

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

309B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
July 30, 2013

SUBJECT: Infrastructure Funding, Acquisition and Reimbursement Agreement -
First Amendment
District 3/District 5

RECOMMENDED MOTION:

1. Approve the First Amendment to the Infrastructure Funding, Acquisition and Reimbursement Agreement (IFAR) between the District and Homeland/Romoland ADP, Inc.; and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

In 2006, the District and Homeland/Romoland ADP, Inc. (H/R ADP Inc.) entered into the IFAR agreement which established the terms and conditions whereby the District would undertake formation of a Community Facilities District (CFD) and Homeland/Romoland ADP, Inc., would construct certain master drainage plan facilities located within the Homeland/Romoland area and receive reimbursement from CFD bond proceeds and Area Drainage Plan Revenues. **Continued on Page 2.**

Steve Thomas

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

FINANCIAL DATA	Current F.Y. District Cost:	\$ N/A	In Current Year Budget:	Yes
	Current F.Y. County Cost:	\$ N/A	Budget Adjustment:	No
	Annual Net District Cost:	\$ N/A	For Fiscal Year:	13-14, 14-15

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

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Stone and Benoit
Nays: None
Absent: None
Abstain: Ashley
Date: July 30, 2013

Kecia Harper-Ihem
Clerk of the Board

By: *Kecia Harper-Ihem*
Deputy

2013 JUL 30 11:53 AM
RECEIVED DISTRICT BOARD

11-2

FORM APPROVED COUNTY COUNSEL ATTACHMENTS FILED
BY: *Dale A. Gardner* 7/17/13 WITH THE CLERK OF THE BOARD
DATE
DALE A. GARDNER

Dept' Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

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

SUBJECT: Infrastructure Funding, Acquisition and Reimbursement Agreement -
First Amendment
District 3/District 5

SUBMITTAL DATE: July 30, 2013

Page 2

BACKGROUND: (con't)

The Amendment provides that the District will construct the initial segment of the Romoland Master Drainage Plan Line A facility beginning near Watson Road in the city of Perris to just easterly of Encanto Road in the city of Menifee.

County Counsel has approved the Agreement as to legal form.

FINANCIAL:

Although the Amendment does not authorize or require any expenditure of District funds, the District has included sufficient funds for construction of the Romoland MDP Line A project in its FY2013-14 construction budget.

Advertisement and award of the project construction contract will be submitted to the Board of Supervisors for approval at a later date.

MHW:bjj

1
2 **FIRST AMENDMENT TO**
3 **INFRASTRUCTURE FUNDING, ACQUISITION**
4 **AND REIMBURSEMENT AGREEMENT**

5 This **FIRST AMENDMENT** (this "Amendment") to **INFRASTRUCTURE**
6 **FUNDING, ACQUISITION AND REIMBURSEMENT AGREEMENT** (the "IFAR") is
7 made and entered into as of July 30, 2013, by and between the **RIVERSIDE**
8 **COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**, a public
9 agency organized and existing pursuant to Chapter 48 of the Appendix to the California Water
10 Code (the "Flood Control District") and **HOMELAND/ROMOLAND ADP, INC.**, a Delaware
11 corporation (the "Corporation").

12 **WITNESSETH:**

13 **WHEREAS**, the Board of Supervisors of the Flood Control District (the "Board of
14 Supervisors") formed a community facilities district identified as "Community Facilities District
15 No. F05-01 (Homeland-Romoland) of the Riverside County Flood Control and Water
16 Conservation District" (the "Community Facilities District") under the authority of the Mello-
17 Roos Community Facilities Act of 1982 (the "Act") (commencing with Section 53311 of the
18 California Government Code (the "Code")); and

19
20 **WHEREAS**, the Corporation is composed of stockholders (each a "Stockholder" and,
21 collectively, the "Stockholders") who, when the Corporation was established, collectively
22 owned approximately 1,148.72 gross acres of real property that are located in the
23 unincorporated communities of Homeland and Romoland within the unincorporated area of the
24 County of Riverside (the "County"), lying within the boundaries of the Homeland/Romoland
25 Area Drainage Plan and the boundaries of the Communities Facilities District; and
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JUL 30 2013 11-2

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WHEREAS, the Stockholders have incorporated the Corporation for the purpose of accomplishing the design, engineering, acquisition, construction and installation of those flood control facilities within the Line A Watershed together with appurtenances and appurtenant work, as described in further detail in Exhibit B attached hereto and made apart hereof (each a "Flood Control Facility" or, collectively, the "Flood Control Facilities"), and upon the completion of construction and acceptance thereof, the Flood Control Facilities are to be owned, maintained and operated by the Flood Control District. The Flood Control District and Corporation now agree that construction of the Flood Control Facilities may be divided into five Phases identified as Phases 1, 2A, 2B, 3 and 4, as further described in Exhibit B; and

WHEREAS, the Flood Control District and the Corporation originally agreed that the construction of the Flood Control Facilities should be divided into four phases ("Phase" or "Phases") and the Corporation would be responsible for the construction of each of the four Phases, with the goal of causing the construction of all four Phases to be completed at approximately the same time; and

WHEREAS, the Flood Control District has determined that the Flood Control District will be responsible for constructing Phases 1 and 2A of the Flood Control Facilities and that the Corporation will be responsible for constructing Phases 2B, 3 and 4 of the Flood Control Facilities as identified in Exhibit B to the IFAR. It is the intent of the Flood Control District to construct Phases 1 and 2A before the Corporation constructs Phases 2B, 3 and 4. Upon the filing of a Notice of Completion by the District for Phases 1 and 2A, Phases 1 and 2A shall be deemed complete. It is the intent of the parties that the Corporation shall thereafter cause the construction of Phases 2B, 3 and 4 which Phases are to be completed in an orderly fashion such that, upon completion of construction, each discrete Phase may be deemed functional; and

1 **WHEREAS**, the parties executed the IFAR to outline each parties rights, duties, and
2 responsibilities relative to the design, engineering, financing, acquisition, construction, and
3 installation of the Flood Control Facilities; and
4

5 **WHEREAS**, the Parties now desire to enter into and execute this Amendment to outline
6 each Parties' rights, duties, and responsibilities relative to the design, engineering, financing,
7 acquisition, construction, and installation of the Flood Control Facilities given that (i) the Flood
8 Control District proposes to construct Phases 1 and 2A of the Flood Control Facilities; (ii) the
9 Corporation shall be responsible for the construction of Phases 2B, 3 and 4 of the Flood Control
10 Facilities; and (iii) in addition to ADP fees and the proceeds of special taxes and bonds of the
11 Community Facilities District, other funding sources for construction of the Flood Control
12 Facilities may become available; and
13

14 **WHEREAS**, as consideration of the Flood Control District constructing Phases 1 and
15 2A, the Corporation shall convey acceptable title, temporary construction easements, flowage
16 easements, and assign permits, licenses, and other governmental reviews and actions relative to
17 the construction of Phase 1 and Phase 2A within thirty (30) days of the execution of this
18 Amendment.
19

20 **NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein
21 contained, the Parties hereto agree as follows:

22 Section 1. Definitions. Unless the context clearly otherwise requires, capitalized terms
23 used herein without definition shall have the same meanings given to such terms in the IFAR.

24 Section 2. Amendment of Recital F. Recital F. of the IFAR is hereby amended and
25 restated in its entirety as follows:
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1 "The Stockholders have incorporated the Corporation for the purpose of accomplishing
2 the design, engineering, acquisition, construction and installation of those flood control facilities
3 within the Line A Watershed together with appurtenances and appurtenant work, which are
4 described in further detail in Exhibit B (each a "Flood Control Facility" or, collectively, the
5 "Flood Control Facilities"), and that upon the completion of construction and acceptance
6 thereof, the Flood Control Facilities are to be owned, maintained and operated by the Flood
7 Control District. The parties have agreed that the construction of the Flood Control Facilities
8 should be divided into five phases ("Phase" or "Phases"). The Flood Control District shall be
9 responsible for the construction of Phases 1 and 2A; and the Corporation shall be responsible for
10 the construction of Phases 2B, 3 and 4, as described in Exhibit B, with the goal of causing the
11 construction of the other Phases 2B, 3, and 4 to be completed in an orderly fashion such that,
12 upon completion of construction, each discrete Phase may be deemed Functional."
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14

15 Section 3. Amendment of definitions in Section 1.1 of IFAR:

16 (a) The definition of "Actual Cost(s)" is hereby amended and restated in its entirety as
17 follows:
18

19 "Actual Cost(s)' means, with respect to a Flood Control Facility, to the extent authorized
20 by law, an amount equal to the sum of (a) the Corporation's actual, reasonable cost of
21 constructing such Flood Control Facility, including labor, material and equipment costs, (b) the
22 Corporation's actual, reasonable cost of designing and preparing the Plans and Specifications for
23 such Flood Control Facility, including engineering services provided in connection with
24 designing and preparing of its Plans and Specifications, (c) the Corporation's actual, reasonable
25 cost of environmental evaluations and mitigation required specifically for such Flood Control
26 Facility, or portions thereof, (d) the amount of any fees actually paid by the Corporation to
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1 governmental agencies in order to obtain permits, licenses or other necessary governmental
2 approvals and reviews for such Flood Control Facility, including but not limited to plan check
3 and inspection fees, (e) the Corporation's actual, reasonable cost for professional services
4 directly related to the construction of such Flood Control Facility, including engineering, legal,
5 inspection, construction staking, materials testing and similar professional services, (f) the
6 Corporation's actual, reasonable cost for construction management, bid administration and
7 contract administration services which shall not exceed 5% of construction costs, (g) the
8 Corporation's actual, reasonable cost of payment, performance or maintenance bonds and
9 insurance for such Flood Control Facility, (h) the Corporation's actual, reasonable cost of
10 relocating any interfering public utilities necessary to accomplish construction of the Flood
11 Control Facility and (i) the actual, reasonable cost of easements or other real property or interest
12 therein acquired from a party other than the Corporation, which real property or interests therein
13 is either necessary for the construction of such Flood Control Facility (e.g., temporary
14 construction easements, haul roads, etc.) or is required to be conveyed with such Flood Control
15 Facility in order to convey Acceptable Title thereto to the Flood Control District, all as specified
16 in a Payment Request that is to be reviewed and approved by the Contract Administrator;
17 provided, however, that (x) no item of cost relating to a Flood Control Facility shall be included
18 in more than one category of cost specified in clauses (a) through (i) of this definition and (y)
19 each item of cost shall include only amounts actually paid by the Corporation to third parties
20 and shall not include overhead or other internal expenses of the Corporation, except that, if
21 Corporation employees perform construction management, bid administration or contract
22 administration services with respect to a Flood Control Facility, the actual, reasonable cost of
23 the salaries and benefits paid by the Corporation to such employees for performing such
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1 services may be included as an item of cost relating to such Flood Control Facility for the
2 category of cost specified in clause (f) of this definition and subject to the 5% limitation
3 specified in clause (f)."
4

5 (b) The definition of "Allocation" is hereby amended and restated in its entirety as
6 follows:

7 "'Allocation' shall have the meaning ascribed to it in Section 3.2 hereof."

8 (c) The definition of "Bonds" is hereby amended and restated in its entirety as follows:

9 "'Bonds' means the bonds that the Community Facilities District may issue and sell in
10 one or more series for each Improvement Area, the proceeds of which will be used, in part, to
11 pay the Installment Payment required with respect to the Improvement Area."
12

13 (d) The definition of "Functional" is hereby amended and restated in its entirety as
14 follows:

15 "'Functional' means that the District Engineer has determined that construction of one or
16 more Phases have been satisfactorily completed to the point where the Flood Control Facilities
17 included in the Phase have the ability to safely convey stormwater runoff without damage to any
18 of the Flood Control Facilities. The Flood Control Facilities included within a Phase will not be
19 determined to be Functional unless and until (i) all reinforced concrete pipe is in place with all
20 manholes, junction structures and transition structures constructed with falsework removed and
21 pipes backfilled; (ii) all reinforced concrete boxes have been constructed and are in place with
22 manholes and junction structures constructed with falsework removed, concrete has reached its
23 28-day strength and all structures have been backfilled; (iii) the basin sites are completed to
24 finished grade with all embankments and spillways constructed and in place, energy dissipation
25 riprap has been constructed and is in place, outlet structures and inlet structures have been
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1 constructed and are in place with all false work removed, concrete has reached its 28-day
2 strength and all structures have been backfilled; (iv) all trapezoidal concrete and earthen
3 channels have been constructed and are in place with all crossings, junction structures and
4 access ramps constructed and in place with all falsework removed and concrete has reached its
5 28-day strength; and (v) the facility is capable of draining freely and completely."

7 (e) The definition of "Other Funding Source" is hereby added to the IFAR as follows:

8 "Other Funding Source' means Federal, State or local grants, contributions or fees that
9 have been deposited with the Flood Control District for the express purpose of funding
10 construction of the Flood Control Facilities."

11 (f) The definition of "Phase" or "Phases" in the IFAR is hereby amended and restated in
12 its entirety as follows:

13 "Phase' or 'Phases' means, individually or collectively, one or more of the discrete
14 segments of the Flood Control Facilities for which construction contracts are to be awarded, as
15 identified in Exhibit B attached hereto and made apart hereof. Phases 1 and 2A are to be
16 constructed by the Flood Control District. Phases 2B, 3 and 4 shall be constructed by the
17 Corporation."
18

19 Section 4. Amendment to Section 2.1. Section 2.1. of the IFAR is hereby amended and
20 restated in its entirety as follows:

21 "The Stockholders have submitted to the Flood Control District applications requesting
22 and the Corporation has entered into the Fee Deposit Agreement with the Flood Control District
23 requesting that the Proceedings be initiated by the Board of Supervisors with regard to the
24 formation of the Community Facilities District and the designation of the Improvement Areas
25 therein for the purpose of financing all or a portion of the Actual Costs for designing,
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1 engineering, acquiring, constructing, and installing the Flood Control Facilities, and to authorize
2 the levy of special taxes within each Improvement Area pursuant to the Rate and Method for
3 each Improvement Area and the incurrence of bonded indebtedness to finance all or a portion of
4 the Actual Costs incurred for the design, engineering, acquisition, construction and installation
5 of the Flood Control Facilities, and for the Legislative Body to authorize the issuance and sale
6 of the Bonds for each Improvement Area pursuant to the Act, the applicable Indenture and the
7 applicable sections of this Funding Agreement.
8

9 Should the formation of the Community Facilities District and the designation of the
10 Improvement Areas be completed, the Legislative Body will use its best efforts to cause one or
11 more series of Bonds to be issued and sold for each Improvement Area, pursuant to the terms of
12 the Act, the applicable Indenture, and the applicable sections of this Funding Agreement. A
13 portion of the proceeds from the sale of each series of Bonds is intended to provide funds that
14 would allow the Community Facilities District and the Improvement Areas to finance all, or a
15 portion, of the Actual Costs incurred by the Corporation to design, engineer, acquire, construct
16 and install the Flood Control Facilities. Should the Board of Supervisors not form the
17 Community Facilities District and/or the Legislative Body not sell and issue any Bonds, the
18 Flood Control District and the Corporation will not be bound by the terms of this Funding
19 Agreement as it pertains to the formation of the Community Facilities District and the sale of
20 Bonds, and with regard to the provisions pertaining to the formation of the Community
21 Facilities District, it shall be considered null and void by the Flood Control District and the
22 Corporation; provided, however, the provisions of this Funding Agreement that deal with the
23 ADP and setting forth the conditions under which the Corporation may earn a credit with regard
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1 to its ADP fee obligation and a credit or note with regard to the ADP Eligible Costs in excess of
2 its ADP fee obligation pursuant to the ADP Regulations will remain enforceable.

3
4 The Corporation and the Stockholders acknowledge that the decision of the Board of
5 Supervisors to approve the formation of the Community Facilities District and the designation
6 of the Improvement Areas therein, and the decision of the Legislative Body to authorize the sale
7 and issuance of the Bonds for each Improvement Area is an exercise of the legislative discretion
8 of the Board of Supervisors or the Legislative Body, respectively, and the Flood Control District
9 may not enter into a contract or obligate either the Board of Supervisors or the Legislative Body
10 to exercise its legislative discretion in a particular manner. This Funding Agreement does not,
11 therefore, in any way create a contractual, legal, or equitable obligation of, or a commitment by,
12 the Board of Supervisors to approve the formation of the Community Facilities District and the
13 designation of Improvement Areas therein or a commitment by the Legislative Body to
14 authorize the sale and issuance of the Bonds for any Improvement Area.
15

16 The Board of Supervisors and the Legislative Body shall have the jurisdiction to and
17 shall be solely responsible for undertaking the Proceedings consistent with the provisions of the
18 Act, each Indenture and this Funding Agreement."
19

20 Section 5. Amendment to Section 3.2. Section 3.2. of the IFAR is hereby amended and
21 restated in its entirety as follows:

22 "The Corporation hereby agrees that it shall cause all of Phases 2B, 3 and 4 of the Flood
23 Control Facilities to be constructed as provided in this Funding Agreement and shall sell,
24 convey and transfer to the Flood Control District those completed Flood Control Facilities. The
25 Flood Control District hereby agrees that, if the Proceedings are completed and the Community
26 Facilities District is established and the Improvement Areas designated therein, and the
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1 Community Facilities District is authorized to incur bonded indebtedness, and subject to the
2 reservation of the legislative discretion of the Legislative Body as provided in Section 2.1.,
3 hereof, the Community Facilities District will use its best efforts to sell and issue Bonds for the
4 Improvement Areas to finance, in whole or in part, the Actual Costs incurred by the
5 Corporation. The Corporation will be solely responsible for allocating the Actual Costs it has
6 incurred for the design, engineering, acquisition, construction and installation with regard to the
7 Flood Control Facilities and the construction contracts therefor between the three Improvement
8 Areas (the "Allocation") and to inform both the Flood Control District and the Community
9 Facilities District of the Allocation for each Improvement Area. The Corporation will also be
10 responsible for notifying both the Community Facilities District and the Flood Control District
11 of the percentage of the Allocation (the "Allocation Percentage") for each Stockholder owning
12 land in each Improvement Area. After the Corporation has determined the Allocation and the
13 Allocation Percentages for each Improvement Area, such Allocation and Allocation Percentages
14 shall be specified in Exhibit C. The Allocation and the Allocation Percentages for each
15 Improvement Area will be utilized, to the extent possible, in establishing the bonding
16 authorization for each Improvement Area and the total amount of the Installment Payment that
17 the Community Facilities District could pay to the Corporation for each Improvement Area.
18 Such Allocation and Allocation Percentages specified in Exhibit C can be modified by the
19 Corporation from time to time by written notice to the Flood Control District and shall be
20 modified, if necessary, with respect to an Improvement Area prior to the issuance of each series
21 of Bonds of the Improvement Area.

22 Acceptable Title to any parcels on which Phases 2B, 3 and 4 of the Flood Control
23 Facilities are constructed and for which title is not then held by the Flood Control District, as
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1 well as the constructed Flood Control Facilities, shall be conveyed and transferred to the Flood
2 Control District as of the Acceptance Date; provided, however, that notwithstanding such
3 transfer the Corporation shall be solely responsible for the operation and maintenance of Phases
4 2B, 3 and 4 of the Flood Control Facilities until the Date of Functionality and the delivery by
5 the Corporation to the Flood Control District of the executed "Permanent Right of Entry
6 Agreements" required by Section 4.12., hereof. Acceptable Title to any parcels on which
7 Phases 1 and 2A are to be constructed, together with temporary construction easements, flowage
8 easements, and assignment of permits, licenses, and other governmental reviews and actions
9 shall be conveyed to the Flood Control District within thirty (30) days of the execution of this
10 Amendment.
11

12
13 It is understood by the Flood Control District and the Corporation that neither the
14 Community Facilities District nor the Flood Control District shall be obligated to make any
15 Installment Payment to the Corporation until after the Acceptance Date and then only from (i)
16 the proceeds of the sale of the Bonds, if any are sold, (ii) available ADP fees pursuant to Section
17 3.5(b), and (iii) Other Funding Sources.
18

19 An Installment Payment for an Improvement Area shall be paid solely from (i) the
20 amounts on deposit in the Acquisition Fund for such Improvement Area, including earnings
21 from the investment of such amounts, (ii) available ADP fees pursuant to Section 3.5(b), and
22 (iii) Other Funding Sources. Neither the Flood Control District nor the Community Facilities
23 District has made or will make any representation or warranty, either expressed or implied, that
24 the amounts deposited into the Acquisition Fund for an Improvement Area, and any investment
25 earnings thereon, will be sufficient to pay the full amount of the Allocation or the Allocation
26 Percentages for such Improvement Area, or that the aggregate amount of the Bond proceeds
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1 realized from the sale and issuance of the Bonds for all three Improvement Areas for deposit in
2 the Acquisition Funds for such Improvement Areas, and investment earnings thereon, will be
3 sufficient to pay the full amount of the Allocations and the Allocation Percentages for the
4 Improvement Areas.
5

6 Notwithstanding any other provision of this Funding Agreement, the fact that there may
7 not be sufficient funds available in the Acquisition Fund for each Improvement Area to pay the
8 full amount of the Allocation for such Improvement Area, or the fact that the Community
9 Facilities District may not sell Bonds for one or all of the Improvement Areas, shall not relieve
10 the Corporation of its obligation to construct Phases 2B, 3 and 4 consistent with the conditions
11 of approval imposed by the County, City of Menifee or City of Perris for the development of the
12 properties located within the Community Facilities District.
13

14 Failure of the Corporation to comply with the terms of Article IV of this Funding
15 Agreement may result in the Flood Control Facilities not being accepted into the Flood Control
16 District's maintained system in which case the Community Facilities District shall not be
17 obligated to issue the Bonds for any Improvement Area and the Flood Control District shall not
18 be obligated to pay the Purchase Price or any Installment Payment."
19

20 Section 6. Amendment to Section 3.3. Section 3.3. of the IFAR is hereby amended and
21 restated in its entirety as follows:

22 "The determination of the ADP Eligible Costs and the ADP Non-reimbursable Costs
23 shall be made pursuant to the provisions of this Section 3.3. and the ADP Regulations. In order
24 for the Contract Administrator to be able to determine the ADP Eligible Costs and the ADP
25 Non-reimbursable Costs for a completed Phase, the Corporation shall deliver to the Contract
26 Administrator:
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1 (a) A Request for Determination of ADP Eligible and ADP Non-reimbursable Costs
2 for said Phase that is in the form of Exhibit G, attached hereto, together with all attachments and
3 exhibits to be included therewith;
4

5 (b) A written statement from the District Engineer stating that the Flood Control
6 Facilities within said Phase are complete and the Flood Control District is willing to accept
7 ownership of said Flood Control Facilities as constructed and to include such facilities as part of
8 its maintained system;

9 (c) A copy of the recorded "Notice of Completion" for all of the Flood Control
10 Facilities within said Phase that has been filed in accordance with Section 3093 of the California
11 Civil Code. Final lien releases addressed to the Flood Control District and the Community
12 Facilities District must be received by the Contract Administrator and the Administrator prior to
13 the Contract Administrator executing and delivering to the Administrator the Request for
14 Determination of ADP Eligible and ADP Non-reimbursable Costs for the Flood Control
15 Facilities within said Phase; and
16

17 (d) The Corporation's civil engineer of record or construction civil engineer of record
18 duly registered in the State shall provide to the Flood Control District redlined "as-built" plan
19 and profile sheets for all of the Flood Control Facilities within said Phase. After the Flood
20 Control District's approval of the redlined "as-built" drawings, the Corporation's engineer shall
21 schedule with the Flood Control District a time to transfer the redlined changes onto the Flood
22 Control District's original mylars at the Flood Control District's office, after which, the engineer
23 shall review, stamp and sign the original mylars "As-Built".
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26 Notwithstanding anything to the contrary contained herein, no payment of an
27 Installment Payment shall be made unless the District Engineer has provided a written notice
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1 addressed to both the Contract Administrator and the Administrator stating that the Flood
2 Control District is willing to accept the Flood Control Facilities as constructed into its
3 maintained system. Said notice will not be provided to both the Contract Administrator and the
4 Administrator until the following documents, as appropriate, have been provided or caused to be
5 provided to the District Engineer by the Corporation:
6

- 7 (i) Documents by which the Corporation or the Stockholders convey or cause to be
8 conveyed to the Flood Control District any easement, including ingress and
9 egress, in a form approved by the Flood Control District, and policies of title
10 insurance, in an amount not less than fifty percent (50%) of the estimated fee title
11 value as determined by the Flood Control District, for each parcel so conveyed.
12
- 13 (ii) Documents by which the Corporation or the Stockholders convey or cause to be
14 conveyed to the Flood Control District fee title, in a form approved by the Flood
15 Control District, and policies of title insurance, in an amount not less than one
16 hundred percent (100%) of the estimated fee title value, as determined by the
17 Flood Control District, for each parcel so conveyed.
18

19 Once the Contract Administrator has been provided with a complete Request for
20 Determination of ADP Eligible and ADP Non-reimbursable Costs and all other documents
21 deemed necessary to determine the ADP Eligible Costs and ADP Nonreimbursable Costs for
22 all of the Flood Control Facilities within a Phase, the Contract Administrator will sign the
23 Request for Determination of ADP Eligible and ADP Nonreimbursable Costs for said Phase
24 and will provide a copy of said Request for Determination of ADP Eligible and ADP Non-
25 reimbursable Costs to the Corporation.
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1 The Contract Administrator shall retain each completed and approved Request for
2 Determination of ADP Eligible and ADP Non-Reimbursable Costs until it has one for each
3 Phase.
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5 At all times, the construction of Phases 2B, 3 and 4 by the Corporation shall be
6 accomplished with the understanding that the Purchase Price for all of the Flood Control
7 Facilities will be paid by the Community Facilities District on behalf of the Flood Control
8 District (but solely from funds deposited in the Acquisition Funds for the Improvement Areas
9 and the investment earnings thereon); and by the Flood Control District from available ADP
10 fees and Other Funding Sources, if any, and that the conveyance by the Corporation of the
11 Flood Control Facilities to the Flood Control District, as provided in Section 3.6., hereof, prior
12 to receipt of any Installment Payment shall not be construed as a dedication or gift, or a waiver
13 of the Corporation's right to receive the Purchase Price or any Installment Payment."
14

15 Section 7. Amendment to Section 3.5.(a). Section 3.5.(a) of the IFAR is hereby
16 amended and restated in its entirety as follows:

17 "(a) Requirements for Issuance of Bonds. No Bonds shall be issued for any
18 Improvement Area until the Administrator has determined that construction contracts have been
19 awarded and labor and material payment and performance bonds, in the forms attached hereto as
20 Exhibit E, have been provided for the construction of Phases 2B, 3 and 4. In addition to the
21 requirements of the preceding sentence, no Bonds shall be issued for any Improvement Area
22 unless the Value-to-Lien Ratio for the taxable property within said Improvement Area for which
23 Bonds are proposed to be issued is four-to-one (4:1) or greater, based on an appraisal prepared
24 by an appraiser selected by the Flood Control District. Also, the Administrator shall determine
25 that all other conditions specified in the Goals and Policies have been satisfied. Prior to the
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1 pricing of the Bonds for said Improvement Area, each "Obligated Stockholder", as that term is
 2 defined in Section 6.1., hereof, owning property within said Improvement Area shall have
 3 provided to the Flood Control District either (i) a commitment letter from the "Issuer" of the
 4 letter of credit or (ii) the letter of credit, itself, required pursuant to Article VI, hereof. In any
 5 event the letter of credit shall be deposited with the Administrator not less than three (3)
 6 business days prior to the issuance of the Bonds for said Improvement Area. Finally, the
 7 Corporation and each of the Stockholders owning property within said Improvement Area shall
 8 have to do those things, which shall be commercially reasonable, as determined by the
 9 Administrator and the underwriter to ensure the marketability of the Bonds for said
 10 Improvement Area.
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13 The Legislative Body, upon request of the Corporation, will issue more than one
 14 series of the Bonds for an Improvement Area.

15 Notwithstanding any other provisions of this Funding Agreement, the principal
 16 amount of the Bonds to be sold and issued for an Improvement Area shall be determined by the
 17 Administrator, in consultation with the Corporation, based on the revenues that could be
 18 generated from the levy of special taxes on all parcels of taxable property in said Improvement
 19 Area to pay principal of and interest on such bonds. The amount of the proceeds of the sale of
 20 such Bonds that will be deposited in the Acquisition Fund for said Improvement Area, as
 21 determined by the Administrator in consultation with the Corporation, will be the net proceeds
 22 of the sale of such Bonds after proceeds of the sale of such Bonds have been first applied to
 23 fund the reserve fund for such Bonds, to pay the costs of issuing such Bonds and to provide for
 24 the capitalization of interest on such Bonds until the first interest payment date when interest on
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1 such Bonds will be paid in full from the revenues of special taxes that will be levied on parcels
2 of taxable property in said Improvement Area.

3 (b) Application of Available ADP Fees. Currently, approximately \$657,000 is held
4 by the Flood Control District in the Romoland ADP Mainline Account. The Flood Control
5 District shall retain approximately \$500,000 to excavate Phase 1 to its ultimate lines and grades
6 between Interstate 215 and Ethanac Road. The remaining balance, and any ADP fees
7 subsequently collected by the Flood Control District from properties within the Line A
8 Watershed shall be available to pay the ADP Eligible Costs of the Flood Control Facilities. Any
9 ADP fees collected by the City of Menifee or City of Perris and subsequently deposited with the
10 Flood Control District shall also be available to pay the ADP Eligible Costs of the Flood
11 Control Facilities. The Corporation shall inform the Flood Control District as to how these
12 monies are to be allocated between the Improvement Areas and applied toward the ADP
13 Eligible Costs of the Flood Control Facilities.

14 (c) Adjustment to the ADP Fee. Consistent with the provisions of Section 5.6.,
15 hereof, the Flood Control District staff will recommend appropriate adjustments to be made to
16 the ADP fee for the Line A Watershed to ensure that, to the maximum extent practicable, the
17 ADP fee obligation of the Property is based on the actual ADP Eligible Costs incurred by the
18 Corporation and the Flood Control District in constructing the Flood Control Facilities.

19 (d) Payment of Purchase Price. The Actual Costs of the Flood Control Facilities
20 incurred by the Corporation shall be reimbursed to the Corporation from the funding sources
21 included in the definition of Installment Payment and allocated to each Improvement Area, and
22 each Stockholder or property owner within each Improvement Area, by the Corporation. Upon
23 its receipt of each payment of such Actual Costs, the Corporation shall provide Flood Control
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1 District with a written statement of the allocation of such payment between the Improvement
2 Areas and each Stockholder or property owner. Upon the sale and issuance of each series of
3 Bonds for an Improvement Area, the Administrator shall cause the Community Facilities
4 District to pay from the Acquisition Fund for said Improvement Area to the Corporation, the
5 Actual Costs of the Flood Control Facilities incurred by the Corporation. It is the intent of the
6 parties that the Corporation will receive total Installment Payments that are, to the extent
7 possible, consistent with the Allocation for each Improvement Area as provided by the
8 Corporation as required by Section 3.2. hereof, and as specified in Exhibit C, and that receipt of
9 the final Installment Payment will constitute payment in full of the Purchase Price for the Flood
10 Control Facilities. However, neither the Flood Control District nor the Community Facilities
11 District guarantee that any Installment Payment will be paid or that the Installment Payments for
12 any Improvement Area will be in an amount equal to the Allocation for said Improvement Area
13 as specified in Exhibit C.

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16 Notwithstanding any provision of this section or any other provision of this
17 Funding Agreement, the sole source of funds for paying the Purchase Price and the Installment
18 Payments shall be (i) the proceeds from the sale of the Bonds deposited in the Acquisition
19 Funds for the Improvement Areas including earnings from the investment of such proceeds, (ii)
20 the available ADP fees pursuant to Section 3.5.(b) above, and (iii) Other Funding Sources. If
21 the Allocations for all the Improvement Areas result in a Purchase Price that would exceed the
22 total amount of such funds, neither the Flood Control District nor the Community Facilities
23 District shall have any responsibility or liability to the Corporation or the Stockholders with
24 respect to payment of the deficiency.

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27 If the principal amount of the Bonds sold and issued for an Improvement Area
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1 will not allow for the deposit into the Acquisition Fund for said Improvement Area of an
 2 amount equal to said Improvement Area's Allocation of the Actual Costs, the Administrator will
 3 allocate the amount on deposit in the Acquisition Fund for said Improvement Area, and
 4 investment earnings thereon, first to pay the ADP fee obligation of the properties owned by the
 5 Stockholders that are located within said Improvement Area, as specified in Exhibit C; second
 6 to pay that portion of the ADP Non-reimbursable Costs of the Flood Control Facilities allocated
 7 to the Improvement Area as specified in Exhibit C; third to pay the Improvement Area's
 8 allocation of the percentage to the Regional Facility Fee Component of the ADP fee obligation
 9 for the property within said Improvement Area that will not be collected from non-developable
 10 property within the Line A Watershed as mutually agreed to and specified in Exhibit C, and
 11 finally, to pay as much of the remaining portion of the Allocation for said Improvement Area as
 12 possible. Finally, with regard to those ADP Eligible Costs for the Regional Facility Fee
 13 Component for which no Bond proceeds are available to make payment to the Corporation, the
 14 Administrator will issue a note payable to the Corporation, or its designee, in the amount
 15 specified in Exhibit C."
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19 Section 8. Amendment to Section 3.6. Section 3.6. of the IFAR is hereby amended and
 20 restated in its entirety as follows:

21 "Acceptable Title to all property not presently owned by the Flood Control District or
 22 which is to be secured on behalf of or by the Flood Control District pursuant to the Land
 23 Acquisition Agreement on, in or over which any Flood Control Facility will be located shall be
 24 deeded to the Flood Control District by way of grant deed, quitclaim, or dedication of such
 25 property, or easement thereon, if such easement is approved by the Flood Control District as
 26 being a sufficient interest therein to permit the Flood Control District to properly own, operate
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1 and maintain such Flood Control Facility located therein, thereon or thereover, and to permit the
2 Corporation to perform its obligations as set forth in this Funding Agreement.

3
4 The Corporation shall furnish to the District Engineer a title report for each parcel or
5 easement not previously dedicated or otherwise conveyed to the Flood Control District for
6 review and approval not more than thirty (30) business days prior to or concurrent with the
7 'Notice of Intent' required by Section 4.8., hereof for Phases 2B, 3 and 4 and within thirty (30)
8 days of execution of this Amendment for Phase 1 and 2A. The District Engineer shall approve
9 the title report for each parcel or easement unless it reveals a matter that, in the sole judgment of
10 the District Engineer could materially affect the Flood Control District's use and enjoyment of
11 any part of the parcel or easement covered by the title report. In the event the District Engineer
12 does not approve the title report for any parcel or easement, the District Engineer shall notify the
13 Corporation and the Administrator in writing and the Flood Control District shall not be
14 obligated to accept title to said Flood Control Facility, and the Community Facilities District
15 shall not be obligated to pay any portion of the Installment Payment to which said Flood Control
16 Facility has been allocated until the Corporation has cured such objections to title to the
17 satisfaction of the District Engineer.
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19
20 Consistent with the preceding paragraph, the Corporation shall obtain and provide, or
21 cause to be obtained or provided, to the Flood Control District consistent with Section 4.8.(d)
22 hereof, duly executed irrevocable offer(s) of dedication to the public for flood control or
23 drainage purposes, including ingress and egress, for rights-of-way deemed necessary by the
24 Flood Control District and necessary rights of entry for the construction, inspection, operation
25 and maintenance of the Flood Control Facilities. The irrevocable offer(s) of dedication shall be
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1 in a form approved by the Flood Control District and shall be executed by all legal and equitable
2 owners described in the offer."

3 Section 9. Amendment to Section 4.1. Section 4.1. of the IFAR is hereby amended and
4 restated in its entirety as follows:
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6 "As stated in Exhibit B, the Flood Control Facilities are to be constructed in discrete
7 Phases. It is understood by all parties that the Flood Control District will cause Phases 1 and 2A
8 to be constructed under a single contract and the Corporation will cause Phases 2B, 3 and 4 to
9 be constructed under one or more contracts. The construction of Phases 2B, 3 and 4 is to occur
10 in an orderly fashion with the objective that, upon completion of construction, each discrete
11 Phase may be deemed Functional. In the event construction of one or more Phases is completed
12 at different times, the District Engineer may authorize construction of transitional improvements
13 within a Phase to be constructed to ensure its functionality prior to the completion of any
14 adjoining Phase. The provisions of this Article IV are to apply to each Phase and the
15 construction contract awarded therefor. It is anticipated that Phases 2B, 3 and 4 will each be
16 completed within twenty-four (24) months of the "Notice to Proceed" issued by the District
17 Engineer for each of the construction contracts pursuant to Section 4.8. hereof."
18

19 Section 10. Amendment to Section 4.3. Section 4.3. of the IFAR is hereby amended
20 and restated in its entirety as follows:
21

22 "The Corporation shall construct or cause to be constructed Phases 2B, 3 and 4 in
23 accordance with the Plans and Specifications approved by the District Engineer. The
24 Corporation shall perform all of its obligations hereunder and shall conduct all operations with
25 respect to the construction of the Flood Control Facilities assigned to a Phase in a good,
26 workmanlike and commercially reasonable manner, with the standard of diligence and care
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1 normally employed by duly qualified persons utilizing commercially reasonable efforts in the
2 performance of comparable work and in accordance with generally accepted practices
3 appropriate to the activities undertaken. The Corporation shall not be relieved of its obligation
4 to construct Phases 2B, 3 and 4 and convey all of the Flood Control Facilities to the Flood
5 Control District in accordance with the terms of this Funding Agreement, even if no Bonds are
6 sold or the amounts of the proceeds of the sale of the Bonds for an Improvement Area that are
7 deposited into the Acquisition Fund for such Improvement Area are insufficient to pay the full
8 amount of the Installment Payment for such Improvement Area. Notwithstanding the foregoing,
9 nothing set forth in this Funding Agreement shall be construed (i) to require the Corporation to
10 perform any work requiring a contractor's license, nor shall the Corporation be deemed to be
11 performing construction services pursuant to this Funding Agreement or (ii) to require the
12 Corporation to cause the Plans and Specifications to be prepared for any Phase or the Flood
13 Control Facilities included therein at a specific time or in a manner other than as required by the
14 approved conditions for development of the property within the Improvement Area to which
15 said Phase or Flood Control Facilities have been allocated."
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19 Section 11. Amendment to Section 4.4.(a). Section 4.4.(a) of the IFAR is hereby
20 amended and restated in its entirety as follows:

21 "(a) In order to ensure that the Flood Control Facilities included in a Phase are
22 constructed as if they had been constructed under the direction and supervision, or under the
23 authority of the local agency, so that they may be acquired pursuant to Section 53313.5 of the
24 Code, the Corporation shall comply with all of the requirements set forth in this Article IV. The
25 provisions of this Section 4.4. shall be applicable to Phases 2B, 3 and 4."
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1 Section 12. Amendment to Section 4.10.(a). Section 4.10.(a) of the IFAR is hereby
2 amended and restated in its entirety as follows:

3 "(a) The Corporation shall exercise commercially reasonable efforts to complete
4 construction of Phases 2B, 3 and 4 within twenty-four (24) months of the issuance of a Notice to
5 Proceed for the subject Phase. It is expressly understood that since time is of the essence in this
6 Funding Agreement, failure of the Corporation to complete the construction of Phases 2B, 3 or 4
7 within the agreed upon time shall constitute authority for the Flood Control District to cause the
8 remaining work to be performed and the cost thereof shall provide cause to require the
9 Corporation's principal contractor's surety to pay to the Flood Control District the penal sum of
10 any and all bonds."
11

12 Section 13. Amendment to Section 4.12.(a). Section 4.12.(a) of the IFAR is hereby
13 amended and restated in its entirety as follows:

14 "(a) Prior to Determination of Functionality. Prior to the time when the construction
15 of a Phase has been sufficiently completed by the Corporation to allow the District Engineer to
16 make a determination that the Flood Control Facilities included within any such Phase are
17 deemed Functional, the Corporation shall maintain each Flood Control Facility in good and safe
18 condition until the Acceptance Date of the Phase to which said Flood Control Facility is a part.
19 Prior to the Date of Functionality, the Corporation shall be responsible for maintaining all of the
20 Flood Control Facilities in Phases 2B, 3 and 4 in proper operating condition, and shall perform
21 such maintenance on any of those Flood Control Facilities as the District Engineer reasonably
22 determines to be necessary."
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1 Section 14. Amendment to Section 4.12.(b). Section 4.12.(b) of the IFAR is hereby
2 amended and restated in its entirety as follows:

3 "(b) After Determination of Functionality. When (i) the District Engineer determines
4 that the construction of any Phase has progressed to a point that a determination of Functionality
5 can be made and (ii) the Corporation has delivered to the Flood Control District "Permanent
6 Right-of-Entry Agreements", in the form acceptable to the Flood Control District, executed by
7 all owners of parcels where rights-of-way and easements are necessary for the maintenance of
8 the Flood Control Facilities, as determined by the District Engineer, the Flood Control District
9 shall assume responsibility for the maintenance of the Flood Control Facilities, and the
10 Corporation shall have no further responsibility for the maintenance of the Flood Control
11 Facilities included within any such Phase. When the District Engineer determines that
12 requirements of this subsection (b) have been satisfied, he or she shall provide written notice to
13 the Corporation that such conditions have been satisfied as of the Date of Functionality."

14 Section 15. Amendment to Section 4.13. Section 4.13. of the IFAR is hereby amended
15 and restated in its entirety as follows:

16 "Without limiting or diminishing Corporation's obligation to indemnify and hold the
17 Flood Control District, the Community Facilities District, the County, the City of Menifee, and
18 the City of Perris harmless pursuant to Section 8.3., hereof, the Corporation shall procure and
19 maintain or cause to be maintained, at its sole cost and expense the following insurance
20 coverages, or alternate coverages acceptable to the County's Risk Manager, during the term of
21 this Funding Agreement:

22 (a) *Commercial General Liability:* Commercial General Liability insurance
23 coverage, including but not limited to, premises liability, contractual liability, products
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1 and completed operations, explosion, collapse, use of cranes, and other heavy equipment
2 and underground hazards, personal and advertising injury covering claims which may
3 arise from or out of the Corporation's performance of its obligations hereunder. The
4 policy shall name by endorsement the Flood Control District, the Community Facilities
5 District, the County, the City of Menifee, the City of Perris, their respective directors,
6 officers, Board of Supervisors, Legislative Body, City Council, elected officials,
7 employees, agents or representatives as "Additional Insureds". The policy's limit of
8 liability shall not be less than \$5,000,000 per occurrence combined single limit. If such
9 insurance contains a general aggregate limit, it shall apply separately to this Funding
10 Agreement or be no less than two (2) times the occurrence limit.
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13 (b) *Vehicle Liability*: Vehicle liability insurance for all owned, non-owned or
14 hired vehicles in an amount not less than \$1,000,000 per occurrence combined single
15 limit. If such insurance contains a general aggregate limit, it shall apply separately to this
16 Funding Agreement or be no less than two (2) times the occurrence limit. The policy
17 shall name by endorsement the Flood Control District, the Community Facilities District,
18 the County, the City of Menifee, the City of Perris, their respective directors, officers,
19 Board of Supervisors, Legislative Body, City Council, elected officials, employees,
20 agents or representatives as Additional Insureds.
21

22 (c) *Worker's Compensation Insurance*: Worker's Compensation Insurance
23 (Coverage A) as prescribed by the laws of the State of California. Policy shall include
24 Employers' Liability (Coverage B) including Occupation Disease with limits not less
25 than \$1,000,000 per person per accident. The policy shall be endorsed to waive
26 subrogation in favor of the Flood Control District, the Community Facilities District, the
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1 County, the City of Menifee and the City of Perris, and if applicable, to provide a
2 Borrowed Servant/Alternate Employer Endorsement.

3
4 General Insurance Provisions – all lines:

5 (i) Any insurance carrier providing insurance coverage hereunder shall be
6 admitted to the State of California and have an A.M. Best rating of not less than an A:VIII (A:8)
7 unless such requirements are waived, in writing, by the County's Risk Manager.

8 (ii) The Corporation's insurance carrier(s) must declare its insurance
9 deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed
10 \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent
11 of the County's Risk Manager before the commencement of operations under this Funding
12 Agreement. Upon notification of deductibles or self-insured retentions which are deemed
13 unacceptable to the Flood Control District, at the election of the County's Risk Manager, the
14 Corporation's carriers shall either: (i) reduce or eliminate such deductibles or self-insured
15 retentions as respects this Funding Agreement, or (ii) procure a bond which guarantees payment
16 of losses and related to investigations, claims administration, defense costs and expenses.

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18 (iii) The Corporation shall cause its insurance carriers to furnish the Flood
19 Control District with (i) a properly executed original certificate(s) of insurance and certified
20 original copies of endorsements effecting coverage as required herein; or (ii) evidence of
21 coverage acceptable to the County's Risk Manager that may include original certified copies of
22 policies including all endorsements and all attachments thereto, showing such insurance is in
23 full force and effect.

24
25 (iv) Further, said certificate(s) and endorsements to policies of insurance shall
26 contain the covenant of the insurance carrier(s) that it shall provide no less than sixty (60) days
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1 written notice be given to the Flood Control and the Community Facilities District prior to any
2 material modification or cancellation of such insurance that contravenes the coverage required
3 in this Section 4.13. In the event of a material modification or cancellation of coverage, this
4 Funding Agreement shall terminate forthwith, unless the Flood Control District and the
5 Community Facilities District receive, prior to such effective date, another properly executed
6 original certificate of insurance and original copies of endorsements or certified original
7 policies, including all endorsements and attachments thereto evidencing coverages and the
8 insurance required herein is in full force and effect. Individual(s) authorized by the insurance
9 carrier to do so on its behalf shall sign the original endorsements for each policy and the
10 certificate of insurance.
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13 (v) ***The Corporation shall not commence construction of any Phase until***
14 ***the Flood Control District and the Community Facilities District have been furnished either***
15 ***original certificate(s) of insurance and certified original copies of endorsements, policies of***
16 ***insurance including all endorsements and any and all other attachments as required in this***
17 ***Section, or other evidence of coverage acceptable to County's Risk Manager.***

18
19 (vi) It is understood and agreed by the parties hereto and the Corporation's
20 insurance company(s) that the certificate(s) of insurance and policies shall so covenant and shall
21 be construed as primary insurance, and the Flood Control Districts insurance and/or deductibles
22 and/or self-insured retentions or self-insured programs shall not be construed as contributory.

23 (vii) The Corporation and principal contractors shall pass down the insurance
24 obligations contained herein to all tiers of subcontractors working on the construction of the
25 Flood Control Facilities and will require all such subcontractors to name on their insurance
26 policies by endorsement the Community Facilities District, the Flood Control District, the
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1 County, the City of Menifee, the City of Perris, their respective directors, officers, Board of
2 Supervisors, Legislative Body, City Council, elected officials, employees, agents or
3 representatives as Additional Insureds. Copies of such certificates and endorsements shall be
4 provided to the Flood Control District and the Community Facilities District. The minimum
5 limit of liability required for all tiers of subcontractors is \$2,500,000 Combined Single Limit for
6 Commercial General Liability and \$1,000,000 Combined Single Limit for Vehicle Liability
7 Insurance."

9 Section 16. Amendment to Section 4.14. Section 4.14. of the IFAR is hereby amended
10 and restated in its entirety as follows:

11 "Notwithstanding the fact that some or all of the Flood Control Facilities included in
12 Phases 2B, 3 and 4 may be constructed within dedicated street rights-of-way or on property
13 which is owned by or has been or will be dedicated to the County as street right-of-way or the
14 Flood Control District for drainage or storm facilities uses, the Flood Control Facilities shall be
15 and remain the property of the Corporation until Acceptable Title to parcels of property where
16 portions of the Flood Control Facilities that are not owned by the County or the Flood Control
17 District is conveyed to the County or the Flood Control District, as appropriate, as provided
18 herein. Ownership of said parcels by the Corporation or the Stockholders shall likewise not be
19 affected by any agreement that the Corporation or the Stockholders may have entered into or
20 may enter into with the County pursuant to the provisions of the Subdivision Map Act, Section
21 66410 et seq. of the Code and the provisions of this Section shall control.

22 Notwithstanding that title to the Flood Control Facilities may be conveyed by the
23 Corporation to the Flood Control District before the Bonds are issued for all of the Improvement
24 Areas, and prior to the payment by the Community Facilities District of the Purchase Price to
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1 the Corporation, the Community Facilities District shall continue to be responsible for payment
2 of the Purchase Price from and to the extent of Bond proceeds being deposited to the
3 Acquisition Funds for the Improvement Areas, and investment earnings thereon, and shall pay
4 the Purchase Price to the Corporation in Installment Payments as provided in subsection (d) of
5 Section 3.5., hereof.
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7 Prior to the commencement of construction of any portion of Phases 1 and 2A on
8 property owned by the Corporation, the Flood Control District shall procure and maintain, or
9 cause its contractors to procure and maintain, insurance coverage for the benefit of the
10 Corporation that meets the same standards specified in Section 4.13."
11

12 Section 17. Amendment to Section 5.1. Section 5.1. of the IFAR is hereby amended
13 and restated in its entirety as follows:

14 "The ADP has established a fee per gross acre to be paid by any person or entity
15 developing property within the boundaries of the ADP at the time said person or entity obtains a
16 grading permit or a building permit for the development of said property, whichever occurs first.
17 As approved by the Board of Supervisors of the County on March 28, 2006, the current ADP fee
18 for properties within the boundaries of the Line A Watershed of the ADP is \$12,636 per gross
19 acre. This fee has two components: (i) a "Regional Facility Fee Component" that is in the
20 amount of \$6,714 per gross acre and is to be applied to pay the ADP Eligible Costs of
21 constructing those facilities that benefit all properties within the Line A Watershed
22 (individually, a "Regional Facility" or collectively "Regional Facilities") within the boundaries
23 of the ADP, and (ii) a "Local Facility Fee Component" that is in the amount of \$5,922 per gross
24 acre that is to be applied to pay the ADP Eligible Costs of constructing facilities that have been
25 determined to have no regional benefit (individually, a "Local Facility" or, collectively, the
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1 "Local Facilities"). The Flood Control District retains one percent (1%) of the ADP fee to pay
2 the costs of administering the ADP.

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4 If a developer of property located within the boundaries of the ADP is conditioned, in
5 order to obtain a grading permit or building permit, to build Flood Control Facilities that are
6 identified as either Regional Facilities or Local Facilities, said developer upon constructing said
7 Flood Control Facilities will, pursuant to the ADP Regulations, receive a credit against the
8 appropriate ADP component fee obligation (i.e., the "Regional Facility Fee Component" or the
9 "Local Facility Fee Component") to be paid for the development of said property. The amount
10 of the credit will be determined by the Flood Control District in a manner consistent with the
11 ADP Regulations.

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13 Pursuant to the ADP Regulations, if one or more of the Flood Control Facilities
14 constructed by a developer of property within the ADP are Local Facilities and the ADP
15 Eligible Costs incurred by the developer in constructing said Local Facilities exceed said
16 property's aggregate Local Facility Fee Component, then the developer will receive a credit
17 from the Flood Control District for the excess amount (the "Local Component Credit"). The
18 developer receiving the Local Component Credit may apply said Local Component Credit
19 toward the Local Facility Fee Component of the ADP fee obligation of other properties within
20 the boundaries of the ADP that it intends to develop, or it may market the Local Component
21 Credit to other entities developing properties within the ADP, and the entity or entities
22 purchasing the Local Component Credit will receive the amount of said Local Component
23 Credit against the Local Facility Fee Component of the ADP Fees for the property it/they is/are
24 developing within the ADP.
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1 If the Flood Control Facilities constructed by a developer of property in the ADP are
2 Regional Facilities, if the Board of Supervisors makes the findings that are required by Sections
3 66483.1 and 66483.2 of the Code and the ADP Regulations, and if the ADP Eligible Costs
4 incurred by the developer in constructing said Regional Facilities exceeds the aggregate
5 Regional Facility Fee Component, of the ADP fee obligation of said property, the Flood Control
6 District may issue a note to the developer for the excess amount (the "Regional Component
7 Note"). The developer receiving the Regional Component Note will be paid by the Flood
8 Control District from amounts collected as the Regional Facility Fee Component of the ADP fee
9 from other properties within the ADP but payment will be made only after all identified
10 Regional Facilities have been constructed or sufficient amounts representing the Regional
11 Facility Fee Component of the ADP fee have been collected from other properties to provide for
12 the construction of all identified Regional Facilities within the ADP.

15 The Flood Control Facilities that are to be acquired, constructed and installed by the
16 Corporation pursuant to the terms of this Funding Agreement (Phases 2B, 3 and 4) include most
17 of the Regional Facilities within the Line A Watershed. Currently, there are no Regional
18 Facilities located within the Line B Watershed of the ADP. The remaining Regional Facilities
19 within the Line A Watershed (Phases 1 and 2A) are to be constructed by the District.
20 Consequently, the Board of Supervisors may deem the revenues received by the Flood Control
21 District from the Regional Facility Fee Component of the ADP fees collected with respect to
22 other properties within the Line A Watershed to be "surplus" as that term is used in Sections
23 66483.1 and 66483.2 of the Code once construction of the Regional Facilities within the Line A
24 watershed are deemed substantially complete and any Regional Component note(s) have been
25 paid."
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1 Section 18. Amendment to Section 5.2. Section 5.2. of the IFAR is hereby amended
2 and restated in its entirety as follows:

3 "It is the intent of the Flood Control District and the Corporation that the aggregate ADP
4 fee obligation of the Property shall be fully satisfied upon the construction of Phases 2B, 3 and 4
5 of the Flood Control Facilities by the Corporation consistent with the terms of this Funding
6 Agreement. In proposing the formation of the Community Facilities District, it is the intent of
7 the Corporation and the Stockholders to finance, at a minimum, the aggregate ADP fee
8 obligation of the Property. Provided that all of the constructed Flood Control Facilities have
9 been accepted for ownership and maintenance by the Flood Control District, upon the sale and
10 issuance of the Bonds for an Improvement Area and the deposit of an amount of the proceeds
11 from the sale of such Bonds into the Acquisition Fund for said Improvement Area equal to the
12 total amount of the ADP fee obligation of the property within said Improvement Area as
13 specified by the Corporation in Exhibit C and confirmed by the Administrator, the
14 Administrator shall cause the trustee to pay to the Corporation from the Acquisition Fund an
15 amount equal to the ADP fee obligation for said Improvement Area as specified in Exhibit C.
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19 If the principal amount of the Bonds sold and issued for an Improvement Area will not
20 allow for the deposit in the Acquisition Fund for said Improvement Area of an amount equal to
21 said Improvement Area's Allocation of the Actual Costs, the Administrator will, as shown on
22 Exhibit C, allocate the amount on deposit in the Acquisition Fund for said Improvement Area,
23 and investment earnings thereon, first to pay the ADP fee obligation of the properties owned by
24 the Stockholders that are located within said Improvement Area, as specified in Exhibit C;
25 second to pay a Stockholder's Allocation Percentage of the ADP Non-reimbursable Costs of the
26 Flood Control Facilities allocated to the Improvement Area, as specified in Exhibit C; and
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1 finally to pay the Stockholder's Allocation Percentage of the Regional Facility Fee Component
2 of the ADP fee obligation for the property within said Improvement Area that will not be
3 collected from non-developable property within the Line A Watershed that will be allocated to
4 said Improvement Area, as specified in Exhibit C. Notwithstanding any other provision of this
5 Funding Agreement, the Installment Payment for said Improvement Area shall not exceed the
6 total amount of proceeds of the sale of Bonds that is deposited in the Acquisition Fund for said
7 Improvement Area and the investment earnings thereon. Finally with regard to those ADP
8 Eligible Costs for the Regional Facility Fee Component for which no Bond proceeds are
9 available, and no additional Bond series planned, to make payment to the Corporation, the
10 Administrator will issue a Regional Component Note payable to the Corporation, or its
11 designee, in the amount specified in Exhibit C.
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14 Unless a Stockholder owning property within an Improvement Area has elected pursuant
15 to the preceding paragraph to finance its Allocation Percentage which includes amounts
16 representing the Non-reimbursable Costs of the Flood Control Facilities and its pro rata share of
17 the percentage of the Regional Facility Fee Component that will not be collected from non-
18 developable property within the Line A Watershed, as specified in Exhibit C, the payment
19 representing said Stockholder's ADP fee obligation will constitute its proportionate share of the
20 Installment Payment for said Improvement Area."
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22 Section 19. Amendment to Section 5.6. Section 5.6. of the IFAR is hereby amended
23 and restated in its entirety as follows:
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25 "Within a reasonable time after each of the following events, but in no case more
26 frequently than once every eighteen (18) months, the Flood Control District shall initiate
27 proceedings and recommend that the Board of Supervisors adjust the currently effective ADP
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1 fee to reflect the District's best estimate of ADP Eligible Costs: (i) the award of the construction
2 contracts for Phases 1 and 2A; (ii) the completion of the construction of Phases 1 and 2A, and
3 (iii) the award of the construction contracts for Phases 2B, 3 and 4. Such proceedings will be
4 completed in a timely manner to ensure that the Stockholders receive the benefit of the ADP fee
5 adjustment and to ensure that the adjusted total amount of ADP fees for the Property may be
6 financed by the Community Facilities District and be reflected in any Regional Component
7 Notes provided to the Corporation."
8

9 Section 20. Amendment to Section 8.1.(d). Section 8.1.(d) of the IFAR is hereby
10 amended and restated in its entirety as follows:
11

12 "(d) Completion of Phases 2B, 3 and 4 of the Flood Control Facilities. The
13 Corporation covenants that it will use its commercially reasonable and diligent efforts to do all
14 things that may be lawfully required of it in order to cause Phases 2B, 3 and 4 and all Flood
15 Control Facilities within Phases 2B, 3 and 4 to be completed in accordance with this Funding
16 Agreement."
17

18 Section 21. Amendment to Section 8.1.(h). Section 8.1.(h) of the IFAR is hereby
19 amended and restated in its entirety as follows:
20

21 "(h) Financial Records. Until the determination of the Actual Costs of all Flood
22 Control Facilities has been completed, the Corporation covenants to maintain proper books of
23 record and account with respect to the construction of the Flood Control Facilities and all costs
24 related thereto. The Corporation covenants that such accounting books will be maintained in
25 accordance with generally accepted accounting principles, and will be available for inspection
26 by the Flood Control District and the Community Facilities District and their respective agents,
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1 at any reasonable time during regular business hours on two (2) business days' prior written
2 notice."

3 Section 22. Amendment to Section 8.3. Section 8.3. of the IFAR is hereby amended
4 and restated in its entirety as follows:
5

6 "The Corporation, with regard to its respective responsibilities under this Agreement,
7 agrees to protect, indemnify, defend and hold the Flood Control District, the Community
8 Facilities District, the County, the City of Menifee, the City of Perris and their respective
9 directors, officers, Board of Supervisors, Legislative Body, City Council, elected officials,
10 employees, representatives and agents (the "Indemnified Parties"), and each of them, harmless
11 from and against any and all claims, liabilities, losses, expenses, suits, actions, decrees,
12 judgments, awards, reasonable attorneys' fees, and court costs which the Indemnified Parties, or
13 any combination thereof, may suffer or which may be sought against or recovered or obtained
14 from the Indemnified Parties, or any combination thereof, as a result of, or by reason of, or
15 arising out of, or in consequence of (a) the approval of this Agreement, (b) the acquisition,
16 construction, or installation of the Flood Control Facilities within Phases 2B, 3 and 4 and the
17 design and engineering of the Flood Control Facilities within Phases 1, 2A, 2B, 3 and 4, (c) the
18 design, construction, or failure of the Flood Control Facilities or an assertion, pursuant to Article
19 I, Section 19 of the California Constitution, the Fifth Amendment of the United States
20 Constitution, or any other law or ordinance which seeks to impose any other liability or damage
21 whatsoever, from the diversion of the waters from their natural drainage patterns, or from the
22 discharge of drainage from the Flood Control Facilities, (d) the untruth or inaccuracy of any
23 representation or warranty made by the Corporation in this Funding Agreement or in any
24 certifications delivered by the Corporation hereunder, or (e) any act or omission of the
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1 Corporation or any of its contractors, subcontractors, or their respective officers, employees or
 2 agents, in connection with the Flood Control Facilities or its responsibilities or obligations under
 3 this Funding Agreement. If the Corporation fails to do so, the Indemnified Parties, or each of
 4 them, shall have the right, but not the obligation, to defend the same and charge all of the direct
 5 or incidental costs of such defense, including reasonable attorneys' fees or court costs, to and
 6 recover the same from the Corporation and the Stockholders.
 7

8 No indemnification is required to be paid by the Corporation for any claims, liabilities,
 9 losses, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court
 10 costs (a) as a result of, or by reason of, or arising out of, or in consequence of the willful
 11 misconduct or sole or active negligence of the Indemnified Parties or (b) as a result of, or by
 12 reason of, or arising out of, or in consequence of the use or operation of any portion of the Flood
 13 Control Facilities after the Acceptance Date of the Flood Control Facilities, unless such claim,
 14 loss or expense results from the defective or improper design, acquisition, construction or
 15 installation of such portion of the Flood Control Facilities by the Corporation or its contractors,
 16 subcontractors, or respective officers, employees or agents.
 17

18 The provisions of this Section shall survive the termination of this Funding Agreement
 19 and the acceptance of the Flood Control Facilities by the Flood Control District."
 20

21 Section 23. Amendment to Section 9.1. Section 9.1. of the IFAR is hereby amended
 22 and restated in its entirety as follows:

23 "The Stockholders or other developers of the Property shall not be entitled to record final
 24 subdivision maps or parcel maps for the subdivision and development of the Property or obtain
 25 grading permits or building permits with respect to the grading of the Property or the
 26 construction of any type of residential building (except model homes) or commercial building
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1 on any of the Property until the District Engineer determines that (i) contracts have been
2 awarded for the construction of Phases 2B, 3 and 4, (ii) all contractors to whom contracts have
3 been awarded have provided labor and material payment bonds and contract performance bonds
4 in the forms attached hereto as Exhibit E, and (iii) the Federal Emergency Management Agency
5 ("FEMA") has issued a Conditional Letter of Map Revision with respect to those portions of the
6 Tracts that are within the "Floodplain" of the Line A Watershed, as described in Section 9.2.,
7 hereof. In addition, the District Engineer may, in his sole discretion, recommend that the
8 recordation of such maps be allowed to proceed or concur with the issuance of grading or
9 building permits based on the circumstances of a particular Tract. When the Corporation has
10 received the "Notice(s) to Proceed" pursuant to Section 4.8., hereof, from the District Engineer
11 for the construction of Phases 2B, 3 and 4 of the Flood Control Facilities, and has provided the
12 District Engineer with such other documents and information as the District Engineer may
13 reasonably require, the District Engineer shall determine whether the conditions specified in this
14 Section 9.1. have been satisfied and, if appropriate, deliver written notice to the Corporation,
15 County, City of Menifee and City of Perris that such conditions have been satisfied, that final
16 subdivision maps and parcel maps may be recorded, and that grading permits and building
17 permits may be issued consistent with the conditions of approval imposed by the County, City
18 of Menifee or City of Perris for property located with the Stockholders' respective Tracts. The
19 Stockholders shall be considered third party beneficiaries of this Article IX."
20
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22

23 Section 24. Amendment to Section 9.2.(a). Section 9.2.(a) of the IFAR is hereby
24 amended and restated in its entirety as follows:
25

26 "(a) Floodplain Property. Occupancy permits for property located in the "Floodplain,"
27 as delineated on Panel No. 060245 2085C of the Flood Insurance Rate Maps issued in
28

1 conjunction with the National Flood Insurance Program administered by FEMA, will not be
 2 issued until (a) the District Engineer determines that: (i) the construction of the Flood Control
 3 Facilities has progressed to a point that all Flood Control Facilities are Functional, (ii) the
 4 Corporation has delivered "Permanent Right-of-Entry Agreements" in a form acceptable to the
 5 Flood Control District executed by the owners of all parcels where rights-of-way and easements
 6 are necessary for the maintenance of the Flood Control Facilities to allow the Flood Control
 7 District to assume responsibility for the maintenance of the Flood Control Facilities as provided
 8 in Section 4.12.(b), hereof, and (iii) FEMA has issued a Letter of Map Revision ("LOMR"), or
 9 in the alternative, the developer of such property purchases and maintains flood insurance on
 10 behalf of the purchasers of homes in said Tract until the LOMR is issued by FEMA; provided,
 11 however, the Corporation has submitted a complete package of as-built plans, soils reports, and
 12 any other documents necessary for issuance of the LOMR to the Flood Control District, as
 13 determined and approved by the Flood Control District."

16 Section 25. Amendment to Section 10.15. Section 10.15. of the IFAR is hereby
 17 amended and restated in its entirety as follows:

19 "The Corporation, the Flood Control District and the Community Facilities District shall
 20 each prepare a certificate designating the person or persons that are to serve as the liaison
 21 between the Corporation, the Flood Control District, and the Community Facilities District
 22 regarding design, engineering and construction of the Flood Control Facilities. The certificates
 23 are to contain an original and specimen signature of each designated person. The certificates are
 24 to be provided to the Corporation, the Flood Control District and the Community Facilities
 25 District prior to the Corporation commencing any of its obligations under Article IV hereof."

1 Section 26. Representations by Corporation. The Corporation makes the following
2 representations, warranties and covenants for the benefit of the Flood Control District and the
3 Community Facilities District as of the date hereof:
4

5 (a) Organization. The Corporation represents and warrants that it is a corporation
6 duly organized and validly existing under the laws of the State of Delaware, is in good standing
7 under the laws of the State, and has the power and authority to own its properties and assets and
8 to carry on its business as now being conducted and as now contemplated.

9 (b) Authority. The Corporation represents and warrants that it has the power and
10 authority to enter into this Amendment, and has taken all action necessary to cause this
11 Amendment to be executed and delivered, and this Amendment has been duly and validly
12 executed and delivered on behalf of the Corporation.
13

14 (c) Binding Obligation. The Corporation represents and warrants that this
15 Amendment is a valid and binding obligation of the Corporation and is enforceable against the
16 Corporation in accordance with its terms, subject to bankruptcy, insolvency, reorganization or
17 other similar laws affecting the enforcement of creditors' rights in general and by general equity
18 principles.
19

20 Section 27. Representations by Flood Control District. The Flood Control District
21 makes the following representations, warranties and covenants for the benefit of the Community
22 Facilities District and the Corporation as of the date hereof:

23 (a) Authority. The Flood Control District represents and warrants that the Flood
24 Control District has the power and authority to enter into this Amendment and has taken all
25 actions necessary to cause this Amendment to be executed and delivered, and this Amendment
26 has been duly and validly executed and delivered on behalf of the Flood Control District.
27
28

1 (b) Binding Obligation. The Flood Control District represents and warrants that this
2 Amendment is a valid and binding obligation of the Flood Control District and is enforceable
3 against the Flood Control District in accordance with its terms, subject to bankruptcy,
4 insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in
5 general and by general equity principles.
6

7 Section 28. Ratification of the IFAR. The IFAR is hereby ratified and confirmed in all
8 respects and all terms, conditions and provisions of the IFAR, except as amended by this
9 Amendment, shall remain in full force and effect. The provisions of this Amendment shall
10 supersede and prevail over any conflicting provisions of the IFAR.
11

12 Section 29. Choice of Law. This Amendment is made in the State of California under
13 the Constitution and laws of the State of California and is to be construed in accordance with
14 and under the laws of the State of California.

15 Section 30. Validity and Severability. If any one or more of the terms, provisions,
16 promises, covenants or conditions of this Amendment shall to any extent be adjudged invalid,
17 unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction,
18 then each and all of the remaining terms, provisions, promises, covenants and conditions of this
19 Amendment shall not be affected thereby and shall be valid and enforceable to the fullest extent
20 permitted by law.
21

22 Section 31. Counterparts. This Amendment may be executed in any number of
23 counterparts, each of which when so executed and delivered shall be deemed an original, but all
24 such counterparts together shall constitute but one and the same instrument.
25

26 Section 32. Amendment of Exhibit B. Exhibit B to the IFAR is hereby amended and
27 restated as set forth in the Exhibit B attached to this Amendment.
28

1 **IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the
2 day and year first above written.

3
4 **RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

5 RECOMMENDED FOR APPROVAL:

6
7 Steve Thomas
8 **WARREN D. WILLIAMS**
General Manager-Chief Engineer

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

9
10 ATTEST:
11 **KECIA HARPER-IHEM**
12 Clerk to the
13 Riverside County Flood Control and Water
Conservation District Board of Supervisors

14 By [Signature]
15 Deputy Clerk


16
17 APPROVED AS TO FORM:
18 **PAMELA J. WALLS**
County Counsel

19 By [Signature]
20 **Dale A. Gardner**
Deputy County Counsel

21
22
23
24 First Amendment – Infrastructure Funding, Acquisition and Reimbursement Agreement
25 CFD No. F05-1 (Homeland/Romoland ADP)
26 05/28/13
MHW:blj

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HOMELAND/ROMOLAND ADP, INC.,
a Delaware corporation

By: 
ADRIAN PETERS

First Amendment – Infrastructure Funding, Acquisition and Reimbursement Agreement
CFD No. F05-1 (Homeland/Romoland ADP)
05/28/13
MHW:blj

EXHIBIT B

FLOOD CONTROL FACILITIES

PHASE 1

Regional Facilities:

Line A, Stage 3 (Project No. 4-0-310), Open Channel (varies in height from 0 feet to 12 feet and a base width from 38 feet to 50 feet) and a 4 cell RCB (varies in height from 10 feet to 11 feet and 14 feet in width); located immediately west of 1-215 bridge crossing of Ethanac Wash and traversing in a northwesterly direction across Barnett Road, Ethanac Road, and Murrieta Road to the "Watson Ditch" (located within the San Jacinto River floodplain). Approximately 10,020 linear feet of channel and 680 linear feet of RCB.

Local Facilities:

None

PHASE 2A

Regional Facilities:

A portion of Line A, Stage 4 (Project No. 4-0-310), Open Channel (varies in height from 3 feet to 8.67 feet and a base width from 28 feet to 42 feet) and a 4 cell RCB (10.75 feet in height and 12 feet in width); located immediately north of the Southern California Edison right-of-way adjacent to McLaughlin Road from the west side of the 1-215 bridge crossing and traversing easterly across the 1-215, to a point about 400 feet upstream of Encanto Road.

Local Facilities:

None

PHASE 2B

Regional Facilities:

The remainder of Line A, Stage 4 (Project No. 4-0-310), Open Channel (varies in height from 7.67 feet to 8.67 feet and a base width from 30 feet to 42 feet) and a 2 cell RCB (7 feet in height and 11 feet in width); located immediately north of the Southern California Edison right-of-way adjacent to McLaughlin Road from a point approximately 400 feet east of Encanto Road traversing easterly to Trumble Road, Sherman Road, Dawson Road, Antelope

EXHIBIT B

FLOOD CONTROL FACILITIES

Road, San Jacinto Road, Palomar Road, and Matthews Road. Approximately 8,100 linear feet of channel and 1,050 linear feet of RCB.

Local Facilities:

Line A-3, Stage 1 (Project No. 4-0-00431), Open Channel (5 feet in height and 6 feet in base width) and a 1 cell RCB (varies in height from 6 feet to 6.5 feet and varies in base width from 10 feet to 12 feet); located in the Palomar Road right-of-way from Line A, Stage 4 (Project No. 4-0-310) to a point approximately 4,800 feet north, then easterly along the prolongation of Varela Lane to Menifee Road. Then continuing easterly and immediately adjacent to the southerly side of the Varela Lane right-of-way to Malone Avenue. Approximately 4,600 linear feet of channel and 5,530 linear feet of RCB.

Line A-16 (Project No. 4-0-310), 48" RCP; located within right-of-way of Sherman Road from the connection to Line A, Stage 4 (Project No. 4-0-310) to approximately 48 feet south.

Line A-17 (Project No. 4-0-310), 66" RCP; located within right-of-way of Dawson Road from the connection to Line A, Stage 4 (Project No. 4-0-310) to approximately 47 feet south.

Line A-18 (Project No. 4-0-310), 60" RCP; located within right-of-way of Antelope Road from the connection to Line A, Stage 4 (Project No. 4-0-310) to approximately 52 feet south.

PHASE 3

Regional Facilities:

Line A, Stage 5 (Project No. 4-0-310) and a 2 cell RCB (7 feet in height and varies in base width from 10 feet to 11 feet); located immediately east of Matthews Road (the terminus of Line A, Stage 4) and traversing in an easterly direction across Junipero Road, then continuing easterly and immediately adjacent to McLaughlin Road to the eastern side of Menifee Road, approximately 1,860 linear feet.

Line A, Stage 6 (Project No. 4-0-310), a 1 cell RCB (varies in height from 5 feet to 8 feet and varies in base width from 6 feet to 12 feet), 102" RCP, and 96" RCP; located immediately east of Menifee Road (the terminus of Line A, Stage 5) and traversing in a easterly direction and within the McLaughlin Road right-of-way to the eastern side of Briggs Road, approximately 2,820 linear feet of RCB and 2,615 linear feet of RCP.

Local Facilities:

Line A-2 (Project No. 4-0-00312), Open Channel (varies in height from 6 feet to 7 feet and in

EXHIBIT B

FLOOD CONTROL FACILITIES

base width from 6 feet to 12 feet), a 2 cell RCB (6 feet in height and 10 feet in width), and a 1 cell RCB (6 feet in height and 8 feet in width); located between San Jacinto Road and Palomar Road at the connection stub for Line A, Stage 4 (Project No. 40-310) and then traversing approximately 3,015 feet southerly to the easterly side of Rouse Road within Tentative Tract No. 29835, then traversing easterly within Tentative Tract No. 29835 to the easterly side of Palomar Road, approximately 3,425 linear feet of channel and 615 linear feet of RCB.

PHASE 4

Regional Facilities:

Line 1, Stage 1 (Project No. 4-0-00345), Open Channel (6 feet in height and 6 feet in base width), a 2 cell RCB (7 feet in height and 10 feet in width), a 1 cell RCB (varies in height from 6 feet to 7 feet and 12 feet in width), 96" RCP, and 72" RCP; located in the northwest corner of the Briggs Road Detention Basin (Project No. 4-0-00346) and traversing northerly within the Briggs Road right-of-way to the southerly side of Watson Road, then traversing easterly immediately south of Watson Road to the west side of Sultanas Road, then continuing easterly within the Watson Road right-of-way to the easterly side of Juniper Flats Road into the southwest corner of the Juniper Flats Detention Basin (Project No. 4-0-00347), approximately 2,100 linear feet of channel, 4,595 linear feet of RCB, and 4,115 linear feet of RCP.

Line 4, Stage 1 (Project No. 4-0-00346) and a 2 cell RCB (8 feet in height and 10 feet in width); located on the eastern side of the Briggs Road Detention Basin (Project No. 4-0-00346) and traversing in an easterly direction across Emperor Road approximately 200 linear feet.

Briggs Road Detention Basin (Project No. 4-0-00346); located at the northeast corner of Briggs Road and McLaughlin Road, approximately 35.7 acres.

Juniper Flats Detention Basin (Project No. 4-0-00347); located at the northeast corner of Juniper Flats Road and Watson Road, approximately 30.8 acres.

Local Facilities:

Line 1B (Project No. 4-0-0336) and a 1 cell RCB (5 feet in height and 8 feet in width); located within right-of-way of Emperor Road from the connection to Line 1, Stage 1 (Project No. 4-0-00345) to approximately 61 feet north to connect to the existing RCB in Emperor Road.