



City Agreement No.:

Valley Water Agreement No.:

Encroachment Permit No(s):

SANTA CLARA VALLEY WATER DISTRICT

MASTER AGREEMENT FOR THE REMOVAL & CONSTRUCTION OF CITY IMPROVEMENTS, MODIFICATION TO CITY FACILITIES AND WORK WITHIN CITY'S RIGHT OF WAY INCLUDED IN THE VALLEY WATER LOWER BERRYESSA CREEK FLOOD PROTECTION PROJECT, LOWER CALERA CREEK FLOOD PROTECTION PROJECT AND LOWER PENITENCIA CREEK IMPROVEMENTS PROJECT

This Agreement for the Removal & Construction of City Improvements, Modification to City Facilities and Work within the City's Right of Way ("Agreement") is entered into by the City of Milpitas, a municipal corporation ("City"), and Santa Clara Valley Water District, a special district created by the California Legislature ("Valley Water"), on 2021, ("Agreement Effective Date"), and the parties agree to the terms and conditions as set forth herein.

RECITALS

- A. WHEREAS, Valley Water as owner of certain waterways within the City desires to construct significant flood protection improvements along Lower Berryessa Creek ("LBC"), Lower Calera Creek ("LCC") and Lower Penitencia Creek ("LPC") within the City of Milpitas. Such work shall include approximately 8,700 feet of channel from LBC's confluence with LPC upstream to Calaveras Boulevard, and approximately 2,830 feet of channel from the Union Pacific Railroad up to about 880 feet upstream of Arizona Avenue on LCC. Work will also extend approximately 1-mile from Coyote Creek confluence to just downstream of San Andreas Drive on LPC. Such works are collectively referred to herein as the "Lower Berryessa Creek Flood Protection Project" ("LBC Project"), the "Lower Calera Creek Flood Protection Project" ("LCC Project") and the "Lower Penitencia Creek Improvements Project" ("LPC Project"). The LBC Project, LCC Project and LPC Project are separate projects and each will have their own contractor and project schedules. Valley Water will manage the projects during the design and construction phases including hiring contractors and construction administration;
- B. WHEREAS, the LBC Project and LCC Project will provide 100-year flood protection for homes, schools, and businesses in Milpitas and LPC Project will maintain the existing Federal Emergency Management Agency (FEMA) accreditation along the east levee located between California Circle and Berryessa Creek;
- C. WHEREAS the City currently owns and maintains the California Circle storm pump station, Abbott Avenue storm pump station, and Jurgens storm pump station;
- D. WHEREAS the City owns and maintains their public storm drain outfalls located on Valley Water-owned lands and subject to Valley Water encroachment permits along all three creeks;

- E. WHEREAS, City is the owner of the public street right-of-way and vehicular bridges, and is the owner of certain pedestrian bridges and pedestrian trails on Valley Water-owned lands within the LBC, LCC, and LPC Project limits;
- F. WHEREAS, the City currently owns and maintains certain recreational improvements on Valley Water-owned lands along Berryessa Creek;
- G. WHEREAS, Valley Water and City agreed to the maintenance, repair, replacement, and use obligations of City-owned recreational improvements along LBC located on Valley Water property within the City of Milpitas ("Valley Water Property") as described in a Joint Use Agreement entered into by the parties on September 4, 2002, attached hereto as Exhibit A ("LBC Trail Agreement");
- H. WHEREAS, more specifically, City has a contractual obligation under Section 4(a) of the LBC Trail Agreement to compensate Valley Water for costs to remove or replace its City-owned recreational improvements located on Valley Water Property in the event Valley Water requires such removal or replacement in order to improve, maintain, or repair Berryessa Creek in any manner for Valley Water purposes;
- I. WHEREAS, to facilitate the LBC Project, Valley Water has undertaken the planning, design, construction, and construction management necessary to remove and replace the City-owned recreational improvements affected by the LBC Project;
- J. WHEREAS, as described in Section 4(b) of the LBC Trail Agreement, the removal and replacement of the City owned pedestrian bridge and trail is required to complete the LBC Project;
- K. WHEREAS, an existing City trail, landscaping, and other recreational improvements were permitted and constructed in January 7th, 1997 on Valley Water-owned land along Lower Penitencia Creek (Lease Agreement Joint Use, SCVWD Agreement No. A2001 ("LPC Trail Agreement")), attached hereto as Exhibit B;
- L. WHEREAS, City agreed to the maintenance, repair, replacement, and use obligations of the aforementioned City-owned recreational improvements located on Valley Water property ("Valley Water Property") as described in the LPC Trail Agreement;
- M. WHEREAS, City has a contractual obligation under Section 6(b) of the LPC Trail Agreement to compensate Valley Water for costs to remove or replace its City-owned recreational improvements located on Valley Water Property in the event Valley Water requires such removal or replacement in order to improve, maintain, or repair Lower Penitencia Creek in any manner for Valley Water purposes;
- N. WHEREAS, the City has an interest in, maintaining a portion of the City's recreational trail between California Circle and Cascadita Terrace on the east levee and from Milmont Drive to downstream of San Andreas Drive on the west levee, where it does not unreasonably interfere with the primary use of the property to carry out Valley Water's mission of flood protection, water resource management, and stream stewardship;
- O. WHEREAS, the City has desire in, constructing duckbill check valves at all of their public storm drain and pump station outfalls located within the LCC and LPC Project limits, where it does not unreasonably interfere with the primary use of the property to carry out

Valley Water's mission of flood protection, water resource management, and stream stewardship;

- P. WHEREAS the City currently owns and maintains vehicular bridges crossing Valley Water easements along North Milpitas Boulevard, Arizona Avenue, California Circle, and Milmont Drive;
- Q. WHEREAS, the City has an interest in removing blight and in enhancing the appearance of Valley Water infrastructure along City right of way;
- R. WHEREAS, the City has requested that Valley Water undertake certain "betterments", which are project elements that Valley Water determines exceeds the application of standards that would otherwise apply to the construction of that element. The project elements that Valley Water has determined are a betterment, include, but are not limited to: upsize of storm drain outfalls; replacement of concrete curb, gutter and sidewalk beyond the limits required for Valley Water to complete its work in accordance with City standards; asphalt pavement replacement along the City's public trail beyond limits required for Valley Water to complete its work, and installation of duckbill check valves at City's storm drain outfalls; and
- S. WHEREAS, Valley Water and City wish to enter into this Agreement to outline respective party obligations for the removal, replacement, reconstruction or alteration of existing City Improvements within the LBC, LCC and LPC Projects (collectively, the "City Improvement Work" and reimbursement of any funds from the City to Valley Water for any and all costs incurred by Valley Water for undertaking such construction on behalf of the City.
- T. NOW, THEREFORE the parties hereto agree as follows:

1. Incorporation of Recitals

The recitals set forth above are incorporated herein by this reference.

2. California Environmental Quality Act (CEQA)

- a. Valley Water is the project owner for the LBC, LCC and LPC Projects and Lead Agency as described by the California Environmental Quality Act (CEQA). An Environmental Impact Report (EIR) was prepared and adopted by the District for the LBC Project on December 13, 2011. An EIR for the LCC Project was certified by the Valley Water Board of Directors in December 2011, and an addendum to the EIR was approved by the Valley Water CEO on November 19, 2018. The LPC Project EIR was certified by the Valley Water Board of Directors on November 28, 2017.
- b. City has acted as the Lead Agency and project proponent for the City Improvement Work as described by CEQA.

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3. Scope of Work

- a. For the LBC Project, Valley Water will perform three different elements (described under paragraphs 3.a.(1– 3) during construction of the LBC Project as part of this Agreement.
 - (1) City Improvement Work: (i) storm drain outfall modifications; (ii) Berryessa Pump Station discharge pipe modification; (iii) asphalt concrete pedestrian trail improvement of Valley Water maintenance road; (iv) raised City owned pedestrian bridge; (v) retaining walls at pedestrian ramps; (vi) asphalt concrete pedestrian ramps; and (vii) concrete pedestrian ramp structure. Work shall be completed at City cost.
 - (2) City Storm Drain Outfall Replacement & Flap Gate Installation: Valley Water has designed and installed replacements of City storm drain outfalls and flap gates along the LBC Project. For the purposes of this Agreement, the replacement of outfalls shall be defined as the functional replacement with flap gates necessary to conform to the proposed channel geometry. Work shall be completed at City cost.
 - (3) Additional Levee Repair Work in 2019: City understands Valley Water contractors removed and replaced levees along Lower Berryessa Creek in 2019 to correct deficiencies from this project. The additional levee repairs occurred on Lower Berryessa Creek from May to December 2019 and included removal of City recreational trail facilities including asphalt surfaces recently installed by Valley Water from North Milpitas Boulevard east to the City's pedestrian bridge structure. Valley Water agrees to replace these asphalt trail surfaces in-kind at the conclusion of the levee work at City cost.
 - (4) Valley Water agrees to complete asphalt trail surfaces from Abel Street to North Milpitas Boulevard, and from the City's pedestrian bridge structure to Calaveras Boulevard. City and Valley Water agree that the asphalt trail work will be completed during construction of the LCC project at City cost.
 - (5) Valley Water will replace existing fencing and gates along City streets and trails with black vinyl fencing. City performed a final walk at the completion of construction and issued a punch list to replace the existing fencing and gates to Valley Water in January 2020. Valley Water shall make the punch list corrections agreed to by Valley Water and City. Replacement fence work shall be completed at Valley Water cost.
- b. For the LCC Project, Valley Water will:
 - (1) Construct standalone headwalls adjacent to North Milpitas Boulevard and Arizona Avenue in accordance with Section 3.f, including the removal and replacement of City curb, gutter,

sidewalk, and driveway aprons to the limits required for Valley Water to complete its work and in compliance with City Standards.

- (2) Valley Water will modify two (2) existing 15-inch and 18-inch storm drain outfalls and install two (2) new 18-inch and 36-inch outfall pipe extensions equipped with duckbill or flapgate check valves at City's cost.
- (3) Valley Water shall perform work in accord with the set of plans that are approved by the City prior to advertisement, bid, and award of a construction contract by Valley Water. Valley Water shall perform work in accord with city encroachment permit conditions and requirements, and applicable local and state regulations and statutes for Valley Water work within the City right of way. Valley Water shall provide the City with a reasonable schedule of the intended work. City shall complete permit review and approval within 6 weeks of receipt of permit application to further the timely completion of the construction schedule.

c. For the LPC Project, Valley Water will:

- (1) Construct City Improvement Work, at City's cost, including:
 - (a) remove and replace three (3) existing 28-inch outfalls at California Circle Pump Station with new 36-inch outfalls equipped with duckbill check valves;
 - (b) remove and replace two (2) existing 18-inch outfalls at Abbot Avenue Pump Station with 24-inch outfalls equipped with duckbill check valves;
 - (c) Modify the existing 24-inch storm drain outfall, located between Interstate 880 and California Circle, equipped with duckbill check valve;
 - (d) remove and replace the existing City trail and existing irrigation adjacent to the trail with in-kind surface material and irrigation, as shown in Exhibit B.
- (2) Valley Water shall construct a new access road for California Circle Pump Station, within City right of way at Valley Water cost.
- (3) Valley Water shall perform work in accordance with City approved plans, Encroachment Permit conditions and requirements, and all applicable local and state regulations and statutes for Valley Water work within City right of way. Valley Water shall provide the City with a reasonable schedule of the intended work.
- (4) If a water shut down is required, Valley Water agrees to complete this work at night or on weekends if requested by the City to minimize outages and impacts to City residents and businesses.

- (5) LPC City Recreational Improvements Subject to The LPC Trail Agreement. All recreational improvements resulting from the LPC City Improvement Work are deemed “improvements” as that term is defined in Section 1(c) of the LPC Trail Agreement. Hence, the terms and conditions contained in the LPC Trail Agreement shall dictate the parties’ obligations with respect to the recreational improvements resulting from the LPC Projects.
- (6) The City and Valley Water each desire to purchase real property and right of way from each other for the completion of their respective Capital Projects. City right of way includes Assessor’s Parcel Number (APN) 022-30-042, 022-30-041, 022-37-000, and 022-37-002 that Valley Water desires for the LPC Project. Valley Water right of way includes APN 086-37-018 that the City desires to acquire an easement from Valley Water for installation of a vehicular crossing over Penitencia East Channel. Both agencies agree to consider the transfers of right of way and will work cooperatively in the completion of the purchase agreements that will include both transactions. The City and Valley Water will present the proposed transfers of right of way to their respective elected body, council, or Board of Directors for consideration and approval within 6 months of execution of this Agreement. Neither agency’s proposed transfer of right of way shall be conditioned on the other agency’s proposed transfer of right of way.

It is understood Valley Water and City may require possession of owned parcels prior to agency approvals of the purchase agreement. The City and Valley Water agree to issue Permits for their projects within each agency respective right of way. The City’s Encroachment Permit for the LPC project will include the City’s conditional approval to construct Valley Water improvements upon City owned land pending completion of the land transfer purchase agreement.

- d. Per Valley Water’s Coyote Watershed Aesthetic guidelines, the LCC and LPC Projects design shall incorporate black vinyl coated fencing and gates along the City’s street frontage at all intersections, and portions of trails within Valley Water maintenance access roads and Lower Calera Creek and Lower Penitencia Creek facilities where shown in Exhibit D. The black vinyl fencing will be provided at no cost to City and upon issuance of a Notice of Completion by Valley Water shall own and be maintained in kind by Valley Water. At the conclusion of construction, Valley Water staff shall coordinate to meet with City staff for the installation of City pad locks to be daisy chained with Valley Water locks at maintenance road gates.
- e. City standard concrete or asphalt pavement driveway aprons shall be installed as part of the LCC and LPC Projects at all intersections of Valley Water maintenance access roads and City streets. Aprons will extend from City street to Valley Water maintenance gates.

- f. As part of the LCC Project, it is necessary for Valley Water to construct, operate and maintain two (2) new standalone headwall structures ("Structure" - see Exhibit E), adjacent to but not attached or bearing against the City's North Milpitas Boulevard and Arizona Avenue Bridges (herein referred to as "Bridges") for the purpose of flood protection during a 100-year event. Valley Water shall not attach new headwall structures to City bridge structures. Damage to Valley Water's structure arising from future major repairs or improvements of the City's bridge shall not be the responsibility of the City except to the extent such damage is caused by the City's or its contractor's active negligence or willful misconduct. All improvements constructed adjacent to City roadways shall comply with City standard vehicle sight distance requirements as determined by the City Engineer in accordance with Section 3.b.(3) above. Work shall be completed at Valley Water cost.
- g. Community Outreach. Valley Water shall provide project outreach to the City of Milpitas community along the length of the LCC and LPC Projects prior to the start of construction. Methods of outreach acceptable to the City include notices with social media platforms, Construction Notices mailed to residents and business along the LCC and LPC Projects, and community meetings. Community outreach methods shall be provided, and proof of such outreach shall be provided to the City. Valley Water shall provide Community Outreach through dissemination of Notices of Construction to residents adjacent to the project at least 30 calendar days prior to the start of work. Valley Water shall disseminate a second construction notice approximately two-weeks prior to the start of construction. Valley Water's Deputy Operating Officer shall coordinate with the City and provide a presentation to the City Council at least one month prior to the start of construction.
- h. Valley Water shall maintain all newly installed floodwalls and retaining walls in a clean maintained appearance including graffiti removal.

4. City Design Review, Approval, and Construction Inspection

- a. City's Review and Approval of Valley Water's Design Plans and Encroachment Permit Application
 - (1) Waiver of Permit, Land Use, Staff Review, and Construction Inspection Fees. In accordance with the "First Amendment to the Memorandum of Understanding (MOU) between Valley Water and the City of Milpitas for Waiver of Permit, Land Use, Staff Review, and Construction Inspection Fees," any fees by Valley Water and City for design review, permits, and construction inspection shall be waived for Designated Projects. Both the LCC and LPC Projects are designated projects listed in Exhibit B of the MOU, Items 2 and 3.
 - (2) City Improvement Design Review: City shall review each set of project plans and specifications presented by Valley Water within the time specified by this agreement for City review. City's design review is limited to City Improvements to be installed and will

include conformance with City Standards and public safety. The City will provide written approval of the City Improvement Design as shown on the project plans and specifications. The City shall complete its design review prior to Valley Water's Board adoption of plans and specifications.

- (3) Encroachment Permit. Prior to starting LCC and LPC Project construction, or any work within City right of way, Valley Water shall obtain a City Encroachment Permit that shall be signed by Valley Water and its Contractor. City agrees that the permit term shall be effective until the Project is complete and accepted by Valley Water. Valley Water's contractor(s) shall provide copies of their Liability Insurance documents naming the City and its officers as additional insured and shall provide a Faithful Performance Bond naming the City of Milpitas as a co-obligee or dual obligee for the full value of the project.
- (4) City Inspection. Valley Water shall ensure that all work completed by its Contractor(s) within City right of way or upon City owned infrastructure shall be inspected by the City's Public Works Construction Inspector to ensure the Contractor(s) performance according to the approved plans. Valley Water and the City agree to coordinate inspections such that both Valley Water and City inspection staff are present for all permit required inspections. City agrees to provide and conduct all requested inspections promptly and shall not unreasonably delay determinations and conclusions from said inspections.
- (5) Valley Water shall provide quality control testing that shall be completed by a third-party testing lab for City Improvement Work. Both laboratory and field testing shall be provided for concrete, asphalt, and class II aggregate base to ensure the work is in compliance with Valley Water's Construction Documents and City Standards. Improvements not passing testing requirements shall be reworked by the Contractor until compliance with the project requirements.

5. Cost Sharing: Review, Approval and Payment for City Improvement Work

- a. In consideration of the Valley Water's work described in Section 3.a through 3.g, City agrees to remit payment for the City Improvement Work identified in Exhibit F. Exhibit F is a Cost Estimate of City Improvement Work and Payment to Valley Water for the LBC, LCC and LPC Projects. City will reimburse Valley Water for the total cost of Valley Water's construction cost of the City Improvement Work as provided in an updated Exhibit F that will be based on actual bid pricing from the construction contract awarded for each respective creek project.
- b. Valley Water has constructed the LBC Project and included each component of the LBC City Improvement Work as separate "bid items" in order to ascertain the bidders' proposed price for this work. Valley Water awarded the contract in July 2016 and completed the civil work in

July 2020. The attached Exhibit F reflects the actual bid pricing from the construction contract awarded for the LBC Project and requires no further update with respect to the LBC Project.

- c. Valley Water will publicly bid the LPC and LCC Projects and include each component of the LPC and LCC City Improvement Work as separate bid items in order to ascertain the bidder's proposed price for this work.
- d. Valley Water agrees to provide City with notice, documentation, and plans regarding any modifications, revisions, change orders, and/or extra work required for City Improvement Work within seven (7) calendar days of Valley Water becoming aware of or initiating such matter, so City can provide direction to Valley Water, if necessary and appropriate.
- e. City will respond to Valley Water regarding such matters within seven (7) calendar days of receipt of such modification information and provide written direction to Valley Water, if necessary and appropriate.
- f. Final Accounting & Payment for LPC Project. City agrees to remit payment of 10% of the costs outlined in the updated Exhibit F, as describe above in this subsection 5.a., within 30 business days of receiving a notice from Valley Water that Valley Water has awarded a construction contract for the LPC Project. Following Valley Water's satisfactory completion of City punchlist items for the LPC project as described in Sections 6.a to 6.e, City agrees to initially accept the constructed City improvements and remit payment of 80% of the costs outlined in the updated Exhibit F for the LPC within 30 business days of acceptance after the Upper Berryessa Creek condition in 5.h is met. At the completion of the 1-year warranty period and City's issuance of the Notice of Final Acceptance of the work, City will remit the remaining final 10% owed of the costs outlined in the updated Exhibit F for the LPC.
- g. Final Accounting & Payment for LCC Project. City agrees to remit payment of 10% of the costs outlined in the updated Exhibit F for the LCC within thirty (30) business days of receiving a notice from Valley Water that Valley Water has awarded a construction contract for the LCC Project. Following Valley Water's satisfactory completion of punchlist items for the LCC project as described in Sections 6.a to 6.e, City agrees to initially accept the constructed City improvements and remit payment of 80% of the costs outlined in Exhibit F for the LCC within 30 business days of acceptance after the Upper Berryessa Creek condition in section 5.h is met. At the completion of the 1-year warranty period and City's issuance of the Notice of Final Acceptance of the work, City will remit the remaining final 10% owed of the costs outlined in Exhibit F for the LCC.
- h. Final Accounting & Payment for LBC Project. City agrees to remit final payment to Valley Water for City Improvement Work constructed as part of LBC project after City acceptance of the resolution of the outstanding claim and punchlist work associated with the Upper Berryessa Creek (UBC) Project. An amount of \$41,125 shall be deducted from the payment to Valley Water to reimburse City for its cost to replace the landscape damage from the UBC Project. Final payment shall be made

within thirty (30) business days after City's initial acceptance of City Improvement Work constructed as part of LCC project.

6. Completion and Acceptance

- a. Valley Water shall provide a "Preliminary Notice of Completion" to City within seven (7) business days after completion of the Project improvements that will be owned by the City. The LCC, and LPC Projects will have different schedules so notification will be after each Project is completed.
- b. City shall conduct, and Valley Water shall permit, within ten (10) business days thereafter (the "Inspection Period"), a final inspection of the Project improvements owned by the City.
- c. If City determines that the City improvements have met the requirements in the plans and specifications for the LBC, LCC or LPC Projects approved by the City, the City will, no later than thirty (30) business days after receipt of the Preliminary Notice of Completion, provide Valley Water with written notice of its acceptance of the City Improvement Work for the subject project ("Notice of Acceptance").
- d. If City reasonably determines that the City Improvement Work does not meet the requirements of the plans and specifications for the subject LBC, LCC or LPC Projects approved by the City, the City shall, no later than ten (10) business days after the close of the Inspection Period, provide Valley Water with a written enumeration of the reasons why the City Improvement Work does not comply with said plans and specifications. Any inspection items or concern identified by the City that are not a part of the approved plans or specifications or an approved change order will constitute a new request and shall not be treated as an identified City Improvement Work included in the Scope of Work of this Agreement. New requests from the City may be negotiated by the parties at Valley Water's discretion. Any new request, unless identified to address a valid public safety concern not resulting from prior direction by the City, shall be at the City's cost. The parties will thereafter confer within ten (10) business days to determine what additional matters should be addressed to bring the City Improvement into compliance with the plans and specifications (i.e., punchlist) for the subject LBC, LCC or LPC Projects approved by the City. Valley Water shall work with their contractor to make any agreed upon corrections as are necessary within a reasonable time that is allowed under regulatory permit conditions, as required by City Encroachment Permit to meet the terms of the plans and specifications.
- e. Upon completion of the punchlist corrections, Valley Water shall again submit to City a Preliminary Notice of Completion. The process of inspection and acceptance set forth in the preceding paragraphs of this Section 6 will then apply to this subsequent Preliminary Notice of Completion and issuance of a Notice of Acceptance.

- f. Following the City's acceptance of the City Improvement Work, a 1-year warranty period will commence for the City Improvement Work listed in Exhibit G. The 1-year warranty period will cover defects, as mutually agreed to by City and Valley Water, for City Improvement Work.

7. Record Drawings

Valley Water agrees to provide the City with electronic as-built record drawings for the projects including City Improvement Work in CAD format and PDF format within thirty (30) business days after Valley Water completes the as-built record drawings. The as-built documents may take up to 4 to 6 months to finalize after construction has completed. Upon completion of construction, Valley Water shall provide the City with two full-size sets of the contractors red-lined as-built drawings documenting all changes made during construction. Valley Water shall provide the City with two complete full-sized sets of final project record drawings including CAD files within 4-6 months after completion of construction activities.

8. Ownership of Improvements

Upon completion of the LBC, LCC and LPC Projects, the project improvements appurtenant thereto shall be the responsibility of Valley Water. The LBC, LCC and LPC Projects improves and modifies existing outfall structures as they tie-in to creek banks. Upon completion of the LBC, LCC and LPC Projects and acceptance of the outfall improvements by the City, the City shall own and maintain the newly constructed outfall structures and flap gates/check valves in perpetuity. Any utility, bridge, and other facilities which were owned by the City prior to the LBC, LCC and LPC Projects shall remain the property of the City. The City shall own and maintain the newly constructed City Improvement Work and trail improvements along the LBC and LPC (see Exhibit G) in perpetuity. The rights, duties, and obligations of the Parties as set forth above in Section 4.a.(1). will survive termination, expiration, and suspension of this Agreement.

9. Indemnification

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but, instead, Valley Water and City agree that, pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify, defend, and hold each of the other parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees, contractors, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other party hereto, its officers, board members, employees, contractors, or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other party under this Agreement. Further, Valley Water shall require its

contractor(s) to indemnify, defend and save City harmless to the same extent that Valley Water is indemnified under the contract between Valley Water and its contractor(s). The obligations set forth in this paragraph will survive termination, suspension, completion and expiration of this Agreement.

10. Term and Termination

- a. The term of this Agreement will commence on the Agreement Effective Date and shall terminate when the LBC, LCC and LPC Projects are completed, upon City acceptance of City Improvement Work, and receipt by Valley Water of full payment from the City for Valley Water's reasonable costs for design, construction, and construction management on the City Improvement Work. Full payment to Valley Water from the City for Valley Water's reasonable costs for design, construction, and construction management on the City' Improvement Work shall be as outlined in Sections 5.f, 5.g, and 5.h. Valley Water and City may mutually agree to extend the term of this Agreement.
- b. The Agreement can be terminated only upon mutual written consent upon terms acceptable to both parties. Except for breach by District of this Agreement, City shall reimburse District for its reasonable costs in performing the City Improvement Work up to the termination date of this Agreement.

11. Insurance, Bonds, Risk of Loss, Damage to City Property, and Warranty

- a. During construction and until acceptance of either the LBC, LPC, or LCC Project by Valley Water's Board of Directors, Valley Water assumes and shall bear all risk of loss, injury, damage or destruction to the City property (including, without limitation, City Improvement Work and any construction work in progress, materials, improvements, machinery and equipment). Notwithstanding the foregoing, should Valley Water encounter pre-existing material reasonably believed to be toxic waste and hazardous materials which have not been rendered harmless on City-owned property, Valley Water shall immediately stop work at the affected site and shall report the condition to the City in writing. The City shall have the option of separately contracting for any services required to directly remove and/or abate the toxic wastes and hazardous materials, if required, or may request Valley Water to perform the same with its contractor at City's cost. The work in the affected area shall not thereafter be resumed except by agreement of the City. Valley Water shall not be responsible for the cost of removal or abatement of any such pre-existing toxic wastes and hazardous materials except where the presence or further spread of such pre-existing toxic wastes or hazardous materials is attributable to Valley Water or its contractor's acts or omissions.
- b. Valley Water shall be responsible for all damages to persons or property that occurs as a result of its work and the work of its contractors covered by this Agreement, except damage or injury caused by City of Milpitas' negligence or willful misconduct. Without limiting the foregoing, Valley Water shall remedy at its expense any damage to persons or property, including City-owned or controlled real or personal property, caused by or

resulting from the negligent acts or omissions of Valley Water, its officials, officers, contractors, consultants or agents, except damage or injury caused by City of Milpitas' negligence or willful misconduct. The City shall notify Valley Water, in writing, within a reasonable time after the discovery of any failure, defect, or damage caused by or resulting from the acts or omissions of Valley Water, its officials, officers, contractors, consultants or agents. After being notified, Valley Water shall perform with due diligence all necessary remediation work if Valley Water determines the failure, defect, or damage was caused by Valley Water's negligence. If Valley Water is not at fault as determined by a mutually agreed upon dispute resolution process in accordance with paragraph 12 below, Valley Water may decide to proceed with the remediation work. Upon completion of remediation work, City shall reimburse Valley Water for that portion, if any, of the remediation work caused by City's negligence or willful misconduct. If Valley Water is deemed to be partially at fault, and fails to promptly remedy any defect or damage; the City shall have the right to replace, repair or otherwise remedy the defect or damage, and then withhold any payment due Valley Water, but only in the amount of the cost to remedy the defect, or seek reimbursement from Valley Water to the extent that Valley Water is at fault.. In the event of any emergency constituting an immediate hazard to health, safety or property, the City may undertake at Valley Water's expense, and without prior notice, all work necessary to correct such condition.

- c. Valley Water shall require its contractor(s) to procure prior to commencement of construction of the LCC and LPC Projects and maintain for the duration of the LCC and LPC Projects the following types and limits of insurance in connection with the performance of the LCC and LPC Projects by Valley Water's contractor(s):

Coverage Type and Scope	Minimum Coverage Limits
Commercial general liability coverage (Insurance Services Office occurrence form CG 0001), including liability coverage for premises and operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual liability, use of independent contractors, and broad form property damage with completed operations	\$5,000,000 per occurrence and in the aggregate for general liability, bodily injury, personal injury, and property damage
Automobile liability (Insurance Services Office form CA 0001, code 1, any auto)	\$5,000,000 per accident for bodily injury, including death, and property damage
Workers' compensation	Statutory limits required by State of California
Employers' liability	\$1,000,000 per accident for bodily injury or disease

- (1) Valley Water shall require its contractor(s): (1) to add the City and its officers, officials, employees, agents and authorized volunteers as additional insureds on the contractor's commercial general

liability (using ISO CG 20 38 for ongoing operations, as well as ISO CG 20 37 for completed operations or endorsements at least as broad) and business automobile liability policies; (2) to provide a waiver of subrogation in favor of City and its officers, officials, and employees on the contractor's commercial general liability, business automobile liability and workers' compensation/ employer's liability policies; and (3) to provide all coverage under the commercial general liability and business automobile liability policies on a primary and non-contributory basis. The coverage provided by the Valley Water's contractor shall contain no special limitations on the scope of protection afforded the City. After execution of this agreement, Valley Water shall forward a copy of its contractor's proof of insurance on ACORD Form 25-S and all necessary endorsements required herein. Any greater levels of coverage or endorsement requested by the City shall be paid for by the City.

- (2) For the LBC project that has completed construction, Valley Water's contractor has provided coverage: (1) to add the City and its officers, employees, agents and authorized volunteers as additional insureds on the contractor's commercial general liability and business automobile liability policies; (2) to provide a waiver of subrogation in favor of City and its officers, and employees on the contractor's commercial general liability, business automobile liability and workers' compensation/ employer's liability policies; and (3) to provide all coverage under the commercial general liability and business automobile liability policies on a primary and non-contributory basis. The coverage provided by the Valley Water's contractor shall contain no special limitations on the scope of protection afforded the City.
- (3) Valley Water will require its contractor(s) to post a performance bond, letter of credit or other financial security (the "Performance Bond") in a sum equal to a minimum 100% of the estimated cost of the applicable LCC and LPC Projects. The Performance Bond will be for the purpose of insuring the proper completion of the subject Project(s). If Valley Water's contractor fails to complete the subject Project(s) covered by the Performance Bond in accordance with the construction contract, Valley Water agrees to diligently pursue and enforce its and the City's remedies under the Performance Bond. For the LPC and LCC Project construction agreement, Valley Water also agrees to require its contractor and contractor's surety to name the City as co-obligee on the Performance Bond or to add City as an obligee through a co-obligee or dual obligee rider.

- d. Valley Water will require its contractor(s) to warranty all materials and workmanship furnished in the construction of the City Improvement Work for one year from the date of Valley Water's issuance of the Notice of Completion. Valley Water shall manage and oversee the City's warranty rights related to the City Improvement Work and pursue and enforce the

warranty for defects in workmanship or materials and require the construction contractor to repair or replace the defective work so that it complies with the City Improvement Work plans and specifications reviewed and approved by the City. Valley Water shall not be obligated to pursue any warranty rights for defects in workmanship or materials that Valley Water reasonably determines are beyond or outside the provisions of the approved plans and specifications provided that any dispute regarding the same shall be submitted to the dispute resolution process under Section 12 below.

12. Disputes

- a. This Agreement requires that City and Valley Water work together in good faith to achieve the intent of this Agreement. In the event a dispute arises as to the proper interpretation of the respective obligations and responsibilities of the Parties under this Agreement, or as to any other aspect of this Agreement, City and Valley Water agree that they each will assign the appropriate individuals to meet and make good faith efforts to negotiate a resolution of the dispute.
- b. If after employing this informal resolution process either City or Valley Water may request an independent, mutually agreed upon mediator to facilitate further negotiation with the costs shared equally between each Party. However, nothing herein will prevent either City or Valley Water from exercising any rights it may have to enforce the terms of this Agreement at law or in equity.

13. Assignability

Both City and Valley Water agree that each party's responsibilities as detailed herein have been determined in their mutual best interest toward accomplishing LBC, LCC and LPC Projects completion. Without the written consent of the other, neither City nor Valley Water will assign or transfer any interest in this Agreement or any of the obligations hereunder except to contractors or consultants working directly for them. Any unauthorized attempt by City or Valley Water to assign or transfer will be void and of no effect.

14. Written Notices

Except as otherwise specifically described herein, all communications with respect to this Agreement shall be given by first class mail to the parties as follows:

Valley Water	City
Rechelle Blank, P.E. Deputy Operating Officer Valley Water 5750 Almaden Expressway San Jose, CA 95118	Steven Erickson, P.E. Engineering Director/City Engineer City of Milpitas 455 E. Calaveras Blvd. Milpitas, CA 95035-5411
Or to such other person, addresses, or telephone numbers as the parties may designate in writing from time to time.	

15. Severance of Invalid Terms

If any term, condition or covenant of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding on Valley Water and City, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, invalid, void or unenforceable provision.

16. No Implied Waiver

The waiver by either City or Valley Water of any breach of any term, covenant, or condition contained in this Agreement, or any default in the performance of any obligations under this Agreement, shall not be deemed to be a waiver of any other term, covenant, condition, or obligation. Nor shall any waiver of any incident of breach or default constitute a continuing waiver of the same.

17. Governing Law and Compliance with Laws

This Agreement shall be constructed in accordance with the laws of the State of California. In the performance of this Agreement, City and Valley Water will comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments.

18. Venue

In the event that suit is brought by either City or Valley Water, each agrees that venue will be exclusively vested in the state courts of either the County of Santa Clara, or in the United States Court, Northern Valley Water of California, in San Jose, California.

19. Nondiscrimination

- a. In the performance of the Agreement, the parties will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any contractor, 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.

- b. Compliance with Applicable Equal Opportunity Laws. The City'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.); California Fair Employment and Housing Act (Government Code Section 12900 et. Seq.); California Labor Code Sections 1101 and 1102.
- c. Investigation of Claims. City must designate a specific position within its organization to be responsible for assuring nondiscrimination and non-harassment as provided in this Agreement. City must investigate all complaints directed to it by District. District will refer complaints in writing and City will advise District in writing when such investigations are concluded. The scope of such investigations must include all appropriate officers, employees, and agents of the City, as well as all contractors, subcontractors, consultants, subconsultants, and material suppliers of the City. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, City must take prompt, effective disciplinary action against the offender.

20. Ownership of Materials

Except as otherwise set forth herein, all design and construction documents related to the LBC, LPC, and LCC Project improvements developed or discovered by Valley Water or any other person engaged directly or indirectly by Valley Water to perform the services required hereunder will be and remain the property of the Valley Water. City and Valley Water will make available to the other party such other records under its control as may be reasonably required for the parties to perform under this Agreement. City and Valley Water will maintain all documents and records produced under this Agreement for a minimum period of three years, or any longer period required by law, from the date of termination or completion of this Agreement.

21. Execution in Counterparts

This Agreement may be executed in counterparts, each of which, when executed and delivered, will be deemed to be an original, and which taken together will be deemed to be one and the same instrument, and will be binding as executed.

22. No Third Party Beneficiaries

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.

23. Compliance with Other Conditions

Valley Water acknowledges that the authorization contained herein is in addition to and not in lieu of any other easements, inspections, or approvals which Valley Water may need to obtain from City, from other utility providers, or from property owners with respect to its construction of the LBC, LCC and LPC Projects. In

consideration of the numerous benefits to be gained by the City from Valley Water's construction of City Improvement Work and LBC, LPC, and LCC Project improvements, any land use along City right of way, inspections, or approvals to be granted or conducted by the City shall be at no cost to Valley Water in accordance with the MOU as set forth in Section 4.a.(1). of this Agreement.

24. Successors and Assigns

This authorization will bind and inure to the benefit of the parties, the respective heirs, successors and assigns.

25. Exhibits

The following Exhibits are attached hereto and incorporated herein by this reference:

- Exhibit A: LBC Trail Agreement
- Exhibit B: LPC Trail Agreement
- Exhibit C: LCC and LPC City Approved Drawings for Improvement Removal and Replacement
- Exhibit D: LCC and LPC Extent of the Black Vinyl Fences
- Exhibit E: LCC Headwall Structure at North Milpitas Boulevard and Arizona Avenue
- Exhibit F: Estimated Cost of City Improvement Work and Payment to Valley Water
- Exhibit G: LCC and LPC List of City Improvement Work

26. Construction of Agreement

The parties hereto acknowledge and agree that, although this Agreement has been drafted by Valley Water's legal counsel, City has had an opportunity to review and negotiate the terms of this Agreement as well as consult with City's own legal counsel regarding the meaning of its terms. Consequently, the doctrine that ambiguities in an agreement should be resolved against the drafting party shall not be employed in connection with this Agreement, and this Agreement shall be interpreted in accordance with its fair meaning.

27. Amendments

All modifications to this Agreement must be in writing in the form of an amendment approved by both parties.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

28. Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained therein and supersedes all prior or contemporaneous agreements, representations and understandings of the parties relative thereto, except for the LBC Trail Agreement, attached hereto as Exhibit A, and the LPC Lease Agreement Joint Use, SCVWD Agreement No. A2001, attached hereto as Exhibit B.

(SIGNATURES FOLLOW ON NEXT PAGE)

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year last written below.

VALLEY WATER, A SPECIAL DISTRICT CREATED BY THE CALIFORNIA LEGISLATURE:

APPROVED AS TO FORM:

By: _____
Joseph D. Aranda
Assistant District Counsel

By: _____
Nai Hsueh
Chair, Board of Directors

By: _____
Michele L. King, CMC
Clerk, Board of Directors

Date: _____

CITY OF MILPITAS, A MUNICIPAL CORPORATION:

Recommended by:

Steven Erickson
Engineering Director/City Engineer

Attest:

Mary Lavelle
City Clerk

APPROVED AS TO FORM:

By: _____
Christopher J. Diaz
City Attorney

By: _____
Steven McHarris
City Manager

By: _____
Walter C. Rossman
Director of Financial Services

Date: _____

EXHIBIT A LBC Trail Agreement

File: City of Milpitas
Berryessa Creek
X-File: 4017-42, 44, 48, 52

JOINT USE AGREEMENT Berryessa Creek Trail

SANTA CLARA VALLEY WATER DISTRICT, a public corporation, hereinafter referred to as "District", and the CITY OF MILPITAS, hereinafter referred to as "City", agree this 4th day of September, 2002 as follows:

RECITALS

- A. District is the owner of certain real property (hereinafter "the premises"), along Berryessa Creek between North Abel Street and North Hillview Drive, described on EXHIBIT A attached hereto, so marked and by this reference made a part hereof.
- B. City and District recognize that the premises are regulated by a variety of federal, state and local agencies.
- C. City and District, in cooperation with the U.S. Army Corps of Engineers, the California Department of Water Resources and the California Department of Fish and Game, agree to use the premises for non-vehicular (except for maintenance, emergency and enforcement vehicles) and recreational purposes as well as for flood control and water conservation purposes.
- D. The parties find it to be in the public interest to provide for joint use of the premises through the terms and conditions of an Agreement.

EXHIBIT A
LBC Trail Agreement (continued)

AGREEMENT

1. District shall and does hereby grant permission to City to use the premises for the following purpose or purposes and subject to the following special restrictions:
 - a. Enter the premises for purposes set forth in the Agreement.
 - b. Operate and oversee the premises for public use for non-vehicular recreational purposes, subject to the terms and conditions set forth in this Agreement.
 - c. Install as needed, and as approved by District permit, and maintain at City's own expense, paving, pedestrian bridge, ramps, stairs, gates, signs, fencing, trash receptacles and related amenities (hereinafter "improvements").
 - d. Entry of motor vehicles, dogs or other domestic animals (except on leash), swimming, boating, rafting and fires are not permitted hereunder and such uses shall be effectively controlled by City.
2. City shall provide and maintain garbage receptacles for public use, and provide for adequate waste removal service. City shall also provide graffiti removal within the premises in compliance with City's graffiti abatement program, including graffiti removal from signs installed in conjunction with and/or accessory to the establishment of a public park and pathway consistent with its implementation of the same program at comparable City facilities.
3. The public pathway and corridor, the subject of this Agreement, may be patrolled by City personnel, ranger services under contract with City and/or volunteers supervised by City. District shall have no obligation whatsoever to provide or pay for such services.
- 4(a). City must remove and, if it so chooses, replace recreational improvements installed by the City in the event District requires such removal to improve, maintain, or repair Berryessa Creek in any manner for District purposes. If removal is not required by District, the City shall compensate the District for costs to remove, redesign, replace, or modify District facilities to accommodate continued use or presence of City's improvements. District shall inform City of pre-construction planning, as described in Section 6, in the event a District project is needed, to minimize District's project impact on City's public pathway and financial investments.

EXHIBIT A
LBC Trail Agreement (continued)

- 4(b). District is planning to implement a major flood protection improvement project within the premises. District and City intend to include in the plans a bicycle-pedestrian trail that will also support District operations and maintenance functions. City will collaborate with District in such flood protection and trail planning for Berryessa Creek. City has prepared "Berryessa Creek Trail and Coyote Creek Trail Feasibility Report" describing a proposed trail alignment, a trail underpass at North Milpitas Boulevard and other desired features for consideration. City and District propose to develop an appropriate cost-sharing arrangement to address the interests of both agencies in providing public trail access to the premises.
5. Damage occurring to City's structures or paving by reason of District's maintenance or other activity or by reason of natural forces will not be the responsibility of District to repair or restore; all such costs for such repair or restoration are to be borne by City.
6. City and District shall meet whenever necessary for the purposes 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 as required prior to commencement of such work, in order to minimize public impacts and damage to City's and District's improvements.
 - d. In an emergency situation, District shall have rights provided in Paragraph 13 without consulting City.
7. City and District recognize the unique nature of the resources and recreational uses covered by this Agreement and the beneficial effects to both parties of providing these resources to the public. City and District resolve to utilize their respective offices to mutually support the efforts of each other to deliver such services to the public. City and District further agree to cooperate in order to resolve disputes and assist each other in responding to public inquiries arising from the activities of the parties of either team.

City will encourage volunteer groups to participate in District's "Adopt-A-Creek" program.

EXHIBIT A
LBC Trail Agreement (continued)

8. Native plants selected by a licensed landscape architect with native habitat experience or other qualified professional should be used for revegetation purposes.
9. Construction work during spring nesting season will be avoided whenever possible. The parties acknowledge that spring nesting season occurs between February 1 and July 1. If construction must be done during the nesting season, a survey by a qualified biologist will be undertaken to determine the presence of nesting activity. If no nesting activity is reported, then the work may proceed. If nesting activity is reported, the biologist is expected to recommend the implementation of adequate mitigation measures. Environmental impact shall be considered prior to all work. Any and all work related to this clause shall be completed in accordance with applicable federal, state, and local environmental health and safety regulations including the federal Migratory Bird Act of 1918 and any amendments thereto.
10. The parties shall cooperate to create and install signage which benefits the programs of each party such as warning signs, entrance signs, interpretative signs, and joint uses when applicable. The Chief Executive Officer of the District and the City Manager of the City or their designees shall meet and confer on a periodic basis to plan and install appropriate signage which serves the needs of both parties.

All signs excepting existing ones or publications that identify the facility (e.g., park, trail) by name should include the District's logo in equal size and symmetric relationship to any other logos. All signs or publications that are intended to interpret the water resources should be developed in cooperation with the District's Public Information Office and should also include the District's logo in equal size and symmetric relationship to any other logos. Maintenance responsibility for signage and benches shall be the responsibility of either the District or the City, according to which entity has installed the improvements.

11. This Agreement shall be for a period of twenty-five (25) years beginning on the date it is approved by the District Board of Directors. City may, upon written notice to District of intent to do so, given not less than ninety (90) days prior to the termination date, renew this Agreement for a like period upon the same terms and conditions. Notice of intent to renew may be given by the City's Public Works Director or City Manager for City. It is understood and agreed that this Agreement may be superseded and incorporated into any future joint use agreement or lease arrangement with the City along Berryessa Creek.

EXHIBIT A
LBC Trail Agreement (continued)

12. City shall have the full control and authority, for purposes of this Agreement, over the use of the premises, and City may restrict, or control, regulate and supervise the public use thereof. City may, in its discretion but consistent with the right of District hereinafter described, and without diminution of the environment, flood control or conservation function or hazard thereto of the premises as now existing or as may hereinafter be altered, take any measures of every kind as may in the opinion of City be necessary for the safety of the users of the premises for any joint use agreement purpose. Further, City shall have the sole responsibility for the maintenance in usable and safe condition of every facility provided upon the premises for purposes of this Agreement.
13. District shall have the sole responsibility to maintain Berryessa Creek for flood control, water conservation and stream stewardship purposes, to repair and reconstruct the same where necessary for such purposes and to perform such periodic maintenance as may be appropriate to such purposes, including removal of silt, debris, and obstructive growth. It is expressly understood that District is engaged in flood control and the conservation of water and that the terms and conditions of this Agreement shall not in any way interfere with the absolute, free and unrestricted right of District to operate and maintain for its purposes the stream bed and banks or any appurtenant works thereto, or to repair or construct any of its works, or to raise or lower the height of the water present upon the premises; and it is further understood that nothing herein contained shall be construed as conferring a right upon City to have or a duty upon District to provide water upon the premises at any time. Damage to District's facilities arising from use of the premises by the public or by City representatives under this Agreement shall be the responsibility of the City.
14. It is also 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, and that such fluctuations may require greater control over the use of the premises by City, and the public; provided, however, that City shall be responsible for informing itself thereof and of all other conditions of the premises whether open or covered which may in anywise affect the health and safety of the users of the premises hereunder.
- 15(a). City shall have the right to build any improvements on the premises necessary or convenient to the enjoyment of this Agreement, provided the location of any such improvement is, in each case during the term of this Agreement, first approved by District. It is fully understood and agreed that District's basis of approval or disapproval of improvements is its responsibility to insure that the same shall not constitute an obstruction to flood flows and shall not interfere with the use of the premises for flood control or water conservation purposes, and does not in anywise extend to

EXHIBIT A
LBC Trail Agreement (continued)

consideration of the health and safety of users of the premises, which latter consideration is the responsibility of the City.

- (b). Improvements built by City on the premises shall remain the property of City and upon the termination of this Agreement shall be removed by City, leaving the premises in a condition as near as reasonably possible to its condition prior to such improvements. If District, in the interest of health and safety and in the exercise of lawful powers, requires that such an improvement must be removed or relocated, the same shall be done at City's expense.
- 16(a). City shall assume the defense of, indemnify and hold harmless, District, its officers, agents, and employees from all claims, liability, loss, damage, and injury of any kind, nature, or description directly or indirectly arising during the initial term of this Agreement, or any renewal thereof, and resulting from the public use of the premises pursuant hereto or from public use of adjacent premises of District occurring in consequence of City's or the public's use of the premises or from acts, omissions, or activities of City's officers, agents, employees, or independent contractors employed by City, excepting claims, liability, loss, damage, or injury which arise from the willful or negligent acts, omissions, or activities of an officer, agent, or employee of District. This Agreement to defend, indemnify, and hold harmless the District shall operate irrespective of whether negligence is the basis of the claim, liability, loss, damage, or injury and irrespective of whether the act, omission, or activity is merely a condition rather than a cause.
- (b). District shall assume the defense of, indemnify, and hold harmless, City, its officers, agents, and employees from all claims, liability, loss, damage, and injury of any kind, nature or description directly or indirectly arising from District's exercise of its flood control or water conservation purposes on the premises pursuant hereto or from acts, omissions, or activities of District's officers, agents, employees, or independent contractors employed by District excepting claims, liability, loss, damage, or injury which arises from the willful or negligent acts, omissions or activities of an officer, agent, or employee of City. This Agreement to defend, indemnify, and hold harmless shall operate irrespective of whether the act, omission, or activity is merely a condition rather than a cause.
17. Any and all notices required to be given hereunder shall 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:

EXHIBIT A
LBC Trail Agreement (continued)

City	District
City Manager	Chief Executive Officer
City of Milpitas	Santa Clara Valley Water District
455 East Calaveras Blvd.	5750 Almaden Expressway
Milpitas, California 95035	San Jose, California 95118

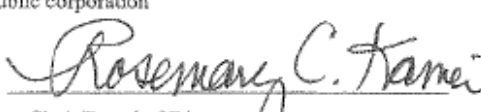
18. This Agreement, and all the terms, covenants, and conditions thereof, shall apply to and bind the successors and assigns of the respective parties hereto; provided that City shall neither assign nor sublet this Agreement without prior written consent of District.
19. This Agreement includes any and all exhibits, covenants, agreements, conditions, and understandings between City and District concerning the premises. There are no covenants, agreements, conditions, or understandings, either oral or written, between the parties hereto other than herein set forth.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

CITY OF MILPITAS


SANTA CLARA VALLEY WATER DISTRICT,
a public corporation

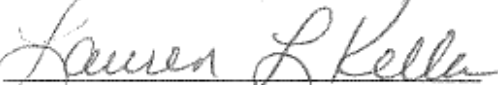
By: 
City Manager
"City"

By: 
Chair/Board of Directors
"District"

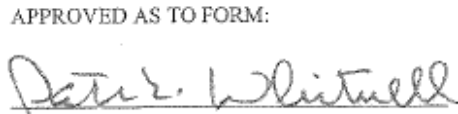
ATTEST:


ATTEST:


City Clerk


Clerk/Board of Directors

APPROVED AS TO FORM:


Asst. City Attorney


General Counsel

Joint Use Agreement
Santa Clara Valley Water District
and City of Milpitas

Page 7 of 7

EXHIBIT A
LBC Trail Agreement (continued)

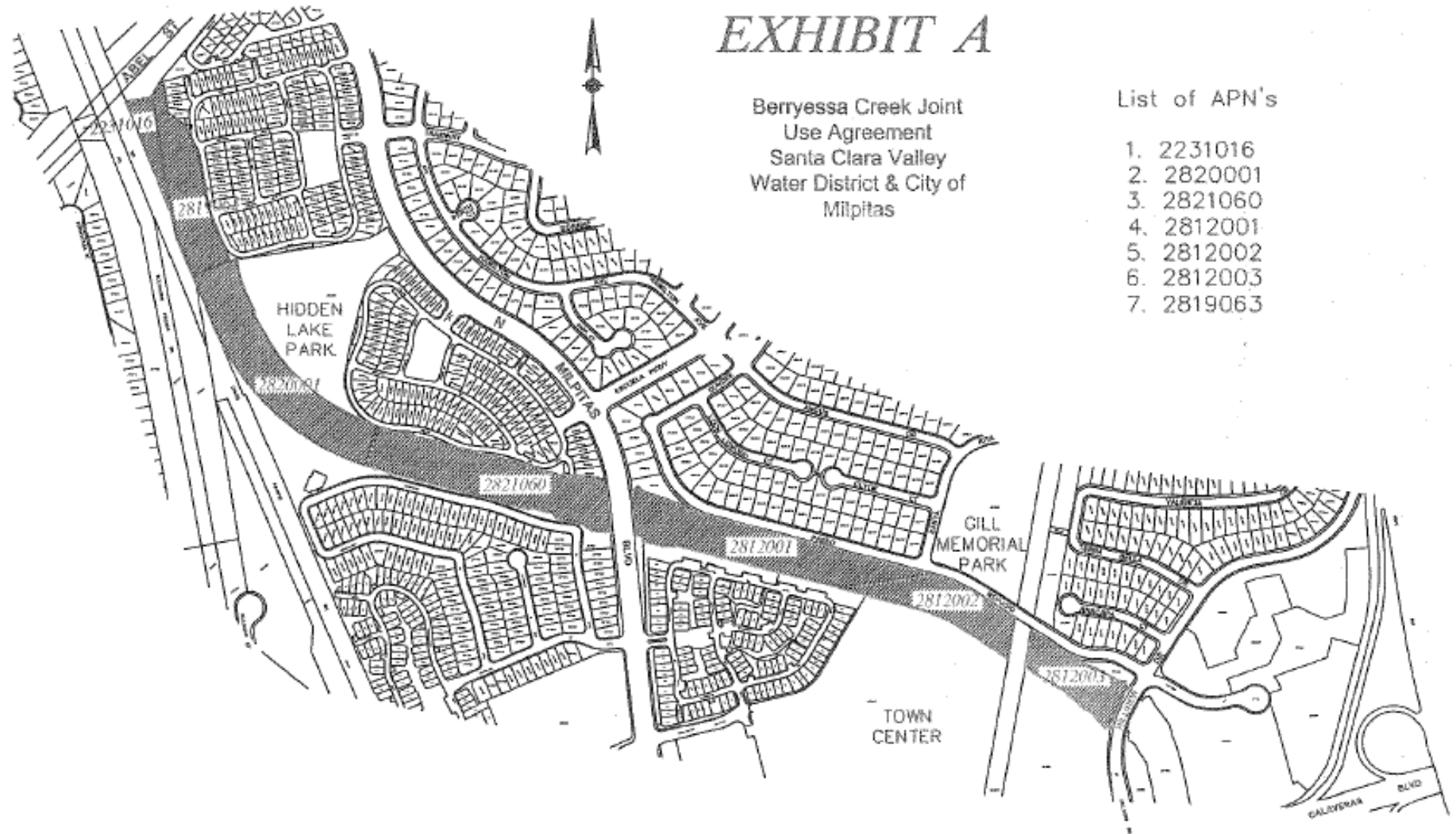


EXHIBIT B LPC Trail Agreement

File: A/C Leases
City of Milpitas
X-File: 4033-49

LEASE AGREEMENT (Joint Use)

SCVWD AGMT. NO. A2001

SANTA CLARA VALLEY WATER DISTRICT, a public corporation, hereinafter referred to as "District," and the CITY OF MILPITAS, hereinafter referred to as "Lessee;"

AGREE this 19th day of JANUARY, 1997, as follows:

RECITALS:

- A. District is the owner of certain real property identified as "SCVWD Penitencia Creek" shown on "Exhibit A" attached hereto and incorporated herein by reference. The cross-hatched areas within said real property as shown on Exhibit A constitute the leased premises (hereinafter "the premises") for the purpose of this agreement.
- B. The parties find it to be in the public interest to provide for joint use of the premises by means of a lease thereof under the following terms and conditions.
- C. Lessee has constructed certain improvements on premises by permit from District.

AGREEMENT:

1. District shall and does hereby lease the premises to Lessee for the following purpose or purposes and subject to the following special restrictions:
 - 1(a). Pedestrian and emergency vehicle access on the west levee of Lower Penitencia Creek connecting North Abbott Avenue (at San Andreas Drive) to the new Milmont Drive/California Circle Bridge over the creek channel. Improvement to the top of levee shall be in accordance with District's requirements. Surfacing for the emergency vehicle access shall be all-weather with asphalt concrete or portland cement concrete. Any fencing shall be in accordance with District's permit requirements and with approval of Pacific Gas and Electric Company (PG&E).
 - 1(b). Lessee has installed landscaping, drainage, and a pedestrian way on the east slope of the east levee of Penitencia Creek. Any landscaping or other improvements placed by Lessee pursuant hereto shall be maintained by Lessee.
 - 1(c). Any improvement installed by Lessee shall be at Lessee's expense and shall be installed in accordance with District permit and with approval of PG&E or its successor.
 - 1(d). Lessee shall comply with any and all requirements of PG&E, or its successor, to protect PG&E's facilities located within the premises. Lessee shall be responsible to take measures to protect the

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1 of 4

ORIGINAL

EXHIBIT B
LPC Trail Agreement (continued)

District, third parties and the public including, but not limited to installation or modification of safety devices, guardrails, etc., as determined necessary by PG&E to protect such persons. District shall assume no liability or responsibility for cost of same.

2. This Lease shall be for a period of 25 years, beginning on 7th of January, 1997. Lessee may, upon written notice to District of intent to do so, given not less than ninety (90) days prior to the termination date, renew this Lease for a like period upon the same terms and conditions. This Lease may be terminated without cause by either party upon ninety (90) days prior written notice to the other. Notice of intent to renew or to terminate may be given by Public Works Director for Lessee.

Notice of intent to terminate may be given by the General Manager of District for the District.

3. Lessee hereby has full control and authority, for purposes of this Lease, over the use of the premises, and Lessee may restrict, or control, regulate and supervise the public use thereof. Lessee may, in its uncontrolled discretion (but consistent with the right of District hereinafter described, and without substantial or hazardous diminution of the flood control or conservation function of the premises as now existing or as may hereafter be altered), take any measures of every kind as may in the opinion of Lessee be necessary for the safety of the users of the premises for any lease purpose. Further, Lessee shall have the sole responsibility for the maintenance in usable and safe condition of every facility provided upon the premises for purposes of this Lease.
4. District shall have the sole responsibility to maintain Lower Penitencia Creek for flood control and water conservation purposes, and for such purposes only, to repair and reconstruct the same where necessary for such purposes and to perform such periodic maintenance as may be appropriate to such purposes, including removal of silt, debris, and obstructive growth. It is expressly understood that District is engaged in flood control and the conservation of water and that the terms and conditions of this agreement shall not in any way interfere with the absolute, free and unrestricted right of District to operate and maintain for flood control and water conservation purposes the stream bed and banks or any appurtenant works thereto, or to repair or construct any of its works, or to raise or lower the height of the water present upon the premises; and it is further understood that nothing herein contained shall be construed as conferring a right upon Lessee to have or a duty upon District to provide water upon the premises at any time. Damage to District's facilities arising from use of the premises under this Lease shall be the responsibility of Lessee.
5. It is also expressly understood by Lessee 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, and that such fluctuations may require greater control over the use of the premises by Lessee and the public; provided, however, that Lessee shall be responsible for informing itself thereof and of all other conditions of the premises whether open or covered which may in anywise affect the health and safety of the users of the premises hereunder; and provided, further, that Lessee shall not be responsible for mosquito control on the premises. District shall give reasonable notice to Lessee whenever District, in the exercise of its flood control or water conservation activities performs or intends to perform any major work of maintenance, repair or reconstruction (other than routine removal of silt, debris, and obstructive growth) on the premises or on any District works appurtenant thereto.

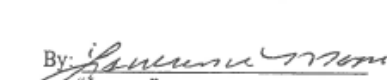
EXHIBIT B
LPC Trail Agreement (continued)

- 6(a). Lessee shall have the right to build or modify any improvements on the premises necessary, or convenient to the enjoyment of this Lease; provided, the location of any such improvement is, in each case during the term of this agreement is first approved by District. It is fully understood and agreed that District's basis of approval or disapproval of improvements is its responsibility to insure that the same shall not constitute an obstruction to flood flows and shall not interfere with the use of the premises for flood control or water conservation purposes, and does not in anywise extend to consideration of the health and safety of users of the premises, which latter consideration is the responsibility of Lessee. Lessee assumes responsibility for obtaining approval for proposed improvements from PG&E or any other entity having an easement or other right of way on the premises.
- 6(b). Improvements built by Lessee on the premises shall remain the property of Lessee and upon the termination of this Lease shall be removed by Lessee, leaving the premises in a condition as near as reasonably possible to their condition prior to such improvements. If District, in the interest of health and safety and in the exercise of lawful powers, requires that such an improvement must be removed or relocated, the same shall be done at Lessee's expense.
7. Lessee shall assume the defense of, indemnify, and hold harmless, District, its officers, agents, and employees from all claims, liability, loss, damage, and injury of any kind, nature, or description which directly or indirectly arises from Lessee's or the public's use of the leased premises or for public use of adjacent District lands occurring as a result of this agreement, excepting claims, liability, loss, damage, or injury which arises from the willful or sole negligent acts, omissions, or activities of an officer, agent, or employee of the District. This agreement to defend, indemnify, and hold harmless shall operate irrespective of whether the cause of the claim, liability, loss, damage, or injury is an act, omission or activity, or a condition of the property.
8. Any and all notices required to be given hereunder shall 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:
- | Lessee | District |
|--|--|
| City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035 | Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118 |
9. This agreement, and all the terms, covenants, and conditions hereof, shall apply to and bind the successors and assigns of the respective parties hereto; **provided**, that Lessee shall neither assign nor sublet this agreement without prior written consent of District.

EXHIBIT B
LPC Trail Agreement (continued)

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.


SANTA CLARA VALLEY WATER DISTRICT,
a public corporation

By: 
"Lessee"
Lawrence Moore
City Manager

By: 
Chair/Board of Directors
"District"

ATTEST:

ATTEST: LAUREN L. KELLER


Gail Blalock
City Clerk


Clerk/Board of Directors

APPROVED AS TO FORM:

APPROVED AS TO FORM:


Attorney


General Counsel

EXHIBIT B
LPC Trail Agreement (continued)



- ① Landscaping, Drainage, and Pedestrian Way (east slope of east levee)
- ② Pedestrian and Emergency Vehicle Access (west levee)
- ③ Landscaping, and Drainage Only

**CROSS HATCHED AREA
("THE PREMISES")**

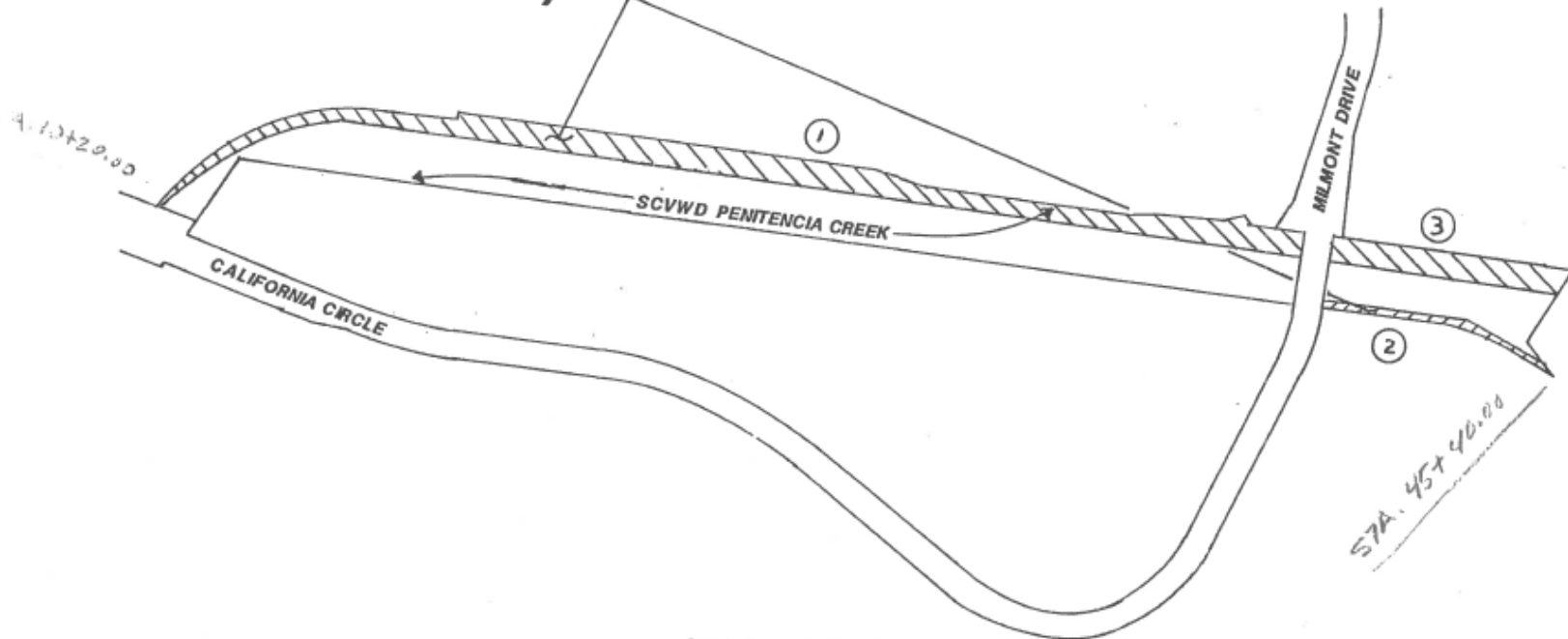


EXHIBIT A

EXHIBIT B
LPC Trail Agreement (continued)

File: A/C Leases
City of Milpitas
X-File: 4033-49

ADDENDUM TO LEASE AGREEMENT (JOINT USE) SCVWD AGMT. NO. A2001a
Approved: 7th Jan, 1997

The following language shall be added to the Lease Agreement (Joint Use) dated July 19, 1996 between the Santa Clara Valley Water District, a public corporation, hereinafter referred to as "District," and the City of Milpitas, hereinafter referred to as "Lessee." The effective date of this addendum shall be the date of execution by the District's Chair/Board of Directors.

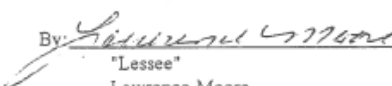
10. Lessee will encourage volunteer groups to participate in District's "Adopt-A-Creek" program as to the leased premises.

11. Native plants, selected by a qualified landscape architect and approved by District, shall be used for revegetation purposes by Lessee.

12. District and Lessee shall cooperate to create and install signage such as warnings, entrance signage, interpretive signs, and joint uses when applicable which benefits the programs of each party by identifying the respective interests in the particular facility. The General Manager of the District and the City Engineer of the City of Milpitas or their designees shall meet and confer on a periodic basis to approve appropriate signs which serve the needs of both parties.

13. The following language shall be added to clause 3 of said Lease Agreement (Joint Use): "For purposes of this agreement, the term 'maintenance' shall include immediate graffiti removal and/or abatement on any facility upon the premises for purposes of this Lease."

CITY OF MILPITAS

By: 
"Lessee"
Lawrence Moore
City Manager

ATTEST: Gail Blalock


City Clerk

APPROVED AS TO FORM:


Dave Larten, City Attorney

SANTA CLARA VALLEY WATER DISTRICT,
a public corporation

By: 
Chair/Board of Directors
"District"

ATTEST: Lauren L. Keller


Clerk/Board of Directors

APPROVED AS TO FORM:


General Counsel

(Page 1 of 1)

5488agrc.djf

EXHIBIT B
LPC Trail Agreement (continued)



- ① Landscaping, Drainage, and Pedestrian Way (east slope of east levee)
- ② Pedestrian and Emergency Vehicle Access (west levee)
- ③ Landscaping, and Drainage Only

**CROSS HATCHED AREA
("THE PREMISES")**

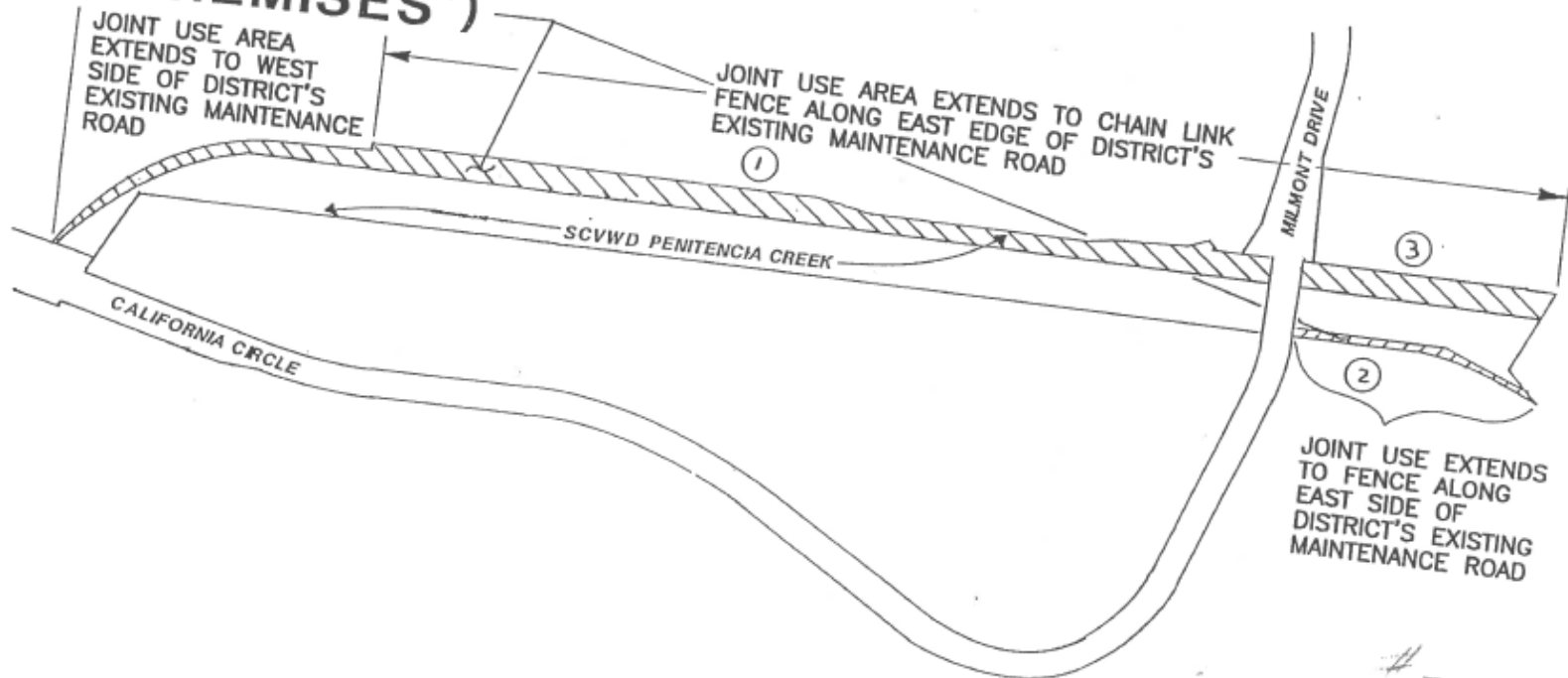


EXHIBIT A

EXHIBIT B
LPC Trail Agreement (continued)



EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement

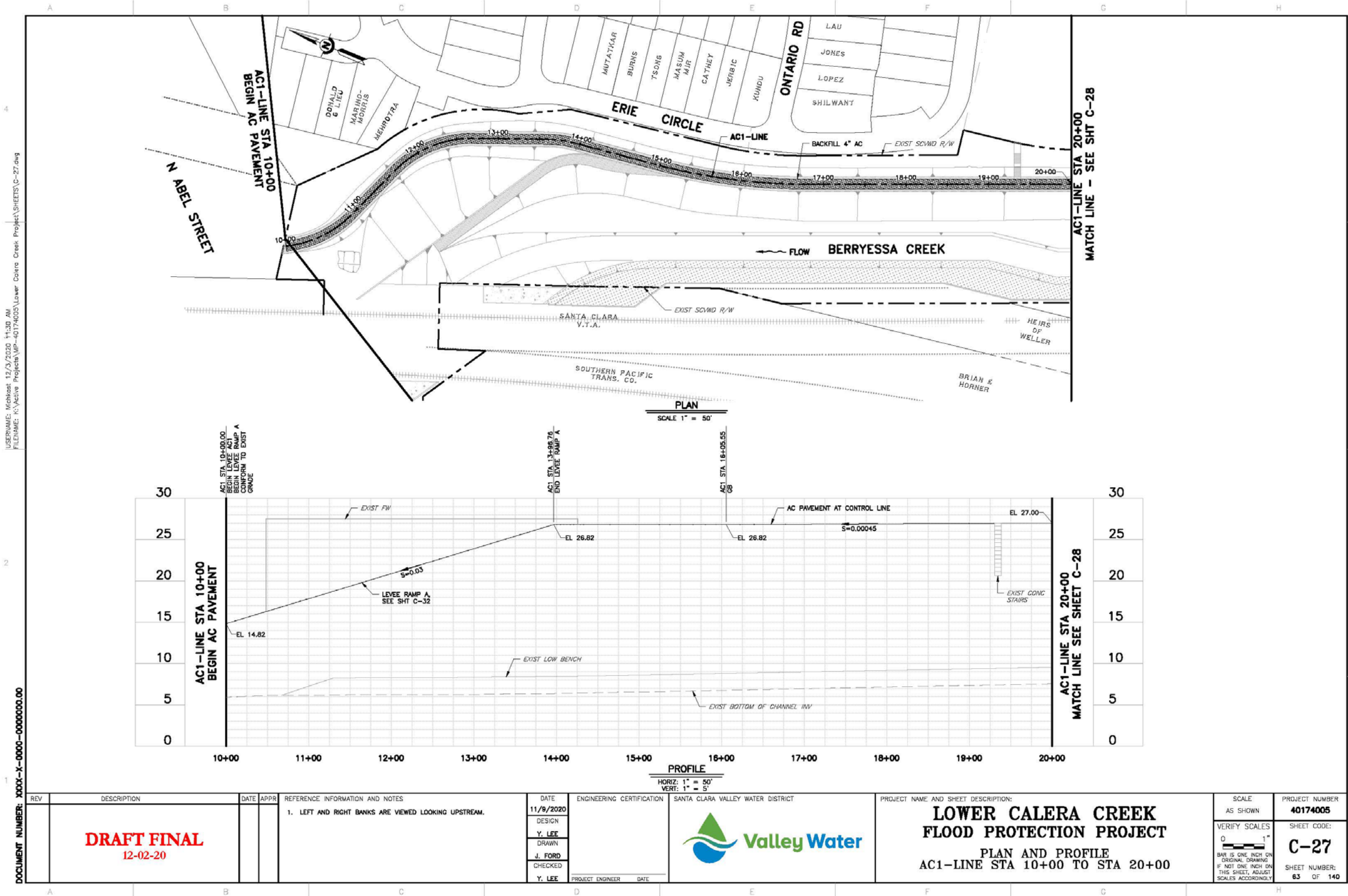


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

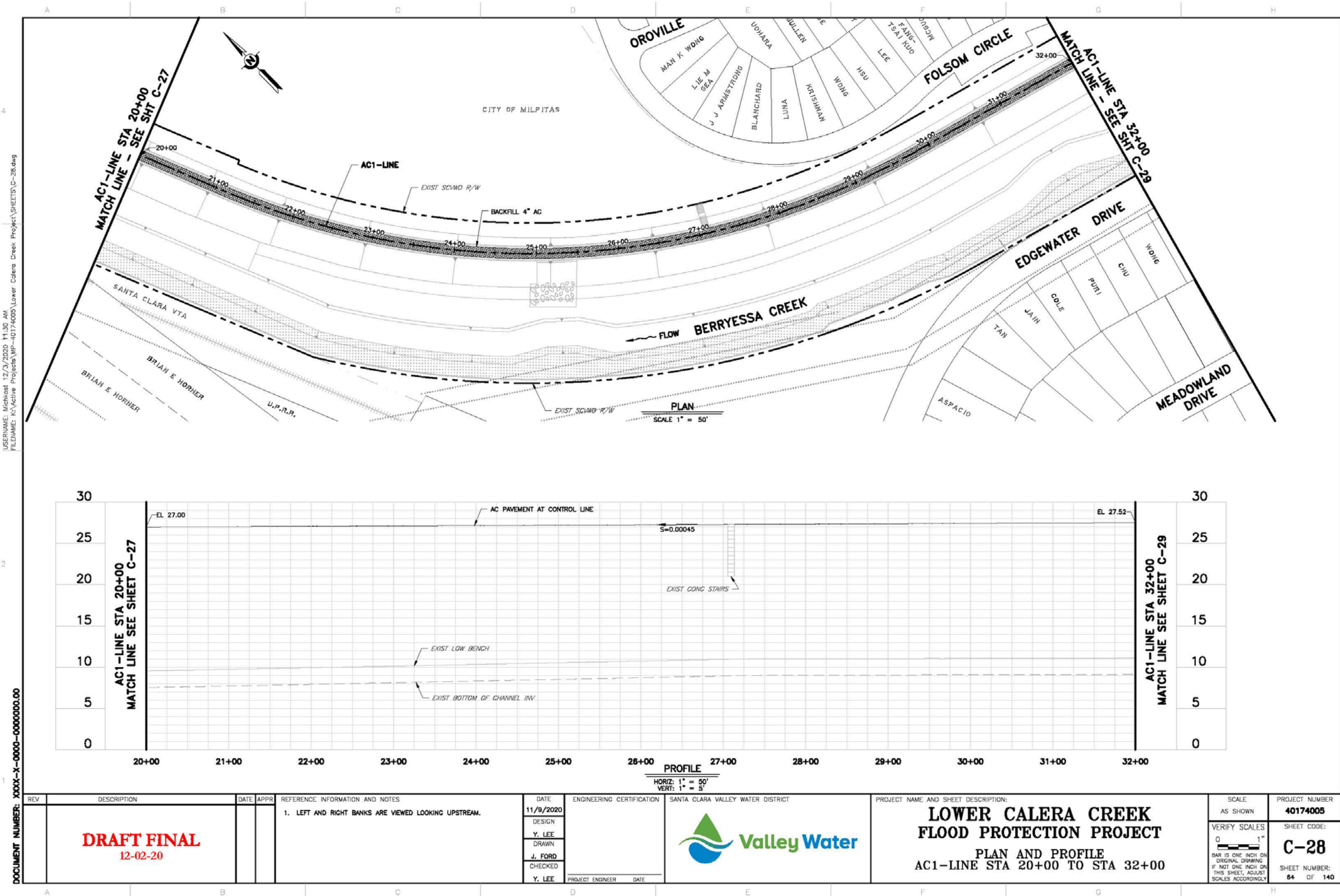


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

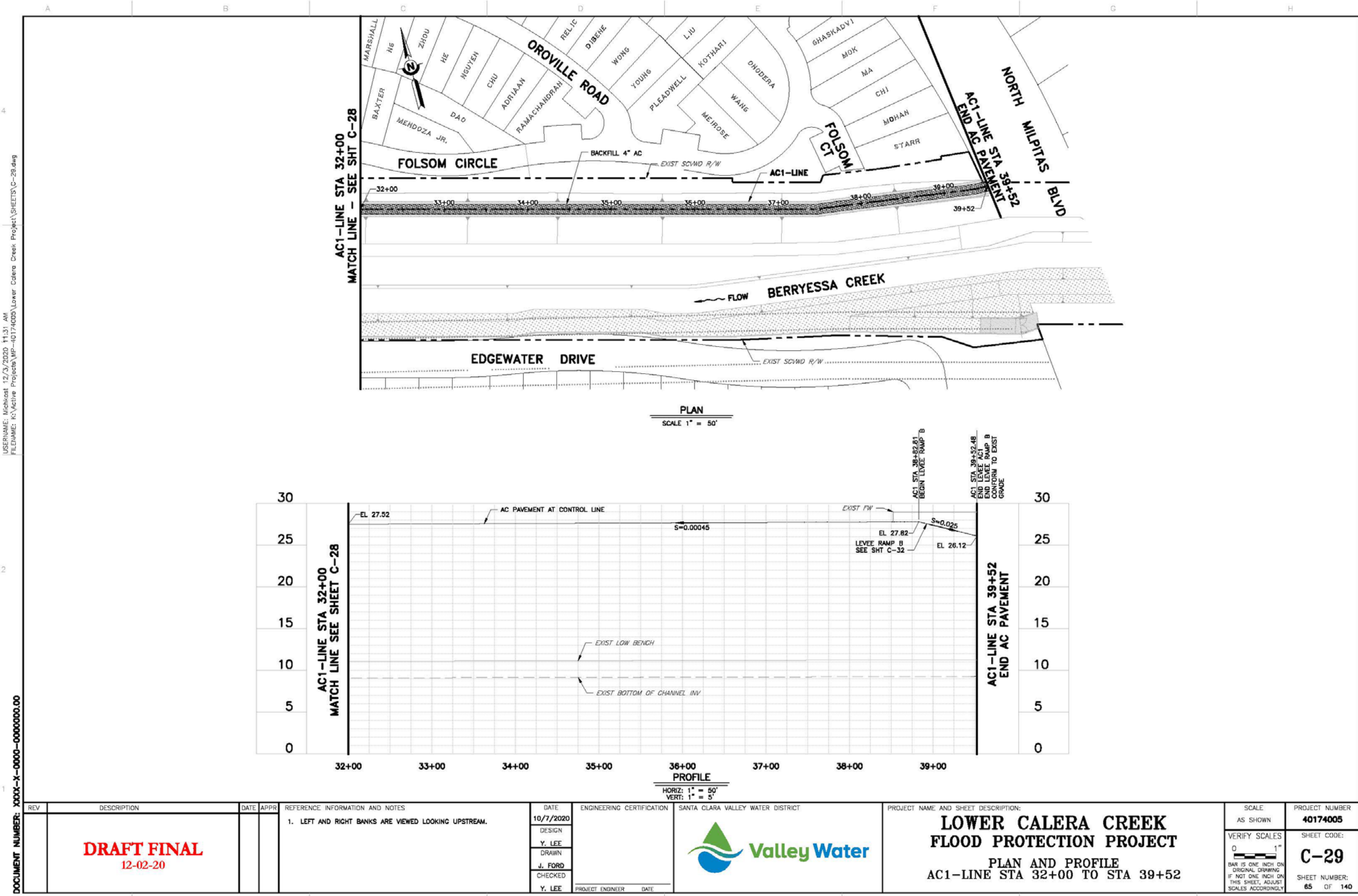


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

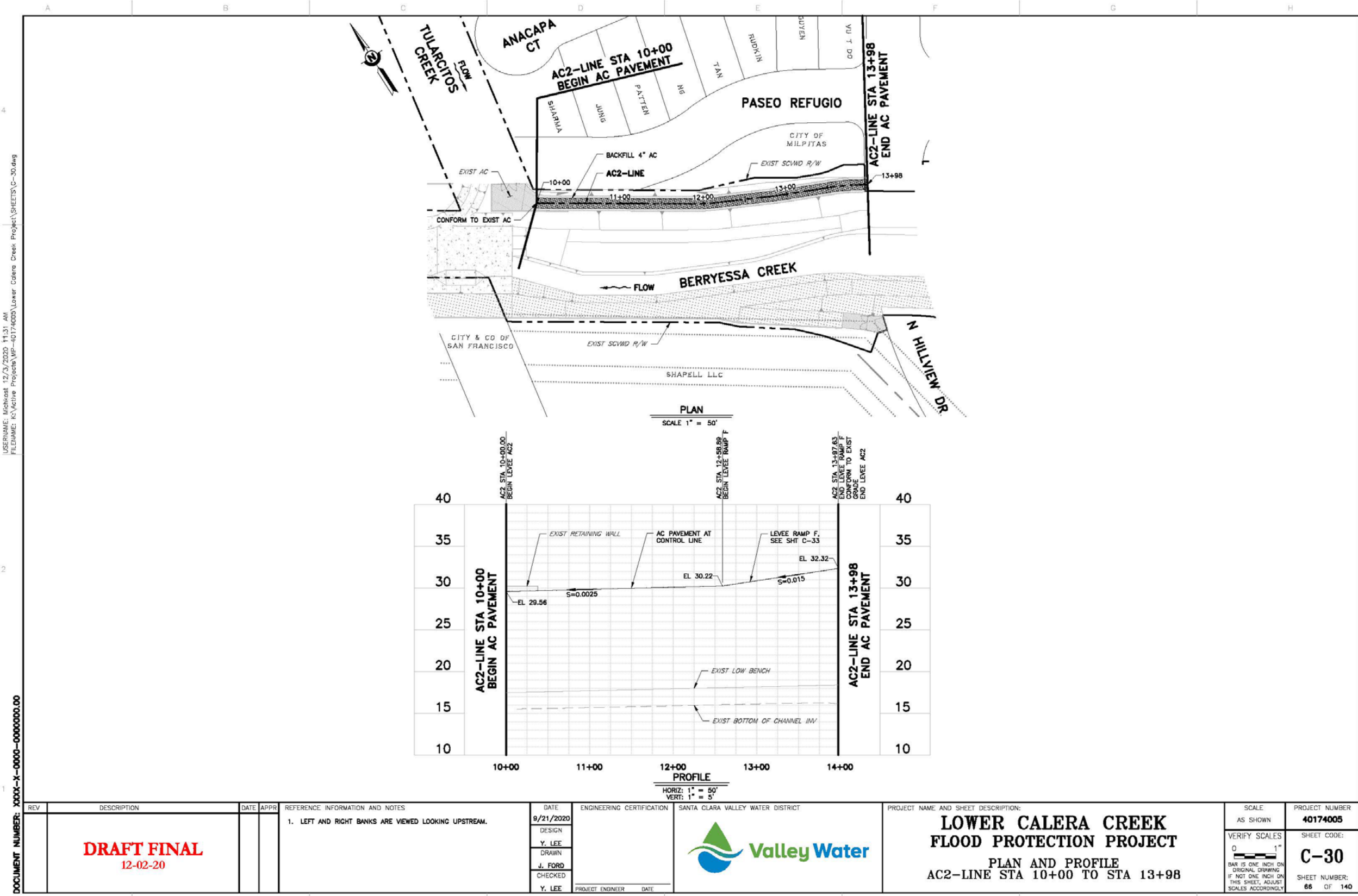


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

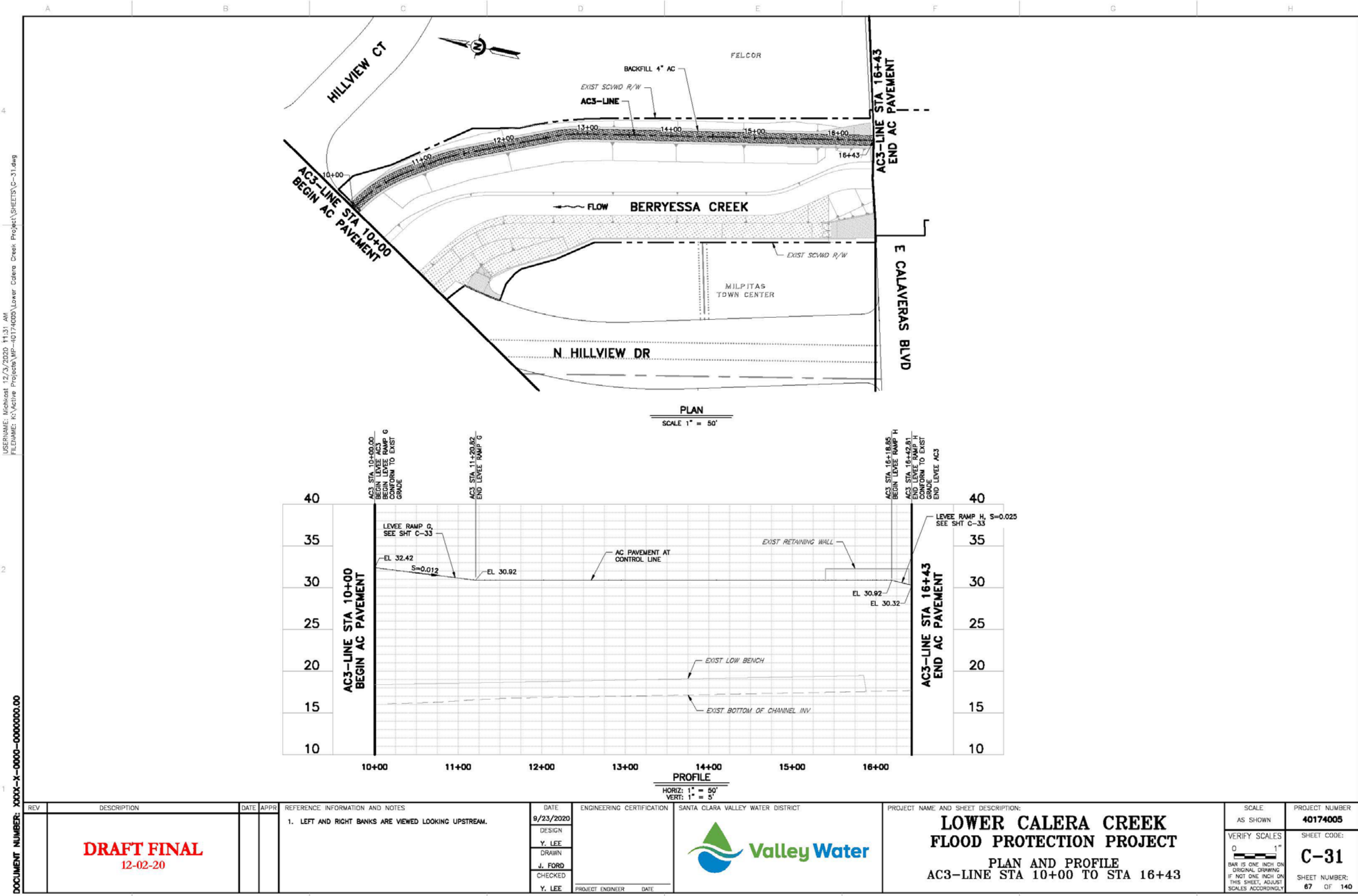


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

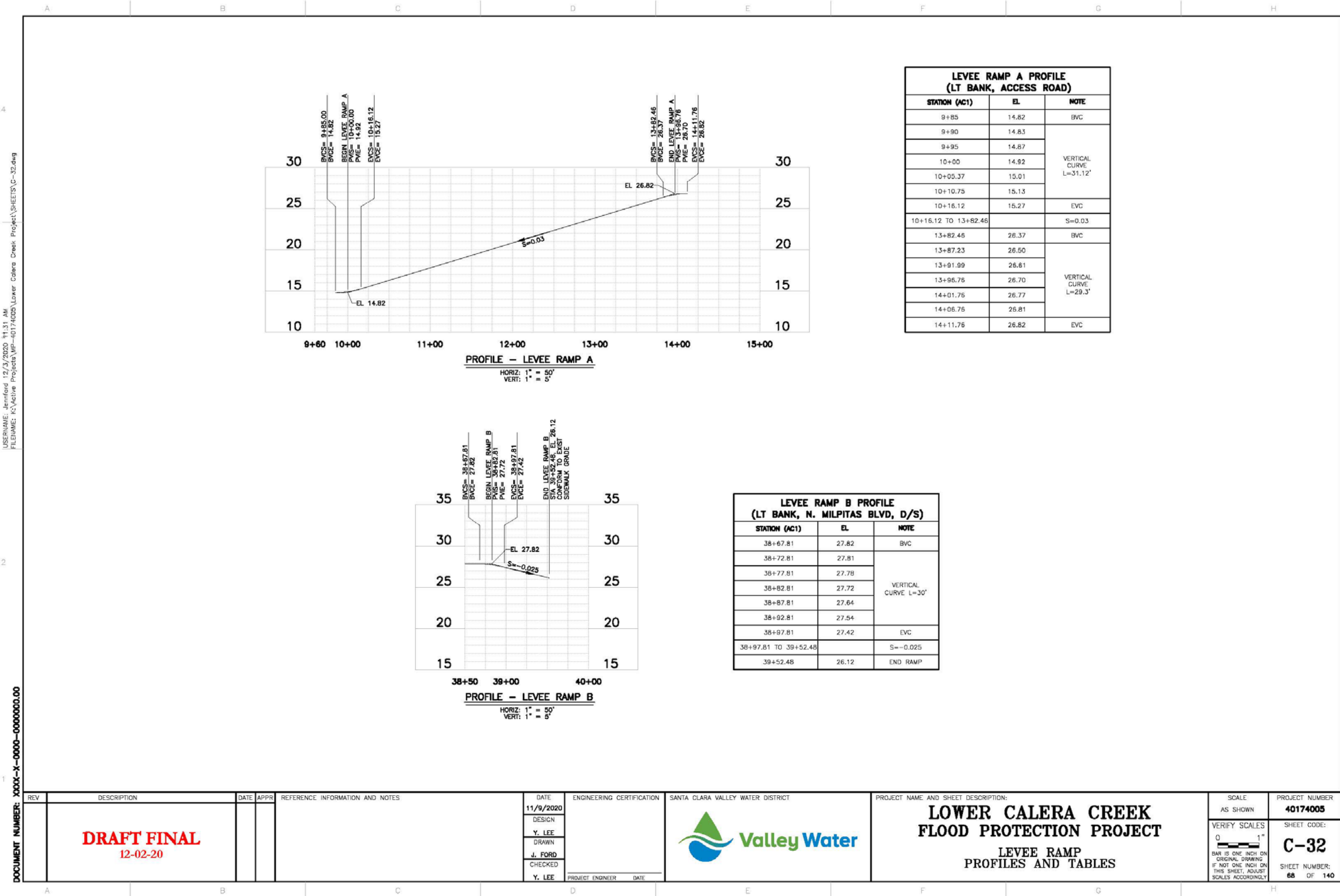


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

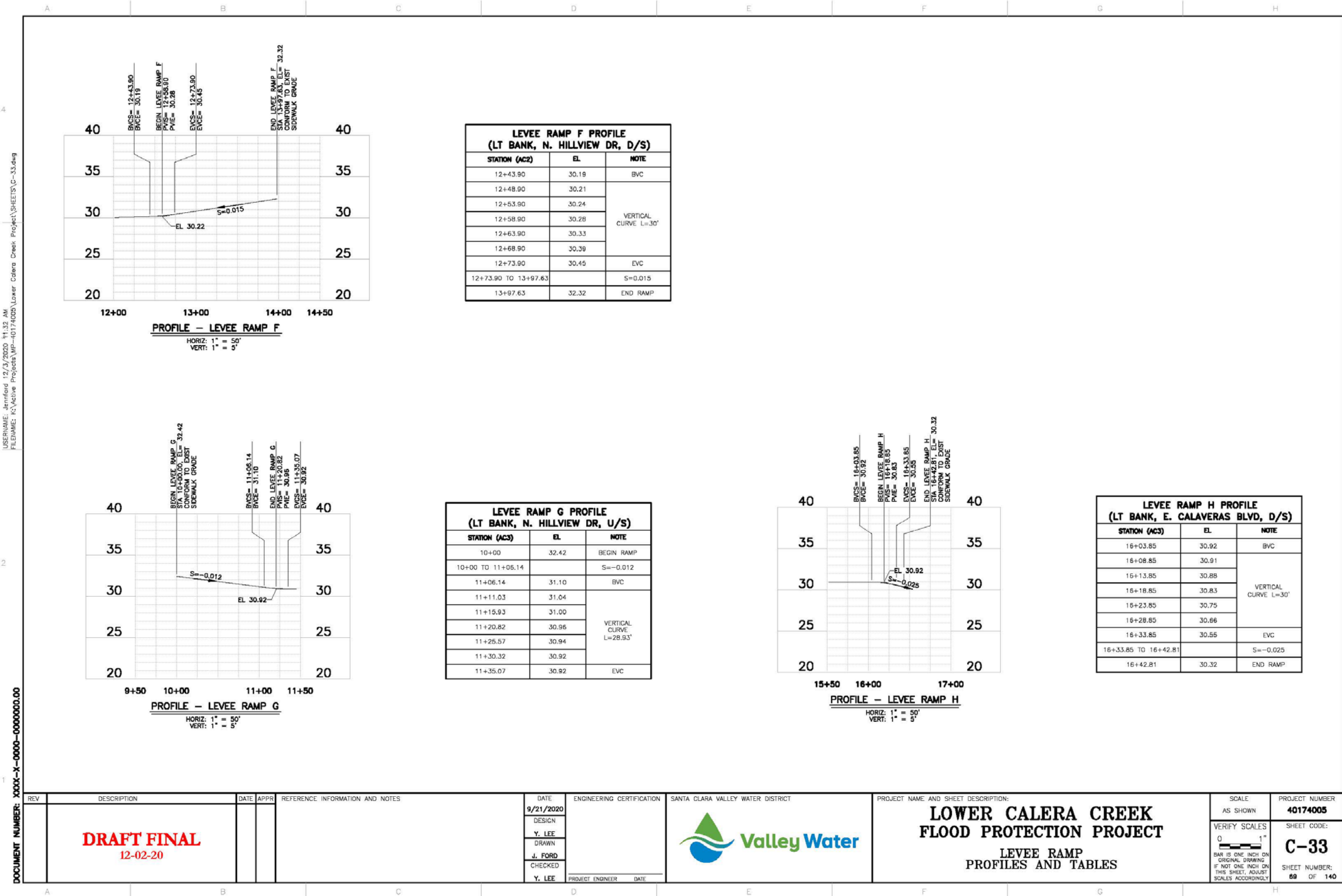


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

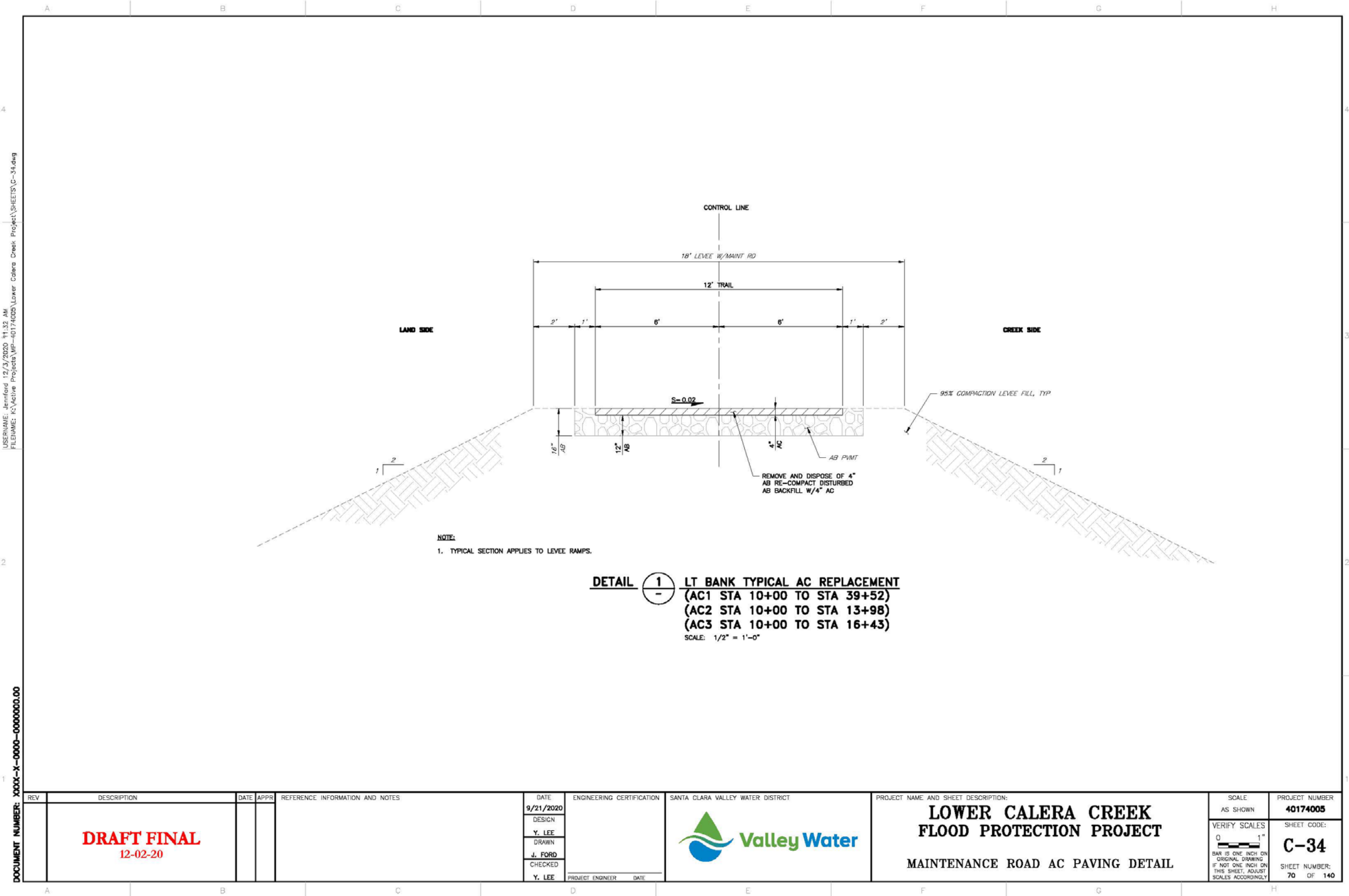


EXHIBIT C

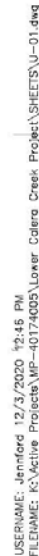


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

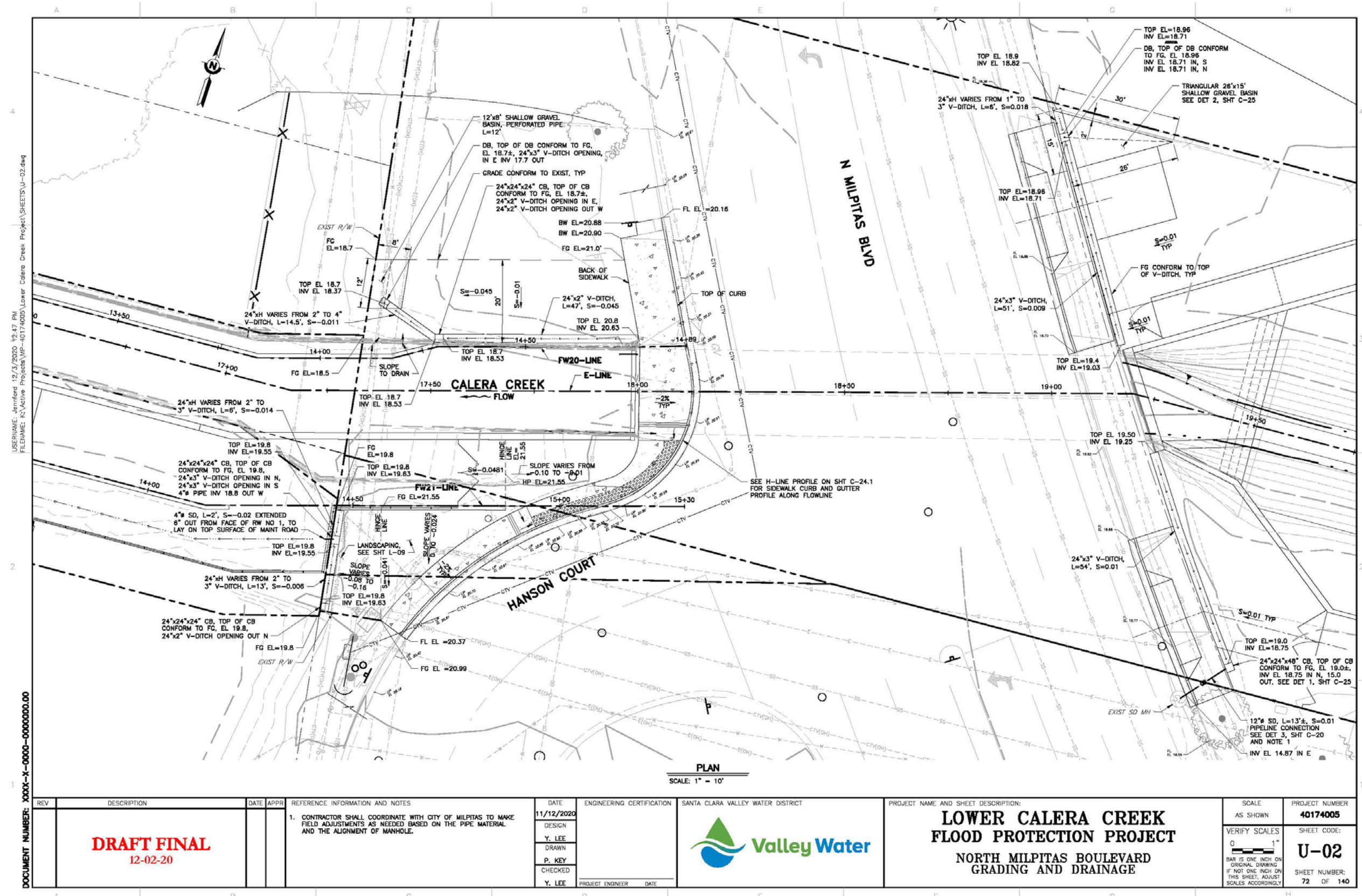


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

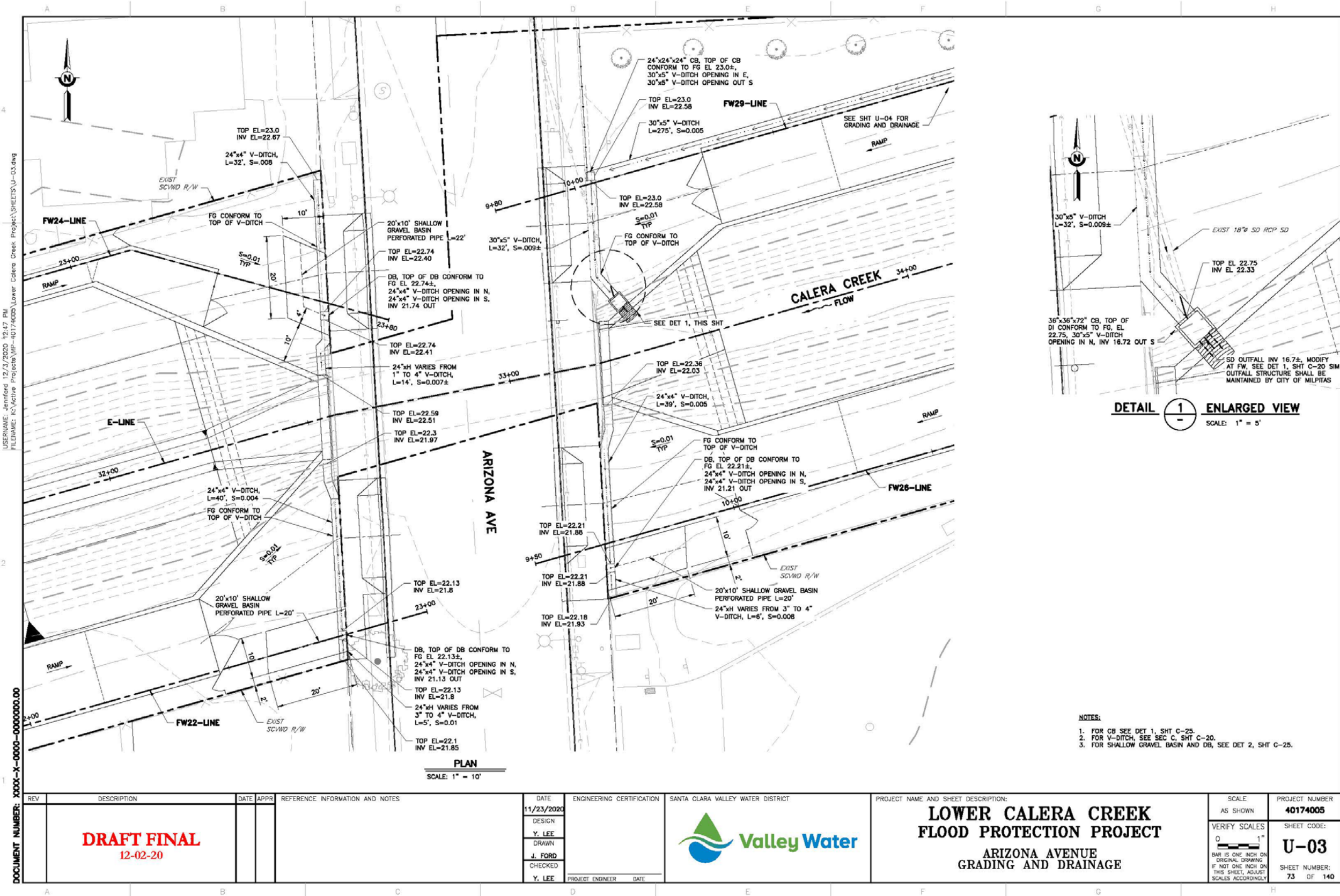


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

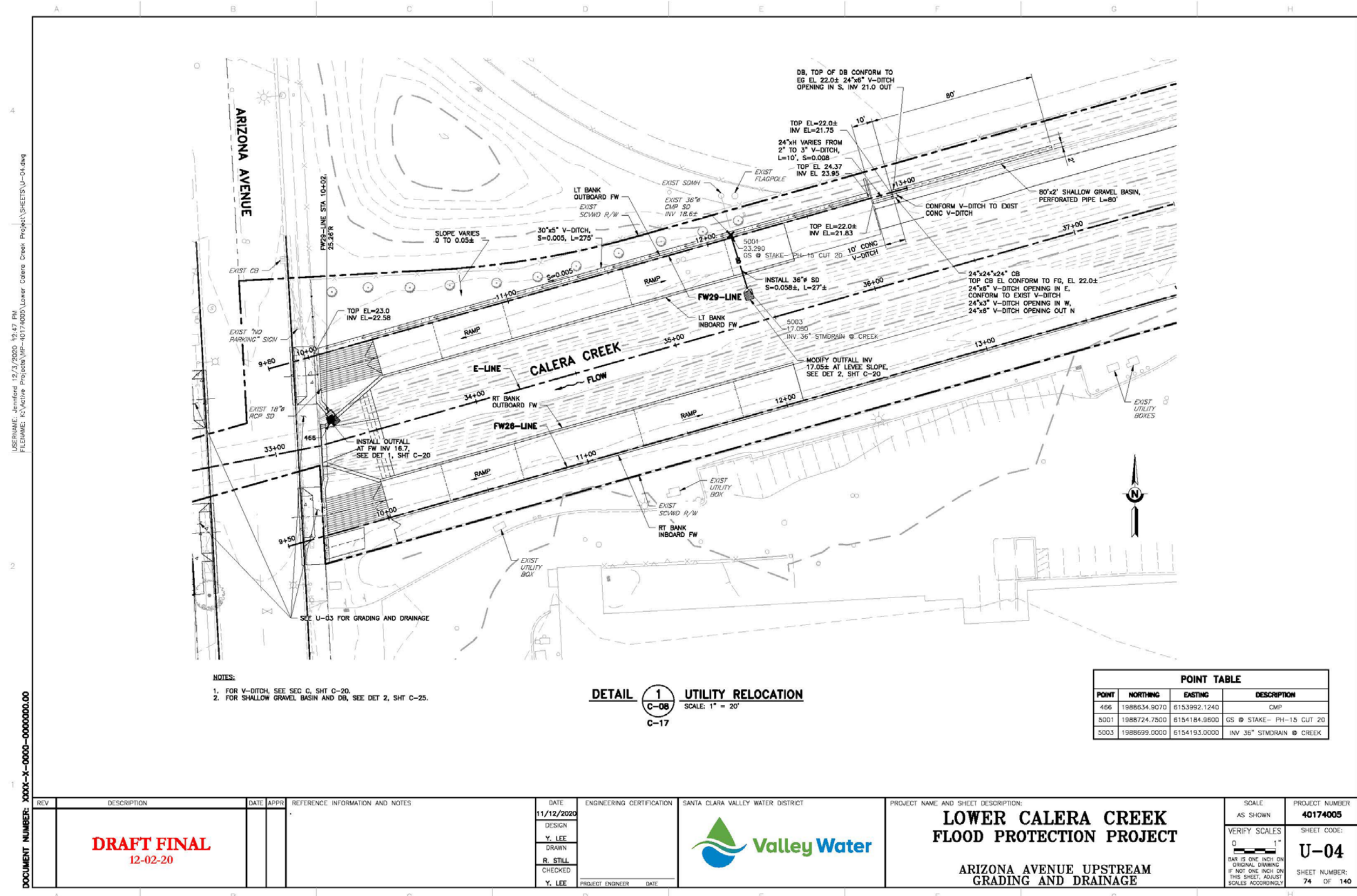


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

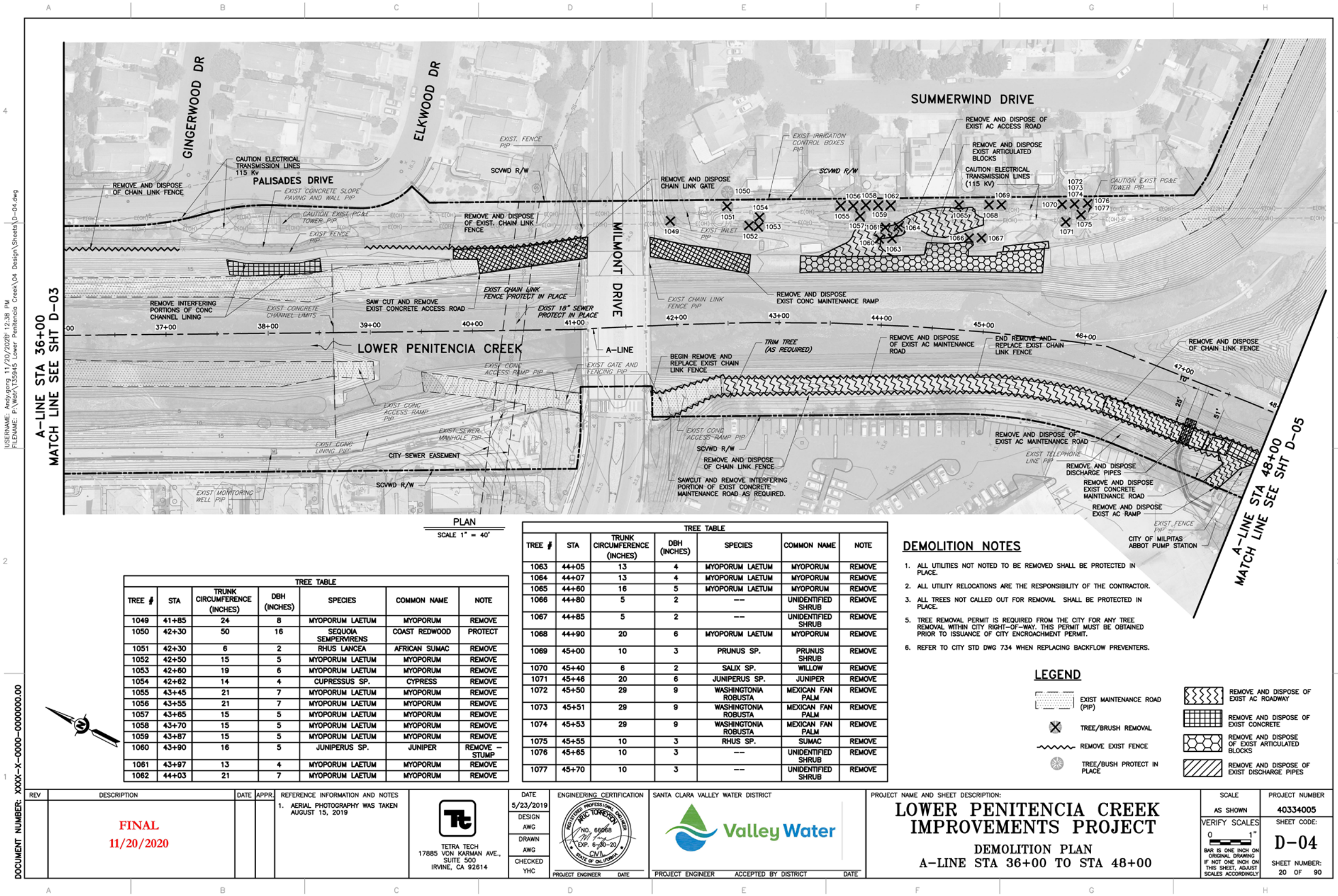


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

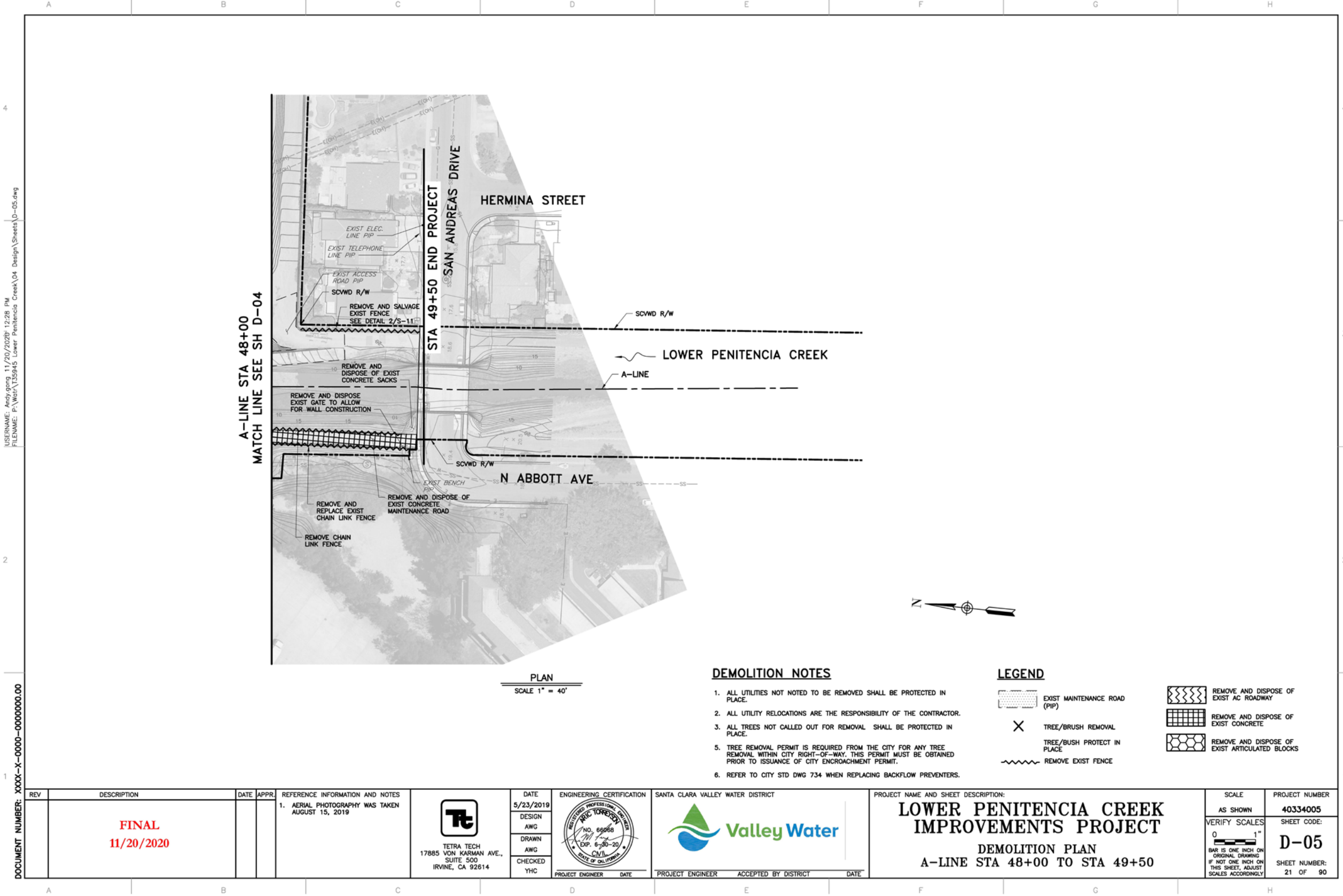


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

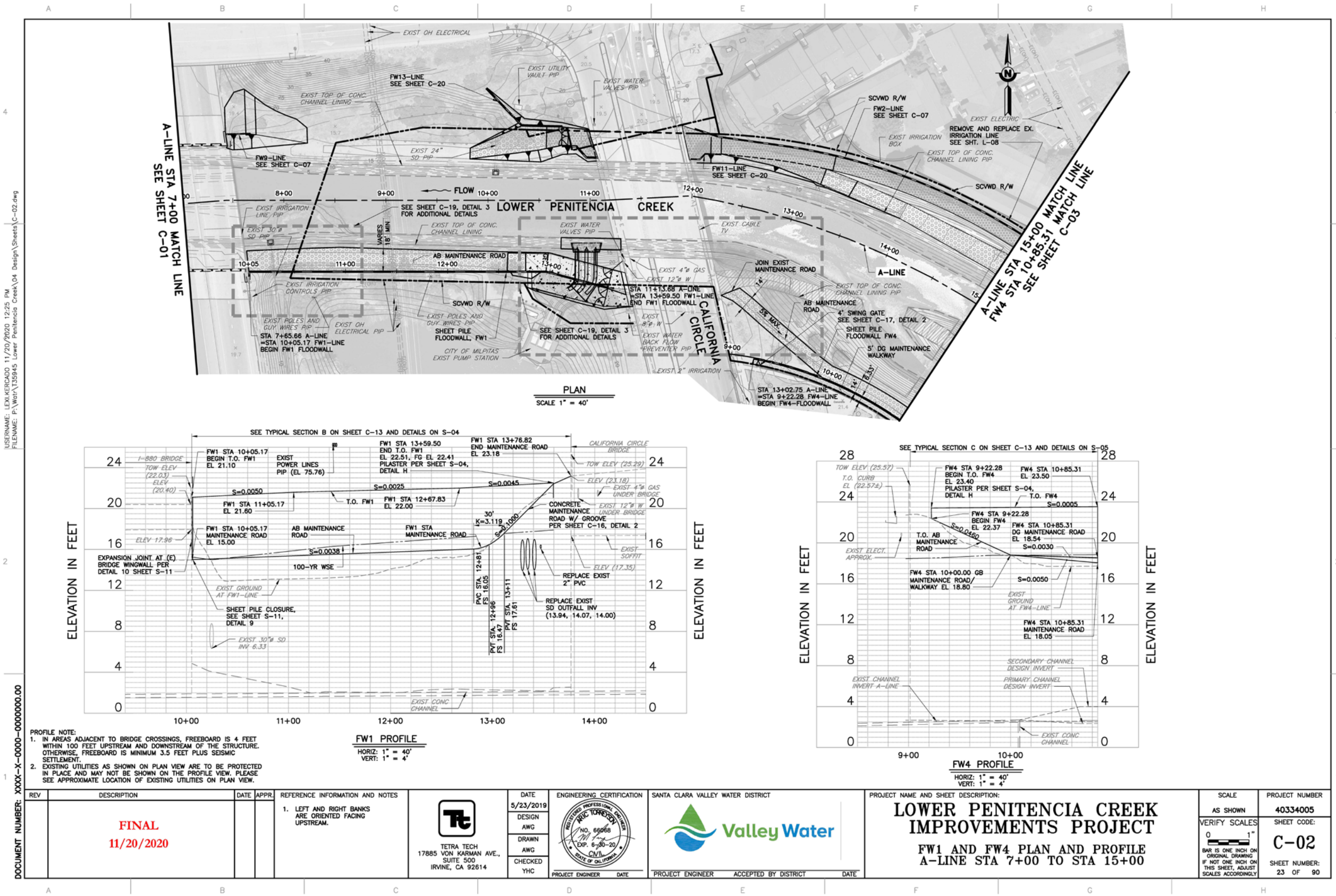


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

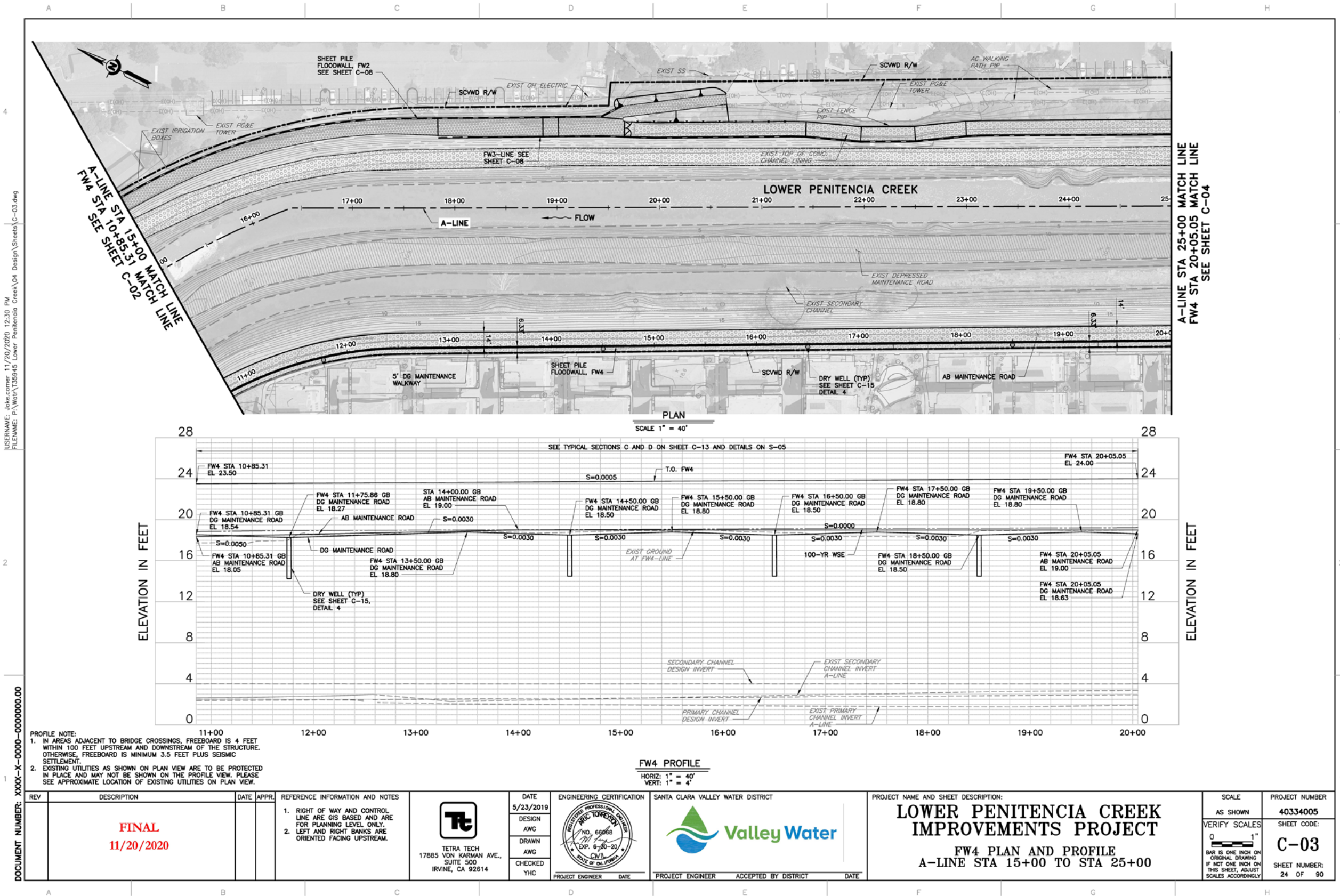


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

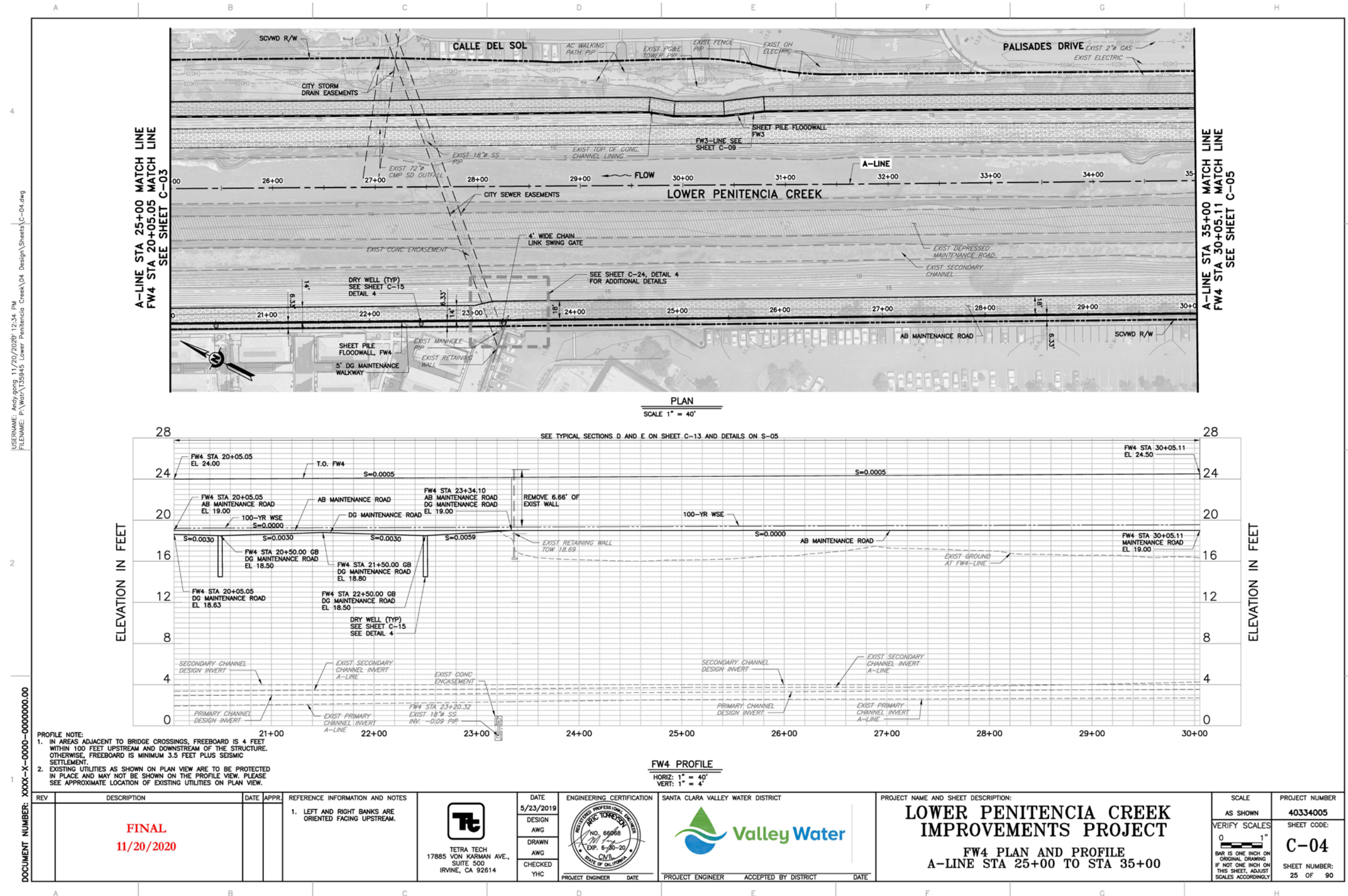


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

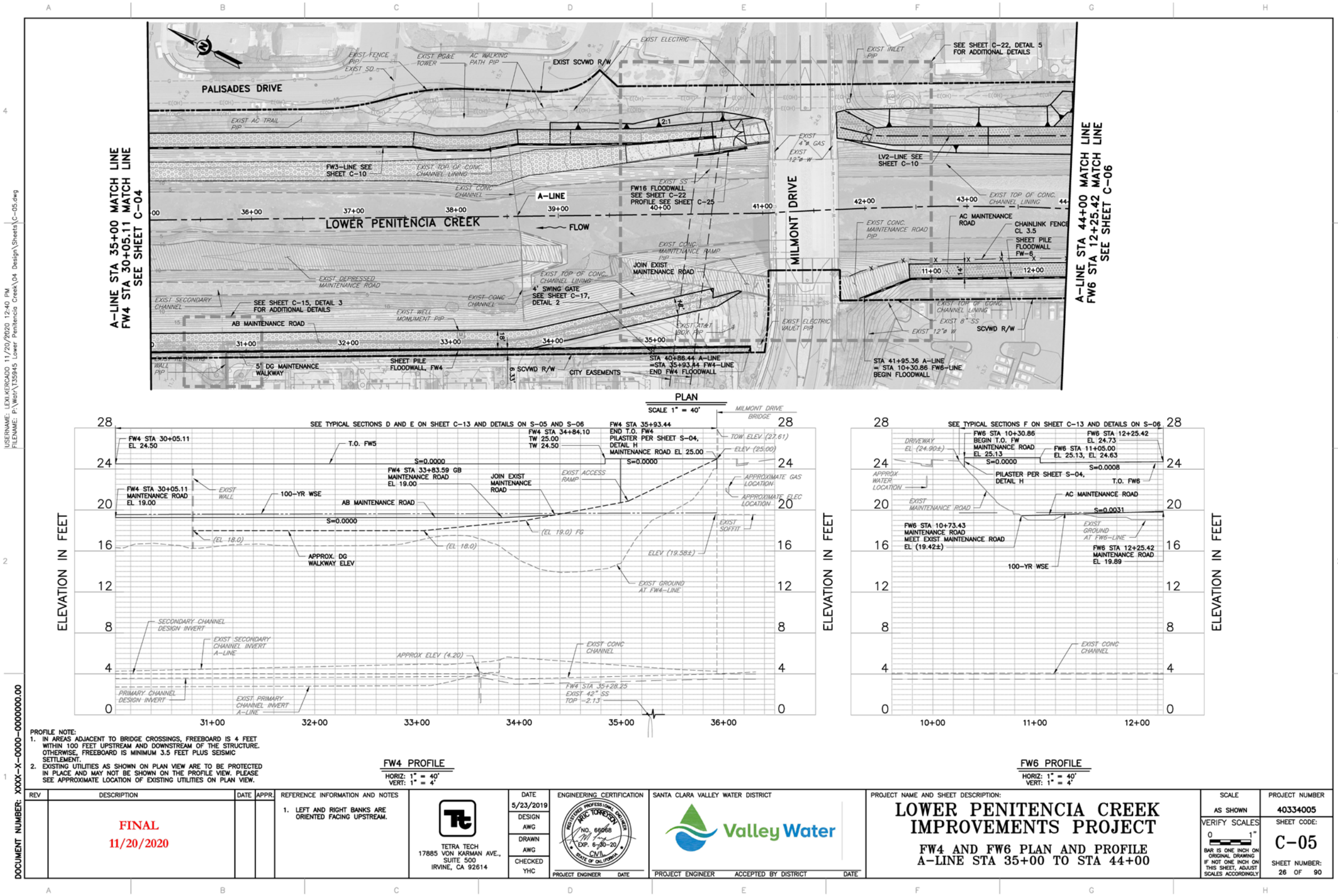


EXHIBIT C



EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

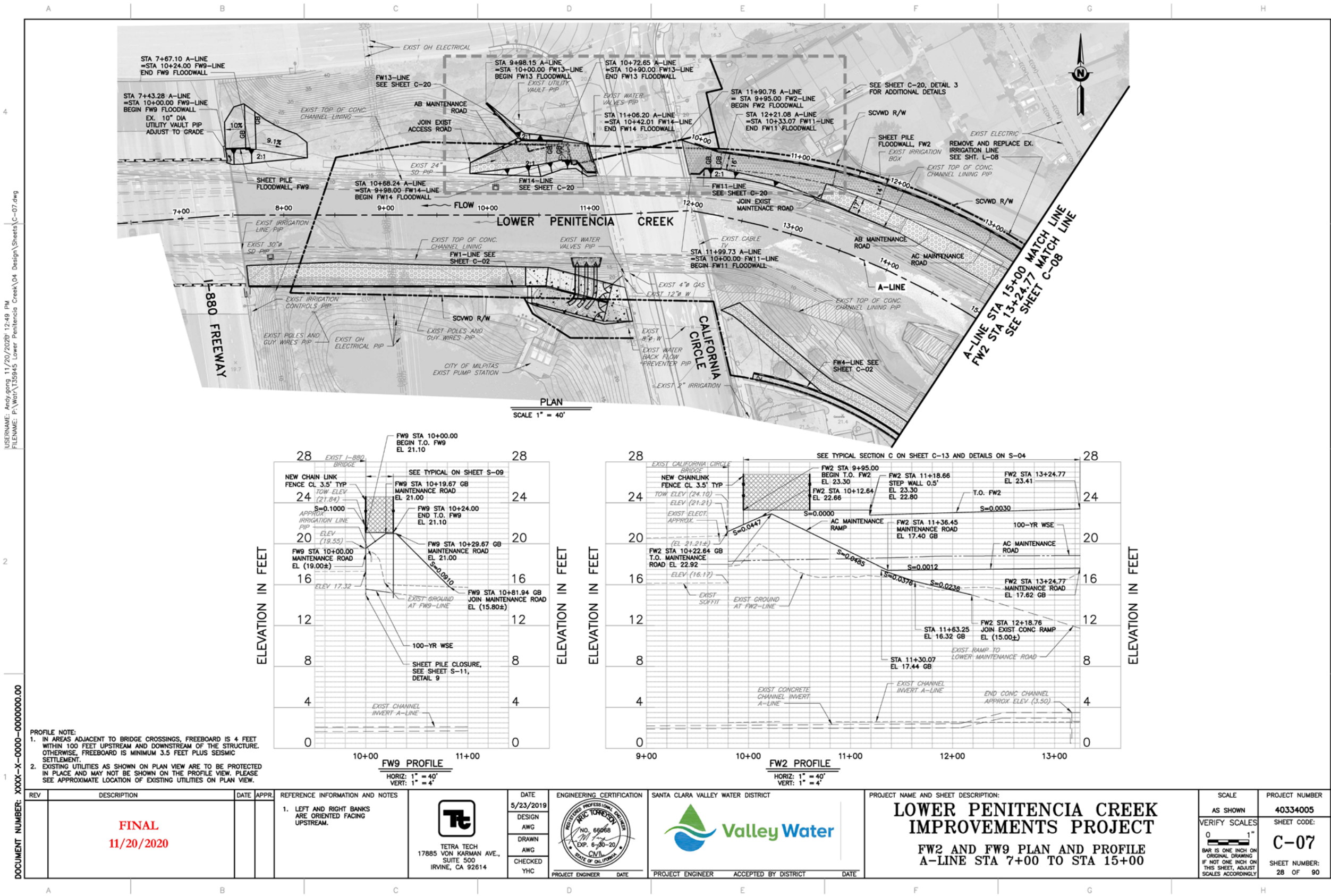


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

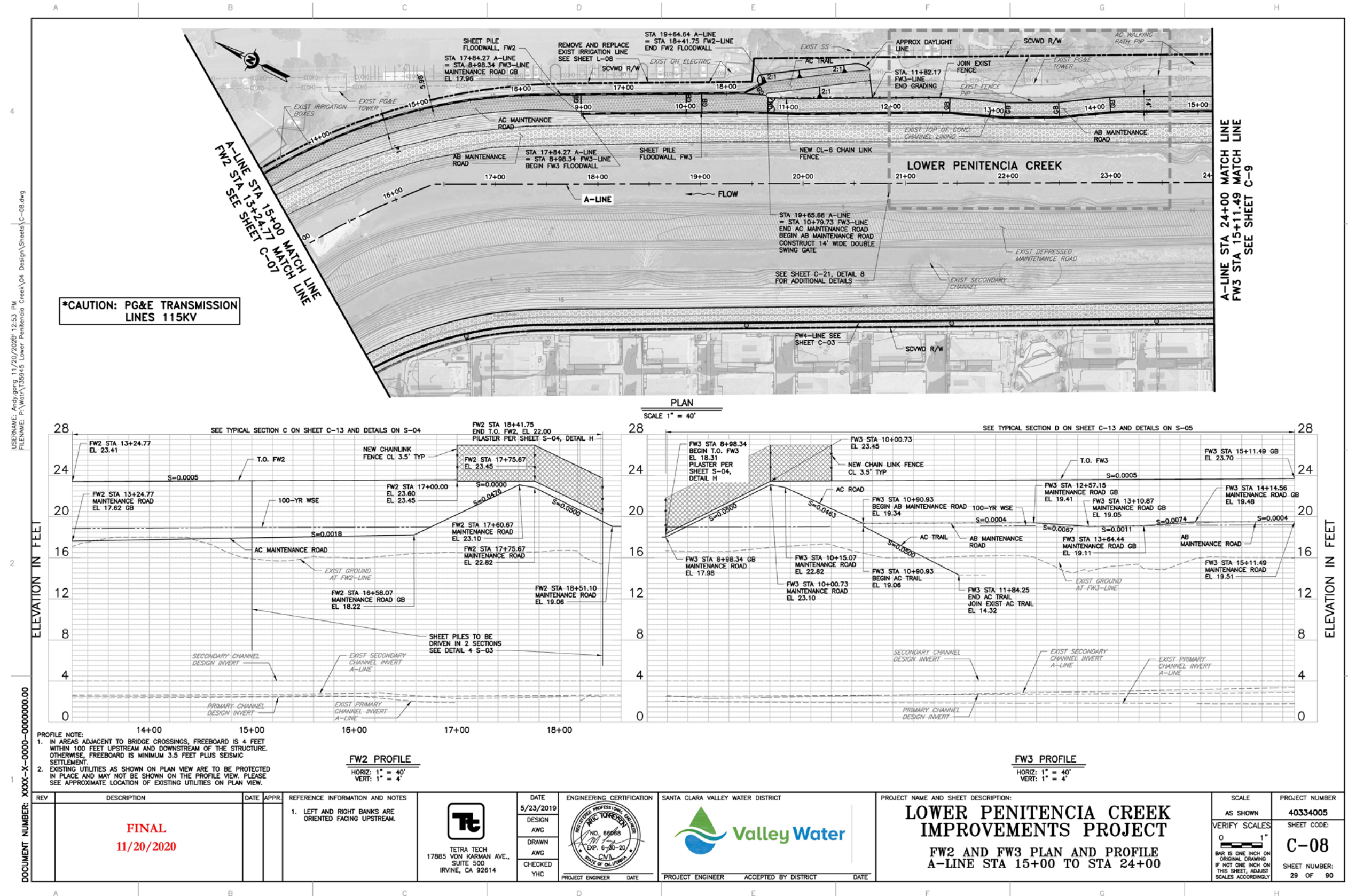


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

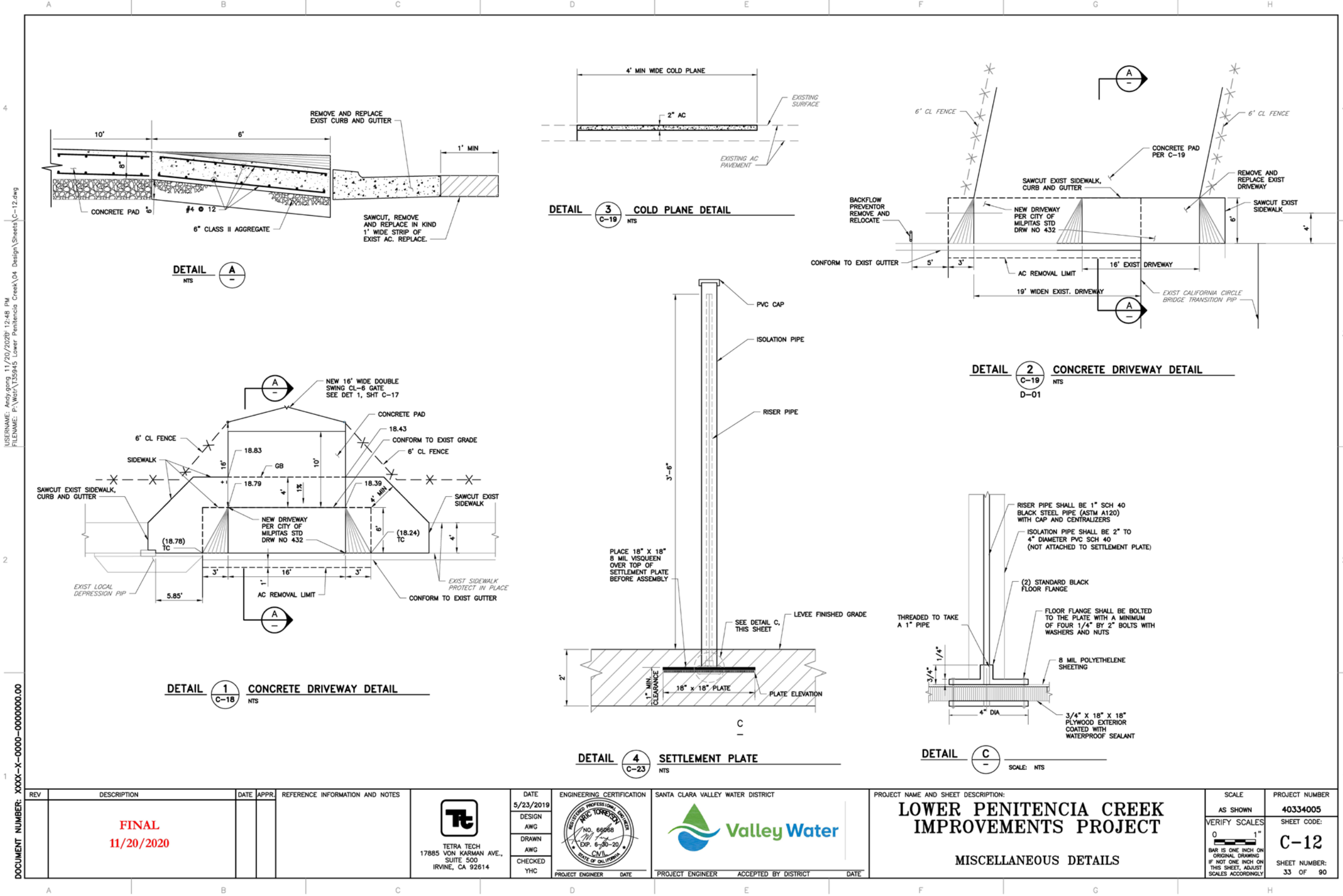


EXHIBIT C
LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

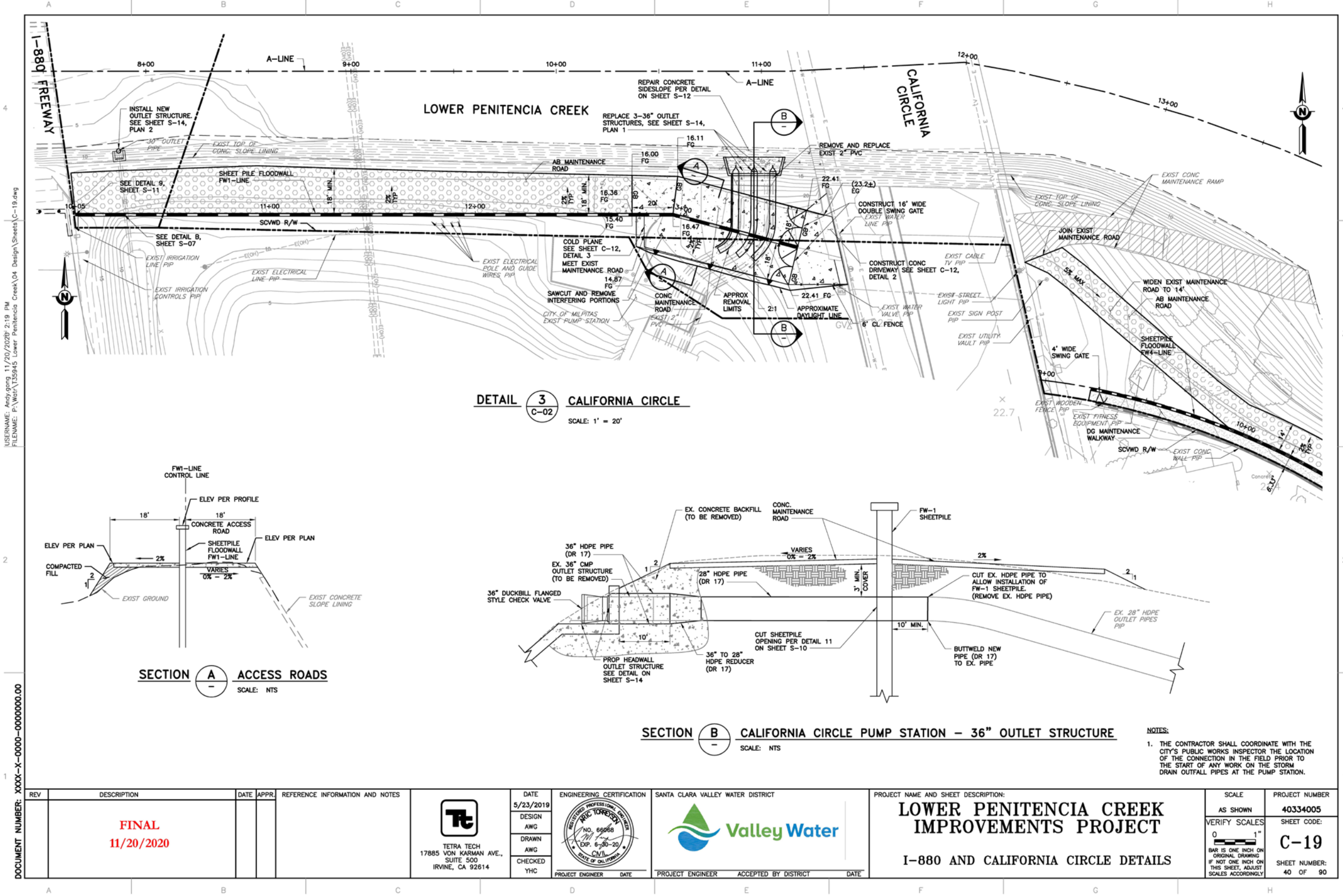


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

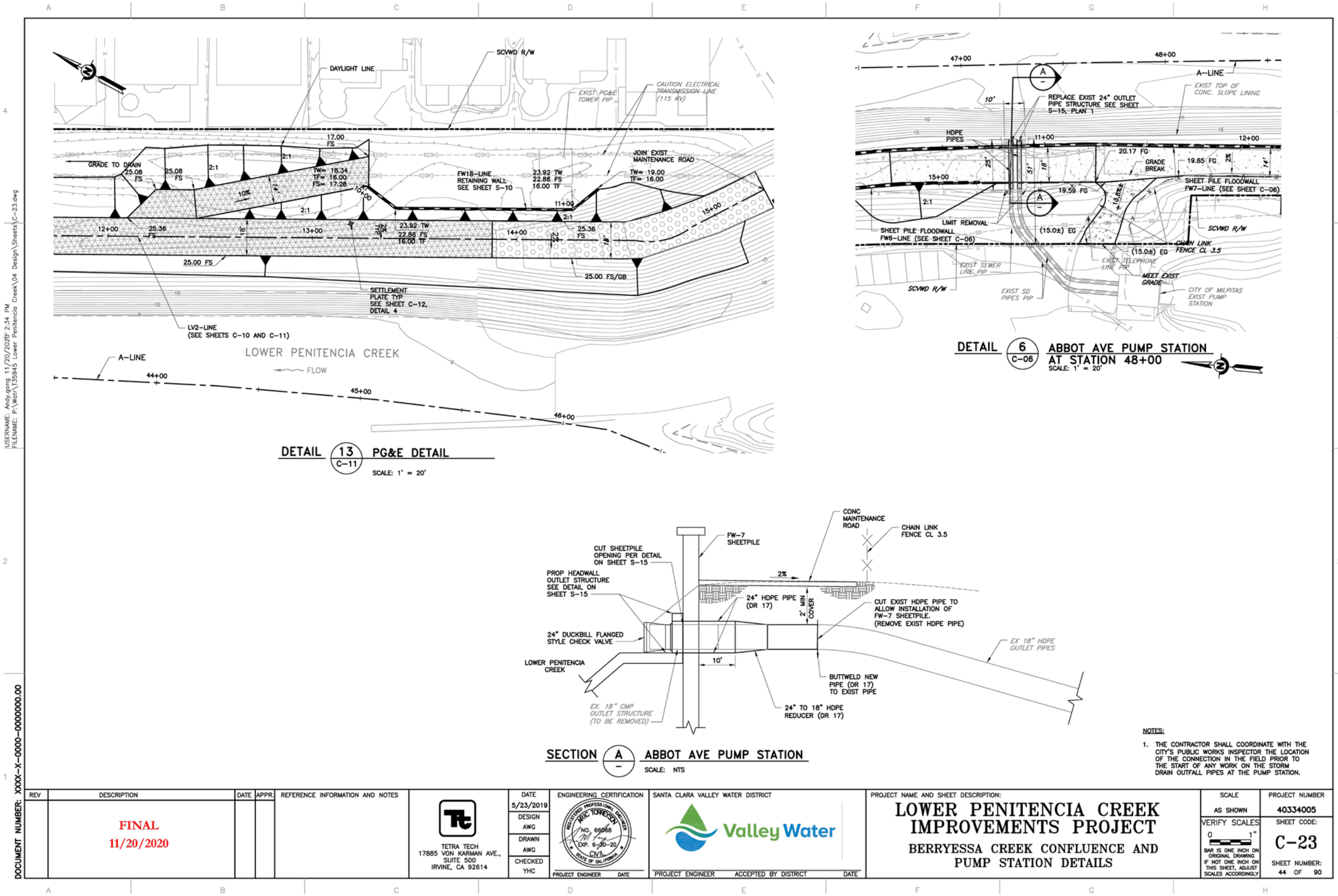


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

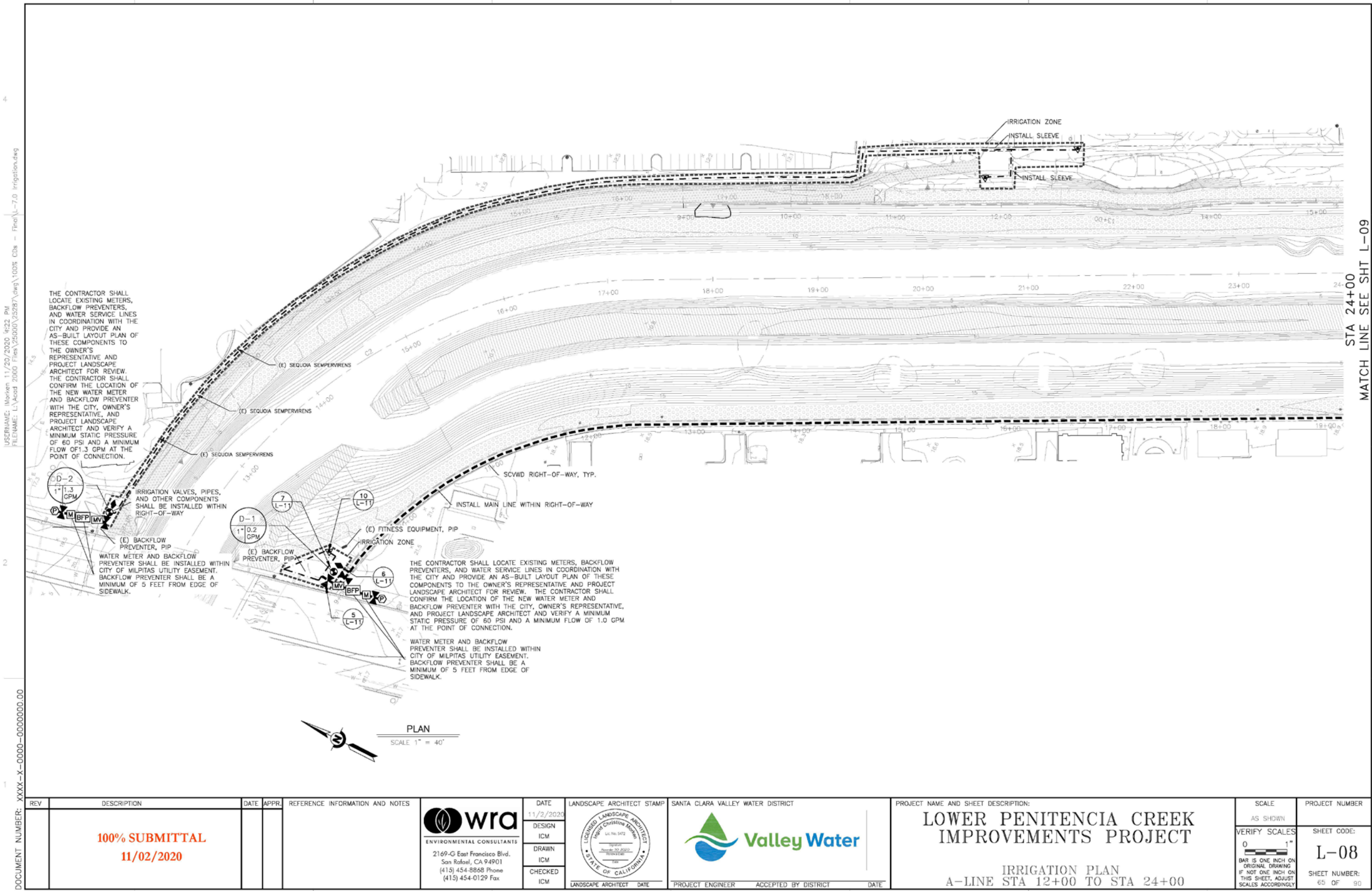


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LCC and LPC City Approved Drawings for Improvement Removal and Replacement (continued)

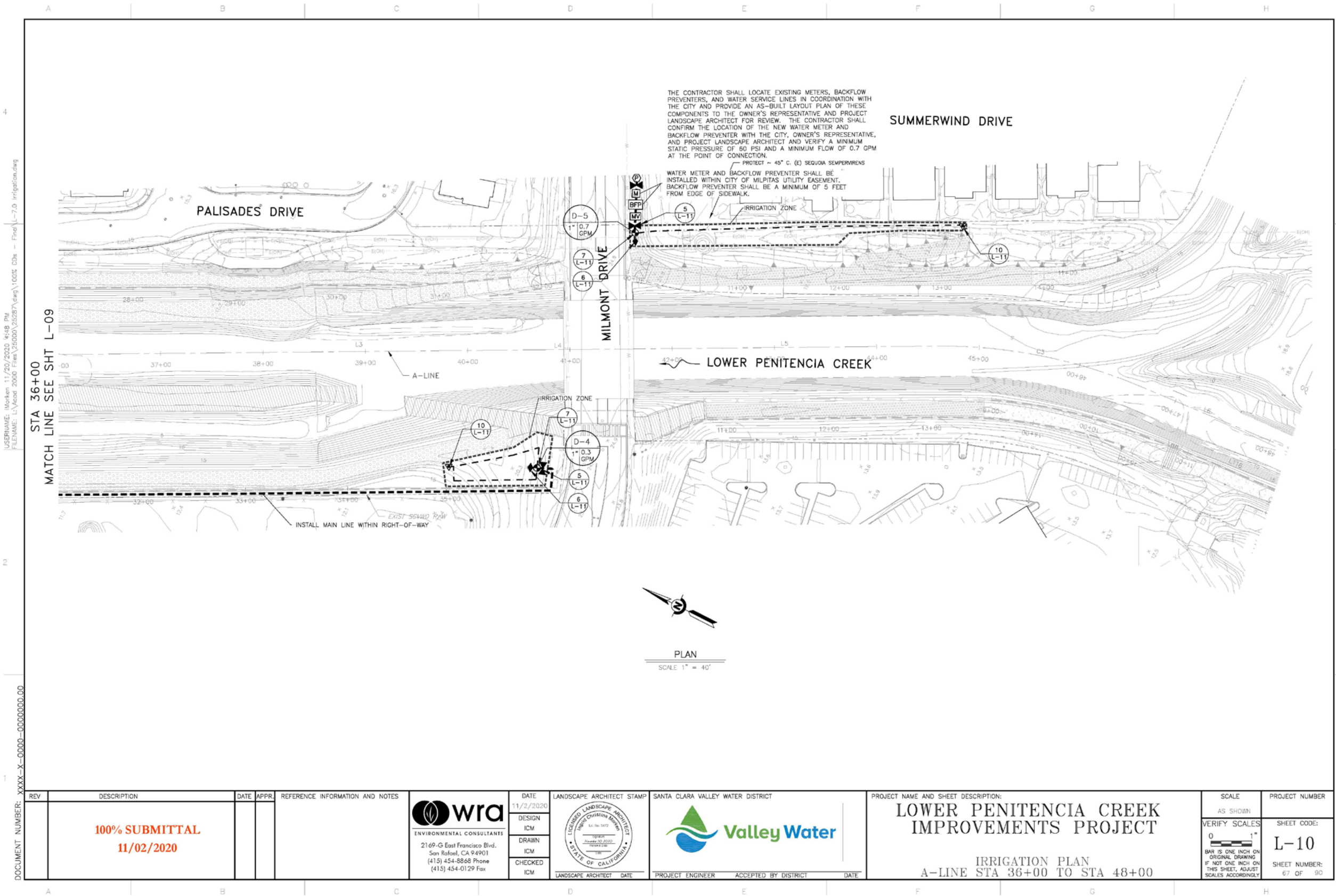
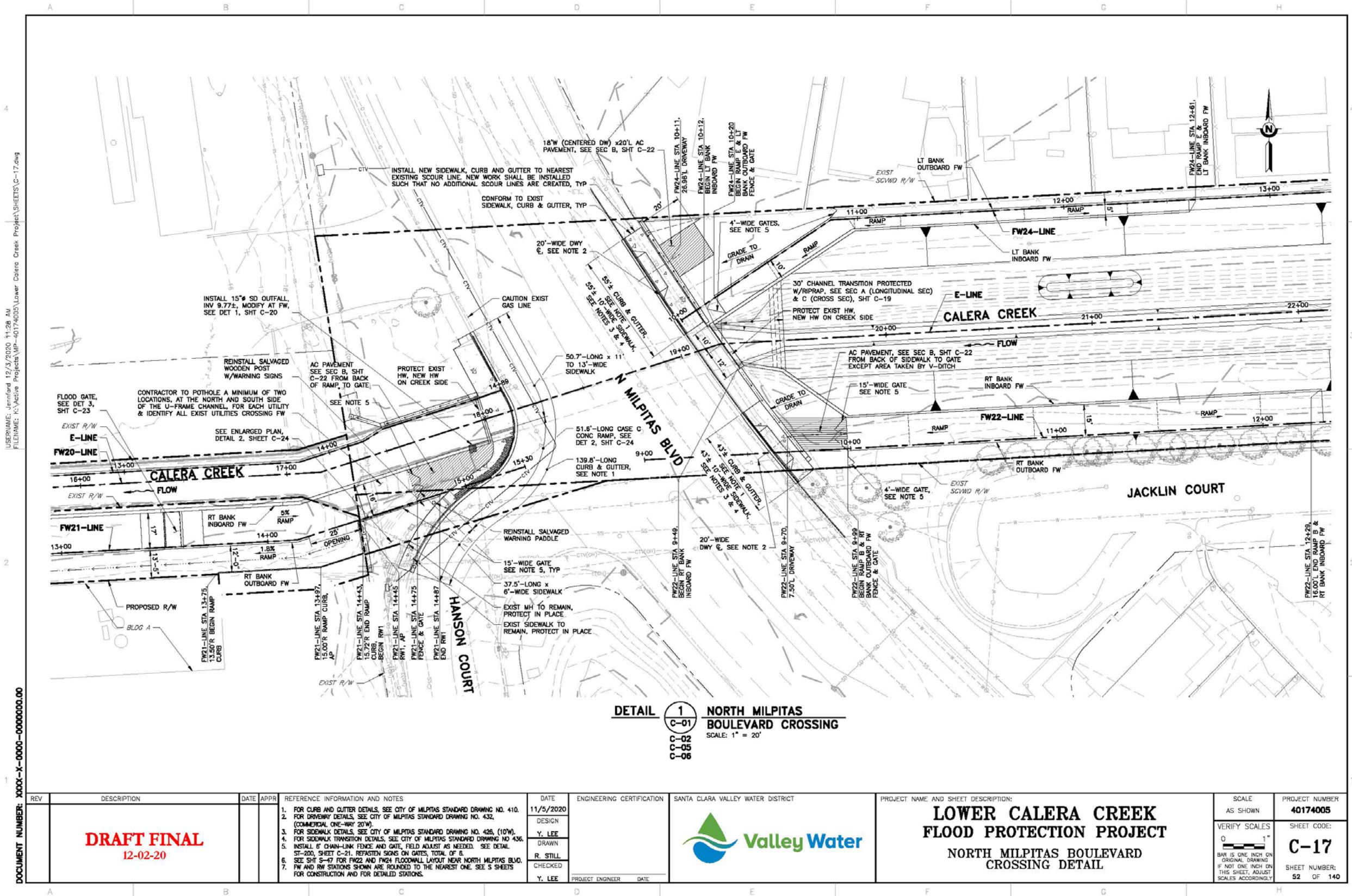
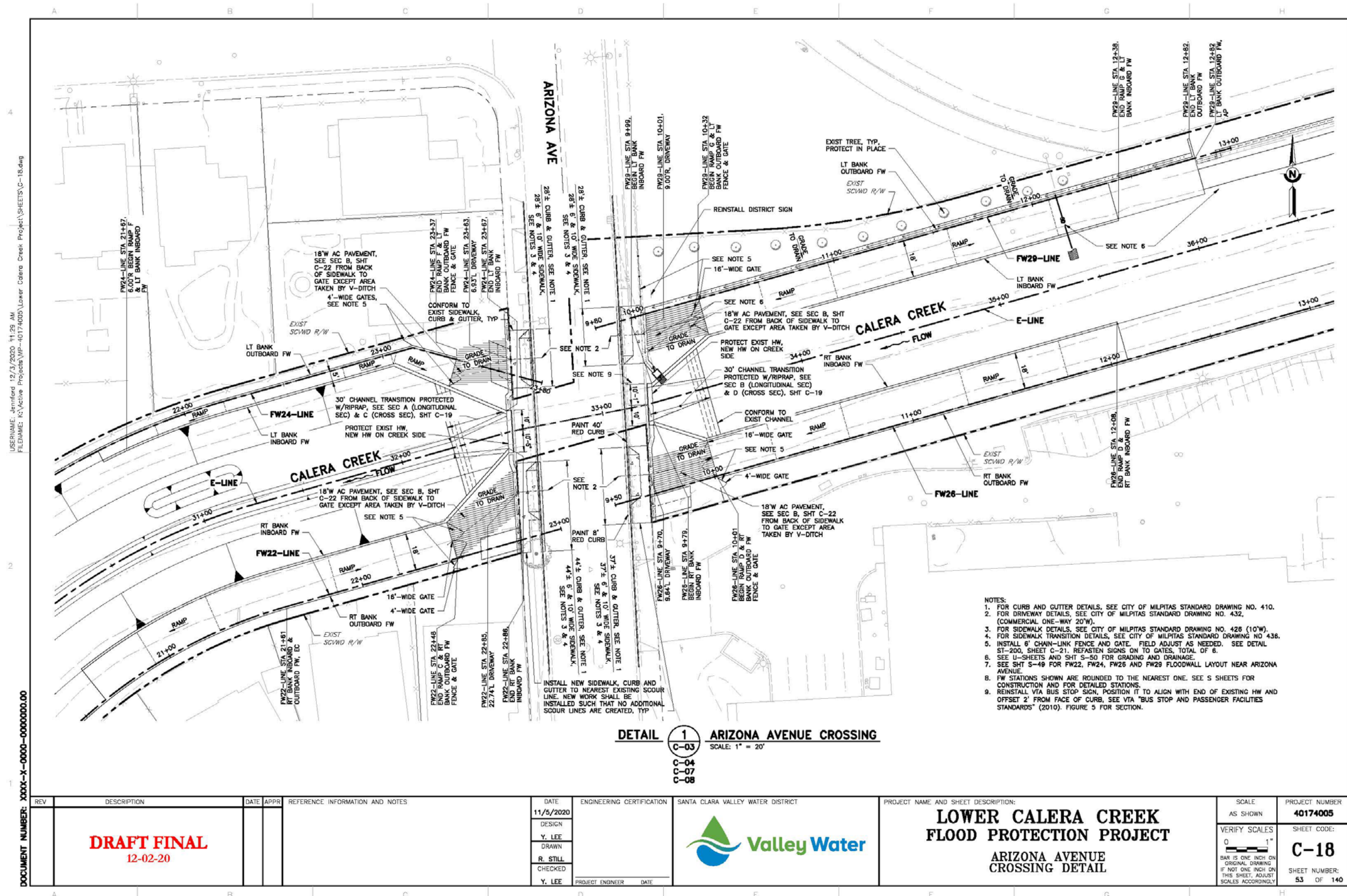


EXHIBIT D
LCC and LPC Extent of Black Vinyl Fences



LCC and LPC Extent of Black Vinyl Fences (continued)



DETAIL 1 CHAIN LINK GATES
SCALE: NTS

DETAIL 2 CHAIN-LOCK GATE OPENING
SCALE: NTS

DETAIL 3 FENCE POST IN GROUND
SCALE: NTS

DETAIL 4 AB RESURFACING
SCALE: NTS

DETAIL 5 PAVEMENT CONFORM / RESTORATION
SCALE: NTS

DETAIL 6 CONNECTION TO EXISTING FENCING
SCALE: NTS

DETAIL 7 PROJECT SIGN
SCALE: NTS

TABLE A

FENCE	D
CL-6	2'-0"

NOTES:

- ALL CHAIN LINK FENCE AND GATES SHALL BE BLACK VINYL COATED.
- LEVEL AND COMPACT EXISTING AGGREGATE BASE TO 95% RELATIVE COMPACTION.
- APPLY TACK COAT TO CUT AND GRIND EDGE OF EXISTING PAVEMENT.
- TYPE "B" ASPHALT CONCRETE PER PROJECT SPECIFICATIONS. MATCH EXISTING PAVEMENT SECTION.
- FOR CITY PAVEMENT RESTORATION DETAILS, SEE CITY OF MILPITAS STANDARD DRAWING NO.222.
- CONTRACTOR TO INSTALL DISTRICT FURNISHED SIGNS, SEE SPECIFICATIONS.

PROJECT INFORMATION:

PROJECT NAME AND SHEET DESCRIPTION: **LOWER CALERA CREEK FLOOD PROTECTION PROJECT**

SCALE: AS SHOWN

PROJECT NUMBER: **40174005**

SHEET CODE: **C-21**

SHEET NUMBER: **56 OF 140**

EXHIBIT D
LCC and LPC Extent of Black Vinyl Fences (continued)

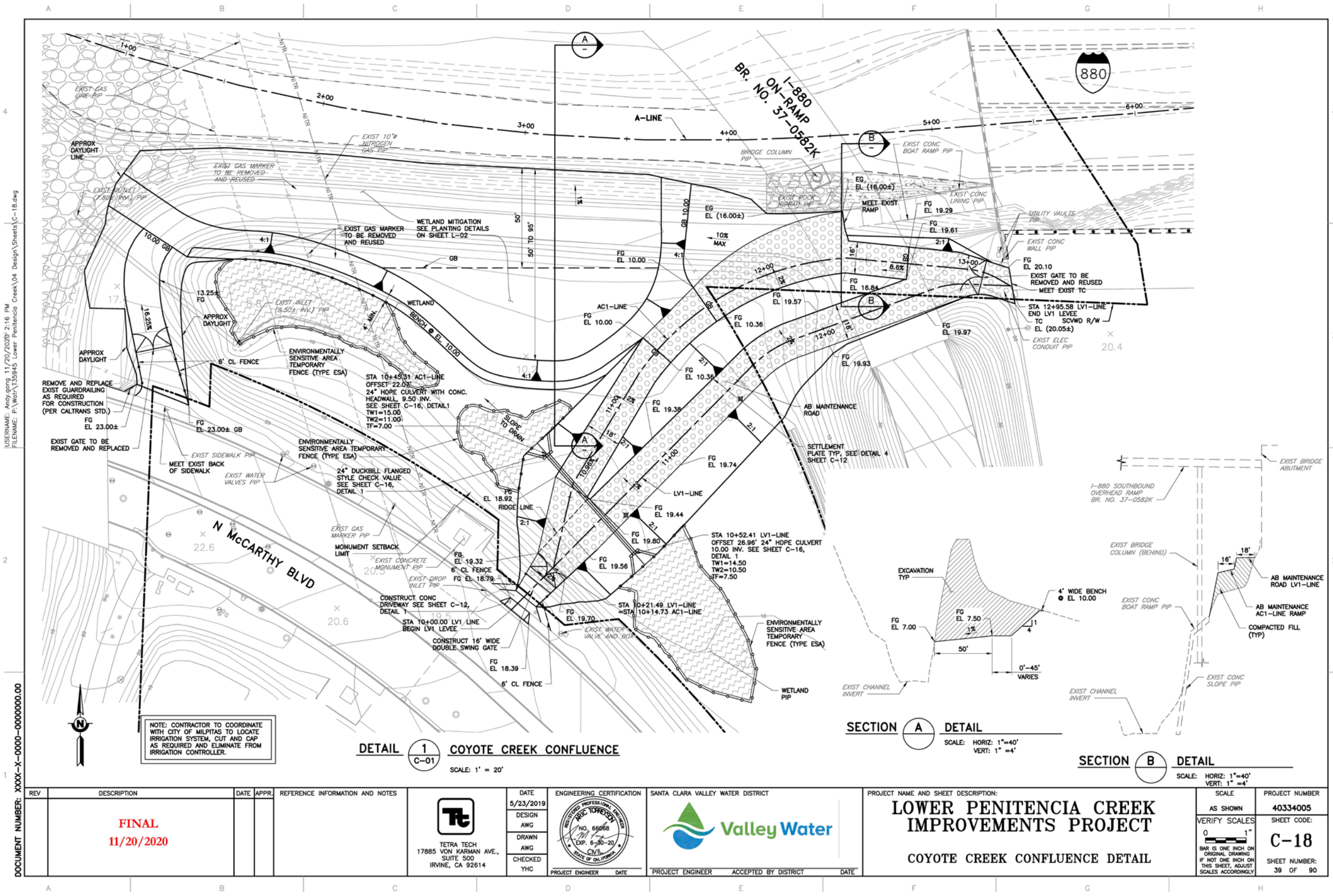


EXHIBIT E
LCC Headwall Structure at North Milpitas Boulevard and Arizona Avenue Bridges

4

3

2

1

1

2

3

4

HEADWALL GENERAL NOTES

DESIGN:
AASHTO LRFD Bridge Design Specifications, 6th Edition, and Caltrans Amendments, Preface dated November 2014.
US Army Corps of Engineers, "Retaining and Flood Walls" EM 1110-2-2502, September 1989
US Army Corps of Engineers, "Strength Design for Reinforced Concrete Hydraulic Structures" EM 1110-2-2104, November 2018
ACI 318-14, Building Code Requirements for Structural Concrete and Commentary, 2014.

HYDROSTATIC LOAD:
62.4 pcf

REINFORCED CONCRETE:
f'c = 4,000 psi
fy = 60,000 psi

EXISTING CONCRETE:
fy = 40,000 psi
f'c = 5,000 psi (assumed)

INDEX TO PLANS

SHEET
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TITLE
GENERAL NOTES
KEY PLAN
HEADWALL GENERAL PLAN
UPRR HEADWALL EXTENSIONS
HEADWALL DETAILS NO 1
HEADWALL DETAILS NO 2
FLOODWALL PLAN NO 1
FLOODWALL PLAN NO 2
FLOODWALL PLAN NO 3
FLOODWALL PLAN NO 4
FLOODWALL ELEVATION NO 1
FLOODWALL ELEVATION NO 2
FLOODWALL ELEVATION NO 3
FLOODWALL ELEVATION NO 4
FLOODWALL ELEVATION NO 5
FLOODWALL ELEVATION NO 6
FLOODWALL ELEVATION NO 7
FLOODWALL ELEVATION NO 8
FLOODWALL DETAILS NO 1
FLOODWALL DETAILS NO 2

GENERAL NOTES

1. ALL EXISTING FACILITIES, STRUCTURES, TREES, FENCES, LANDSCAPING, ETC., DESIGNATED "EXIST." OR SHOWN EXISTING (DASHED LINES) ARE TO REMAIN. ONLY THOSE SPECIFICALLY DESIGNATED FOR REMOVAL OR DEMOLITION AS SHOWN ON THE CIVIL DRAWINGS, OR AS DIRECTED BY THE ENGINEER MUST BE REMOVED.
2. ALL REFERENCES MADE TO RIGHT OR LEFT AND ALL CROSS-SECTIONS SHOWN ON THE PLANS ARE VIEWED LOOKING UPSTREAM/UPSTATION.
3. LOCATIONS AND DEPTHS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THE PLANS ARE BASED ON INFORMATION FROM THE UTILITY AND ARE TO BE CONSIDERED AS APPROXIMATE ONLY.
4. PRIOR TO PERFORMING ANY WORK IN THE VICINITY OF EXISTING UNDERGROUND UTILITIES, THE CONTRACTOR MUST VERIFY THEIR LOCATIONS AND DEPTHS AND TAKE PROPER PRECAUTIONS TO AVOID ANY DAMAGE TO THEM.
5. THE CONTRACTOR VEHICLES SHALL NOT PARK ALONG THE LEVEE ACCESS ROAD AT ANY TIME, AND CONSTRUCTION OPERATIONS MUST BE CONDUCTED IN SUCH A MANNER AS TO CAUSE AS LITTLE INCONVENIENCE AS POSSIBLE TO THE RESIDENTS.
6. THE CONTRACTOR MUST INSTALL TEMPORARY FENCES AND OTHER WARNING SIGNS OR DEVICES PER SPECIFICATIONS.
7. SEE SPECIFICATIONS FOR THE RELEVANT GEOTECHNICAL DATA AND SOILS OF BORINGS.
8. IN CURVED SEGMENTS, TRANSVERSE REINFORCEMENT MUST BE PLACED RADIAL TO THE WALL LAYOUT LINE WITH THE SPACING TO BE APPLIED AT THE OUTSIDE OF THE CURVE UNLESS NOTED OTHERWISE ON THE DRAWINGS.
9. CONTRACTOR MUST FIELD VERIFY ALL LAYOUTS, EXISTING CONSTRUCTION AND CONTROLLING FIELD DIMENSIONS PRIOR TO ORDERING OR FABRICATING ANY MATERIALS.
10. SEE CIVIL AND GENERAL SHEETS FOR ADDITIONAL INFORMATION NOT NOTED ON PLANS.

FLOODWALL GENERAL NOTES

DESIGN:
US Army Corps of Engineers, "Retaining and Flood Walls"
EM 1110-2-2502 September 1989
US Army Corps of Engineers, "Strength Design for Reinforced Concrete Hydraulic Structures" EM 1110-2-2104 November 2018

HYDROSTATIC LOAD:
62.4 pcf

SOIL PARAMETERS:
γ = 125 pcf (typical)
Undrained condition: c = 0 φ = 800 pcf
Drained condition: c = 32 φ = 0 pcf
Soil Bearing Pressure 10,500 pcf (ultimate)
Coefficient of friction 0.4 (ultimate)

EARTH LOAD:
Active 85 pcf level backfill
Passive 235 pcf

REINFORCED CONCRETE:
f'c = 4000 psi
fy = 60,000 psi
γ = 150 pcf (unit weight)

SEISMIC:
pga = 0.43g
Load = 13 pcf

CONSTRUCTION LOADING:
2 ft level earth (surcharge)

INDEX TO CALTRANS STANDARD PLANS (2015)

A1A ABBREVIATIONS (SHEET 1 OF 3)
A1B ABBREVIATIONS (SHEET 2 OF 3)
A1C ABBREVIATIONS (SHEET 3 OF 3)
A10A LEGEND LINES AND SYMBOLS (SHEET 1 OF 5)
B0-1 BRIDGE DETAILS
B0-3 BRIDGE DETAILS
B0-13 BRIDGE DETAILS
B3-5 RETAINING WALL DETAILS No. 1

LEGEND:

80-13
15-4

INDICATES STATE OF CALIFORNIA STANDARD PLAN SHEET NUMBER

INDICATES EXISTING STRUCTURE

INDICATES STRUCTURE REMOVAL (PORTION)

DOCUMENT NUMBER: CAE_CY-S-401B-66001

REV DESCRIPTION DATE APPR REFERENCE INFORMATION AND NOTES

3608 CARDOSA ASSOCIATES INC STRUCTURAL ENGINEERS
BCR
865 The Alameda
San Jose, California 95126
408-296-5515

DATE 11/1/19
DESIGN C. TOLAN
DRAWN D. MANCINI
CHECKED D. DEVLIN
PROJECT ENGINEER DATE 11/1/19

ENGINEERING CERTIFICATION
Karl Nem
DATE 12/30/20

SANTA CLARA VALLEY WATER DISTRICT
Valley Water

PROJECT NAME AND SHEET DESCRIPTION:
LOWER CALERA CREEK
FLOOD PROTECTION PROJECT
GENERAL NOTES

SCALE
AS SHOWN
VERIFY SCALES
0 1"
BAR IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

PROJECT NUMBER
40174005
SHEET CODE:
S-41
PAGE NUMBER:
96 OF 140

EXHIBIT E
LCC Headwall Structure at North Milpitas Boulevard and Arizona Avenue Bridges (continued)

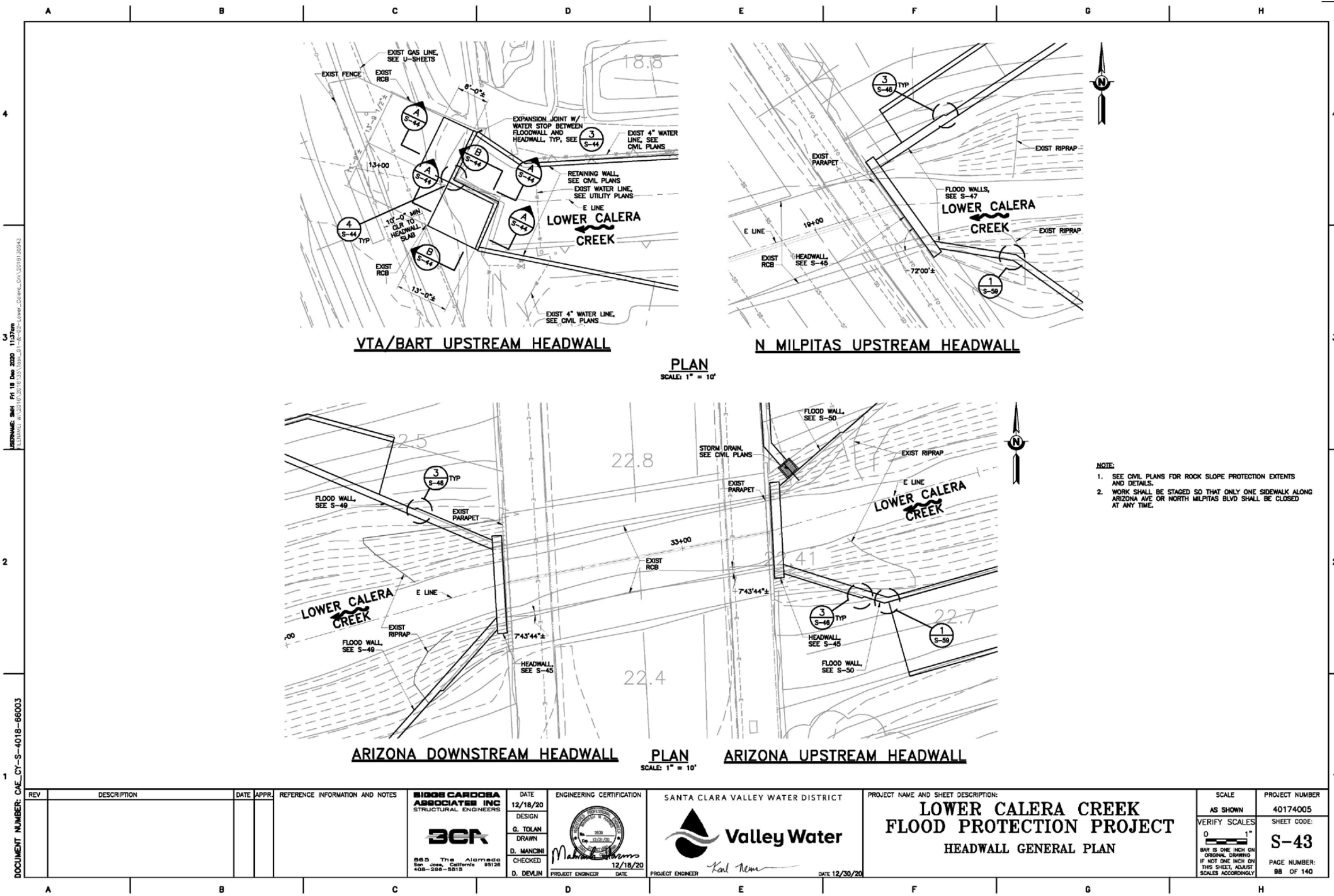


EXHIBIT E LCC Headwall Structure at North Milpitas Boulevard and Arizona Avenue Bridges (continued)

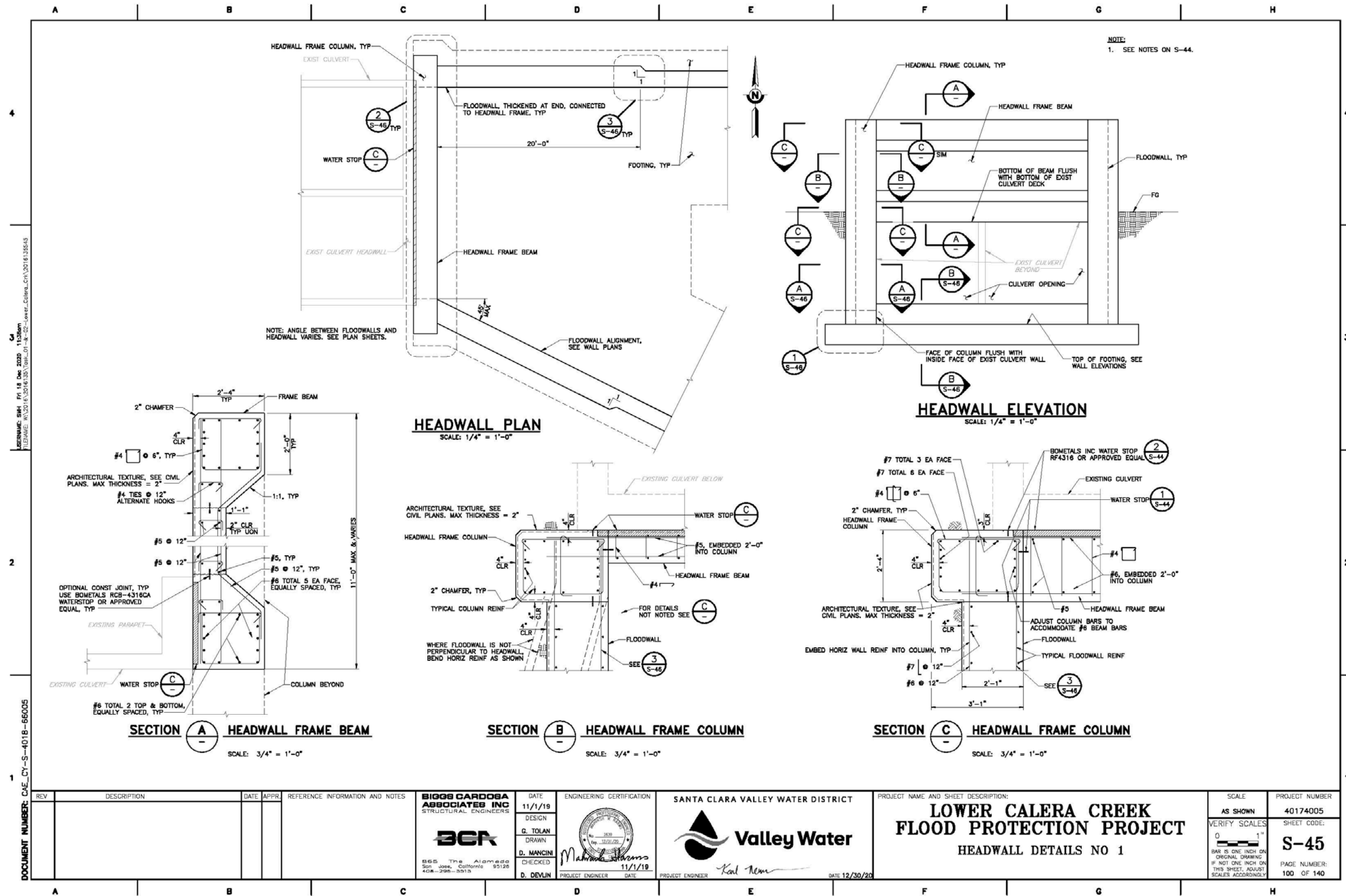


EXHIBIT E
LCC Headwall Structure at North Milpitas Boulevard and Arizona Avenue Bridges (continued)

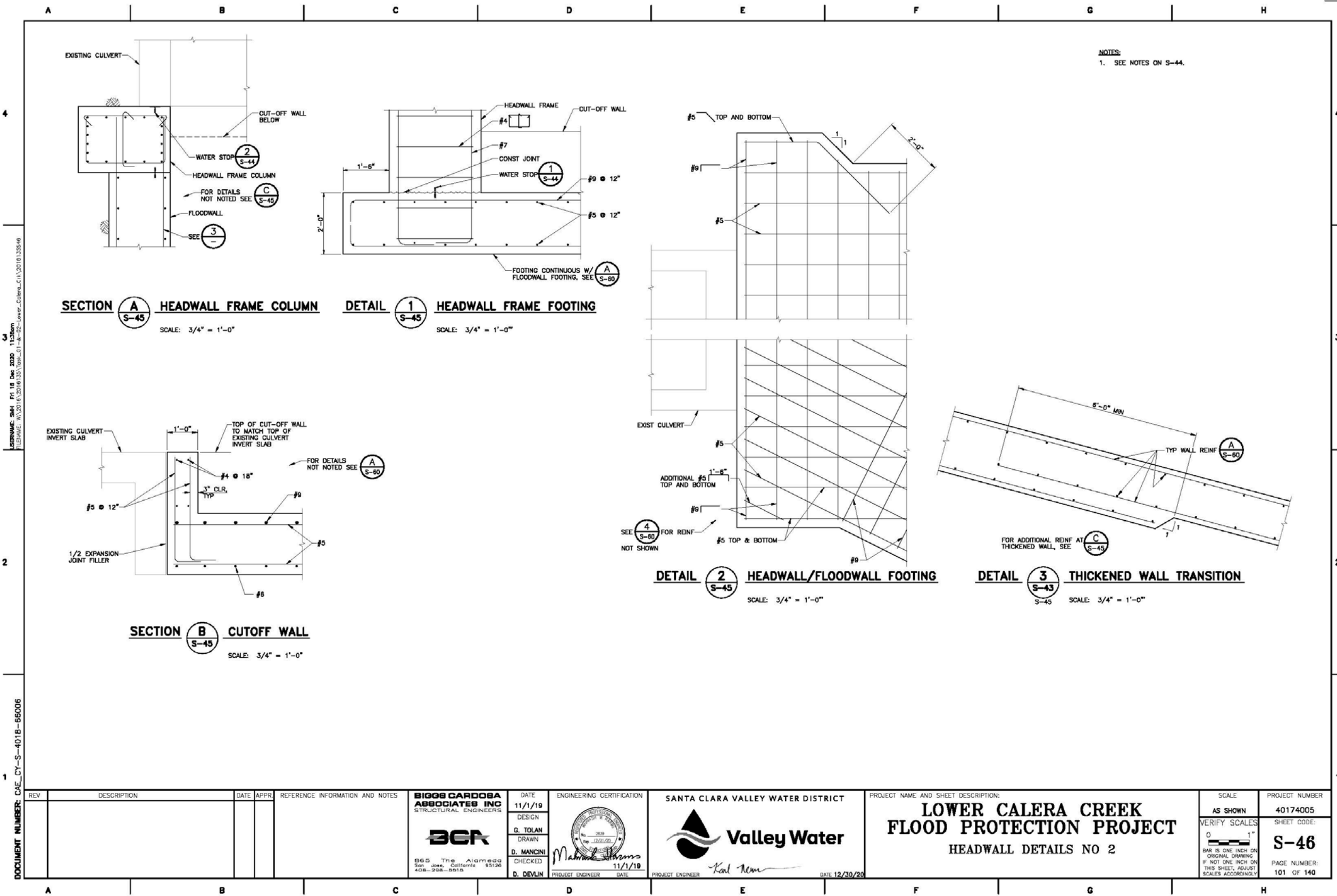


EXHIBIT F

Estimated Cost of City Improvement Work and Payment to Valley Water

Lower Berryessa Creek (LBC) Costs		
Item No.	Description of Item	Cost
1	Pedestrian Bridge Design	\$73,500
2	Construction Management	\$67,000
3	Storm Drain Outfall Modifications	\$30,000
4	Berryessa Pump Station Outfall Pipe Modifications	\$140,000
5	Asphalt Concrete Pedestrian Path (N. Milpitas Blvd to Pedestrian Bridge)	\$96,700
6	Raised Pedestrian Bridge	\$120,000
7	Retaining Walls at Pedestrian Bridge	\$180,000
8	Pedestrian Ramps (AC and PCC)	\$105,000
9	Guardrailing/Handrailing Pedestrian Ramps	\$275,500
	Total LBC Costs	\$1,087,700
	Credit for UBC landscape damages	<\$41,125>
	Final Payment per Section 5.h.	\$1,046,575

Lower Penitencia Creek (LPC) Costs		
Item No.	Description of Item	Cost
1	Demolition/Disposal of City Trail	\$70,000
2	New Asphalt Pavement City Pedestrian Trail	\$70,000
3	Concrete Paved City Pedestrian Trail	\$72,000
4	Installation of duckbill check valves for storm drain outfalls at the California Circle and Abbott Ave pump stations and storm drain outfalls located upstream of Interstate 880	\$80,000
	Subtotal LPC Costs	\$292,000
	15% Contingency Costs	\$43,800
	Total LPC Costs	\$335,800
	10% Initial Payment per Section 5.g.	\$33,580
	80% Payment per Section 5.g.	\$268,640
	10% Final Payment per Section 5.g.	\$33,580

Lower Calera Creek (LCC) Costs		
Item No.	Description of Item	Cost
1	Modify four (4) existing storm drain outfalls and install check valves	\$19,200
2	Additional Asphalt Concrete Trail at LBC	\$227,000
	Subtotal LCC Costs	\$246,200
	15% Contingency Costs	\$36,930
	Total LCC Costs	\$283,130
	10% Initial Payment per Section 5.h.	\$28,315
	80% Payment per Section 5.h.	\$226,500
	10% Final Payment per Section 5.h.	\$28,315

EXHIBIT G

LCC and LPC List of City Improvement Work

Lower Calera Creek (LCC) Project

1. Modify two existing 15-inch and 18-inch storm drain outfalls, located between N. Milpitas Blvd and the railroad crossing, including either duckbill or flap gate check valves
2. Extend two existing 18-inch and 36-inch storm drain outfalls, located upstream of Arizona Ave, including either duckbill or flap gate check valves
3. Install approximately 4,050 feet of new asphalt pavement pedestrian trail overlain the existing levee maintenance road along Lower Berryessa Creek, Phase 2 between Calaveras Blvd and Abel St.

Lower Penitencia Creek (LPC) Project

1. Remove and replace three existing 28-inch storm drain outfalls at the California Circle Pump Station with new 36-inch outfalls equipped with duckbill check valves
2. Remove and replace two existing 18-inch storm drain outfalls at the Abbot Ave Pump Station with new 24-inch outfalls equipped with duckbill check valves
3. Modify existing 24-inch storm drain outfall, located between Interstate 880 and California Circle, including duckbill check valve
4. Remove and replace the existing City trail and existing irrigation adjacent to the trail within in-kind surface material and irrigation