

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 4/15/15

Departmental Concurrence

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

105B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

June 2, 2015

SUBJECT: Approval of Cooperative Agreement for University Wash Channel, Stage 3,
 Project No. 1-0-00120, District 1, [\$N/A]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the District and the City of Riverside (City); and
2. Authorize the Chairman to execute the Cooperative Agreement documents on behalf of the District.

BACKGROUND:

Summary

This Cooperative Agreement (Agreement) sets forth the terms and conditions by which District will design and construct University Wash Channel, Stage 3 project.

[Continue on Page 2]

P8/168914
 AMR:rlp

Warren D. Williams
 WARREN D. WILLIAMS
 General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	

SOURCE OF FUNDS: Budget Adjustment: No
 For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE
Steven C. Horn
 BY: Steven C. Horn

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Washington, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: June 2, 2015
 xc: Flood

Kecia Harper-Ihem
 Clerk of the Board
 By: *Kecia Harper-Ihem*
 Deputy

- A-30
- Positions Added
- 4/5 Vote
- Change Order

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

FORM 11: Approval of Cooperative Agreement for University Wash Channel, Stage 3,
Project No. 1-0-00120, District 1, [\$N/A]

DATE: June 2, 2015

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

The Agreement is necessary as certain interfering portions of the City's existing storm drain facilities will be abandoned in place as a part of the District's construction project.

The Agreement is also necessary for the City to grant to the District the necessary rights to access, construct, operate and maintain the project within City's rights of way. Upon completion of project construction, the District will assume ownership and responsibility for the operation and maintenance of the mainline storm drain, and a 24-inch and two (2) 18-inch storm drain systems within its rights of way. The City will assume ownership and responsibility for the operation and maintenance of the project's associated catch basins, inlets, curbs and gutters and connector pipes that are 36 inches or less in diameter located within the City's rights of way.

The District is funding all design, construction and construction inspection costs for the project.

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

Impact on Residents and Businesses

Upon construction completion, this project will provide drainage improvements for adjacent property owners and businesses. This project is funded by ad-valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses.

SUPPLEMENTAL:

Additional Fiscal Information

Future operations and maintenance costs associated with the mainline storm drain that is greater than 36 inches in diameter and said 24-inch and two (2) 18-inch storm drain systems will accrue to the District.

Attachment:

1. Cooperative Agreement

P8/168914

AMR:rlp

1 COOPERATIVE AGREEMENT
2 University Wash Channel, Stage 3
3 Project No. 1-0-00120

4 The Riverside County Flood Control and Water Conservation District,
5 hereinafter called "DISTRICT", and the City of Riverside, hereinafter called "CITY", hereby
6 agree as follows:

7 RECITALS

8 A. DISTRICT has budgeted for and plans to design and construct University
9 Wash Channel, Stage 3 to provide necessary flood control and drainage improvements for the
10 immediate adjacent areas within the City of Riverside; and

11 B. University Wash Channel, Stage 3 consists of approximately 2,600 lineal
12 feet of underground storm drain system beginning from DISTRICT's existing University Wash-
13 Spruce Street Storm Drain, Stage 2 extending southerly to Massachusetts Avenue, then easterly
14 within Massachusetts Avenue terminating east of Durahart Street, hereinafter called "STAGE
15 3", as shown in concept on Exhibit "A" attached hereto and made a part hereof. At its upstream
16 terminus, STAGE 3 terminates with a concrete bulkhead for future extension; and

17 C. Included as part of STAGE 3, is the construction and subsequent
18 maintenance of four (4) new connections to existing CITY storm drain facilities. These new
19 connections, hereinafter called "NEW CONNECTIONS", include each of the following as
20 shown on DISTRICT Drawing No. 1-0714:

- 21 i) Approximately 71 lineal feet of 36-inch reinforced concrete pipe
22 connecting at Station 14+04;
- 23 ii) Approximately 11 lineal feet of 60-inch reinforced concrete pipe connecting
24 at Station 20+74;
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1 iii) Approximately 9 lineal feet of 66-inch reinforced concrete pipe connecting at
2 Station 28+71; and

3 iv) Approximately 57 lineal feet of 54-inch reinforced concrete pipe connecting
4 at Station 31+70.

5 D. Also included as part of STAGE 3 is the construction and subsequent
6 maintenance of i) approximately 12 lineal feet of 18-inch underground storm drain, (ii)
7 approximately 30 lineal feet of 18-inch underground storm drain, and (iii) approximately 11
8 lineal feet of 24-inch underground storm drain all of which are located within DISTRICT held
9 easement or rights of way, as shown on Sheets 2 and 4, of DISTRICT Drawing No. 1-0714,
10 respectively; and
11

12 E. Associated with the construction of STAGE 3 is the construction of certain
13 catch basins, inlets, curbs and gutters, and connector pipes that 36 inches or less in diameter
14 located within CITY or public rights of way, hereinafter called "APPURTENANCES"; and
15

16 F. CITY owns, operates and maintains a number of existing storm drain
17 systems located within the project area, hereinafter called "CITY STORM DRAINS".
18 DISTRICT has determined that four (4) of these CITY STORM DRAINS interfere with the
19 proposed STAGE 3 alignment; therefore, the interfering portions of these CITY STORM
20 DRAINS must be removed and NEW CONNECTIONS must be constructed by DISTRICT; and
21

22 G. CITY acknowledges that, following the removal of the interfering portions
23 of the existing CITY STORM DRAINS and the construction of NEW CONNECTIONS, the
24 remaining non-functional portions of CITY STORM DRAINS will be abandoned in place; and

25 H. Together, STAGE 3 and APPURTENANCES are hereinafter altogether
26 called "PROJECT"; and
27
28

1 I. DISTRICT desires CITY to accept ownership and responsibility for the
2 operation and maintenance of APPURTENANCES and maintain ownership and responsibility
3 for the operation and maintenance of CITY STORM DRAINS upon completion of PROJECT
4 construction. Therefore, CITY must review and approve DISTRICT'S plans and specifications
5 for PROJECT and subsequently inspect the construction of PROJECT; and
6

7 J. It is in the best interest of the public to proceed with the construction of
8 PROJECT at the earliest possible date; and

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

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

15 SECTION I

16 DISTRICT shall:

17 1. Pursuant to the California Environmental Quality Act (CEQA), act as the
18 Lead Agency and assume responsibility for the preparation, circulation, and adoption of all
19 necessary and appropriate CEQA documents pertaining to the construction, operation and
20 maintenance of PROJECT.
21

22 2. Prepare, or cause to be prepared, plans and specifications for PROJECT,
23 hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and
24 CITY standards.
25

26 3. Obtain all necessary rights of way, rights of entry and temporary
27 construction easements necessary to construct, inspect, operate and maintain PROJECT.
28

1 4. Secure, at its sole cost and expense, all necessary permits, approvals,
2 licenses or agreements required by any Federal or State resource or regulatory agencies
3 pertaining to the construction, operation and maintenance of PROJECT.

4 5. Prior to advertising PROJECT for public works construction contract bids,
5 submit IMPROVEMENT PLANS to CITY for review and approval.

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

8 7. Provide CITY with written notice that DISTRICT has awarded a
9 construction contract for PROJECT.

10 8. Prior to commencing PROJECT construction, schedule and conduct a pre-
11 construction meeting between DISTRICT, CITY and other affected entities. DISTRICT shall
12 notify CITY at least twenty (20) days prior to conducting the pre-construction meeting.

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

17 10. Cause PROJECT to be constructed pursuant to a DISTRICT administered
18 public works construction contract, in accordance with IMPROVEMENT PLANS approved by
19 DISTRICT and CITY, and pay all costs associated therewith.

20 11. Inspect, or cause to be inspected, construction of PROJECT.

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

1 13. Require its prime construction contractor(s) to include CITY as additional
2 insureds under the liability insurance coverage for PROJECT, and also require its construction
3 contractor(s) to include CITY as a third party beneficiary of any and all warranties of the
4 contractor's work with regard to APPURTENANCES.
5

6 14. Within two (2) weeks of completing PROJECT construction, provide CITY
7 with written notice that PROJECT construction is substantially complete and requesting that
8 CITY conduct a final inspection of APPURTENANCES.

9 15. Upon DISTRICT'S acceptance of PROJECT construction as complete,
10 provide CITY with a copy of DISTRICT'S Notice of Completion.
11

12 16. Upon CITY acceptance of APPURTENANCES for ownership, operation
13 and maintenance, provide CITY with a reproducible duplicate set and a portable data format
14 (PDF) copy of "record drawings" of PROJECT plans.

15 17. Ensure that all work performed pursuant to this Agreement by DISTRICT,
16 its agents or contractors is done in accordance with all applicable laws and regulations,
17 including but not limited to all applicable provisions of the Labor Code, Business and
18 Professions Code, and Water Code. DISTRICT shall be solely responsible for all costs
19 associated with compliance with applicable laws and regulations.
20

21 SECTION II

22 CITY shall:

23 1. Act as a Responsible Agency under CEQA, taking all necessary and
24 appropriate action to comply with CEQA.

25 2. Review and approve IMPROVEMENT PLANS prior to DISTRICT'S
26 advertising of PROJECT for construction bids.
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3. Grant DISTRICT, by execution of this Agreement, all rights necessary to construct, inspect, operate and maintain PROJECT within CITY rights of way or easements.

4. Order the relocation of all utilities installed by permit or franchise within CITY 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 permit to construct PROJECT within CITY rights of way.

6. Inspect PROJECT construction 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 as set forth in Section I.14, conduct a final inspection of PROJECT.

8. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon (i) receipt of DISTRICT'S written Notice of Completion as set forth in Section I.15, and (ii) receipt of a reproducible copy of "record drawings" for PROJECT plans as set forth in Section I.16.

9. Upon CITY acceptance of APPURTENANCES construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY rights of way and jurisdiction which must be performed at such time(s) that the finished grade along and above the underground portions of PROJECT are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.

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SECTION III

It is further mutually agreed:

1. CITY STORM DRAINS shall, at all times, remain sole ownership and exclusive responsibility of CITY. Nothing herein shall be construed as creating any obligation or responsibility on the part of DISTRICT to operate, maintain or warranty CITY STORM DRAINS.

2. 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.

3. Except as otherwise 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 PROJECT construction.

4. DISTRICT shall indemnify, defend, save and hold harmless CITY (including its officers, 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'S (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 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.

5. CITY shall indemnify, defend, save and hold harmless DISTRICT and County of Riverside (including their respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed

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

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

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

21 8. The parties hereto each pledge to cooperate in regard to the operation and
 22 maintenance of their respective facilities as set forth herein and to discharge their respective
 23 maintenance responsibilities in an expeditious fashion so as to avoid the creation of any
 24 nuisance condition or undue maintenance impact upon the others' facilities.

25 9. Any and all notices sent or required to be sent to the parties of this
 26 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:
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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Engineering Services Section

CITY OF RIVERSIDE
3900 Main Street
Riverside, CA 92501
Attn: Public Works Department

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

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

12. The parties hereto shall not assign this Agreement without the written consent of the other parties.

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

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

15. Any waiver by DISTRICT or by CITY of any breach 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 hereof. Failure on the part of DISTRICT or CITY to require exact, full and complete compliance with any terms of this Agreement shall not be

1 construed as in any manner changing the terms hereof, or estopping DISTRICT or CITY from
2 enforcement hereof.

3
4 16. This Agreement is intended by the parties hereto as a final expression of
5 their understanding with respect to the subject matter hereof and as a complete and exclusive
6 statement of the terms and conditions thereof and supersedes any and all prior and
7 contemporaneous agreements and understandings, oral and written, in connection therewith.

8 This Agreement may be changed or modified only upon the written consent of the parties
9 hereto.

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

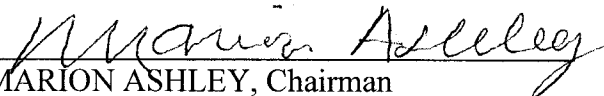
2 JUN 02 2015

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

4 RECOMMENDED FOR APPROVAL:

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

5
6 By 
7 WARREN D. WILLIAMS
8 General Manager-Chief Engineer

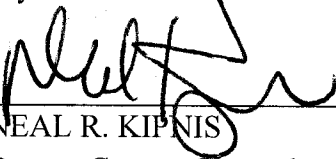
By 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

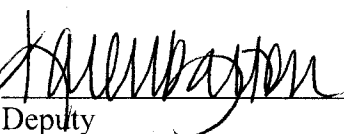
9 APPROVED AS TO FORM:

ATTEST:

10 GREGORY P. PRIAMOS
11 County Counsel

KECIA HARPER-IHEM
Clerk of the Board

12
13 By 
14 NEAL R. KIPNIS
Deputy County Counsel

By 
Deputy

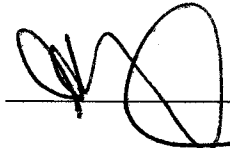
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25 Cooperative Agreement: City of Riverside
University Wash Channel, Stage 3
26 Project No. 1-0-00120
03/30/15

27 AMR:rlp

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CITY OF RIVERSIDE

By 


Al Zelinka

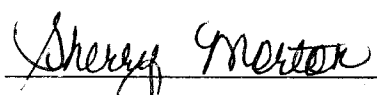
Asst. City Manager

Dated: May 14, 2015

APPROVED AS TO FORM:

ATTEST:

By 

By 

A. BEAUMONT

Colleen J. Nicol

City Attorney

City Clerk

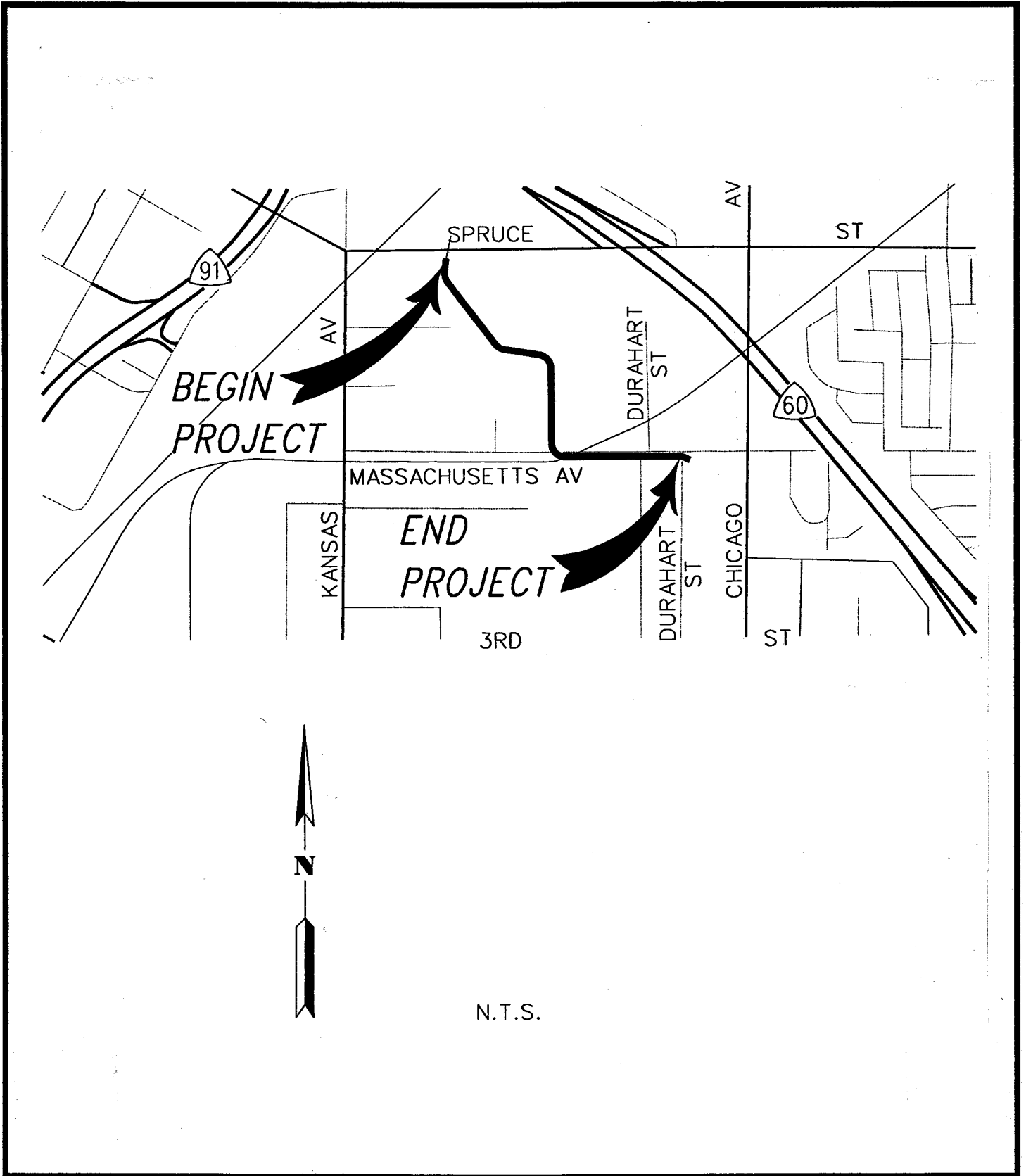
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Deputy

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Cooperative Agreement: City of Riverside
University Wash Channel, Stage 3
Project No. 1-0-00120
03/30/15
AMR:rlp

Exhibit A



Cooperative Agreement
University Wash Channel, Stage 3
Project Number: 1-0-00120