

**SUBMITTAL TO THE FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT BOARD  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



416 B

**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**  
July 13, 2010

**SUBJECT:** Eastvale MDP-Line E Black Horse Avenue Laterals, Stage 2  
Project No. 2-0-0342-02, Parcel Map 35933  
Cooperative Agreement

**RECOMMENDED MOTION:**

Approve the Cooperative Agreement between the District, the County of Riverside, and WLPX Eastvale LLC and Lewis Investment Company LLC (Developers); and authorize the Chairman to execute the Agreement documents on behalf of the District.

**BACKGROUND:**

The Agreement sets forth the terms and conditions by which certain stormwater drainage facilities, required as a condition for approval of Parcel Map 35933, are to be constructed by the Developers and inspected, operated and maintained by the District. The Agreement is necessary to provide for District construction inspection of the Eastvale MDP – Line E Black Horse Avenue Laterals associated with Parcel Map 35933. Upon completion of project construction, the District will assume ownership, operation and maintenance of the mainline storm drain.

Continued on Page 2

*Warren D. Williams*  
**WARREN D. WILLIAMS**  
General Manager-Chief Engineer

<b>FINANCIAL DATA</b>	Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

<b>SOURCE OF FUNDS:</b> N/A	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE.

*Alex Gann*  
by Alex Gann

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
BY: *Neal R. Kipnis* DATE: 7/13/10

Departmental Concurrence

- Consent
- Policy
- Consent
- Policy

Dept Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 2<sup>nd</sup>

Agenda Number:

11.5

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**SUBJECT:** Eastvale MDP-Line E Black Horse Avenue Laterals, Stage 2  
Project No. 2-0-0342-02, Parcel Map 35933  
Cooperative Agreement

**SUBMITTAL DATE:** July 13, 2010

**Page 2**

**BACKGROUND (continued)**

County will accept and hold the payment and performance bonds, grant the occupancy permit, and accept the irrevocable offers of dedication necessary to complete the project. This matter is also on the County's Board Agenda for approval this same date.

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs will accrue to the District.

County Counsel has approved the Agreement as to legal form and the Developer has executed the Agreement.

KEC:blj

COOPERATIVE AGREEMENT

Eastvale MDP-Line E, Black Horse Avenue Laterals, Stage 2  
Parcel Map 35933 (Project No. 2-0-00342-02)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the COUNTY OF RIVERSIDE, hereinafter called "COUNTY", and WLPX EASTVALE LLC, a Delaware limited liability company, and LEWIS INVESTMENT COMPANY LLC, a California limited liability company, hereinafter together called "DEVELOPERS", hereby agree as follows:

RECITALS

A. DEVELOPERS have submitted for approval Parcel Map No. 35933 located in the Eastvale area of northwestern Riverside County and as a condition for approval DEVELOPERS must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPERS' planned development; and

B. The required flood control facilities include construction of approximately 302 lineal feet of underground storm drain system, hereinafter called "PROJECT", as shown in concept in red on Exhibit "A" attached hereto and made a part hereof. At its downstream terminus, PROJECT will connect to an existing COUNTY (Line B-3) maintained facility as shown on DISTRICT Drawing No. 2-353; and

C. DEVELOPERS and COUNTY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of PROJECT. Therefore, DISTRICT must review and approve DEVELOPERS' plans and specifications for PROJECT, subsequently inspect the construction of PROJECT; and

D. DISTRICT is willing to (i) review and approve DEVELOPERS' plans and specifications for PROJECT, (ii) inspect the construction of PROJECT, and (iii) accept ownership and responsibility for the operation and maintenance of PROJECT as set forth herein,

1 provided DEVELOPERS (i) comply with this Agreement, (ii) pay DISTRICT the amounts  
 2 specified herein to cover DISTRICT'S plan review and construction inspection costs for  
 3 PROJECT, (iii) construct PROJECT in accordance with plans and specifications approved by  
 4 DISTRICT, (iv) obtain all necessary permits, regulatory permits, licenses and rights of entry as  
 5 set forth herein, (v) accept ownership and sole responsibility for the operation and maintenance  
 6 of PROJECT following completion of PROJECT construction until such time as DISTRICT  
 7 accepts ownership and responsibility for the operation and maintenance of PROJECT and (vi)  
 8 obtains and conveys to DISTRICT the necessary rights of way for the inspection, operation and  
 9 maintenance of PROJECT as set forth herein.  
 10

11 E. COUNTY is willing to (i) accept and hold faithful performance and  
 12 payment bonds submitted by DEVELOPERS for PROJECT and (ii) consent to the recordation  
 13 and conveyance of Irrevocable Offers of Dedication furnished by DEVELOPERS as provided  
 14 herein; and  
 15

16 NOW, THEREFORE, the parties hereto mutually agree as follows:

17 SECTION I

18 DEVELOPERS shall:

19 1. Prepare plans and specifications for PROJECT (Drawing No. 2-425),  
 20 hereinafter called "IMPROVEMENT PLANS", in accordance with DISTRICT standards, and  
 21 submit to DISTRICT for their review and approval.  
 22

23 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic  
 24 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by  
 25 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT  
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1 PLANS, review and approval of right of way and conveyance documents, and with the  
2 processing and administration of this Agreement.

3 3. Deposit with DISTRICT (Attention: Business Office – Accounts  
4 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT  
5 construction as set forth in Section I.8., the estimated cost of providing construction inspection  
6 for PROJECT, in an amount as determined and approved by DISTRICT in accordance with  
7 Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto,  
8 based upon the bonded value of PROJECT.  
9

10 4. [This Section Intentionally Left Blank.]

11 5. Secure, at its sole cost and expense, all necessary licenses, agreements,  
12 permits and rights of entry as may be needed for the construction, inspection, operation and  
13 maintenance of PROJECT. DEVELOPERS shall furnish DISTRICT, at the time of providing  
14 written notice to DISTRICT of the start of construction as set forth in Section I.8 with sufficient  
15 evidence of DEVELOPERS having secured such necessary licenses, agreements, permits and  
16 rights of entry, as determined and approved by DISTRICT.  
17

18 6. Furnish DISTRICT with copies of all permits, approvals or agreements  
19 required by any Federal or State resource and/or regulatory agency for the construction,  
20 operation and maintenance of PROJECT. Such documents include but are not limited to those  
21 issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board,  
22 California State Department of Fish and Game and State Water Resources Control Board.  
23

24 7. Provide COUNTY, at the time of providing written notice to DISTRICT of  
25 the start of construction as set forth in Section I.8., with faithful performance and payment  
26 bonds, each in the amount of one hundred percent (100%) of the estimated cost for construction  
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1 of PROJECT as determined by DISTRICT. The surety, amount and form of the bonds shall be  
2 subject to the approval of DISTRICT and COUNTY. The bonds shall remain in full force and  
3 effect until PROJECT is accepted by DISTRICT as complete; at which time the faithful  
4 performance bond amount may be reduced to ten percent (10%) for a period of one year to  
5 guarantee against any defective work, labor or materials.

6           8. Notify DISTRICT in writing (Attention: Administrative Services Section),  
7 at least twenty (20) days prior to the start of construction of PROJECT. Construction shall not  
8 begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued  
9 DEVELOPERS a written Notice to Proceed authorizing DEVELOPERS to commence  
10 construction of PROJECT.  
11

12           9. Grant DISTRICT, by execution of this Agreement, the right to enter upon  
13 DEVELOPERS' property where necessary and convenient for the purpose of gaining access to,  
14 and performing inspection service for, the construction of PROJECT as set forth herein.  
15

16           10. Obtain and provide DISTRICT, at the time of providing written notice to  
17 DISTRICT of the start of construction of PROJECT as set forth in Section I.8., with duly  
18 executed Irrevocable Offer(s) of Dedication to the public for flood control and drainage  
19 purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT  
20 for the construction, inspection, operation and maintenance of PROJECT, as shown in concept  
21 cross-hatched in red on Exhibit "B" attached hereto and made a part hereof. The Irrevocable  
22 Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all  
23 legal and equitable owners of the property described in the Offer(s).  
24

25           11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of  
26 Dedication as set forth in Section I.10., with Preliminary Reports on Title dated not more than  
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1 thirty (30) days prior to date of submission of all the property described in the Irrevocable  
2 Offer(s) of Dedication.

3 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
4 the start of construction as set forth in Section I.8., with a complete list of all contractors and  
5 subcontractors to be performing work on PROJECT, including the corresponding license  
6 number and license classification of each. At such time, DEVELOPERS shall further identify  
7 in writing their designated superintendent for construction of PROJECT.  
8

9 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
10 the start of construction as set forth in Section I.8., a construction schedule which shall show the  
11 order and dates in which the DEVELOPERS or their contractor(s) propose to carry on the  
12 various parts of work, including estimated start and completion dates. As construction of  
13 PROJECT progresses, DEVELOPER shall update said construction schedule as requested by  
14 DISTRICT.  
15

16 14. Furnish DISTRICT with the final Mylar IMPROVEMENT PLANS and  
17 assign their ownership to DISTRICT prior to the start of PROJECT construction.  
18

19 15. Not permit any change to or modification of the IMPROVEMENT PLANS  
20 without the prior written permission and consent of DISTRICT.

21 16. Comply with all Cal/OSHA safety regulations including regulations  
22 concerning confined space and maintain a safe working environment for DEVELOPERS' and  
23 DISTRICT employees on the site.  
24

25 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
26 the start of construction as set forth in Section I.8., with a confined space entry procedure  
27 specific to PROJECT. The procedure shall comply with requirements contained in California  
28

1 Code of Regulations, Title 8 Section 5158, Other Confined Space Operations, Section 5157,  
2 Permit Required Confined Space and DISTRICT Confined Space Procedures, SOM-18. The  
3 procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to  
4 Proceed.

5  
6 18. During the construction period of PROJECT, provide Workers'  
7 Compensation Insurance in an amount required by law. A certificate of said insurance policy  
8 shall be provided to DISTRICT at the time of providing written notice pursuant to Section I.8.

9  
10 19. Commencing on the date notice is given pursuant to Section I.8. and  
11 continuing until DISTRICT accepts PROJECT for operation and maintenance:

- 12 (a) Provide and maintain or cause its contractor(s) to provide and  
13 maintain comprehensive liability insurance coverage which shall  
14 protect DEVELOPERS from claim from damages for personal  
15 injury, including accidental and wrongful death, as well as from  
16 claims for property damage which may arise from DEVELOPERS'  
17 construction of PROJECT or the performance of their obligations  
18 hereunder, whether such construction or performance be by  
19 DEVELOPERS, by any of their contractors, subcontractors, or by  
20 anyone employed directly or indirectly by any of them. Such  
21 insurance shall name DISTRICT and COUNTY as additional  
22 insureds with respect to this Agreement and the obligations of  
23 DEVELOPERS hereunder. Such insurance shall provide for limits  
24 of not less than two million dollars (\$2,000,000) per occurrence.  
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1 (b) Cause their insurance carrier(s) or their contractor's insurance  
2 carrier(s), who shall be authorized by the California Department of  
3 Insurance to transact the business of insurance in the State of  
4 California, to furnish DISTRICT, at the time of providing written  
5 notice to DISTRICT, of the start of construction as set forth in  
6 Section I.8. with certificate(s) of insurance and applicable policy  
7 endorsements showing that such insurance is in full force and effect  
8 and that DISTRICT and COUNTY are named as additional insureds  
9 with respect to this Agreement and the obligations of  
10 DEVELOPERS hereunder. Further, said certificate(s) shall state that  
11 the issuing company shall give DISTRICT and COUNTY (60) days  
12 written notice in the event of any cancellation, termination, non-  
13 renewal or reduction in coverage of the policies evidenced by the  
14 certificate(s). In the event of any such cancellation, termination,  
15 non-renewal or reduction in coverage, DEVELOPERS shall,  
16 forthwith, secure replacement insurance meeting the provisions of  
17 this paragraph.  
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20  
21 Failure to maintain the insurance required by this paragraph shall be deemed a  
22 material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at  
23 its sole discretion, to proceed to perform the remaining work pursuant to Section IV.3.

24 20. Construct or cause to be constructed, PROJECT at DEVELOPERS' sole  
25 cost and expense in accordance with DISTRICT approved IMPROVEMENT PLANS.  
26  
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1           21. Within two (2) weeks of completing PROJECT construction, provide  
2 DISTRICT with written notice (Attention: Contract Administration Section) that construction of  
3 PROJECT is substantially complete and requesting that DISTRICT conduct a final inspection of  
4 PROJECT.

5           22. Upon completion of PROJECT construction, but prior to DISTRICT  
6 acceptance of PROJECT for ownership, operation and maintenance, convey, or cause to be  
7 conveyed to DISTRICT flood control easement(s), including ingress and egress, in a form  
8 approved by DISTRICT, for the rights of way as shown in concept cross-hatched in red on  
9 Exhibit "B".  
10

11           23. At the time of recordation of the conveyance document(s) as set forth in  
12 Section I.22., furnish DISTRICT with policies of title insurance, each in the amount of not less  
13 than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each  
14 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said  
15 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and  
16 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are  
17 deemed acceptable.  
18

19           24. Accept ownership and sole responsibility for the operation and maintenance  
20 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation  
21 and maintenance of PROJECT. Further, it is mutually understood by the parties hereto that  
22 prior to DISTRICT acceptance of ownership and responsibility for the operation and  
23 maintenance of PROJECT, PROJECT shall be in a satisfactorily maintained condition as solely  
24 determined by DISTRICT.  
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1           25. Pay, if suit is brought upon this Agreement or any bond guaranteeing the  
2 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable  
3 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and fees  
4 shall be computed as costs and included in any judgment rendered.

5           26. Upon completion of construction of PROJECT, DEVELOPER'S civil  
6 engineer of record or construction civil engineer of record, duly registered in the State of  
7 California, shall provide DISTRICT a redlined "RECORD DRAWING" copy of  
8 IMPROVEMENT PLANS. After DISTRICT approval of the redlined "RECORD DRAWING",  
9 DEVELOPER'S engineer shall schedule with DISTRICT a time to meet at DISTRICT'S office  
10 to transfer the redlined changes onto DISTRICT'S original mylars after which the engineer shall  
11 review, stamp and sign the original IMPROVEMENT PLANS "RECORD DRAWING".

12           27. Ensure that all work performed pursuant to this Agreement by  
13 DEVELOPERS, their agents or contractors is done in accordance with all applicable laws and  
14 regulations, including but not limited to all applicable provisions of the Labor Code, Business  
15 and Professions Code, and Water Code. DEVELOPERS shall be solely responsible for all costs  
16 associated with compliance with applicable laws and regulations.  
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20   SECTION II

21           DISTRICT shall:

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23           1. Review and approve IMPROVEMENT PLANS prior to the start of  
24 PROJECT construction.

25           2. Upon execution of this Agreement, record or cause to be recorded, a copy  
26 of this Agreement in the Official Records of the Riverside County Recorder.  
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3. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPER pursuant to Section I.10.

4. Inspect construction of PROJECT.

5. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of IMPROVEMENT PLANS and the processing and administration of this Agreement.

6. Keep an accurate accounting of all DISTRICT construction inspection costs, and within forty-five (45) days after DISTRICT acceptance of PROJECT as being complete, submit a final cost statement to DEVELOPERS. If the deposit as set forth in Section I.3. exceeds such costs, DISTRICT shall reimburse DEVELOPERS the excess amount within sixty (60) days after DISTRICT acceptance of PROJECT as being complete. If at any time the costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit, DEVELOPERS shall pay such additional amount(s), as deemed reasonably necessary by DISTRICT to complete the inspection of PROJECT, within thirty (30) days after receipt of billing from DISTRICT.

7. Accept ownership and sole responsibility for the operation and maintenance of PROJECT upon (i) DISTRICT acceptance of PROJECT construction as being complete and (ii) acceptance by DISTRICT of all rights of way as deemed necessary by DISTRICT for the operation and maintenance of PROJECT.

SECTION III

COUNTY shall:

1. Accept COUNTY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPERS as set forth in Section I.7. and hold said bonds as provided herein.

1           2. Not grant any occupancy permits for any portion of Parcel Map 35933 or  
2 any phase thereof until construction of PROJECT is complete, unless otherwise approved in  
3 writing by DISTRICT.

4           3. Consent, by execution of this Agreement, to the recording of any  
5 Irrevocable Offer(s) of Dedication furnished by DEVELOPERS pursuant to this Agreement.

6           4. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication  
7 as set forth herein and any other outstanding offers of dedication necessary for the construction,  
8 inspection, operation and maintenance of PROJECT, and convey sufficient rights of way to  
9 DISTRICT to allow DISTRICT to construct, inspect, operate and maintain PROJECT.

11                           SECTION IV

12                           It is further mutually agreed:

13           1. All work involved with PROJECT shall be inspected by DISTRICT and  
14 shall not be deemed complete until approved and accepted in writing as complete by  
15 DISTRICT.

16           2. COUNTY and DEVELOPERS' personnel may observe and inspect all  
17 work being done on PROJECT, but shall provide any comments to DISTRICT personnel who  
18 shall be solely responsible for all quality control communications with the DEVELOPERS'  
19 contractor(s) during the construction of PROJECT.

20           3. DEVELOPERS shall complete construction of PROJECT within twelve  
21 (12) consecutive months after execution of this Agreement and within ninety (90) consecutive  
22 calendar days after commencing work on PROJECT. It is expressly understood that since time  
23 is of the essence in this Agreement, failure of DEVELOPERS to perform the work within the  
24 agreed upon time shall constitute authority for DISTRICT to perform the remaining work and  
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1 require DEVELOPERS' surety to pay to COUNTY the penal sum of any and all bonds. In  
2 which case, COUNTY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

3 4. [This Section Intentionally Left Blank.]

4 5. DISTRICT shall endeavor to issue DEVELOPERS a Notice to Proceed  
5 within twenty (20) days of receipt of DEVELOPERS' complete written notice as set forth in  
6 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the  
7 issuance of a Notice to Proceed is subject to staff availability.  
8

9 In the event DEVELOPERS wish to expedite issuance of a Notice to  
10 Proceed, DEVELOPERS may elect to furnish an independent qualified construction inspector at  
11 DEVELOPERS' sole cost and expense. DEVELOPERS shall furnish appropriate  
12 documentation of the individual's credentials and experience to DISTRICT for review and, if  
13 appropriate, approval. DISTRICT shall review the individual's qualifications and experience  
14 and, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall  
15 be authorized to act on DISTRICT'S behalf on all PROJECT construction and quality control  
16 matters. If DEVELOPERS' initial construction inspection deposit furnished pursuant to Section  
17 I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPERS up to  
18 eighty percent (80%) of DEVELOPERS' initial inspection deposit within forty-five (45) days of  
19 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten  
20 thousand dollars (\$10,000) shall be retained on account.  
21

22 6. PROJECT construction work shall be on a five (5) day, forty (40) hour  
23 work week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless  
24 otherwise approved in writing by DISTRICT. If DEVELOPERS feel it necessary to work more  
25 than the normal forty (40) hour work week or on holidays, DEVELOPERS shall make a written  
26 request for permission from DISTRICT to work the additional hours. The request shall be  
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1 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work  
2 hours and state the reasons for the overtime and the specific time frames required. The decision  
3 of granting permission for overtime work shall be made by DISTRICT at its sole discretion and  
4 shall be final. If permission is granted by DISTRICT, DEVELOPERS will be charged the cost  
5 incurred at the overtime rates for additional inspection time required in connection with the  
6 overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments  
7 thereto, of the County of Riverside.  
8

9           7. DEVELOPERS shall indemnify and hold harmless DISTRICT and  
10 COUNTY (including their agencies, districts, special districts and departments, their respective  
11 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and  
12 representatives) from any liability, claim, damage, proceeding or action, present or future, based  
13 upon, arising out of or in any way relating to DEVELOPERS' (including its officers, employees,  
14 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,  
15 performance under this Agreement, or failure to comply with the requirements of this  
16 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)  
17 liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth  
18 Amendment of the United States Constitution or any other law, ordinance or regulation caused  
19 by the diversion of waters from the natural drainage patterns or the discharge of drainage within  
20 or from PROJECT; or (d) any other element of any kind or nature whatsoever.  
21

22           DEVELOPERS shall defend, at its sole expense, including all costs and fees  
23 (including but not limited to attorney fees, cost of investigation, defense and settlements or  
24 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and  
25 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
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1 officials, employees, agents and representatives) in any claim, proceeding or action for which  
2 indemnification is required.

3           With respect to any of DEVELOPERS' indemnification requirements,  
4 DEVELOPERS shall, at their sole cost, have the right to use counsel of their own choice and  
5 shall have the right to adjust, settle or compromise any such claim, proceeding or action without  
6 the prior consent of DISTRICT and COUNTY; provided, however, that any such adjustment,  
7 settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPERS'  
8 indemnification obligations to DISTRICT or COUNTY.  
9

10           DEVELOPERS' indemnification obligations shall be satisfied when  
11 DEVELOPERS have provided to DISTRICT and COUNTY the appropriate form of dismissal  
12 (or similar document) relieving DISTRICT or COUNTY from any liability for the claim,  
13 proceeding or action involved.  
14

15           The specified insurance limits required in this Agreement shall in no way limit or  
16 circumscribe DEVELOPERS' obligations to indemnify and hold harmless DISTRICT and  
17 COUNTY from third party claims.

18           In the event there is conflict between this section and California Civil Code  
19 Section 2782, this section shall be interpreted to comply with Civil Code 2782. Such  
20 interpretation shall not relieve the DEVELOPERS from indemnifying DISTRICT or COUNTY  
21 to the fullest extent allowed by law.  
22

23           8. Any waiver by DISTRICT or by COUNTY of any breach of any one or  
24 more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or  
25 other breach of the same or of any other term hereof. Failure on the part of DISTRICT or  
26 COUNTY to require exact, full and complete compliance with any terms of this Agreement  
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1 shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or  
2 COUNTY from enforcement hereof.

3 9. This Agreement is to be construed in accordance with the laws of the State  
4 of California.

5 10. Any and all notices sent or required to be sent to the parties of this  
6 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:  
7

8 RIVERSIDE COUNTY FLOOD CONTROL  
9 AND WATER CONSERVATION DISTRICT  
10 1995 Market Street  
11 Riverside, CA 92501  
12 Attn: Administrative Services

COUNTY OF RIVERSIDE  
Post Office Box 1090  
Riverside, CA 92502-1090  
Attn: Transportation Department

11 WLPX EASTVALE, LLC  
12 1156 North Mountain Avenue  
13 Upland, CA 91786  
14 Attn: Rick Manners

LEWIS INVESTMENT  
COMPANY, LLC  
1156 North Mountain Avenue  
Upland, CA 91786

15 11. Any action at law or in equity brought by any of the parties hereto for the  
16 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court  
17 of competent jurisdiction in the County of Riverside, State of California, and the parties  
18 hereto waive all provisions of law providing for a change of venue in such proceedings to  
19 any other county.

20 12. This Agreement is the result of negotiations between the parties hereto, and  
21 the advice and assistance of their respective counsel. The fact that this Agreement was  
22 prepared as a matter of convenience by DISTRICT shall have no import or significance.  
23 Any uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT  
24 because DISTRICT prepared this Agreement in its final form.  
25

26 13. The rights and obligations of DEVELOPERS shall inure to and be binding  
27 upon all heirs, successors and assignees.  
28

1           14. DEVELOPERS shall not assign or otherwise transfer any of their rights,  
2 duties or obligations hereunder to any person or entity without the written consent of the  
3 other parties hereto being first obtained. In the event of any such transfer or assignment,  
4 DEVELOPERS expressly understand and agree that they shall remain liable with respect to  
5 any and all of the obligations and duties contained in this Agreement.  
6

7           15. The individual(s) executing this Agreement on behalf of DEVELOPERS  
8 hereby certify they have the authority within their respective company(ies) to enter into and  
9 execute this Agreement, and have been authorized to do so by any and all boards of  
10 directors, legal counsel, and or any other board, committee or other entity within their  
11 respective company(ies) which have the authority to authorize or deny entering this  
12 Agreement.  
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14           16. This Agreement is intended by the parties hereto as a final expression of  
15 their understanding with respect to the subject matter hereof and as a complete and exclusive  
16 statement of the terms and conditions thereof and supersedes any and all prior and  
17 contemporaneous agreements and understandings, oral or written, in connection therewith.  
18 This Agreement may be changed or modified only upon the written consent of the parties  
19 hereto.  
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

By Warren D. Williams  
WARREN D. WILLIAMS  
General Manager-Chief Engineer

By \_\_\_\_\_  
MARION ASHLEY, Chairman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By Neal Kipnis  
NEAL KIPNIS  
Deputy County Counsel

By \_\_\_\_\_  
Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

**COUNTY OF RIVERSIDE**

By Juan C. Perez  
JUAN C. PEREZ  
Director of Transportation

By \_\_\_\_\_  
MARION ASHLEY, Chairman  
County of Riverside Board of Supervisors

FORM APPROVED COUNTY COUNSEL

ATTEST:

BY: Synthia M. Gunzel 4-29-10  
SYNTHIA M. GUNZEL DATE

KECIA HARPER-IHEM  
Clerk of the Board

By \_\_\_\_\_  
Deputy

(SEAL)

Cooperative Agreement: PM 35933  
Eastvale MDP- Line E Blackhorse Avenue Laterals, Stage 2  
4/19/10  
KEC:blj

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**WLPX EASTVALE LLC**  
a Delaware limited liability company


By **LEWIS OPERATING CORPORATION**  
a California corporation, its sole manager

By   
DAVID L. LINDEN, Vice President

(ATTACH NOTARY WITH  
CAPACITY STATEMENTS)

**LEWIS INVESTMENT COMPANY LLC**  
a California limited liability company

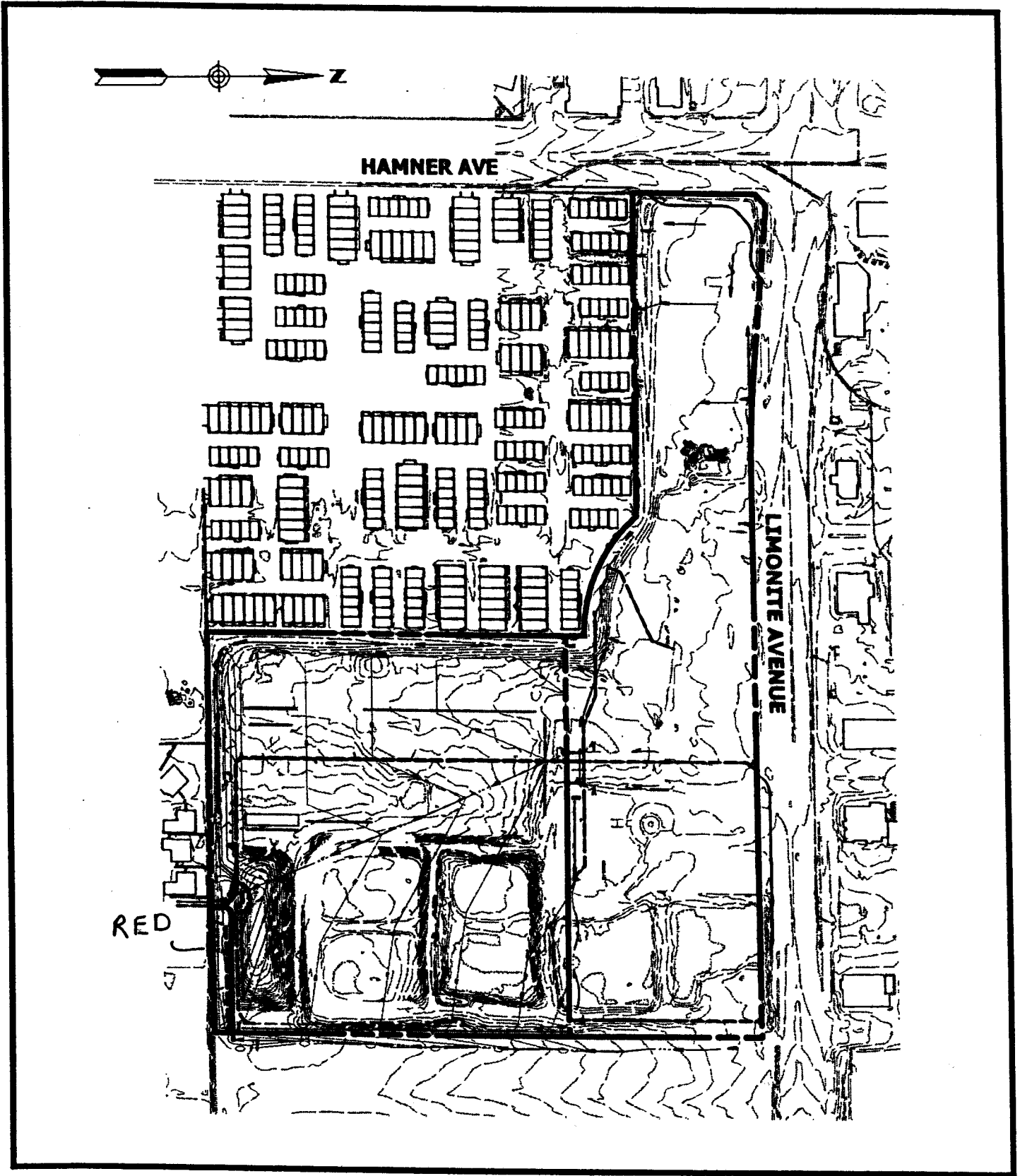
By **LEWIS OPERATING CORPORATION**  
a California corporation, its sole manager

By   
SCOTT CRAWFORD, Vice President

(ATTACH NOTARY WITH  
CAPACITY STATEMENTS)

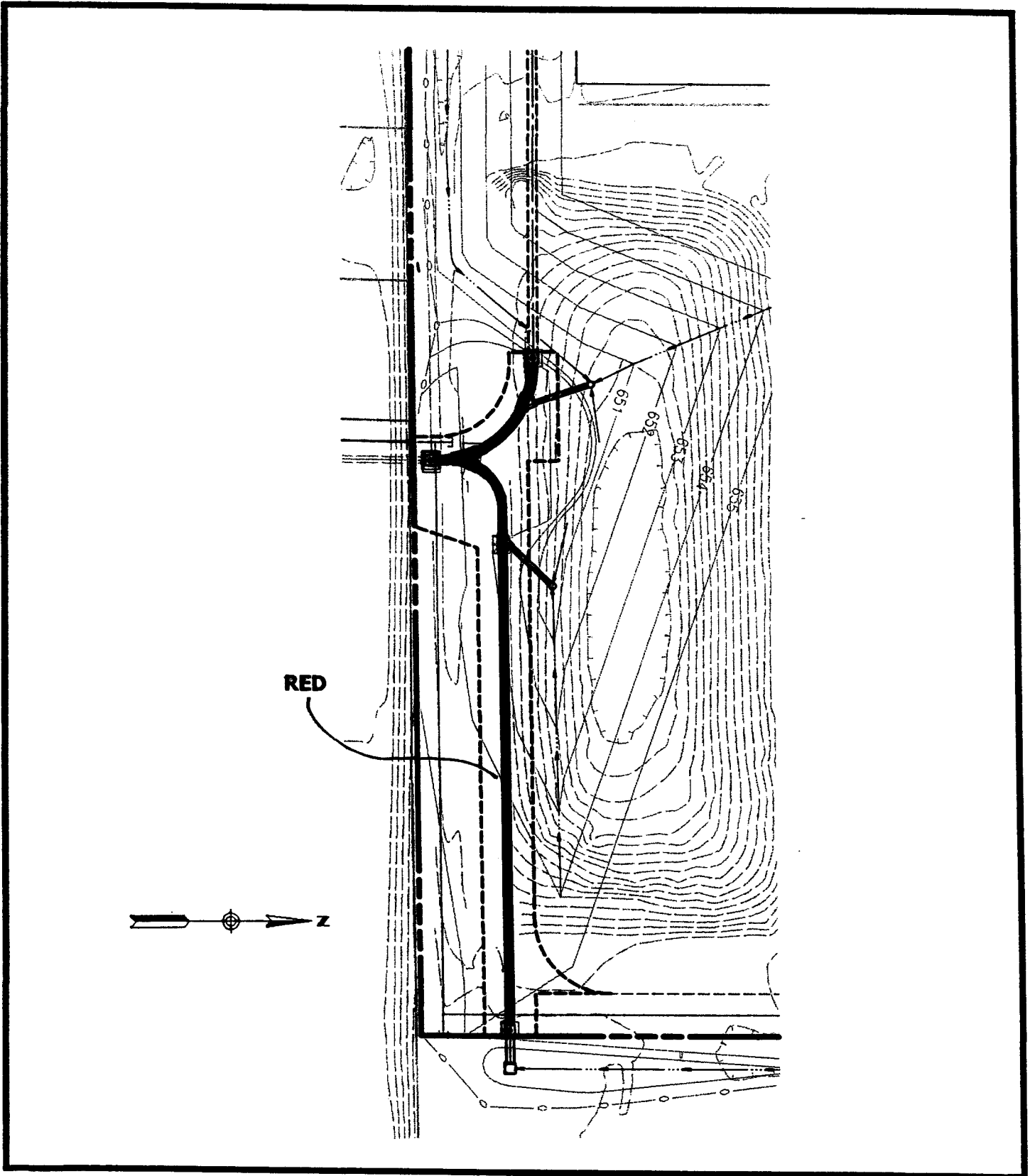
Cooperative Agreement: PM 35933  
Eastvale MDP- Line E Blackhorse Avenue Laterals, Stage 2  
4/19/10  
KEC:blj

# Exhibit A

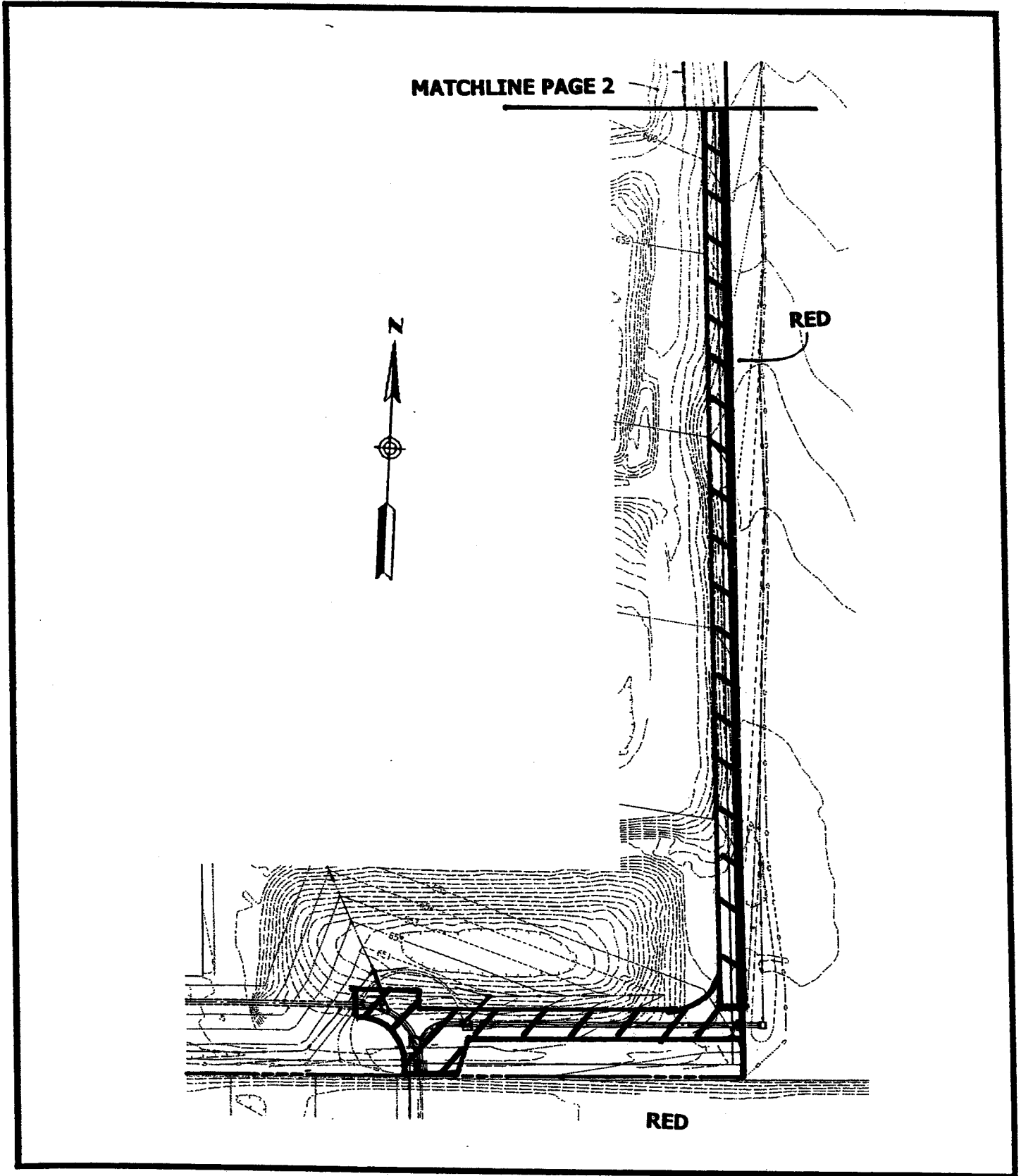


Cooperative Agreement  
Eastvale MDP Line E  
Blackhorse Ave., Stage 2  
Project Number: 1-0-00342-02  
1 of 2

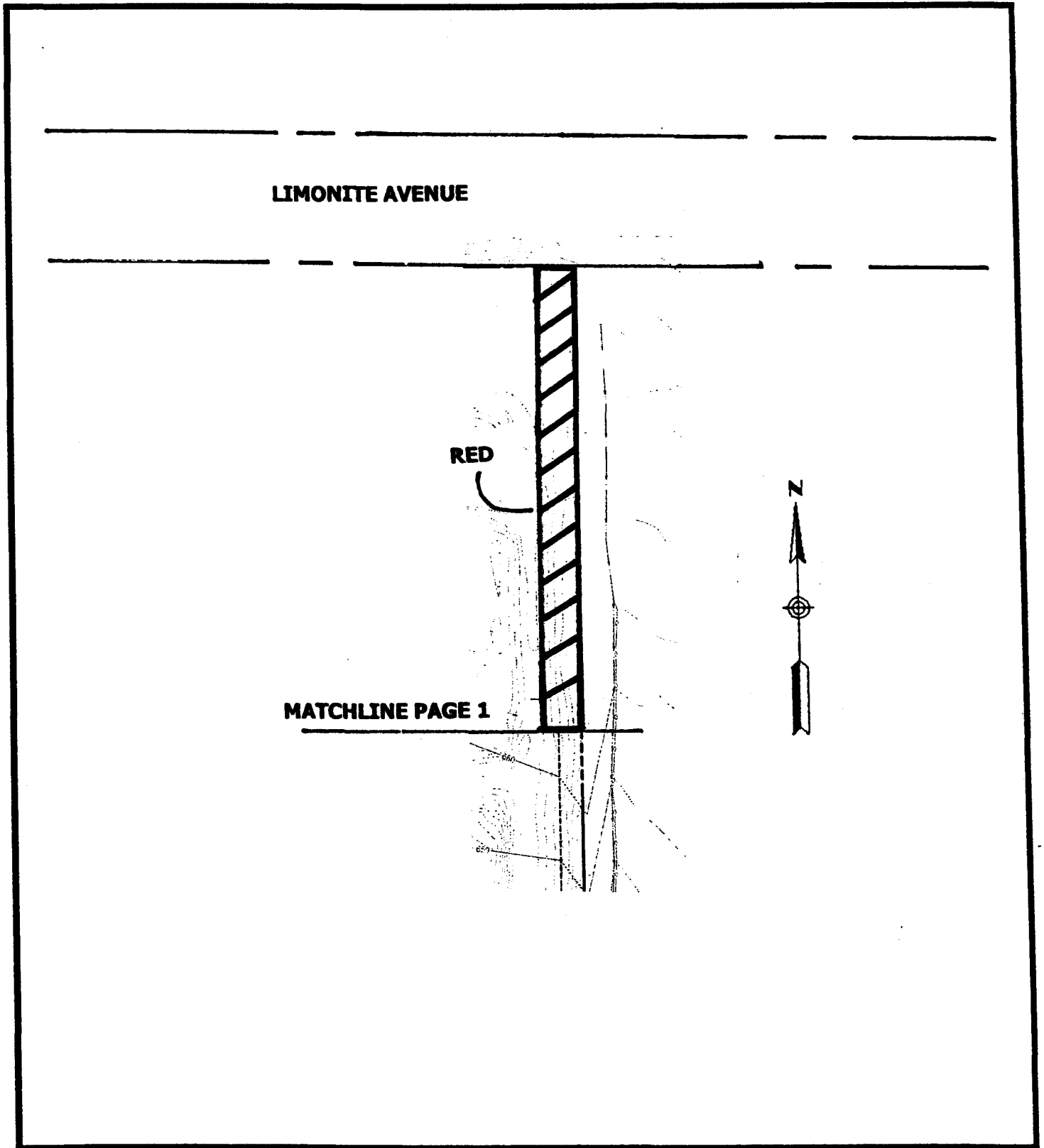
# Exhibit A



# Exhibit B



**Exhibit B**





**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Bernardino }

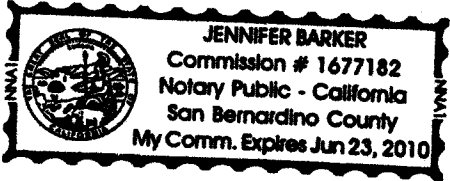
On June 7, 2010 before me, Jennifer Barker, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared David L. Linden  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
 Signature Jennifer Barker  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

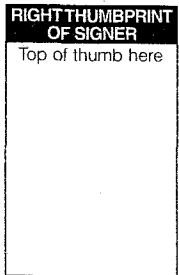
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

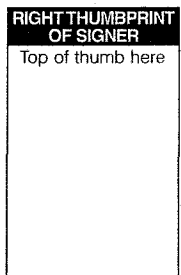
- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

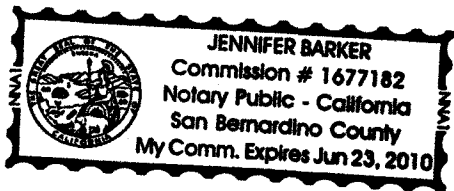
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Bernardino

On June 7, 2010 before me, Jennifer Barker, Notary Public

personally appeared J. Scott Crawford



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jennifer Barker  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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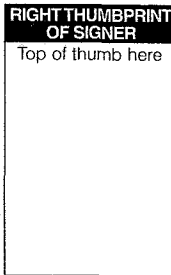
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

