

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

417B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
May 1, 2007

SUBJECT: Agreement for Developer Advances (Land Acquisition):
Community Facilities District No. 05-01 (Homeland-Romoland)

RECOMMENDED MOTION:

1. Approve the Agreement for Developer Advances (Flood Control Improvements Land Acquisition) between the District and Homeland/Romoland ADP, Inc.; and
2. Authorize the Chairman to execute the Agreement on behalf of the District.

BACKGROUND:

Homeland/Romoland ADP, Inc. (the "Corporation") is comprised of various development interests that own real property within the Homeland/Romoland Area Drainage Plan. These development interests have requested that the District's Board of Supervisors consider formation of a proposed Community Facilities District (CFD) No. 05-01 (Homeland/Romoland) pursuant to the Mello-Roos Community Facilities Act.

Continued

Departmental Concurrence

MHW:bjj

for
WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	F.Y. 2006-2007 District Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

- Dept't Recomm.: Policy
- Per Exec. Ofc.: Policy
- Consent
- Consent

Prev. Agn. Ref.: District: 3rd, 5th Agenda Number:

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

SUBJECT: Agreement for Developer Advances (Land Acquisition):
Community Facilities District No. 05-01 (Homeland-Romoland)

SUBMITTAL DATE: May 1, 2007

Page 2

BACKGROUND: (Continued)

The proposed CFD would sell and issue bonds for the purposes of i) acquiring the District's Romoland Master Drainage Plan Line A and related drainage facilities (the "Project") from the Corporation; and ii) reimbursement of applicable Homeland/Romoland Area Drainage Plan fees. The Corporation has requested that the District pursue the acquisition of certain real property necessary for construction of the Project and which property the Corporation has not been successful in acquiring on its own.

The subject agreement sets forth the terms and conditions by which the District would i) accept two separate deposits from the Corporation for the purpose of acquiring all outstanding rights of way necessary to construct the Project; ii) pursue the acquisition of said rights of way according to its sole and absolute discretion; iii) reimburse the Corporation for any funds advanced which are not utilized for acquiring necessary rights of way; and iv) grant the Corporation ADP Fee Credit in accordance with the provisions of the Subdivision Map Act, the Board adopted "Rules and Regulations for the Administration of Area Drainage Plans" and the subject agreement.

The Agreement establishes the amount of the first deposit at \$5,500,000. These funds will be used by the District to acquire each of the properties identified in Exhibit A. The Agreement stipulates that the amount of the second deposit shall not exceed \$6,300,000. These funds will be used by the District to acquire each of the properties identified in Exhibit B; however, in the event the Corporation is successful in completing the acquisition of one or more of the Exhibit B properties within a specified time-frame, the District's General Manager-Chief Engineer is authorized to adjust the amount of the second deposit in accordance with his discretion and good judgment.

As authorized by County Counsel, the District's Special Counsel for right of way matters (Nossaman, Gunther, Knox & Elliot, LLP) has approved the agreement as to legal form. The Corporation has executed the Agreement.

FINANCIAL:

Pursuant to the subject agreement, the Corporation will fund all of the District's costs associated with acquisition of the requested rights of way. In accordance with the provisions of the previously approved Infrastructure Funding, Acquisition and Reimbursement Agreement (Agenda Item No. 11.3 of May 23, 2006), the Corporation may be reimbursed for its eligible right of way costs from future bond sale proceeds.

MHW:bjj