

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

402 B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
November 26, 2013

SUBJECT: Cooperative Agreement for Temescal Canyon-Towhee Lane Storm Drain and Towhee Lane Channel (Tract No. 31908-F)
Project Nos. 2-0-00502 and -00503
District 1/District 1 [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the District, the County of Riverside (County) and Starfield Sycamore Investors, LLC (Developer); and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

Summary

The Cooperative Agreement sets forth the terms and conditions by which certain flood control facilities, required as a condition of approval for Tract No. 31908-F, are to be constructed by Developer and inspected, operated and maintained by the District and County.

Continued on Page 2

Steve Thomas

FOR **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: Developer is funding all construction and construction inspection costs.

Budget Adjustment: N/A
For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE
BY: *Steven C. Horn*
Steven C. Horn, MPA

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: November 26, 2013
 xc: 5013 704 1 5 Flood e: rd

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

Prev. Agn. Ref.: | District: 1st/1st | Agenda Number:

11-1

Departmental Concurrence
 BY: *Warren D. Williams* DATE: 11/26/13
 FORM APPROVED COUNTY COUNCIL

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: Cooperative Agreement for Temescal Canyon-Towhee Lane Storm Drain
and Towhee Lane Channel (Tract No. 31908-F)
Project Nos. 2-0-00502 and -00503
District 1/District 1 [\$0]

DATE: November 26, 2013

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced drainage facilities. Upon completion of the facilities' construction, the District will assume ownership, operation and maintenance of the offsite channel and mainline storm drains that are greater than 36inches in diameter. County will assume ownership and maintenance of lateral storm drain facilities that are 36inches or less in diameter along with the associated appurtenances such as catch basins, connector pipes, etc., located within its right of way boundaries.

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

Impact on Citizens and Businesses

Developer's planned development will benefit from the storm drain facilities that are to be constructed by the Developer.

SUPPLEMENTAL:

Additional Fiscal Information

Future O&M costs associated with the offsite channel and mainline storm drains that are greater than 36-inch in diameter will accrue to the District.

TT:blj

1 COOPERATIVE AGREEMENT
2 Temescal Canyon – Towhee Lane Storm Drain and
3 Temescal Canyon – Towhee Lane Channel
4 Project Nos. 2-0-00502 and 2-0-00503
5 Tract No. 31908-F

6 The RIVERSIDE COUNTY FLOOD CONTROL AND WATER
7 CONSERVATION DISTRICT, hereinafter called "DISTRICT", the COUNTY OF
8 RIVERSIDE, hereinafter called "COUNTY", on behalf of its Transportation Department, and
9 STARFIELD SYCAMORE INVESTORS, LLC, hereinafter called "DEVELOPER", hereby
10 agree as follows:

11 RECITALS

12 A. DEVELOPER has submitted for approval Tract No. 31908-F located in an
13 unincorporated area of Riverside County and as a condition of approval, DEVELOPER must
14 construct certain flood control facilities in order to provide flood protection and drainage for
15 DEVELOPER'S planned development; and

16 B. Legal description of Tract No. 31908-F is provided in Exhibit "A" attached
17 hereto and made a part hereof; and

18 C. The required flood control facilities, all as shown in District Drawing Nos.
19 2-0450 and 2-0451, include construction of i) approximately 500 lineal feet of underground
20 storm drain mainline that is greater than 36 inches in diameter and its associated outlet
21 structure, hereinafter called "ONSITE STORM DRAIN", as shown in concept in blue on
22 Exhibit "B" attached hereto and made a part hereof, ii) approximately 300 lineal feet of open
23 channel and its associated transition structures, hereinafter called "OFFSITE CHANNEL", as
24 shown in concept in yellow on Exhibit "B", and (iii) approximately 90 lineal feet of
25 underground reinforced concrete box and its associated outlet structure, hereinafter called
26 "OFFSITE STORM DRAIN", as shown in concept in green on Exhibit "B". Together,
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1 ONSITE STORM DRAIN, OFFSITE CHANNEL, and OFFSITE STORM DRAIN are
2 hereinafter called "DISTRICT DRAINAGE FACILITIES"; and

3 D. Associated with the construction of ONSITE STORM DRAIN is the
4 construction of certain underground storm drain laterals that are 36-inches or less in diameter,
5 outlets, catch basins and connector pipes located within COUNTY held easements or rights of
6 way, hereinafter called "APPURTENANCES". Together, DISTRICT DRAINAGE
7 FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

9 E. DEVELOPER and COUNTY desire DISTRICT to accept ownership and
10 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
11 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for
12 PROJECT and subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES;
13 and

14
15 F. DEVELOPER and DISTRICT desire COUNTY to accept ownership and
16 responsibility for the operation and maintenance of APPURTENANCES. Therefore,
17 COUNTY must review and approve DEVELOPER'S plans and specifications for PROJECT
18 and subsequently inspect the construction of APPURTENANCES.

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

20
21 SECTION I

22 DEVELOPER shall:

23 1. Prepare PROJECT plans and specifications, hereinafter called
24 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and COUNTY
25 standards, and submit to DISTRICT and COUNTY for their respective review and approval.

26 2. Continue to pay DISTRICT, within thirty (30) days after receipt of
27 periodic billings from DISTRICT, any and all such amounts as are deemed reasonably
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1 necessary by DISTRICT to cover DISTRICT'S costs associated with the review of
2 IMPROVEMENT PLANS, review and approval of rights of way and conveyance documents,
3 and with the processing and administration of this Agreement.
4

5 3. Deposit with DISTRICT (Attention: Business Office – Accounts
6 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
7 construction as set forth in Section I.7. herein, the estimated cost of providing construction
8 inspection for PROJECT, in an amount as determined and approved by DISTRICT in
9 accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any
10 amendments thereto, based upon the bonded value of PROJECT. If at any time the costs
11 exceed the deposit or are anticipated by DISTRICT to exceed the deposit, DEVELOPER shall
12 pay such additional amount(s), as deemed reasonably necessary by DISTRICT to complete
13 inspection of PROJECT, within thirty (30) days after receipt of billing from DISTRICT.
14

15 4. Secure, at its sole cost and expense, all necessary licenses, agreements,
16 permits and rights of entry as may be needed for the construction, inspection, operation and
17 maintenance of PROJECT. DEVELOPER shall furnish DISTRICT, at the time of providing
18 written notice to DISTRICT of the start of construction as set forth in Section I.7., or not less
19 than twenty (20) days prior to recordation of the final map for Tract No. 31908-F or any phase
20 thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured such
21 necessary licenses, agreements, permits and rights of entry, as determined and approved by
22 DISTRICT.
23

24 5. Furnish DISTRICT with copies of all permits, approvals or agreements
25 required by any Federal, State or local resource and/or regulatory agency for the construction,
26 operation and maintenance of PROJECT. Such documents include but are not limited to those
27 issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control
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1 Board, California State Department of Fish and Game, and State Water Resources Control
2 Board.

3 6. Provide COUNTY at the time of providing written notice to DISTRICT of
4 the start of construction as set forth in Section I.7., or not less than twenty (20) days prior to
5 recordation of the final map for Tract No. 31908-F or any phase thereof, whichever occurs first,
6 with faithful performance and payment bonds, each in an amount of one hundred percent
7 (100%) of the estimated cost for construction of PROJECT as determined by DISTRICT. The
8 surety, the amount and form of the bonds, shall be subject to approval of DISTRICT and
9 COUNTY. The bonds shall remain in full force and effect until PROJECT are accepted by
10 DISTRICT as complete; at which time the bond amount may be reduced to ten percent (10%)
11 for a period of one year to guarantee against any defective work, labor or materials.
12

13 7. Notify DISTRICT in writing (Attention: Administrative Services Section),
14 at least twenty (20) days prior to the start of construction of PROJECT. Construction shall not
15 begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued to
16 DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence
17 construction of PROJECT.
18

19 8. Grant DISTRICT, by execution of this Agreement, the right to enter upon
20 DEVELOPER'S property where necessary and convenient for the purpose of gaining access to,
21 and performing inspection service for, the construction of PROJECT as set forth herein.
22

23 9. Obtain and provide DISTRICT, at the time of providing written notice to
24 DISTRICT of the start of construction of PROJECT as set forth in Section I.7., or not less than
25 twenty (20) days prior to the recordation of the final map for Tract No. 31908-F or any phase
26 thereof, whichever occurs first, with duly executed Irrevocable Offers(s) of Dedication to the
27 public for flood control and drainage purposes, including ingress and egress, for the rights of
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1 way deemed necessary by DISTRICT for the construction, inspection, operation and
2 maintenance of PROJECT, as shown in concept in blue, in green, and in red on Exhibit "C"
3 attached hereto and made a part hereof. The Irrevocable Offer(s) of Dedication shall be in a
4 form approved by DISTRICT and shall be executed by all legal and equitable owners of the
5 property described in the offer(s).
6

7 10. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of
8 Dedication as set forth in Section I.9., with Preliminary Reports on Title dated not more than
9 thirty (30) days prior to date of submission of all the property described in the Irrevocable
10 Offer(s) of Dedication.

11 11. Furnish DISTRICT, at the time of providing written notice to DISTRICT
12 of the start of construction as set forth in Section I.7., with a complete list of all contractors and
13 subcontractors to be performing work on PROJECT, including the corresponding license
14 number and license classification of each. At such time, DEVELOPER shall further identify in
15 writing its designated superintendent for PROJECT construction.
16

17 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT
18 of the start of construction as set forth in Section I.7., a construction schedule which shall show
19 the order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry on
20 the various parts of work, including estimated start and completion dates. As construction of
21 PROJECT progresses, DEVELOPER shall update said construction schedule as requested by
22 DISTRICT.
23

24 13. Furnish DISTRICT with final mylar PROJECT plans and assign their
25 ownership to DISTRICT prior to the start of PROJECT construction.
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1 14. Not permit any change to or modification of DISTRICT and COUNTY
2 approved IMPROVEMENT PLANS without the prior written permission and consent of
3 DISTRICT and COUNTY.

4 15. Comply with all Cal/OSHA safety regulations including regulations
5 concerning confined space and maintain a safe working environment for DEVELOPER,
6 COUNTY and DISTRICT employees on the site.

7 16. Furnish DISTRICT, at the time of providing written notice to DISTRICT
8 of the start of construction as set forth in Section I.7., a confined space entry procedure specific
9 to PROJECT. The procedure shall comply with requirements contained in California Code of
10 Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157, Permit
11 Required Confined Space and District Confined Space Procedures, SOM-18. The procedure
12 shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed.
13

14 17. During the construction period of PROJECT, provide Workers'
15 Compensation Insurance in an amount required by law. A certificate of said insurance policy
16 shall be provided to DISTRICT and COUNTY at the time of providing written notice pursuant
17 to Section I.7.
18

19 18. Commencing on the date notice is given pursuant to Section I.7., and
20 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES for operation and
21 maintenance:
22

- 23 (a) Provide and maintain or cause its contractor(s) to provide and
24 maintain comprehensive liability insurance coverage which shall
25 protect DEVELOPER from claims for damages for personal injury,
26 including accidental and wrongful death, as well as from claims for
27 property damage which may arise from DEVELOPER'S construction
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1 of PROJECT or the performance of its obligations hereunder,
2 whether such construction or performance be by DEVELOPER, by
3 any of its contractors, subcontractors, or by anyone employed
4 directly or indirectly by any of them. Such insurance shall name
5 DISTRICT and COUNTY as additional insureds with respect to this
6 Agreement and the obligations of DEVELOPER hereunder. Such
7 insurance shall provide for limits of not less than two million dollars
8 (\$2,000,000) per occurrence.

- 9
10 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s),
11 who shall be authorized by the California Department of Insurance to
12 transact the business of insurance in the State of California, to furnish
13 DISTRICT and COUNTY at the time of providing written notice to
14 DISTRICT of the start of construction as set forth in Section I.7.,
15 with certificate(s) of insurance and applicable policy endorsements
16 showing that such insurance is in full force and effect and that
17 DISTRICT and COUNTY are named as additional insureds with
18 respect to this Agreement and the obligations of DEVELOPER
19 hereunder. Further, said certificate(s) shall state that the issuing
20 company shall give DISTRICT and COUNTY sixty (60) days
21 written notice in the event of any cancellation, termination, non-
22 renewal or reduction in coverage of the policies evidenced by the
23 certificate(s). In the event cancellation, termination, non-renewal or
24 reduction of coverage, DEVELOPER shall forthwith, secure
25 replacement insurance meeting the provisions of this paragraph.
26
27
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1 Failure to maintain the insurance required by this paragraph shall be deemed a
2 material breach of this Agreement and shall authorize and constitute authority for DISTRICT,
3 at its sole discretion, to proceed to perform the remaining work pursuant to Section IV.3.

4
5 19. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole
6 cost and expense, in accordance with DISTRICT and COUNTY approved IMPROVEMENT
7 PLANS.

8 20. Within two (2) weeks of completing PROJECT construction, provide
9 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
10 construction is substantially complete and requesting that DISTRICT conduct a final inspection
11 of DISTRICT DRAINAGE FACILITIES.

12
13 21. Upon completion of PROJECT construction, and upon acceptance by
14 COUNTY of all street rights of way deemed necessary by DISTRICT and COUNTY for the
15 operation and maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT
16 DRAINAGE FACILITIES for ownership, operation and maintenance, convey, or cause to be
17 conveyed to DISTRICT i) flood control easement(s), including ingress and egress, in a form
18 approved by DISTRICT, for the rights of way as shown in concept in red on Exhibit "C", (ii)
19 fee ownership, in a form approved by DISTRICT, for the rights of way as shown in concept in
20 blue on Exhibit "C", and (iii) ingress-egress easement(s), in a form approved by DISTRICT, for
21 the rights of way as shown in concept in green on Exhibit "C".

22
23 22. At the time of recordation of the conveyance document(s) as set forth in
24 Section I.21., furnish DISTRICT with policies of title insurance, each in the amount of not less
25 than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
26 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
27 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
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1 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
2 deemed acceptable.

3 23. At the time of recordation of the conveyance document(s) as set forth in
4 Section I.21., furnish DISTRICT with policies of title insurance, each in the amount of not less
5 than one hundred percent (100%) of the estimated fee value, as determined by DISTRICT, for
6 each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
7 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
8 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
9 deemed acceptable.
10

11 24. Accept ownership and sole responsibility for the operation and
12 maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility
13 for operation and maintenance of DISTRICT DRAINAGE FACILITIES and COUNTY accepts
14 ownership and responsibility for operation and maintenance of APPURTENANCES. Further,
15 it is mutually understood by the parties hereto that prior to DISTRICT acceptance of ownership
16 and responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
17 PROJECT shall be in a satisfactorily maintained condition as solely determined by DISTRICT.
18 If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT
19 DRAINAGE FACILITIES are not in an acceptable condition, corrections will be made at sole
20 expense of DEVELOPER.
21

22 25. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
23 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
24 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and fees
25 shall be computed as costs and included in any judgment rendered.
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1 26. Upon completion of construction of PROJECT, but prior to DISTRICT
2 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and
3 maintenance, provide or cause its civil engineer of record or construction civil engineer of
4 record, duly registered in the State of California to provide DISTRICT with a redlined
5 "RECORD DRAWING" copy of PROJECT plans. After DISTRICT approval of the redlined
6 "RECORD DRAWING", DEVELOPER'S engineer shall schedule with DISTRICT a time to
7 transfer the redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after
8 which the engineer shall review, stamp and sign the original mylars PROJECT plans
9 "RECORD DRAWING".
10

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

17 SECTION II

18 DISTRICT shall:

- 19 1. Review and approve IMPROVEMENT PLANS prior to the start of
20 PROJECT construction.
- 21 2. Provide COUNTY an opportunity to review and approve
22 IMPROVEMENT PLANS prior to DISTRICT'S final approval.
- 23 3. Upon execution of this Agreement, record or cause to be recorded, a copy
24 of this Agreement in the Official Records of the Riverside County Recorder.
25
- 26 4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication
27 provided by DEVELOPER pursuant to Section I.9.
28

1 5. Inspect DISTRICT DRAINAGE FACILITIES construction.

2 6. Keep an accurate accounting of all DISTRICT costs associated with
3 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and
4 conveyance documents and the processing and administration of this Agreement.

5 7. Keep an accurate accounting of all DISTRICT construction inspection
6 costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT DRAINAGE
7 FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit,
8 as set forth in Section I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the
9 excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT DRAINAGE
10 FACILITIES as being complete.

11 8. Accept ownership and sole responsibility for the operation and
12 maintenance of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT acceptance of
13 PROJECT construction as being complete, (ii) DISTRICT receipt of stamped and signed
14 "RECORD DRAWING" of PROJECT plans as set forth in Section I. 26., (iii) recordation of all
15 conveyance documents described in Section I.21., (iv) COUNTY acceptance of all necessary
16 street rights of way as deemed necessary by DISTRICT and COUNTY for the operation and
17 maintenance of PROJECT, (v) COUNTY acceptance of APPURTENANCES for ownership,
18 operation and maintenance, and (vi) DISTRICT'S sole determination that DISTRICT
19 DRAINAGE FACILITIES are in a satisfactorily maintained condition.

20 9. Provide COUNTY with a reproducible duplicate copy of "RECORD
21 DRAWING" PROJECT plans upon DISTRICT acceptance of DISTRICT DRAINAGE
22 FACILITIES as being complete.

SECTION III

COUNTY shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction.
2. Accept COUNTY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER as set forth in Section I.6., and hold said bonds as provided herein.
3. Inspect construction of APPURTENANCES.
4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.
5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the construction, inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES, and, pursuant to the authority granted by County of Riverside Resolution No. 2005-291, convey sufficient rights of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITIES.
6. Grant DISTRICT, by execution of this Agreement, the right to construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITIES within COUNTY rights of way.
7. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of PROJECT as being complete.

1 8. Not grant any occupancy permits for any units within any portion of Tract
2 No. 31908-F, or any phase thereof, until construction of PROJECT is complete, unless
3 otherwise approved in writing by DISTRICT.

4 9. Upon DISTRICT acceptance of PROJECT construction as being complete,
5 accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located
6 within COUNTY rights of way which must be performed at such time(s) that the finished grade
7 along and above the underground portions of DISTRICT DRAINAGE FACILITIES are
8 improved, repaired, replaced or changed. It being further understood and agreed that any such
9 adjustments shall be performed at no cost to DISTRICT.
10

11 SECTION IV

12 It is further mutually agreed:

13
14 1. All work involved with PROJECT shall be inspected by DISTRICT and
15 shall not be deemed complete until approved and accepted in writing as complete by
16 DISTRICT and COUNTY.

17 2. COUNTY and DEVELOPER personnel may observe and inspect all work
18 being done on PROJECT, but shall provide any comments to DISTRICT personnel who shall
19 be solely responsible for all quality control communications with DEVELOPER'S contractor(s)
20 during the construction of PROJECT.

21 3. DEVELOPER shall complete construction of PROJECT within twelve
22 (12) consecutive months after execution of this Agreement and within five (5) consecutive
23 months after commencing work on PROJECT. It is expressly understood that since time is of
24 the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed
25 upon time shall constitute authority for DISTRICT to perform the remaining work and require
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1 DEVELOPER'S surety to pay to COUNTY the penal sum of any and all bonds. In which case,
2 COUNTY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

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

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

22 5. PROJECT construction work shall be on a five (5) day, forty (40) hour
23 work week with no work on Saturdays, Sundays or DISTRICT designated legal holidays,
24 unless otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to
25 work more than the normal forty (40) hour work week or on holidays, DEVELOPER shall
26 make a written request for permission from DISTRICT to work the additional hours. The
27 request shall be submitted to DISTRICT at least seventy-two (72) hours prior to the requested
28

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

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

22 DEVELOPER shall defend, at its sole expense, including all costs and fees
23 (including but not limited to attorney fees, cost of investigation, defense and settlements or
24 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and
25 departments, their respective directors, officers, Board of Supervisors, elected and appointed
26 officials, employees, agents and representatives) in any claim proceeding or action for which
27 indemnification is required.
28

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

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

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

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

22 7. DEVELOPER shall not request DISTRICT to accept any portion or
23 portions of DISTRICT DRAINAGE FACILITIES or COUNTY to accept any portion or
24 portions of APPURTENANCES prior to the completion of PROJECT construction.
25

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

1 shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or
2 COUNTY from enforcement hereof.

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

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

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

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

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

14 STARFIELD SYCAMORE INVESTORS, LLC
15 4590 MacArthur Boulevard, Suite 600
Newport, CA 92660
Attn: Brian Woods

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

21 13. This Agreement is the result of negotiations between the parties hereto,
22 and the advice and assistance of their respective counsel. The fact that this Agreement was
23 prepared as a matter of convenience by DISTRICT shall have no import or significance. Any
24 uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT because
25 DISTRICT prepared this Agreement in its final form.
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1 14. The rights and obligations of DEVELOPER shall inure to and be binding
2 upon all heirs, successors and assignees.

3 15. DEVELOPER shall not assign or otherwise transfer any of its rights,
4 duties or obligations hereunder to any person or entity without the written consent of the other
5 parties hereto being first obtained. In the event of any such transfer or assignment,
6 DEVELOPER expressly understands and agrees that it shall remain liable with respect to any
7 and all of the obligations and duties contained in this Agreement.

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

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

22 //

23 //

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

2 NOV 26 2013

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

4 RECOMMENDED FOR APPROVAL:

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

5 By Steve Thomas
6 ~~for~~ WARREN D. WILLIAMS
7 General Manager-Chief Engineer

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

8 APPROVED AS TO FORM:

ATTEST:

9 PAMELA J. WALLS
10 County Counsel

KECIA HARPER-IHEM
Clerk of the Board

11 By Neal R. Kipnis
12 NEAL R. KIPNIS
13 Deputy County Counsel

By Kalleuington
Deputy

(SEAL)

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25 Cooperative Agreement:
26 Tract No. 31908-F
27 Temescal Canyon – Towhee Lane Storm Drain
28 Temescal Canyon – Towhee Lane Channel
TT:blj
10/02/13

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RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By [Signature]
JUAN C. PEREZ
Director of Transportation

By [Signature]
JOHN J. BENOIT, Chairman
County of Riverside Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

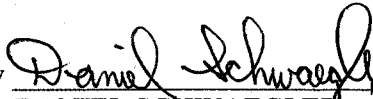
By [Signature] 11/8/13
MARSHA L. VICTOR
Principal Deputy County Counsel

By [Signature]
Deputy

(SEAL)

Cooperative Agreement:
Tract No. 31908-F
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
TT:blj
10/02/13

STARFIELD SYCAMORE INVESTORS, LLC

By 
DANIEL SCHWAEGLER
Vice President

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

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Cooperative Agreement:
Tract No. 31908-F
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
TT:blj
10/02/13

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of SAN FRANCISCO }

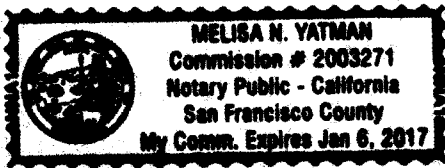
On 10/15/13 before me, MELISA N YATMAN
Date Here Insert Name and Title of the Officer

personally appeared DANIEL SCHWAEGLER
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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.



Signature: Melisa N Yatman
Signature of Notary Public

Place Notary Seal Above

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: _____

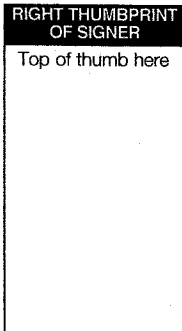
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

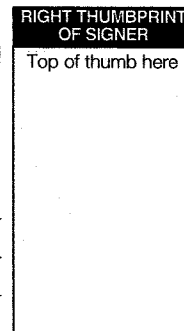
- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

MELISSA W. YATMAN
Commission # 500327
Notary Public - California
San Francisco County
My Comm. Expires Jan 6, 2011



Exhibit A

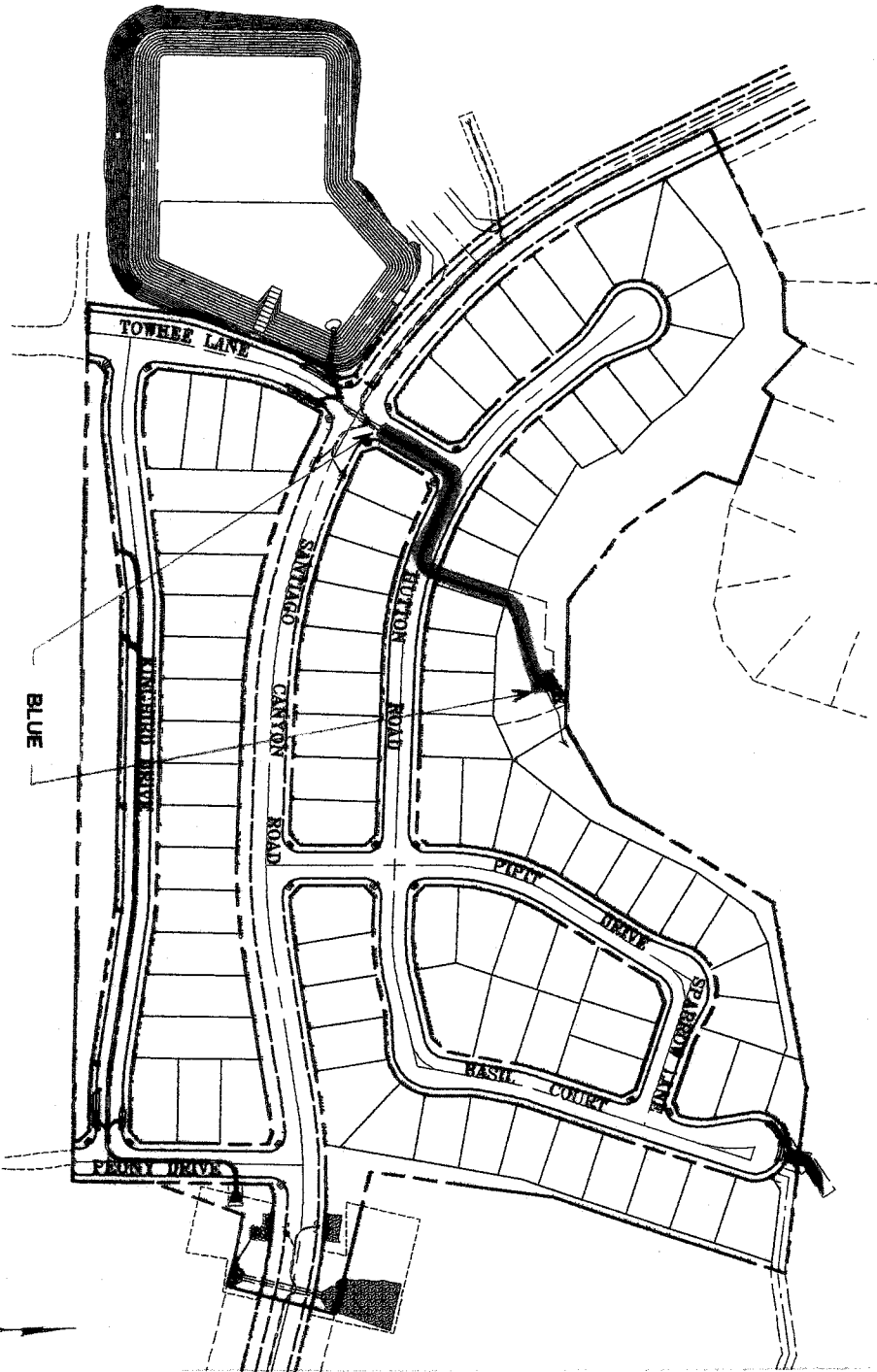
LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Riverside, State of California, described as follows:

PARCEL 2 OF PARCEL MAP NO. 34609, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 224 PAGES 45 THROUGH 49, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

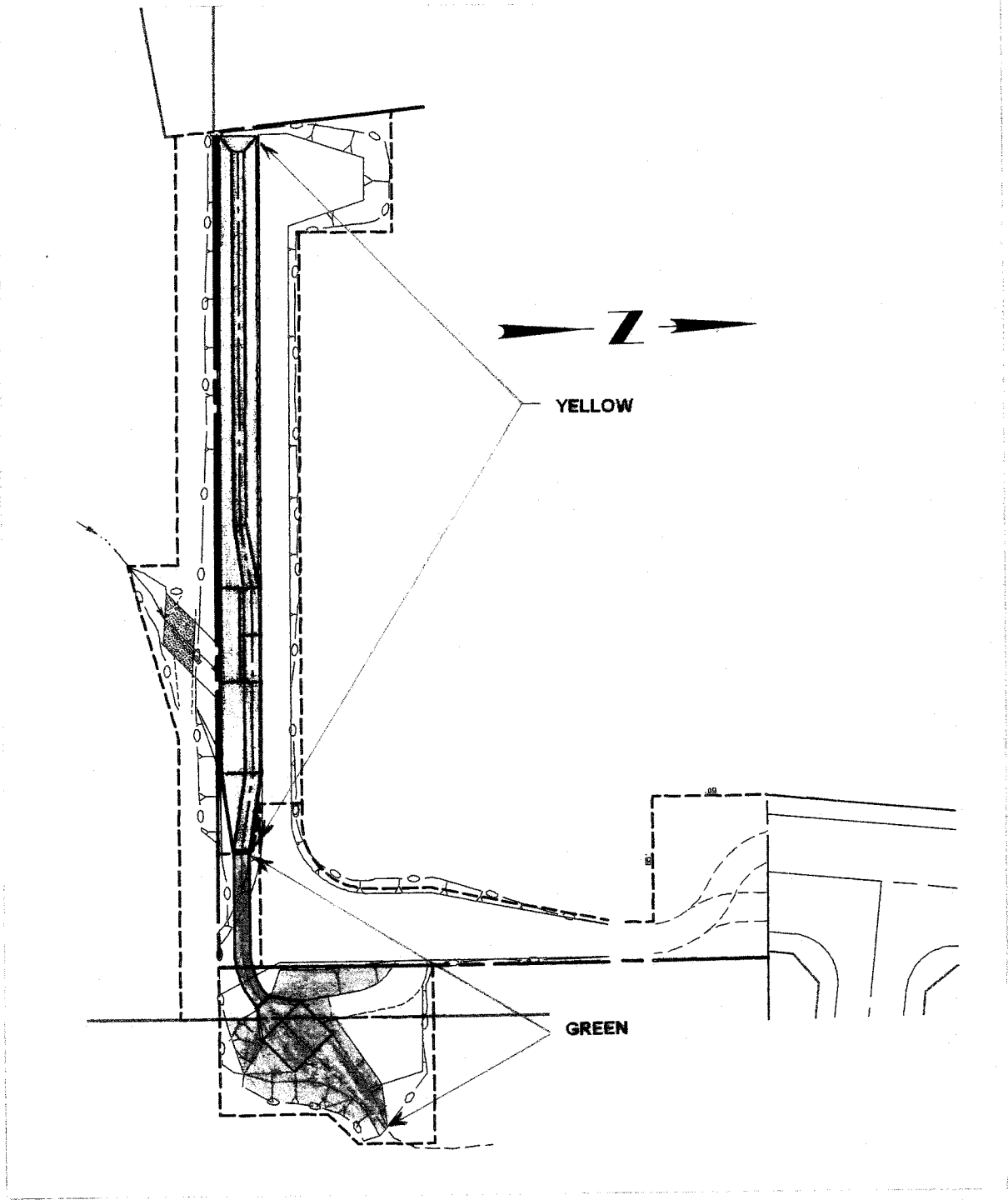
APN: 290-660-006-5

Exhibit B



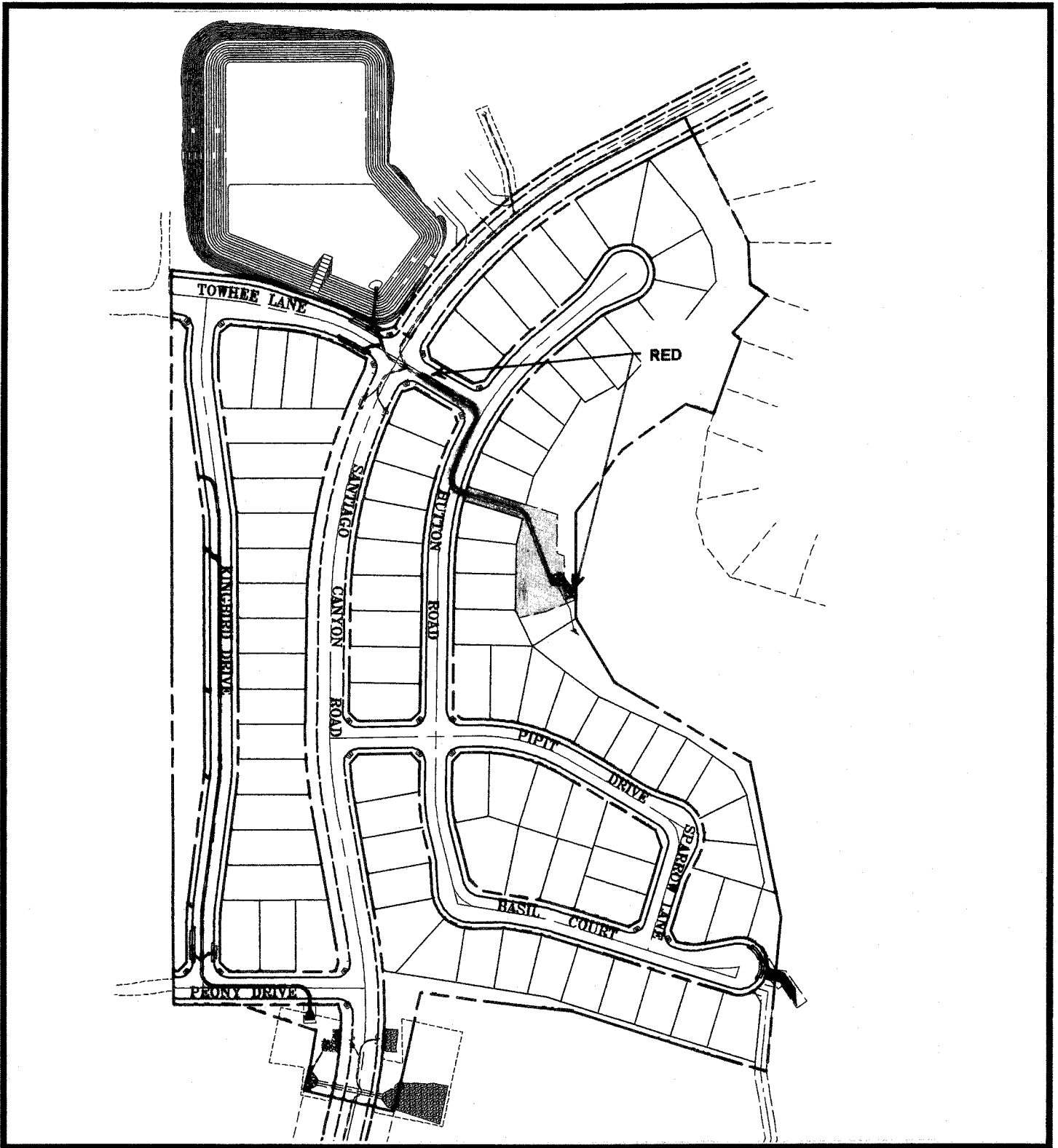
Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
1 of 2

Exhibit B



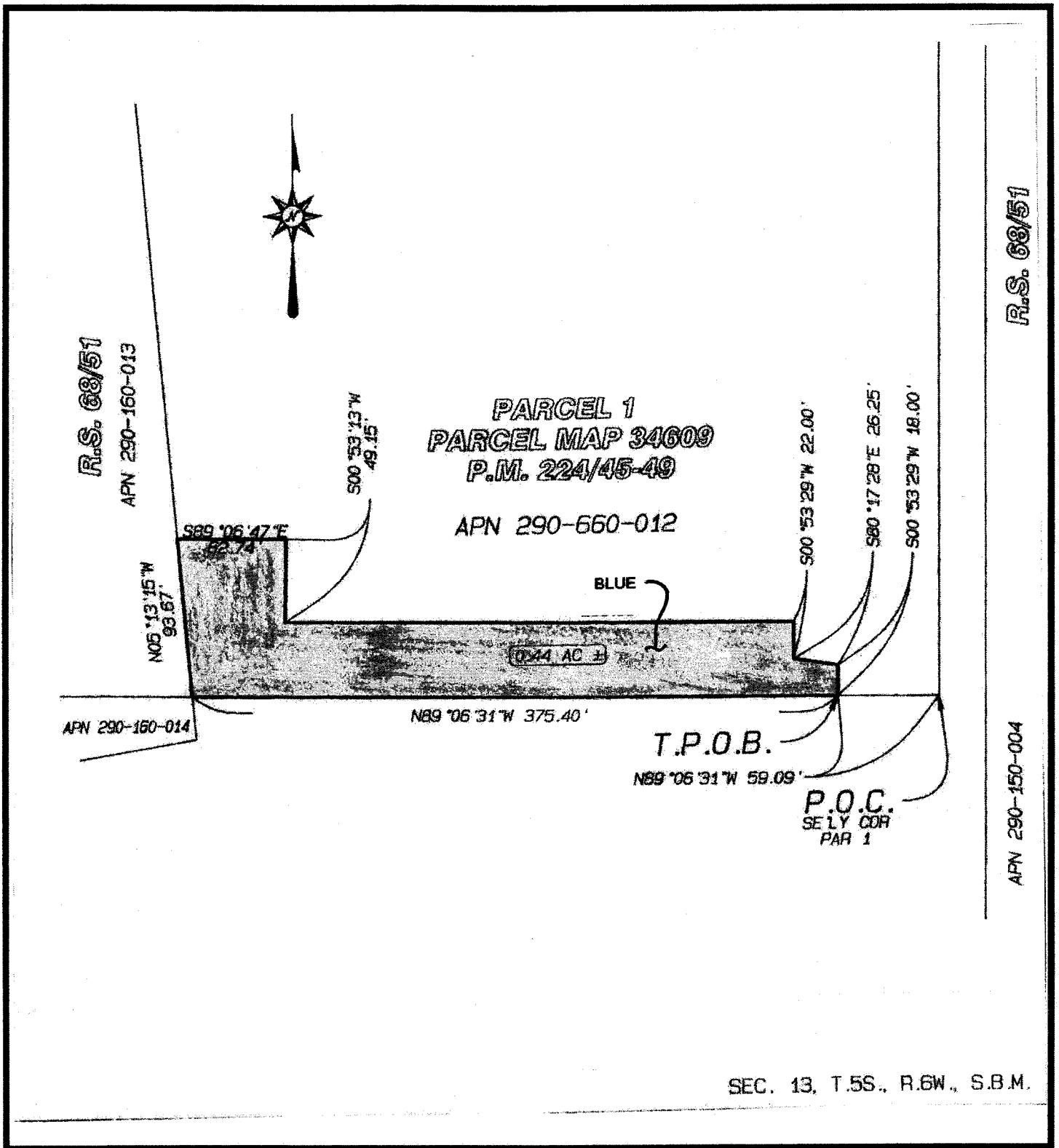
Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
2 of 2

Exhibit C



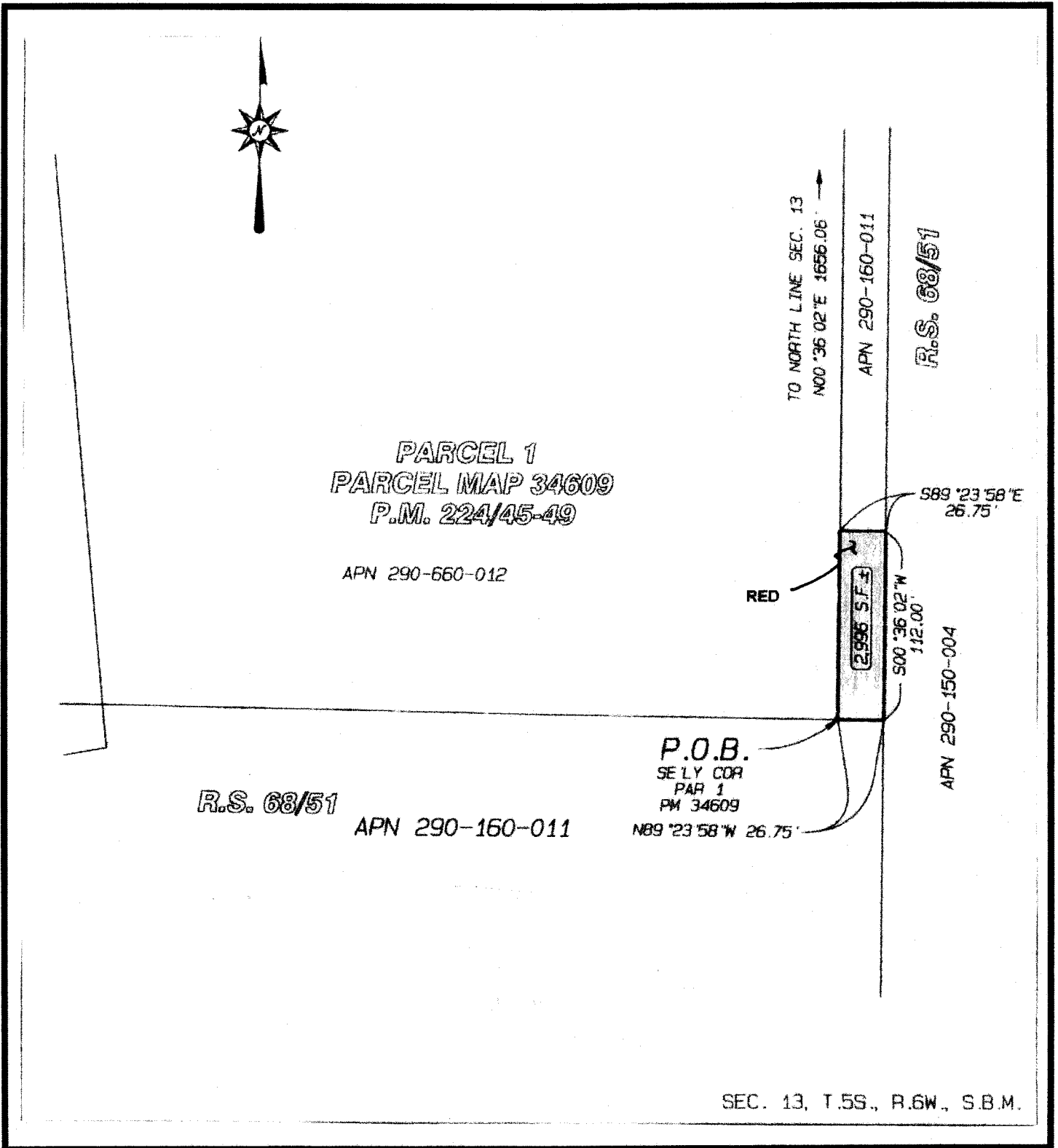
Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
1 of 6

Exhibit C



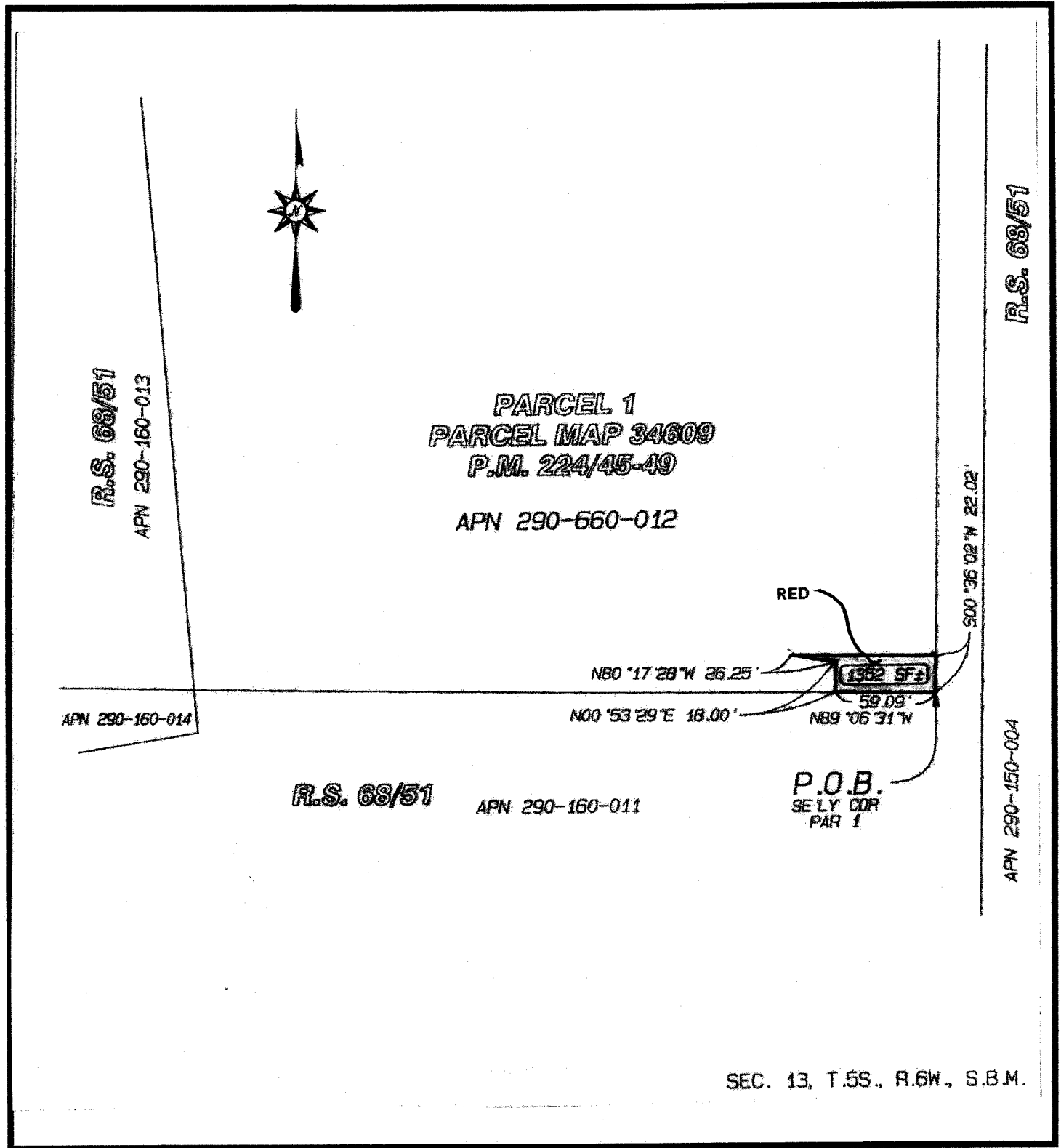
Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
2 of 6

Exhibit C



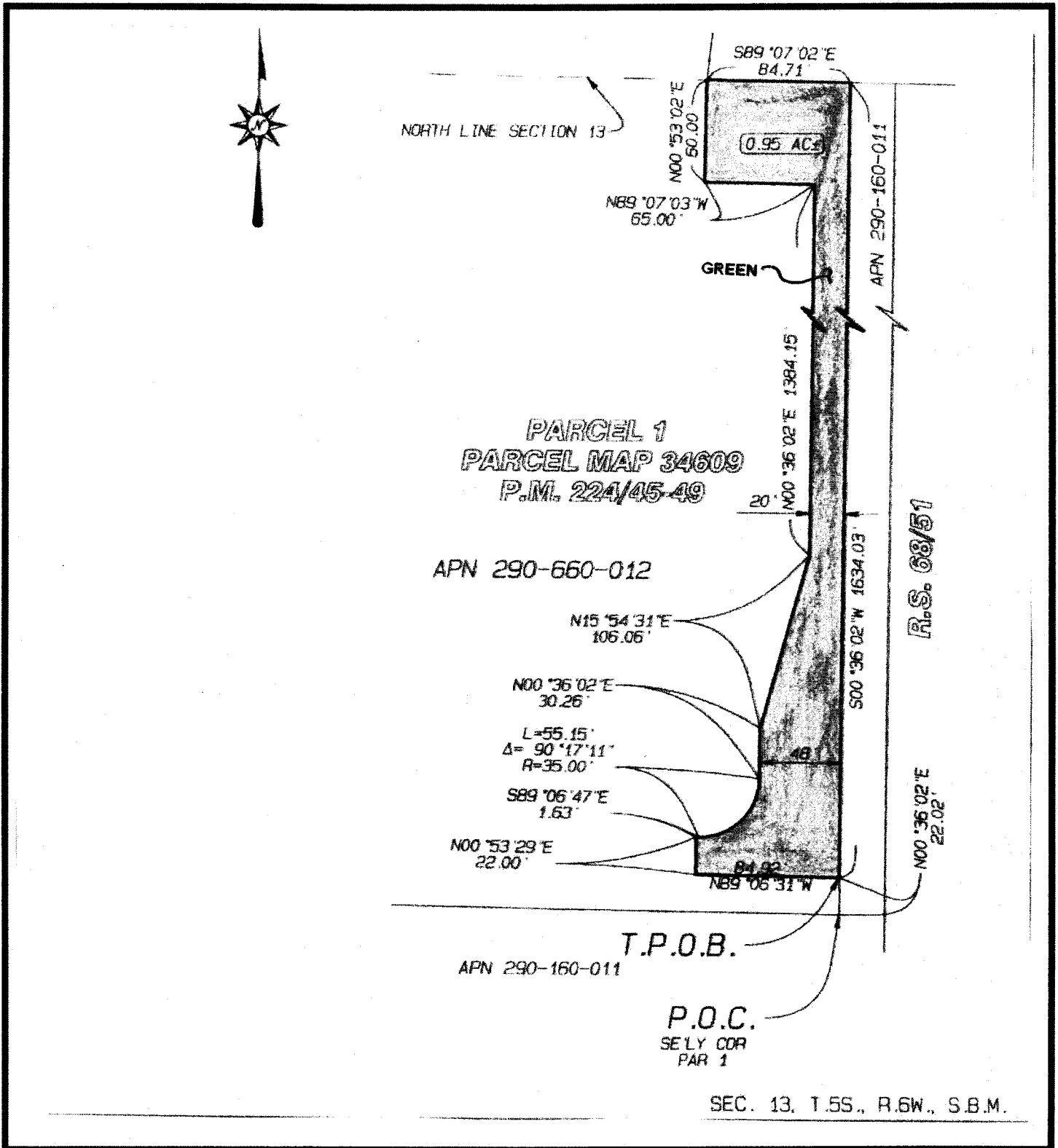
Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
3 of 6

Exhibit C



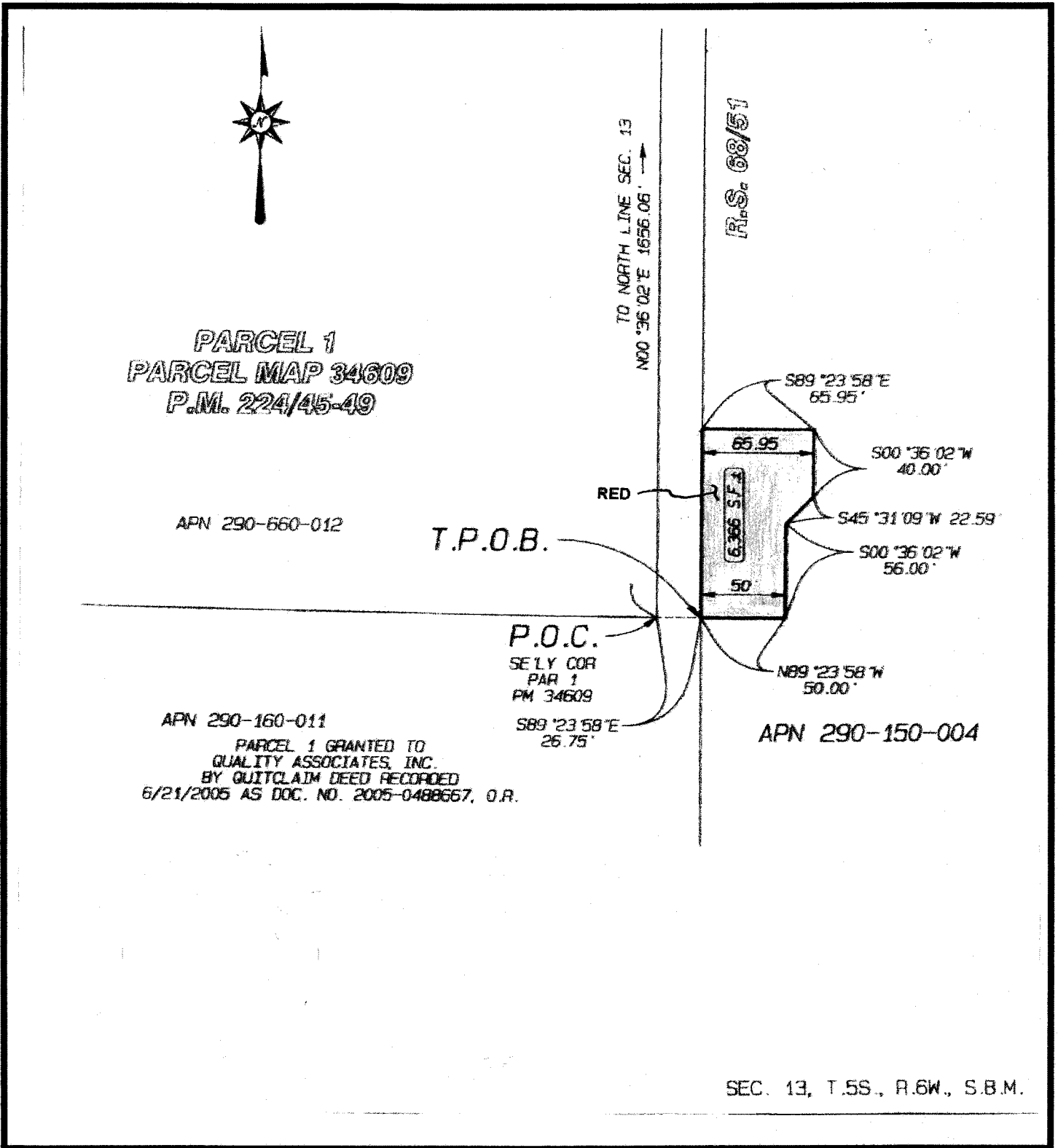
Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
4 of 6

Exhibit C



Cooperative Agreement
 Temescal Canyon – Towhee Lane Storm Drain
 Temescal Canyon – Towhee Lane Channel
 Tract No. 31908-F
 Project Nos. 2-0-00502 and 2-0-00503
 5 of 6

Exhibit C



Cooperative Agreement
Temescal Canyon – Towhee Lane Storm Drain
Temescal Canyon – Towhee Lane Channel
Tract No. 31908-F
Project Nos. 2-0-00502 and 2-0-00503
6 of 6