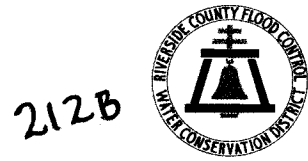


**SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT BOARD
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
June 23, 2009

SUBJECT: Sunnymead – Centerpointe Storm Drain;
Sunnymead – Brodiaea Avenue Storm Drain
Sunnymead – Graham Street Storm Drain
Project Nos. 4-0-00736, 4-0-00737 and 4-0-00633
Parcel Map No. 32326 (Moreno Valley)
Cooperative Agreement

RECOMMENDED MOTION:

Approve the Second Amended and Restated Cooperative Agreement between the District, the City of Moreno Valley and Ridge Moreno Valley, LLC and Ridge Moreno Valley II, LLC (Developers); and authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Second Amended and Restated Cooperative Agreement revises both a Cooperative Agreement previously approved May 2, 2006, and an Amended and Restated Cooperative Agreement approved September 2, 2008, each previously setting forth the terms and conditions by which certain stormwater

Continued on Page 2

JPS: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: N/A	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
Alex Gann

County Executive Office Signature

FORM APPROVED BY COUNTY COUNSEL
Departmental Concurrence
BY: Neal R. Kipnis DATE

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

Prev. Agn. Ref.: District: 5th Agenda Number: **11.7**

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

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

SUBJECT: Sunnymead – Centerpointe Storm Drain;
Sunnymead – Brodiaea Avenue Storm Drain
Sunnymead – Graham Street Storm Drain
Project Nos. 4-0-00736, 4-0-00737 and 4-0-00633
Parcel Map No. 32326 (Moreno Valley)
Cooperative Agreement

SUBMITTAL DATE: June 23,2009

Page 2

BACKGROUND (continued):

drainage facilities, required as a condition for approval of Parcel Map No. 32326, were to be constructed by the Developer and inspected, operated and maintained by the District and City. This revision reflects additional changes made in the original design of the required facilities due to conflicts with other utilities. The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced facilities associated with Parcel Map No. 32326.

Upon completion of construction, the District will assume ownership, operation and maintenance of the mainline storm drains. The City will assume ownership, operation and maintenance of the facilities' associated catch basins, connector pipes and laterals located within their rights of way. Additionally, the City will operate certain privately owned drainage facilities pursuant to an agreement between the City and Developer.

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

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs will accrue to the District.

JPS:bjj

SECOND AMENDED AND RESTATED
COOPERATIVE AGREEMENT

Sunnymead – Centerpointe Storm Drain
Sunnymead – Brodiaea Avenue Storm Drain
Sunnymead – Graham Street Storm Drain
(Project Nos. 4-0-00736, 4-0-00737 and 4-0-00633)
(Parcel Map No. 32326)

The RIVERSIDE COUNTY FLOOD CONTROL and WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the CITY OF MORENO VALLEY, hereinafter called "CITY", and RIDGE MORENO VALLEY, LLC, a Delaware limited liability company doing business in California as Ridge Moreno Valley Property, LLC, hereinafter called "RIDGE", and RIDGE MORENO VALLEY II, LLC, a Delaware limited liability company hereinafter called "RIDGE II", hereby agree as follows:

RECITALS

A. RIDGE and RIDGE II are hereinafter together called "DEVELOPE DEVELOPERS" have submitted for approval Parcel Map No. 32326 in the city of Mc Valley and as a condition for approval DEVELOPERS must construct certain flood control drainage facilities in order to provide flood protection and drainage for DEVELOPERS' plan development; and

B. The required facilities include construction of:

- (i) approximately 3,300 lineal feet of underground storm drain system (from Sta. 13+20 to Sta. 46+28), hereinafter called "CENTERPOINTE STORM DRAIN", as shown in concept in red on Exhibit "A" attached hereto and made a part hereof;
- (ii) approximately 4,300 lineal feet of underground storm drain system and inlet (from Sta. 43+66 to Sta. 86+64), hereinafter called

- 1 "BRODIAEA AVENUE STORM DRAIN", as shown in concept in
2 blue on Exhibit "A";
- 3 (iii) approximately 600 lineal feet of underground storm drain system
4 (from Sta. 1+16 to Sta. 7+11), hereinafter called "GRAHAM
5 STREET STORM DRAIN", as shown in concept in brown on Exhibit
6 "A";
- 7
8 (iv) approximately 110 lineal feet of reinforced concrete box, hereinafter
9 called "BOX CULVERT", located at the intersection of Brodiaea
10 Avenue and DISTRICT'S Heacock Channel – Sunnymead Line B,
11 Stage 2, as shown in concept in orange on Exhibit "A";
- 12
13 (v) approximately 100 lineal feet of reinforced concrete box storm drain,
14 as shown in concept in green on Exhibit "A" and hereinafter called
15 "LINE F", replacing a segment of DISTRICT'S existing Sunnymead
16 MDP Line F, Stage 3;
- 17
18 (vi) two (2) detention basins, hereinafter called "BASIN A" and "BASIN
19 B", respectively, and collectively called "BASINS" as shown in
20 concept in purple on Exhibit "A"; and
- 21
22 (vii) approximately 80 lineal feet of underground storm drain located
23 within the right of way of Cactus Avenue, hereinafter called "STORM
24 DRAIN", as shown in concept in yellow on Exhibit "A".

24 GRAHAM STREET STORM DRAIN drains into BRODIAEA AVENUE STORM DRAIN;
25 BRODIAEA AVENUE STORM DRAIN drains into BASIN A. CENTERPOINTE STORM
26 DRAIN drains into BASIN B. STORM DRAIN receives flow from BASINS and discharges to
27 DISTRICT'S existing Heacock Channel. CENTERPOINTE STORM DRAIN, BRODIAEA
28

1 AVENUE STORM DRAIN, GRAHAM STREET STORM DRAIN, STORM DRAIN and
2 LINE F are hereinafter altogether called "DISTRICT DRAINAGE FACILITIES". All proposed
3 DISTRICT DRAINAGE FACILITIES except GRAHAM STREET STORM DRAIN are shown
4 on District Drawing No. 4-888. GRAHAM STREET STORM DRAIN is shown on District
5 Drawing No. 4-992; and

6
7 C. Associated with the construction of DISTRICT DRAINAGE FACILITIES
8 is the construction of the aforementioned BOX CULVERT along with various catch basins,
9 storm drain inlets, laterals, connector pipes and "bleeder lines" which are hereinafter altogether
10 called "APPURTENANCES". APPURTENANCES located within CITY held easements or
11 rights of way are hereinafter called "CITY APPURTENANCES". APPURTENANCES located
12 within DISTRICT'S existing Heacock Channel right of way are included among DISTRICT
13 DRAINAGE FACILITIES. BOX CULVERT and CITY APPURTENANCES are hereinafter
14 altogether called "CITY DRAINAGE FACILITIES"; and

15
16 D. The aforementioned BASINS along with (i) the associated segments of
17 underground storm drains located on DEVELOPERS' property, and (ii) those various
18 APPURTENANCES located on DEVELOPERS' property or within a DISTRICT storm drain
19 easement are hereinafter altogether called "DEVELOPER DRAINAGE FACILITIES"; and

20
21 E. DISTRICT DRAINAGE FACILITIES, CITY DRAINAGE FACILITIES
22 and DEVELOPER DRAINAGE FACILITIES are hereinafter called "PROJECT"; and

23
24 F. DEVELOPERS and CITY desire DISTRICT to accept ownership and
25 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
26 Therefore, DISTRICT must review and approve DEVELOPERS' plans and specifications and
27 subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES; and
28

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

G. DEVELOPERS and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of CITY DRAINAGE FACILITIES. Therefore, CITY must review and approve DEVELOPERS' plans and specifications and subsequently inspect the construction of CITY DRAINAGE FACILITIES; and

H. Between themselves, DEVELOPERS and CITY have entered, or will enter, into a separate agreement setting forth their respective responsibilities with regard to the operation and maintenance of the DEVELOPER DRAINAGE FACILITIES; and

I. DISTRICT is willing to (i) review and approve DEVELOPERS' plans and specifications for PROJECT, (ii) inspect the construction of DISTRICT DRAINAGE FACILITIES, (iii) grant CITY the right to inspect, operate and maintain CITY DRAINAGE FACILITIES within DISTRICT'S existing Heacock Channel right of way, (iv) accept ownership and responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES, and (v) accept responsibility for keeping BOX CULVERT free and clear of sediment and debris, provided DEVELOPERS (i) comply with this Agreement, (ii) pay DISTRICT the amounts specified herein to cover DISTRICT'S plan review and construction inspection costs, (iii) construct PROJECT in accordance with plans and specifications approved by DISTRICT and CITY, (iv) obtain all necessary permits, regulatory permits, licenses and rights of entry as set forth herein, (v) accept ownership and sole responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES and CITY accepts ownership and responsibility for the operation and maintenance of CITY DRAINAGE FACILITIES, and (vi) obtain and convey to DISTRICT the necessary rights of way for the inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES as set forth herein; and

1 J. CITY is willing to (i) review and approve plans and specifications prepared
2 by DEVELOPERS for PROJECT, (ii) inspect the construction of CITY DRAINAGE
3 FACILITIES and DEVELOPER DRAINAGE FACILITIES, (iii) accept and hold faithful
4 performance and payment bonds submitted by DEVELOPERS for PROJECT, (iv) grant
5 DISTRICT the right to inspect, operate and maintain DISTRICT DRAINAGE FACILITIES
6 within CITY rights of way, (v) consent to the recordation and conveyance of Irrevocable
7 Offer(s) of Dedication furnished by DEVELOPERS as provided herein, and (vi) accept
8 ownership and responsibility for the operation and maintenance of CITY DRAINAGE
9 FACILITIES, provided PROJECT is constructed in accordance with plans and specifications
10 approved by DISTRICT and CITY; and
11

12 K. On May 2, 2006, DISTRICT, CITY and RIDGE, acting as the then sole
13 owner of Parcel Map 32326, entered into a Cooperative Agreement which was recorded May
14 17, 2006 as Document No. 2006-0359398 in the Official Records of Riverside County,
15 hereinafter called "PREVIOUS AGREEMENT", pertaining to Parcel Map 32326 and the
16 construction, inspection and acceptance of DISTRICT DRAINAGE FACILITIES, CITY
17 DRAINAGE FACILITIES and DEVELOPER DRAINAGE FACILITIES. RIDGE has
18 subsequently conveyed a portion of Parcel Map 32326 to RIDGE II and together
19 DEVELOPERS have commenced construction of PROJECT pursuant to the provisions of
20 PREVIOUS AGREEMENT; however, DISTRICT has not accepted DISTRICT DRAINAGE
21 FACILITIES for ownership, operation and maintenance, and CITY has not accepted CITY
22 DRAINAGE FACILITIES for ownership, operation and maintenance as set forth therein; and
23
24

25 L. Pursuant to requirements set forth in PREVIOUS AGREEMENT, RIDGE
26 has provided DISTRICT with an executed Irrevocable Offer of Dedication to the public for
27 certain rights of way located within Parcel Map 32326. Said Irrevocable Offer of Dedication
28

1 was recorded June 16, 2006, as Document No. 2006-0437088 in the Official Records of
2 Riverside County, but has not been accepted by CITY. DISTRICT is willing to request CITY to
3 approve a resolution to quitclaim all public right, title and interest to said rights of way, as the
4 number and location of DISTRICT FACILITIES has changed from that described and shown in
5 PREVIOUS AGREEMENT and DEVELOPERS shall provide new Irrevocable Offer(s) of
6 Dedication pursuant to the terms of this Agreement; and
7

8 M. On September 2, 2008, DISTRICT, CITY and RIDGE, acting as the then
9 sole owner of Parcel Map 32326, entered into an Amended and Restated Cooperative
10 Agreement which was recorded October 17, 2008, as Document No. 2008-0557898 in the
11 Official Records of Riverside County, hereinafter called "PREVIOUS AMENDED
12 AGREEMENT", pertaining to Parcel Map 32326 and the construction, inspection and
13 acceptance of DISTRICT DRAINAGE FACILITIES, CITY DRAINAGE FACILITIES and
14 DEVELOPER DRAINAGE FACILITIES. RIDGE has subsequently conveyed a portion of
15 Parcel Map 32326 to RIDGE II and together, DEVELOPERS have commenced construction of
16 PROJECT pursuant to the provisions of both PREVIOUS AGREEMENT and PREVIOUS
17 AMENDED AGREEMENT; however, DISTRICT has not accepted DISTRICT DRAINAGE
18 FACILITIES for ownership, operation and maintenance, and CITY has not accepted CITY
19 DRAINAGE FACILITIES for ownership, operation and maintenance as set forth therein; and
20
21

22 N. DISTRICT, CITY and DEVELOPERS mutually desire and agree that the
23 provisions of this Agreement shall supersede all provisions of PREVIOUS AGREEMENT and
24 PREVIOUS AMENDED AGREEMENT.

25 NOW, THEREFORE, the parties hereto mutually agree as follows:
26
27
28

SECTION I

DEVELOPERS shall:

1. Prepare plans and specifications for PROJECT, hereinafter called "IMPROVEMENT PLANS", in accordance with DISTRICT and CITY standards, and submit to DISTRICT and CITY for their review and approval.

2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS, review and approval of right of way and conveyance documents, and with the processing and administration of this Agreement.

3. Deposit with DISTRICT (Attention: Business Office - Accounts Receivable), at the time of providing written notice to DISTRICT of the start of DISTRICT DRAINAGE FACILITIES construction as set forth in Section I.8. herein, the estimated cost of providing construction inspection for DISTRICT DRAINAGE FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of PROJECT facilities to be inspected, operated and maintained by DISTRICT.

4. [This Section Intentionally Left Blank.]

5. Secure, at its sole cost and expense, all necessary licenses, agreements, permits and rights of entry as may be needed for the construction, inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES. DEVELOPERS shall furnish DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as set forth in Section I.8., with sufficient evidence of DEVELOPERS having secured such

1 necessary licenses, agreements, permits and rights of entry, as determined and approved by
2 DISTRICT.

3 6. Furnish DISTRICT with copies of all permits, approvals or agreements
4 required by any Federal or State resource and/or regulatory agency for the construction,
5 operation and maintenance of DISTRICT DRAINAGE FACILITIES. Such documents include
6 but are not limited to those issued by the U.S. Army Corps of Engineers, California Regional
7 Water Quality Control Board, California State Department of Fish and Game, and State Water
8 Resources Control Board.
9

10 7. Provide CITY, prior to providing written notice to DISTRICT of the start
11 of construction as set forth in Section I.8., with a faithful performance bond in the amount of
12 one hundred percent (100%) of the estimated cost for construction of DISTRICT DRAINAGE
13 FACILITIES as determined by DISTRICT and a material and labor bond in the amount of fifty
14 (50%) of the estimated cost for construction of DISTRICT DRAINAGE FACILITIES as
15 determined by DISTRICT. The surety, amount and form of the bonds shall be subject to the
16 approval of DISTRICT and CITY. The bonds shall remain in full force and effect until
17 DISTRICT DRAINAGE FACILITIES are accepted by DISTRICT as complete, at which time
18 the faithful performance bond amount may be reduced to ten percent (10%) for a period of one
19 year to guarantee against any defective work, labor or materials.
20

21 8. Notify DISTRICT in writing (Attention: Administrative Services Section)
22 at least twenty (20) days prior to the start of construction of DISTRICT DRAINAGE
23 FACILITIES. Construction shall not begin on any element of DISTRICT DRAINAGE
24 FACILITIES, for any reason whatsoever, until DISTRICT has issued to DEVELOPERS a
25 written Notice to Proceed authorizing DEVELOPERS to initiate DISTRICT DRAINAGE
26 FACILITIES construction.
27
28

1 9. Grant DISTRICT, by execution of this Agreement, the right to enter upon
2 DEVELOPERS' property where necessary and convenient for the purpose of gaining access to,
3 and performing inspection service for, the construction of DISTRICT DRAINAGE
4 FACILITIES as set forth herein.

5 10. Obtain and provide DISTRICT, at the time of providing written notice to
6 DISTRICT of the start of construction of DISTRICT DRAINAGE FACILITIES as set forth in
7 Section I.8., with duly executed Irrevocable Offer(s) of Dedication to the public for flood
8 control and drainage purposes, including ingress and egress, for the rights of way deemed
9 necessary by DISTRICT for the construction, inspection, operation and maintenance of
10 DISTRICT DRAINAGE FACILITIES, as shown in concept cross-hatched in blue or in red on
11 Exhibit "B" attached hereto and made a part hereof. The Irrevocable Offer(s) of Dedication
12 shall be in a form approved by DISTRICT and shall be executed by all legal and equitable
13 owners of the property described in the offer(s).

14 11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of
15 Dedication as set forth in Section I.10. with Preliminary Reports on Title dated not more than
16 thirty (30) days prior to date of submission of all the property described in the Irrevocable
17 Offer(s) of Dedication.

18 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
19 the start of construction as set forth in Section I.8. with a complete list of all contractors and
20 subcontractors to be performing work on PROJECT, including the corresponding license
21 number and license classification of each. At such time, DEVELOPERS shall further identify
22 in writing their designated superintendent for PROJECT construction.

23 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
24 the start of construction as set forth in Section I.8. a construction schedule which shall show the
25
26
27
28

1 order and dates in which DEVELOPERS or DEVELOPERS' contractor propose to carry on the
2 various parts of work, including estimated start and completion dates. As construction of
3 DISTRICT DRAINAGE FACILITIES progresses, DEVELOPERS shall update said
4 construction schedule as requested by DISTRICT.

5
6 14. Furnish DISTRICT with final mylar IMPROVEMENT PLANS and assign
7 their ownership to DISTRICT prior to the start of DISTRICT DRAINAGE FACILITIES
8 construction.

9 15. Not permit any change to or modification of IMPROVEMENT PLANS
10 without the prior written permission and consent of DISTRICT.

11 16. Comply with all Cal/OSHA safety regulations including regulations
12 concerning confined space and maintain a safe working environment for DEVELOPERS and
13 DISTRICT employees on the site.

14
15 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
16 the start of construction as set forth in Section I.8., a confined space procedure specific to
17 DISTRICT DRAINAGE FACILITIES. The procedure shall comply with requirements
18 contained in California Code of Regulations, Title 8 Section 5158, Other Confined Space
19 Operations, Section 5157, Permit Required Confined Space and DISTRICT Confined Space
20 Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the
21 issuance of a Notice to Proceed.

22
23 18. During the construction period of DISTRICT DRAINAGE FACILITIES,
24 provide Workers' Compensation Insurance in an amount required by law. A certificate of said
25 insurance policy shall be provided to DISTRICT, the County of Riverside and CITY at the time
26 of providing written notice pursuant to Section I.8.

27
28

1 19. Commencing on the date notice is given pursuant to Section I.8. and
2 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES for operation and
3 maintenance:

4 (a) Provide and maintain or cause their contractor(s) to provide and
5 maintain comprehensive liability insurance coverage which shall
6 protect DEVELOPERS from claim from damages for personal injury,
7 including accidental and wrongful death, as well as from claims for
8 property damage which may arise from DEVELOPERS' construction
9 of DISTRICT DRAINAGE FACILITIES or the performance of their
10 obligations hereunder, whether such construction or performance be
11 by DEVELOPERS, by any of their contractors, subcontractors, or by
12 anyone employed directly or indirectly by any of them. Such
13 insurance shall name DISTRICT, the County of Riverside and CITY
14 as additional insureds with respect to this Agreement and the
15 obligations of DEVELOPERS hereunder. Such insurance shall
16 provide for limits of not less than two million dollars (\$2,000,000) per
17 occurrence.
18

19
20 (b) Cause their insurance carrier(s) or their contractor's insurance
21 carrier(s), who shall be authorized by the California Department of
22 Insurance to transact the business of insurance in the State of
23 California, to furnish DISTRICT, the County of Riverside and CITY
24 at the time of providing written notice to DISTRICT of the start of
25 construction as set forth in Section I.8. with certificate(s) of insurance
26 and applicable policy endorsements showing that such insurance is in
27
28

1 full force and effect and that DISTRICT, the County of Riverside and
2 CITY are named as additional insureds with respect to this Agreement
3 and the obligations of DEVELOPERS hereunder. Further, said
4 certificate(s) shall state that the issuing company shall give
5 DISTRICT, the County of Riverside and CITY sixty (60) days written
6 notice in the event of any cancellation, termination, non-renewal or
7 reduction in coverage of the policies evidenced by the certificate(s).
8 In the event of any such cancellation, termination, non-renewal or
9 reduction in coverage, DEVELOPERS shall, forthwith, secure
10 replacement insurance meeting the provisions of this paragraph.
11

12 Failure to maintain the insurance required by this paragraph shall be
13 deemed a material breach of this Agreement and shall authorize and constitute authority for
14 DISTRICT, at its sole discretion, to proceed to perform the remaining work pursuant to Section
15 IV.3.
16

17 20. Construct, or cause to be constructed, PROJECT at DEVELOPERS' sole
18 cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT
19 PLANS.

20 21. Within two (2) weeks of completing PROJECT construction provide
21 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
22 construction is substantially complete and requesting that DISTRICT conduct a final inspection
23 of DISTRICT DRAINAGE FACILITIES.
24

25 22. Upon completion of PROJECT construction and upon acceptance by CITY
26 of all street rights of way deemed necessary by DISTRICT and CITY for the operation and
27 maintenance of DISTRICT DRAINAGE FACILITIES, but prior to DISTRICT acceptance of
28

1 DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance, convey, or
2 cause to be conveyed to DISTRICT flood control easement(s), including ingress and egress, in a
3 form approved by DISTRICT, for the rights of way as shown in concept cross-hatched in blue
4 or in red on Exhibit "B".

5 23. At the time of recordation of the conveyance document(s) as set forth in
6 Section I.22., furnish DISTRICT with policies of title insurance, each in the amount of not less
7 than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
8 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
9 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
10 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
11 deemed acceptable.
12

13 24. [This Section Intentionally Left Blank.]
14

15 25. Accept ownership and sole responsibility for the operation and maintenance
16 of DISTRICT DRAINAGE FACILITIES and CITY DRAINAGE FACILITIES until such time
17 as DISTRICT accepts ownership and responsibility for operation and maintenance of
18 DISTRICT DRAINAGE FACILITIES and CITY accepts ownership and responsibility for
19 operation and maintenance of CITY DRAINAGE FACILITIES, respectively. Further, it is
20 mutually understood by the parties hereto that prior to DISTRICT acceptance of ownership and
21 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
22 PROJECT shall be in a satisfactorily maintained condition as solely determined by DISTRICT.
23

24 26. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
25 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
26 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and fees
27 shall be computed as costs and included in any judgment rendered.
28

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

27. Upon completion of construction of PROJECT but prior to DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance, DEVELOPERS' civil engineer of record or construction civil engineer of record, duly registered in the State of California, shall provide DISTRICT a redlined "as-built" copy of IMPROVEMENT PLANS. After DISTRICT approval of the redlined "as-built" drawings, DEVELOPERS' engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the engineer shall review, stamp and sign the IMPROVEMENT PLANS "AS-BUILT".

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

SECTION II

DISTRICT shall:

- 1. Review and approve IMPROVEMENT PLANS prepared by DEVELOPERS prior to the start of DISTRICT DRAINAGE FACILITIES construction.
- 2. Provide CITY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT'S final approval.
- 3. Upon execution of this Agreement, record or cause to be recorded, a copy of this Agreement in the Official Records of the Riverside County Recorder.
- 4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication provided by DEVELOPERS pursuant to Section I.10.

1 5. Upon recordation of the Irrevocable Offer(s) of Dedication referenced in
2 Section II.4., request CITY to approve, in accordance with existing City policy and practice, a
3 resolution to quitclaim all public right, title and interest to the rights of way described in the
4 Irrevocable Offer of Dedication recorded June 16, 2006, as Document No. 2006-0437088 in the
5 official Records of Riverside County.

6 6. Inspect DISTRICT DRAINAGE FACILITIES construction.

7 7. By execution of this Agreement, grant CITY the necessary rights to inspect,
8 operate and maintain CITY DRAINAGE FACILITIES within DISTRICT'S existing Heacock
9 Channel right of way.
10

11 8. Keep an accurate accounting of all DISTRICT costs associated with the
12 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and
13 conveyance documents, and the processing and administration of this Agreement.

14 9. Keep an accurate accounting of all DISTRICT construction inspection
15 costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT DRAINAGE
16 FACILITIES as being complete, submit a final cost statement to DEVELOPERS. If the deposit,
17 as set forth in Section I.3. exceeds such costs, DISTRICT shall reimburse DEVELOPERS the
18 excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT DRAINAGE
19 FACILITIES as being complete. If at any time the costs exceed the deposit or are anticipated
20 by DISTRICT to exceed the deposit, DEVELOPERS shall pay such additional amount(s), as
21 deemed reasonably necessary by DISTRICT to complete inspection of DISTRICT DRAINAGE
22 FACILITIES, within thirty (30) days after receipt of billing from DISTRICT.
23

24 10. Accept ownership and sole responsibility for the operation and maintenance
25 of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT acceptance of PROJECT
26 construction as being complete, (ii) recordation of all conveyance documents described in
27
28

1 Section I.22., and (iii) acceptance by CITY of all necessary street rights of way as deemed
2 necessary by DISTRICT and CITY for the operation and maintenance of DISTRICT
3 DRAINAGE FACILITIES and CITY DRAINAGE FACILITIES.

4 11. Upon CITY acceptance of BOX CULVERT for ownership, operation and
5 maintenance, accept responsibility for keeping BOX CULVERT free and clear of sediment and
6 debris.
7

8 12. Provide CITY with a reproducible duplicate copy of "as-built"
9 IMPROVEMENT PLANS upon DISTRICT acceptance of PROJECT construction as being
10 complete.

11 SECTION III

12 CITY shall:

13 1. Review and approve IMPROVEMENT PLANS prior to the start of
14 PROJECT construction.
15

16 2. Accept CITY and DISTRICT approved faithful performance and payment
17 bonds submitted by DEVELOPERS as set forth in Section I.7. and hold said bonds as provided
18 herein.

19 3. Inspect construction of CITY DRAINAGE FACILITIES and
20 DEVELOPER DRAINAGE FACILITIES.
21

22 4. Consent, by execution of this Agreement, to the recording of any
23 Irrevocable Offer(s) of Dedication furnished by DEVELOPERS pursuant to this Agreement.

24 5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication
25 as set forth herein, and any other outstanding offers of dedication necessary for the construction,
26 inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES, and, convey
27
28

1 DEVELOPERS' surety to pay to CITY the penal sum of any and all bonds. In which case,
2 CITY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

3 4. [This Section Intentionally Left Blank.]

4 5. DISTRICT shall endeavor to issue DEVELOPERS a Notice to Proceed
5 within twenty (20) days of receipt of DEVELOPERS' complete written notice as set forth in
6 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the
7 issuance of a Notice to Proceed is subject to staff availability.
8

9 In the event DEVELOPERS wish to expedite issuance of a Notice to
10 Proceed, DEVELOPERS may elect to furnish an independent qualified construction inspector at
11 DEVELOPERS' sole cost and expense. DEVELOPERS shall furnish appropriate
12 documentation of the individual's credentials and experience to DISTRICT for review and, if
13 appropriate, approval. DISTRICT shall review the individual's qualifications and experience
14 and, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall
15 be authorized to act on DISTRICT'S behalf on all DISTRICT DRAINAGE FACILITIES
16 construction and quality control matters. If DEVELOPERS' initial construction inspection
17 deposit furnished pursuant to Section I.3. exceeds five thousand dollars (\$5,000), DISTRICT
18 shall refund to DEVELOPERS up to eighty percent (80%) of DEVELOPERS' initial inspection
19 deposit within forty-five (45) days of DISTRICT'S approval of DEPUTY INSPECTOR;
20 however, a minimum balance of five thousand dollars (\$5,000) shall be retained on account.
21

22 6. Construction of DISTRICT DRAINAGE FACILITIES shall be on a five
23 (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT
24 designated legal holidays, unless otherwise approved in writing by DISTRICT. If
25 DEVELOPERS feel it is necessary to work more than the normal forty (40) hour work week or
26 on holidays, DEVELOPERS shall make a written request for permission from DISTRICT to
27
28

1 work the additional hours. The request shall be submitted to DISTRICT at least seventy-two
2 (72) hours prior to the requested additional work hours and state the reasons for the overtime
3 and the specific time frames required. The decision of granting permission for overtime work
4 shall be made by DISTRICT at its sole discretion and shall be final. If permission is granted by
5 DISTRICT, DEVELOPERS will be charged the cost incurred at the overtime rates for
6 additional inspection time required in connection with the overtime work in accordance with
7 Ordinance Nos. 671 and 749, including any amendments thereto, of the County of Riverside.
8

9 7. DEVELOPERS shall indemnify and hold harmless DISTRICT and CITY
10 (including their agencies, districts, special districts and departments, their respective directors,
11 officers, Board of Supervisors, elected and appointed officials, employees, agents and
12 representatives) from any liability, claim, damage, proceeding or action, present or future, based
13 upon, arising out of or in any way relating to DEVELOPERS' (including their officers,
14 employees, subcontractors and agents) actual or alleged acts or omissions related to this
15 Agreement, performance under this Agreement, or failure to comply with the requirements of
16 this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
17 liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth
18 Amendment of the United States Constitution or any other law, ordinance or regulation caused
19 by the diversion of waters from the natural drainage patterns or the discharge of drainage within
20 or from PROJECT; or (d) any other element of any kind or nature whatsoever.
21

22 DEVELOPERS shall defend, at their sole expense, including all costs and
23 fees (including but not limited to attorney fees, cost of investigation, defense and settlements or
24 awards), DISTRICT and CITY (including their agencies, districts, special districts and
25 departments, their respective directors, officers, Board of Supervisors, elected and appointed
26
27
28

1 officials, employees, agents and representatives) in any claim, proceeding or action for which
2 indemnification is required.

3 With respect to any of DEVELOPERS' indemnification requirements,
4 DEVELOPER shall, at their sole cost, have the right to use counsel of their own choice and
5 shall have the right to adjust, settle, or compromise any such claim, proceeding or action
6 without the prior consent of DISTRICT and CITY; provided, however, that any such
7 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
8 DEVELOPERS' indemnification obligations to DISTRICT or CITY.

9 DEVELOPERS' indemnification obligations shall be satisfied when
10 DEVELOPERS have provided to DISTRICT and CITY the appropriate form of dismissal (or
11 similar document) relieving DISTRICT or CITY from any liability for the claim, proceeding or
12 action involved.
13

14 The specified insurance limits required in this Agreement shall in no way
15 limit or circumscribe DEVELOPERS' obligations to indemnify and hold harmless DISTRICT
16 and CITY from third party claims.
17

18 In the event there is conflict between this section and California Civil Code
19 Section 2782, this section shall be interpreted to comply with Civil Code 2782. Such
20 interpretation shall not relieve the DEVELOPERS from indemnifying DISTRICT or CITY to
21 the fullest extent allowed by law.
22

23 8. Any waiver by DISTRICT or by CITY of any breach of any one or more of
24 the terms of this Agreement shall not be construed to be a waiver of any subsequent or other
25 breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to
26 require exact, full and complete compliance with any terms of this Agreement shall not be
27
28

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

3 9. DEVELOPERS, DISTRICT and CITY each pledge to cooperate in regard
4 to the operation and maintenance of their respective facilities as set forth herein and to discharge
5 their respective maintenance responsibilities in an expeditious fashion so as to avoid the creation
6 of any nuisance condition or undue maintenance impact upon the others' facilities.
7

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

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

12 RIVERSIDE COUNTY FLOOD CONTROL
13 and WATER CONSERVATION DISTRICT
14 1995 Market Street
Riverside, CA 92501

CITY OF MORENO VALLEY
Post Office Box 88005
Moreno Valley, CA 92552-0805
Attn: Public Works Director

15 RIDGE MORENO VALLEY, LLC
16 201 Covina Avenue
Long Beach, CA 90803
Attn: Dennis Rice

RIDGE MORENO VALLEY II, LLC
201 Covina Avenue
Long Beach, CA 90803
Attn: Dennis Rice

17 12. Any action at law or in equity brought by any of the parties hereto for the
18 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
19 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
20 waive all provisions of law providing for a change of venue in such proceedings to any other
21 county.
22

23 13. This Agreement is the result of negotiations between the parties hereto and
24 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
25 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
26 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
27 prepared this Agreement in its final form.
28

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

14. The rights and obligations of DEVELOPERS shall inure to and be binding upon all heirs, successors and assignees.

15. Other than the assignment of operation and maintenance responsibilities for DEVELOPER DRAINAGE FACILITIES between CITY and DEVELOPERS as noted above in Recital H., DEVELOPERS shall not assign or otherwise transfer any of its rights, duties or obligations hereunder to any person or entity without the written consent of the other parties hereto being first obtained. In the event of any such transfer or assignment, DEVELOPERS expressly understand and agree that they shall remain liable with respect to any and all of the obligations and duties contained in this Agreement.

16. The individual(s) executing this Agreement on behalf of DEVELOPERS hereby certify that they have the authority within their respective company(ies) to enter into and execute this Agreement, and have been authorized to do so by any and all boards of directors, legal counsel, and or any other board, committee or other entity within their respective company(ies) which have the authority to authorize or deny entering this Agreement.

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


//
//

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

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

(to be filled in by Clerk of the Board)

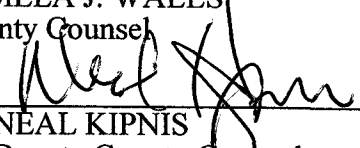
RECOMMENDED FOR APPROVAL: **RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

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
By 
NEAL KIPNIS
Deputy County Counsel


Clerk of the Board
By _____
Deputy

(SEAL)

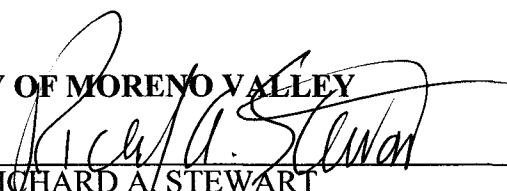
Cooperative Agreement: PM 32326
JPS:blj
3/25/09

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:

By 
CHRIS A. VOGT, P.E.
Public Works Director/City Engineer

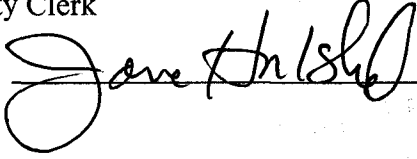
CITY OF MORENO VALLEY

By 
RICHARD A. STEWART
Mayor

APPROVED AS TO FORM:

By 
ROBERT D. HERRICK
City Attorney

ATTEST:

JANE HALSTEAD
City Clerk
By 

(SEAL)

Cooperative Agreement: PM 32326
JPS:blj
3/25/09

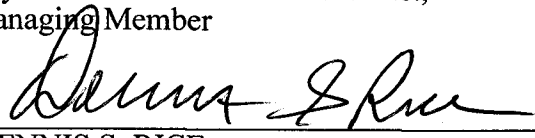
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RIDGE MORENO VALLEY, LLC,
a Delaware limited liability company
doing business in California as
Ridge Moreno Valley Property, LLC

By: RIDGE 191, LLC,
a Delaware limited liability company,
Its Managing Member

By: RIDGE HMAN INVESTORS, LLC,
a Delaware limited liability company,
Its Managing Member

By: RIDGE PROPERTY TRUST,
a Maryland real estate investment trust,
Its Managing Member

By 
DENNIS S. RICE
President

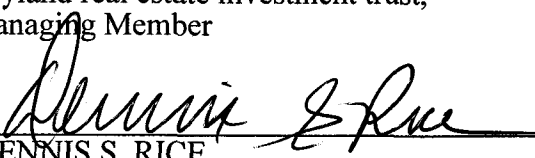
(ATTACH NOTARY WITH
CAPACITY STATEMENT)

RIDGE MORENO VALLEY II, LLC,
a Delaware limited liability company

By: RIDGE 191, LLC,
a Delaware limited liability company,
Its Managing Member

By: RIDGE HMAN INVESTORS, LLC,
a Delaware limited liability company,
Its Managing Member

By: RIDGE PROPERTY TRUST,
a Maryland real estate investment trust,
Its Managing Member

By 
DENNIS S. RICE
President

(ATTACH NOTARY WITH
CAPACITY STATEMENT)

Acknowledgment
Attached to 23 page(s)
Date 3-30-09 83

Cooperative Agreement: PM 32326
JPS:blj
3/25/09

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

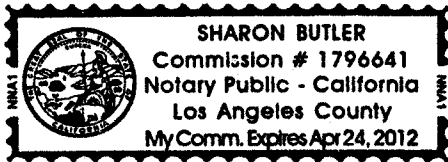
On 30th March 2009 before me, SHARON BUTLER, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared Dennis S. Rice
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Sharon Butler
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Second Amended + Restated Cooperative Agreement

Document Date: 25th March 2009 Number of Pages: 23

Signer(s) Other Than Named Above: Neal Kipnis

Capacity(ies) Claimed by Signer(s)

Signer's Name: Dennis S. Rice

- Individual
- Corporate Officer — Title(s): Pres.
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: Ridge Moreno Valley, LLC Ridge Moreno Valley II LLC

Signer's Name: _____

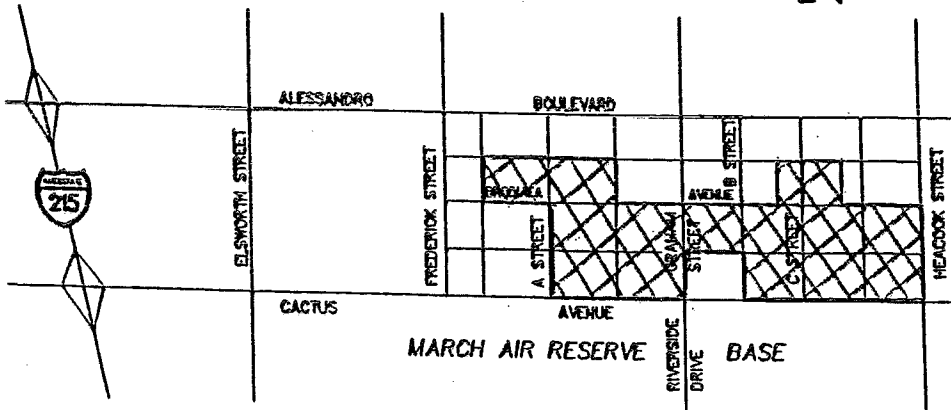
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

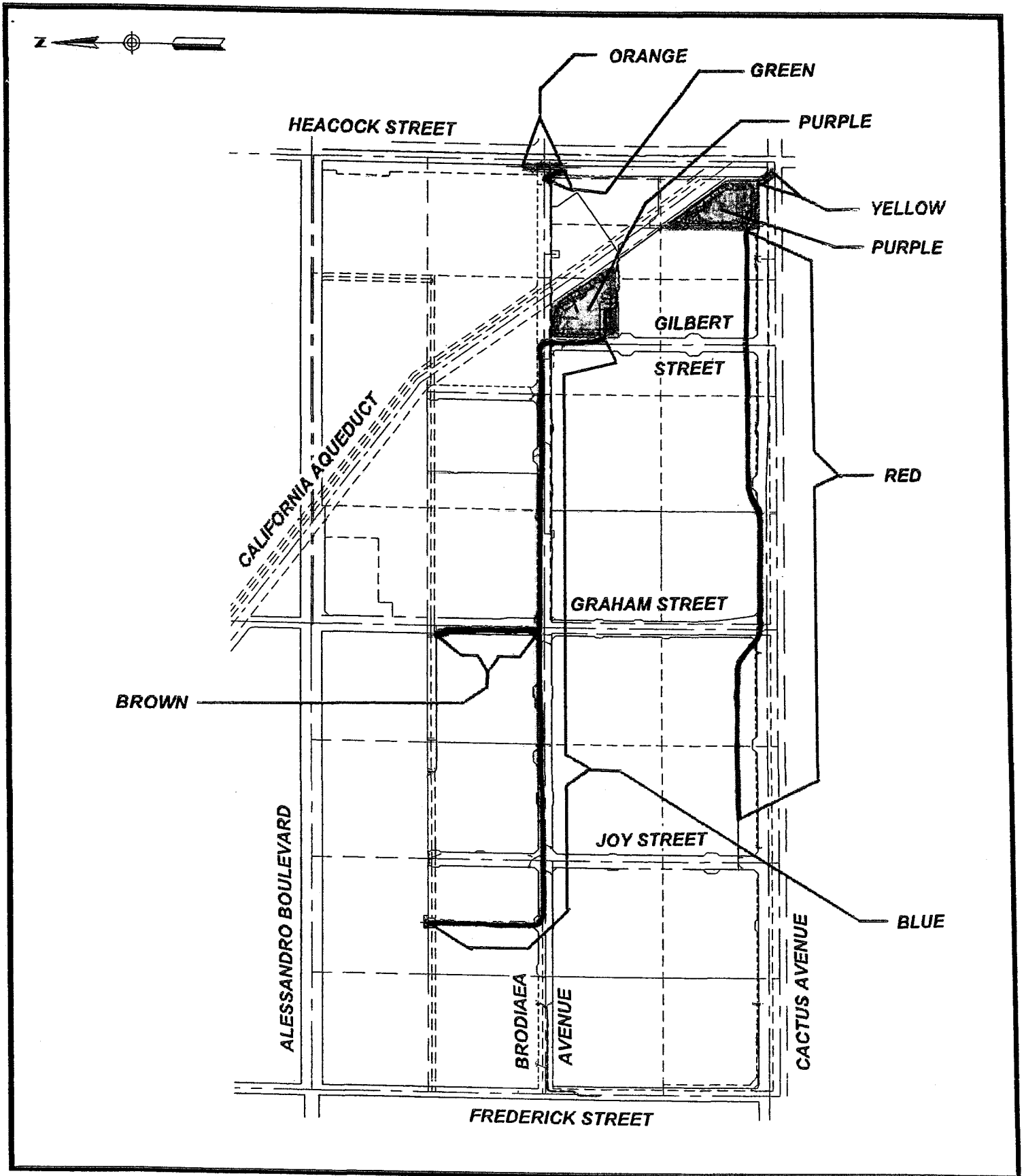
Exhibit A

LEGEND



VICINITY MAP
NOT TO SCALE

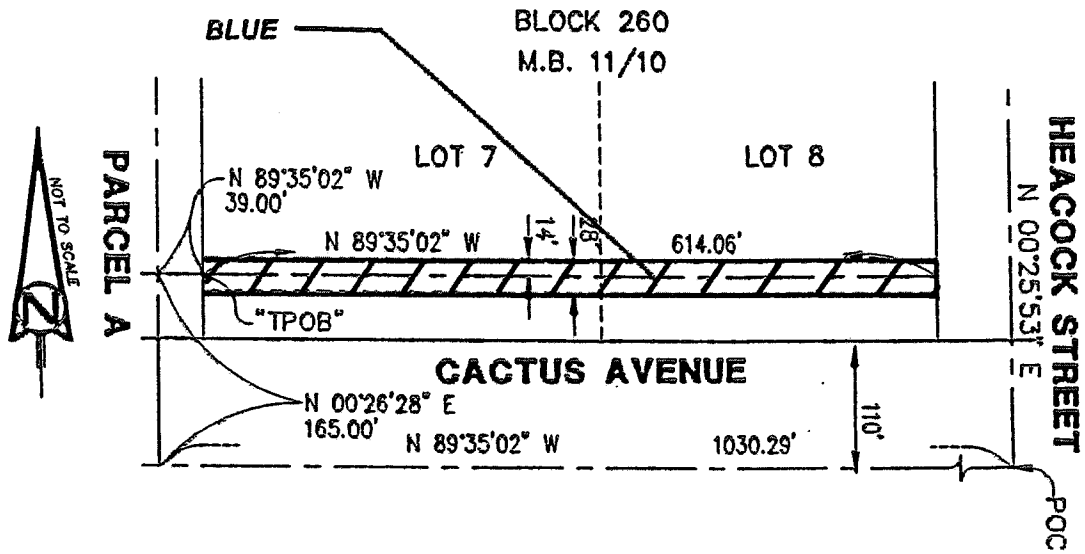
Exhibit A



Cooperative Agreement

Parcel Map 32326

Exhibit B



CENTERPOINTE STORM DRAIN

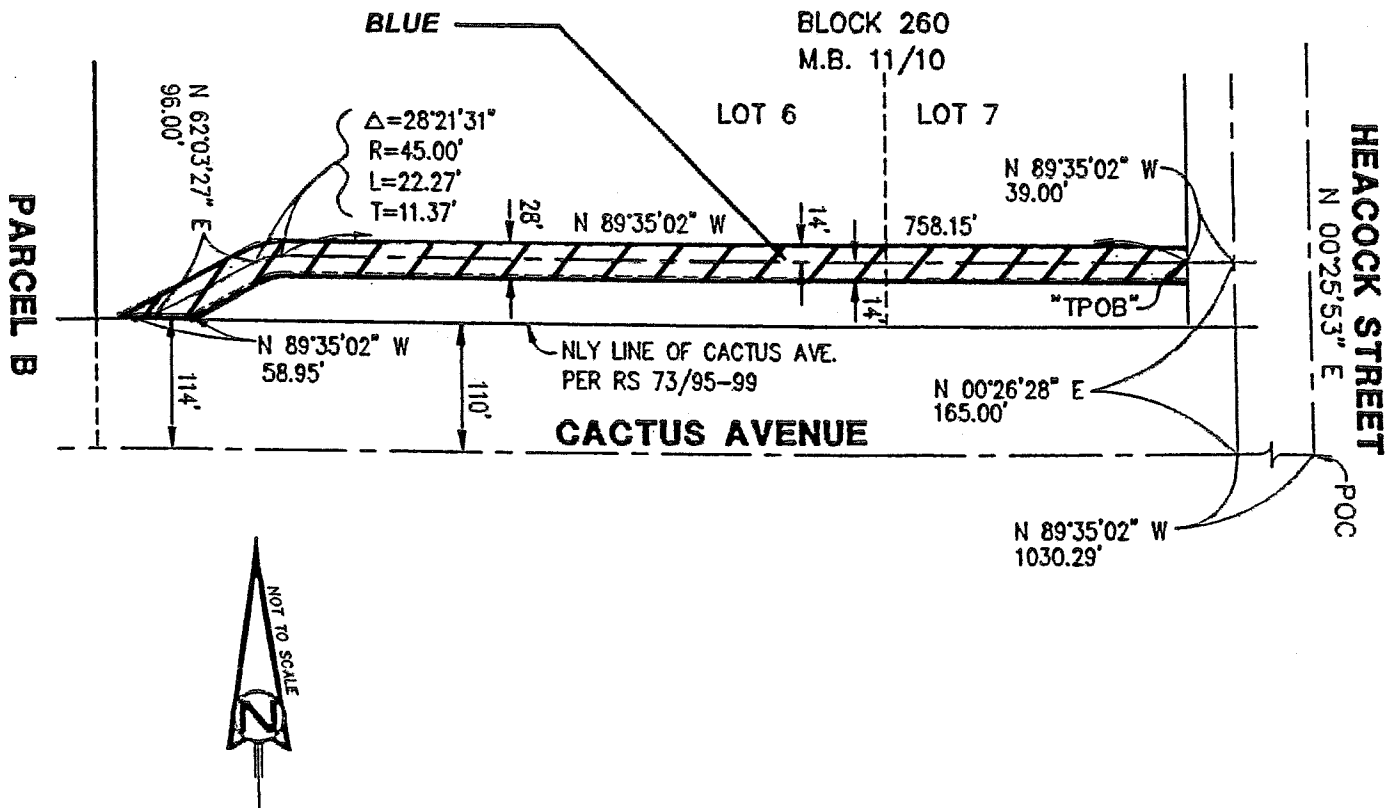
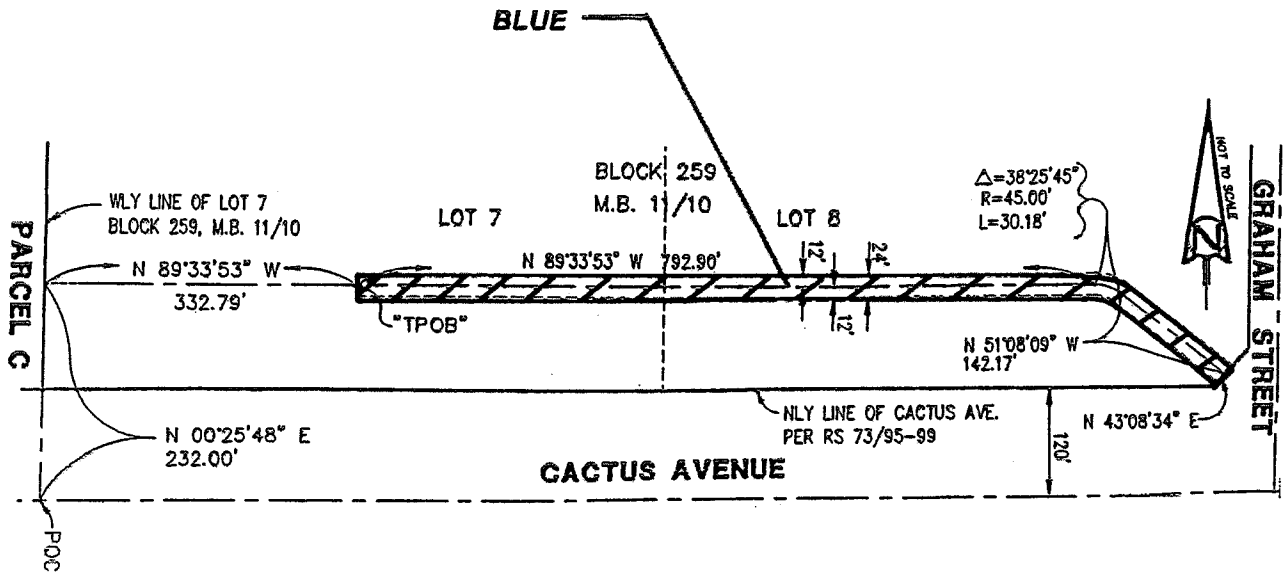


Exhibit B



CENTERPOINTE STORM DRAIN

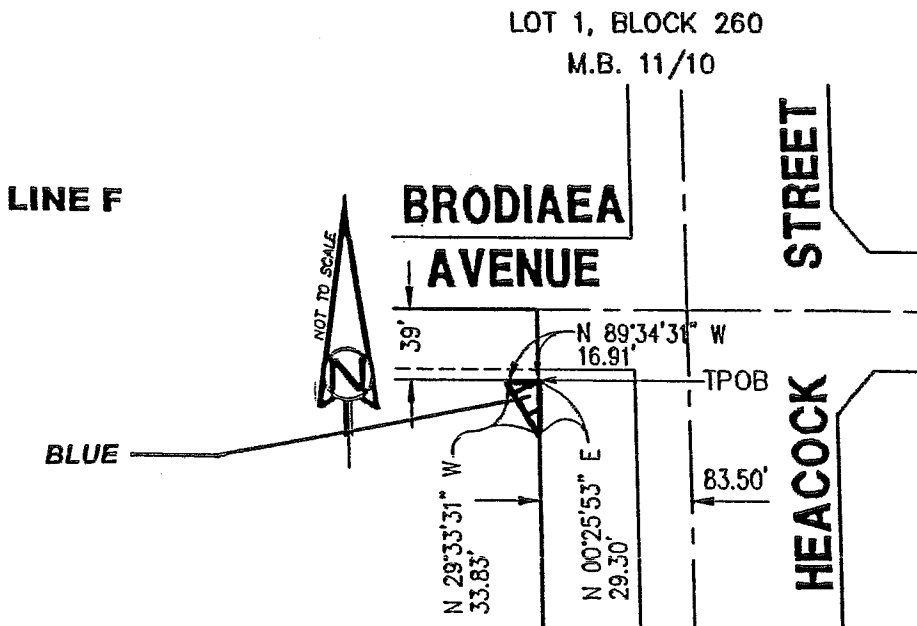


Exhibit B

GRAHAM STREET STORM DRAIN

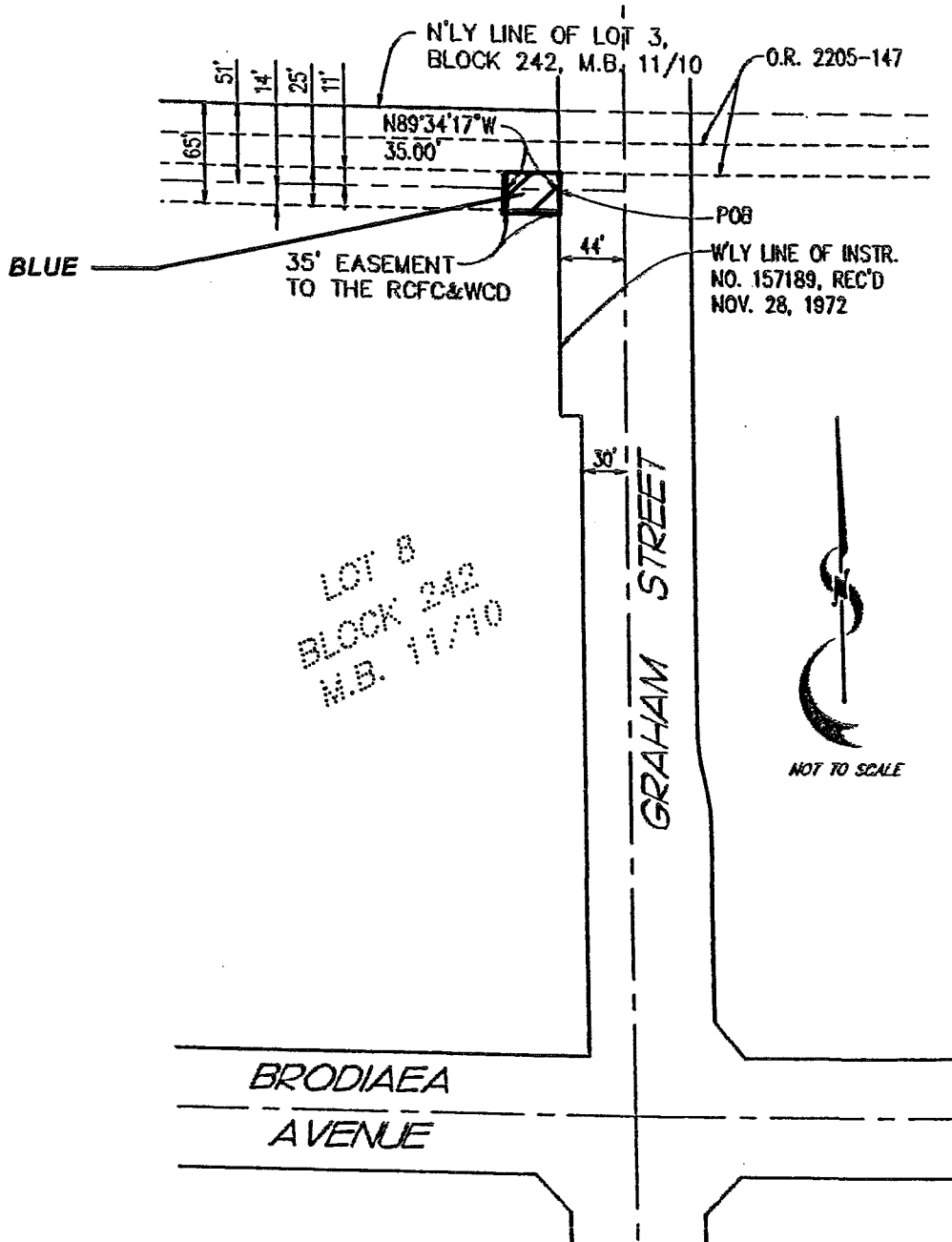
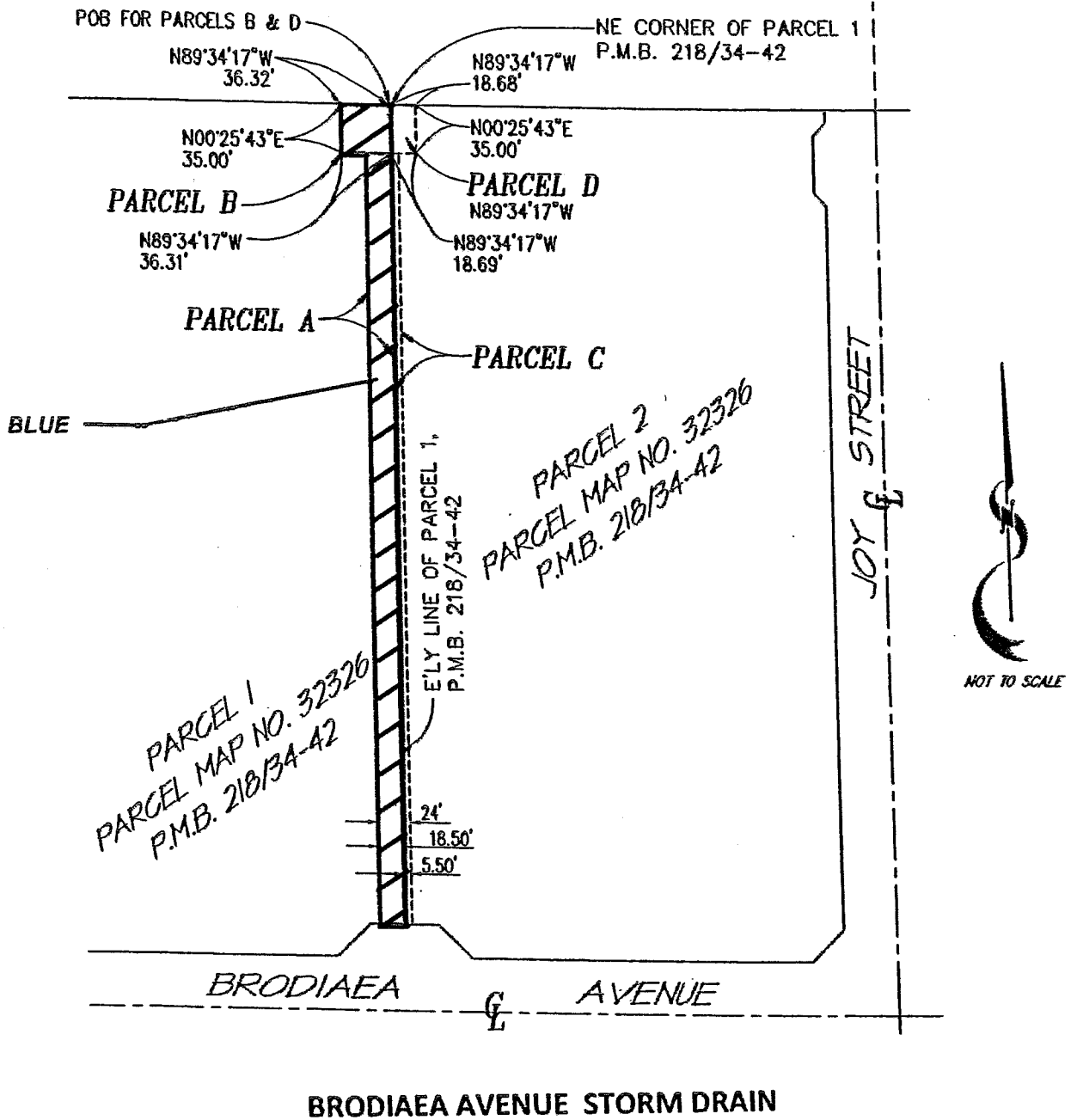


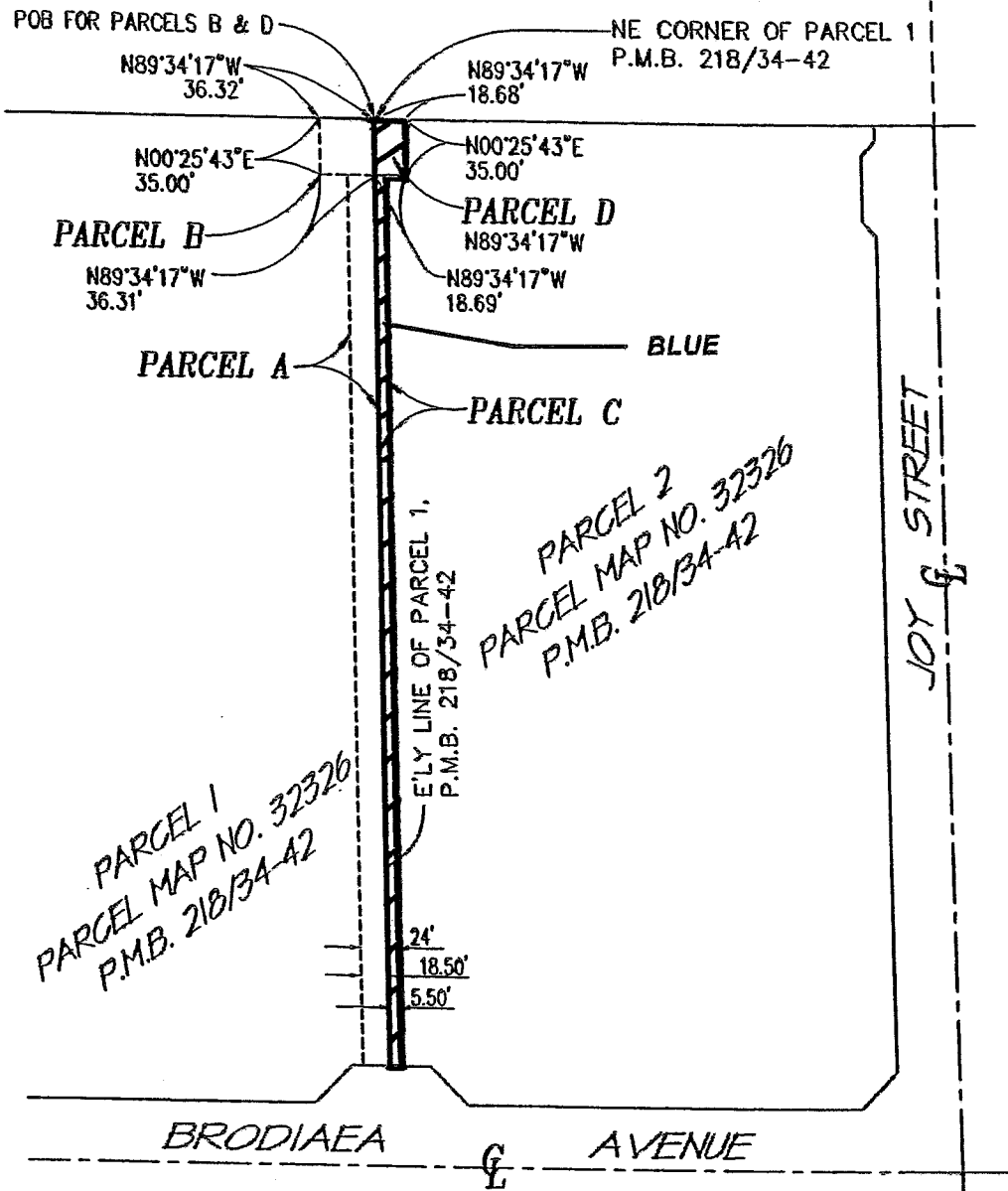
Exhibit B



Cooperative Agreement

Parcel Map 32326

Exhibit B



NOT TO SCALE

BRODIAEA AVENUE STORM DRAIN

Exhibit B

