

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

605B



**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**

March 12, 2013

**SUBJECT:** Little Lake MDP Line B, Stage 1, and a portion of MDP Line B-4  
Project No. 4-0-00265-01  
Cooperative Agreement  
District 3/District 3

**RECOMMENDED MOTION:**

1. Approve the Cooperative Agreement (Agreement) between the District, the County of Riverside on behalf of the Transportation Department (County) and the City of Hemet (City); and
2. 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 District will construct the Little Lake Master Drainage Plan (MDP) Line B, Stage 1 and a portion of MDP Line B-4.

Continued on page 2.

TK:rp

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

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

APPROVE  
BY: Steven C. Horn  
Steven C. Horn, MPA

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dept's Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.: | District: 3<sup>rd</sup>/3<sup>rd</sup> | Agenda Number: **11-2**

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FOR COUNTY APPROVED COUNTY COUNSEL BY: Warren D. Williams DATE: 3/12/13

Departmental Concurrence

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

**SUBJECT:** Little Lake MDP Line B, Stage 1, and a portion of MDP Line B-4  
Project No. 4-0-00265-01  
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**Page 2**

**BACKGROUND (continued):**

The County and City are granting the District the necessary rights to access, construct, operate and maintain the project within County and City road rights of way. Upon completion of project construction, the County and City will assume ownership, operation and maintenance responsibilities of the project's associated catch basins, laterals 36-inch or less in diameter and connector pipes located within their respective rights of way while the District will assume ownership, operation and maintenance of the mainline storm drain and laterals greater than 36-inches in diameter.

County Counsel has approved the Agreement as to legal form and the City has executed the Agreement. A companion item appears on the Riverside County Transportation Department's Board agenda this same date.

**FINANCIAL:**

Sufficient funds have been included in the District's proposed Zone 4 Capital Improvement Plan budget. Future ongoing operations and maintenance costs will accrue to the District, County and City.



1 California Department of Transportation rights of way, hereinafter called  
2 "APPURTENANCES"; and

3 F. Those APPURTENANCES located within CITY and/or California  
4 Department of Transportation rights of way are hereinafter called "CITY APPURTENANCES".  
5 Those APPURTENANCES located within COUNTY rights of way are hereinafter called  
6 "COUNTY APPURTENANCES"; and

7 G. DISTRICT FACILITIES, CITY APPURTENANCES, and COUNTY  
8 APPURTENANCES are hereinafter altogether called "PROJECT"; and

9 H. DISTRICT, CITY and COUNTY are jointly sponsoring the facilities and  
10 intend to work together to complete its construction; and

11 I. The purpose of this Agreement is to memorialize the mutual understandings  
12 by and between DISTRICT, COUNTY and CITY with respect to design, construction,  
13 ownership, and operation and maintenance of PROJECT.  
14

15 NOW, THEREFORE, in consideration of the preceding recitals and the mutual  
16 covenants hereinafter contained, the parties hereto mutually agree as follows:  
17

18 SECTION I

19 DISTRICT shall:

20 1. Prepare, or cause to be prepared, plans and specifications for PROJECT,  
21 hereinafter called "PROJECT PLANS", in accordance with the applicable DISTRICT,  
22 COUNTY, CITY and California Department of Transportation standards.

23 2. Pursuant to the California Environmental Quality Act (CEQA), act as Lead  
24 Agency and assume responsibility for preparation, circulation and adoption of all necessary and  
25 appropriate CEQA documents pertaining to the construction, operation and maintenance of  
26 PROJECT.  
27

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1                   3.    Pay all DISTRICT costs associated with the preparation of PROJECT  
2 PLANS and with the processing and administration of this Agreement.

3                   4.    Obtain, at its sole cost and expense, all necessary licenses, agreements,  
4 permits and rights of entry as may be necessary to construct, inspect, operate and maintain  
5 PROJECT, except as otherwise provided herein.

6                   5.    Prior to advertising PROJECT for construction bids, submit PROJECT  
7 PLANS to CITY and COUNTY for their review and approval, as appropriate.

8                   6.    Advertise, award and administer a public works construction contract for  
9 PROJECT at its sole cost and expense.

10                  7.    Provide COUNTY and CITY with written notice that DISTRICT has  
11 awarded a construction contract for PROJECT.

12                  8.    Notify COUNTY and CITY, in writing at least twenty (20) days prior to the  
13 start of construction of PROJECT.

14                  9.    Furnish COUNTY and CITY, at the time of providing written notice to  
15 COUNTY and CITY of the start of construction as set forth in Section 8, with a construction  
16 schedule which shall show the order and dates in which DISTRICT or DISTRICT'S contractor  
17 proposes to carry on the various parts of work, including estimated start and completion dates.

18                  10.   Construct, or cause to be constructed, PROJECT pursuant to a DISTRICT  
19 administered public works construction contract, in accordance with PROJECT PLANS  
20 approved by DISTRICT, COUNTY and CITY, and pay all costs associated therewith.

21                  11.   Inspect construction of PROJECT.

22                  12.   Require its construction contractor(s) to comply with all Cal/OSHA safety  
23 regulations including regulations concerning confined space and maintain a safe working  
24 environment for all DISTRICT, COUNTY and CITY employees on the site.  
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1           13. Assume ownership and sole responsibility for the operation and  
2 maintenance of PROJECT until such time as COUNTY and CITY accept ownership and  
3 responsibility for the operation and maintenance of COUNTY APPURTENANCES and CITY  
4 APPURTENANCES, respectively. Further, it is mutually understood by the parties hereto that  
5 prior to COUNTY and CITY acceptance of ownership and responsibility for the operation and  
6 maintenance of COUNTY APPURTENANCES and CITY APPURTENANCES, COUNTY  
7 APPURTENANCES and CITY APPURTENANCES shall be in a satisfactorily maintained  
8 condition as solely determined by COUNTY and CITY.  
9

10           14. Within two (2) weeks of completing PROJECT construction, provide  
11 COUNTY and CITY with written notice that PROJECT construction is substantially complete  
12 and requesting that COUNTY and CITY conduct a final inspection of COUNTY  
13 APPURTENANCES and CITY APPURTENANCES.  
14

15           15. Upon completion of PROJECT construction, provide COUNTY and CITY  
16 with a copy of DISTRICT'S Notice of Completion.  
17

18           16. Upon acceptance by COUNTY and CITY of COUNTY  
19 APPURTENANCES and CITY APPURTENANCES for ownership, operation and  
20 maintenance, provide COUNTY and CITY each with a reproducible duplicate set of "record  
21 drawings" of PROJECT plans.  
22

23           17. Ensure that all work performed pursuant to this Agreement by DISTRICT,  
24 its agents or contractors is done in accordance with all applicable laws and regulations,  
25 including but not limited to all applicable provisions of the Labor Code, Business and  
26 Professions Code, and Water Code. DISTRICT shall be solely responsible for all costs  
27 associated with compliance with applicable laws and regulations.  
28

SECTION II

COUNTY shall:

1. Review and approve PROJECT PLANS prior to DISTRICT'S advertising of PROJECT for construction bids.
2. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
3. Grant DISTRICT, by execution of this Agreement, all rights necessary to construct, inspect, operate and maintain PROJECT within COUNTY rights of way.
4. Order the relocation of all utilities installed by permit or franchise within COUNTY rights of way which conflict with the construction of PROJECT and which must be relocated at the utility owner's expense.
5. Issue, at no cost to DISTRICT or DISTRICT'S contractor(s), the necessary encroachment and road closure permits required to construct PROJECT.
6. Inspect PROJECT construction for quality control purposes at its sole cost, and provide any comments to DISTRICT personnel who shall be solely responsible for all quality control communications with DISTRICT'S contractor(s) during the construction of PROJECT.
7. Upon receipt of DISTRICT'S written notice that PROJECT construction is substantially complete, conduct a final inspection of PROJECT.
8. Accept sole responsibility for ownership, operation and maintenance of COUNTY APPURTENANCES upon (i) receipt of DISTRICT'S written Notice of Completion as set forth in Section I.15, and (ii) receipt of a reproducible duplicate set of "record drawings" of PROJECT plans as set forth in Section I.16.







1           3. Each party, as to any claim or liability arising out of any act or omission  
2 with reference to any work to be performed by or authority delegated to such party as a result of  
3 this Agreement, shall save, defend, indemnify and hold harmless the other party and its officers  
4 and employees from all liability for death or injury to person, or damage to property, or claim  
5 therefor. DISTRICT shall require its prime contractor to include COUNTY and CITY as  
6 additional insureds under the liability insurance coverage required by DISTRICT'S construction  
7 contract for PROJECT.  
8

9           4. In the event of any arbitration, action or suit brought by DISTRICT,  
10 COUNTY or CITY against the other party by reason of any breach on the part of the other party  
11 of any of the covenants and agreements set forth in this Agreement, or any other dispute  
12 between the DISTRICT, COUNTY or CITY concerning this Agreement, the prevailing party in  
13 any such action or dispute, by a final judgment or arbitration award, shall be entitled to have and  
14 recover from the other party all costs and expenses or claims, including but not limited to,  
15 attorney's fees and expert witness fees. This section shall survive any termination of this  
16 Agreement.  
17

18           5. This Agreement is made and entered into for the sole protection and benefit  
19 of the parties hereto. No other person or entity shall have any right or action based upon the  
20 provisions of this Agreement.  
21

22           6. DISTRICT, COUNTY and CITY each pledge to cooperate in regard to the  
23 operation and maintenance of their respective facilities as set forth herein and to discharge their  
24 respective maintenance responsibilities in an expeditious fashion so as to avoid the creation of  
25 any nuisance condition or undue maintenance impact upon the others' facilities.

26           7. Any and all notices sent or required to be sent to the parties of this  
27 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:  
28

1 RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
2 1995 Market Street  
Riverside, CA 92501  
3 Attn: Contract Administration Section

CITY OF HEMET  
510 East Florida Avenue  
Hemet, CA 92543  
Attn: Jorge Biagioni

4 COUNTY OF RIVERSIDE  
TRANSPORTATION DEPT.  
5 4080 Lemon Street  
Riverside, CA 92502  
6 Attn: Mojahed Salama

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

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

12 10. DISTRICT, COUNTY and CITY shall not assign this Agreement without  
13 the written consent of the other parties.

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

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 prepared  
22 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty  
23 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT  
24 prepared this Agreement in its final form.  
25

26 13. Any waiver by DISTRICT, COUNTY or CITY, or any breach by any other  
27 party of any provision of this Agreement shall not be construed to be a waiver of any subsequent  
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1 or other breach of the same or any other provision hereof. Failure on the part of DISTRICT,  
2 COUNTY or CITY to require from any other party exact, full and complete compliance with  
3 any of the provisions of this Agreement shall not be construed as in any manner changing the  
4 terms hereof, or estopping DISTRICT, COUNTY or CITY from enforcing this Agreement.

5           14. This Agreement is intended by the parties hereto as a final expression of  
6 their understanding with respect to the subject matter hereof and as a complete and exclusive  
7 statement of the terms and conditions thereof and supersedes any and all prior and  
8 contemporaneous agreements and understandings, oral and written, in connection therewith.  
9 This Agreement may be changed or modified only upon the written consent of the parties  
10 hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

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(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By *Steve Thomas*  
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 R. Kipnis*  
NEAL R. KIPNIS  
Deputy County Counsel

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

(SEAL)

RECOMMENDED FOR APPROVAL:

**COUNTY OF RIVERSIDE**

By *Juan C. Perez*  
JUAN C. PEREZ, Director  
Transportation and Land Management

By \_\_\_\_\_  
JOHN TAVAGLIONE, Chairman  
County of Riverside Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By *Marsha L. Victor 12/13/12*  
MARSHA L. VICTOR  
Principal Deputy County Counsel

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

(SEAL)

Cooperative Agreement  
Little Lake MDP Line B, Stage 1, and a portion of MDP Line B-4  
Project No. 4-0-00265-01

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RECOMMENDED FOR APPROVAL:

CITY OF HEMET

By *Ronald E. Bradley*  
RONALD E. BRADLEY  
Interim City Manager

By *Robert Youssef*  
ROBERT YOUSSEF  
Mayor

APPROVED AS TO FORM:

ATTEST:

By *Eric Vail*  
ERIC VAIL  
City Attorney

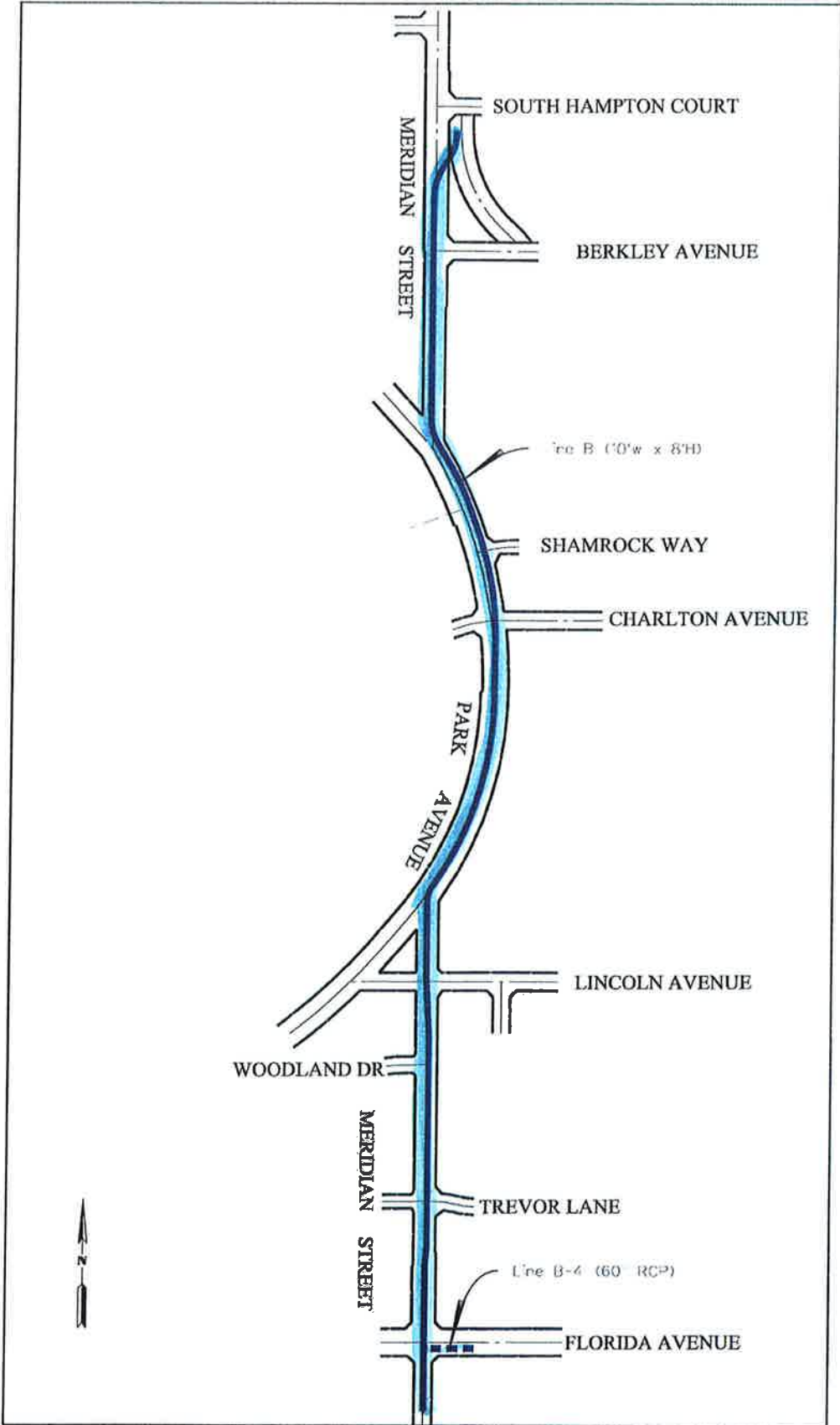
By *Sarah McComas*  
SARAH MCCOMAS  
City Clerk

(SEAL)

TK:rlp  
10/30/12  
P8/150019

Cooperat  
Little Lake MDP Line B, Stage 1, and a portion of MDP Line B-4  
Project No. 4-0-00265-01

**EXHIBIT A**



**EXHIBIT "A"**