

**COST SHARING AGREEMENT
BY AND BETWEEN MOFFETT PLACE LLC
AND THE SANTA CLARA VALLEY WATER DISTRICT FOR CONSTRUCTION OF
FLOODWALLS AS PART OF THE DISTRICT'S SUNNYVALE EAST CHANNEL
AND SUNNYVALE WEST CHANNEL
FLOOD PROTECTION PROJECT**

This agreement (AGREEMENT) is made and entered into as of the date it is fully executed, by and between the MOFFETT PLACE LLC (MOFFETT PLACE), a Delaware limited liability company, and the SANTA CLARA VALLEY WATER DISTRICT (DISTRICT), a special DISTRICT of the State of California. MOFFETT PLACE and DISTRICT may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

WHEREAS, MOFFETT PLACE is currently proceeding with the construction phase of its Moffett Place Improvement Plan (Project) as shown in the MOFFETT PLACE IMPROVEMENT PLAN Exhibit A hereto, pursuant to its construction contract with LEVEL 10 CONSTRUCTION (CONTRACTOR); and

WHEREAS, on December 3, 2013, the City of Sunnyvale certified a Final Subsequent Environmental Impact Report and approved the Project as lead agency pursuant to the California Environmental Quality act ("CEQA") (Pub. Res. Code § 21000 et seq.); and

WHEREAS, DISTRICT is currently proceeding with the design phase of its Sunnyvale East Channel and Sunnyvale West Channel Flood Protection Project (Project), for which a Final Environmental Impact Report was certified by the DISTRICT'S Board of Directors and the Project was approved on September 9, 2014. Once the design phase is completed, DISTRICT will subsequently advertise for bids and award a contract for construction of the Project; and

WHEREAS, the construction schedule of MOFFETT PLACE'S Project precedes and is coincident with the DISTRICT'S Sunnyvale East Channel and Sunnyvale West Channel Flood Protection Project, which includes certain floodwall improvements. DISTRICT desires MOFFETT PLACE to incorporate the design and construction of such floodwall improvements into the Project; and

WHEREAS, DISTRICT'S floodwall improvements (DISTRICT'S IMPROVEMENTS) to be included in the Project are shown and incorporated in the MOFFETT PLACE Cost Sharing Area for the Sunnyvale West Channel, DISTRICT'S IMPROVEMENTS, Exhibit B hereto and described as follows:

1. Sunnyvale West Channel—along the DISTRICT'S east maintenance road extending from Bordeaux Drive downstream approximately 339 feet to the end of MOFFETT PLACE'S property, and
2. Sunnyvale West Channel—along the DISTRICT'S west maintenance road extending from Bordeaux Drive downstream approximately 547 feet to the end of MOFFETT PLACE'S property; and

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WHEREAS, MOFFETT PLACE desires to dedicate, convey, and transfer ownership and title of the DISTRICT'S IMPROVEMENTS after their construction; and

WHEREAS, DISTRICT desires to accept such dedication, conveyance, and transfer of the DISTRICT IMPROVEMENTS; and

WHEREAS, the Parties hereto desire to specify the timing, conditions and terms of said dedication, conveyance and transfer; and

WHEREAS, it is in the public's best interests to achieve the economic benefits and efficiencies resulting from combining the design and construction of the Parties' projects; and

WHEREAS, MOFFETT PLACE is willing to include DISTRICT'S IMPROVEMENTS in its Project, at DISTRICT'S expense and in accordance with the terms and conditions set forth in this AGREEMENT.

NOW THEREFORE, in consideration of their mutual promises and agreements, and subject to the terms, conditions and provisions hereinafter set forth, the Parties hereto agree as follows:

AGREEMENT

1. DESCRIPTION OF PROJECT SITE

The DISTRICT'S Sunnyvale West Channel extends from San Francisco Bay to Inverness Way, approximately 3.0 miles in length. DISTRICT'S IMPROVEMENTS will be located along DISTRICT'S east maintenance road from Bordeaux downstream approximately 339 feet in length, and along DISTRICT'S west maintenance road from Bordeaux Drive downstream approximately 547 feet in length as shown on the MOFFETT PLACE Cost Sharing Area, Sunnyvale West Channel, DISTRICT'S IMPROVEMENTS, Exhibit B hereto.

2. SCOPE OF WORK

2.1 Responsibilities of MOFFETT PLACE:

2.1.1 Contract for the construction of its Project, including the DISTRICT'S IMPROVEMENTS described in Section 1. DESCRIPTION OF PROJECT SITE, above, and coordinate with appropriate local, state, federal, and regulatory agencies, regarding any permits or approvals required for the Project.

2.1.2 MOFFETT PLACE is responsible to obtain all the necessary permits, as deemed appropriate by the various regulatory agencies, prior to proceeding with construction of the Project.

2.1.3 MOFFETT PLACE will use its best efforts for the DISTRICT'S IMPROVEMENTS to be constructed prior to December 31, 2018, subject to extension of this date for force majeure events. If MOFFETT PLACE and

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DISTRICT determine this schedule cannot be met, the Parties will negotiate a revised schedule for performance and execute an amendment to this AGREEMENT. If the Parties cannot agree on a revised schedule of performance, then the AGREEMENT may be terminated in accordance with Section 6. TERMINATION, of this AGREEMENT.

- 2.1.4 No Encumbrances. MOFFETT PLACE represents and warrants that the DISTRICT IMPROVEMENTS and DISTRICT'S property will be free and clear of all mechanics liens, security interests, or other encumbrances related to the work performed as described in this AGREEMENT as of their dedication, conveyance, and transfer to the DISTRICT.
- 2.1.5 Control of the Project. MOFFETT PLACE and its CONTRACTOR will be solely responsible for the construction of the DISTRICT IMPROVEMENTS and for all persons or entities engaged in such work, including, but not limited to, contractors, subcontractors, suppliers, and service providers.
- 2.1.6 MOFFETT PLACE agrees to require its CONTRACTOR to construct the DISTRICT IMPROVEMENTS in conformance with the final design for the DISTRICT IMPROVEMENTS as agreed to by MOFFETT PLACE and the DISTRICT.
- 2.1.7 MOFFETT PLACE will be responsible for all permit acquisitions, construction management, testing, and acceptance of the Improvements and other work performed by its CONTRACTOR. The DISTRICT will inspect the DISTRICT IMPROVEMENTS prior to accepting MOFFETT PLACE'S dedication. To the extent there are any disagreements regarding the completion of the Improvements, MOFFETT PLACE and the DISTRICT shall meet and confer in an attempt to amicably resolve their differences. They may select any type of alternate dispute resolution process prior to litigation as agreed to by both Parties.
- 2.1.8 Warranty. MOFFETT PLACE shall require its CONTRACTOR(S) performing the DISTRICT IMPROVEMENTS to guarantee and warrant the construction of the DISTRICT IMPROVEMENTS and agree to remedy any defects (including both patent and latent defects) or damages in the Improvements arising from faulty or defective construction materials or workmanship for a period of one (1) years after the DISTRICT'S final acceptance of the DISTRICT IMPROVEMENTS (the "Warranty Period").
- 2.1.9 MOFFETT PLACE will be solely responsible for managing its CONTRACTOR(S)' remedy of any warranty matters arising during the Warranty Period to the reasonable satisfaction of the DISTRICT. If the MOFFETT PLACE CONTRACTOR(S) fails to remedy the defects brought to the attention of MOFFETT PLACE during the Warranty Period, MOFFETT PLACE shall remedy those defects.

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- 2.1.10 Resolving Contractor Disputes. MOFFETT PLACE will be solely responsible for the resolution of any and all disputes arising out of or related to MOFFETT PLACE'S contract(s) for construction of the DISTRICT IMPROVEMENTS, including, but not limited to, bid disputes and payment disputes. The DISTRICT'S acceptance of the Improvements does not relieve MOFFETT PLACE of responsibility to correct defective work (including both patent and latent defects) or repair any damage caused by MOFFETT PLACE or its CONTRACTOR(S) or waive any other remedy to which the District is entitled by law or in equity. During the Warranty Period, MOFFETT PLACE will be responsible for working with its CONTRACTOR to address any warranty issues regarding the Improvements.
- 2.1.11 As Built Drawings. MOFFETT PLACE shall ensure that its CONTRACTOR(S) prepare as-built drawings, signed and stamped by a professional engineer, registered to practice in California. MOFFETT PLACE will supply such drawings to the DISTRICT in electronic AutoCAD “.dwg” file version and electronic “.pdf” version following the DISTRICT'S acceptance of the DISTRICT IMPROVEMENTS.
- 2.1.12 Construction Sites. Upon no less than twenty-four (24) hours prior notice, MOFFETT PLACE shall provide the DISTRICT with access to all DISTRICT IMPROVEMENTS construction sites during normal business work hours. DISTRICT will not direct the work of the CONTRACTOR(S). If the DISTRICT believes the material or workmanship of any of DISTRICT IMPROVEMENTS do not meet the approved plans or specifications, it shall identify any deficiencies in writing and advise MOFFETT PLACE.
- 2.1.13 Document Review. MOFFETT PLACE, upon reasonable notice, shall make available to DISTRICT all records, books, and other documents relating to construction of the DISTRICT IMPROVEMENTS that are in the possession or control of MOFFETT PLACE for a period of three (3) years following receipt by MOFFETT PLACE of full payment by DISTRICT.

2.2 DISTRICT'S Responsibilities:

- 2.2.1 Provide the design documents and information required for the DISTRICT'S IMPROVEMENTS to MOFFETT PLACE, described in Section 1. DESCRIPTION OF Project SITE, above, in order for the DISTRICT'S IMPROVEMENTS to be properly incorporated within the Project, as agreed on by the Parties. Said design documents are attached hereto, DISTRICT'S IMPROVEMENTS, as Exhibit B hereto.
- 2.2.2 Act promptly to issue an encroachment/construction permit, subject to DISTRICT'S terms and conditions for such permit, and fees, to MOFFETT PLACE, for MOFFETT PLACE to perform and complete the DISTRICT'S IMPROVEMENTS in a timely manner to meet the completion deadline stated in Section 2.1.3 above.

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- 2.2.3 Act promptly to execute the necessary permanent and temporary right of way deeds required by the MOFFETT PLACE to construct the Project.
- 2.2.4 Promptly review MOFFETT PLACE design team's final construction documents to ensure the DISTRICT'S IMPROVEMENTS are properly incorporated into the Project, and confirm acceptance of the design documents prior to MOFFETT PLACE proceeding with construction. District's issuance of the permits described in 2.2.2 above will be considered documentation of the DISTRICT'S approval of such design documents.
- 2.2.5 The designated Project Manager's name and contact information for MOFFETT PLACE for the duration of the Project will be provided to the DISTRICT prior to the start of construction of the DISTRICT'S IMPROVEMENTS. MOFFETT PLACE'S Project Manager shall have all the necessary authority to direct technical and professional work within the scope of the AGREEMENT and shall serve as the principal point of contact with DISTRICT. The designated Project Manager for DISTRICT for the duration of the Project is Mr. Bill Sanchez who can be reached at bsanchez@valleywater.org. DISTRICT'S Project Manager shall have all the necessary authority to review and direct technical and professional work within the scope of the AGREEMENT and shall serve as the principal point of contact with MOFFETT PLACE.

3. COST-SHARING OF PROJECT

- 3.1 MOFFETT PLACE has contracted with LEVEL 10 CONSTRUCTION (CONTRACTOR) to construct the Project. CONTRACTOR, MOFFETT PLACE, and DISTRICT agree the DISTRICT'S IMPROVEMENTS will cost \$868,033 as the portion of the total cost of the Project. The cost of the DISTRICT'S IMPROVEMENTS was independently calculated by the Parties per the CONTRACTOR'S WEST CHANNEL COST SHARE ESTIMATE, Exhibit C1 hereto, and DISTRICT'S WEST CHANNEL COST SHARE ESTIMATE, Exhibit C2 hereto. The Parties mutually agree to accept the mean average as the DISTRICT'S Not-to-Exceed cost for the DISTRICT'S IMPROVEMENTS.
- 3.2 DISTRICT will remit payment in full to MOFFETT PLACE for the bid items associated with the DISTRICT'S IMPROVEMENTS within ninety (90) days after verification by DISTRICT that construction of DISTRICT'S IMPROVEMENTS has been completed to the best of their knowledge, to the satisfaction of both Parties, as evidenced by the DISTRICT'S execution of a Permit Status Report noting Project completion.
- 3.3 MOFFETT PLACE will provide notice of modifications necessary to its contract with its CONTRACTOR that it reasonably anticipates could cause any of the following implications to the DISTRICT'S IMPROVEMENTS that would:

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- a. be inconsistent with the DISTRICT'S design and construction specifications integrated into the MOFFETT PLACE IMPROVEMENT PLAN;
 - b. adversely affect the ability of the DISTRICT to use the DISTRICT IMPROVEMENTS and District right-of-way in the manner intended by the DISTRICT; or
 - c. could negatively impact the DISTRICT'S obligations as stated in environmental permits issued for its Sunnyvale East Channel and Sunnyvale West Channel Flood Protection Project.
- 3.3.1 If the DISTRICT has not approved or rejected such modifications within seven (7) calendar days after MOFFETT PLACE'S written request for approval or rejection, then the DISTRICT shall be deemed to have approved any reasonable course of action MOFFETT PLACE pursues with respect to such modifications.
- 3.3.2 MOFFETT PLACE agrees to provide DISTRICT with notice and documentation regarding any modifications, revisions, change orders, and/or extra work required in association with the DISTRICT'S IMPROVEMENTS to DISTRICT within seven (7) calendar days of MOFFETT PLACE becoming aware of or initiating such matter, so DISTRICT can provide direction to MOFFETT PLACE, if necessary and appropriate.
- 3.3.3 Parties agree the DISTRICT'S approval(s) of any contract modifications, revisions, etc. described above in section 3.3.1 will not result in any change to the DISTRICT'S Not-to-Exceed amount for the DISTRICT'S IMPROVEMENTS identified in section 3.1 of this AGREEMENT, unless the Parties agree in writing otherwise.

4. INSURANCE AND INDEMNIFICATION

- 4.1 Except to the extent arising out of the negligence or willful misconduct of the DISTRICT, MOFFETT PLACE agrees to indemnify, defend at its own expense, including attorneys' fees, and hold the District, its directors, officers, and employees harmless from and against all claims, damages, costs, penalties, causes of action, demands, losses and liability of any nature whatsoever, including but not limited to liability for bodily injury or property damage (including loss of use) or violation of law, caused by or arising out of or related to any negligence or willful misconduct of MOFFETT PLACE, including its officers, employees, contractors, or agents, to the extent directly or indirectly related to the construction of the Improvements.
- 4.2 MOFFETT PLACE and its construction CONTRACTOR(S) performing the work, will secure and maintain in full force and effect, at all times during Project execution and until Project completion, the types and amounts of coverages as stated in the Insurance Requirements, Exhibit D hereto.

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- 4.3 The rights, duties, and obligations of the Parties as set forth above in this Section 4. of this AGREEMENT will survive completion, termination, suspension, and expiration of this AGREEMENT.

5. ADDITIONAL PROVISIONS

- 5.1 A Party's waiver of any term, condition, covenant, or breach of any term, condition or covenant shall not be construed as a waiver of any other term, condition, or covenant or breach of any other term, condition, or covenant.
- 5.2 This AGREEMENT contains the entire AGREEMENT between DISTRICT and MOFFETT PLACE relating to Project. Any prior agreements, promises, negotiations, or representations not expressly set forth in this AGREEMENT are of no force or effect.
- 5.3 If any term, condition or covenant of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall be valid and binding on DISTRICT and MOFFETT PLACE.
- 5.4 This AGREEMENT shall be governed and construed in accordance with the laws of the State of California without giving effect to any conflict of law provisions thereof. The federal and state courts within the County of Santa Clara, California shall be exclusive jurisdiction to adjudicate any dispute arising out of or related to this AGREEMENT. Each Party expressly consents to the personal jurisdiction of and venue in such courts.
- 5.5 This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 5.6 The term of this AGREEMENT shall commence upon execution of the AGREEMENT by both Parties and terminate upon Project completion notification by MOFFETT PLACE and receipt by MOFFETT PLACE of payment in full by DISTRICT.
- 5.7 All changes or extensions to this AGREEMENT must be in writing in the form of an amendment approved by both Parties.
- 5.8 This AGREEMENT is entered into only for the benefit of the Parties executing this AGREEMENT and not for the benefit of any other individual, entity, or person.
- 5.9 Parties Bound. This Agreement shall be binding on and enforceable by and against the Parties to it and their respective heirs, legal representatives, successors, and assigns, except that neither this AGREEMENT nor the duties or obligations as stated in this

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AGREEMENT may be assigned by a Party without the prior written consent of the other Party.

5.10 Equal Opportunity.

5.10.1 The Santa Clara Valley Water District is an equal opportunity employer and requires the parties it contracts with to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of this AGREEMENT, MOFFETT PLACE will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for employment, in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

5.10.2 Compliance With Applicable Equal Opportunity Laws. MOFFETT PLACE'S policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the American's with Disabilities Act of 1990; the Rehabilitation Act of 1973 (Sections 503 and 504); the Age Discrimination Act of 1975 (42 U.S.C. sec. 6101 et seq.); the California Fair Employment and Housing Act (Government Code Section 12900 et. seq.); California Labor Code Sections 1101 and 1102.

5.10.3 Investigation of Claims. MOFFETT PLACE must designate a specific position within its organization to be responsible for assuring nondiscrimination and non-harassment as provided in this AGREEMENT. MOFFETT PLACE must investigate all complaints directed to it by DISTRICT. DISTRICT will refer complaints in writing and MOFFETT PLACE will advise DISTRICT in writing when such investigations are concluded. The scope of such investigations must include all appropriate officers, employees, and agents of MOFFETT PLACE, as well as all of its CONTRACTORS, subcontractors, Subconsultants, and material suppliers. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, MOFFETT

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PLACE must take prompt, effective disciplinary action against the offender.

6. TERMINATION

- 6.1 Either DISTRICT or MOFFETT PLACE may, upon thirty (30) days' written notice, terminate this AGREEMENT at any time prior to MOFFETT PLACE's commencement of the Project.
- 6.2 Once the Project work commences, this AGREEMENT may be terminated by the mutual written consent and terms acceptable to both Parties.

7. NOTICES

- 7.1 All correspondence relating to the Project, including all notices required by the terms of this AGREEMENT may be delivered by first class mail addressed to the appropriate Party at the following addresses:

DISTRICT:

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Attn: Stephen M. Ferranti, Engineering Unit Manager
Phone: (408) 630-2677
E-mail: sferranti@valleywater.org

MOFFETT PLACE:

Moffett Place, LLC
Four Embarcadero Center, Suite 3620
San Francisco, CA 94104
Attn: Ms. Janette D'Elia, Chief Operating Officer
Phone: (415) 263-7400
E-mail: jdelia@jaypaul.com

8. EXHIBITS

The following listed Attachments referred to herein are incorporated in this AGREEMENT as though set forth in full:
Exhibit A—MOFFETT PLACE IMPROVEMENT PLAN
Exhibit B—DISTRICT'S IMPROVEMENTS
Exhibit C1—CONTRACTOR'S WEST CHANNEL COST SHARE ESTIMATE
Exhibit C2—DISTRICT'S WEST CHANNEL COST SHARE ESTIMATE
Exhibit D—INSURANCE REQUIREMENTS

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IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THE AGREEMENT THE DAY
AND YEAR SET FORTH BELOW.

"MOFFETT PLACE"

MOFFETT PLACE, LLC, a Delaware limited
Liability company

"DISTRICT"

a Special District of the State of California

By: _____
Janette D'Elia
Chief Operating Officer

By: _____
Barbara F. Keegan
Chair/Board of Directors

Date: _____

Date: _____

Firm Address:

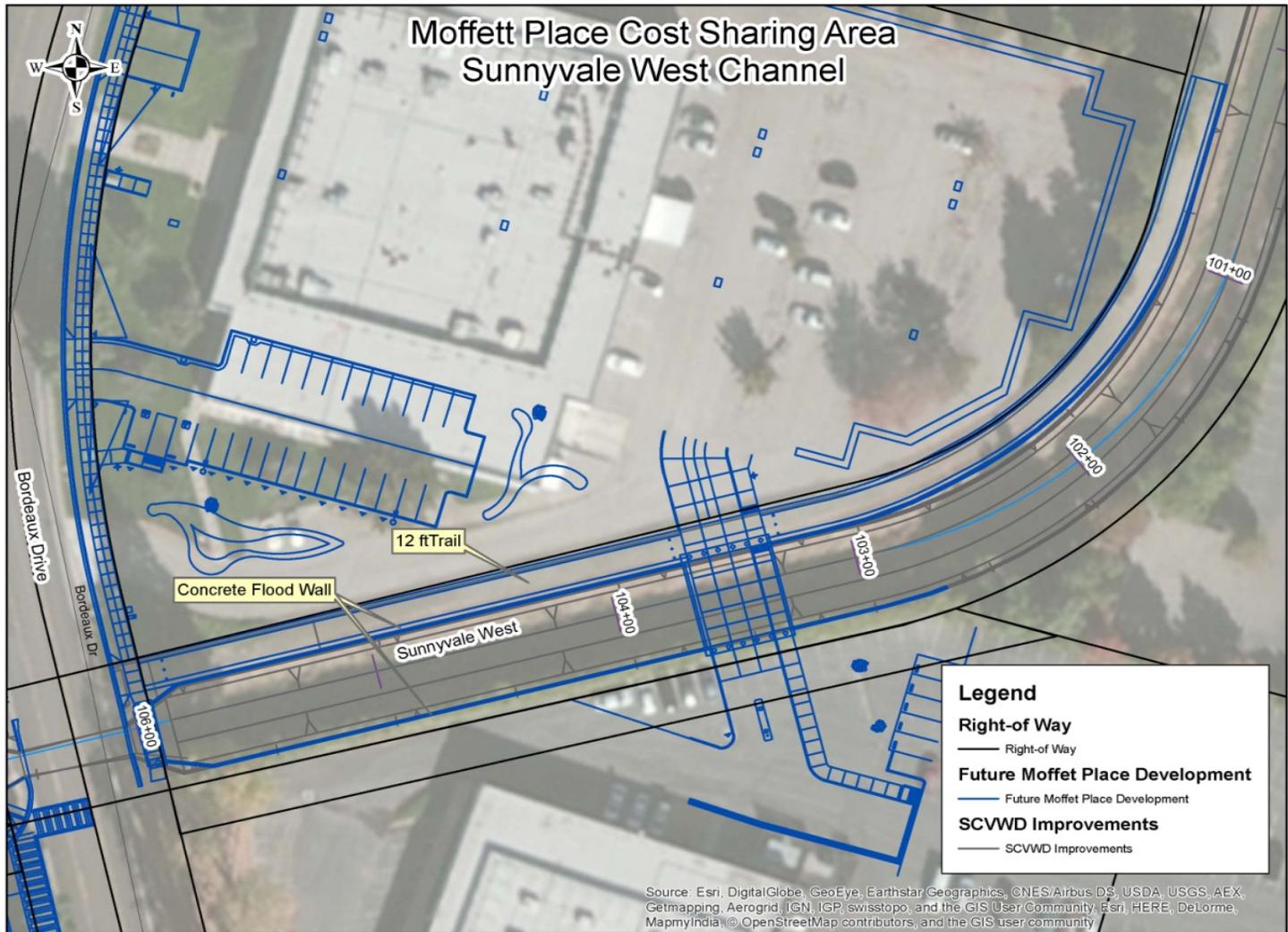
Four Embarcadero Center, Suite 3620
San Francisco, CA 94104

ATTEST:

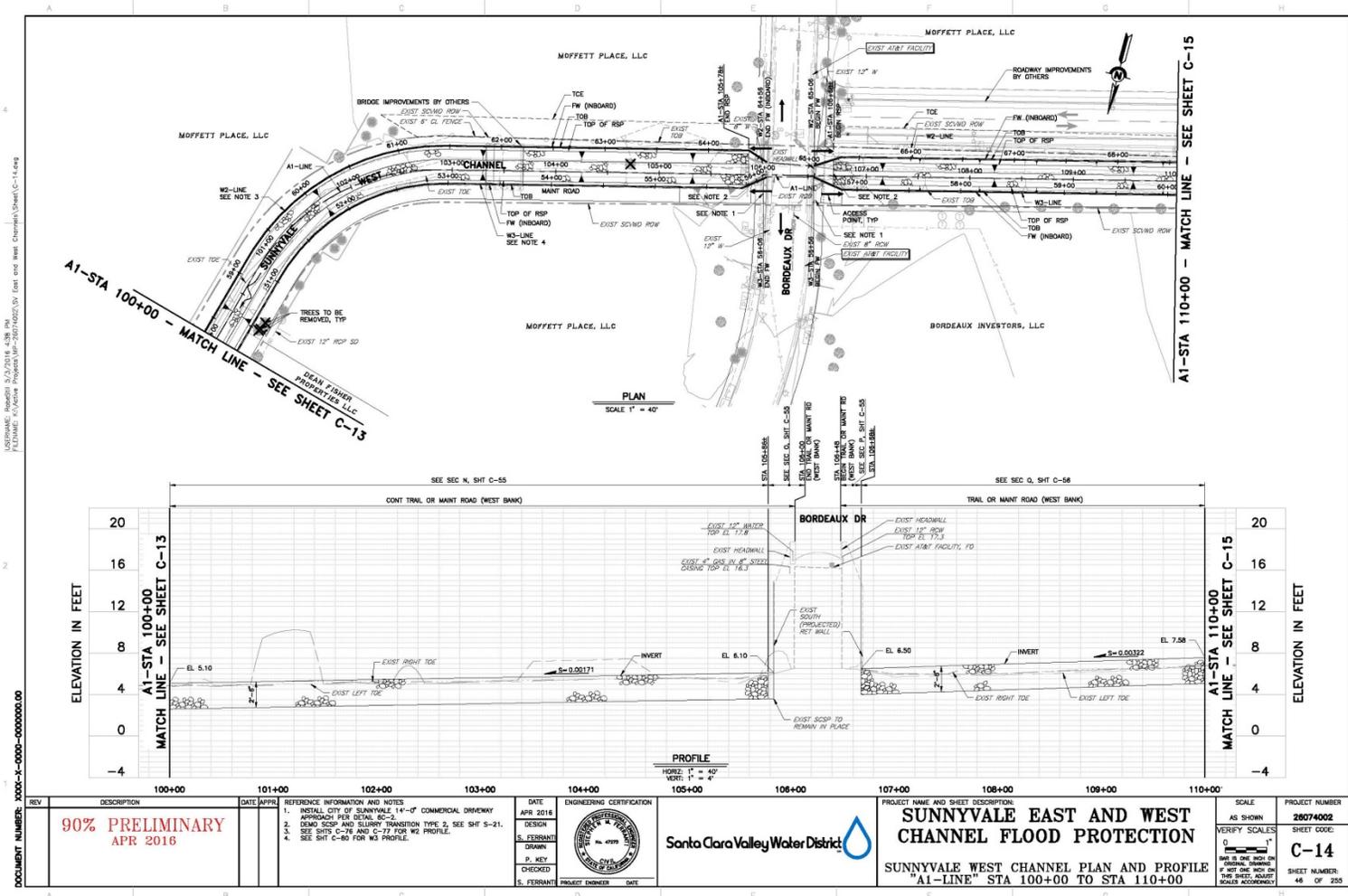
Michele L. King, CMC
Clerk/Board of Directors

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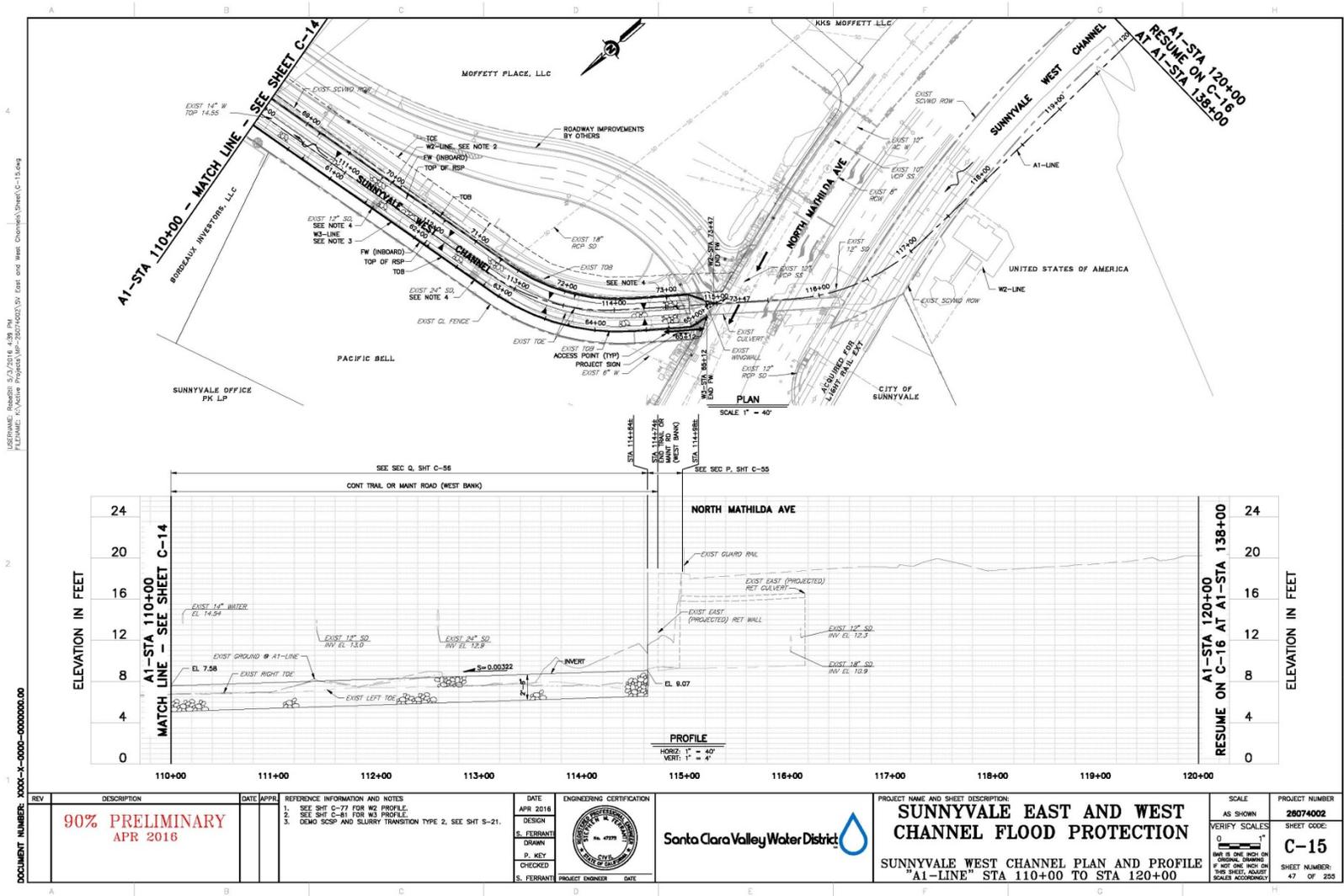
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 EXHIBIT A
 MOFFETT PLACE IMPROVEMENT PLAN



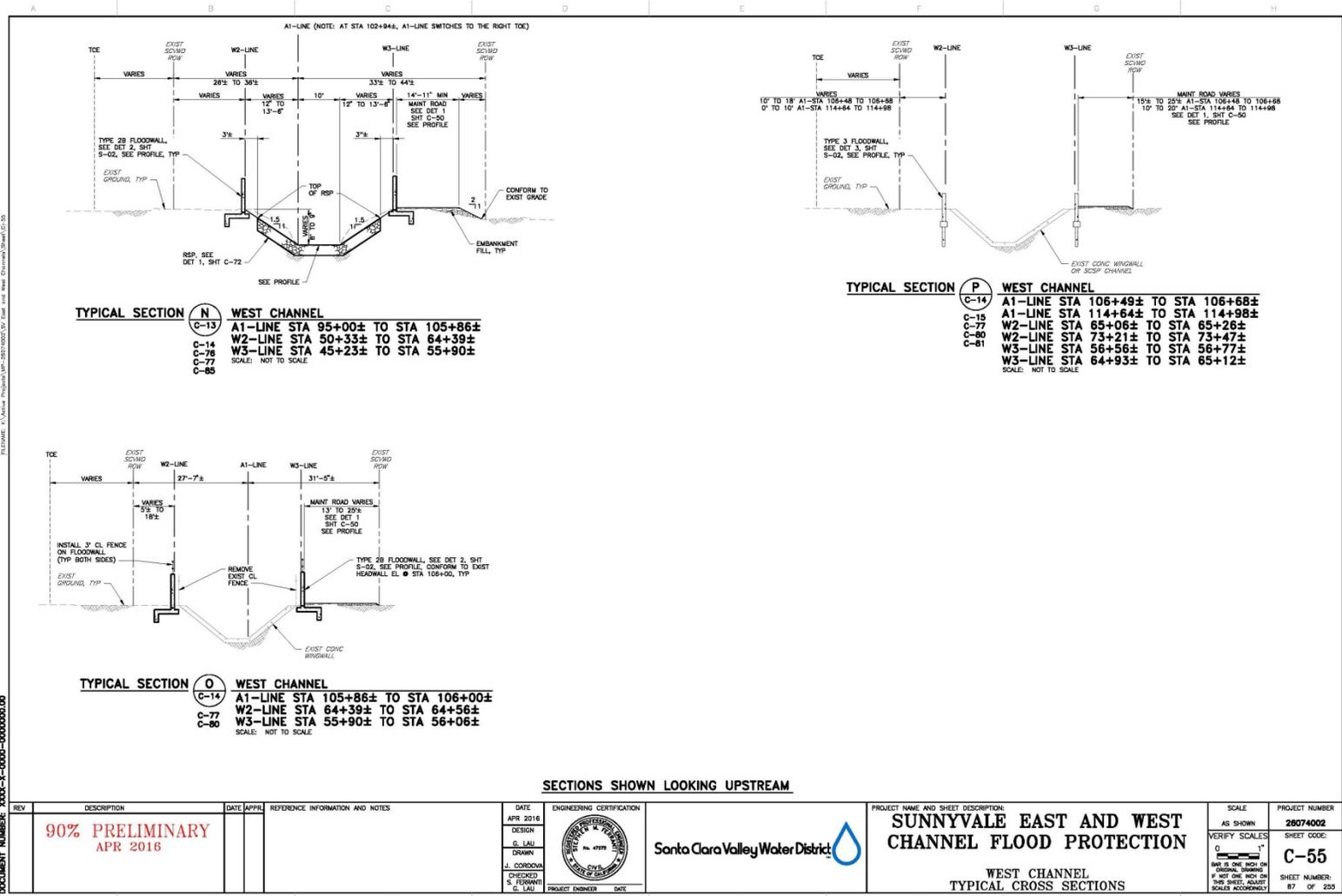
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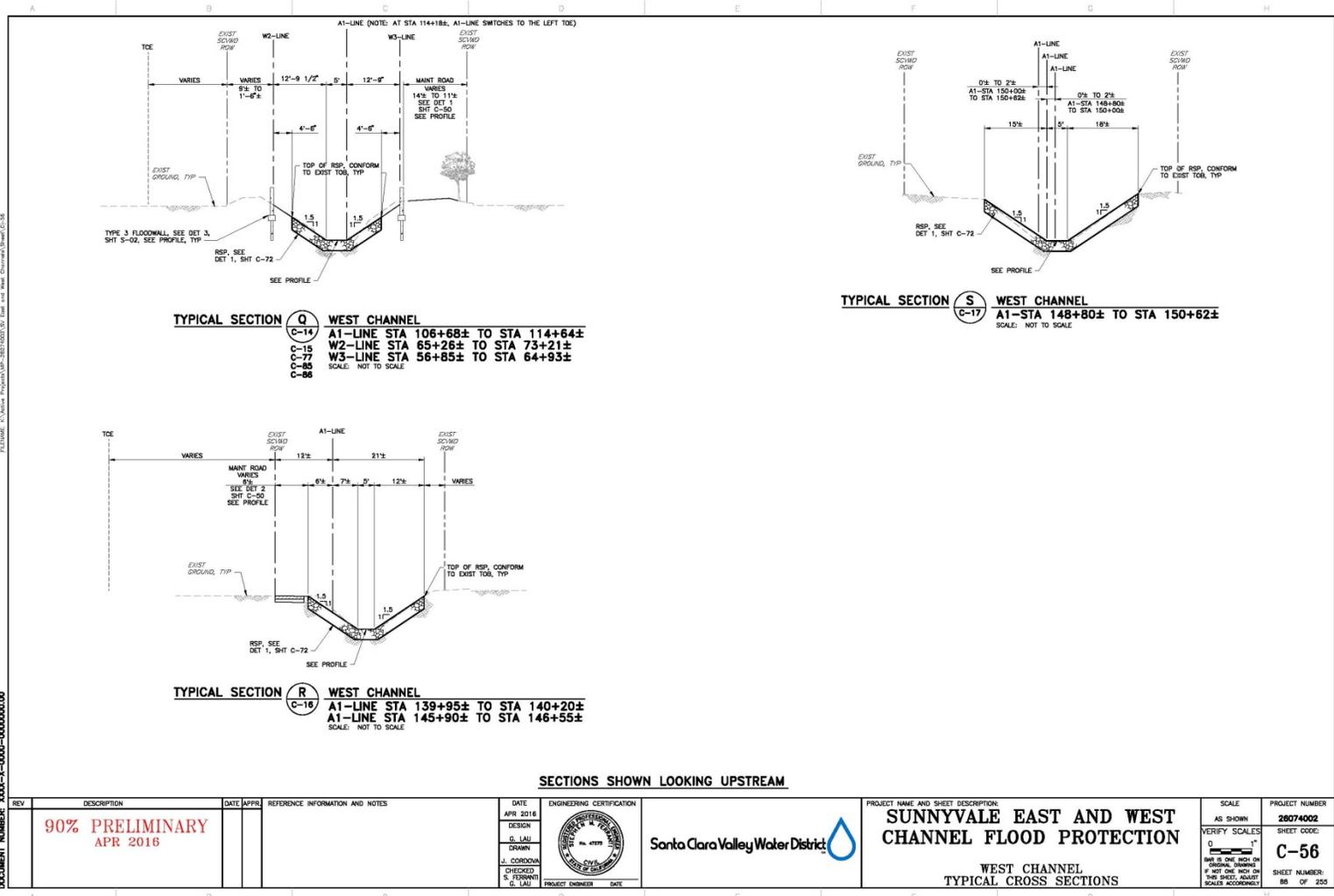
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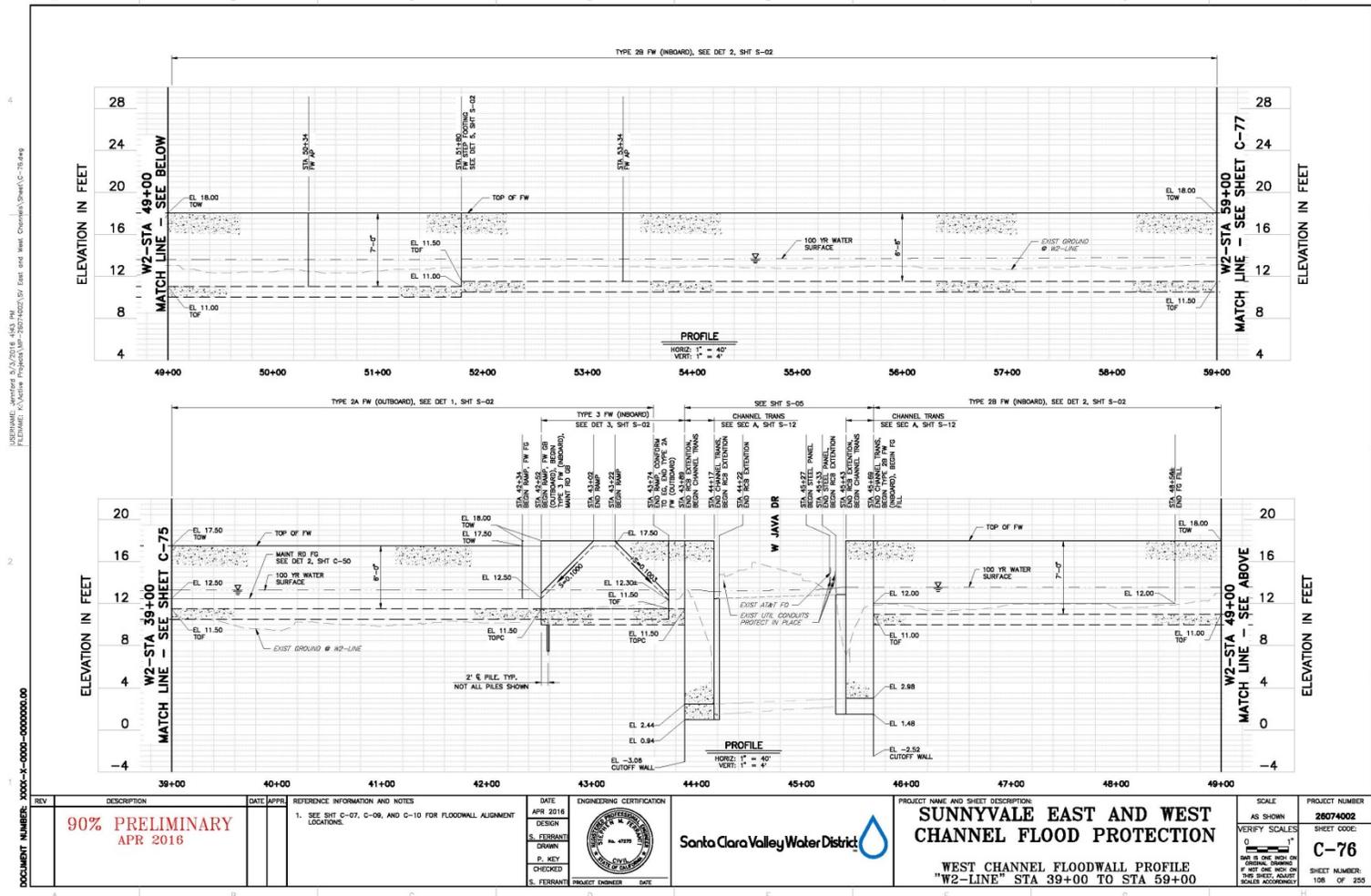
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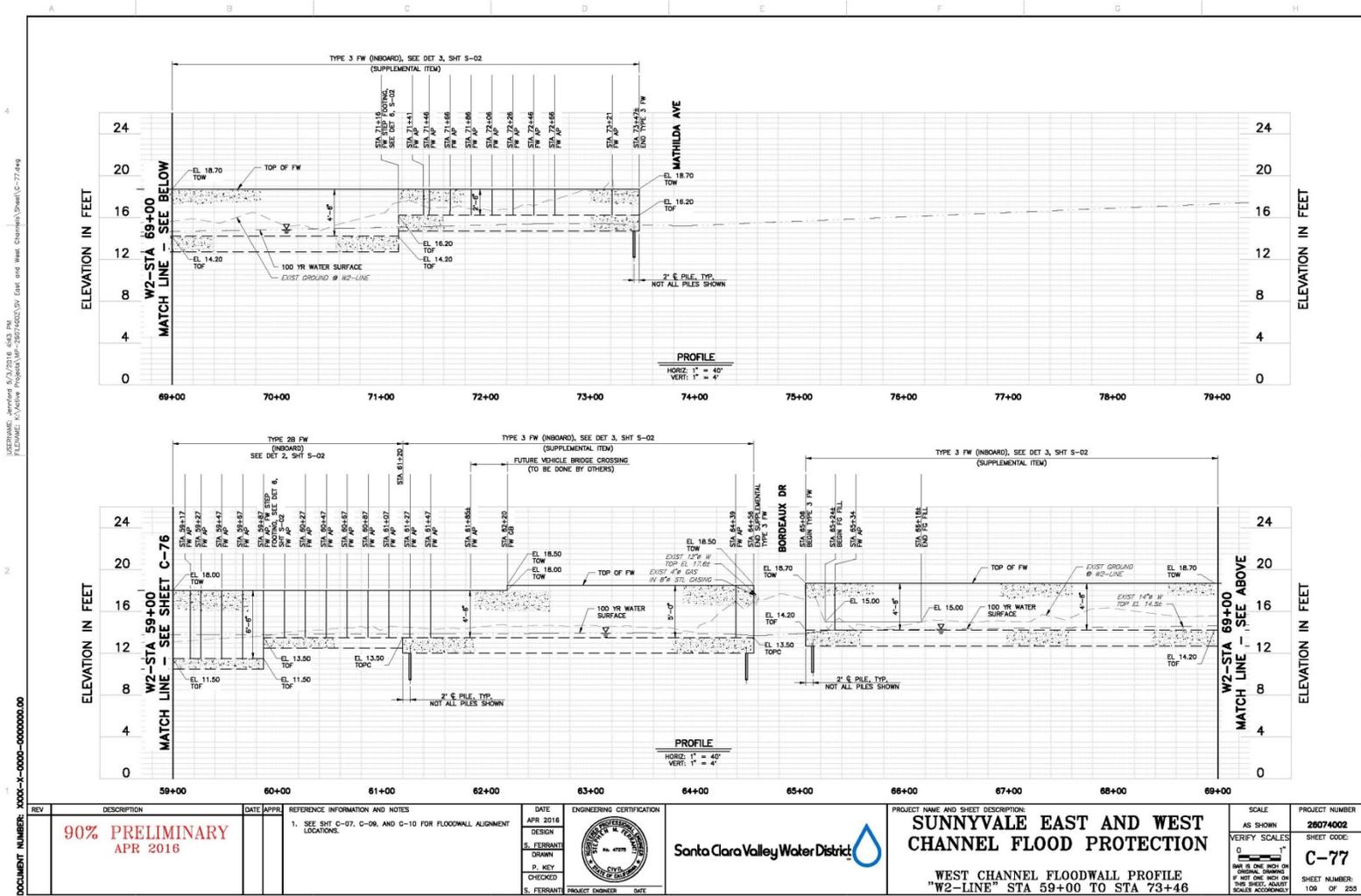
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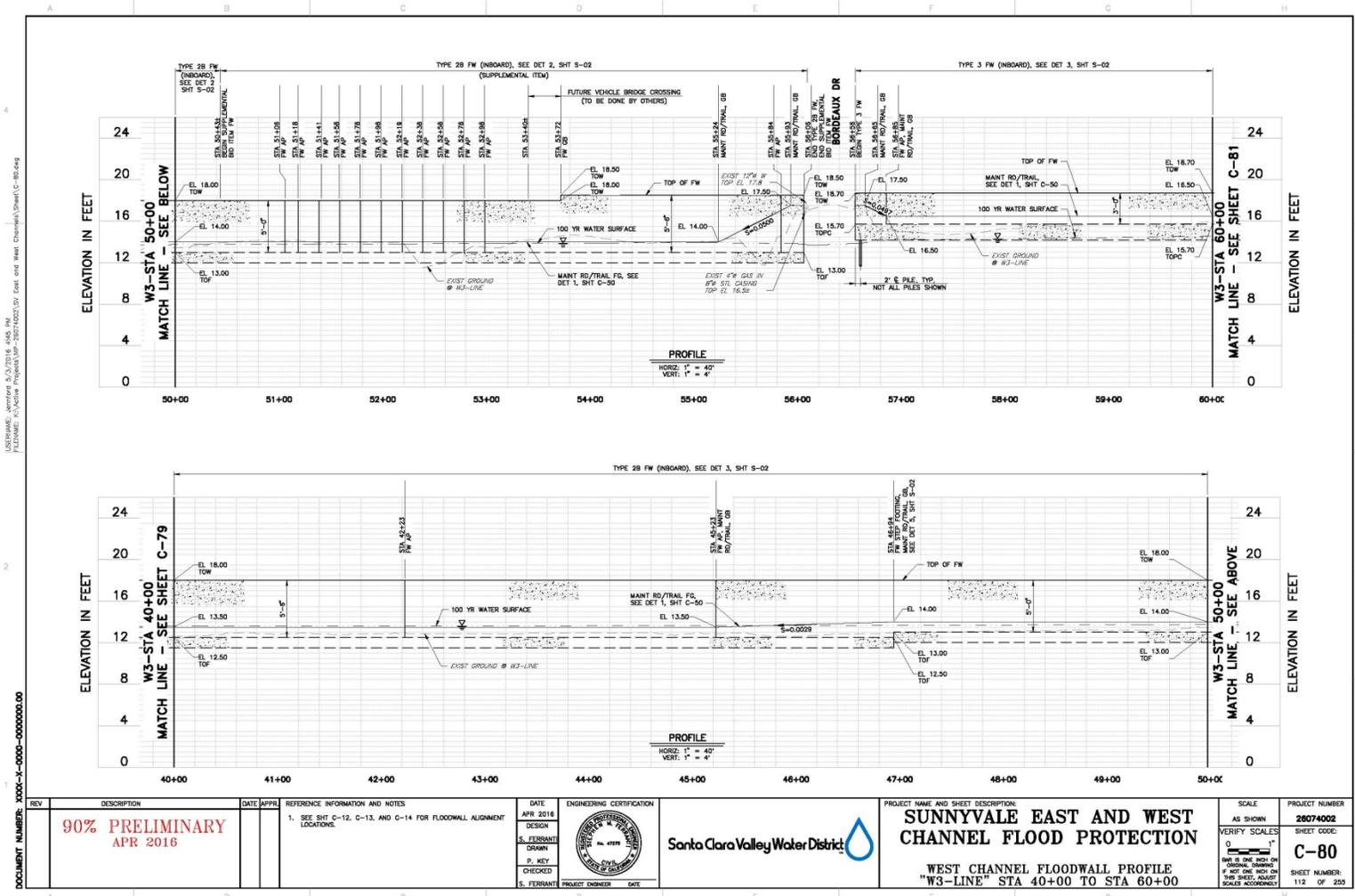


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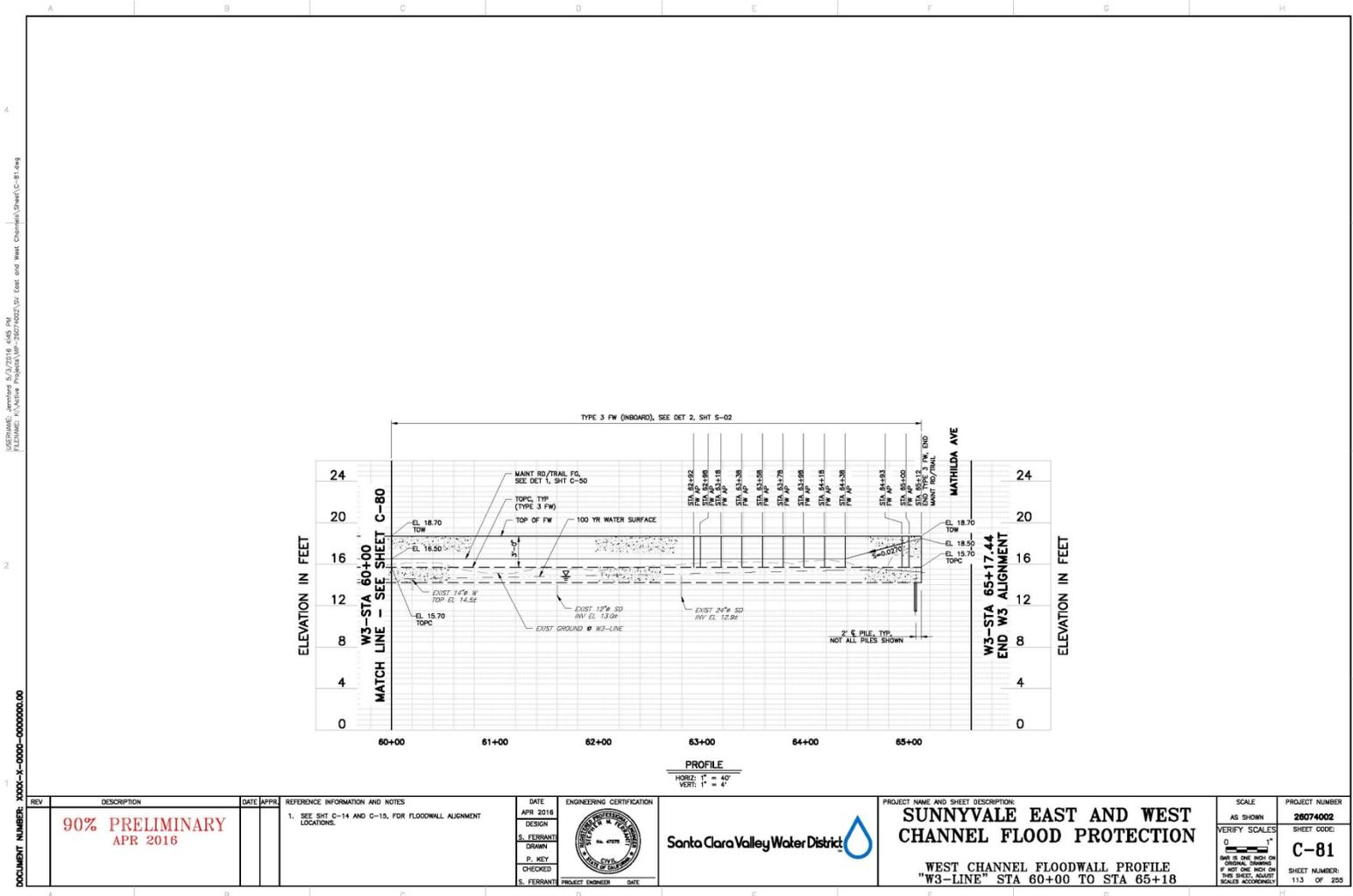
DOCUMENT NUMBER: XXXC-X-0000-0000000.00 USER: jmm... FILENAME: K:\Sunnyvale\Projects\MP-28074002.DWG	REV: 1 DESCRIPTION: 90% PRELIMINARY APR 2016	DATE: APR 2016 DESIGN: S. FERRANTI DRAWN: P. MEY CHECKED: S. FERRANTI	REFERENCE INFORMATION AND NOTES: 1. SEE SHT C-07, C-08, AND C-10 FOR FLOODWALL ALIGNMENT LOCATIONS.	ENGINEERING CERTIFICATION: 	PROJECT NAME AND SHEET DESCRIPTION: SUNNYVALE EAST AND WEST CHANNEL FLOOD PROTECTION WEST CHANNEL FLOODWALL PROFILE "W2-LINE" STA 59+00 TO STA 73+46	SCALE: AS SHOWN VERIFY SCALES: 1" = 40' ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET, ADAPT SCALE ACCORDINGLY	PROJECT NUMBER: 28074002 SHEET CODE: C-77 SHEET NUMBER: 108 OF 205
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REV 90% PRELIMINARY APR 2016	DESCRIPTION 1. SEE SHT C-12, C-13, AND C-14 FOR FLOODWALL ALIGNMENT LOCATIONS.	DATE APR 2016	APPR 	DATE APR 2016	ENGINEERING CERTIFICATION S. FERRANTI DRAWN P. KEY CHECKED S. FERRANTI	PROJECT ENGINEER DATE	PROJECT NAME AND SHEET DESCRIPTION SUNNYVALE EAST AND WEST CHANNEL FLOOD PROTECTION WEST CHANNEL FLOODWALL PROFILE "W3-LINE" STA 40+00 TO STA 60+00	SCALE AS SHOWN VERIFY SCALES 	PROJECT NUMBER 28074002

COST SHARING AGREEMENT BY AND BETWEEN MOFFETT PLACE LLC AND THE SANTA CLARA VALLEY WATER DISTRICT
 FOR CONSTRUCTION OF FLOOD WALLS AS PART OF THE SUNNYVALE EAST CHANNEL AND SUNNYVALE WEST CHANNEL
 FLOOD PROTECTION PROJECT
 EXHIBIT B
 DISTRICT'S IMPROVEMENTS



REV 90% PRELIMINARY APR 2016	DESCRIPTION 90% PRELIMINARY APR 2016	DATE APR 2016	APPROV S. FERRANTE	REFERENCE INFORMATION AND NOTES 1. SEE SHT C-14 AND C-15, FOR FLOODWALL ALIGNMENT LOCATIONS.	ENGINEERING CERTIFICATION APR 2016 DESIGNED BY S. FERRANTE DRAWN BY P. KEY CHECKED BY S. FERRANTE	PROJECT ENGINEER S. FERRANTE	PROJECT NAME AND SHEET DESCRIPTION: SUNNYVALE EAST AND WEST CHANNEL FLOOD PROTECTION WEST CHANNEL FLOODWALL PROFILE "W3-LINE" STA 60+00 TO STA 65+18	SCALE AS SHOWN VERIFY SCALES 1" = 40' 1" = 4'	PROJECT NUMBER 28074002	SHEET CODE C-81	SHEET NUMBER 113 OF 253



Cost Sharing @ Bordeaux

SCVWD West Channel - Cost Sharing				
Description		Qty	Type	Amount
This package includes the flood walls only as shown on the 11.2014 SCVWD 90% Preliminary Drawings Sheets C-14, C-15, C-55, C-56, C-77, C-80, C-81, S-01, S-02, S-03A, & S-03B. Mathilda Intersection and New Innovation Way scopes of work not included in this pricing package.				
SCVWD Drawings dated 11.2014 90% Preliminary - EXHIBIT A				
	South Wall 61+00 - 64+22 & North Wall 50+50 - 56+16	418	CY	\$470,975.00
	Structural Excavation (including offhaul)	1556	CY	\$187,355.00
	Structural Backfill	1388	CY	\$121,040.00
	Reinforcing Steel @ Walls	1	LS	\$75,000.00
	CIDH Piles	42	EA	\$50,400.00
	General Conditions (50%)	3	MO	\$90,000.00
	SWPPP/Erosion Control (50%)	1	LS	\$10,500.00
	Temporary Fencing (50%)	1	LS	\$5,000.00
	Flagging/Traffic (50%)	1	LS	\$3,750.00
	Clear/Grub (50%)	13320	SF	\$5,994.00
	Tree Protection (50%)	1	LS	\$2,500.00
	Survey/Layout (50%)	1	LS	\$7,500.00
	Caulking	1	LS	\$12,000.00
	Subtotal			\$1,042,014.00
	Subguard	1.10%		\$11,462.15
	Liability Insurance	1.15%		\$12,114.98
	Overhead & Profit	2.55%		\$27,172.57
	Total			\$1,092,764

Cost Sharing @ Mathilda

This package includes the flood walls only as shown on the 11.2014 SCVWD 90% Preliminary Drawings Sheets C-14, C-15, C-55, C-56, C-77, C-80, C-81, S-01, S-02, S-03A, & S-03B. Mathilda Intersection and New Innovation Way scopes of work not included in this pricing package.				
SCVWD Drawings dated 11.2014 90% Preliminary - EXHIBIT B				
	South Wall 72+90 - 73+10 & North Wall 64+90 - 65+18	9	CY	\$19,300.00
	Structural Excavation (including offhaul)	36	CY	\$10,450.00
	Structural Backfill	36	CY	\$8,510.00
	Reinforcing Steel @ Walls	1	LS	\$2,100.00
	CIDH Piles	7	EA	\$10,400.00
	General Conditions (50%)	1	MO	\$30,000.00
	SWPPP/Erosion Control (50%)	1	LS	\$8,700.00
	Temporary Fencing (50%)	1	LS	\$5,000.00
	Flagging/Traffic (50%)	1	LS	\$3,500.00
	Survey/Layout (50%)	1	LS	\$5,000.00
	Caulking	1	LS	\$1,500.00
	Subtotal			\$104,460.00
	Subguard	1.10%		\$1,149.06
	Liability Insurance	1.15%		\$1,214.50
	Overhead & Profit	2.55%		\$2,724.00
	Total			\$109,548

*Traffic Signal Work in Separate Package
 *New Innovation Way Street Work in Separate Package



COST SHARING ESTIMATE WITH MOFFETT PLACE DEVELOPMENT

BASE CONTRACT MATERIALS		SCVWD			
Item No.	Description of Item	Approx. Quantity	Unit	District Unit Price	District Total
FLOODWALL AT BORDEAUX					
1	CONCRETE FLOODWALL	380	CY	\$ 750.00	\$ 285,000.00
2	STRUCTURAL EXCAVATION	830	CY	\$ 70.00	\$ 58,100.00
3	STRUCTURAL BACKFILL	310	CY	\$ 75.00	\$ 23,250.00
4	AGGREGATE BASE, CLASS II	273	CY	\$ 50.00	\$ 13,650.00
6	CIDH PILES*	41	EA	\$ 1,225.00	\$ 50,225.00
7	CLEARING AND GRUBBING	1	LS	\$ 5,000.00	\$ 5,000.00
8	Geotextile Fabric	838	SY	\$ 5.00	\$ 4,190.00
9	CLEAN EXPANSION JOINT & SEALANT	98	LF	\$ 30.00	\$ 2,940.00
Bordeaux Subtotal:					\$ 442,355.00
	Mobilization (10%)				\$ 44,235.50
	Contingencies (5%)				\$ 24,329.53
BORDEAUX TOTAL:					\$ 510,920.03
FLOODWALL AT MATHILDA					
		SCVWD			
1	CONCRETE FLOODWALL	10	CY	\$ 750.00	\$ 7,500.00
2	STRUCTURAL EXCAVATION	30	CY	\$ 75.00	\$ 2,250.00
3	STRUCTURAL BACKFILL	17	CY	\$ 85.00	\$ 1,445.00
5	CIDH PILES*	7	EA	\$ 1,225.00	\$ 8,575.00
Mathilda Subtotal:					\$ 19,770.00
	Mobilization (10%)				\$ 1,977.00
	Contingencies (5%)				\$ 1,087.35
MATHILDA TOTAL:					\$ 22,834.35
Attachment 5, Exhibit C1 Page 20 of 25					
GRAND TOTAL:					\$ 533,754.38
<p>*CIDH PILES_ Unit Price for Piles converted to EACH item. Estimated total 287 Lf for 48 piles at 7' depth at \$175/LF.</p>					

**COST SHARING AGREEMENT BY AND BETWEEN MOFFETT PLACE LLC
AND THE SANTA CLARA VALLEY WATER DISTRICT FOR CONSTRUCTION OF FLOOD WALLS
AS PART OF THE SUNNYVALE EAST CHANNEL AND SUNNYVALE WEST CHANNEL
FLOOD PROTECTION PROJECT
EXHIBIT D
INSURANCE REQUIREMENTS**

Without limiting the Contractor's indemnification of, or liability to, the Santa Clara Valley Water District ("District"), the Contractor must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

Contractor must provide its insurance broker(s)/agent(s) with a copy of these requirements and warrants that these requirements have been reviewed by Contractor's insurance agent(s) and/or broker(s), who have been instructed by Contractor to procure the insurance coverage required herein.

In addition to certificates, Contractor must furnish District with copies of original endorsements affecting coverage required by this Appendix. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All endorsements and certificates are to be received and approved by District before the contract commences.** In the event of a claim or dispute, District has the right to require Contractor's insurer to provide complete, certified copies of all required pertinent insurance policies, including endorsements affecting the coverage required by this Appendix.

Contractor must, at its sole cost and expense, procure and maintain during the entire period of this Agreement the following insurance coverage(s).

Required Coverages

1. **Commercial General/Business Liability Insurance** with coverage as indicated:

\$2,000,000 per occurrence / **\$2,000,000** aggregate limits for bodily injury and property damage

\$2,000,000 Products/Completed Operations aggregate (to be maintained for at least three (3) years following acceptance of the work by District.

General Liability insurance must include:

- a. Coverage at least as broad as found in standard ISO form CG 00 01.
- b. Premises and Operations.
- c. Contractual Liability expressly including liability assumed under this contract.
- d. If Contractor will be working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, overpass, underpass, or crossway must be deleted, or a railroad protective policy in the above amounts provided.

**COST SHARING AGREEMENT BY AND BETWEEN MOFFETT PLACE LLC
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- e. Owners and Contractors' Protective liability.
 - f. Severability of Interest.
 - g. Explosion, Collapse and Underground Hazards, (X,C, and U).
 - h. Broad Form Property Damage liability.
 - i. If the standard ISO Form wording for "OTHER INSURANCE," or other comparable wording, is not contained in Contractor's liability insurance policy, an endorsement must be provided that said insurance will be primary insurance and any insurance or self- insurance maintained by District, its Directors, officers, employees, agents or volunteers will be in excess of Consultant's insurance and will not contribute to it.
2. Business Auto Liability Insurance with coverage as indicated:
- \$2,000,000 combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned and hired vehicles.
3. Workers' Compensation and Employer's Liability Insurance
- Statutory California Workers' Compensation coverage covering all work to be performed for the District.
- Employer Liability coverage for not less than \$1,000,000 per occurrence.

General Requirements

With respect to all coverages noted above, the following additional requirements apply:

- 1. Additional Insured Endorsement(s). Contractor must provide an additional insured endorsement for Commercial General/Business Liability and Business Automobile liability coverage naming the Santa Clara Valley Water District, its Directors, officers, employees, and agents, individually and collectively, as additional insureds, and must provide coverage for acts, omissions, etc. arising out of the named insureds' activities and work. Other public entities may also be added to the additional insured endorsement as applicable and the Contractor will be notified of such requirement(s) by the District.
- (NOTE: Additional insured language on the Certificate of Insurance is NOT acceptable without a separate endorsement such as Form CG 20 10, CG 2033, CG 2037. Note: Editions dated 07104 are NOT acceptable).
- 2. Primacy Clause: Contractor's insurance must be primary with respect to any other insurance which may be carried by the District, its officer, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss.

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3. Cancellation Clause Endorsement: Contractor must provide a cancellation endorsement stating that the insurer agrees to provide 30 days notice of cancellation (10 days notice for non-payment of premium). NOTE: Adding wording to the standard wording in the ISO Certificate of Insurance is not acceptable.
4. Acceptability of Insurers: All coverages must be issued by companies admitted to conduct business in the State of California, which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the District's Risk Management Administrator.
5. Self-Insured Retentions or Deductibles: Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. Subcontractors: Should any of the work under this Agreement be sublet, the Contractor must require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractors may insure subcontractors under its own policies.
7. Amount of Liability not Limited to Amount of Insurance: The insurance procured by Contractor for the benefit of the District must not be deemed to release or limit any liability of Contractor. Damages recoverable by the District for any liability of Contractor must, in any event, not be limited by the amount of the required insurance coverage.
8. Coverage to be Occurrence Based: All coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. Waiver of Subrogation: Contractor agrees on to waive subrogation against the District to the extent any loss suffered by Contractor is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy, or Builders' Risk policy described in Required Coverages above. Contractor agrees to advise its broker/agent/insurer about this provision and obtain any endorsements, if needed, necessary to ensure the insurer agrees.
10. Non-compliance: The District reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.
11. Please mail the certificates and endorsements to:

Contract Administrator
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

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IMPORTANT: On the certificate of insurance, please note either the name of the Project or the name of the District contact person or unit for the contract.

If your insurance broker has any questions, please advise him/her to call Mr. David Cahen, District Risk Management Administrator, at (408) 630-2213.

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