

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

2113



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
September 28, 2010

SUBJECT: Day Creek-Frank Ave Storm Drain
Project No. 2-0-00274
Cooperative Agreement

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District and the County of Riverside; 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 District is to construct the Day Creek-Frank Avenue Storm Drain.

Continued on Page 2

KEC:blj

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:

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

C.E.O. RECOMMENDATION:

APPROVE

BY:
Alex Gann

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Buster, Stone, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: October 5, 2010
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref.: Flood

District: 2nd

Agenda Number:

11.1

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNCIL CONCURRENCE
BY:
NEAL R. KIPNIS
DATE: 9/28/10

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

SUBJECT: Day Creek-Frank Avenue Storm Drain
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Cooperative Agreement

SUBMITTAL DATE: September 28, 2010
Page 2

BACKGROUND contd.:

The District is funding all storm drain design, construction and inspection costs.

The County is granting the District the necessary rights to construct, operate and maintain the project within County road rights of way and, upon completion of project construction, will assume ownership, operation and maintenance responsibilities.

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

KEC:bjj

1 works PROJECT construction contract; (vi) provide all construction surveys, materials testing
 2 and construction inspection necessary for construction of PROJECT; (vii) pay all costs related
 3 to PROJECT'S design, construction and administration; (viii) provide COUNTY original
 4 "record drawings" of IMPROVEMENT PLANS as provided herein; and (ix) accept ownership
 5 and responsibility for the operation and maintenance of PROJECT until such time as COUNTY
 6 accepts PROJECT for ownership, operation and maintenance as provided herein; and

7
 8 D. COUNTY is willing to (i) review and approve IMPROVEMENT PLANS
 9 prepared by DISTRICT for PROJECT; (ii) grant DISTRICT and its contractor(s) the rights
 10 necessary to construct and inspect PROJECT within COUNTY rights of way; (iii) inspect the
 11 construction of PROJECT for quality control purposes; (iv) order all utility relocations; (v) issue
 12 a no cost encroachment permit to DISTRICT; and (vi) accept ownership and responsibility for
 13 the operation and maintenance of PROJECT upon (a) receipt of DISTRICT'S Notice of
 14 Completion; and (b) receipt of original record drawings of IMPROVEMENT PLANS as
 15 provided herein; and

16
 17 E. The purpose of this Agreement is to memorialize the mutual understandings
 18 by and between DISTRICT and COUNTY with respect to design, construction, inspection,
 19 ownership, operation and maintenance, and funding of PROJECT.

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

21 SECTION I

22 DISTRICT shall:

- 23
 24 1. Prepare or cause to be prepared, IMPROVEMENT PLANS, as shown on
 25 District Drawing No. 2-423, in accordance with DISTRICT and COUNTY standards, and
 26 submit to COUNTY for its review and approval prior to advertising PROJECT for construction.

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1 2. Pursuant to CEQA, assume lead agency role and responsibility for
2 preparation, circulation, and adoption of all necessary and appropriate CEQA documents
3 pertaining to the construction operation and maintenance of PROJECT.

4 3. Pay all costs associated with the preparation of IMPROVEMENT PLANS
5 and with the processing and administration of this Agreement.

6 4. Obtain at its sole cost and expense, all necessary permits, approvals or
7 agreements required by any Federal or State resource or regulatory agencies pertaining to the
8 construction, operation and maintenance of PROJECT. Such documents, hereinafter called
9 "REGULATORY PERMITS", may include but are not limited to Section 404 permit issued by
10 U.S. Army Corps of Engineers (USACOE), a Section 401 Water Quality Certification issued by
11 the California Regional Water Quality Control Board (CRWQCB), a Section 1601 Streambed
12 Alteration Agreement issued by the California Department of Fish and Game and National
13 Pollutant Discharge Elimination System Permits issued by the State Water Resources Control
14 Board or CRWQCB.

15 5. Secure at its sole cost and expense, all necessary licenses, agreements,
16 permits and rights of entry as may be needed for the construction, inspection, operation and
17 maintenance of PROJECT.

18 6. Advertise, award and administer a public works PROJECT construction
19 contract.

20 7. Provide COUNTY with written notice that DISTRICT has awarded a
21 construction contract for PROJECT.

22 8. Notify COUNTY in writing at least twenty (20) days prior to the start of
23 construction of PROJECT.

1 9. Furnish COUNTY, at the time of providing written notice to COUNTY of
2 the start of construction as set forth in Section I.8., a construction schedule which shall show the
3 order and dates in which the DISTRICT or DISTRICT'S contractor proposes to carry on the
4 various parts of work, including estimated start and completion dates.

5 10. Construct PROJECT or cause PROJECT to be constructed, pursuant to a
6 DISTRICT administered construction contract, in accordance with IMPROVEMENT PLANS
7 approved by DISTRICT and COUNTY, and pay all costs associated therewith.
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9 11. Inspect construction of PROJECT.

10 12. Grant COUNTY, by execution of this Agreement, the right to enter upon
11 DISTRICT controlled property where necessary and convenient for the purpose of gaining
12 access to, and performing quality control inspection service for, the construction of PROJECT
13 as set forth herein.

14 13. Require its construction contractor(s) to comply with all Cal/OSHA safety
15 regulations including regulations concerning confined space and maintain a safe working
16 environment for all DISTRICT and COUNTY employees on the site.
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18 14. Require its PROJECT construction contractor to furnish DISTRICT,
19 following DISTRICT'S award of a PROJECT construction contract, a confined space entry
20 procedure specific to PROJECT. The procedure shall comply with requirements contained in
21 California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations,
22 Section 5157, Permit Required Confined Space and DISTRICT Confined Space Procedures,
23 SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the issuance of
24 a Notice to Proceed.
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26 15. Require its PROJECT construction contractor(s), following DISTRICT'S
27 award of a PROJECT construction contract, to procure and maintain comprehensive liability
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1 insurance which shall protect DISTRICT and the County of Riverside from claims for damages
2 for personal injury, including accidental or wrongful death, as well as from claims for property
3 damage, which may arise from DISTRICT'S construction of PROJECT or the performance of
4 its obligations hereunder, whether such construction or performance be by DISTRICT, the
5 aforementioned construction contractor(s), or any subcontractors to said construction
6 contractor(s), or by anyone employed directly or indirectly by said construction contractor(s) or
7 subcontractors. Such insurance shall provide for coverage limits of not less than two million
8 dollars (\$2,000,000) per occurrence and shall name DISTRICT and the County of Riverside as
9 additional insureds with respect to this Agreement and the obligations of DISTRICT hereunder.
10 Said insurance coverage shall be provided by an insurance company licensed to transact
11 insurance business in the State of California, having an A.M. Best rating of A:VIII (A:8) or
12 better, and shall be evidenced by a certificate (or certificates) of insurance indicating that the
13 insurance is in full force and effect and that DISTRICT and the County of Riverside are named
14 as additional insureds. Said certificate(s) of insurance shall contain the covenant of the
15 insurance carrier(s) that thirty (30) days written notice shall be provided to DISTRICT and the
16 County of Riverside prior to any modification, cancellation, or reduction in coverage of said
17 insurance.
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20 16. Accept ownership and sole responsibility for the operation and maintenance
21 of PROJECT until such time as COUNTY accepts ownership and responsibility for operation
22 and maintenance of PROJECT. Further, it is mutually understood by the parties hereto that
23 prior to COUNTY acceptance of ownership and responsibility for the operation and
24 maintenance of PROJECT, PROJECT shall be in a satisfactorily maintained condition as solely
25 determined by COUNTY.
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6. Upon receipt of DISTRICT'S written notice that PROJECT construction is substantially complete, conduct a final inspection of PROJECT.

7. Accept sole responsibility for ownership, operation and maintenance of PROJECT upon (i) completion of PROJECT construction; and (ii) receipt of "record drawing" construction drawings as set forth in Section I.19.

SECTION III

It is further mutually agreed:

1. Except as otherwise provided herein, all construction work involved with PROJECT shall be inspected by DISTRICT and shall not be deemed complete until approved and accepted as complete by DISTRICT.

2. Except as provided herein, DISTRICT shall not be responsible for any additional street repairs or improvements not shown in IMPROVEMENT PLANS and not as a result of the PROJECT construction.

3. DISTRICT shall indemnify, defend, save and hold harmless COUNTY and County of Riverside (including their respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DISTRICT (including its officers, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

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

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

18 6. This Agreement is to be construed in accordance with the laws of the State
 19 of California.

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

22 RIVERSIDE COUNTY FLOOD CONTROL 23 AND WATER CONSERVATION DISTRICT 24 1995 Market Street 25 Riverside, CA 92501 Attn: Administrative Services	COUNTY OF RIVERSIDE Post Office Box 1090 Riverside, CA 92502-1090 Attn: Transportation Department
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26 8. If any provision in this Agreement is held by a court of competent
 27 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless
 28 continue in full force without being impaired or invalidated in any way.

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

5 10. 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. This Agreement may be changed or modified
8 only upon the written consent of the parties hereto.
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
OCT 05 2010

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
By Warren D. Williams By Marion Ashley
WARREN D. WILLIAMS MARION ASHLEY, Chairman
General Manager-Chief Engineer Riverside County Flood Control and Water Conservation District Board of Supervisors

APPROVED AS TO FORM: ATTEST:
PAMELA J. WALLS KECIA HARPER-IHEM
County Counsel Clerk of the Board
By Neal Kipnis By Kecia Harper-Ihem
NEAL KIPNIS Deputy
Deputy County Counsel
(SEAL)

RECOMMENDED FOR APPROVAL: COUNTY OF RIVERSIDE
By Juan C. Perez By Marion Ashley
JUAN C. PEREZ MARION ASHLEY, Chairman
Director of Transportation County of Riverside Board of Supervisors

FORM APPROVED COUNTY COUNSEL ATTEST:
BY: Marshal Victor 9/3/10 KECIA HARPER-IHEM
MARSHAL L. VICTOR DATE Clerk of the Board
By Kecia Harper-Ihem
Deputy
(SEAL)

Cooperative Agreement: Day Creek - Frank Ave. Storm Drain
KEC:blj
8/4/10

Exhibit A

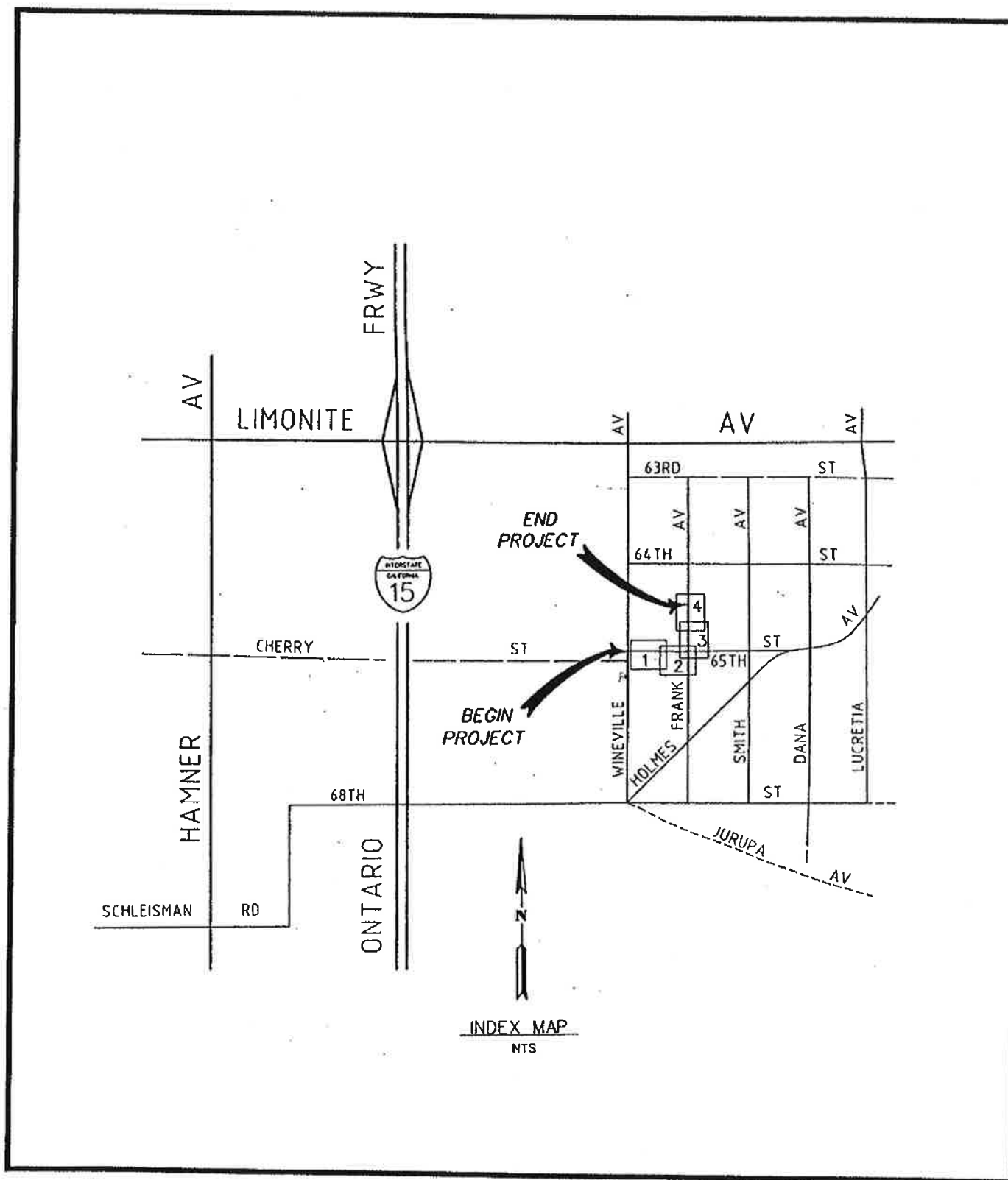


Exhibit A

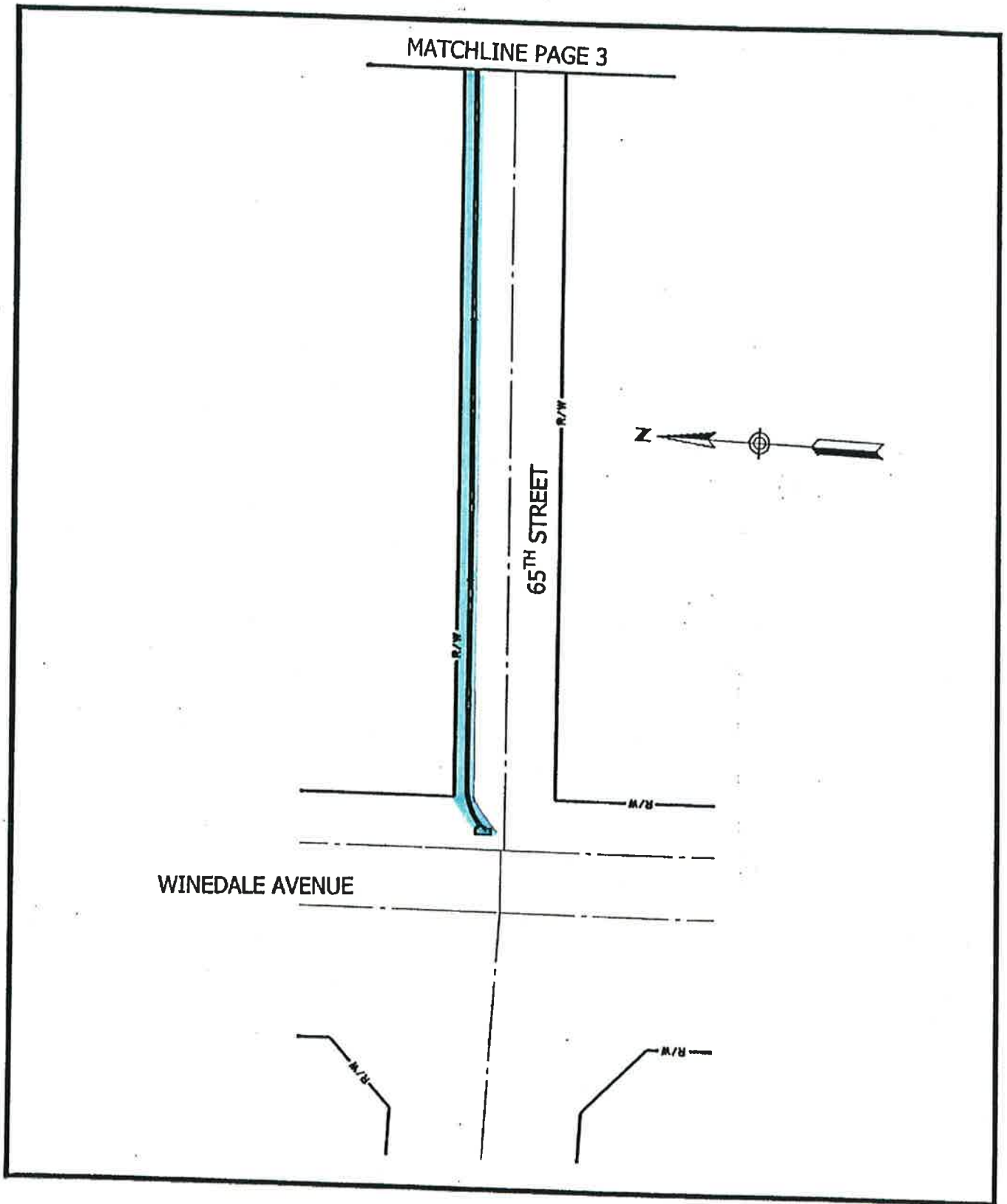


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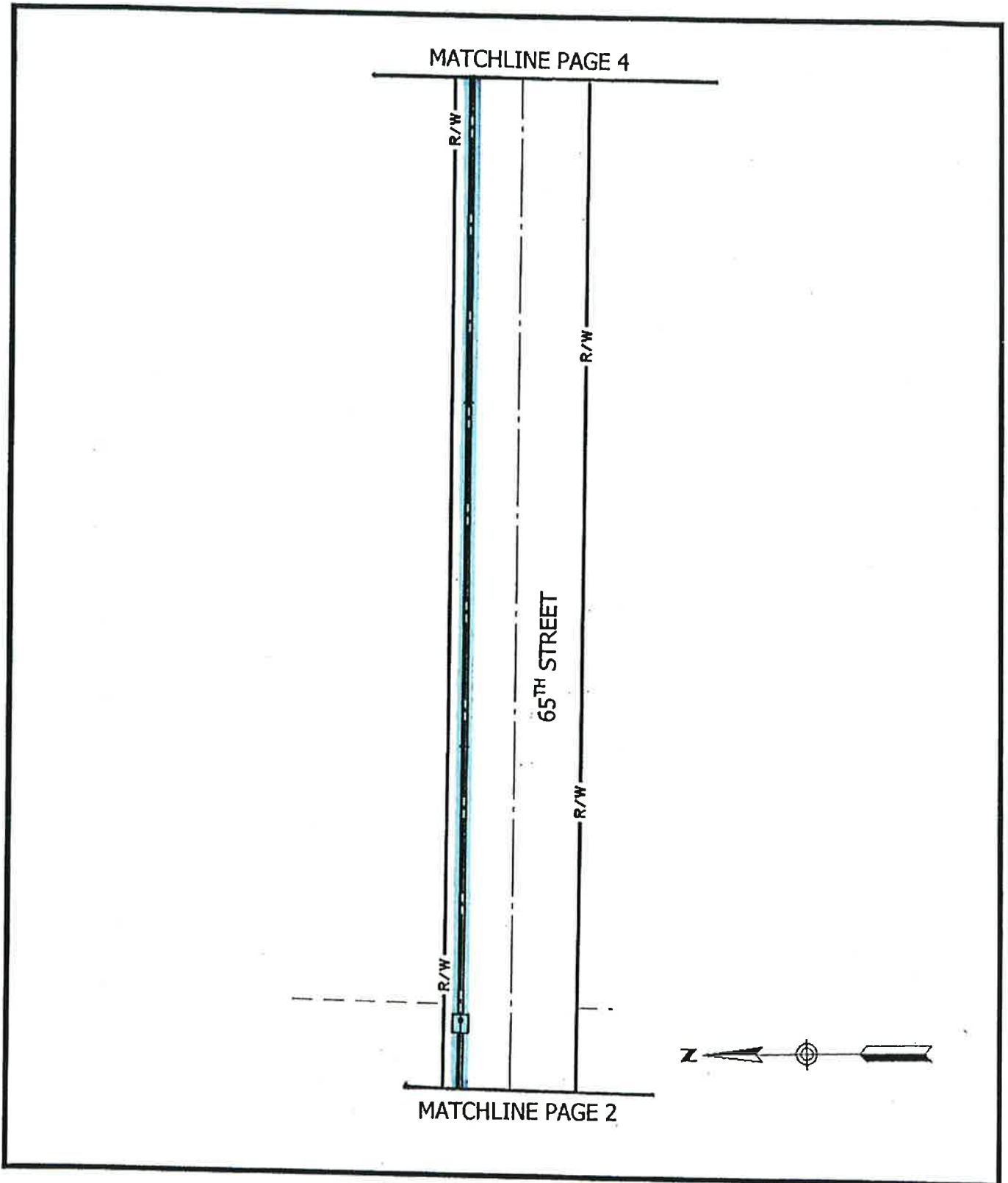


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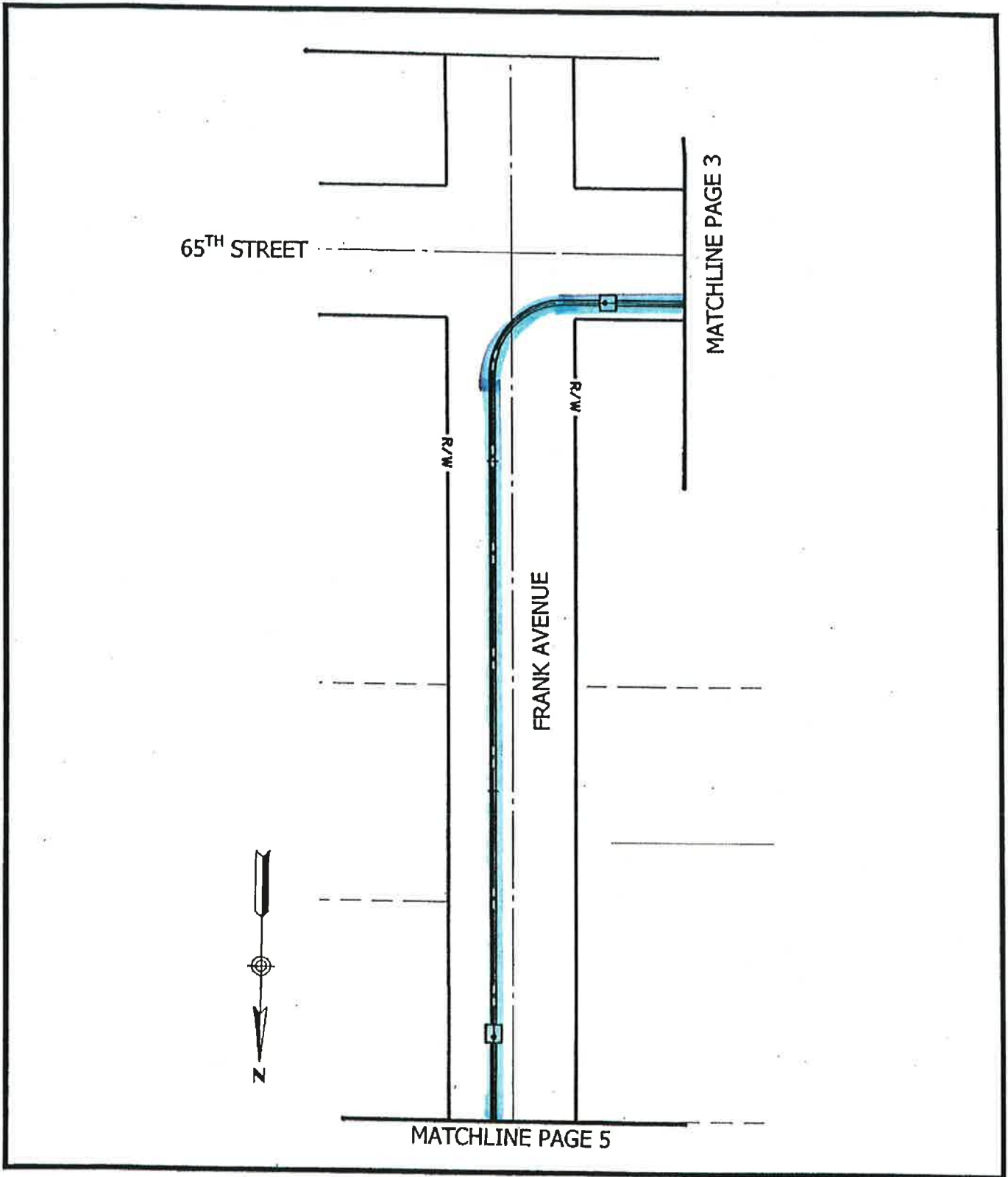


Exhibit A

