

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

805B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
June 7, 2011

SUBJECT: Sunnymead MDP – Line H, Stage 4; Line H-1A, Stage 2 and Line H-5, Stage 3
Project Nos. 4-0-00670, 4-0-00731 and 4-0-00202
Cooperative Agreement

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District and the City of Moreno Valley (City) 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 the City will construct segments of the Sunnymead MDP storm drain facilities as listed above.

(Continued on Page 2)

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	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

SOURCE OF FUNDS:

N/A

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Michael R. Shetler
Michael R. Shetler

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS DATE: 6/10/11

Departmental Concurrence

- Policy
- Policy
- Consent
- Consent
- Dep't Recomm.:
- Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 5th

Agenda Number:

11.1

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

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

SUBJECT: Sunnymead MDP – Line H, Stage 4; Line H-1A, Stage 2 and Line H-5, Stage 3
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Page 2

BACKGROUND (continued from page 1):

Pursuant to the California Environmental Quality Act (CEQA), City shall assume the sole lead agency role for the project. This Agreement is necessary to provide for District construction inspection of the referenced facilities and, upon completion, assume the operation and maintenance responsibilities for the newly constructed segments of the Sunnymead MDP.

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

KEC:bjj

COOPERATIVE AGREEMENT

Sunnymead MDP - Line H, Stage 4
Sunnymead MDP - Line H-1A, Stage 2
Sunnymead MDP - Line H-5, Stage 3

(Project Nos. 4-0-00670-04, 4-0-00731-02 and 4-0-00202-03)
(MS 123)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT" and the CITY OF MORENO VALLEY, hereinafter called "CITY", hereby agree as follows:

RECITALS

A. CITY has budgeted for and plans to construct, certain stormwater management facilities identified in DISTRICT'S SUNNYMEAD MASTER DRAINAGE PLAN (MDP) in order to provide necessary flood protection and drainage for Ironwood Avenue and adjoining properties; and

B. The Sunnymead MDP facilities consists of (i) approximately 1,675 lineal feet of underground concrete drainage system (Line H, Stage 4), (ii) approximately 2,711 lineal feet of underground concrete drainage system (Line H-1A, Stage 2), which includes an existing segment of underground storm drain system approximately 917 feet in length, and (iii) approximately 54 lineal feet of underground concrete drainage system (Line H-5, Stage 3) as collectively shown in concept in red on Exhibit "A" attached hereto and made a part hereof, and hereinafter collectively called "DISTRICT DRAINAGE FACILITIES"; and

C. Associated with the construction of DISTRICT DRAINAGE FACILITIES is the construction of a certain outlet structure, certain catch basins, connector pipes and laterals, hereinafter called "APPURTENANCES". Together DISTRICT DRAINAGE FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

D. CITY desires DISTRICT to ultimately accept ownership and responsibility for operation and maintenance of DISTRICT DRAINAGE FACILITIES. Therefore,

1 DISTRICT must review and approve CITY'S plans and specifications for PROJECT and
2 subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES; and

3 E. DISTRICT desires CITY to accept ownership and sole responsibility for
4 APPURTENANCES. Additionally, it is mutually understood and agreed that CITY shall
5 assume ownership and sole responsibility for the operation and maintenance of PROJECT until
6 such time as DISTRICT DRAINAGE FACILITIES is accepted by DISTRICT as set forth
7 herein; and

8 F. DISTRICT and CITY acknowledge it is in the best interest of the public to
9 proceed with the construction of PROJECT at the earliest possible date.

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

11 SECTION I

12 CITY shall:

13 1. Pursuant to California Environmental Quality Act (CEQA), assume the sole
14 Lead Agency role for preparation, circulation and adoption of all necessary and appropriate
15 CEQA documents pertaining to the construction, operation and maintenance of PROJECT.
16

17 2. Prepare or cause to be prepared, PROJECT plans, hereinafter called
18 "IMPROVEMENT PLANS" (District Drawing No. 4-1004), in accordance with CITY and
19 DISTRICT standards.
20

21 3. Secure, at its sole cost and expense, all necessary rights of way, rights of
22 entry and temporary construction easements as may be needed to construct, inspect, operate and
23 maintain PROJECT.

24 4. Secure, at its sole cost and expense, all necessary permits, approvals,
25 licenses or agreements required by any Federal or State resource or regulatory agencies
26 pertaining to the construction, operation and maintenance of PROJECT. Such documents,
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1 hereinafter called "REGULATORY PERMITS", may include, but are not limited to, a Section
2 404 permit issued by USACOE, a Section 401 Water Quality Certification and/or Waste
3 Discharge Requirements issued by the California Regional Water Quality Control Board
4 (CRWQCB) and/or State Water Resources Control Board, a Section 1602 Streambed Alteration
5 Agreement issued by the California Department of Fish and Game and furnish to DISTRICT
6 copies of all permits, approvals, licenses, and/or agreements required by any federal or state
7 resource or regulatory agencies pertaining to the construction, operation and maintenance of
8 PROJECT.

9
10 5. Prior to advertising for bids, provide DISTRICT an opportunity to review
11 and approve all REGULATORY PERMITS.

12 6. Order the relocation of all utilities installed by permit or franchise within
13 CITY rights of way that are in conflict with PROJECT and which must be relocated at the utility
14 company's expense.

15 7. Prior to awarding a public works construction contract for PROJECT,
16 provide DISTRICT an opportunity to review and approve IMPROVEMENT PLANS.

17 8. Not permit any change to or modification of IMPROVEMENT PLANS
18 without the prior written permission and consent of DISTRICT.

19 9. Construct PROJECT pursuant to a CITY administered construction
20 contract, in accordance with IMPROVEMENT PLANS approved by CITY and DISTRICT, and
21 pay all costs associated therewith.

22 10. Furnish or cause its construction manager to furnish, all construction survey
23 and materials testing services necessary to construct PROJECT.

24 11. Provide DISTRICT with written notice that CITY has awarded a
25 construction contract for PROJECT.
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1 12. Prior to commencing construction, furnish DISTRICT with the final mylar
2 IMPROVEMENT PLANS and assign their ownership to DISTRICT.

3 13. Prior to commencing PROJECT construction, schedule and conduct a
4 mandatory pre-construction meeting between CITY, CITY'S construction manager, CITY'S
5 construction contractor(s), DISTRICT and other affected entities. CITY shall notify DISTRICT
6 (Attention: Construction Inspection) in writing at least twenty (20) days prior to conducting the
7 pre-construction meeting.

8 14. Require its contractor(s), during the term of construction of PROJECT to
9 provide and maintain Comprehensive General and Automobile Liability Insurance including
10 contractual coverage and automobile liability coverage for owned, hired and non-owned
11 vehicles which shall protect DISTRICT, County of Riverside and CITY from claim from
12 damages for personal injury, including accidental and wrongful death, as well as from claims for
13 property damage which may arise from construction of PROJECT or the performance of its
14 obligations hereunder, whether such construction or performance be by CITY, the
15 aforementioned construction contractor(s), or any subcontractors to said construction
16 contractor(s), or by anyone employed directly or indirectly by said construction contractor(s) or
17 subcontractors. Such insurance shall name DISTRICT, County of Riverside and CITY, and
18 their respective directors, officers, Board of Supervisors, employees, elected or appointed
19 officials, agents or representatives as additional insureds and shall provide for limits of not less
20 than two million dollars (\$2,000,000) per occurrence. CITY shall also require its contractor(s)
21 to provide Workers' Compensation insurance or a State-approved Self-Insurance Program in an
22 amount and form to meet all applicable requirements of the Labor code of the State of
23 California, including Employer's Liability with one million dollar (\$1,000,000 limits), covering
24 all persons providing services on behalf of PROJECT and all risks to such persons under this
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1 agreement. In addition, CITY shall require its insurance carrier(s) or its contractor(s) insurance
2 carrier(s) of the above required coverages to waive all rights of subrogation against DISTRICT,
3 County of Riverside and CITY. Said insurance coverage shall be provided by an insurance
4 company licensed to transact the business of insurance in the State of California and shall be
5 evidenced by a certificate (or certificates) of insurance and applicable policy endorsements
6 indicating that the insurance is in full force and effect and that DISTRICT, County of Riverside
7 and CITY, and their respective directors, officers, Board of Supervisors, elected or appointed
8 officials, employees, agents, representatives, independent contractors, and subcontractors are
9 named as additional insureds. Said certificate(s) of insurance shall contain the covenant of the
10 insurance carrier(s) that thirty (30) days written notice shall be provided to CITY and
11 DISTRICT prior to any modification, cancellation, or reduction in coverage of said insurance.
12

13 15. Prior to CITY issuing a Notice to Proceed to its construction contractor(s)
14 to begin construction of PROJECT, provide to District an original certificate of insurance
15 evidencing the required insurance coverage.
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17 16. Upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES
18 construction as being complete, accept sole responsibility for the adjustment of all PROJECT
19 manhole rings and covers located within CITY rights of way which must be performed at such
20 time(s) that the finished grade along and above the underground portions of PROJECT are
21 improved, repaired, replaced or changed. It being further understood and agreed that any such
22 adjustments shall be performed at no cost to DISTRICT.
23

24 17. Require its construction contractor(s) to comply with all Cal/OSHA safety
25 regulations, including regulations concerning confined space and maintain a safe working
26 environment for all CITY and DISTRICT employees on the site.

27 18. Require its construction contractor(s) to furnish DISTRICT a confined
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1 space entry procedure specific to PROJECT. The procedure shall comply with requirements
2 contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space
3 Operations, Section 5157, Permit Required Confined Space and DISTRICT confined Space
4 Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to
5 start of construction.

6 19. Grant DISTRICT, by execution of this AGREEMENT, the right to inspect,
7 operate and maintain DISTRICT DRAINAGE FACILITIES within CITY rights of way.

8 20. [THIS SECTION INTENTIONALLY LEFT BLANK.]

9 21. Upon completion of PROJECT construction but prior to DISTRICT'S
10 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance,
11 provide DISTRICT with appropriate engineering documentation necessary to establish that the
12 existing segment of DISTRICT DRAINAGE FACILITIES was constructed in accordance with
13 CITY and DISTRICT previously approved IMPROVEMENT PLANS.
14

15 22. Assume ownership and sole responsibility for the operation and
16 maintenance of APPURTENANCES.

17 23. Assume ownership and sole responsibility for the operation and
18 maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility
19 for the operation and maintenance of DISTRICT DRAINAGE FACILITIES as set forth herein.
20

21 24. Within two weeks of completing PROJECT construction, provide
22 DISTRICT with written notice (Attention: Contract Administration Section) that DISTRICT
23 DRAINAGE FACILITIES construction is substantially complete and requesting that
24 DISTRICT conduct a final inspection of DISTRICT DRAINAGE FACILITIES. It is mutually
25 understood by the parties hereto that prior to DISTRICT acceptance of ownership and
26 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
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1 DISTRICT DRAINAGE FACILITIES which includes an existing segment of underground
2 storm drain system shall be in a satisfactorily maintained condition as solely determined by
3 DISTRICT. If, subsequent to the inspection and, in the sole discretion of DISTRICT,
4 DISTRICT DRAINAGE FACILITIES are not in an acceptable condition, corrections will be
5 made at sole expense of CITY.

6 25. Upon completion of construction of PROJECT, but prior to DISTRICT
7 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance,
8 CITY'S civil engineer of record or construction civil engineer of record, duly registered in the
9 State of California, shall provide DISTRICT a redlined "RECORD DRAWINGS" copy of
10 IMPROVEMENT PLANS. After DISTRICT approval of the redlined "RECORD
11 DRAWINGS", CITY'S engineer shall schedule with DISTRICT a time to transfer the redlined
12 changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the engineer shall
13 review, stamp and sign IMPROVEMENTS PLANS "RECORD COPY".
14

15 SECTION II

16 DISTRICT shall:

17 1. Pursuant to CEQA, act as Responsible Agency and, as such, will have the
18 corresponding responsibility to fulfill the obligations of a CEQA Responsible Agency with
19 respect to PROJECT.
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21 2. At its sole cost and expense, review and approve all necessary
22 REGULATORY PERMITS prior to CITY advertising for bids.

23 3. At its sole cost and expense, review and approve IMPROVEMENT
24 PLANS prior to CITY'S award of PROJECT construction contract.
25

26 4. At its sole cost and expense, conduct periodic inspections of DISTRICT
27 DRAINAGE FACILITIES for quality control purposes.
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1 Agreement, performance under this Agreement, or failure to comply with the requirements of
2 this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
3 payment of attorney's fees; and (d) any other element of any kind or nature whatsoever.

4 5. DISTRICT shall indemnify, defend, save and hold harmless CITY
5 (including its officers, employees, agents, representatives, independent contractors and
6 subcontractors) from any liabilities, claim, damage, proceeding or action, present or future,
7 based upon, arising out of or in any way relating to DISTRICT (including its officers, Board of
8 Supervisors, elected and appointed officials, employees, agents, representatives, independent
9 contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement,
10 performance under this Agreement, or failure to comply with the requirements of this
11 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
12 payment of attorney's fees; and (d) any other element of any kind or nature whatsoever.
13

14 6. Any notices sent or required to be sent to either party shall be mailed to the
15 following addresses:

16 RIVERSIDE COUNTY FLOOD CONTROL
17 AND WATER CONSERVATION DISTRICT
18 1995 Market Street
19 Riverside, CA 92501

CITY OF MORENO VALLEY
Post Office Box 88005
Moreno Valley, CA 92220
Attn: Chris Vogt

20 7. If any provision of this Agreement is held by a court of competent
21 jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless
22 continue in full force without being impaired or invalidated in any way.

23 8. This Agreement is to be construed in accordance with the laws of the State
24 of California.

25 9. This Agreement is the result of negotiations between the parties hereto and
26 with the advice and assistance of their respective counsel. No provision contained herein shall
27 be construed against DISTRICT solely because, as a matter of convenience, it prepared this
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Agreement in final form.

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


11. This Agreement is intended by the parties hereto as their final expression with respect to the matters herein, and is a complete and exclusive statement of the terms and conditions thereof. This Agreement shall not be changed or modified except by the written consent of both parties hereto.

12. DISTRICT and CITY each pledge to cooperate in regard to the operation and maintenance of their respective facilities as set forth herein and to discharge their respective maintenance responsibilities in an expeditious fashion so as to avoid the creation of any nuisance condition or undue maintenance impact upon the other's facilities.

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1 RECOMMENDED FOR APPROVAL:

CITY OF MORENO VALLEY

2 By 
3 CHRIS A. VOGT, P.E.
4 Public Works Director/City Engineer

By 
HENRY GARCIA
for City Manager

6 APPROVED AS TO FORM:

ATTEST:

7
8
9 By 
for ROBERT HANSEN
10 City Attorney

JANE HALSTEAD
City Clerk

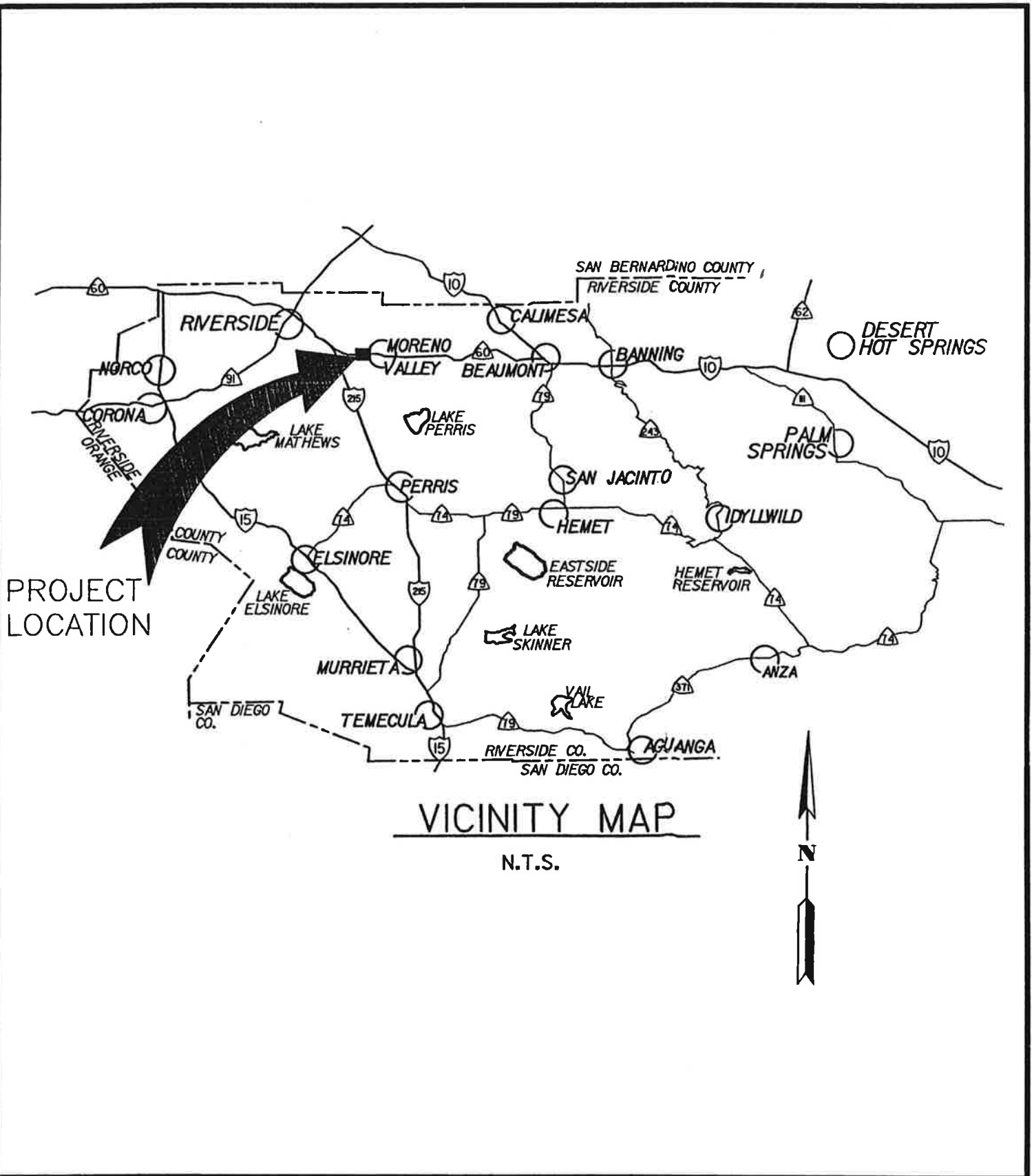
By _____

(SEAL)

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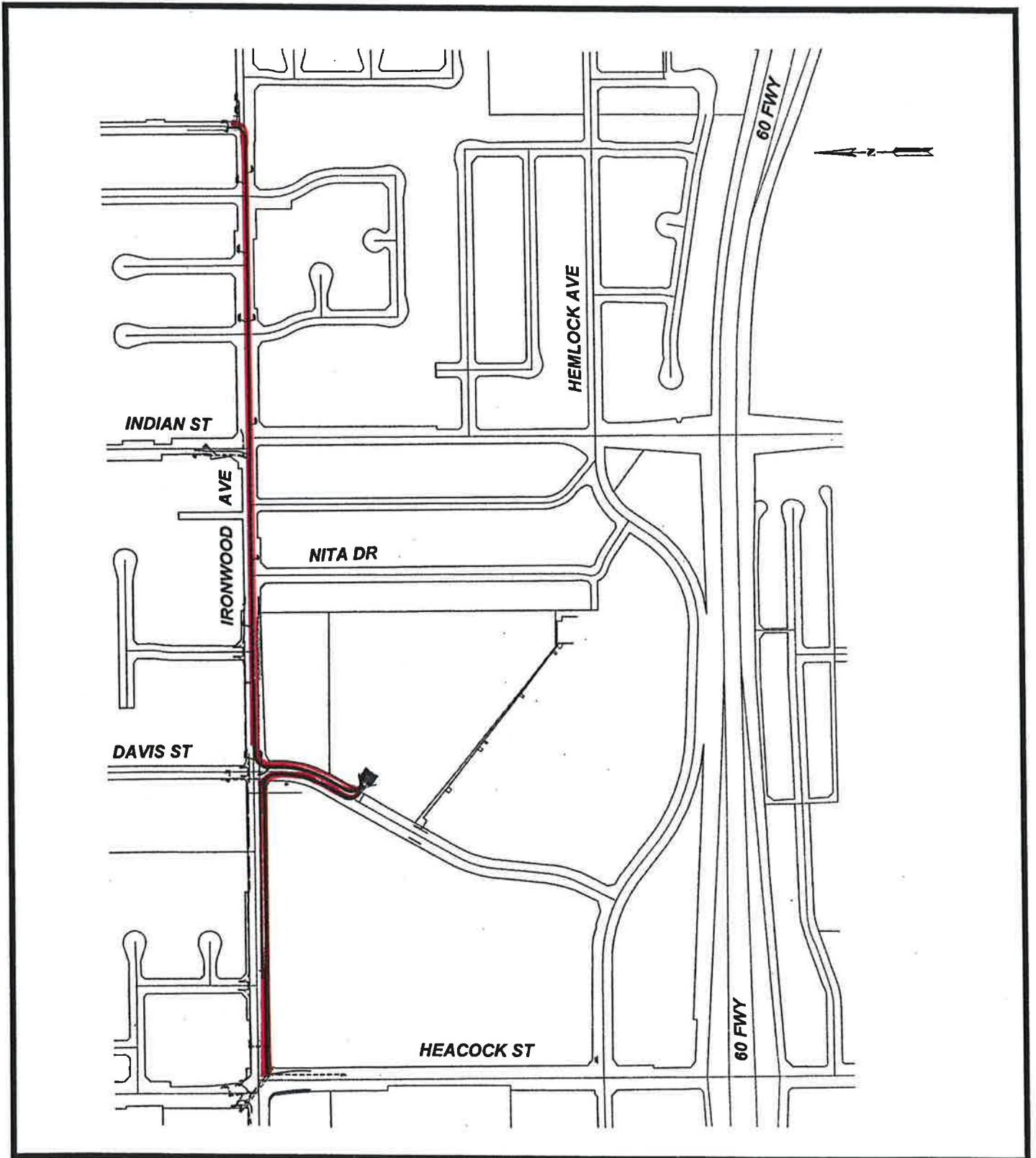
Cooperative Agreement: MS 123,
Sunnymead MDP - Line H, Stage 4
3/2/11
KEC:blj

Exhibit A



Cooperative Agreement
Sunnymead MDP – Line H, Stage 4, Sunnymead MDP – Line H-1A, Stage 2,
Sunnymead MDP – Line H-5, Stage 3
(Project Nos. 4-0-00670-04, 4-0-00731-02 and 4-0-00202-03)

Exhibit A



Cooperative Agreement
Sunnymead MDP – Line H, Stage 4, Sunnymead MDP – Line H-1A, Stage 2,
Sunnymead MDP – Line H-5, Stage 3
(Project Nos. 4-0-00670-04, 4-0-00731-02 and 4-0-00202-03)