



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Julie Edmonds-Mares

**SUBJECT:** SEE BELOW

**DATE:** November 13, 2012

Approved

Date

11/20/12

**COUNCIL DISTRICT: 10**

**SUBJECT: JOINT USE AGREEMENT WITH THE SANTA CLARA VALLEY  
WATER DISTRICT FOR LOS ALAMITOS/CALERO CREEK TRAIL**

## RECOMMENDATION

Approve a Joint Use Agreement with the Santa Clara Valley Water District (SCVWD) for continued operation and maintenance of recreational facilities along Los Alamitos Creek Trail, Calero Creek Trail and Pfeiffer Park on SCVWD property for a term of 25 years, with City option to renew for another 25 years.

## OUTCOME

Approval of the proposed agreement will permit the City to continue operation of recreational facilities and programming along Los Alamitos Creek and Calero Creek trails and Pfeiffer Park on SCVWD property for 25 years and will provide the framework for the SCVWD to construct flood water improvements on City property.

## BACKGROUND

Los Alamitos Creek and Calero Creek Trails function as a north-south trail system in south San José. The trail system leads trail users from the 65-acre Lake Almaden regional park to the City's southern boundary with future planned connections to the Bay Area Ridge Trail. The trail systems are paved between Lake Almaden to Harry Road and are easily accessible from the surrounding residential neighborhoods. The Calero Creek Trail system south of Harry Road has not been formally developed but offers a narrow foot path maintained by frequent use by pedestrians and equestrians that connects to Santa Teresa County Park. The City owns four large parcels along the trail system which are not subject of this proposed agreement but are depicted in the attachment for reference.

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On February 22, 1983, the City executed a lease agreement with the SCVWD for joint use of SCVWD lands for the purposes of park and recreational facilities. The agreement addressed recreational access along both Los Alamitos and Calero Creeks. The lease agreement expired on March 1, 2008. The City has been operating and maintaining the trail system and park located on SCVWD property without a lease agreement since 2008. Staff recommends approval of the proposed Joint Use Agreement, retroactively effective on March 1, 2008, to define the roles and responsibilities for operating the recreational facility on SCVWD property.

The attachment generally shows the trail system alignment and Pfeiffer Park located upon SCVWD properties. Pfeiffer Park is a 1.2 acre neighborhood serving City park with play equipment and open turf. The attachment also depicts City properties subject to recorded easements previously granted to the SCVWD for flood protection and other City properties subject to the proposed agreement.

### **ANALYSIS**

The proposed Joint Use Agreement defines the operational and maintenance responsibilities shared by the City and SCVWD pertaining to Los Alamitos and Calero Creek trail. The agreement does not change the current operations of the facility and does not require any modification to existing facilities.

The proposed agreement includes a retroactive clause to cover operation and maintenance activities that have occurred since expiration of the lease agreement on March 1, 2008. Development of the Joint Use Agreement was delayed because of limited staff resources to provide management and oversight of active Capital Improvement Projects and long-term agreements. The Department of Parks, Recreation & Neighborhood Services (PRNS) has recently created an inventory of all known agreements with the SCVWD and is actively monitoring expiration dates to ensure that other joint projects do not operate outside of executed agreements. A lease agreement for operation of Los Gatos Creek Trail expired in 2011, and staff is seeking to develop an updated agreement by June 2013.

The proposed Joint Use Agreement defines how the SCVWD and City will operate facilities of mutual interest upon lands owned by the District and City. The agreement is for a 25-year term from the Agreement Effective Date, and includes a provision for a 25-year renewal, at City's discretion. The proposed agreement provides the City with authority to operate and maintain recreational trail system (Los Alamitos Creek/Calero Creek) and Pfeiffer Park on SCVWD property, construct improvements to permit recreational activities, host special events and provide police/patrol services for public safety consistent with other trail and park sites. The proposed agreement also provides the SCVWD the right to install and manage flood protection and water resource management on City property (parcels are shown in the attachment). Both agencies are required to communicate early about planned projects, activities and operational changes and coordinate mutually agreed upon projects when feasible.

The proposed agreement sets forth a number of conditions that have fiscal impacts for the City. Below is a set of proposed agreement terms set forth by the SCVWD in order to permit recreational use of its property. Staff's recommendations for minimization of obligations and risk to the City are noted:

<b>Agreement Terms</b>	<b>Recommendation</b>
<p>SCVWD reserves the right to ask the City to remove or relocate improvements that are upon SCVWD property. In such instances, the City will be required to do so at its own expense within 180 days of receiving notice from the SCVWD.</p>	<p>City and SCVWD meet monthly. City staff reviews and comments upon the SCVWD's annual Capital Improvement Plan (CIP). Coordination offers early notification of planning that might lead to a future request for removal of improvements. Staff will continue to monitor SCVWD planning efforts and communicate to the City Council potential or real costs at the appropriate time. As with other creek-side trails, there is potential for removal of trail improvements. The existing levees along Alamitos Creek may not meet Federal Emergency Management Agency (FEMA) freeboard requirements. District improvements during the term of this agreement may include raising the levee height to meet FEMA requirements and will require City to relocate the trail improvements. Staff believes that this is an acknowledged risk with all Joint Use Agreements and that notification of possible loss of the improvements would be reported upon and a plan proposed for restoration or relocation.</p>
<p>SCVWD is not responsible for any damage occurring to the City's recreational improvements within the SCVWD premises that result from the SCVWD's maintenance, construction or reconstruction activities, or from its water management and/or flood protection facilities located on or near the SCVWD premises. All such costs for repairing such damage to City's improvements will be borne by City.</p>	<p>As noted previously, staff monitors SCVWD planning and construction efforts through regular coordination.</p> <p>Staff will continue to monitor SCVWD planning efforts through an annual review of the SCVWD's Capital Improvement Plan and monthly coordination meetings. Staff will communicate to the City Council potential or real costs pertaining to removed recreational improvements at the appropriate time.</p> <p>This term is consistent with the Collaborative Action Plan executed by the City and SCVWD.</p>
<p>City shall be responsible for the maintenance and repair of recreational improvements on both the City Premises and SCVWD Premises.</p>	<p>In general, the cost for operation and maintenance of park facilities is communicated to the City Council as part of construction contract awards, and often funded as part of the annual budget process. Staff will continue to seek maintenance funding for the trails and park through the annual budget process.</p>

<p>City is responsible for damage to SCVWD Improvements on SCVWD Premises that result from City's or the public's use of the SCVWD Premises.</p>	<p>The recreational trail and Pfeiffer Park have been designed in a manner that does not encourage public access to areas subject to damage. The paved trails and defined recreational areas direct public use to areas designed for active and passive recreation.</p>
<p>City will bear the cost and expense of any security, police or other expenditure necessary to temporarily prohibit or control public access to the SCVWD Premises during any SCVWD maintenance and operations, which expenditure the SCVWD would not ordinarily incur but for the recreational uses the SCVWD is permitting on the SCVWD Premises pursuant to this Agreement</p>	<p>As noted previously, staff monitors SCVWD planning and construction efforts through regular coordination.</p> <p>Staff will continue to monitor SCVWD planning efforts and communicate to the City Council potential or real costs at the appropriate time.</p> <p>Staff believes that the long-term ability to provide recreational access outweighs short-term expenses for security during a SCVWD maintenance or operational project.</p>
<p>City will be responsible for public notification about trail closures due to fluctuations in creek water levels.</p>	<p>Under-crossings have existing advance warning sign notifying trail users to not use the under-crossings during high water events. City staff will monitor trail conditions particularly during occurrence of higher than normal seasonal floods and convey this information to local media.</p>

The proposed agreement is consistent with other recent Joint Trail and Lease Agreements between the City and SCVWD and staff believes does not present unreasonable risks to the City. Execution of the proposed agreement permits the City to continue providing recreational access to the community.

Additionally, the proposed agreement does not create a binding commitment to the flood control improvements and the SCVWD would pursue control flood improvements subject to separate environmental review.

**EVALUATION AND FOLLOW-UP**

Staff will continue to operate and maintain recreational facilities along Los Alamitos Creek and Calero Creek Trails, and Pfeiffer Park under conditions set forth under the proposed Joint Use Agreement.

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## **POLICY ALTERNATIVES**

### ***Alternative #1: Do Nothing***

**Pros:** No further staff time is spent to negotiate and execute the agreement.

**Cons:** City would lose ability to operate and maintain recreational facilities along the trail and Pfeiffer Park and would be subject to provisions that require removal of the existing improvements.

**Reason for not recommending:** Approach is inconsistent with the Greenprint that identifies Almaden Lake as a regional park facility managed by the City of San Jose.

## **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not require any of the criterion listed above. This memorandum will be posted to the City's website for the December 4, 2012 City Council meeting.

## **COORDINATION**

This memorandum has been coordinated with City Attorney's Office and the City Manager's Budget Office.

## **FISCAL/POLICY ALIGNMENT**

Operation of the Los Alamitos Creek and Calero Creek trail systems, and Pfeiffer Park is consistent with the Greenprint.

The Los Alamitos and Calero Creek trails contribute to the City's trail network mileage, and supports the 100-mile trail network objective defined by the Green Vision. The City will continue to operate and maintain the trail system in a manner consistent with current funding. As previously mentioned, the City will bear the cost and expense of any security, police or other expenditure necessary to temporarily prohibit or control public access to the SCVWD Premises

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during any SCVWD maintenance and operations. However, it is currently anticipated that these costs will be negligible. Staff will continue to monitor SCVWD planning efforts and communicate to the City Council potential or real costs at the appropriate time.

### **COST SUMMARY/IMPLICATIONS**

Funding for the maintenance of existing facilities and operations of the Los Alamitos Creek and Calero Creek trails, and Pfeiffer Park are already budgeted in the PRNS budget. Approval of this agreement does not require any additional expenditures.

### **CEQA**

Not a project, File No. PP10-066(g), Memorandum of understanding.

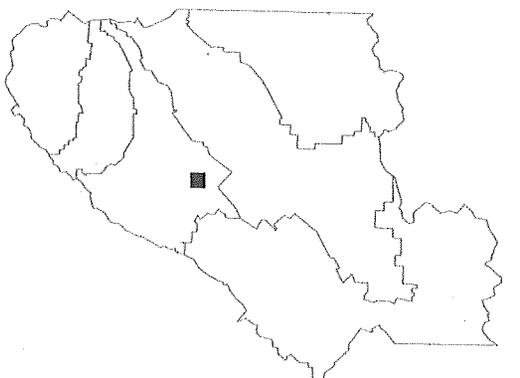
/s/

JULIE EDMONDS-MARES  
Acting Director of Parks, Recreation and  
Neighborhood Services

For questions please contact Matt Cano, Deputy Director, at 408-535-3580.

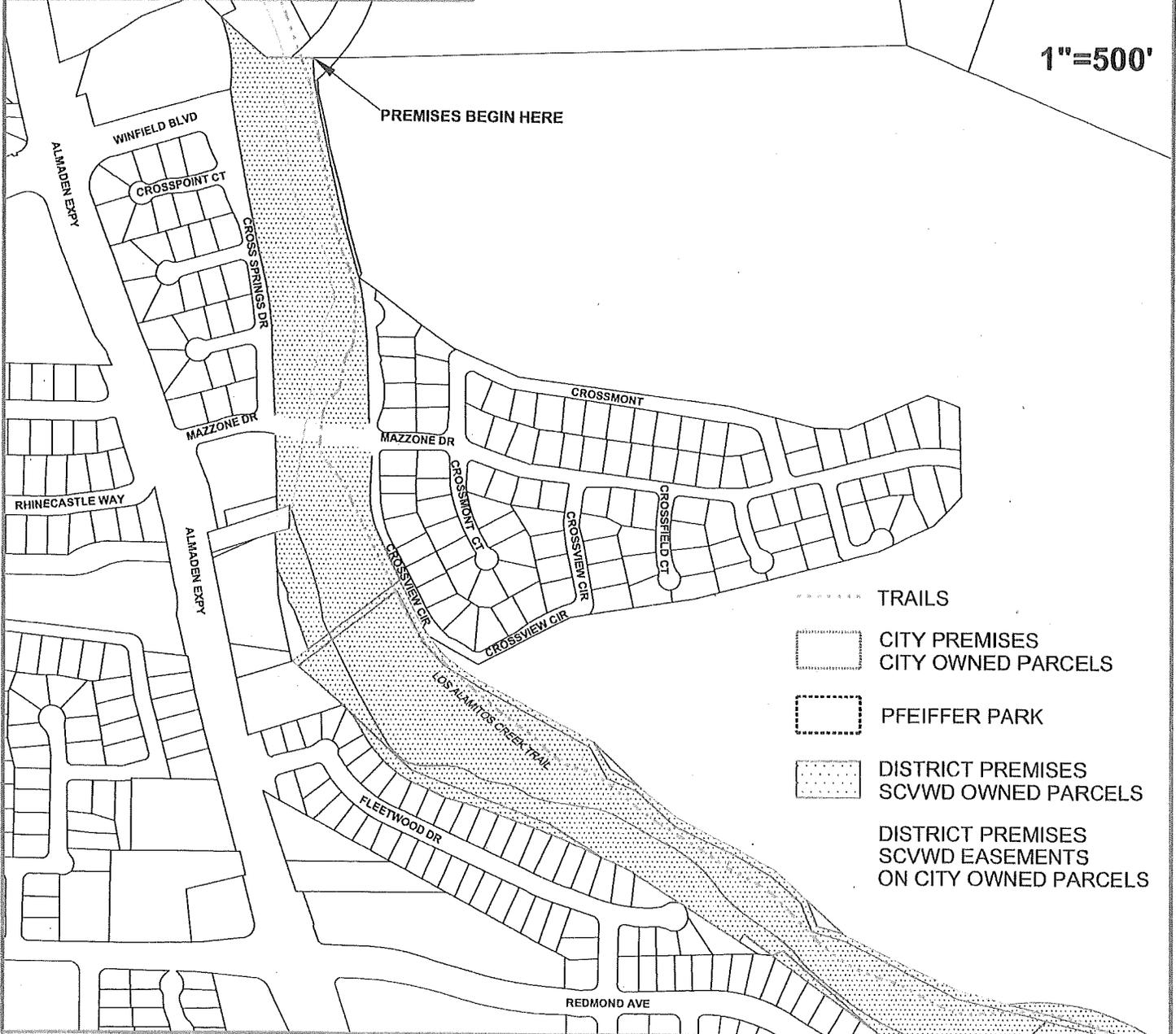
Attachment – Trail System and Park Map

**SANTA CLARA COUNTY**



1"=500'

PREMISES BEGIN HERE



- ..... TRAILS
- [Solid Line] CITY PREMISES
- [Dotted Line] CITY OWNED PARCELS
- [Dashed Line] PFEIFFER PARK
- [Stippled Area] DISTRICT PREMISES
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**GUADALUPE WATERSHED**

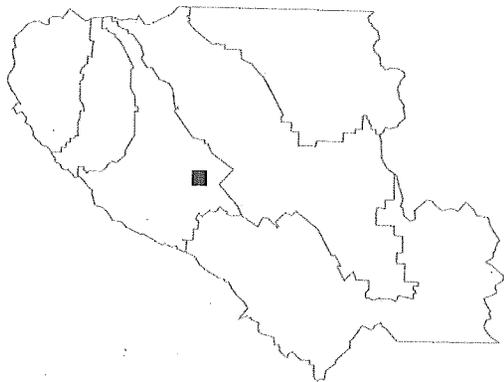
**LOS ALAMITOS CREEK**

Santa Clara Valley Water District 

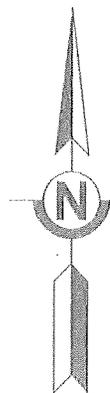
JOINT USE AGREEMENT FOR  
 LOS ALAMITOS/CALERO CREEK TRAIL  
 EXHIBIT A  
 SHEET 1 OF 7

PROJ. NO.	
FILE NO.	
APN	
DRAWN	BDQ
DATE	9/4/12

**SANTA CLARA COUNTY**



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CITY OWNED PARCELS
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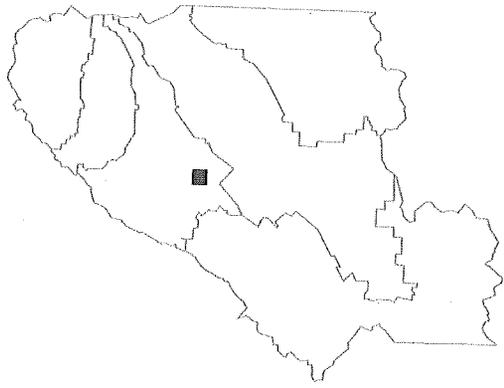
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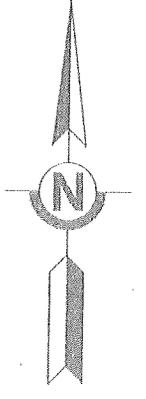
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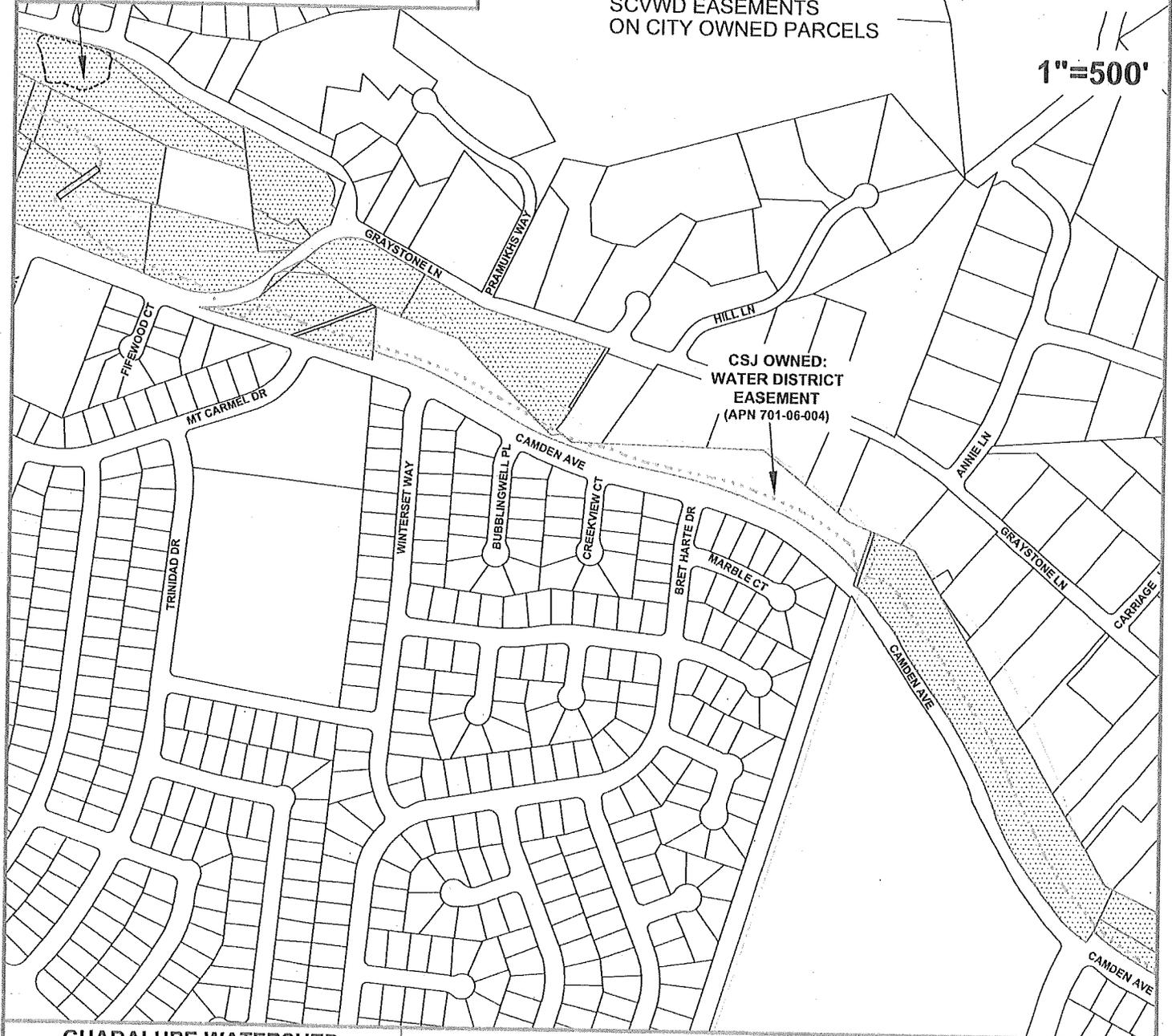
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**LOS ALAMITOS CREEK**

Santa Clara Valley Water District



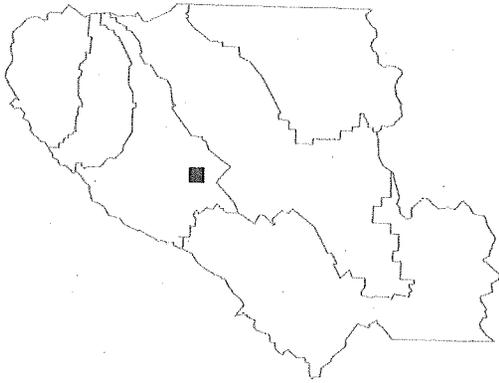
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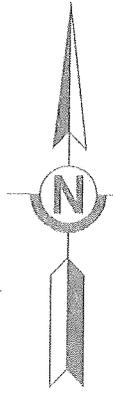
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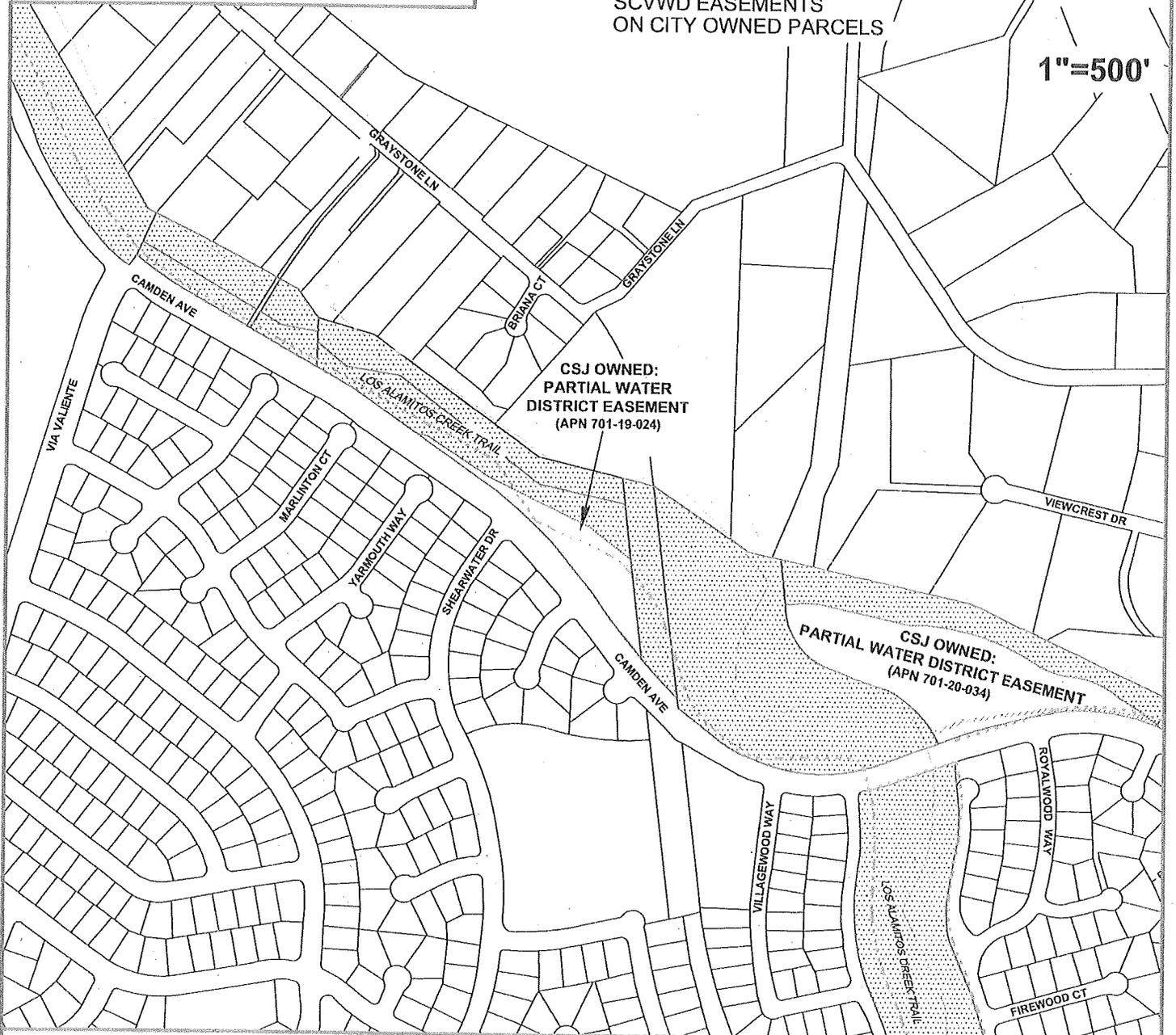
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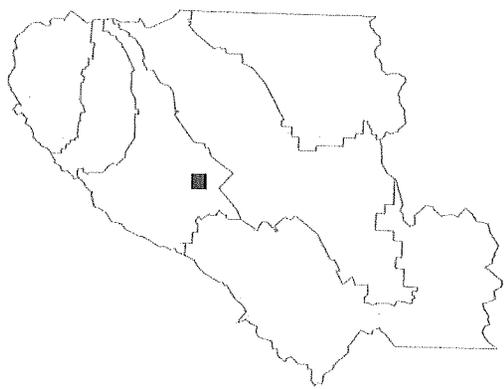
Santa Clara Valley Water District 

JOINT USE AGREEMENT FOR  
LOS ALAMITOS/CALERO CREEK TRAIL  
EXHIBIT A

SHEET 4 OF 7

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**SANTA CLARA COUNTY**



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**PARTIAL CSJ OWNED:  
WATER DISTRICT EASEMENT  
(APN 701-20-034)**

**CSJ OWNED:  
WATER DISTRICT  
EASEMENT  
(APN 701-61-001)**



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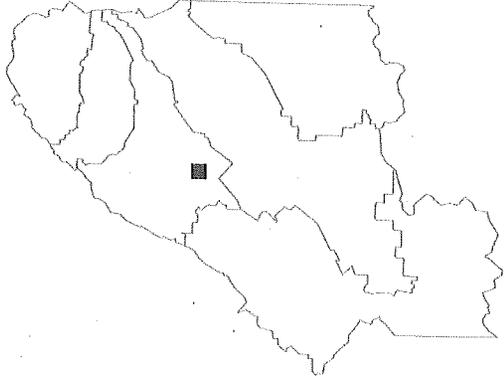
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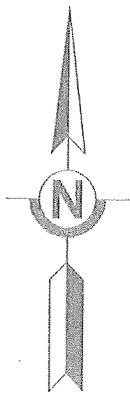
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SHEET 5 OF 7

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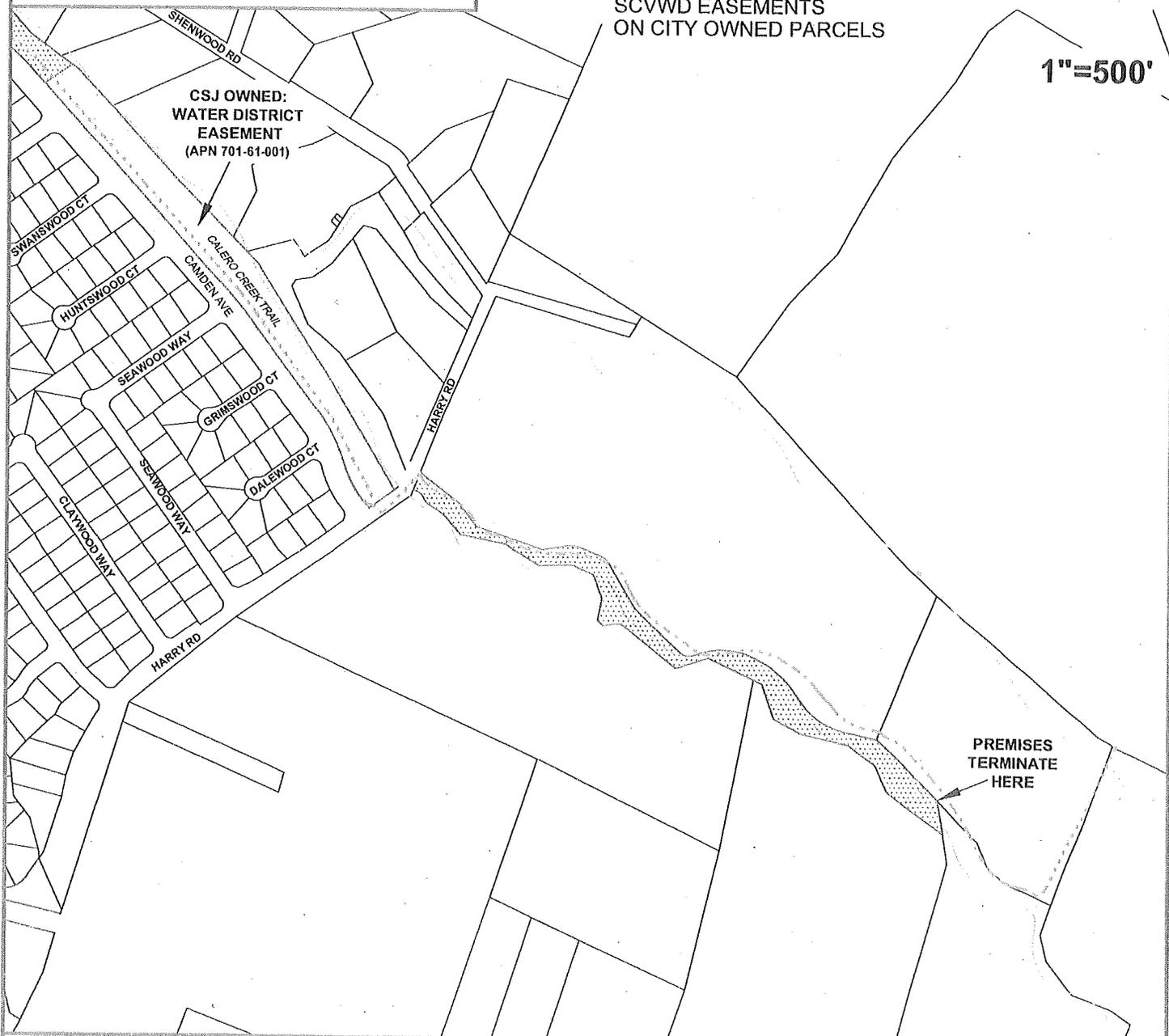
**SANTA CLARA COUNTY**



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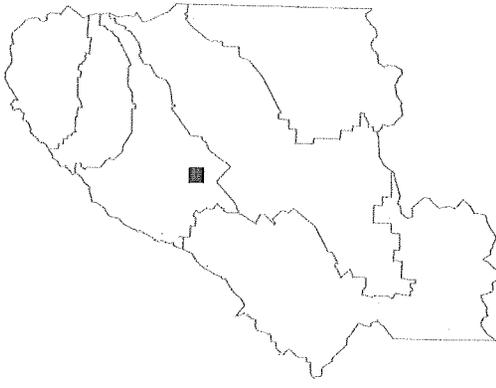


JOINT USE AGREEMENT FOR  
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SHEET 6 OF 7

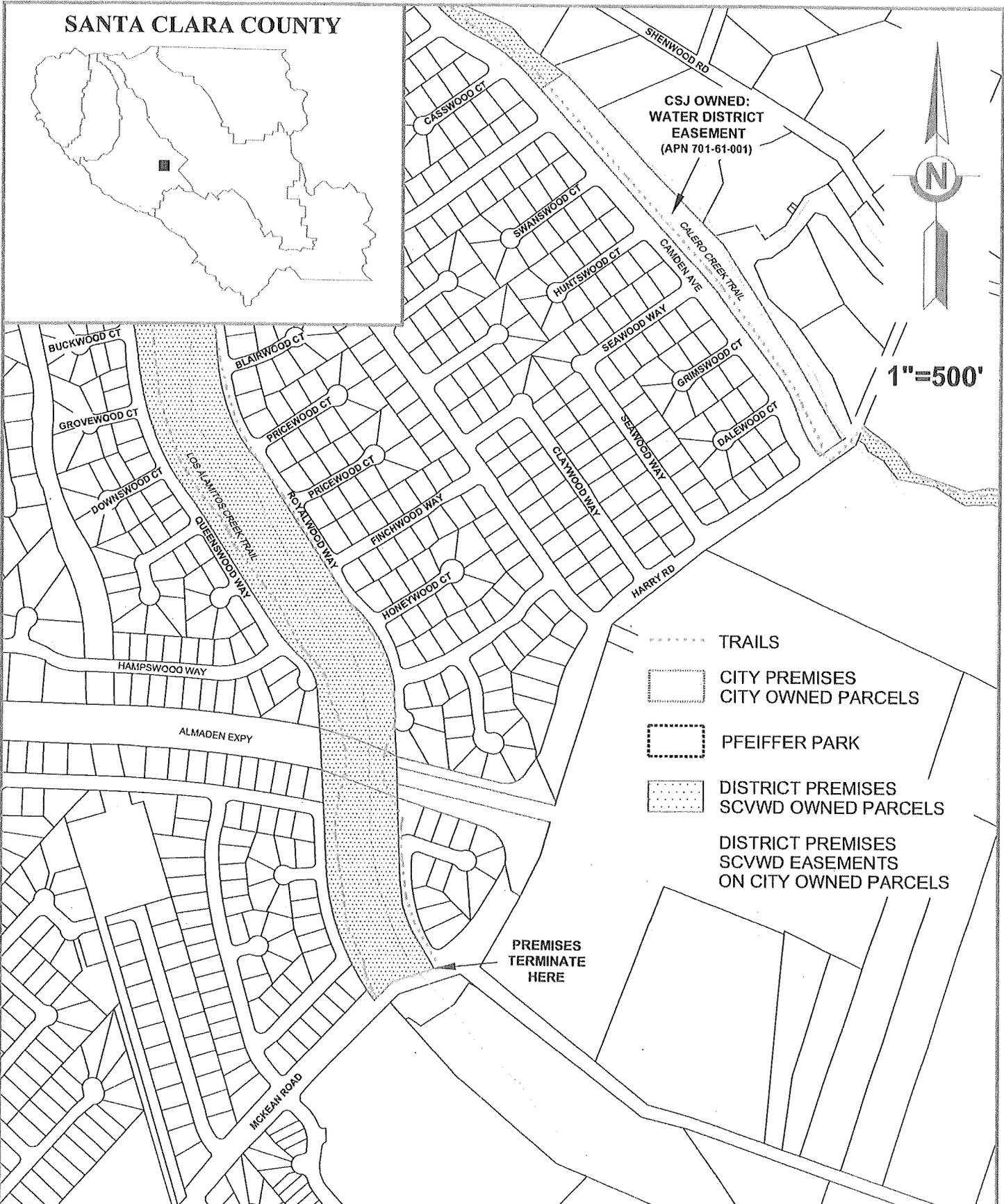
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**GUADALUPE WATERSHED**



**JOINT USE AGREEMENT FOR  
ALAMITOS/CALERO CREEK TRAIL**

**EXHIBIT A**

SHEET 7 OF 7

**LOS ALAMITOS CREEK**

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