



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

914 B

**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**  
September 11, 2012

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

**RECOMMENDED MOTION:**

1. Approve the Cooperative Agreement (Agreement) between the District and Lake Hemet Municipal Water District (LHMWD); and
2. Authorize the Chairman to execute the Agreement on behalf of the District.

**BACKGROUND:**

See Page 2

**FINANCIAL:**

See Page 2

TNK:blj

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

<b>FINANCIAL DATA</b>	Current F.Y. District Cost:	\$435,660	In Current Year Budget:	Yes
	Current F.Y. County Cost:	\$0	Budget Adjustment:	No
	Annual Net District Cost:	\$0	For Fiscal Year:	2012-2013

**SOURCE OF FUNDS:** 25140 947460 527980 – Zone 4 –Contracts

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

**MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

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

**Ayes:** Buster, Tavaglione, Benoit and Ashley  
**Nays:** None  
**Absent:** Stone  
**Date:** September 11, 2012  
**xc:** Flood

Kecia Harper-Ihem  
Clerk of the Board  
By: [Signature]  
Deputy

Prev. Agn. Ref.:

District: 3<sup>rd</sup> / 3<sup>rd</sup>

Agenda Number:

11.4

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

FISCAL PROCEDURES APPROVED  
JEANINE J. REY, FINANCE DIRECTOR  
BY: [Signature] 8/22/2012  
JEANINE J. REY

FORM APPROVED COUNTY COUNSEL  
BY: [Signature] 8/22/12  
NEAL R. KIPNIS DATE

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

**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  
Cooperative Agreement  
District 3 / District 3

**SUBMITTAL DATE:** September 11, 2012  
**Page 2**

**BACKGROUND:**

The purpose of this Agreement is to contract with LHMWD to perform the administration, engineering and construction of utility relocations in support of the District's proposed Little Lake MDP Line B storm drain project.

The Agreement sets forth the terms and conditions by which LHMWD will relocate approximately 1,760 lineal feet of 8-inch water main line and approximately 550 lineal feet of 8-inch sewer main line (Project) in an expedited manner. Since LHMWD has established its prior rights, District is responsible for the necessary utility relocations. If District designed the relocation, it would delay the construction of Project by four months. District will benefit from LHMWD's expertise in design and relocation of its facilities. Upon completion of Project, the Little Lake MDP Line B Storm Drain construction may begin.

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

**FINANCIAL:**

Funds for the Agreement are included in the District's Zone 4 Construction Contracts budget for FY 2012-2013. Sufficient funds will be included in the District's proposed future budget as appropriate.

The amounts referenced herein are based upon the maximum amount of the Agreement. Actual costs will be determined based upon actual invoices received but not to exceed the aggregate contract amount.

TNK:blj:rlp

**COOPERATIVE AGREEMENT**

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

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT, hereinafter called "DISTRICT", and the LAKE HEMET  
MUNICIPAL WATER DISTRICT, hereinafter called "LHMWD", hereby agree as follows:

**RECITALS**

A. DISTRICT has budgeted for and plans to design and construct the Little  
Lake Master Drainage Plan (MDP) Line B Stage 1 and a portion of Line B-4, hereinafter called  
"STORM DRAIN". When completed, the STORM DRAIN will provide improved drainage and  
flood protection for the immediate adjacent area located within the City of Hemet; and

B. The proposed STORM DRAIN will consist of approximately 4,800 lineal  
feet of reinforced concrete box and 130 lineal feet of reinforced concrete pipe as well as all  
associated catch basins and connector pipes. The proposed STORM DRAIN will outlet into  
DISTRICT'S existing Meridian Street Channel near Southhampton Court, thence commence  
southerly along Park Avenue and Meridian Street. The STORM DRAIN construction will  
terminate approximately 250 feet south of Caltrans' right-of-way (Florida Avenue) along  
Meridian Street. In order for the proposed STORM DRAIN to be constructed, various utility  
relocations will be necessary including a water line and a sewer line owned by LHMWD; and

C. The required water line and sewer line relocation project includes all  
administration, engineering, design plans, specifications, labor, equipment, material, remodeling  
of house services and incidentals required for the complete design and construction of  
approximately 1,760 feet of 8-inch water line and approximately 550 feet of 8-inch sewer utility  
main line as shown in the attached Exhibit "A", hereinafter referred to as the  
"RELOCATIONS"; and

SEP 11 2012 11.4

1 D. In conjunction with RELOCATIONS, LHMWD plans to construct  
2 additional improvements hereinafter referred to as "BETTERMENTS". Together,  
3 BETTERMENTS and RELOCATIONS are hereinafter referred to as PROJECT; and

4 E. In the spirit of mutual cooperation, LHMWD is willing to absorb the  
5 design and administration costs for RELOCATIONS. DISTRICT will bear responsibility for all  
6 direct construction costs associated with RELOCATIONS including any unforeseen conditions  
7 that cause additional work related to RELOCATIONS. LHMWD will bear the cost of all  
8 BETTERMENTS; and

9 F. DISTRICT acknowledges that LHMWD has superior rights, and that all  
10 costs associated with the necessary RELOCATIONS are DISTRICT'S responsibility; and

11 G. DISTRICT has included the sum of four hundred thirty five thousand six  
12 hundred sixty dollars (\$435,660) in its Fiscal Year 2012-2013 budget, for the purpose of  
13 contributing funds to LHMWD'S construction of RELOCATIONS hereinafter called  
14 "DISTRICT'S TOTAL CONTRIBUTION". The DISTRICT'S TOTAL CONTRIBUTION shall  
15 be as follows:  
16

17  
18 i.) One hundred percent (100%) of the bid contract price for the  
19 RELOCATIONS, hereinafter called "RELOCATION BID", estimated to be three hundred thirty  
20 five thousand six hundred sixty dollars (\$335,660).

21 ii.) One hundred percent (100%) of construction contract change order cost,  
22 in the event of changed or unforeseen field conditions during construction related to  
23 RELOCATIONS. The sum of all DISTRICT approved change orders shall not exceed one  
24 hundred thousand dollars (\$100,000).

25  
26 iii.) In the event that unforeseen circumstances result in escalation of  
27 RELOCATIONS cost beyond that provided herein, pursuant to the acknowledgment of  
28

1 responsibility in RECITALS F above, DISTRICT is willing to bring an amended reimbursement  
2 agreement to its Board of Supervisors for approval.

3 H. DISTRICT'S TOTAL CONTRIBUTION, which includes both  
4 RELOCATION BID and the sum of all DISTRICT approved change orders, shall not exceed  
5 four hundred thirty five thousand six hundred sixty dollars (\$435,660); and

6 I. DISTRICT is willing to make an initial contribution to LHMWD,  
7 hereinafter called "INITIAL CONTRIBUTION", of an amount equal to fifty percent (50%) of  
8 the RELOCATION BID; and

9 J. The purpose of this Agreement is to memorialize the mutual  
10 understandings by and between LHMWD and DISTRICT with respect to the construction,  
11 engineering, and administration required to complete the necessary RELOCATIONS in support  
12 of the DISTRICT'S STORM DRAIN project.

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

16 **SECTION I**

17 LHMWD shall:

18 1. Prepare all necessary plans and specifications for the PROJECT,  
19 hereinafter called "IMPROVEMENT PLANS", at its sole cost and expense.  
20

21 2. Provide DISTRICT an opportunity to review and approve  
22 IMPROVEMENT PLANS and PROJECT contract documents prior to advertising for  
23 construction bids.

24 3. Advertise, award and administer a public works construction contract for  
25 the PROJECT at its sole cost and expense.  
26

1           4.    Structure PROJECT construction contract to distinguish costs directly  
2 associated with RELOCATIONS from those associated with BETTERMENTS.

3           5.    Construct or cause to be constructed, PROJECT pursuant to an LHMWD  
4 administered contract in accordance with DISTRICT approved IMPROVEMENT PLANS.

5           6.    Prior to awarding a public works construction contract for the PROJECT,  
6 provide DISTRICT with seven (7) calendar days following construction bid opening to review  
7 and approve or reject bids for construction of PROJECT. DISTRICT may only reject bids  
8 found by DISTRICT to be either (i) unreasonably high, or (ii) unbalanced such that the burden  
9 of the overall construction cost is unduly shifted from BETTERMENTS to RELOCATIONS.  
10 DISTRICT shall not unreasonably withhold its approval of PROJECT construction contract.

11           7.    [THIS SECTION INTENTIONALLY LEFT BLANK]

12           8.    Upon award of construction contract for PROJECT, invoice DISTRICT for  
13 INITIAL CONTRIBUTION amount.  
14

15           9.    In the event changed or unforeseen field conditions are encountered during  
16 construction that warrant additional work associated with RELOCATIONS, submit a written  
17 request to DISTRICT for approval prior to authorizing such construction.  
18

19           10.   Keep an accurate accounting of all actual construction costs associated  
20 with PROJECT and provide DISTRICT with a final accounting of RELOCATIONS cost,  
21 including DISTRICT approved contract change orders, when invoicing DISTRICT for  
22 remaining lump sum portion of DISTRICT'S TOTAL CONTRIBUTION.  
23

24           11.   Upon acceptance of PROJECT construction as being complete, provide  
25 DISTRICT with a copy of the recorded Notice of Completion and a reproducible copy of  
26 PROJECT "as-built" IMPROVEMENT PLANS.  
27  
28

1 12. Cover all expenses incurred for the construction of the PROJECT, prior to  
2 receiving final lump sum payment of DISTRICT'S TOTAL CONTRIBUTION.

3 13. Upon completion of PROJECT construction and settlement of any  
4 outstanding claims, provide DISTRICT with a final invoice (Attention: Mike Wong) for  
5 remaining lump sum portion of DISTRICT'S TOTAL CONTRIBUTION for the  
6 RELOCATIONS. The invoice shall include a detailed breakdown of all actual construction  
7 costs including but not limited to payment vouchers, DISTRICT approved change orders and  
8 other such construction contract documents as may be necessary, to establish the DISTRICT'S  
9 TOTAL CONTRIBUTION for the RELOCATIONS.  
10

11 14. Upon completion of PROJECT construction, LHMWD shall own, operate,  
12 and maintain the PROJECT.

13 15. Endeavor to complete construction of PROJECT before February 28, 2013  
14 unless any delays are caused by the DISTRICT, work stoppages, force majeure, inability to  
15 obtain material, and acts of God.  
16

## 17 SECTION II

18 DISTRICT shall:

19 1. Review and approve IMPROVEMENT PLANS prior to LHMWD'S final  
20 approval. DISTRICT shall endeavor to respond to LHMWD within seven (7) calendar days.

21 2. Within seven (7) calendar days following LHMWD'S opening bids for  
22 PROJECT construction, review and approve or reject RELOCATION BID. DISTRICT may  
23 reject RELOCATION BID if it determines that i) the costs for RELOCATIONS is unreasonably  
24 high, or ii) PROJECT construction cost is disproportionally shifted from BETTERMENTS to  
25 RELOCATIONS. DISTRICT shall not unreasonably withhold its approval of RELOCATION  
26 RELOCATIONS. DISTRICT shall not unreasonably withhold its approval of RELOCATION  
27 BID.  
28

1           3. Within five (5) working days following the receipt of LHMWD's written  
2 request pursuant to Section I.9., review and approve or disapprove said request.

3           4. Provide its first lump sum payment to LHMWD in the amount of fifty  
4 percent (50%) of the RELOCATION BID within thirty (30) days of receipt of LHMWD'S  
5 invoice.

6           5. Upon completion of PROJECT construction and settlement of any  
7 outstanding claims, receipt of LHMWD'S recorded Notice of Completion and a copy of the "as-  
8 built" IMPROVEMENT PLANS, provide the second and final lump sum payment to LHMWD  
9 for the balance of the DISTRICT'S TOTAL CONTRIBUTION for the RELOCATIONS within  
10 thirty (30) days of receiving LHMWD'S final invoice.  
11

### 12                           SECTION III

13           It is further mutually agreed:

14           1. Except as otherwise provided herein, all construction work involved with  
15 PROJECT shall be inspected by LHMWD and shall not be deemed complete until approved and  
16 accepted as complete by LHMWD.  
17

18           2. Contractor's actual bid prices for work associated with RELOCATIONS  
19 shall establish RELOCATION BID amount.

20           3. In the event that any claim or legal action is brought against DISTRICT, in  
21 connection with this Agreement and based upon the actual or alleged acts or omissions of  
22 LHMWD, its officers, employees, consultant, contractors or agents, including but not limited to  
23 claims or legal action related to design, construction or failure of PROJECT, LHMWD shall  
24 defend, indemnify and hold DISTRICT harmless therefrom without cost to DISTRICT. This  
25 shall include providing DISTRICT with legal representation and paying for related costs for any  
26 such claim or legal action, and payment of any settlement or judgment on behalf of DISTRICT,  
27  
28



1 all at no cost to DISTRICT. Upon LHMWD'S failure to do so, DISTRICT shall be entitled to  
2 recover from LHMWD all of its costs and expenses, including, but not limited to, reasonable  
3 attorneys' fees.

4 4. In the event that any claim or legal action is brought against LHMWD, in  
5 connection with this Agreement and based upon the actual or alleged acts or omissions of  
6 DISTRICT, its officers, employees, consultant, contractors or agents, including but not limited  
7 to claims or legal action related to design, construction or failure of PROJECT, DISTRICT shall  
8 defend, indemnify and hold LHMWD harmless therefrom without cost to LHMWD. This shall  
9 include providing LHMWD with legal representation and paying for related costs for any such  
10 claim or legal action, and payment of any settlement or judgment on behalf of LHMWD, all at  
11 no cost to LHMWD. Upon DISTRICT'S failure to do so, LHMWD shall be entitled to recover  
12 from DISTRICT all of its costs and expenses, including, but not limited to, reasonable attorneys'  
13 fees.  
14

15 5. In the event of any arbitration, action or suit brought by either LHMWD or  
16 DISTRICT against the other party by reason of any breach on the part of the other party of any  
17 of the covenants and agreements set forth in this Agreement, or any other dispute between  
18 DISTRICT and LHMWD concerning this Agreement, the prevailing party in any such action or  
19 dispute, by a final judgment or arbitration award, shall be entitled to have and recover from the  
20 other party all costs and expenses or claims, including but not limited to, attorneys' fees and  
21 expert witness fees. This section shall survive any termination of this Agreement.  
22

23 6. If any provision in this Agreement is held by a court of competent  
24 jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless  
25 continue in full force without being impaired or invalidated in any way.  
26  
27  
28

1           7. This Agreement is to be construed in accordance with the laws of the State  
2 of California. Neither LHMWD nor DISTRICT shall assign this Agreement without the written  
3 consent of the other party.

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

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

10 RIVERSIDE COUNTY FLOOD CONTROL	LAKE HEMET MUNICIPAL
AND WATER CONSERVATION DISTRICT	WATER DISTRICT
11 1995 Market Street	26385 Fairview Avenue
Riverside, CA 92501	Hemet, CA 92544
12 Attn: Mike Wong	Attn: Thomas W. Wagoner

13           10. This Agreement is the result of negotiations between the parties hereto, and  
14 the advice and assistance of their respective counsel. The fact that this Agreement was prepared  
15 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty  
16 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT  
17 prepared this Agreement in its final form.

18           11. Any waiver by DISTRICT or LHMWD of any breach by any other party  
19 of any provision of this Agreement shall not be construed to be a waiver of any subsequent or  
20 other breach of the same or any other provision hereof. Failure on the part of DISTRICT or  
21 LHMWD to require from any other party exact, full and complete compliance with any of the  
22 provisions of this Agreement shall not be construed as in any manner changing the terms hereof,  
23 or estopping DISTRICT or LHMWD from enforcing this Agreement.

24           12. This Agreement is intended by the parties hereto as a final expression of  
25 their understanding with respect to the subject matter hereof and as a complete and exclusive  
26  
27  
28

1 statement of the terms and conditions thereof and supersedes any and all prior and  
2 contemporaneous agreements and understandings, oral or written, in connection therewith. This  
3 Agreement may be changed or modified only upon the written consent of the parties hereto.

4           13. The term of this Agreement shall commence on the date the Agreement is  
5 executed by both parties and end on June 30, 2013.

6 //  
7 //

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

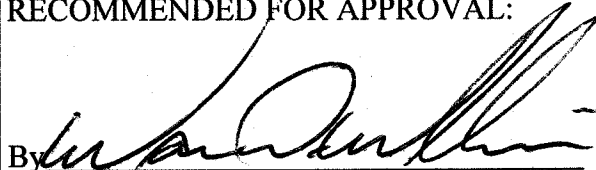
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on  
SEP 11 2012

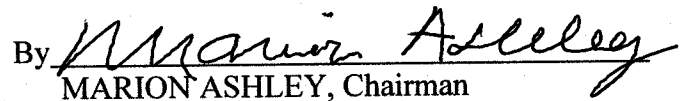
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(to be filled in by the Clerk of the Board)

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

RECOMMENDED FOR APPROVAL:

By   
WARREN D. WILLIAMS  
General Manager-Chief Engineer

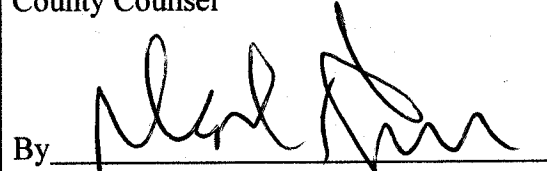
By   
MARION ASHLEY, Chairman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

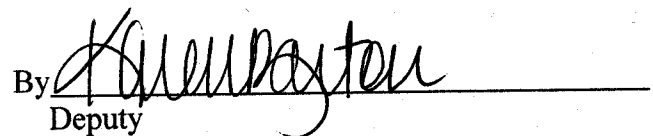
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By   
NEAL R. KIPNIS  
Deputy County Counsel

By   
Deputy

(SEAL)

Cooperative Agreement  
Little Lake MDP Line B, Stage 1, Line B-4  
08/08/12  
TNK:rlp

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

RECOMMENDED FOR APPROVAL

LAKE HEMET MUNICIPAL WATER DISTRICT

By Thomas W. Wagoner  
THOMAS W. WAGONER  
General Manager

By Frank D. Gorman  
FRANK D. GORMAN  
President, LHMWD Board of Directors

APPROVED AS TO FORM:

ATTEST:

By Joseph Wojcik  
JOSEPH WOJCIK  
District General Counsel

By Karen Hornbarger  
KAREN HORNBERGER  
Assistant Board Secretary

(SEAL)

Cooperative Agreement  
Little Lake MDP Line B, Stage 1, Line B-4  
08/08/12  
TNK:

# EXHIBIT A

APPROXIMATE LIMITS OF EXISTING  
8" SEWER & 8" WATER LINE  
TO BE RELOCATED

- 8-Inch Sewer Line
- - - - 8-Inch Water Line
- \* Utility relocations shall include all house services remodeling

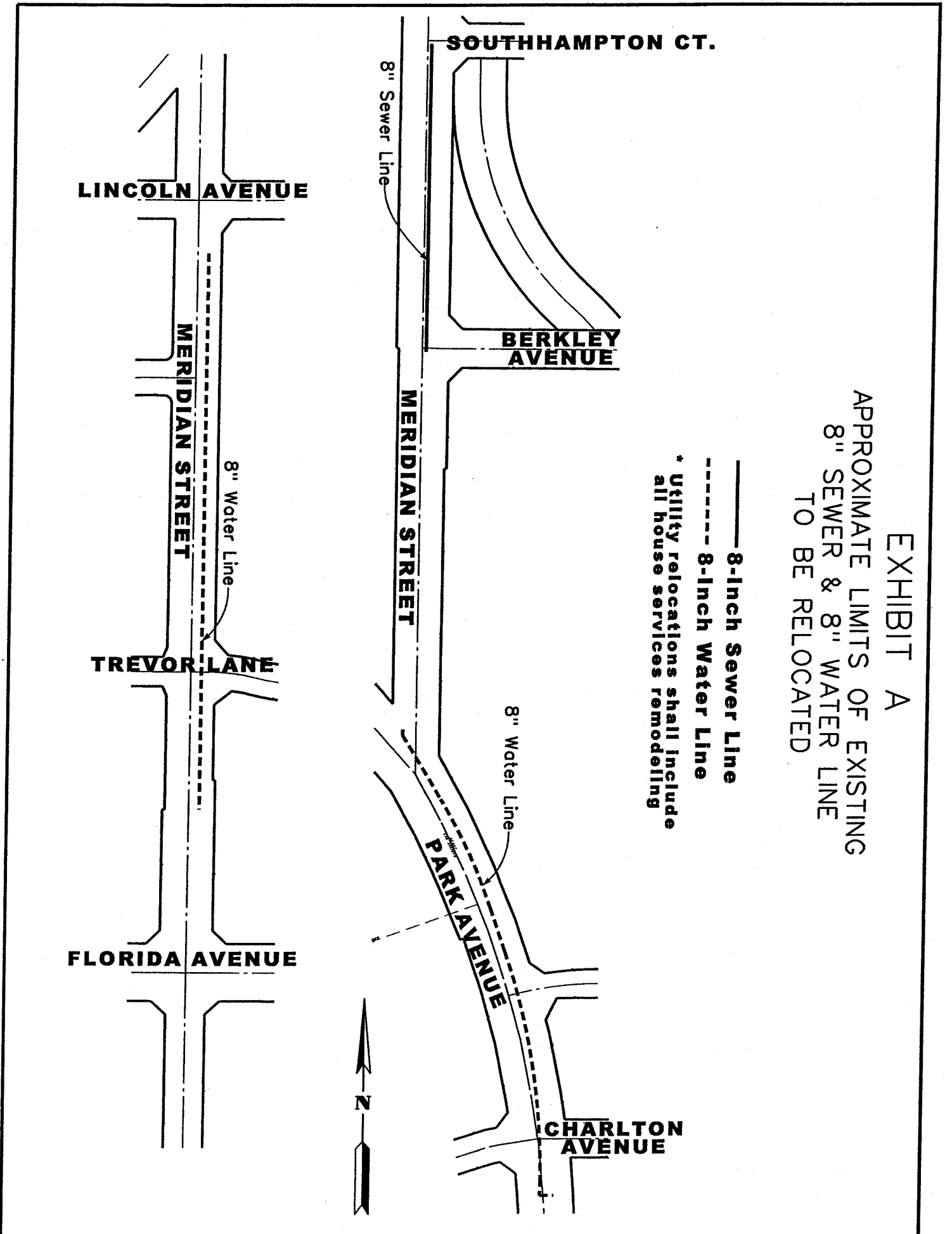


EXHIBIT "A"