

**AGREEMENT BETWEEN THE
CITY OF MORGAN HILL AND SANTA CLARA VALLEY WATER
DISTRICT REGARDING MAINTENANCE AND OPERATION
OF THE UPPER LLAGAS CREEK FLOOD PROTECTION PROJECT
AND WEST LITTLE LLAGAS CREEK**

THIS AGREEMENT is made and entered into this ____ day of _____, 2019 (Effective Date) by and between the City of Morgan Hill, a municipal corporation of the State of California primarily located at 17575 Peak Avenue, Morgan Hill, CA 95037, hereinafter referred to as "CITY", and the Santa Clara Valley Water District, a special district organized and existing under the laws of the State of California located at 5750 Almaden Expressway, San Jose, California 95118, hereinafter referred to as "VALLEY WATER", and together referred to as "PARTIES" and individually as "PARTY".

RECITALS

- A. WHEREAS, VALLEY WATER is enabled by the Santa Clara Valley Water District Act to provide flood protection in Santa Clara County, and has sought federal aid for flood protection measures for the Upper Llagas Creek Flood Protection Project (hereinafter "Project") for 13.9± miles from approximately Buena Vista Avenue in Gilroy, California upstream to Llagas Road in Morgan Hill, California; and
- B. WHEREAS, the PARTIES executed a Cost-Sharing Agreement (#A3313S) for preparing Project designs, environmental documents, and a U.S. Army Corps of Engineers (USACE) Design Documentation Report for the Project on September 22, 2009 with the CITY's cost share a maximum of three million dollars (\$3,000,000). On April 7, 2014, VALLEY WATER received a final payment from the CITY maximizing their contribution at three million dollars in accordance with Agreement #A3313S; and
- C. WHEREAS, on June 10, 2014, VALLEY WATER's Board of Directors certified a Final Environmental Impact Report (Final EIR) and approved its Project as the lead agency pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. Seq.); and
- D. WHEREAS, VALLEY WATER is the fee owner of certain real property along West Little Llagas Creek within the CITY acquired for the Project; and
- E. WHEREAS, the PARTIES executed a Joint Use Agreement (#A4201M - **Attachment A**) to enable the CITY to provide certain recreational opportunities to the public within VALLEY WATER's fee owned property that do not unreasonably interfere with VALLEY WATER's mission of flood protection, water resource management, and stream stewardship along West Little Llagas Creek between Monterey Road and Ciolino Avenue in association with the completed Project; and

- F. WHEREAS, VALLEY WATER is required to operate and maintain the Project to maintain the 100-year level of flood protection, meet or exceed mitigation plantings success criteria, and protect the ecological and biological Project benefits; and
- G. WHEREAS, the County of Santa Clara, Department of Roads and Airports intends to adopt a resolution of the Board of Supervisors relinquishing the remaining portion of Hale Avenue between approximately Main Avenue to north of Wright Avenue to the CITY. This remaining portion of Hale Avenue includes the existing West Little Llagas Creek currently serving to convey storm water flows through portions of the CITY; and
- H. WHEREAS, VALLEY WATER has plans to construct the Project that will replace the existing portion of West Little Llagas Creek along Hale Avenue within underground drainage structures within the Hale Avenue right of way to provide a 100-year level flood protection; and
- I. WHEREAS, CITY is the fee owner of certain real property along West Little Llagas Creek within the Project limits, including at existing street crossing locations; and
- J. WHEREAS, CITY and VALLEY WATER are precluded by the State Constitution and other laws from actions which financially bind future governing bodies. Nothing herein shall constitute, or be deemed to constitute, an obligation of future appropriations of the legislative bodies of CITY and VALLEY WATER; and
- K. WHEREAS, the PARTIES find it to be in the public interest to provide for joint-use of the PARTIES properties within the Project limits and agree to define the maintenance and operations roles and responsibilities for each PARTY in association with the Project and West Little Llagas Creek.

AGREEMENT

I. TERM

The term of this AGREEMENT shall commence upon the Effective Date which shall be the date the AGREEMENT has been fully executed by both PARTIES, and shall continue for Fifty (50) years thereafter, unless earlier terminated pursuant to the terms of this AGREEMENT.

II. DEFINITIONS

For purposes of this AGREEMENT, the following terms shall be defined and used as set forth below, and any other capitalized terms not defined below shall be as defined elsewhere in this AGREEMENT. The references to particular types of Flood Protection Features, Recreation Features, and Joint Flood Protection and Recreation Features and the like.

1. Flood Protection Features – Those features being used solely for flood protection purposes identified as the following:
 - a. Underground reinforced box culverts (RCB's);
 - b. Existing rock slope protection, concrete lining and concrete wingwalls;
 - c. Inlet structure at Hale Avenue and Wright Avenue;
 - d. High flow horseshoe-shaped underground tunnel 12 ft. tall x 14 ft. wide;
 - e. Maintenance Access Ramps to West Little Llagas Creek;
 - f. Aggregate base maintenance roads;
 - g. Gates to maintenance access roads;
 - h. In-channel debris and vegetation control;
 - i. Flood Protection and Mitigation signage;
 - j. Mitigation Plantings; and
 - k. miscellaneous features with the purpose of providing hydraulic capacity for West Little Llagas Creek.
2. Recreation Features – Those features being used solely for recreation, open space, and trail purposes identified as the following:
 - a. Asphalt concrete trails;
 - b. Recreation signage;
 - c. Lighting features;
 - d. Drinking fountains;
 - e. Bathrooms;
 - f. Trash removal and trash receptacles;
 - g. Benches;
 - h. Bollards;
 - i. Landscape plantings;
 - j. Weed control along trails and within landscape plantings;
 - k. Landscape architectural features (i.e. boulders, sculptures);
 - l. Community monuments/exhibits, including Sister City projects; and
 - m. miscellaneous features with the purpose of providing recreation, open space, and trail uses, including the features installed by the CITY in accordance with the Joint Use Agreement (#A4201M) executed by the PARTIES, including any future amendments or renewals approved by the PARTIES.
3. Joint Flood Protection and Recreation Features – Those features being used jointly for flood protection and recreation/trail purposes as identified as the following:
 - a. Aggregate based maintenance roads/trails;
 - b. Fencing;
 - c. Underground low flow 36-inch reinforced concrete pipe (RCP) storm drain from West Main Avenue to Inlet structure near Wright Avenue;
 - d. Rodent control;
 - e. miscellaneous features with the purpose of providing both flood protection and recreation uses.

4. Channel Access Road/Ramps – Any road or ramp which has not been authorized for the public's use and which has been constructed or installed to provide service access to, or within West Little Llagas Creek for the sole use by VALLEY WATER.
5. Landscape Plantings and associated features – Plant material, such as trees, shrubs, turf, reinforced turf, architectural features and irrigation systems installed for recreation, open-space, and trail purposes, excluding all Mitigation Plantings.
6. Maintenance Roads/Trails – Paved pathways designed for both public pedestrian and bicycle use as well as for service access by VALLEY WATER and CITY.
7. Mitigation Plantings – Native plant material planted to mitigate the loss of such plants because of the Project.
8. Operation and Maintenance – Operation and Maintenance shall include all operations, maintenance, replacements, repairs, rehabilitation, acquiring required permits, satisfying permit conditions, record keeping, and reporting in accordance with the standards set forth herein.
9. Sediment – Undesirable sediment accumulation within West Little Llagas Creek which must be removed for flood protection purposes.
10. Vegetation – Natural and desirable native mitigation plant growth or undesirable plant growth, including fallen trees within West Little Llagas Creek which must be controlled for flood protection purposes.
11. Weed Control – Undesirable plant growth along the Maintenance Roads/Trails and not within West Little Llagas Creek which is controlled for recreation, open space, and trail purposes.
12. Trash and Litter – Waste products, refuse that have been carelessly discarded or disposed of improperly, without consent, at an undesirable location.
13. Graffiti – Writings, drawings, or other marks scribbled, scratched, or sprayed on a surface in a public place without consent.

III. OPERATIONS AND MAINTENANCE PROVISIONS RELATED TO FLOOD PROTECTION FEATURES

A. Operations

VALLEY WATER agrees to provide operations for the Flood Protection Features identified and defined within Article II (1.) of this AGREEMENT. For purposes of this AGREEMENT only, during a potential flood emergency, VALLEY WATER's designated Emergency Operations Center (EOC) staff will determine

when VALLEY WATER staff will be required to perform emergency operations of the Flood Protection Features.

B. Maintenance

VALLEY WATER agrees to provide maintenance for the Flood Protection Features identified and defined within Article II (1.) of this AGREEMENT, excluding the operation and maintenance for the structural aspects of the RCB's and road crossings which is the CITY's responsibility. VALLEY WATER's maintenance of flood protection features includes sediment removal and vegetation control consistent with VALLEY WATER Project's latest version of their Operations and Maintenance Guidelines. CITY, at any time, may request a copy of the latest version of the Project's Operations and Maintenance Guidelines from VALLEY WATER.

C. Operations and Maintenance of Existing West Little Llagas Creek at Hale Avenue

VALLEY WATER agrees to operate and maintain West Little Llagas Creek along Hale Avenue between approximately Wright Avenue and West Main Avenue when County of Santa Clara relinquishes this remaining portion of Hale Avenue to the CITY and prior to completion of the Project. The completed Project will replace this portion of West Little Llagas Creek within underground drainage structures, which are identified and defined as Flood Protection Features within Article II (1.) of this AGREEMENT. PARTIES acknowledge VALLEY WATER has CITY's permission in accordance with this AGREEMENT to conduct operations and maintenance, including sediment removal within existing West Little Llagas Creek, where no additional approval is required by the CITY. VALLEY WATER's maintenance schedule will be in accordance with the terms and conditions of Article VI (A.) of this AGREEMENT.

D. Operations and Maintenance of Mitigation Plantings

VALLEY WATER agrees to operate and maintain the Mitigation Plantings in accordance with the regulatory permits acquired for the Project.

IV. OPERATIONS AND MAINTENANCE PROVISIONS RELATED TO RECREATION FEATURES

A. Operations

CITY alone is responsible for supervising the public's authorized use of the Recreation Features. CITY agrees to provide operations for the Recreation Features identified and defined within Article II (2.) of this AGREEMENT, consistent with the CITY's standard park/trail operations, and in accordance with the Joint Use Agreement (#A4201M) previously executed by the PARTIES, including any future amendments or renewals approved by the PARTIES.

B. Maintenance

CITY agrees to provide maintenance for the Recreation Features identified and defined within Article II (2.) of this AGREEMENT, including trash and graffiti removal consistent with the CITY's standard park/trail operations, and in accordance with the Joint Use Agreement (#A4201M) previously executed by the PARTIES, including any future amendments or renewals approved by the PARTIES.

C. Operations and Maintenance of Recreation Features

CITY agrees to operate and maintain the Recreation Features consistent with the CITY's standard park/trail operation and maintenance standards, and this operation and maintenance shall not be inconsistent with VALLEY WATER's Operations and Maintenance Guidelines, as amended from time to time, and shall not conflict with VALLEY WATER's Mitigation Plantings in accordance with the regulatory permits acquired for the Project. To the extent this AGREEMENT conflicts with any of the terms and conditions of the Joint Use Agreement (#A4201M), including any future amendments or renewals approved by the PARTIES, the terms and conditions of the Joint Use Agreement shall prevail.

V. OPERATIONS AND MAINTENANCE PROVISIONS RELATED TO JOINT FLOOD PROTECTION AND RECREATION FEATURES

A. Operations and Maintenance

1. VALLEY WATER agrees to provide operations and maintenance for those Flood Protection features related to Joint Flood Protection and Recreation Features identified and defined within Article II (3.) of this AGREEMENT.

By way of example, VALLEY WATER is responsible for maintenance of the Maintenance Roads structural base materials and/or sub-base structural integrity and fencing damaged by VALLEY WATER personnel or its authorized agents.

2. CITY agrees to provide operations and maintenance for those Recreation features related to Joint Flood Protection and Recreation Features identified and defined within Article II (3.) of this AGREEMENT,

By way of example, CITY is responsible for maintenance of concrete asphalt surfacing of maintenance road/trails, 36-in RCP low flow storm drain West Main Avenue to Wright Avenue, fencing damaged by public use, etc. as defined in and in accordance with the terms and conditions of

the Joint Use Agreement (#A4201M), including any future amendments or renewals approved by the PARTIES.

B. Failure of Operations and Maintenance by CITY or VALLEY WATER

In the event either the CITY or VALLEY WATER fails to perform its obligations under this Article in a timely fashion, the other party may, after providing notification to the party required to perform the obligation of the deficiency, provide the complete operations and maintenance of a Joint Flood Protection and Recreation Features. The party in default shall reimburse the party that provided operations and maintenance on the Joint Flood Protection and Recreation Features within sixty (60) days of proper billing. Proper billing will include an itemized breakdown of the proportional costs and a complete description of those items and/or exact locations of those areas that received the operations and maintenance work. The CITY and VALLEY WATER agree to resolve any dispute regarding the proportional costs, not specifically addressed in this AGREEMENT, for operating and maintaining the Joint Flood Protection and Recreation Features through the resolution process set forth in Article X of this AGREEMENT.

VI. SCHEDULING OF MAINTENANCE

A. VALLEY WATER's Maintenance Schedule

1. PARTIES acknowledge and agree that VALLEY WATER is responsible for performing routine maintenance for flood protection and water resource management purposes in a manner consistent with its maintenance of comparable facilities or creeks.
2. PARTIES acknowledge and agree VALLEY WATER's use of equipment for maintenance work, including herbicide applications to control vegetation as contemplated under this AGREEMENT may, on occasion, disrupt the use of the Recreation Features by CITY, the public, or both. Accordingly, VALLEY WATER agrees to notify the CITY's designated superintendent at least ten (10) working days prior to commencement of such work, to minimize public impacts.
3. PARTIES acknowledge VALLEY WATER has CITY's permission in accordance with this AGREEMENT to conduct operations and maintenance, including rock slope protection installation/repairs, sediment removal, and vegetation management for flow conveyance for the following street locations and street crossings associated with the Project, where no additional approval is required by the CITY:
 - La Crosse Drive (South), Bridge #37C-329: CITY owned, four (4) Cell Reinforced Concrete Box Culvert (RCB);

- La Crosse Drive (North), Bridge #37C-328: CITY owned, four (4) Cell RCB;
- West Edmundson Avenue, Bridge #37C-168: CITY owned
- Edes Street, Bridge #37C-409: CITY owned four (4) RCB's: Three (3) RCB's 10 ft. wide x 7 ft. tall, One (1) 10 ft. wide x 9 ft. tall;
- Cosmo Avenue, Bridge #37C-408: CITY owned four (4) RCB's: Three (3) RCB's 10 ft. wide x 7 ft. tall, One (1) 10 ft. wide x 9 ft. tall;
- Spring Avenue: CITY owned three RCB's: Center RCB 10 ft. wide x 10 ft. tall, two side RCB's 10 ft. wide x 9 ft. tall;
- Ciolino Avenue: Confluence with existing VALLEY WATER owned 15 ft. wide x 8 ft. tall underground RCB, Underground 10ft. wide x 9ft. tall and 10ft. wide x 8ft. tall - high flow RCBs parallel along Ciolino Avenue, including confluence with CITY owned existing 72-in. Dewitt Creek storm drain. Note: The existing 72-inch Dewitt Creek storm drain is and remains the CITY's operations and maintenance responsibility;
- Del Monte Avenue (Ciolino Avenue to North of West Dunne Avenue): VALLEY WATER owned underground 10ft. wide x 9ft. tall and 10ft. wide x 8ft. tall - high flow RCBs parallel with Del Monte Avenue;
- West Dunne Avenue: VALLEY WATER owned underground 10ft. wide x 9ft. tall and 10ft. wide x 8ft. tall - high flow RCBs crossing;
- Nob Hill Terrace: VALLEY WATER owned high flow horseshoe-shaped underground tunnel 12 ft. tall x 14 ft. wide parallel within Nob Hill Terrace;
- Hale Avenue (Nob Hill Terrace to Warren Avenue): VALLEY WATER owned high flow horseshoe-shaped underground tunnel 12 ft. tall x 14 ft. wide parallel within Hale Avenue;
- Warren Avenue (at Hale): VALLEY WATER owned high flow horseshoe-shaped underground tunnel 12 ft. tall x 14 ft. wide crossing;
- Hale Avenue (Warren Avenue to Wright Avenue): CITY owned underground 36-in RCP low flow storm drain, VALLEY WATER owned 10ft. wide x 9ft. tall and 10ft. wide x 8ft. tall - high flow RCBs parallel to and within Hale Avenue;
- West Main Avenue: CITY owned underground 36-in RCP low flow storm drain, VALLEY WATER owned 10ft. wide x 9ft. tall and 10ft. wide x 8ft. tall - high flow RCBs crossing;
- Wright Avenue: CITY owned underground 36-in RCP low flow storm drain, VALLEY WATER owned 10ft. wide x 9ft. tall and 10ft. wide x 8ft. tall - high flow RCBs crossing;
- Hillwood Lane: CITY owned arched culvert;
- Llagas Creek Drive: CITY owned arched culvert, 5ft.-11in.± wide x 22ft.-10in.± tall;
- Llagas Road: CITY owned RCB-Double Cell

If said VALLEY WATER maintenance work will involve the closure of any CITY streets/traffic lanes, or will involve frequent trucking (defined as more than one truck per hour) to and from the maintenance site, VALLEY WATER will submit a traffic control plan to CITY. CITY staff will have three working days from receipt of the traffic control plan to review and suggest any modifications to VALLEY WATER. VALLEY WATER is not otherwise required to submit a traffic control plan to complete maintenance work associated with Flood Protection Features or Joint Flood Protection and Recreation Features as identified and defined in Article II (1.) and (3.).

4. PARTIES acknowledge a portion of existing West Little Llagas Creek from Ciolino Avenue upstream to West Main Avenue is outside of the Project's scope of work and operations, and maintenance responsibilities for such property shall comply and be limited to the terms and conditions of the PARTIES' existing right of way documents for this portion of West Little Llagas Creek:
 - Ciolino Avenue to Dunne Avenue: VALLEY WATER Easement Deeds for existing 15 ft. wide x 8 ft. tall RCB beneath shopping center:
 - #1655462 Easement, recorded 6/30/1959;
 - #6767759 Easement, recorded 7/1/1980;
 - #11900477 Easement, recorded 5/12/1993;
 - #12750293 Easement, recorded 12/15/1994;
 - #12750297 Easement, recorded 12/15/1994;
 - Dunne Avenue: CITY owned crossing where VALLEY WATER has no existing rights;
 - 5th Street: CITY owned crossing where VALLEY WATER has no existing rights;
 - 4th Street: CITY owned crossing where VALLEY WATER has no existing rights;
 - Between 4th Street and 3rd Street: VALLEY WATER Easement Deed #6388526, recorded 5/30/1979 for a 203± sf triangle shaped parcel;
 - 3rd Street: CITY owned crossing where VALLEY WATER has no existing rights;
 - Del Monte Avenue: CITY owned crossing where VALLEY WATER has no existing rights;
 - Warren Avenue: CITY owned crossing where VALLEY WATER has no existing rights; and
 - Warren Avenue to West Main Avenue: VALLEY WATER Deeds:
 - #1994330 Easement, recorded 5/8/1961;
 - #1995042 Easement, recorded 5/9/1961;
 - #7468700 Fee Grant Deed (7,250± sf), recorded 9/20/1982;
 - #9198181 Easement, recorded 3/18/1987.

5. VALLEY WATER maintenance activities are to comply with all applicable City, County, and State regulations regarding traffic control. VALLEY WATER further agrees, whenever practical, to schedule the use of said maintenance work to avoid or minimize disruption of the Recreation Features as identified and defined in Article II (2.), including special event activities held within the Project area.

B. CITY Maintenance Schedule

1. PARTIES acknowledge and agree CITY is responsible for performing routine maintenance for recreation, open space, and trails in a manner consistent with the CITY's standard park/trail operations, and in accordance with the Joint Use Agreement (#A4201M) executed by the PARTIES, including any future amendments or renewals approved by the PARTIES. Accordingly, CITY agrees to notify VALLEY WATER's designated superintendent at least ten (10) working days prior to commencement of such work, to coordinate with VALLEY WATER maintenance responsibilities to minimize public impacts.
2. PARTIES acknowledge and agree CITY is and remains responsible for the operation and maintenance responsibilities for the storm drainage system, outfalls, outfall structures/headwalls, flap gates, and appurtenances that may discharge into the Project's Flood Protection Features.
3. PARTIES further acknowledge and agree that CITY is responsible for the CITY owned structures, including structural inspections and repairs and for performing maintenance (i.e. street resurfacing) on street locations and street crossings associated with the Project as identified and defined in Article VI (A)(3).

C. CITY Event Schedule

CITY agrees to notify the VALLEY WATER's designated superintendent at least thirty (30) calendar days prior to commencement of such events within the Project limits, so VALLEY WATER may coordinate their maintenance activities accordingly to minimize public impacts.

D. CITY and VALLEY WATER Designated Superintendents

CITY and VALLEY WATER agree, for proposed activities/work within the Project limits, to provide the other with the name and business telephone number of their designated superintendents for purposes of receiving the schedules and notice required under this Article VI, if different than their designated superintendents identified in Article XI of this AGREEMENT. CITY and VALLEY WATER agree to notify the other in a timely manner in the event of any changes in the information regarding their designated superintendents.

VII. DAMAGE OR DESTRUCTION

A. Damage to CITY's Improvements within VALLEY WATER's Project right of way

1. In accordance with the terms and conditions of the Joint Use Agreement (#A4201M), VALLEY WATER is not responsible for any damage occurring to CITY improvements or structures located within VALLEY WATER's Project right of way that results from VALLEY WATER's maintenance, construction or reconstruction activities, or from its water management and/or flood protection facilities located on or near this Project right of way, including (without limitation) any flood flows, or inundation of West Little Llagas Creek onto Recreation Features or joint Flood Protection and Recreation Features. Further, CITY is responsible for any damage occurring to either VALLEY WATER's or CITY's improvements or structures located within VALLEY WATER's Project right of way that result from the public's use. All such costs for repairing such damage to VALLEY WATER's or CITY's improvements will be borne by CITY.
2. In the event CITY fails to perform its obligations under this Article in a timely fashion, VALLEY WATER shall, by written notice, provide CITY with an additional fifteen (15) days to cure. If, after such cure period, CITY has not taken the action(s) specified in this Article, VALLEY WATER, at VALLEY WATER's sole option, shall have the right to proceed with such repairs or replacement and bill CITY for VALLEY WATER's costs of same. By "costs," the PARTIES agree that such costs shall include the costs which are necessary to complete the work and a proportionate share of VALLEY WATER's design, engineering, and administrative expenses.

B. Damage to CITY's Improvements within CITY's right of way

1. PARTIES agree VALLEY WATER is responsible for operations and maintenance of the Flood Protection Features as identified and defined in Article II (1.). VALLEY WATER is responsible for any damage occurring to CITY improvements or structures located within CITY's right of way that results from VALLEY WATER's maintenance, construction or reconstruction activities.

By way of example, if VALLEY WATER damages existing CITY street improvements while VALLEY WATER performs sediment removal of the reinforced concrete box culverts at existing CITY street crossings, all such costs for repairing such damage to CITY's improvements will be borne by VALLEY WATER.

2. In the event VALLEY WATER fails to perform its obligations under this Article in a timely fashion, CITY shall, by written notice, provide VALLEY WATER with an additional fifteen (15) days to cure. If, after such cure period, VALLEY WATER has not taken the action(s) specified in this Article, CITY, at CITY's sole option, shall have the right to proceed with such repairs or replacement and bill VALLEY WATER for CITY's costs of same. By "costs," the PARTIES agree that such costs shall include the costs which are necessary to complete the work and a proportionate share of CITY's design, engineering, and administrative expenses.

C. Allocation of Costs

In the event that damage or destruction occurs to Flood Protection Features, Recreations Features, Joint Flood Protection and Recreation Features, or Mitigation Plantings from a cause not specifically addressed in this Article or from a combination of causes involving the acts and omissions of VALLEY WATER and CITY, the PARTIES agree to resolve the allocation of costs for repairing or replacing the affected facilities through the resolution process set forth in Article X of this AGREEMENT.

D. Rodent Control

1. PARTIES agree that Rodent Control is required for Joint Flood Protection and Recreation Features that benefits each PARTY. CITY agrees to provide rodent control services on behalf of the community and as needed for the protection of the Recreation Features at its sole cost. CITY agrees to notify VALLEY WATER's designated superintendent at least ten (10) working days prior to commencement of such work.
2. PARTIES acknowledge and agree that VALLEY WATER may perform rodent control as required to protect Flood Protection Features and Mitigation Plantings at their sole cost. VALLEY WATER agrees to notify CITY's designated superintendent at least ten (10) working days prior to commencement of such work.

VIII. SUCCESSORS AND ASSIGNS

This AGREEMENT, and all terms, covenants, and conditions hereof, shall apply to and bind the successors and assigns of the respective parties hereto.

IX. MUTUAL INDEMNIFICATION PROVISIONS

- A. Neither VALLEY WATER, nor any officer or employee or agent thereof, shall be held responsible for any damage or liability occurring by reason of anything done or omitted by CITY or public under or in connection with any work under this

AGREEMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify, and hold VALLEY WATER harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted by CITY under this AGREEMENT.

- B. Neither CITY, nor any officer or employee or agent thereof, shall be held responsible for any damage or liability occurring by reason of anything done or omitted by VALLEY WATER under or in connection with any work, authority, or jurisdiction delegated to VALLEY WATER under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, VALLEY WATER shall fully defend, indemnify, and hold CITY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted by VALLEY WATER under this AGREEMENT.

X. RESOLUTION OF DISPUTES

This AGREEMENT requires the PARTIES work together in good faith to achieve the intent of this AGREEMENT. In the event that a dispute arises as to the proper interpretation of the respective rights and responsibilities of the PARTIES under this AGREEMENT, or as to any other aspect of this AGREEMENT, the PARTIES agree that they each will assign the appropriate individuals to meet and make good faith efforts to negotiate in order to arrive at a resolution of the dispute.

If after employing this informal resolution process the parties are at impasse, either PARTY may request an independent, mutually agreed upon mediator to facilitate further negotiation with the costs shared equally by each party.

Nothing herein shall prevent either PARTY from exercising any rights it may have to enforce the terms of this AGREEMENT at law or in equity.

XI. NOTICE AND SUPERINTENDENT DESIGNATION

Unless otherwise provided in this AGREEMENT, any notice, tender, or delivery (collectively, "communications") to be given hereunder by either PARTY shall be in writing and shall be delivered by personal delivery, or by registered or certified mail, postage prepaid, return receipt requested. Communications delivered personally or sent by registered or certified mail, in accordance with this Article shall be deemed communicated when delivered upon receipt or refusal to accept delivery at the addresses specified in this Article. Each PARTY must appoint a superintendent to be directly in charge of an organization which will be fully responsible for the continuous inspection, operation, and maintenance of the Project Features. Each PARTY has appointed as their superintendent the individual listed below. Each PARTY may change its superintendent, address, or telephone number by written notice given in accordance with this Article:

To VALLEY WATER: Valley Water
5750 Almaden Expressway
San Jose, CA 95118-3686
Attn: Chief Executive Officer
Telephone Number: (408) 630-2084

To CITY: City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attn: City Manager
Telephone Number: (408) 776-7382

XII. MISCELLANEOUS PROVISIONS

- A. Singular and Plural: Words in the singular number shall be to include the plural, unless the context otherwise requires.
- B. Time of Essence: Time is of the essence for the performance of all obligations under this AGREEMENT.
- C. Choice of Law: This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either party hereunder, the PARTIES agree that trial of such action shall be exclusively vested in a State court in the County of Santa Clara or, where appropriate, in the United States District Court for the Northern District of California, San Jose, California.
- D. Captions: The captions inserted in this AGREEMENT are for convenience only, and in no way define, limit, or otherwise describe the scope or intent of this AGREEMENT, or any provision hereof, or in any way affect the interpretation of this AGREEMENT.
- E. Entire Agreement: This AGREEMENT (including the Joint Use Agreement (#A4201M and any future amendments or renewals approved by the PARTIES.) and VALLEY WATER's latest Project Operations and Maintenance Guidelines, which are incorporated herein by reference) constitutes the entire understanding and AGREEMENT of the PARTIES with respect to the subject matter of this AGREEMENT, and contains all the covenants and agreements of the PARTIES with respect thereto. CITY and VALLEY WATER each acknowledge that no representations, inducements, promises, or agreements, oral or written, have been made by CITY or VALLEY WATER, or anyone acting on behalf of CITY or VALLEY WATER, which are not contained herein, and any prior agreements, promises, negotiations, or representations not expressly set forth in this AGREEMENT are of no force or effect.

- F. Waivers: The waiver by a PARTY to this AGREEMENT of any term, covenant, agreement, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement, or condition herein contained, nor shall any custom or practice which may develop between the parties in the administration of this AGREEMENT be construed to waive or lessen the right of a PARTY to insist upon the performance by the other PARTY in strict accordance with all of the provisions of this AGREEMENT.
- G. Severability: If any clause or provision of this AGREEMENT is illegal, invalid, or unenforceable under present or future laws effective during the term of this AGREEMENT, then and in that event, it is the intention of the PARTIES hereto that the remainder of this AGREEMENT shall not be affected thereby, and it is also the intention of the PARTIES to this AGREEMENT that, in lieu of each clause or provision of this AGREEMENT that is illegal, invalid, or unenforceable, there be added as a part of this AGREEMENT a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

WITNESS THE EXECUTION HEREOF,

CITY OF MORGAN HILL
A Municipal corporation of the County of
Santa Clara

VALLEY WATER
A Special District, created by the California
Legislature

By: _____
Christina Turner
City Manager

By: _____
Norma J. Camacho
Chief Executive Officer

ATTEST:

ATTEST:

Michelle Wilson
Deputy City Clerk

Michele L. King
Clerk of the Board of Directors

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Donald Larkin
City Attorney

Brian Hopper
Senior Assistant District Counsel

JOINT USE AGREEMENT
Between
City of Morgan Hill and Santa Clara Valley Water District
For
West Little Llagas Creek between Monterey Road and Ciolino Avenue
in association with the Upper Llagas Creek Flood Protection Project

SANTA CLARA VALLEY WATER DISTRICT, a California Special District created by the California Legislature, hereinafter referred to as "District;" and CITY OF MORGAN HILL, a municipal corporation of the County of Santa Clara, hereinafter referred to as "City", AGREE as follows:

RECITALS:

- A. WHEREAS, District is the owner of certain real property (hereinafter "the Premises"), shown on "Exhibit A" attached hereto, so marked and by this reference made a part hereof. The Premises are located along West Little Llagas Creek from Monterey Road northwesterly to Ciolino Avenue within the City of Morgan Hill; and
- B. WHEREAS, on June 10, 2014, District's Board of Directors certified a Final Environmental Impact Report (Final EIR) and approved its Upper Llagas Creek Flood Protection Project (District Project) as lead agency pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.); and
- C. WHEREAS, District is currently proceeding with the permitting phase of its Upper Llagas Creek Flood Project (District Project), within its right-of-way. After permits are issued, District will subsequently advertise for bids and award contracts for construction of the District Project anticipated to take an estimated five (5) years to complete construction; and
- D. WHEREAS, the District is required to maintain the District Project in accordance with the Resource Agency approved Mitigation and Monitoring Plan (MMP) for a 10-year period following completion of construction needed to meet required success criteria, including a 3-year mitigation planting establishment period; and
- E. WHEREAS, District shall grant a conservation easement to the City within a portion of the Premises in accordance with pending execution of the purchase and sale agreement by and between the District and County of Santa Clara for an approximately 53-acre property commonly known as Lake Silveira, located with the City of Morgan Hill (APN's 779-03-114, 779-06-030, 779-49-014, and 779-06-032) (Conservation Easement); and

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- F. WHEREAS, District shall also grant a perpetual wetlands mitigation easement to a grantee designated by the United States Army Corps of Engineers over and up to sixteen acres (Mitigation Easement) entirely within the Conservation Easement; and
- G. WHEREAS, the Conservation Easement is subordinate to the Mitigation Easement; and
- H. WHEREAS, City has an interest in using Premises after the construction of District Project to enable City to provide certain recreational opportunities to the public that do not unreasonably interfere with the District's mission of flood protection, water resource management, and stream stewardship; and
- I. WHEREAS, the parties have previously executed the following Joint Use Agreements (JUA) along West Little Llagas Creek that will be superseded upon the execution of this Agreement:
- a. A2905M (Portion): Edmundson Avenue to LaCrosse Drive executed 12/20/2004 for a term of 25 years;
 - b. A3046RE: Edes Court and Edmundson Avenue executed 7/11/2006 for a term of 25 years;
 - c. A3221M: LaCrosse Drive to Watsonville Road executed 9/9/2008 for a term of 25 years;
 - d. A3414M: Edes Court to Spring Avenue executed 10/26/2010 for a term of 25 years; and
- J. WHEREAS, the parties find it to be in the public interest to provide for joint use of the Premises by means of an Agreement under the following terms and conditions;

Now, therefore, the parties agree as follows:

- 1) **Scope of the License Grant to City.** Subject to the terms and conditions of this Agreement, and contingent upon District's grant of a conservation easement to City as set forth above, District hereby grants to City a non-exclusive license to access and do any or all of the following on the Premises:
- a. To construct, operate, maintain, repair, replace, and remove City Improvements for recreational purposes on the Premises including, but not limited to, asphalt concrete surfaced pedestrian and bicycle trails, pedestrian bridges, fencing, fixture (trash receptacles, benches etc.) and signage. The construction of such City Improvements shall require prior review and approval by District as signified by issuance of a Water Resources Protection Ordinance Encroachment Permit ("District Permit"), and shall be compliant with all applicable legal and permitting requirements. It is fully understood and agreed that District in its reasonable discretion may approve or disapprove a request for any permit to construct any City Improvement on the Premises.

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- b. To provide non-motorized bicycling, walking, jogging and hiking activities in accordance with all applicable legal and permitting requirements to the extent such activities do not interfere with the District's mission of flood protection, water resource management, and stream stewardship.
 - c. To host special recreational events (e.g., races) that may include an otherwise restricted component such as allowing private vehicular access for safety purposes, so long as City first receives a District Permit to host that event.
- 2) **Subordination to Conservation Easement and Mitigation Easement.** To the extent this Joint Use Agreement conflicts with any provisions of the Mitigation Easement, the terms of the Mitigation Easement shall prevail. To the extent this Joint Use Agreement conflicts with any provision of the Conservation Easement, the terms of the Conservation Easement shall prevail. To the extent this Joint Use Agreement conflicts with any provisions of the MMP, the terms of the MMP shall prevail.
- 3) **Prohibited Uses of Trail.** City shall post notices at all trail entrances that notify users of the trail that the following activities are prohibited:
- Entry of motor vehicles (except for maintenance, emergency, and enforcement vehicles and mobility devices otherwise allowed by law)
 - Unleashed dogs

Subject to the foregoing prohibitions and any other restrictions set forth in this Agreement, City shall have the sole authority to adopt any trail rules and regulations pursuant to City of Morgan Hill Municipal Code for any City Improvements on the Premises that will not interfere with District's mission of flood protection, water resource management, and stream stewardship.

- 4) **Trash and Litter Removal.** City will provide for trash removal on the Premises that is reasonably likely to have been generated from the public's use of the Trail or access to the Premises. City will be responsible for providing sufficient number of trash receptacles, timely maintaining, servicing, emptying trash receptacles, including removing litter/trash and rubbish removal not properly disposed in the receptacles as reasonably necessary. The District is required under the terms of the Mitigation Easement and MMP to ensure trash does not compromise the health and ecological viability of the created wetlands, so District reserves the right, at City's expense, to conduct trash removal within the Conservation Easement if the City fails to properly and routinely remove trash and debris generated from the public's use to the level required under the terms of the Mitigation Easement and MMP. District will notify City in terms of Article 20 of this Agreement prior to conducting this corrective action.

District will manage any Adopt-A-Creek program within the Premises.

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- 5) Vegetation Management.** If existing vegetation impacts the trail use, then City is responsible for vegetation removal and maintenance, as City deems necessary while in accordance with the terms and conditions of the Conservation Easement. City shall not conduct any vegetation removal and maintenance that is not compatible or consistent with the terms and conditions of Mitigation Easement and MMP for the District Project, per Article 2 of this Agreement.
- 6) Graffiti Removal.** City will provide graffiti removal in compliance with City's graffiti abatement program, including graffiti removal from walls, signs, etc. installed in conjunction with and/or accessory to the establishment of a public pathway consistent with its implementation of the same program at comparable City facilities. City will have the primary responsibility for removal of graffiti, on the Premises, reasonably attributed to trail use. No permit from District, nor any advance notice, will be required for City to provide the routine removal of graffiti from any City or District facility within the length of the West Little Llagas Creek included within this agreement. Any and all materials used by City in the removal of graffiti within the limits of this agreement shall be approved for use in the State of California, environmentally safe products, which will not impact the West Little Llagas Creek environment in any way.
- 7) Security.** The premises will be reasonably patrolled by City personnel and/or volunteers supervised by City, at the level of Public Safety that is afforded to all areas of the City. District has no obligations whatsoever to provide or pay for any such patrol services. City shall cooperate and coordinate with District in District's efforts to remove any illegal encampments on the premises, and City shall provide police security during such removal activities at no charge to District.
- 8) Public Complaints.** City is responsible for responding to all public complaints and inquiries regarding City's improvements on the Premises, including the public trail, and to all inquiries regarding the public's use of the Premises.
- 9) Removal or Relocation of City Improvements.** If District requires that any City improvement on Premises be removed or relocated for any District purpose, City will do so at its own expense within 90 days of receiving notice from District. If removal or relocation of City improvements, including vegetation installed by City, requires mitigation under the California Environmental Quality Act, City will be responsible for all costs required to fulfill any required mitigation responsibilities. District will inform City during preconstruction planning in the event a District project is performed on the Premises, in order to reasonably minimize District's project impact on City's improvements located on the Premises. In the event a District project is constructed, any replacement of City's trail and amenities will be the responsibility of City, subject to District approval.
- 10) Water Level Fluctuations.** It is expressly understood by City that the level of water upon the Premises may fluctuate from day to day due to controlled or uncontrolled flows upon and across the same. City is responsible for the control of or limiting the public's use of Premises because of such water levels, flood flows, or for any other reason (i.e. harmful algal blooms).

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City is responsible for determining the conditions under which to exercise said control or to limit the use of the Premises to ensure the health and safety of the public using the Premises.

- 11) Signage.** The District is required under the terms and conditions of the Mitigation Easement to install wetland habitat "sensitive area signage". For all other signage, the parties will cooperate to create and install signage that benefits the programs of each party such as warnings, entrance signage, interpretive signs and benches, and joint uses when applicable. The Deputy Operating Officer designated by District and the Community Services Director of City or their respective designees will meet and confer on a periodic basis to plan the installation of appropriate signage which serves the needs of both parties. All signs placed on the Premises by City (except existing signs that identify the facility (e.g. Trail) by name) must include District's logo in equal size and symmetrical relationship to any other logos contained on such signs. In addition, all City signs or City publications placed on the Premises that describe water resources must be developed in conjunction with District's Watershed customer relations staff. Each party is responsible for the maintenance and upkeep of its signage installed on the Premises.
- 12) Bird Nesting Season.** Construction and maintenance work during nesting season (generally between February 1st and August 31st) will be avoided whenever possible. If construction or maintenance work must be done during the nesting season, a pre-construction survey by a qualified biologist must be undertaken to determine the presence of nesting. If nesting activity is reported, the biologist is expected to recommend the City to implement adequate mitigation measures to protect the nesting area. Environmental impacts will be considered prior to all work by the responsible party, (City or District, and/or their agents) performing said work. Any and all work related to this clause will be completed by the responsible party in accordance with applicable federal, state, and local environmental health and safety regulations including but not limited to the federal Migratory Bird Treaty Act of 1918, Clean Water Act, Endangered Species Act, the California Fish and Wildlife Code and the Porter-Cologne Act and any amendments thereto.
- 13) Maintenance and Repair.** District is responsible for performing routine maintenance on the Premises for flood protection and water resource management purposes in a manner consistent with its maintenance of comparable facilities or creeks. City is responsible for the maintenance and repair of recreational improvements on the Premises. City will bear the cost and expense of any security, police, preparation of traffic and pedestrian detour plans, including installation of required appurtenances, or other expenditure necessary to temporarily prohibit or control public access to the Premises that District would not ordinarily incur to complete scheduled routine maintenance pursuant to this provision. In an emergency situation or work tied to regulatory compliance (i.e. fish passage or wetlands functionality concerns), District will respond without notice to City. In non-emergency situations, City and District staff will meet, whenever necessary, for the purpose of scheduling routine maintenance, including, but not limited to:
- a. Maintenance issues related to improvements;

- b. Method and timing of issues related to affected wildlife;
- c. Non-emergency work requiring the use of heavy equipment, barricading, and/or restricting access to the Premises. District and City further agree to notify one another's designated representative at least ten (10) work days prior to commencement of such work, in order to minimize public impacts.

14) Damage to City's Improvements on Premises. District is not responsible for any damage occurring to City's improvements or structures located on the Premises that results from District's maintenance, construction or reconstruction activities, or from its water management and/or flood protection facilities located on or near the Premises, including (without limitation) any flood flows, or inundation of West Little Llagas Creek onto the Premises. Further, City is responsible for any damage occurring to either District's or City's improvements or structures located on the Premises that result from the public's use of the Premises. All such costs for repairing such damage to District's or City's improvements will be borne by City.

15) Term of Agreement and Renewal Option. This Agreement will become effective upon execution by both parties. However, the City acknowledges that the District Project will be constructed in phases over an estimated five (5) year period where the construction of the District Project will be given priority over proposed City improvements. City agrees to install City improvements on Premises in accordance with Article 19 of this Agreement. The term of this Agreement (including the rights and obligations contained therein) is twenty-five (25) years commencing on the Agreement Effective Date. This City, upon providing District with no less than ninety (90) days written notice, but no more than 180 days notice prior to the expiration of the initial 25-year term, may renew this Agreement for an additional 25-year period.

16) Termination of Agreement. A party may terminate this Agreement without cause after providing the other party with at least 180 days prior written notice of its intent to terminate this Agreement. Upon the termination or expiration of this Agreement, City must remove all City Improvements from the Premises, and leave the Premises in a condition as near as reasonably practical to its condition prior to the installation and/or development of such improvements. If the District requires the trail to be removed from the Premises due to a flood protection project or other District project, this Agreement will terminate upon District providing the City with written notice of at least 180 days. Notice of intent to renew or to terminate may be given by City's Director of Public Works. Notice of intent to terminate may be given by District's Chief Executive Officer.

17) City's Responsibility for Public Use. Subject to the conditions and restrictions contained in this Agreement, City has the full control and authority, for public and recreation purposes over the use of the Premises, and City may restrict, or control, regulate and/or supervise the public use thereof. City may, at its discretion, consistent with the right of District hereinafter described, and without diminution of the flood protection or water resources management function or hazard thereto of the Premises as now existing or as may hereafter be altered,

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take any measures of every kind as may in the opinion of City be necessary for the health and safety of the users of the Premises for any purpose under this Agreement. City has the sole responsibility for the maintenance in usable and safe condition of every facility provided upon the Premises by City.

18) District's Superior Rights. It is expressly understood that District is engaged in flood protection, the protection of water resources, and stream stewardship and that the terms and conditions of this Agreement will not in any way interfere with the absolute, free and unrestricted right of District to operate and maintain for flood protection, water resource management, and stream stewardship purposes the stream bed and banks or any appurtenant works thereto, or to repair or construct any of its works, or to allow the raising or lowering of the height of the water present upon the Premises.

19) City's Subordinate Rights. City will have the right to build improvements on the Premises necessary, or convenient to the enjoyment of this Agreement, provided the location of the any such improvement is, in each case during the term of this Agreement, first approved by District and signified by issuance of a District permit. It is fully understood and agreed that District has the sole, unfettered discretion to approve or disapprove of such improvements.

20) Indemnification by City. Notwithstanding any other provision of this Agreement, City agrees to indemnify, defend and hold harmless District, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation interest, penalties and reasonable attorney's fees), fines, levies, assessments, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the: (i) public use of the Premises, (ii) public's use of real property adjacent to the Premises, or (iii) negligence or willful misconduct of City's officers, agents, employees, or independent contractors. This Agreement to defend, indemnify, and hold harmless District will operate irrespective of the basis of the claim, liability, loss, damage, or injury and irrespective of whether the act, omission, or activity is a condition of Premises or any other cause of any kind or nature.

21) Notices. Any and all notices required to be given hereunder will be deemed to have been delivered upon deposit in the United States mail, postage prepaid, addressed to either of the parties at the address hereinafter specified or as later amended by either party in writing:

City:

City of Morgan Hill
Attention: Community Services Director
17575 Peak Avenue
Morgan Hill, CA 95037

District:

Santa Clara Valley Water District
Attention: Clerk of the Board
5750 Almaden Expressway
San Jose, CA 95118

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w/copy to District's Community Projects
Review Unit

22) Successors and Assigns. This Agreement, and all terms, covenants, and conditions hereof, will apply to and bind the successors and assigns of the respective parties hereto. City will neither assign nor sublet this Agreement without the prior written consent of District.

23) Choice of Law. This Agreement is governed by California law.

24) Amendments. This Agreement may not be modified or amended except in writing signed by both parties.

25) Compliance with Laws. Each party must, in all activities undertaken pursuant to this Agreement, comply and cause its contractors, agents, and employees to comply with all federal, state, and local laws, statutes, orders, ordinances, rules, and regulations.

26) Not Real Property Interest. It is expressly understood that this Agreement does not in any way whatsoever grant or convey any permanent easement, fee or other interest in a party's real property to the other party.

WITNESS THE EXECUTION HEREOF,

"City"

CITY OF MORGAN HILL
A Municipal corporation of the County of Santa Clara

By: 
Christina Turner
City Manager

ATTEST:



Michelle Wilson
Deputy City Clerk

APPROVED AS TO FORM:


Donald Larkin
City Attorney

"District"

SANTA CLARA VALLEY WATER DISTRICT,
a Special District, created by the California Legislature

By: 
Norma J. Camacho
Chief Executive Officer

ATTEST:


Michele L. King
Clerk of the Board of Directors

APPROVED AS TO FORM:


Brian Hopper
Senior Assistant District Counsel

Exhibit A

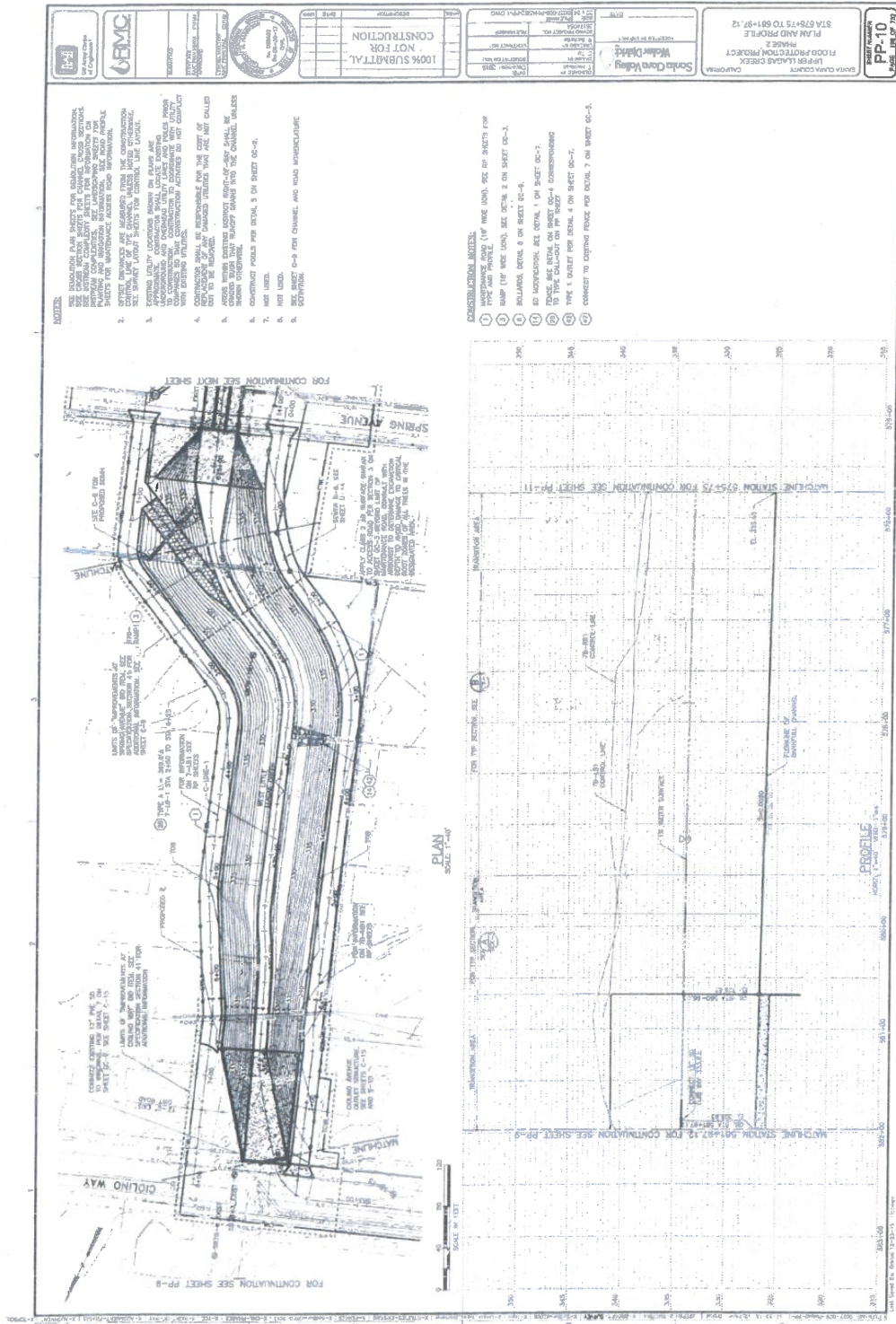
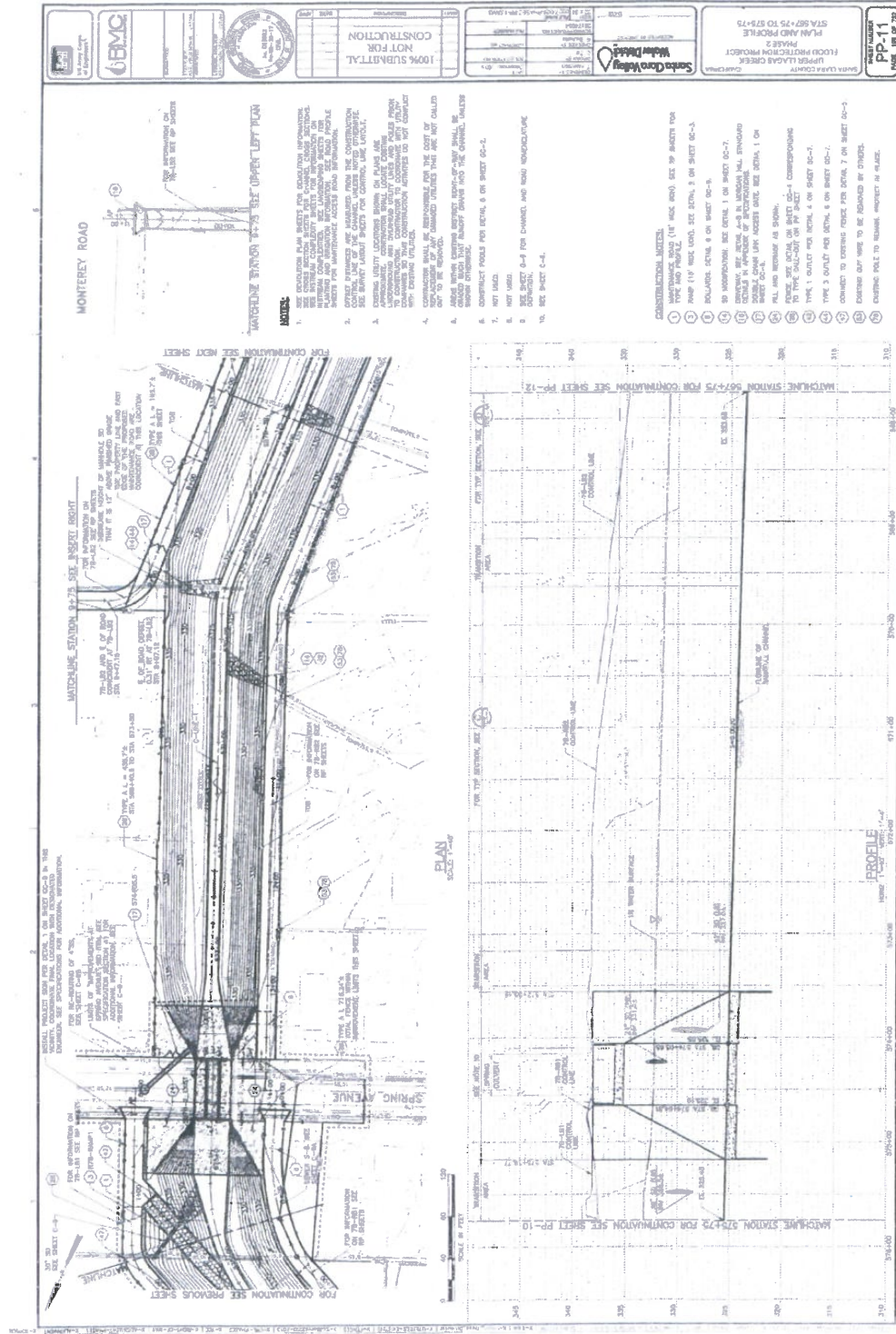


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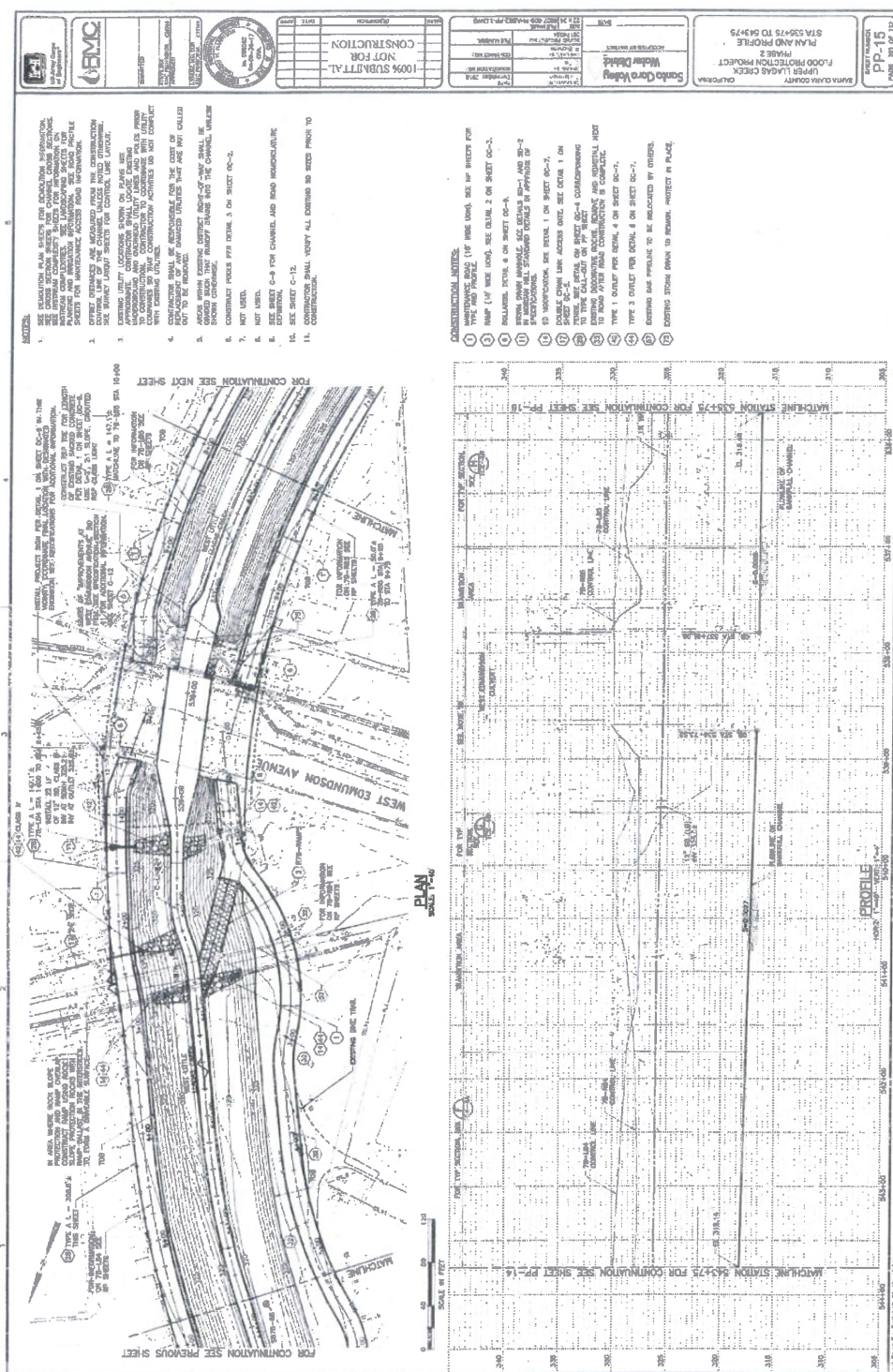


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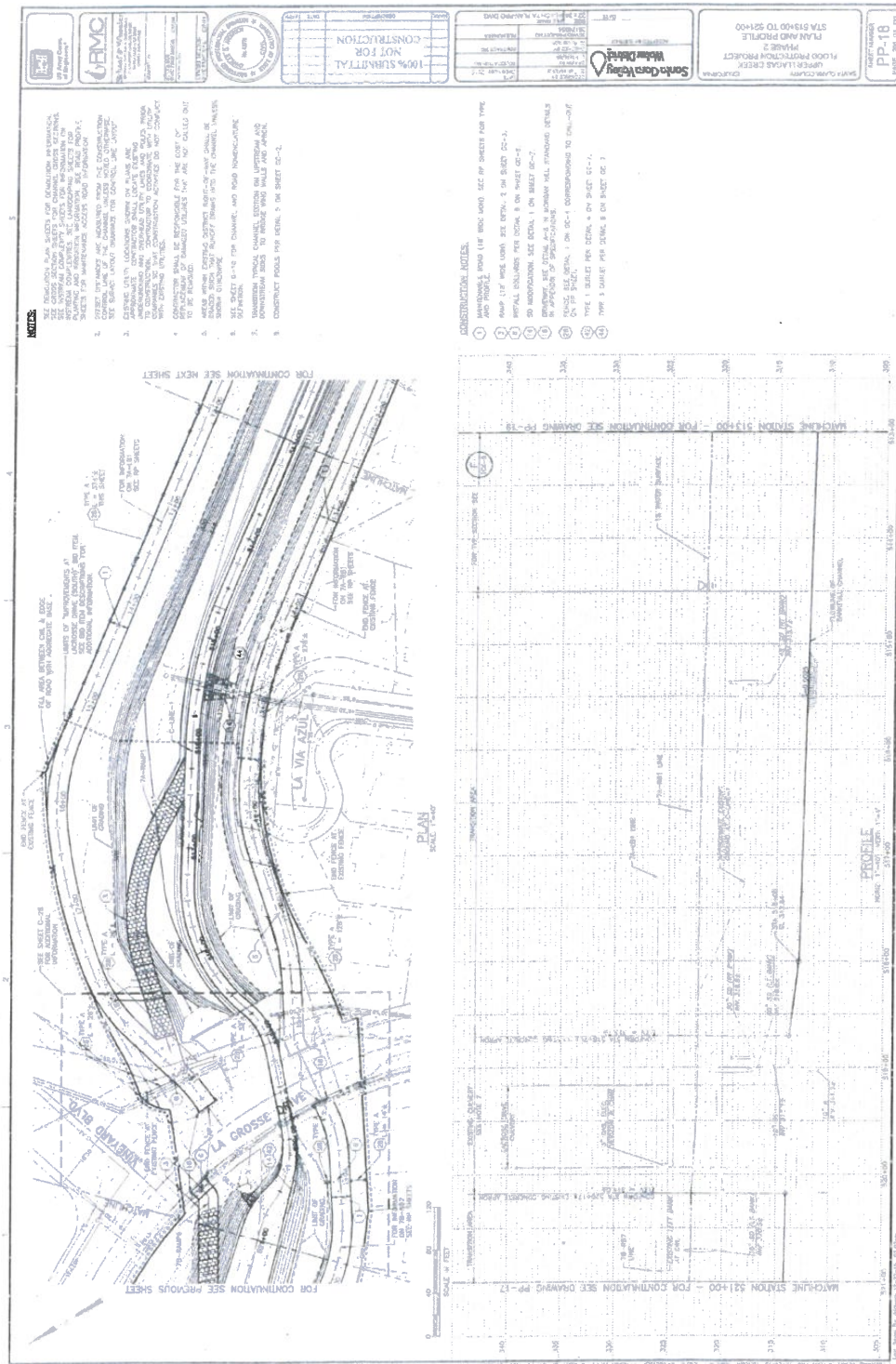


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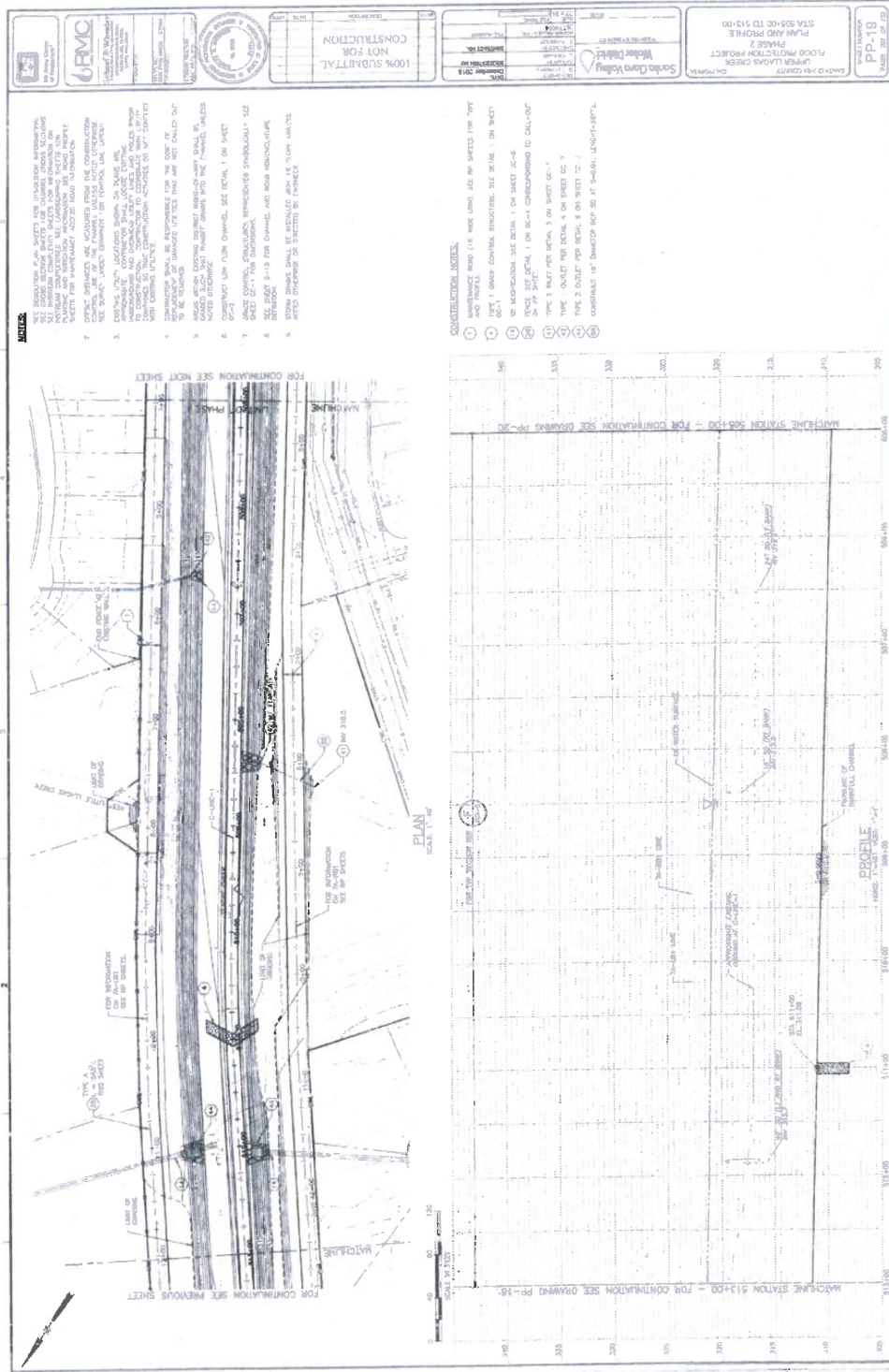


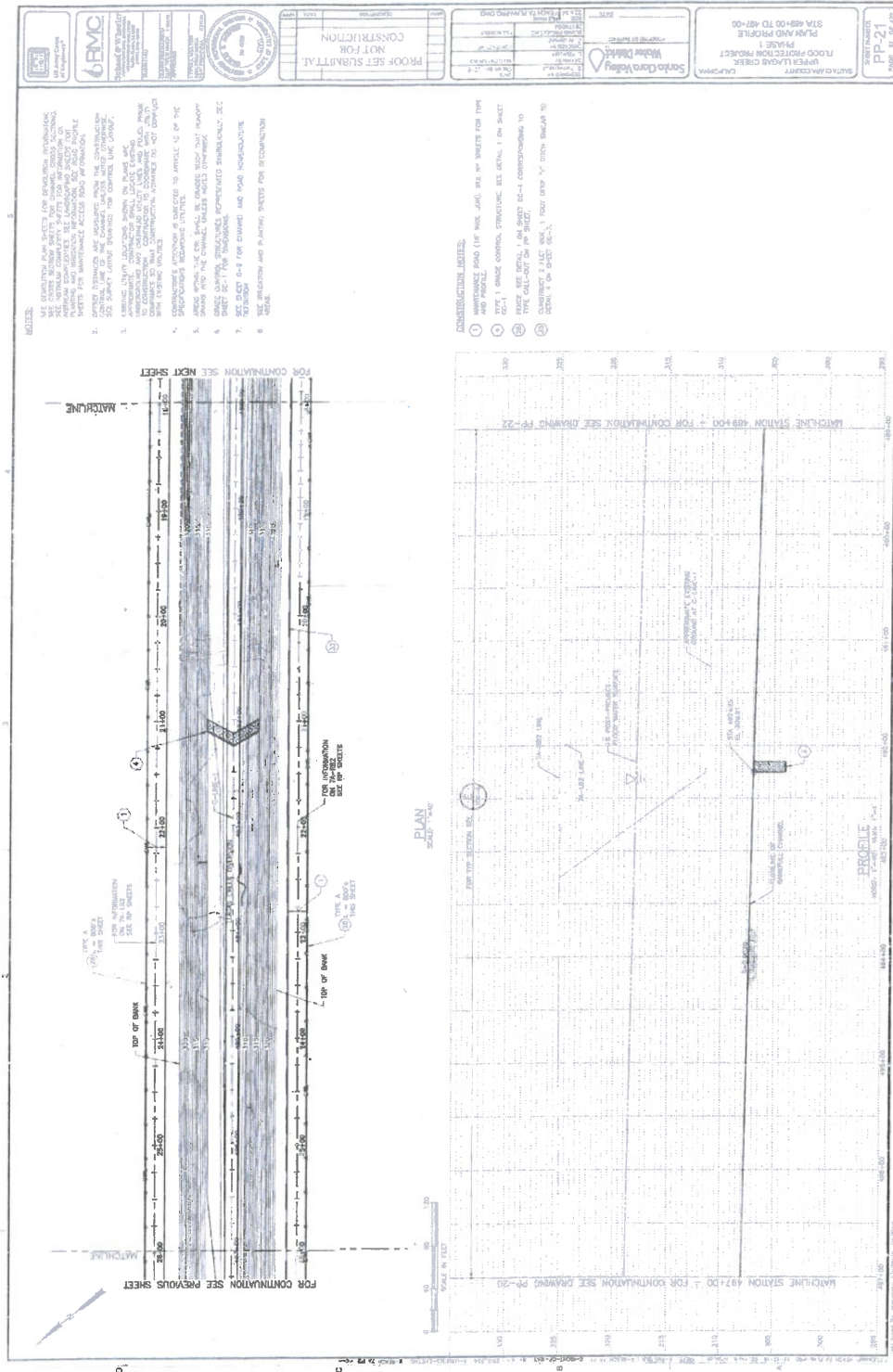
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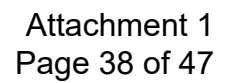
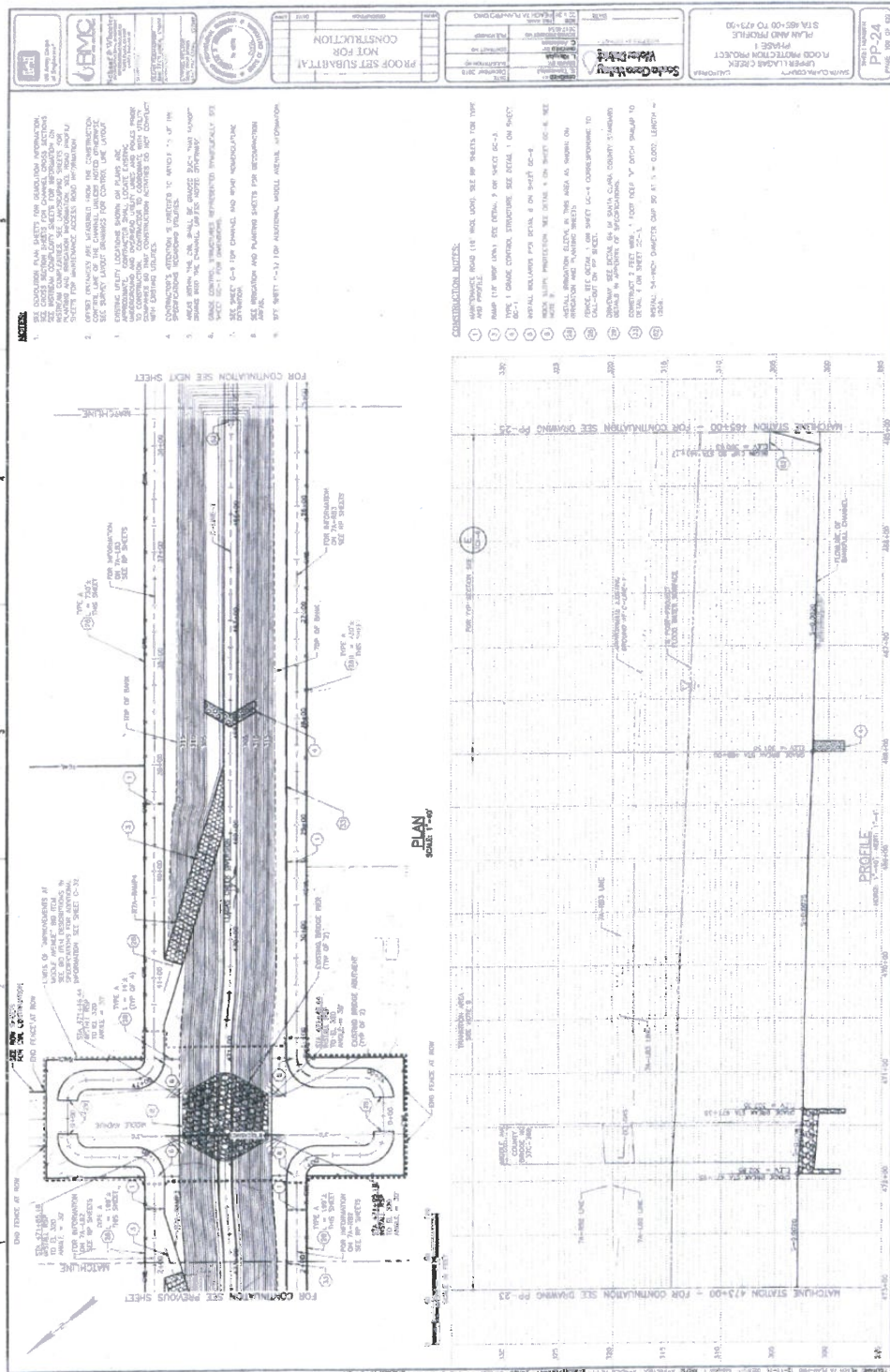


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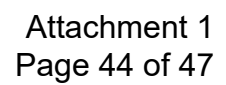
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Attachment 1
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NOTES:

1. SET TRANSVERSE PLAN, SHEETS 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 8

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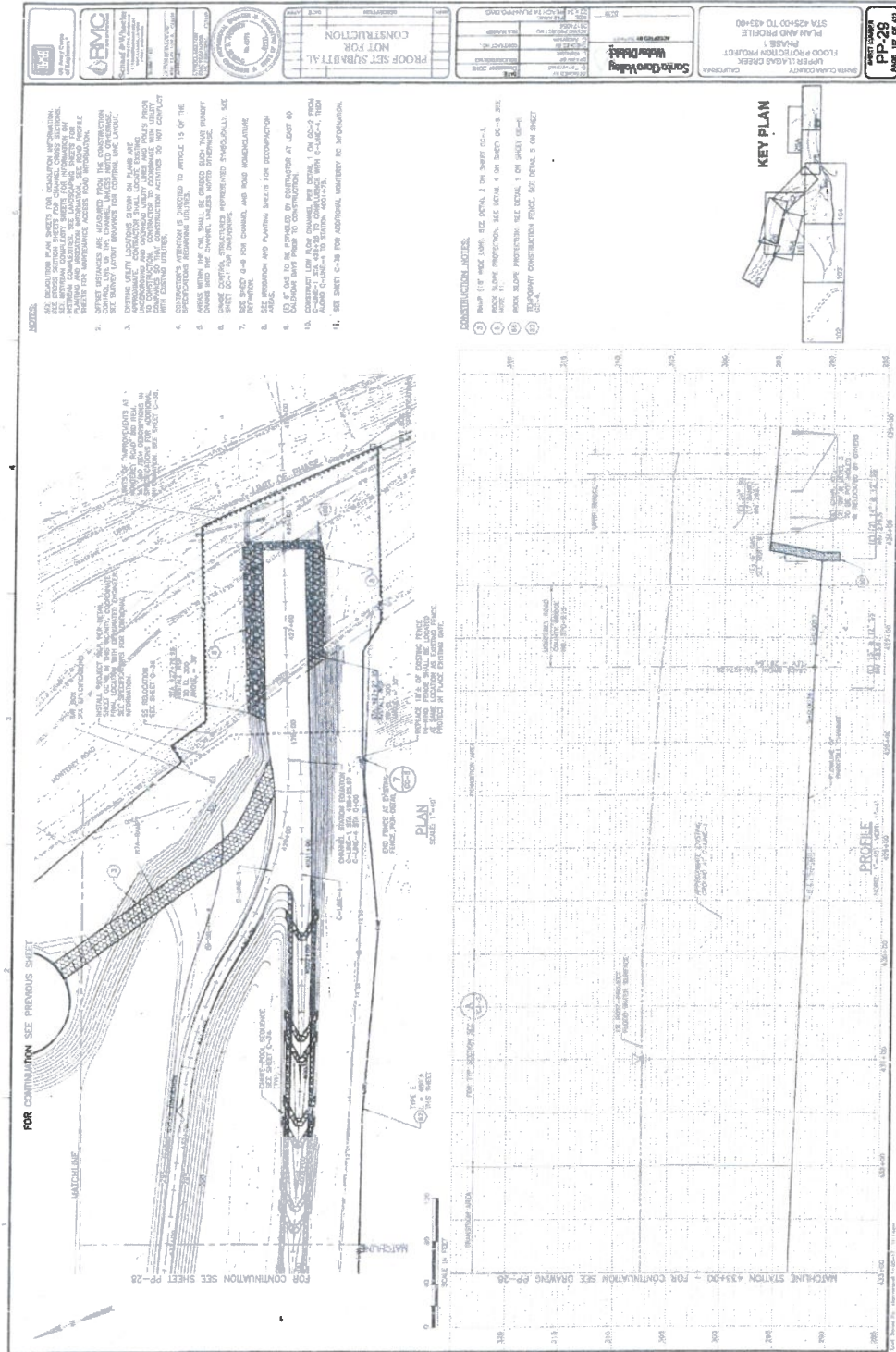


Exhibit A



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