avoiding construction during certain time periods to allow the Owner to fully participate in their seasonal economic and agricultural activities. The District remains open to discussing the Project's impacts and working with the Owner to minimize disturbances while this emergency public project is completed.

3) The Acquisition of the Property Is Necessary for the Project.

District staff is recommending that a Resolution of Necessity be adopted for this Property. The Project requires property rights from four owners to construct the new pipeline alignment. The District has already obtained easements from two of the four owners and cannot complete the Project without the final pieces of the new alignment. The Property is required in order to have the necessary property interests to complete the Project. The pipeline must be installed in the proposed easement areas in the subject property because it is part of a continuous water main that serves not only the subject property but also customers along Highway 92. Notably, the District has previously acquired an easement from the Owner for a portion of the proposed water main.

4) An Offer Has Been Made to the Owners.

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The statutory offer and other procedural prerequisites to adopting the Resolution of Necessity have been satisfied. Prior to reaching this stage of the acquisition of this Property, the District engaged a Right-of-Way agent and real estate appraiser to value the Property. On February 1, 2024, a formal offer was presented to the Owner based on the fair market value as required by Government Code section 7267.2. The offer included copies of the comparable sales data used by the appraiser to determine the fair market value.¹ The District, through its consultants, negotiated with the Owner for many months but were unable to reach an agreement as to the acquisition terms.

In early June, the Owner's attorney delivered a vague, verbal counter offer to the District that exceeded the District's appraised value many times over. The District requested, but the Owner has not provided an appraisal or any other documentation supporting the verbal counter offer. Given the delays in negotiation and the emergency nature of the Project, on June 21, 2024, the District sent the appropriate notices to the Owner informing them of their right to appear and be heard prior to the adoption of the Resolution of Necessity being presented to the District's Board of Directors today.

¹ The purpose of the public hearing prior to adopting a Resolution of Necessity is to discuss the necessity of the Property for the Project and whether the required offer was provided. It is not appropriate to discuss the value of the Property or the amount of the offer at the public hearing.

RESOLUTION NO. 2024-02

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE COASTSIDE COUNTY WATER DISTRICT
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE
ACQUISITION OF CERTAIN INTERESTS IN LAND AND DIRECTING THE FILING OF
EMINENT DOMAIN PROCEEDINGS FOR THE HIGHWAY 92 POTABLE WATER PIPELINE
EMERGENCY RESTORATION PROJECT**

(MARY ALICE COZZOLINO, TRUSTEE, APNs 056-341-180, 190, 200, 210 & 230 and 056-331-110, 056-331-120 & 130)

WHEREAS, this Board of Directors constitutes the governing body of the Coastside County Water District ("District");

WHEREAS, the California Constitution, California Eminent Domain Law at Code of Civil Procedure section 1230.010 et seq., including but not limited to sections 1240.010, 1240.020, 1240.030, 1240.040, and 1240.220, and California Water Code section 31040 authorize the District to acquire property by eminent domain;

WHEREAS, the District is undertaking the Highway 92 Potable Water Pipeline Emergency Restoration Project ("Project") to relocate water pipeline facilities off of Highway 92 to ensure the continued supply of potable water and provide water for fire protection, in furtherance of public health, safety, and welfare;

WHEREAS, the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines sections 15269 (b) and (c);

WHEREAS, as necessary for the Project, the District intends to acquire for public use, by exercise of its power of eminent domain, certain interests in property reportedly owned in fee by Mary Alice Cozzolino, Trustee of the James and Alice Cozzolino 1988 Family Trust (the "Owner"). The Owner's property consists of land improved and used for residential, commercial, and agricultural purposes, situated on San Mateo Road, County of San Mateo, California, identified as San Mateo County Assessor's Parcel Numbers 056-341-180, 190, 200, 210 & 230 and 056-331-110, 056-331-120 & 130;

WHEREAS, for timely completion of the Project, the District requires permanent water pipeline easements, permanent access easements, a temporary access easement, and temporary construction easements across the Owner's property as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by this reference ("Subject Property")¹;

¹ The exact square footage of the Subject Property will depend, in part, on how the property boundaries of an adjacent parcel (APN 056-341-220) are defined. The southern boundary of the adjacent parcel is the centerline of Pilarcitos Creek. Due to natural or man-made changes to the creek, the actual location of Pilarcitos Creek differs from where the County Assessor's Maps show the boundary line of the two properties. As set forth in the offer letter, the District's offer and appraisal are based on the Assessor's Maps, which represents a slightly smaller (0.083 acres) total easement area than if the District used the actual location of the creek as the property boundary. The District does not have a preference as to which

WHEREAS, in compliance with California Government Code section 7267.2 and all related statutory procedures for possible acquisition of the Subject Property, staff obtained an appraisal and presented a formal offer, with accompanying appraisal summary, to the Owner for the amount determined to be just compensation; and

WHEREAS, the District has set a public hearing on this Resolution of Necessity for July 9, 2024 and invited public comment to be made prior to the Board considering this Resolution for adoption. In compliance with California Code of Civil Procedure section 1245.210 et seq., the District provided the Owner with notice of this hearing and a reasonable opportunity to be heard. The Notice of Intent to adopt this Resolution was sent by first-class mail to each person whose property is to be acquired by eminent domain in accordance with California Code of Civil Procedure section 1245.235. In addition, as a courtesy, the District sent the notice by mail and email to the Owner's attorney, and by email to the Owner's representative..

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Coastside County Water District as follows:

1. The information provided in the Staff Report associated with this item is incorporated into this Resolution; and
2. The public interest and necessity require the proposed Project; and
3. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury; and
4. Acquisition by the District of the Subject Property is necessary for the proposed Project; and
5. The District made an offer to the Owner for the Subject Property in accordance with Government Code section 7267.2; and
6. District Counsel is hereby authorized to institute proceedings in eminent domain to acquire the Subject Property, and to take such other and further actions as may be necessary or convenient to give effect to this Resolution, and may deposit the probable amount of compensation and obtain an order for prejudgment possession of the Subject Property.

PASSED AND ADOPTED this 9th day of July 2024, by the following vote of the Board:

AYES:

NOES:

boundary is used in calculating the square footage of the Subject Property, and will defer to the Owners' and the adjacent property owner on the boundary matter. The District will pay fair market value for all property rights.

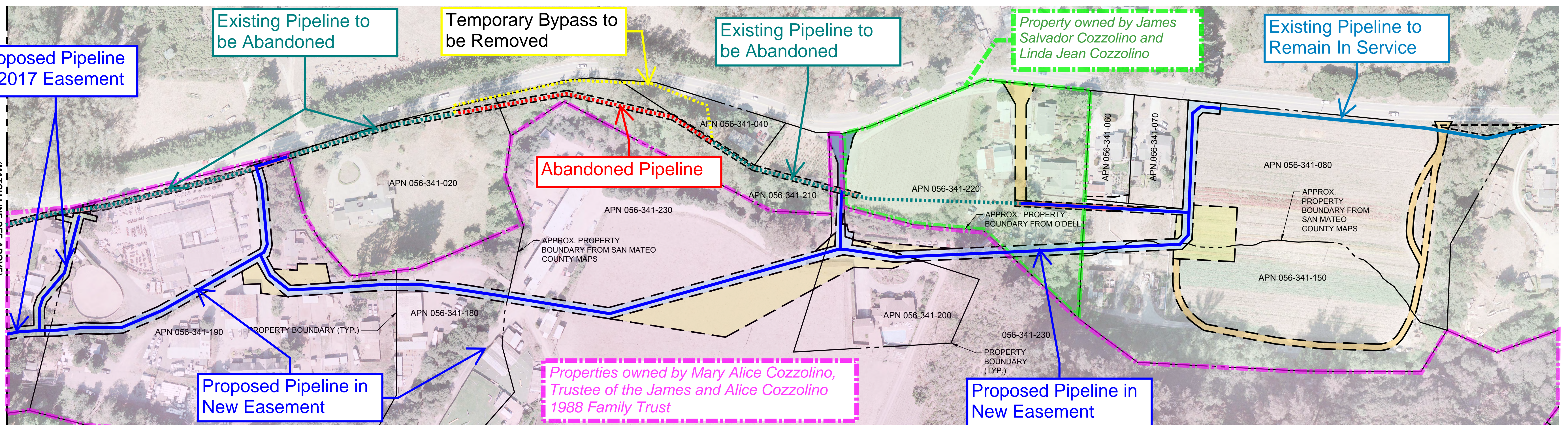
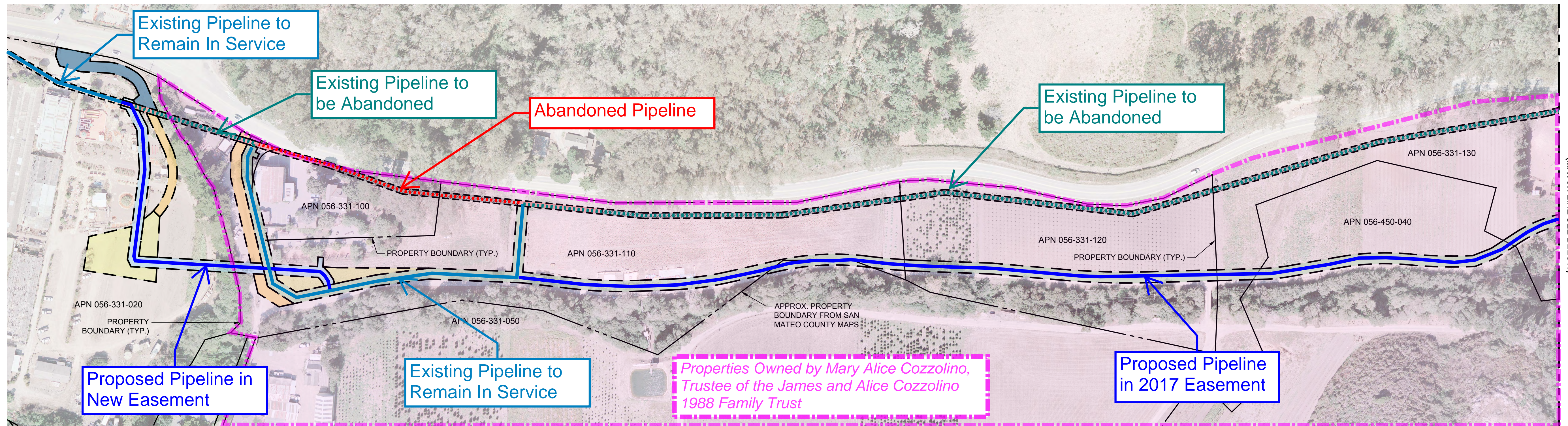
ABSENT:

President, Board of Directors
Coastside County Water District

ATTEST:

Secretary of the Board of Directors

Path: G:\ek\construction Dwg\80108.01 (pip Projects)\80108.29 File: EASEMENT EXHIBIT.dwg Plot Date: November 7, 2023 - 4:43 PM CADD User: Jordan Gans



LEGEND:

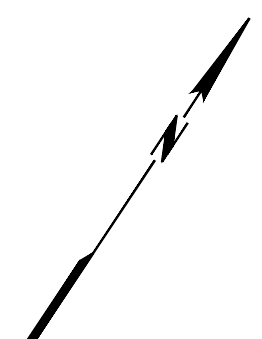
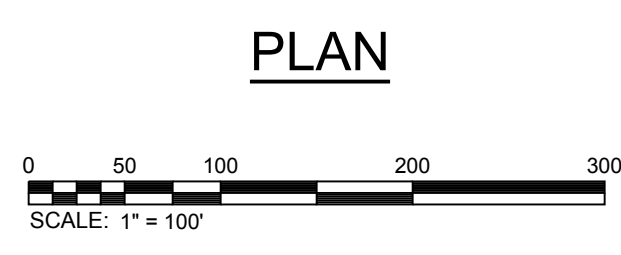
---	PROPERTY BOUNDARY
- - - -	APPROX. PROPERTY BOUNDARY FROM SAN MATEO COUNTY MAPS
- . - . - .	EASEMENT BOUNDARY
TYP.	TYPICAL
APPROX.	APPROXIMATE
APN	ASSESSOR'S PARCEL NUMBER

NOTES:

- LINEAR FEET (LF) ONLY SHOWN FOR PROPOSED PERMANENT EASEMENTS.
- PROPERTY BOUNDARY FROM SAN MATEO COUNTY MAPS SHOWN ON THE PLANS ARE APPROXIMATE AND ARE FROM THE SAN MATEO COUNTY GIS, ACCESSED SEPTEMBER 2019.

GENERAL LEGEND	
COLOR	TYPE
[Green Box]	EXISTING EASEMENT PURCHASED IN 2017 - REQUIRES METES AND BOUNDS
[Hatched Box]	EXISTING EASEMENT TO BE QUITCLAIMED TO THE LAND OWNER
[Red Box]	EXISTING EASEMENT TO BE RECORDED AND RETAINED BY THE DISTRICT
[Blue Box]	EXISTING EASEMENT TO BE RETAINED BY THE DISTRICT
[Light Blue Box]	PROPOSED PERMANENT WATER LINE EASEMENT
[Dark Blue Box]	PROPOSED PERMANENT INGRESS AND EGRESS EASEMENT
[Yellow Box]	PROPOSED TEMPORARY CONSTRUCTION EASEMENT
[Orange Box]	PROPOSED TEMPORARY INGRESS AND EGRESS EASEMENT

CONCEPTUAL MAP
NOT FOR CONSTRUCTION



DATE:	NOV 2023	SCALE:	AS SHOWN
DRAWN:	JG	DESIGNED:	JPNS
APPROVED:	IMV	JOB NO.:	B80108.29
REVISION	DESCRIPTION	APPROVED	DATE

