

**AMENDMENT NO. 1
TO THE JOINT USE AGREEMENT
between City of Milpitas and Santa Clara Valley Water District
for portions of Lower Penitencia Creek and Penitencia East Channel**

This Amendment No. 1 to the JOINT USE AGREEMENT between City of Milpitas and Santa Clara Valley Water District for portions of Lower Penitencia Creek and Penitencia East Channel is made and entered into this _____ of _____, 2017, ("Effective Date") by and between the CITY OF MILPITAS ("City"), a general law city and municipal corporation of the State of California and the SANTA CLARA VALLEY WATER DISTRICT ("District"), a special district created by the California Legislature.

RECITALS

- A. The City and District entered into an agreement entitled "JOINT USE AGREEMENT between City of Milpitas and Santa Clara Valley Water District for portions of Lower Penitencia Creek and Penitencia East Channel" dated March 17, 2015 (Original Agreement).
- B. The City and District entered into the Original Agreement for the purpose of having District grant permission to City to use District "Premises" for "City Improvements" as defined in the Original Agreement. City and District desire to amend the Original Agreement to extend the "Premises" to include District property along the Penitencia East Channel between Lundy Place and 250 feet east of McCandless Drive.
- C. City has prepared an Initial Study/Addendum titled "Lower/East Penitencia Creek Trails Project" (State Clearing House No. 2006032091) that was approved and adopted by the Milpitas City Council on March 17, 2015.

In consideration of the above Recitals and the following mutual covenants and obligations, the parties do hereby agree to amend the Original Agreement as follows:

**Amendment No. 1
Agreement Provisions**


- 1. The "Premises", as defined in the Original Agreement, is extended to include District property along Penitencia East Channel between Lundy Place and 250 feet east of McCandless Drive as described and depicted in "Exhibit A1," attached hereto and incorporated herein.

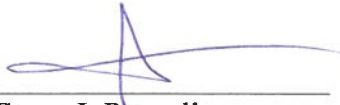
2. Add the following new paragraph as Section 34 of this Agreement: “**District Instrumentation.** In furtherance of common objectives to protect the public welfare and prevent health and safety issues related to flooding, the City of Milpitas will review and allow the District to install, operate, and maintain flood protection and monitoring instrumentation and equipment necessary to carry out the common objectives described above adjacent or affixed to the City Improvements at no additional cost to the District and without unreasonable approval delay from the City.”
3. All provisions of the Original Agreement, except as modified by this Amendment No. 1, remain in full force and effect and are reaffirmed.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.


“City”
CITY OF MILPITAS, a California General Law City,
a municipal corporation

APPROVED AS TO FORM:

By: 
Christopher Diaz
City Attorney

By: 
Steve J. Pangelinan
Acting City Manager

APPROVED AS TO CONTENT:

By:  FOR
Greg Chung, PE
Interim Engineering Director/City Engineer

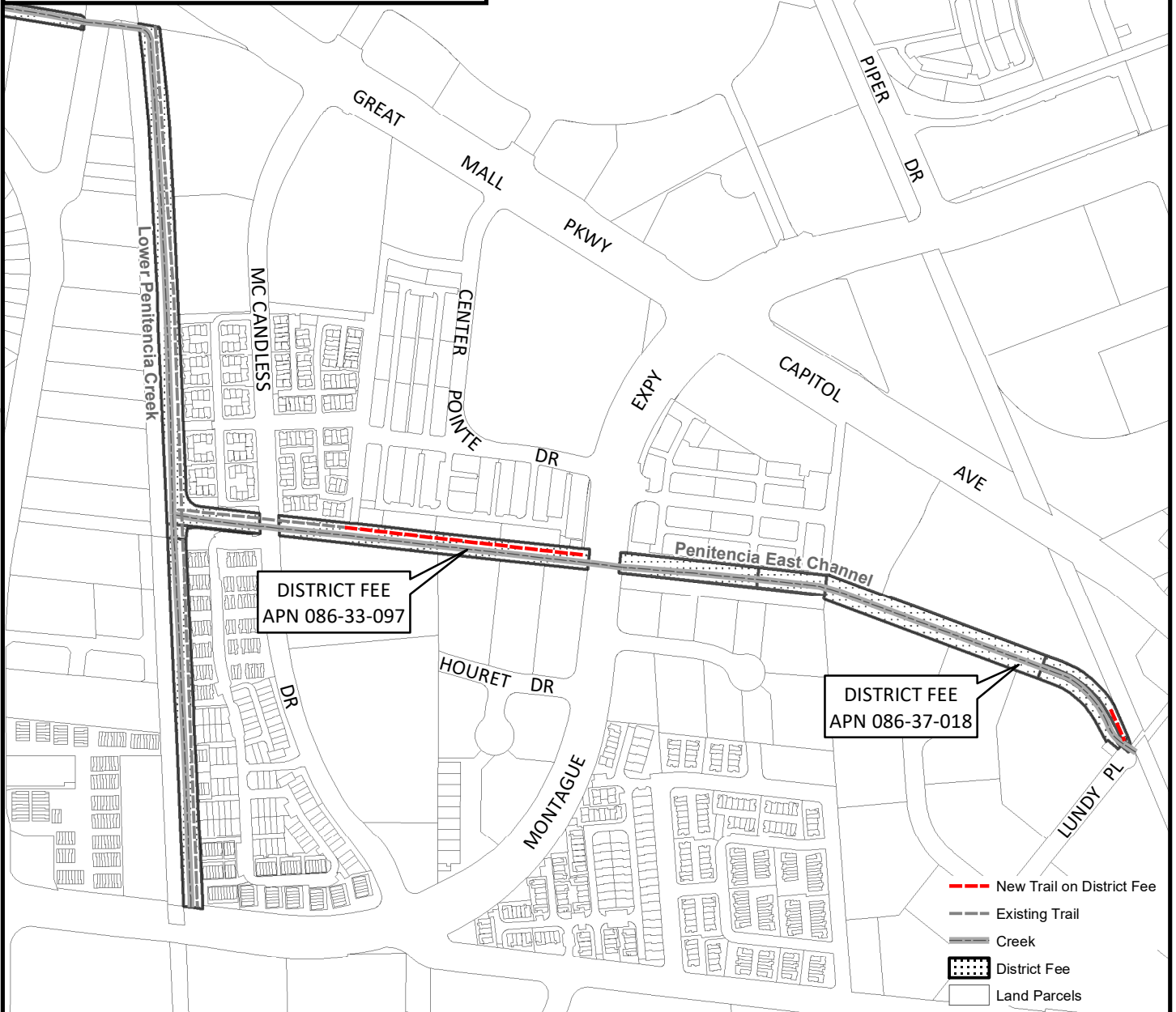
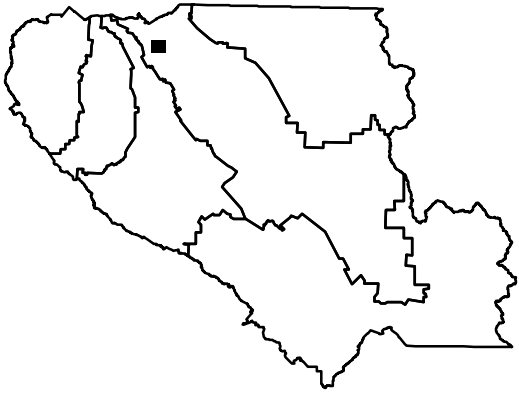
“District”
SANTA CLARA VALLEY WATER DISTRICT,
a special district created by the California Legislature

APPROVED AS TO FORM:

By: _____
Joseph D. Aranda
Assistant District Counsel

By: _____
Norma J. Camacho
Interim Chief Executive Officer

SANTA CLARA COUNTY



COYOTE WATERSHED



LOWER PENITENCIA CREEK/
PENITENCIA EAST CHANNEL TRAIL
JOINT USE AGREEMENT

EXHIBIT

A1

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