

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



313B

FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

April 10, 2012

SUBJECT: Warm Springs Valley-Briggs Road Storm Drain
Project No. 7-0-00225
Cooperative Agreement
District 3/District 3

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District and the County of Riverside (County); and authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement set forth the terms and conditions by which a storm drain facility is to be constructed by the County as part of a public works contract for road improvements and by which the District will inspect, operate and maintain this facility.

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for the construction inspection of the storm drain facility by the District.

Continued on page 2

WARREN D. WILLIAMS
General Manager-Chief Engineer

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

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:
Michael R. Shetler

County Executive Office Signature

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

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Buster, Tavaglione, Stone and Benoit
Nays: None
Absent: Ashley
Date: April 10, 2012
xc: Flood, Transp.

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

(Comp. item 3.47)

Prev. Agn. Ref.:

District: 3rd/3rd

Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

11.6

FORM APPROVED COUNTY COUNSEL (12) BY: NEAL R. KIPNIS DATE

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

SUBJECT: Warm Springs Valley-Briggs Road Storm Drain
Project No. 7-0-00225
Cooperative Agreement
District 3/District 3

SUBMITTAL DATE: April 10, 2012
Page 2

BACKGROUND (continued):

Upon completion of the storm drain construction, the District will assume ownership, operation and maintenance of the storm drain facility including the inlet and outlet.

The County 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. The County has also executed this Agreement. This matter is also on the County's Board Agenda for approval this same date.

TT:blj
P8/145221

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COOPERATIVE AGREEMENT
WARM SPRINGS VALLEY – BRIGGS ROAD STORM DRAIN
(MS 4089/IP 060030)
(Project No. 7-0-00225)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT" and The COUNTY OF RIVERSIDE (Transportation Department), hereinafter called "COUNTY", hereby agree as follows:

RECITALS

A. There are certain street improvements in the southwest area of Riverside County which would provide traffic access and circulation deemed critical to the COUNTY for public health and safety reasons. The COUNTY has budgeted for and is planning to construct through a public works construction contract certain capital street improvements including approximately 3,500 lineal feet of Briggs Road, 1,500 lineal feet of Baxter Road, underground utilities and associated drainage facilities, hereinafter called "STREET IMPROVEMENTS". The approximate limits of STREET IMPROVEMENTS are outlined in red on Exhibit "A", attached hereto and made a part hereof. Improvement plans for STREET IMPROVEMENTS were initially prepared as part of plan check improvements for Tract No. 30433 and Tract No. 32289; and

B. Located in the vicinity of the intersection of Briggs Road and Baxter Road are some of those associated drainage facilities which include approximately 525 lineal feet of 60-inch underground storm drain and associated inlet and outlet structures and a maintenance access ramp, hereinafter collectively called "STORM DRAIN", as shown on DISTRICT Drawing No. 7-429 (Sheets 2 and 18). STREET IMPROVEMENTS and STORM DRAIN are hereinafter collectively called "PROJECT"; and

11.6
3.47

1 C. COUNTY will prepare, or cause to be prepared, the plan and specification
2 documents necessary to advertise and award a public works construction contract for PROJECT
3 and pay all costs associated with the construction of PROJECT; and

4 D. COUNTY desires DISTRICT to accept ownership and responsibility for the
5 operation and maintenance of STORM DRAIN, therefore DISTRICT must review and approve
6 the plans and specifications and subsequently inspect the construction of STORM DRAIN; and

7 E. The purpose of this Agreement is to memorialize the mutual understandings by
8 and amongst COUNTY and DISTRICT with respect to the construction, ownership, operation
9 and maintenance of PROJECT, and the payment to the DISTRICT for the review of STORM
10 DRAIN plans and specifications, review and approval of right of way and conveyance
11 documents, construction inspection of STORM DRAIN and the preparation, processing and
12 administration of this Agreement; and
13

14 F. Due to time constraints related to funding, it is in the best interest of the public to
15 proceed with the construction of the PROJECT at the earliest possible date.
16

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

18 SECTION I

19 COUNTY shall:

20 1. Pursuant to CEQA, assume lead agency role and responsibility for preparation,
21 circulation, and adoption of all necessary and appropriate CEQA documents pertaining to the
22 construction, operation and maintenance of PROJECT.
23

24 2. Prepare or cause to be prepared, plans and specifications for PROJECT, which
25 include separate plans and specifications for STORM DRAIN in accordance with DISTRICT
26 and COUNTY standards, and submit to DISTRICT for their review and approval prior to
27 COUNTY advertising a public works construction contract for PROJECT.
28

1 3. Obtain at its sole cost and expense, all necessary licenses, agreements, permits,
2 approvals, rights of way, rights of entry and temporary construction easements as may be
3 necessary to construct, operate and maintain PROJECT except as otherwise provided herein.

4 4. Furnish DISTRICT with copies of all permits, approvals or agreements as may
5 be required by any Federal or State resource and/or regulatory agency for the construction,
6 operation and maintenance of PROJECT. Such documents include but are not limited to those
7 issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board
8 and State Water Resources Control Board.

9 5. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate
10 and maintain STORM DRAIN within COUNTY rights of way.

11 6. Advertise, award and administer a public works construction contract for
12 PROJECT.

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

15 8. Prior to commencing PROJECT construction, schedule and conduct a mandatory
16 pre-construction meeting between COUNTY, COUNTY'S construction contractor(s),
17 DISTRICT and other affected entities. COUNTY shall notify DISTRICT (Attention: Contract
18 Administration Section) in writing at least twenty (20) days prior to conducting the pre-
19 construction meeting.

20 9. Prior to commencing PROJECT construction, furnish DISTRICT with final
21 mylar STORM DRAIN improvement plans and assign ownership of said plans to DISTRICT.

22 10. Obtain and provide DISTRICT, prior to the start of construction of STORM
23 DRAIN, with duly executed Irrevocable Offer(s) of Dedication to the public for flood control
24 purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT
25
26
27
28

1 for the construction, inspection, operation and maintenance of STORM DRAIN as shown in
2 concept cross-hatched in red on Exhibit "B" attached hereto and made a part hereof. The
3 Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be
4 executed by all legal and equitable owners described in the offer.

5 11. Construct or cause to be constructed, PROJECT pursuant to a COUNTY
6 administered public works construction contract, in accordance with DISTRICT and COUNTY
7 approved plans and specifications and pay all costs associated therewith.

8 12. Inspect construction of PROJECT including all surveying and material testing
9 necessary to construct PROJECT.

10 13. Not permit any change to, or modification of, the DISTRICT approved STORM
11 DRAIN improvement plans without the prior written permission and consent of DISTRICT.

12 14. Require its construction contractor(s) to comply with all Cal/OSHA safety
13 regulations including regulations concerning confined space and maintain a safe working
14 environment for all DISTRICT and COUNTY employees on the site.

15 15. Require its construction contractor(s) to furnish DISTRICT (Attention: Contract
16 Administration Section), following COUNTY'S award of a PROJECT construction contract, a
17 confined space procedure specific to STORM DRAIN. The procedure shall comply with
18 requirements contained in California Code of Regulations, Title 8, Section 5158, Other
19 Confined Space Operations, Section 5157, Permit Required Confined Space and District
20 Confined Space Procedures, SOM-18. The procedure shall be provided to DISTRICT no less
21 than twenty (20) days prior to requesting that DISTRICT perform a final inspection for
22 acceptance of STORM DRAIN. The procedure shall be reviewed and approved by DISTRICT
23 prior to conducting the final inspection.
24
25
26
27
28

1 16. Reimburse DISTRICT, within thirty (30) days upon receipt of invoice(s) from
2 DISTRICT, for all costs associated with the review of STORM DRAIN plans and
3 specifications, review and approval of right of way and conveyance documents, construction
4 inspection of STORM DRAIN and the preparation, processing and administration of this
5 Agreement.

6 17. Accept ownership and sole responsibility for the operation and maintenance of
7 PROJECT until such time as DISTRICT accepts ownership and responsibility for operation and
8 maintenance of STORM DRAIN. Further, it is mutually understood by the parties hereto that
9 prior to DISTRICT acceptance of ownership and responsibility for the operation and
10 maintenance of STORM DRAIN, STORM DRAIN shall be in a satisfactory maintained
11 condition as solely determined by DISTRICT.

13 18. Within two (2) weeks of completing PROJECT construction, but prior to
14 COUNTY issuing a Notice of Completion, provide DISTRICT with written notice that
15 PROJECT construction is substantially complete and requesting that DISTRICT conduct a final
16 inspection of PROJECT.

18 19. Provide DISTRICT with stamped and signed original "record drawings" of the
19 STORM DRAIN improvement plans.

20 20. Upon DISTRICT'S acceptance of STORM DRAIN as being complete, accept
21 sole responsibility for the adjustment of all PROJECT manhole rings and covers located within
22 COUNTY rights of way which must be performed at such time(s) that the finished grade along
23 and above the underground portions of PROJECT are improved, repaired, replaced or changed.
24 It being further understood and agreed that any such adjustments shall be performed at no cost
25 to DISTRICT.
26

SECTION II

1 DISTRICT shall:

- 2
- 3 1. Act as a Responsible Agency under CEQA, and take all necessary and
- 4 appropriate action to comply with CEQA.
- 5 2. Review and approve all necessary regulatory permits as appropriate prior to
- 6 COUNTY advertising PROJECT for bids.
- 7 3. Review and approve STORM DRAIN improvement plans and specifications
- 8 prior to COUNTY advertising PROJECT for construction bids.
- 9
- 10 4. Inspect, including material testing, the construction of STORM DRAIN.
- 11 5. Keep an accurate accounting of all DISTRICT costs associated with the review
- 12 of STORM DRAIN plans and specifications, review and approval of right of way and
- 13 conveyance documents, construction inspection of STORM DRAIN and the preparation,
- 14 processing and administration of this Agreement.
- 15 6. Accept ownership and responsibility for the operation and maintenance of
- 16 STORM DRAIN upon (i) DISTRICT acceptance of STORM DRAIN construction as being
- 17 complete, (ii) DISTRICT'S sole determination that STORM DRAIN is in a satisfactorily
- 18 maintained condition, (iii) receipt by DISTRICT of stamped and signed STORM DRAIN
- 19 "record drawings" as set forth in Section 1.19. above, (iv) COUNTY acceptance of PROJECT
- 20 construction as being complete, and (v) acceptance by DISTRICT and COUNTY of all
- 21 necessary street rights of way and easements as deemed necessary by DISTRICT and COUNTY
- 22 for the operation and maintenance of PROJECT.
- 23
- 24
- 25
- 26
- 27
- 28

SECTION III

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further mutually agreed:

1. Except as otherwise provided herein, all construction work involved with PROJECT shall be inspected by COUNTY but shall not be deemed complete until DISTRICT and COUNTY mutually agree that construction is completed. COUNTY shall not request DISTRICT to accept STORM DRAIN for ownership, operation or maintenance until PROJECT construction is deemed fully complete and all necessary rights of way have been conveyed as set forth herein.

2. DISTRICT personnel may observe and inspect all work being done on PROJECT, but shall provide any comments to COUNTY personnel, who shall be solely responsible for all communications with COUNTY'S construction contractor(s).

3. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of STORM DRAIN, STORM DRAIN shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, in the sole discretion of DISTRICT, STORM DRAIN is not in an acceptable condition, corrections will be made at sole expense of COUNTY.

4. COUNTY shall indemnify, defend, save and hold harmless DISTRICT (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 COUNTY (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or

1 failure to comply with the requirements of this Agreement, including but not limited to: (a)
2 property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other
3 element of any kind or nature whatsoever.

4 5. DISTRICT shall indemnify, defend, save and hold harmless COUNTY
5 (including their respective officers, districts, special districts and departments, their respective
6 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents,
7 representatives, independent contractors, and subcontractors) from any liabilities, claim,
8 damage, proceeding or action, present or future, based upon, arising out of or in any way
9 relating to DISTRICT (including its officers, Board of Supervisors, elected and appointed
10 officials, employees, agents, representatives, independent contractors, and subcontractors) actual
11 or alleged acts or omissions related to this Agreement, performance under this Agreement, or
12 failure to comply with the requirements of this Agreement, including but not limited to: (a)
13 property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other
14 element of any kind or nature whatsoever.
15

16
17 6. Any waiver by DISTRICT or COUNTY of any breach by the others of any one
18 or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent
19 or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
20 COUNTY to require from the others exact, full and complete compliance with any terms of this
21 Agreement shall not be construed as in any manner changing the terms hereof, or estopping
22 DISTRICT or COUNTY from enforcement hereof.
23

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

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

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

4 8. If any provision in this Agreement is held by a court of competent jurisdiction to
5 be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect
6 without being impaired or invalidated in any way.

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

9 10. Pursuant to Government Code Sections 895.4 and 895.6, if any party hereto is
10 held liable upon any judgment for damages caused by a negligent or wrongful act or omission in
11 connection with the performance of their respective duties and obligations set forth in this
12 Agreement and pays in excess of its pro rata share in satisfaction of such judgment, such party
13 shall be entitled to contribution from the other party(ies) to this Agreement. The pro rata share
14 of each party for purposes of this Section shall be determined according to the comparative fault
15 of the respective party(ies), as between them.
16

17
18 In the event of any arbitration, action or suit brought by a party hereto against
19 another party hereunder by reason of any breach on the part of the other party of any of the
20 mutual covenants and agreements set forth herein or any other dispute between the parties
21 concerning this Agreement, then, the prevailing party in any such action or dispute, whether by
22 final judgment or arbitration award, shall be entitled to have and recover from the other
23 party(ies) all costs and expenses of suit or claim, including but not limited to, attorneys' fees and
24 experts' fees. This Section shall survive any termination of this Agreement.
25

1 11. This Agreement is made and entered into for the sole protection and benefit of
2 the parties hereto. No other person or entity shall have any right of action based upon the
3 provisions of this Agreement.

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

8 13. This Agreement is intended by the parties hereto as a final expression of their
9 understanding with respect to the subject matter hereof, and is a complete and exclusive
10 statement of the terms and conditions thereof. This Agreement may be changed or modified
11 only upon the written consent of the parties hereto.

12 14. The parties hereto shall not assign this Agreement without the written consent of
13 the other parties, and such consent will not be unreasonably withheld.

14 15. This Agreement may be executed and delivered in any number of counterparts or
15 copies, hereinafter called "COUNTERPART", by the parties hereto. When each party has
16 signed and delivered at least one COUNTERPART to the other parties hereto, each
17 COUNTERPART shall be deemed an original and, taken together, shall constitute one and the
18 same Agreement, which shall be binding and effective as to the parties hereto.

19 //

20 //

21
22
23
24
25
26
27
28

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

4-10-12

(to be filled in by the 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
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel
By Neal R. Kipnis
NEAL R. KIPNIS
Deputy County Counsel

KECIA HARPER-IHEM
Clerk of the Board
By Kecia Harper-Ihem
Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

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

By John F. Tavaglione
JOHN F. TAVAGLIONE, Chairman
County of Riverside Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

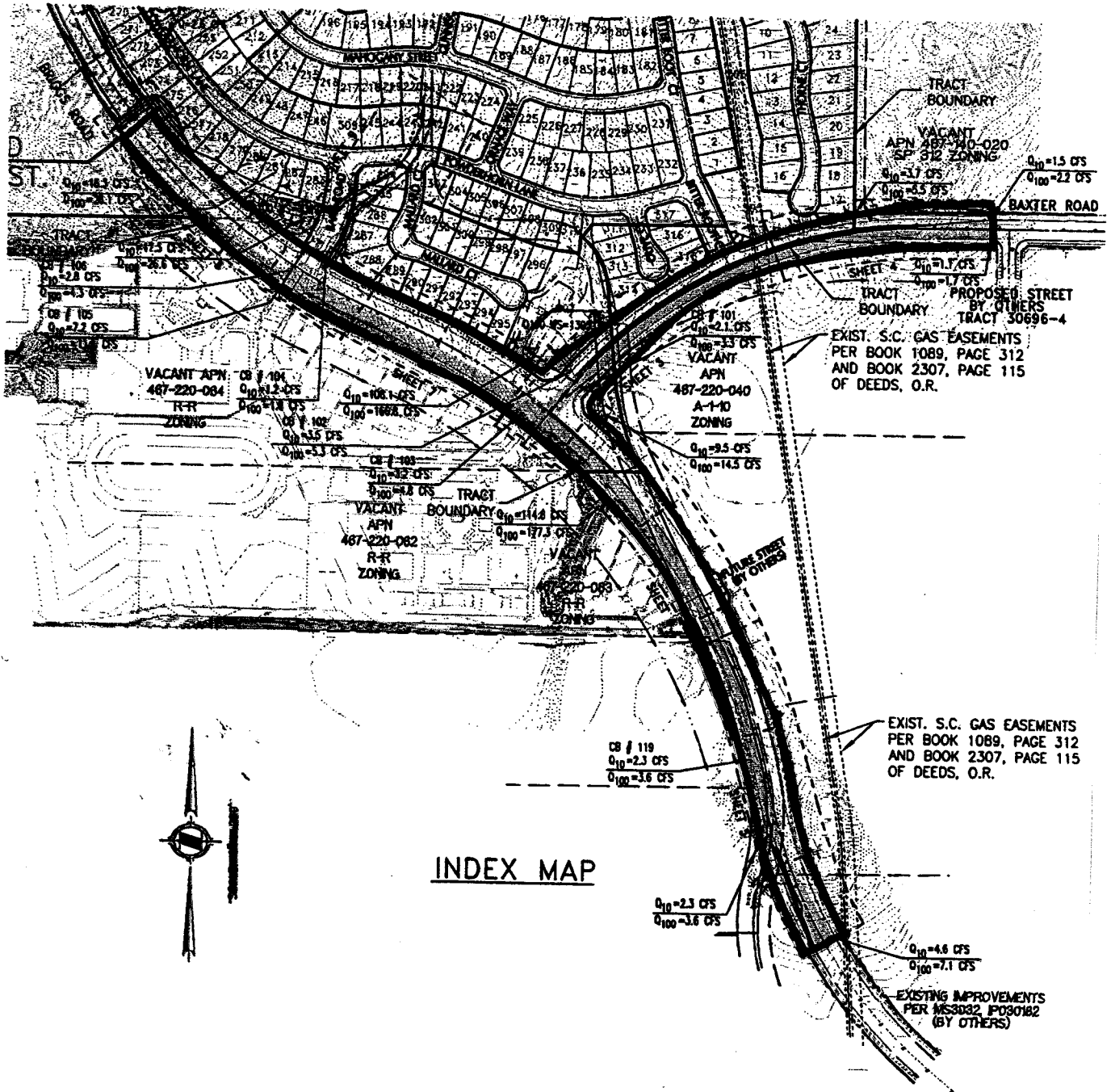
PAMELA J. WALLS
County Counsel
By Marsha L. Victor 3/26/12
MARSHA L. VICTOR
Principal Deputy County Counsel

KECIA HARPER-IHEM
Clerk of the Board
By Kecia Harper-Ihem
Deputy

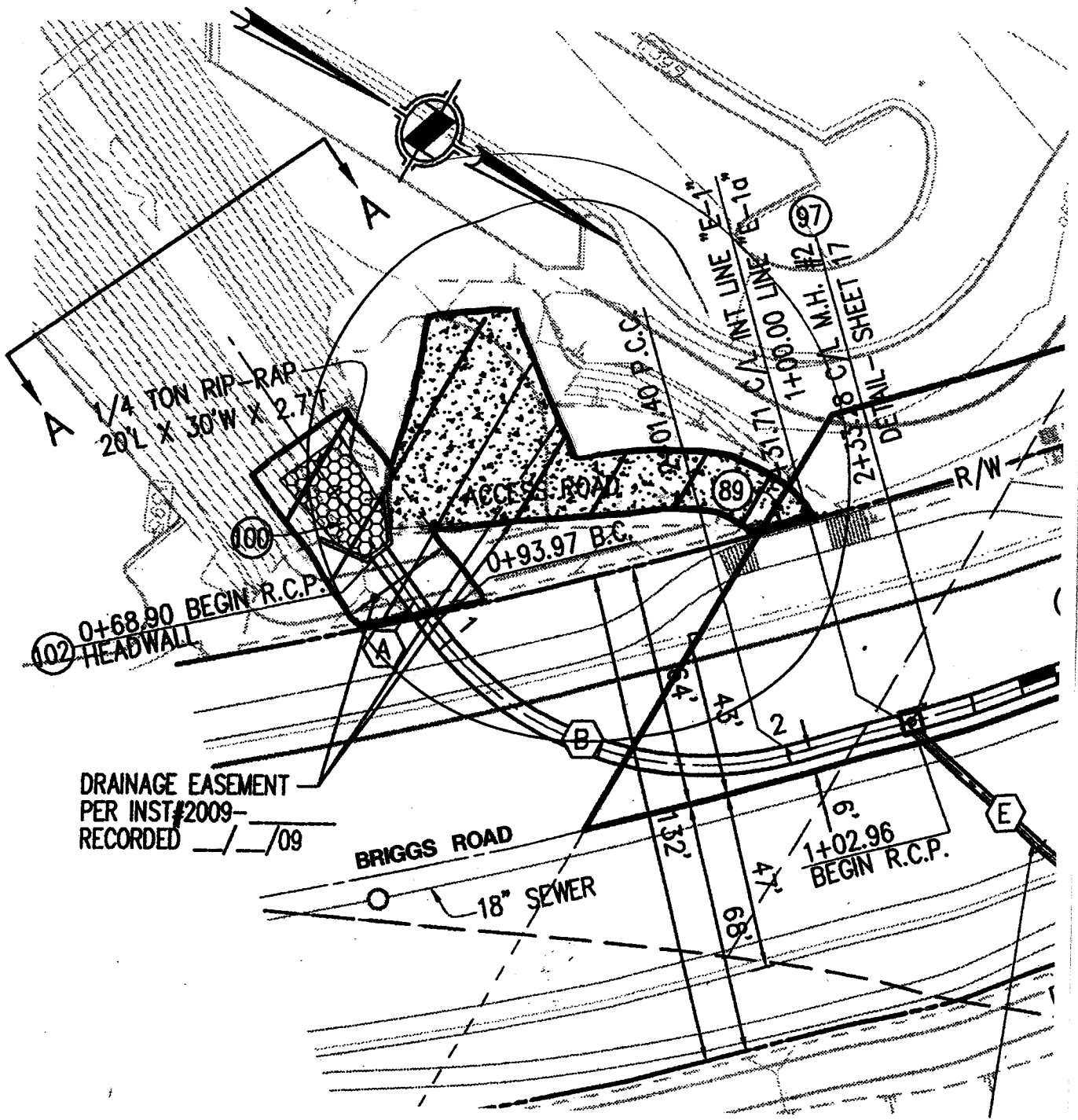
(SEAL)

Cooperative Agreement: Briggs Road Storm Drain
3/7/12
EWR:blj

11.6
3.47
APR 10 2012



INDEX MAP



DRAINAGE EASEMENT
 PER INST #2009-
 RECORDED / /09