

**SUBMITTAL TO THE BOARD OF DIRECTORS
RIVERSIDE COUNTY REGIONAL PARK
AND OPEN-SPACE DISTRICT
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
13.3
(ID # 5092)

MEETING DATE:

Tuesday, August 29, 2017

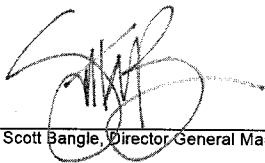
FROM : REGIONAL PARK & OPEN SPACE DISTRICT:

SUBJECT: REGIONAL PARK AND OPEN-SPACE DISTRICT: Betterment Agreement with Orange County Flood Control District concerning funding of certain improvements to the Auxiliary Embankment of Prado Dam associated with future development of the Santa Ana River Trail; CEQA EXEMPT (Clerk to File Notice); District 2; [\$350,000]

RECOMMENDED MOTION: That the Board of Directors

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15301- Existing Facilities and 15304 – Minor Alterations to Land and 15061(b)(3) – General Rule (“common sense”) exemption; and
2. Approve the Agreement (#MA-080-17012201) between the Riverside County Regional Park and Open-Space District (District) and Orange County Flood Control District (OC Flood); and
3. Authorize the Chairman of the Board to execute the Agreement on behalf of the District; and
4. Direct the Clerk of the Board to return (4) copies of the executed Amendment to the District; and
5. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk within five days of approval by the Board.

ACTION: Policy



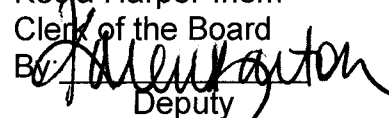
Scott Bangle, Director, General Manager / Park Director 8/17/2017

MINUTES OF THE BOARD OF DIRECTORS

On motion of Director Jeffries, seconded by Director Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Ashley
 Nays: None
 Absent: Tavaglione
 Date: August 29, 2017
 xc: Parks, Recorder

Keoia Harper-Ihem
 Clerk of the Board
 Deputy



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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 350,000	\$ 0	\$ 350,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Coastal Conservancy Grant - 33110			Budget Adjustment: NO	
			For Fiscal Year: 2017/18	

BACKGROUND:

Summary

The development and construction of the Santa Ana River Trail (SART) relies on the coordination and cooperation of many different agencies to ensure the impacts of the project are minimized, both financially and environmentally. This segment of trail is arguably, the most critical section of trail running along the top of the Auxiliary Embankment to the Prado Dam that is to be constructed by the Army Corp of Engineers (ACOE) on the behalf of OC Flood. In an attempt to reduce costs and minimize environmental impacts of a second construction project, the District has requested certain improvements be made to the Auxiliary Embankment to Prado Dam necessary for the trail improvements to be made for the Santa Ana River Trail.

Funding for these improvements will be provided to OC Flood by the District.

The Agreement has been approved as to form by County Counsel.

Pursuant to the California Environmental Quality Act (CEQA), the Project was reviewed and determined to be categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 - Existing Facilities, Section 15304 – Minor Alterations in Land and Section 15061(b)(3)- General Rule (“common sense”) exemption. The proposed Project is merely an Agreement between public agencies to provide funding and rights and responsibilities involving certain minor improvements and alterations to existing flood facilities and trails where negligible expansion of an existing use will occur. The project also involves the construction and installation of an access ramp to an existing levee, referenced as the “Auxiliary Embankment” of reasonable length to serve such flood facilities and the trails along the Santa Ana River. Lastly, construction will include grading on land of a slope of less than 10 percent appurtenant to the existing Auxiliary Embankment to help facilitate maintenance activities of the flood facilities and connectivity of the Santa Ana River Trail. The State CEQA Guidelines provides this exemption based upon the general rule that CEQA only applies to projects with the potential to cause a significant effect on the environment. With certainty, there is no possibility that the proposed project may have a significant effect on the environment. This is merely a funding agreement to be the mechanism for reimbursement to the Orange County Flood Control District for any costs associated with the project.

Impact on Citizens and Businesses

This agreement will speed up the timeline for completion of this phase of the SART.

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Supplemental (additional Fiscal Info if applicable):

Funding for this project will be provided by a California Proposition 84 grant administered by the State Coastal Conservancy.

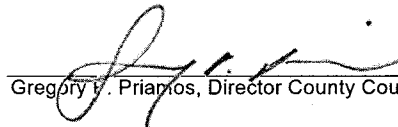
Attachments

Agreement (MA-080-17012201) with Exhibit A

Notice of Exemption


Alex Gann

8/22/2017



Gregory V. Priamos, Director County Counsel

8/17/2017



Original Negative Declaration/Notice of
Determination was routed to County
Clerks for posting on.

SCOTT BANGLE
KYLIA BROWN
BRANDE HUNE

Parks Director/General Manager
Assistant Director – Operations & Resources
Assistant Director – Business Services

8/31/17
Date

KB
Initial

Riverside County Regional Park and Open-Space District

NOTICE OF EXEMPTION

PROJECT: Santa Ana River Trail: Agreement between Orange County Flood Control District and Riverside County Regional Park and Open-Space District ("District") concerning administration of funding of certain improvements to the Auxiliary Embankment of Prado Dam associated with future development of the Santa Ana River Trail

PROJECT LOCATION: The Auxiliary Embankment of the Prado Dam is located in the western portion of Riverside County in the City of Corona, California north of the 91 freeway. APN 102-020-005

DESCRIPTION OF PROJECT: Approval and execution of an Agreement between the Orange County Flood Control District ("OC Flood") and the District to work cooperatively for the administration of funds, design for the construction of certain improvements, including an access ramp to the existing Auxiliary Embankment, and other appurtenant improvements, including grading of land with a slope of less than 10%, which will provide better access and connectivity in this area and the trail. This Agreement provides the terms and conditions whereby the OC Flood is the local sponsor and the District will provide funding for the administration and construction of the improvements to the existing Auxiliary Embankment project.

APPROVING AGENCY: Riverside County Regional Park and Open-Space District

RESPONSIBLE PARTY OR AGENCY: None

EXEMPT STATUS: The California Environmental Quality Act ("CEQA") Guidelines Section 15301, Existing Facilities, Section 15304, Minor Alterations of Land; and Section 15061(b)(3), General Rule "Common Sense" Exemption.

REASONS WHY THE PROJECT IS EXEMPT: The District is proposing to enter into an agreement with the OC Flood whereby OC Flood will administer the funds to be paid by the District. The Agreement was reviewed and determined to not be a project under CEQA as defined under State CEQA Guidelines Sections 15301, 15304 and 15061(b)(3). The proposed agreement merely provides a mechanism for administering and payment of available funding for minor alterations and improvements to an existing Auxiliary Embankment to the

AUG 29 2017 13.30

4600 Crestmore Road, Riverside, CA 92509

Tel: 951.955.4310 • Fax: 951.955.4305 • www.RivCoParks.org

NATIONALLY ACCREDITED AGENCY

Prado Dam. The project will not result in any specific or general exceptions to the use of the categorical exemption as detailed in State CEQA Guidelines Section 15300.2. The project will not cause impacts to scenic resources, historic resources or unique sensitive environments. Further, no unusual circumstances or potential cumulative impacts would occur that may reasonably create an environmental impact.

Thus, the Agreement will not have an effect on the environment and it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment. The OC Flood acting as a local sponsor will be responsible to ensure that federal and California law pertaining to environmental clearances are addressed. The administration of funding will not have a negative effect on the environment.

With certainty, there is no possibility the proposed project may have a significant effect on the environment. The execution of the agreement for project management services will not require or change the use or intensity of the existing site to create a physical environmental impact, and would not lead to any direct or reasonably foreseeable indirect physical environmental impacts. Therefore, in no way would the project management services agreement as proposed have the potential to cause a significant environmental impact and is exempt from further CEQA analysis.

Based upon the identified exemptions and support above, the Riverside County Regional Park and Open-Space District hereby concludes that no physical environmental impacts are anticipated to occur at this time and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.

Signed:  _____ Date: 8/17/12

Patrick McDonough, Senior Park Planner



SCOTT BANGLE
KYLA BROWN
BRANDE HUNE

Parks Director/General Manager
Assistant Director – Operations & Resources
Assistant Director – Business Services

Riverside County
Regional Park and Open-Space District

MEMORANDUM

DATE: August 17, 2017
TO: Mary Ann Meyer
FROM: Jeanne McLeod, Contracts and Grants Analyst
RE: Accounting String for Internal Charges

Please utilize the accounting string below to charge the Park District for any administrative expenses in connection with the attached request:

FUND	DEPTID	ACCOUNT	PROJECT
33110	931121	536780	PK-9501

Please provide a copy of the posted journal via email to Parks-Finance@rivcoparks.org

If you have any questions or experience any difficulties in using the above accounting string, please do not hesitate to contact me.

Thanks!

Jeanne McLeod
Contracts and Grants Analyst

4600 Crestmore Road, Riverside, CA 92509

Tel: 951.955.4310 • Fax: 951.955.4305 • www.RivCoParks.org

NATIONALLY ACCREDITED AGENCY

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

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AGREEMENT

This agreement, hereinafter referred to as "AGREEMENT" and for purposes of identification hereby numbered **MA-080-17012201** and dated the 22 day of August, 20 17, ("EFFECTIVE DATE") is

BY and BETWEEN ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, hereinafter referred to as "FLOOD DISTRICT,"

AND RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT, a special district created pursuant to the California Public Resources Code Division 5, Chapter 3, Article 3, hereinafter referred to as "PARK DISTRICT,"

Which are sometimes individually referred to as "PARTY," or collectively referred to as "PARTIES."

RECITALS

WHEREAS, the Water Resources Development Act of 1986, P.L. 99-662 authorized construction of certain flood control improvements on the Santa Ana River and Santiago Creek, California, which includes as a component, improvements to the Prado Dam and Basin ("PRADO DAM"); and

WHEREAS, improvements to PRADO DAM include the Phase II construction of the Auxiliary Embankment, adding on roughly 640 feet of length and about 25 feet of height onto an existing earth embankment, all within and adjacent to approximately 18.2 acres of land owned in fee title by the FLOOD DISTRICT in the City of Corona ("CITY"), hereinafter referred to as "PROJECT"; and

WHEREAS, FLOOD DISTRICT is the Local Sponsor of PROJECT with the United States Army Corps of Engineers ("CORPS") being responsible for the preparation of PROJECT plans, specifications, and estimates and construction administration; and

WHEREAS, PARK DISTRICT is the lead agency in the development of the Santa Ana River Trail (SART) through Riverside County and has grant funding available to develop and construct the SART; and

WHEREAS, PARK DISTRICT desires to supplement the PROJECT with an alternate maintenance and access ramp for FLOOD DISTRICT as shown in the attached **Exhibit A** and incorporated by this reference hereinafter referred to as "BETTERMENT," that could possibly, upon receipt of all requisite approvals, be modified by PARK DISTRICT in the future with installation of class 1 multi-use trail improvements, and

AUG 29 2017 **B.3D**
2017-10-137152

1 **WHEREAS**, PARK DISTRICT acknowledges, should it desire to seek approval to use Betterment as a class
2 1 multi-use trail in the future, it will need to request and obtain the necessary future approvals from FLOOD
3 DISTRICT AND CORPS; and

4 **WHEREAS**, it is understood by PARK DISTRICT that construction of BETTERMENT and implementation of
5 this AGREEMENT does not ensure future approval by FLOOD DISTRICT or by CORPS for any modifications or use
6 of BETTERMENT to allow the incorporation of trail features and components; and that any future request for
7 approval of such use or modifications will require PARK DISTRICT to provide the appropriate environmental
8 documentation to demonstrate compliance with CEQA and/or NEPA;

9 **WHEREAS**, it is understood by PARK DISTRICT that regardless of whether PARK DISTRICT's future
10 request for trail use is approved or not approved by the CORPS or FLOOD DISTRICT, the PARK DISTRICT shall
11 not be entitled to be reimbursed for its expenses related to BETTERMENT nor any funding pursuant to this
12 AGREEMENT; and

13 **WHEREAS**, PARTIES desire to enter into this AGREEMENT to delineate the PARTIES' respective roles
14 and responsibilities for administration of funds, design, and construction of BETTERMENT; and

15 **WHEREAS**, it is understood by PARTIES that the preeminent use of the property serving the PROJECT is
16 for flood control purposes; and

17 **WHEREAS** the BETTERMENT is beneficial to the PROJECT for access purposes independent of a
18 potential future use as a trail; and

19 **WHEREAS**, PARK DISTRICT will provide the design plans for BETTERMENT as an addendum to the
20 PROJECT plans; and

21 **WHEREAS**, FLOOD DISTRICT is willing to request the CORPS review and incorporate the BETTERMENT
22 plans as an addendum to the PROJECT plans, prepare the specifications and estimates, and administer the
23 construction contract for BETTERMENT; and

24 **WHEREAS**, FLOOD DISTRICT is willing to review the plans for BETTERMENT with respect to compatibility
25 with flood control purposes; and

26 **WHEREAS**, FLOOD DISTRICT is willing to facilitate and pass through the funds from PARK DISTRICT to

1 the CORPS that is needed to complete BETTERMENT, hereinafter referred to as BETTERMENT FUND.

2
3 **NOW, THEREFORE THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

4
5 **1. RECITALS**

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

7 **2. PURPOSE**

8 The purpose of this AGREEMENT is to establish the terms and conditions between the PARTIES for
9 implementation of the design and construction of BETTERMENT.

10 **3. PROJECT COORDINATION**

11 a. FLOOD DISTRICT's Director of OC Public Works, or an authorized designee, hereinafter
12 referred to as "FLOOD DISTRICT REPRESENTATIVE," shall be FLOOD DISTRICT's
13 representative in all matters pertaining to this AGREEMENT.

14 b. PARK DISTRICT's General Manager, or an authorized designee, hereinafter referred to as
15 "PARK DISTRICT REPRESENTATIVE," shall be PARK DISTRICT's representative in all
16 matters pertaining to this AGREEMENT.

17 **4. PERIOD OF PERFORMANCE AND TERMINATION**

18 The term of this AGREEMENT shall commence upon the EFFECTIVE DATE. Thereafter, the
19 AGREEMENT shall remain in effect until BETTERMENT has been duly accepted by the FLOOD
20 DISTRICT REPRESENTATIVE in accordance with approved plans. Once CORPS is contractually
21 obligated to a contractor for construction of the BETTERMENT, or funds for construction of the
22 BETTERMENT have been transferred to CORPS, whichever happens sooner, this AGREEMENT
23 may not be terminated until the BETTERMENT is completed.

24 **5. PARK DISTRICT RESPONSIBILITIES**

25 a. Upon FLOOD DISTRICT's request and based upon an engineer's estimate of BETTERMENT,
26 which shall include a portion of any associated right-of-way acquisition costs and expense to

1 obtain regulatory and permit approvals specific to the BETTERMENT, PARK DISTRICT shall
 2 provide to FLOOD DISTRICT an initial deposit of two hundred and sixty-two thousand dollars
 3 (\$262,000) ("BETTERMENT FUND") within thirty (30) calendar days. FLOOD DISTRICT shall
 4 manage this deposit as prescribed in Paragraph 6.a.

5 b. Within ten (10) business days upon receipt of notification of the lowest bidder's bid amount for
 6 the BETTERMENT by FLOOD DISTRICT, PARK DISTRICT agrees to notify FLOOD DISTRICT
 7 if it wishes to have CORPS construct the BETTERMENT. Failure to provide timely notification
 8 will result in the BETTERMENT not being constructed.

9 c. PARK DISTRICT may at its discretion, at no cost to FLOOD DISTRICT and CORPS, furnish a
 10 resident engineer during construction of the BETTERMENT portion of PROJECT. PARK
 11 DISTRICT's resident engineer's access to the PROJECT site shall be subject to meeting all
 12 CORPS regulations as dictated by CORPS' resident engineer. PARK DISTRICT shall be
 13 entitled to consult and cooperate with CORPS' resident engineer, ensure conformance of the
 14 construction of BETTERMENT with the approved plans and specifications and provide review
 15 and approval for any change orders. However, after consultation and cooperation with PARK
 16 DISTRICT, the decision of CORPS' resident engineer regarding all matters involving the
 17 construction of BETTERMENT shall be final.

18 d. Subject to Paragraph 5.b. above, PARK DISTRICT shall be responsible for payment of all
 19 approved change orders for BETTERMENT portion of PROJECT. All material change orders
 20 shall be subject to review, consultation and concurrence by PARK DISTRICT
 21 REPRESENTATIVE prior to their execution and implementation, however, PARK DISTRICT's
 22 decision regarding change orders shall be subordinate to CORPS' resident engineer's decision,
 23 which shall be final. Subject to this paragraph and the paragraph above, PARK DISTRICT shall
 24 pay the costs for all approved change orders within sixty (60) days after receipt of a written
 25 request for payment from FLOOD DISTRICT provided such change order does not require
 26 approval by the Board of Directors for the PARK DISTRICT. Should a change order require

1 prior approval by the Board of Directors for the PARK DISTRICT, then the PARK DISTRICT
 2 shall pay within sixty (60) days after approval Board of Directors for the PARK DISTRICT.
 3 Documentation for change order requests pertaining to the BETTERMENT shall be provided to
 4 PARK DISTRICT. PARK DISTRICT shall pay any cost increases for the PROJECT or
 5 BETTERMENT due to time needed by PARK DISTRICT to review change orders. FLOOD
 6 DISTRICT will notify PARK DISTRICT in writing when 75% of the BETTERMENT FUND has
 7 been expended, or when it anticipates substantive change orders to BETTERMENT, in order to
 8 provide PARK DISTRICT with adequate time to choose a course of action.

9 e. PARK DISTRICT has allocated and approved funds for administrative costs incurred by the
 10 FLOOD DISTRICT. PARK DISTRICT shall pay funds to FLOOD DISTRICT, in addition and
 11 separate from funds referenced in Paragraph 5.a., herein, hereinafter referred to as
 12 "ADMINISTRATION FUND" to pay for reasonable costs and expenses incurred by FLOOD
 13 DISTRICT in the performance of this AGREEMENT. PARK DISTRICT shall make an initial
 14 deposit with FLOOD DISTRICT of fifty thousand dollars (\$50,000) towards ADMINISTRATION
 15 FUND and PARK DISTRICT shall deposit additional funds for ADMINISTRATION FUND
 16 quarterly, within thirty (30) calendar days of receipt of written request for replenishment of
 17 ADMINISTRATION FUND from FLOOD DISTRICT. In the event that such amount exceeds the
 18 approved amount, PARK DISTRICT will undertake efforts to approve additional funding;
 19 however, the PARK DISTRICT is not pre-committed to obligate and approve additional funds.
 20 FLOOD DISTRICT shall include documentation and justification with all requests for
 21 replenishment of the ADMINISTRATION FUND.

22 f. PARK DISTRICT shall obtain all necessary approvals and permits, licenses, leases and/or
 23 outgrants as may be required for any modifications of BETTERMENT requested by PARK
 24 DISTRICT during the PROJECT construction. PARK DISTRICT shall obtain all permits at no
 25 cost to FLOOD DISTRICT, including paying all incidental processing, reporting and/or
 26 administrative charges (as well as for any amendments, re-application fees, etc.), as required

1 by, but not limited to, the following agencies and jurisdictions:

- 2 1) Orange County Flood Control District
- 3 2) Orange County Property Permits
- 4 3) United States of America, Department of the Army
- 5 4) U.S. Army Corps of Engineers
- 6 5) City of Corona

7 **6. FLOOD DISTRICT RESPONSIBILITIES**

- 8 a. FLOOD DISTRICT shall directly transfer all BETTERMENT FUND amounts received from
9 PARK DISTRICT to CORPS for the design and construction of BETTERMENT, if PARK
10 DISTRICT elects to proceed with the BETTERMENT after bid opening.
- 11 b. FLOOD DISTRICT shall deposit all ADMINISTRATION FUND payments from PARK DISTRICT
12 in a non-interest bearing deposit account, and use said funds to cover its administrative costs
13 and provide quarterly and annual accounting in a manner acceptable to both FLOOD DISTRICT
14 and PARK DISTRICT, within thirty (30) calendar days after the end of each quarter and sixty
15 (60) calendar days after the end of each fiscal year. FLOOD DISTRICT will be prudent and
16 exercise due diligence in its use of the ADMINISTRATION FUND.
- 17 c. FLOOD DISTRICT shall require CORPS to list the BETTERMENT as a deletable or deductive
18 construction item in the PROJECT bid documents to be deducted in the event that the PARK
19 DISTRICT elects not to proceed with the BETTERMENT. If CORPS does not list the
20 BETTERMENT as a deletable item, this AGREEMENT may be terminated by either PARTY.
- 21 d. After bid opening for PROJECT, FLOOD DISTRICT will notify PARK DISTRICT of the line item
22 bid price for construction of the BETTERMENT. If PARK DISTRICT elects to proceed and if the
23 total BETTERMENT FUND required for BETTERMENT portion of PROJECT, as set forth in the
24 lowest responsible bid, as determined by the CORPS, plus CORPS' design and administrative
25 costs and contingencies, exceed the fund remitted to FLOOD DISTRICT by PARK DISTRICT,
26 written justification supporting such excess amount shall be provided by FLOOD DISTRICT to

1 PARK DISTRICT prior to the award of the PROJECT contract by the CORPS to the successful
2 bidder. If, after it receives and reviews such written justification, PARK DISTRICT may approve
3 additional funds and shall provide additional amount to FLOOD DISTRICT within sixty (60)
4 calendar days of the receipt of a request for payment from FLOOD DISTRICT and after
5 approval by the Board of Directors for the PARK DISTRICT if such approval is required.

6 e. If the successful bid is such that total BETTERMENT FUND required to implement
7 BETTERMENT is less than PARK DISTRICT's initial deposit payment, FLOOD DISTRICT shall
8 refund the difference to PARK DISTRICT within sixty (60) calendar days after the date the
9 contract is awarded to the successful bidder.

10 f. FLOOD DISTRICT shall request that the CORPS require in the PROJECT specifications that all
11 persons or entities hired to perform the work contemplated by this AGREEMENT to obtain, and
12 require their subcontractors to obtain, insurance of the types and in the amounts satisfactory to
13 both FLOOD DISTRICT and PARK DISTRICT prior to construction.

14 g. After completion of PROJECT, FLOOD DISTRICT shall provide to PARK DISTRICT a final
15 written accounting of BETTERMENT FUND for the BETTERMENT portion of PROJECT
16 provided by the CORPS, and reconcile the amount deposited by PARK DISTRICT and refund
17 any amount remaining in BETTERMENT FUND as indicated by FLOOD DISTRICT's annual
18 accounting within thirty (30) calendar days of the date of the completion of final accounting.

19 h. After completion of PROJECT, FLOOD DISTRICT shall provide to PARK DISTRICT a final
20 written accounting of ADMINISTRATION FUND and refund any amount remaining in
21 ADMINISTRATION FUND as indicated by FLOOD DISTRICT's annual accounting within thirty
22 (30) calendar days of the date of the completion of final accounting.

23 i. FLOOD DISTRICT shall review plans and specifications for BETTERMENT portion of
24 PROJECT for compatibility with FLOOD DISTRICT's use.

25 **7. NOTICES**

26 a. Notices or other communications which may be required or provided under the terms of this

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AGREEMENT shall be given as follows:

FLOOD DISTRICT: Director,
OC Public Works
County of Orange
P. O. Box 4048
Santa Ana, CA 92702-4048
Facsimile No. (714) 967-0876

PARK DISTRICT: General Manager
Riverside County Regional Park and Open-Space District
4600 Crestmore Road
Jurupa Valley, CA 92509-6858
Facsimile No. (951) 955-4305

- b. All notices shall be in writing and deemed effective when delivered in person or on the second business day after deposit in the United States mail, first class, postage prepaid and addressed as above. Notwithstanding the above, the PARTIES may also provide notices by facsimile transmission, and any such notice so given shall be deemed to have been given upon receipt during normal business hours or in the event of receipt after business hours, the following business day. Any notices, correspondence, reports and/or statements authorized or required by this AGREEMENT, addressed in any other fashion shall be deemed not given.
- c. Either PARTY hereto may change its address to which notices are to be sent by giving written notice of such change to the other PARTY.

8. INDEMNIFICATION

- a. Indemnification by PARK DISTRICT
PARK DISTRICT hereby agrees to indemnify, defend (with counsel approved in writing by PARK DISTRICT), and hold harmless FLOOD DISTRICT, County of Orange ("COUNTY") and the elected or appointed officers, employees, agents and authorized representatives of FLOOD DISTRICT and/or COUNTY ("FLOOD DISTRICT/COUNTY INDEMNITEES") from any and all losses, injuries, liability, damages, claims, costs and expenses (including attorneys' fees and court costs), incurred by or made against FLOOD DISTRICT, COUNTY, or any FLOOD

1 DISTRICT/COUNTY INDEMNITEES arising out of or resulting from (i) any breach of this
 2 AGREEMENT by PARK DISTRICT, and/or any claims related to or arising out of this
 3 AGREEMENT including but not limited to compliance with CEQA and/or NEPA, or (ii) the willful
 4 misconduct or negligent acts or omissions of PARK DISTRICT and/or PARK DISTRICT
 5 INDEMNITEES (as defined below) in connection with the performance of this AGREEMENT,
 6 provided, however, that the indemnification provided by this subparagraph shall not operate to
 7 relieve FLOOD DISTRICT or COUNTY from any loss, injury, liability, damages, claims, costs or
 8 expenses to the extent determined by a court of competent jurisdiction to have been
 9 proximately caused by the willful misconduct or negligent acts or omissions of FLOOD
 10 DISTRICT, COUNTY, or the FLOOD DISTRICT/COUNTY INDEMNITEES, or the contractors,
 11 agents, employees, representatives, invitees, licensees or guests of any of them. Approval by
 12 FLOOD DISTRICT of PARK DISTRICT's construction plans for BETTERMENT improvements
 13 shall not relieve PARK DISTRICT of any obligation described in this paragraph. As used in this
 14 subparagraph and subparagraph (b), below, the term "PARK DISTRICT INDEMNITEES" shall
 15 include any of the elected or appointed officers, employees, agents or official representatives of
 16 the PARK DISTRICT.

17 b. Indemnification by FLOOD DISTRICT

18 FLOOD DISTRICT hereby agrees to indemnify, defend (with counsel approved in writing by
 19 PARK DISTRICT) and hold harmless PARK DISTRICT and PARK DISTRICT INDEMNITEES
 20 and the County of Riverside, or their elected or appointed officials, employees, agents and
 21 authorized representatives from any and all losses, injuries, liability, damages, claims, costs and
 22 expenses (including attorneys' fees and court costs), incurred by or made against PARK
 23 DISTRICT, any PARK DISTRICT INDEMNITEE, or the County of Riverside arising out of or
 24 resulting from (i) any breach of this AGREEMENT by the FLOOD DISTRICT, (ii) the willful
 25 misconduct or negligent acts or omissions of the FLOOD DISTRICT or its elected or appointed
 26 officials, officers, employees, agents, contractors and authorized representatives in connection

1 with the performance of this AGREEMENT, and (iii) FLOOD DISTRICT's obligations under the
 2 terms of this Agreement and applicable agreements with the United States of America, or any
 3 other instruments provided for in this AGREEMENT; provided, however, that the indemnification
 4 provided by this subparagraph shall not operate to relieve PARK DISTRICT from any loss,
 5 injury, liability, damages, claims or expenses to the extent determined by a court of competent
 6 jurisdiction to have been proximately caused by the willful misconduct or negligent acts or
 7 omissions of PARK DISTRICT, PARK DISTRICT INDEMNITEES or the guests or licensees of
 8 any of them. PARK DISTRICT acknowledges that FLOOD DISTRICT's indemnity obligations
 9 do not include any loss, injury, liability, damages, claims or expenses arising out of any risks
 10 assumed by PARK DISTRICT.

11 **9. HAZARDOUS OR TOXIC MATERIALS**

12 PARK DISTRICT shall not store or allow toxic or hazardous materials in areas that may affect
 13 PROJECT, including BETTERMENT. If PARK DISTRICT breaches the obligations stated herein, or
 14 if contamination by toxic or hazardous materials otherwise occurs for which PARK DISTRICT is
 15 legally liable to DISTRICT for damage resulting therefrom, then PARK DISTRICT shall indemnify,
 16 defend with counsel approved in writing by FLOOD DISTRICT, and hold FLOOD DISTRICT and
 17 COUNTY harmless from any and all claims, attorneys fees, consultant fees and expert witness fees
 18 that arise during or after the term of this AGREEMENT as a result of such contamination. The
 19 indemnification obligations imposed upon the Park District herein this Agreement shall only survive
 20 until such time the statute of limitations period have run on such claims. This indemnification
 21 includes without limitation costs and penalties paid, if any, incurred by FLOOD DISTRICT or
 22 COUNTY in connection with any investigation of site conditions or any cleanup, remedial, removal,
 23 or restoration work required by any federal, state or local governmental entity because of toxic or
 24 hazardous materials being present in the soil or ground water and the presence of such materials in
 25 the soil or ground water is determined to be proximately caused by the negligent acts or omissions
 26 of PARK DISTRICT, its indemnitees, licensees or guests. PARK DISTRICT shall promptly take all

1 actions at its sole cost and expense as are necessary to clean, remove and restore the PROJECT
2 to its condition prior to the introduction of such toxic or hazardous materials by PARK DISTRICT
3 provided PARK DISTRICT shall first have obtained FLOOD DISTRICT's approval and the approval
4 of any necessary governmental entities.

5 **10. INDEPENDENT CONTRACTOR STATUS**

6 This AGREEMENT is by and between FLOOD DISTRICT and PARK DISTRICT and is not intended
7 and shall not be construed so as to create the relationship of agent, servant, employee, partnership,
8 joint venture or association, as between FLOOD DISTRICT and PARK DISTRICT.

9 **11. SUCCESSORS**

10 This AGREEMENT shall be binding on the successors of the PARTIES hereto and shall not be
11 succeeded by any PARTY without the prior written consent of the other PARTY. The consent of
12 such other PARTY shall not be withheld unreasonably but, prior to approving any such succession
13 involving the performance of any obligations pursuant to this AGREEMENT, the other PARTY shall
14 be satisfied by competent evidence that the successor is technically qualified and financially able to
15 perform those services to be succeeded. Failure to obtain the other PARTY's required prior written
16 approval of any proposed succession will render such succession void.

17 **12. WAIVER OF RIGHTS**

18 The failure of FLOOD DISTRICT or PARK DISTRICT to insist upon strict performance of any of the
19 terms, covenants or conditions of this AGREEMENT shall not be deemed a waiver of any right or
20 remedy that FLOOD DISTRICT or PARK DISTRICT may have, and shall not be deemed a waiver of
21 the right to require strict performance of all the terms, covenants and conditions of this
22 AGREEMENT thereafter, nor shall such failure constitute a waiver of any remedy for the
23 subsequent breach or default of any term, covenant or condition of this AGREEMENT.

24 **13. APPLICABLE LAW**

25 This AGREEMENT has been negotiated and executed in the State of California and shall be
26 governed by and construed in accordance with the laws of the State of California. In the event of

1 any legal action to enforce or interpret this AGREEMENT, the sole and exclusive venue shall be a
2 court of competent jurisdiction located in Orange County, California, and the PARTIES hereto agree
3 to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure
4 Section 394. Furthermore, the PARTIES have specifically agreed, as part of the consideration
5 given and received for entering into this AGREEMENT, to waive any and all rights to request that an
6 action be transferred for trial to another county under Code of Civil Procedure Section 394.

7 **14. SEVERABILITY**

8 If any part of this AGREEMENT is held, determined or adjudicated to be illegal, void or
9 unenforceable by a court of competent jurisdiction, the remainder of this AGREEMENT shall be
10 given effect to the fullest extent reasonably possible.

11 **15. ATTORNEY FEES/COSTS**

12 Should litigation be necessary to enforce any terms or provisions of this AGREEMENT, then each
13 PARTY shall bear its own litigation and collection expenses, witness fees, court costs and attorney's
14 fees.

15 **16. WAIVER AND INTERPRETATION**

16 Titles or captions contained herein are inserted as a matter of convenience and for reference, and in
17 no way define, limit, extend or describe the scope of this AGREEMENT or any provisions hereof. No
18 provision in this AGREEMENT is to be interpreted for or against a PARTY because that PARTY or
19 its legal representative drafted such provision.

20 **17. AUTHORITY**

21 The PARTIES to this AGREEMENT represent and warrant that this AGREEMENT has been duly
22 authorized and executed and constitutes the legally binding obligation of their respective
23 organizations or entities, enforceable in accordance with its terms.

24 **18. AMENDMENT(S)**

25 It is mutually understood and agreed by PARTIES that no addition to, alteration of, or variation of
26 the terms of this AGREEMENT, nor any oral understanding or agreement not incorporated herein,

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shall be valid unless made in writing and signed and approved by both PARTIES.

19. ENTIRE AGREEMENT

This document sets forth the entire AGREEMENT between the FLOOD DISTRICT and PARK DISTRICT and may be modified only by a written amendment between the PARTIES hereto, in accordance with Paragraph 19 ("AMENDMENT(S)"), above.

20. EXECUTION IN COUNTERPARTS

This AGREEMENT may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this AGREEMENT, the PARTIES may execute and exchange by telephone facsimile counterparts of the signature pages.

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1 **IN WITNESS WHEREOF**, each PARTY hereto has executed this AGREEMENT by its duly authorized
2 representatives as of the date set forth below.

3 **RIVERSIDE COUNTY REGIONAL PARK AND OPEN-
4 SPACE DISTRICT**, a special district created pursuant
5 to the California Public Resources Code Division 5,
6 Chapter 3, Article 3

6 Date: _____

6 By: _____
7 Chairman, Board of Directors

8 **ATTEST**
9 **KECIA HARPER-IHEM**
10 **CLERK OF THE BOARD** for the Board of Directors
11 for the Riverside County Regional Park &
12 Open-Space District

8 **APPROVED AS TO FORM**
9 **GREGORY P. PRIAMOS**
10 **COUNTY COUNSEL**

11 By: _____
12 Deputy

11 By: _____
12 Deputy County Counsel Date

13 **ORANGE COUNTY FLOOD CONTROL DISTRICT**,
14 a body corporate and politic in the State
15 of California

15 Date: 09/22/2017

15 By: Shane L. Silsby
16 Shane L. Silsby, Director
17 OC Public Works
18 Pursuant Minute Order dated August 22, 2017

19 **SIGNED AND CERTIFIED THAT A**
20 **COPY OF THIS DOCUMENT HAS**
21 **BEEN DELIVERED TO THE CHAIRMAN**
22 **OF THE BOARD**

19 **APPROVED AS TO FORM**
20 **COUNTY COUNSEL**
21 **ORANGE COUNTY, CALIFORNIA**

21 **ATTEST**

22 By: _____
23 **ROBIN STIELER**
24 Clerk of the Board of Supervisors of
25 the Orange County Flood Control District,
26 Orange County, California

22 By: [Signature] FOR TAM 8-31-17
23 Deputy Date

1 **IN WITNESS WHEREOF**, each PARTY hereto has executed this AGREEMENT by its duly authorized
2 representatives as of the date set forth below.

**RIVERSIDE COUNTY REGIONAL PARK AND OPEN-
SPACE DISTRICT**, a special district created pursuant to
the California Public Resources Code Division 5, Chapter
3, Article 3


3
4
5
6 Date: AUG 29 2017

By: 
Chairman, Board of Directors
KEVIN JEFFRIES

7
8 **ATTEST**
9 **KECIA HARPER-IHEM**
10 **CLERK OF THE BOARD** for the Board of Directors
11 for the Riverside County Regional Park &
12 Open-Space District

APPROVED AS TO FORM
GREGORY P. PRIAMOS
COUNTY COUNSEL

By: 
Deputy

By:  8-16-17
Deputy County Counsel Date
SYNTHIA M. GUNZEL

ORANGE COUNTY FLOOD CONTROL DISTRICT,
a body corporate and politic in the State
of California

13
14
15
16 Date: _____

By: _____
Chairwoman, Board of Supervisors

17
18 **SIGNED AND CERTIFIED THAT A**
19 **COPY OF THIS DOCUMENT HAS**
20 **BEEN DELIVERED TO THE CHAIRMAN**
21 **OF THE BOARD**

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

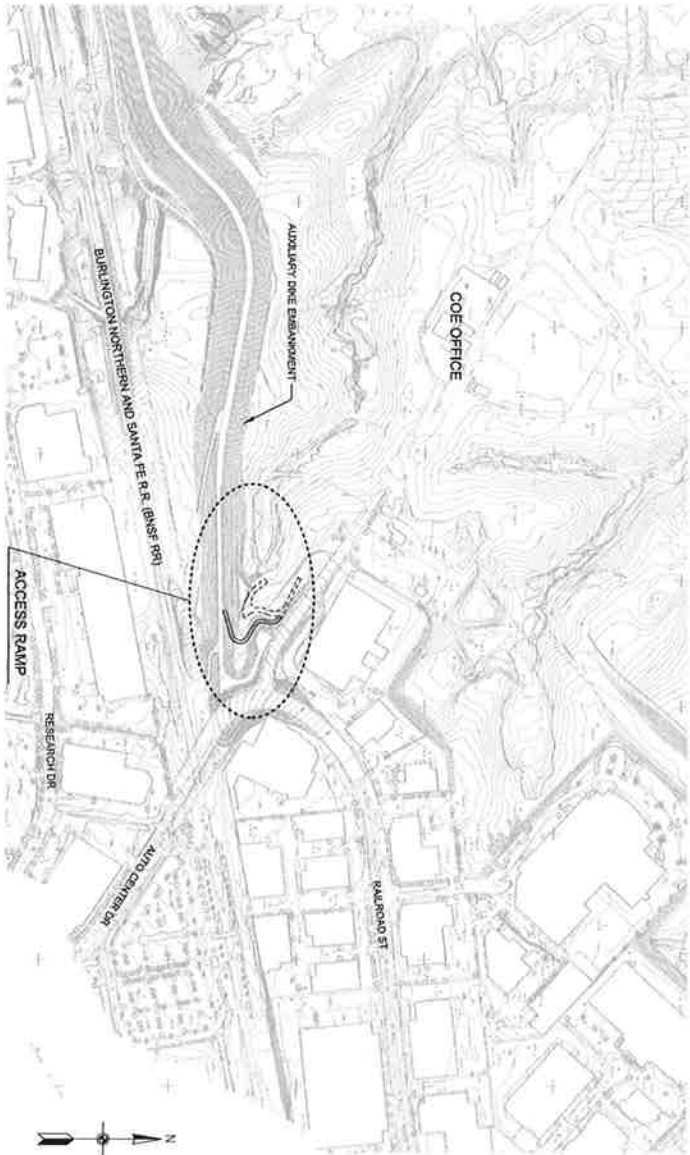
22 **ATTEST**

By: _____
ROBIN STIELER
Clerk of the Board of Supervisors of
the Orange County Flood Control District,
Orange County, California

By: _____
Deputy Date

SANTA ANA RIVER MAINSTEM, CALIFORNIA PHASE II, PRADO DAM ACCESS RAMP

ACCESS RAMP



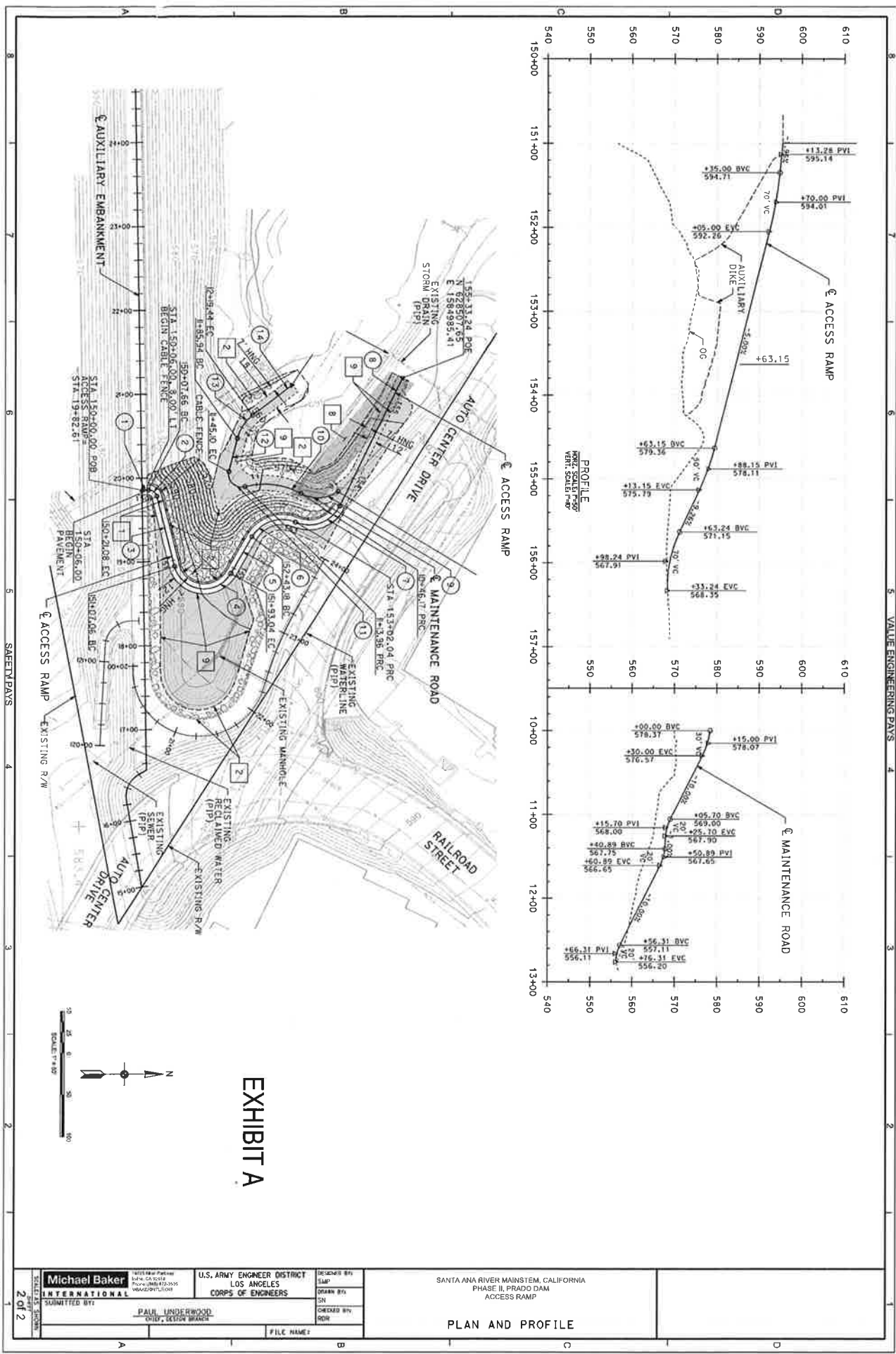
PROJECT LOCATION
NO SCALE

SAFETY PAYS



EXHIBIT A

U.S. ARMY ENGINEER DISTRICT LOS ANGELES CORPS OF ENGINEERS		DESIGNED BY: DRAWN BY: CHECKED BY: FILE NAME:	SANTA ANA RIVER MAINSTEM, CALIFORNIA PHASE II, PRADO DAM ACCESS RAMP VICINITY AND PROJECT LOCATION MAP
SUBMITTED BY: PAUL UNDERWOOD CHIEF, DESIGN BRANCH	SCALE: 1 OF 2	PLAN DATE: 05/20/1997	



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 SAFFETY PAYS
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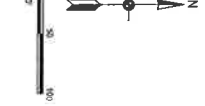
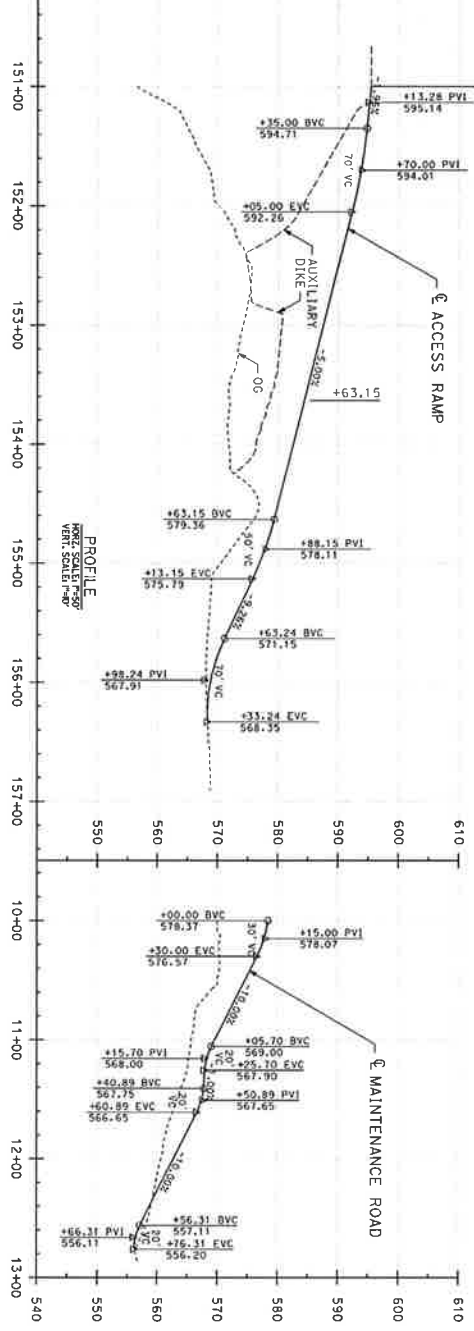
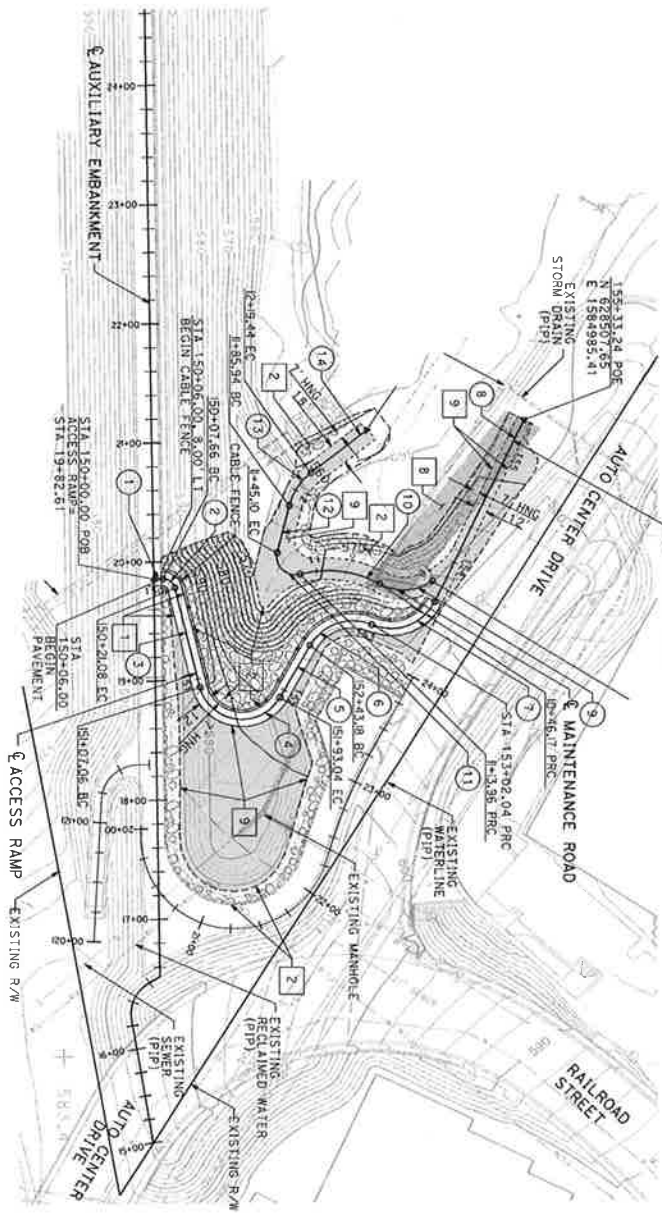


EXHIBIT A

Michael Baker International 1100 Main Street Irvine, CA 92618 TEL: 949.222.2000 FAX: 949.222.2005 WWW.MBI.COM	U.S. ARMY ENGINEER DISTRICT LOS ANGELES CORPS OF ENGINEERS 2815 Avenue of the Stars Suite 200 Los Angeles, CA 90047 TEL: 310.432.1500 FAX: 310.432.1501 WWW.AED.LA.USACE.MIL	DESIGNED BY JAMP	SANTA ANA RIVER MAINSTEM, CALIFORNIA PHASE II, PRADDO DAM ACCESS RAMP
		DRAWN BY SN	
SUBMITTED BY PAUL UNDERWOOD CHIEF, VECTOR BRANCH	CHECKED BY RHW	FILE NAME:	PLAN AND PROFILE