

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS DATE: 9/25/15

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

359 A



FROM: TLMA – Transportation Department

SUBMITTAL DATE:
 September 14, 2015

SUBJECT: Homeland/Romoland Area Drainage Plan Fee Credit Agreement – Amendment No. 1. 3rd and 5th Districts; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Amendment No. 1 to the Homeland/Romoland Area Drainage Plan (ADP) Fee Credit Agreement between the Riverside County Flood Control and Water Conservation District (District), the County of Riverside (County), and Homeland/Romoland ADP, Inc. (ADP, Inc.), a Delaware Corporation; and
2. Authorize the Chairman of the Board of Supervisors to execute the same.

Departmental Concurrence

Patricia Romo
 Assistant Director of Transportation

Juan C. Perez
 Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: N/A				Budget Adjustment: No	
				For Fiscal Year: N/A	

C.E.O. RECOMMENDATION:

APPROVE
 BY:
 Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione and Benoit
 Nays: None
 Absent: None
 Abstain: Ashley and Washington
 Date: October 6, 2015
 xc: Transp., Flood

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

(Companion Item 11-3)

Prev. Agn. Ref.: 1/6/15, Item 3-49 | District: 3 and 5 | Agenda Number:

3-52

A-30
 Positions Added
 4/5 Vote
 Change Order

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Homeland/Romoland Area Drainage Plan Fee Credit Agreement – Amendment No. 1. 3rd
and 5th Districts; [\$0]

DATE: September 14, 2015

PAGE: 2 of 2

BACKGROUND:

Summary

On January 6, 2015 (Agenda Item 3-49), the Board of Supervisors approved the Homeland/Romoland Area Drainage Plan Fee Credit Agreement (Agreement) between the District, the County, and ADP, Inc. The Agreement sets forth the terms and conditions whereby ADP, Inc. would receive up to \$27,720,968 worth of ADP fee credit. The grant of ADP fee credit represented ADP, Inc.'s actual, reasonable cost of 1) designing and preparing the project plans and specifications; 2) environmental evaluations and mitigation; 3) fees actually paid by ADP, Inc. to governmental agencies in order to obtain permits, licenses, or other necessary governmental approvals; 4) plan check and inspection fees; 5) the fair market value of easements, real property, or interests therein, necessary for the construction of the ADP facilities; and 6) removal of excess material from the Juniper Flats Basin site.

Amendment No. 1 to the Agreement adds an important paragraph (6A) pertaining to the initial distribution of ADP fee credit that was inadvertently omitted from the original agreement.

County Counsel has approved Amendment No. 1 to the Agreement as to legal form. A companion item appears on the Riverside County Board of Supervisors agenda this same date.

Impact on Residents and Businesses

The Homeland/Romoland Area Drainage Plan fee provides a mechanism for building necessary flood control facilities and having new development pay for its fair share.

SUPPLEMENTAL:

Additional Fiscal Information

N/A

Contract History and Price Reasonableness


N/A

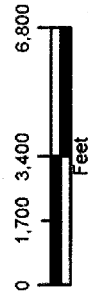
ATTACHMENTS:

Homeland/Romoland Area Drainage Plan Location Map
Amendment No. 1

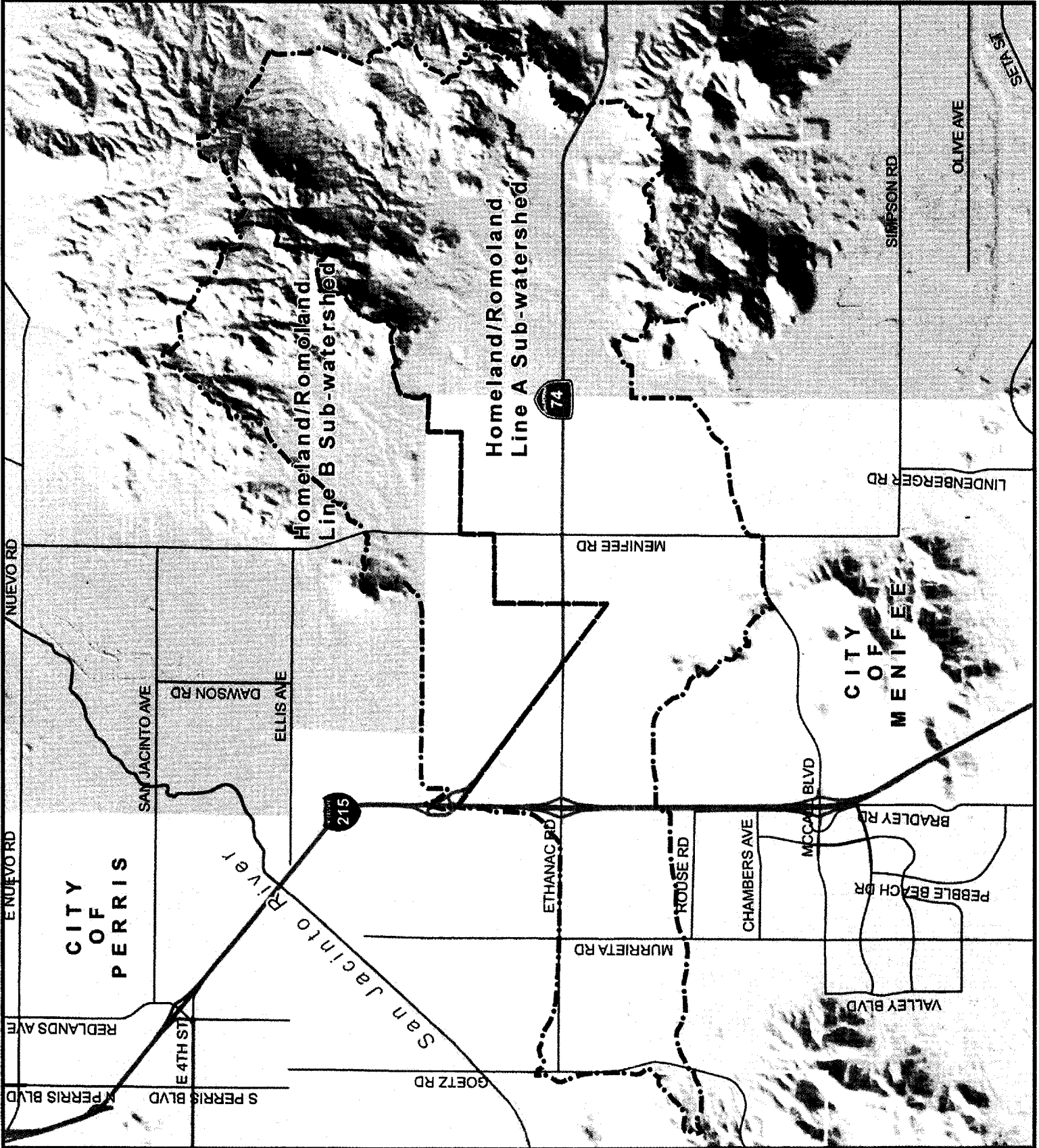
**HOMELAND /
ROMOLAND**

*Area Drainage Plan -
Location Map*

 ADP Boundaries



Disclaimer: Maps and data are to be used for reference purposes only. They are not intended for use in any legal proceeding and are not necessarily accurate to surveying or engineering standards. The City of Menifee and its staff do not warrant the accuracy, reliability, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. The user assumes full responsibility for the use of the information presented. This map shall be the sole responsibility of the user.



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**HOMELAND/ROMOLAND ADP FEE CREDIT AGREEMENT
AMENDMENT NO. 1**

This Amendment No. 1 to the Homeland/Romoland ADP Fee Credit Agreement ("Amendment") is entered into this ____th day of _____, 2015 (the "Effective Date"), by and among the County of Riverside (the "County"), Riverside County Flood Control and Water Conservation District, a public agency organized and existing pursuant to Chapter 48 of the Appendix to the California Water Code (the "District") and Homeland/Romoland ADP, Inc., a Delaware Corporation ("ADP Inc."). The County, District and ADP Inc. are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, on January 6, 2015, the County, District and ADP Inc. entered into an agreement entitled "Homeland/Romoland ADP Fee Credit Agreement" (Agreement) pertaining to the granting and subsequent distribution of Homeland/Romoland Area Drainage Plan Fee Credit; and

WHEREAS, the Parties hereto wish to amend the Agreement to add language that was inadvertently omitted from the Agreement.

NOW, THEREFORE, in consideration of the promises, and mutual covenants and conditions hereinafter set forth, said Agreement executed on January 6, 2015, is hereby amended as follows:

AMENDMENT NO. 1

1. Section 6A is added to the Agreement as follows:
 - 6A. Initial Distribution of ADP Fee Credit - Pursuant to this Agreement, ADP Inc. is allowed to make a one-time "initial distribution" of the ADP Fee Credit hereby granted to one or more Stockholders or other entities of its choosing. This initial distribution shall not be considered a "transfer" pursuant to the ADP Regulations. Within thirty (30) days following the District's written notice to ADP Inc. of the amount of the additional ADP Fee Credit that is to be granted for the Juniper Flats Basin excavation pursuant to Section 6 of this Agreement, APD Inc. shall deliver to the District a complete and fully executed "Initial Distribution Form". The Initial Distribution Form shall be substantially in the form of Exhibit "C" attached hereto and made a part hereof and shall indicate the entities and amount of ADP Fee Credit that each entity is to receive.
2. Except to the extent specifically added to, modified or amended hereunder, all of the terms, covenants and conditions of Agreement shall remain in full force and effect between the parties hereto.

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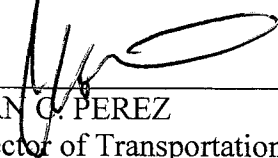
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[SIGNATURES ON THE FOLLOWING PAGES]

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COUNTY OF RIVERSIDE
BOARD OF SUPERVISORS

1 RECOMMENDED FOR APPROVAL:

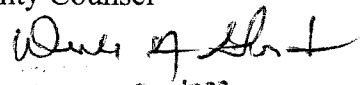
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3 By 
4 JUAN C. PEREZ
5 Director of Transportation
6 Land Management Agency

By _____
MARION ASHLEY, Chairman
Board of Supervisors

6 ATTEST:
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8 KECIA HARPER-IHEM
9 Clerk of the Board

10 By _____
11 Deputy Clerk

12 APPROVED AS TO FORM:

13 GREGORY P. PRIAMOS
14 County Counsel
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16 By Dale A. Gardner
17 Deputy County Counsel

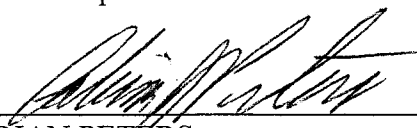
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25 Amendment No. 1
26 Homeland/Romoland ADP Fee Credit Agreement
27 08/25/15
28 MHW:blm
P8/172170

1 Date: _____

HOMELAND/ROMOLAND ADP, INC.,
a Delaware Corporation

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By  _____


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ADRIAN PETERS
Executive Committee Member

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7 Date: _____

By  _____

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MICHAEL D. O'DONNELL
Executive Committee Member

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Amendment No. 1
Homeland/Romoland ADP Fee Credit Agreement
08/25/15
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