



THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

Contract Number

SAP Number

San Bernardino County Flood Control District

Department Contract Representative
Telephone Number

David Drake
(909) 387-7962

Contractor
Contractor Representative
Telephone Number
Contract Term

Lennar Communities, Inc.
Greg Mendoza
(951) 403-1576
Three Years from the Effective Date
of this Contract

Original Contract Amount
Amendment Amount
Total Contract Amount
Cost Center

\$ 200,000.00

\$ 200,000.00

IT IS HEREBY AGREED AS FOLLOWS:

RECITALS

WHEREAS, the San Bernardino County Flood Control District (DISTRICT), AG Essential Housing CA 4, L.P., a Delaware limited partnership ("AG"), and Lennar Communities, Inc., a California corporation (LENNAR) are signatories to this Participation Agreement (AGREEMENT) and shall be individually referred to herein as "PARTY" and collectively referred to as "PARTIES;" and

WHEREAS, AG is the owner of certain properties (collectively the "PROPERTY"), which are proposed to be developed and subdivided by LENNAR as residential subdivisions within the City of Rialto (CITY), adjoining various DISTRICT lands (two fee simple parcels and three easement- rights areas) as described in (1) Exhibit "A," and (2) also within the CITY Tentative Tract Map No. 20092, attached hereto as Exhibit "B", (collectively, "DEVELOPMENT"); and

WHEREAS, LENNAR holds an option to acquire the PROPERTY and is acting as a contractor for the DEVELOPMENT on behalf of AG; and

WHEREAS, the DISTRICT owns certain access easements to utilize and maintain DISTRICT fee-owned land, said easements being recorded on January 11, 1956 in Book 3829 Page 492, OR and

attached hereto as Exhibit "C" and February 21, 1961 in Book 5358 Page 129, OR, attached hereto as Exhibit "D" (collectively, "DISTRICT EASEMENTS"); and

WHEREAS, DISTRICT EASEMENTS are incompatible with the proposed DEVELOPMENT, and AG desires to exchange the current DISTRICT EASEMENTS with new, replacement access easements that will be compatible with its DEVELOPMENT and serve the DISTRICT's access needs (REPLACEMENT EASEMENTS); and

WHEREAS, the DISTRICT EASEMENTS are connected to publicly-dedicated streets; and

WHEREAS, the proposed REPLACEMENT EASEMENTS to be provided by AG must similarly connect with future publicly-dedicated streets; and

WHEREAS, LENNAR proposes that the DISTRICT quitclaim its DISTRICT EASEMENTS to AG in exchange for AG's: (1) Grant of new, equivalent, access easement rights to the DISTRICT via the REPLACEMENT EASEMENTS, (2) Payment to DISTRICT of the fair market value for the difference in square footage of the DISTRICT EASEMENTS and the REPLACEMENT EASEMENTS, if any, (DIFFERENTIAL VALUE) and (3) Dedication of public streets as shown on Tentative Tract Map No. 20092 to the CITY; and

WHEREAS, the DISTRICT is reviewing the potential exchange of the DISTRICT EASEMENTS and REPLACEMENT EASEMENTS subject to the approval by its Board of Supervisors (BOARD), which approval may be withheld in the BOARD's sole discretion and at AG's and LENNAR's sole risk; and

WHEREAS, while PARTIES negotiate and process the exchange of the DISTRICT EASEMENTS for REPLACEMENT EASEMENTS, in anticipation of the eventual proposed conveyance, LENNAR desires to complete the design, entitlement, and construction of the DEVELOPMENT; and

WHEREAS, subject to the conditions herein, the DISTRICT desires to accommodate the construction and operation of the DEVELOPMENT, while the DISTRICT EASEMENTS conveyance and exchange is negotiated and finalized between PARTIES; and

WHEREAS, LENNAR agrees to be responsible for any and all claims related to this AGREEMENT and indemnify and defend the DISTRICT, during and following completion of the DEVELOPMENT; and

WHEREAS, in order to ensure that the DISTRICT EASEMENTS' conveyance and exchange is finalized between the PARTIES and to cover the DISTRICT's administrative costs, LENNAR will deposit (or cause the deposit of) \$200,000 with the DISTRICT (DEPOSIT); and

WHEREAS, the DEPOSIT amount includes the estimated DIFFERENTIAL VALUE, but such estimated DIFFERENTIAL VALUE must be validated or replaced in whole or part by an appropriate before and after analysis and appraisal of fair market value in accordance with County Policy 12-17; and

WHEREAS, the PARTIES desire to set forth the responsibilities and obligations of each as they pertain to the exchange of REPLACEMENT EASEMENTS for the DISTRICT EASEMENTS; and

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS SET FORTH HEREIN AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, IT IS MUTUALLY AGREED AS FOLLOWS:

AGREEMENT

1. Recitals. The above recitals are hereby incorporated into this AGREEMENT as if fully set forth herein.

2. DISTRICT Responsibilities.

- 2.1. DISTRICT shall issue an encroachment permit to LENNAR for the design, construction, operation, and maintenance of the portion of DEVELOPMENT within the DISTRICT EASEMENTS. The DISTRICT shall not terminate, relinquish, quitclaim, or otherwise convey the DISTRICT EASEMENTS prior to the completion by LENNAR of its obligations and responsibilities under this AGREEMENT to the satisfaction of the DISTRICT, as determined in its sole discretion.
- 2.2. DISTRICT's issuance of an encroachment permit shall only be deemed to authorize LENNAR to proceed with the preliminary portion of the DEVELOPMENT on the DISTRICT EASEMENTS.
- 2.3. DISTRICT shall negotiate, in good faith, and subject to the approval of its BOARD, which may be withheld in the BOARD's sole discretion and at AG's and LENNAR's sole risk, the exchange and sale of the DISTRICT EASEMENTS, as set forth in Exhibits "A" and "B," with LENNAR and AG, which negotiation shall take into consideration that a portion of the DEPOSIT, as defined herein, may be allocated to the DIFFERENTIAL VALUE of the DISTRICT EASEMENTS in excess of the value of the REPLACEMENT EASEMENTS as set forth in Section 3.3.
- 2.4. DISTRICT shall prepare the necessary grant deeds and quitclaim deeds (collectively the "RELOCATION DEEDS") for the DISTRICT EASEMENTS and the REPLACEMENT EASEMENTS using legal descriptions and plats provided by LENNAR's Land Surveyor and reviewed and approved by DISTRICT. DISTRICT shall not pay any costs related to the legal descriptions and plats prepared by LENNAR, the DEVELOPMENT, including but not limited to, the DEVELOPMENT's public street dedications or construction.
- 2.5. DISTRICT shall return any unexpended DEPOSIT funds, as "DEPOSIT" is defined in Section 3.1 below, to LENNAR upon completion of the exchange and transfer of the DISTRICT EASEMENTS as contemplated by Section 2.3. If the easement exchange is not completed and the quitclaim deeds are not executed by the PARTIES during the TERM of this AGREEMENT as may be extended by the PARTIES as set forth in Section 5.1, LENNAR shall forfeit, and the DISTRICT may retain, the DEPOSIT, or any remaining portion thereof; LENNAR shall additionally be liable to DISTRICT for any and all damages, liabilities, and costs incurred by the DISTRICT to enforce this AGREEMENT in law and in equity.

3. LENNAR Responsibilities.

- 3.1. LENNAR shall be responsible for complying with all applicable laws, including all applicable environmental laws, such as the California Environmental Quality Act, regarding the design, entitlement, and construction of the DEVELOPMENT, including but not limited to, all environmental permitting, design, construction, operation, and maintenance of the DEVELOPMENT. LENNAR shall apply for, pay the fees, and obtain an encroachment permit from the DISTRICT for the design, construction, and maintenance of the portion of the DEVELOPMENT on the DISTRICT EASEMENTS. The DISTRICT's permit fees are separate from the DEPOSIT and shall be paid directly to the DISTRICT's Permit's Division.
- 3.2. LENNAR shall provide the legal descriptions and plats, and appraisals for the REPLACEMENT EASEMENTS to be granted to the DISTRICT.
- 3.3. LENNAR shall also provide to the DISTRICT, at LENNAR's sole cost:
 - 3.3.1. An appraisal of the REPLACEMENT EASEMENTS rights, completed by a licensed appraiser (to be reviewed by County Real Estate Services Department), and
 - 3.3.2. Legal descriptions and plats of the REPLACEMENT EASEMENTS, prepared and signed and stamped by a licensed surveyor.

- 3.4 Until such time as the REPLACEMENT EASEMENTS are recorded, AG hereby grants an irrevocable non-exclusive license, to DISTRICT, of the right of continuous, unimpeded ingress and egress, over and across the DEVELOPMENT for the purpose of accessing DISTRICT facilities adjacent to or in the vicinity of, the DEVELOPMENT, as more particularly described and depicted on Exhibit "B." The license shall be over a pathway as AG from time to time reasonably designates and is acceptable to DISTRICT in its reasonable discretion. This license shall be subject to revocation only upon the delivery by AG to DISTRICT of the REPLACEMENT EASEMENTS deeds and the recording thereof in the official records of the County of San Bernardino. LENNAR shall deposit (or cause the deposit) with the DISTRICT, within thirty (30) calendar days of the Effective Date, Two Hundred Thousand Dollars (\$200,000) as the DEPOSIT. The DISTRICT shall draw from the DEPOSIT to reimburse the DISTRICT for the (1) third party costs related to the DISTRICT'S exchange of the DISTRICT EASEMENTS, including the DIFFERENTIAL VALUE, and (2) All of the DISTRICT's reimbursable administrative costs including, but not limited to:
- 3.4.1 DISTRICT staff and County Counsel reviews and negotiations of this AGREEMENT; DISTRICT staff and County Counsel reviews of the legal descriptions, mapping, and document terms and conditions;
 - 3.4.2 County Real Estate Department staff review of the submitted appraisals;
 - 3.4.3 Environmental Management Division staff review of environmental studies;
 - 3.4.4 County Counsel and DISTRICT staff reviews of the Board Agenda item(s);
 - 3.4.5 Administrative costs related to monitoring the dedication and acceptance of public streets depicted on Tentative Tract Map 20092;
 - 3.4.6 Any other costs incurred to obtain Board approval; and
 - 3.4.7 Any other reasonable costs incurred to further the intent or terms of this AGREEMENT provided such costs have been previously approved by LENNAR.

LENNAR shall increase the amount of the DEPOSIT within ten (10) calendar days upon the reasonable request of the DISTRICT in the event the DISTRICT's reasonable estimate of the sum of the fair market value of the difference in square footages between the existing DISTRICT EASEMENTS and the proposed REPLACEMENT EASEMENTS and/or the reimbursable administrative expenditures of the DISTRICT exceed the DEPOSIT amount set forth in Section 3.4.

- 3.5 All LENNAR payments shall be made via electronic funds transfer (EFT) directly deposited into DISTRICT's designated checking or other bank account. LENNAR shall promptly comply with directions and accurately complete forms provided to process EFT payments.
- 3.6 LENNAR shall add the DISTRICT and San Bernardino County as additional insureds and maintain appropriate insurance coverage as set forth herein.
- 3.7 LENNAR may assign this AGREEMENT to AG or any other third party hired as AG's contractor with respect to the DEVELOPMENT. AG may assign this Agreement to any successor owner of the DEVELOPMENT (including LENNAR) and shall ensure that the successor owner is bound to the same terms and conditions as AG. Notwithstanding the foregoing, the DISTRICT Board of Supervisors must provide its written consent to any proposed assignment of this AGREEMENT, which the DISTRICT Board of Supervisors may withhold in its reasonable discretion. Any proposed assignment of this AGREEMENT shall ensure that the assignee is bound to the same terms and conditions as assignor.
- 3.8 LENNAR may assign this AGREEMENT to AG or any other third party hired as AG's contractor with respect to the DEVELOPMENT. AG may assign this AGREEMENT to any successor owner of the DEVELOPMENT (including LENNAR). Notwithstanding the foregoing, LENNAR and AG shall obtain DISTRICT's written consent to the proposed assignment of this AGREEMENT, which the DISTRICT may withhold in its reasonable discretion. Any proposed assignment of this AGREEMENT shall ensure that the assignee is bound to the same terms and conditions as the assignor.

4 Term.

4.5 The Effective Date of this AGREEMENT shall be the date of last signature of the PARTIES.

4.6 The Term of this AGREEMENT shall be for three (3) years from the Effective Date but may be extended in a writing signed by the PARTIES for two one (1) year terms. Sections 3, including but not limited to Section 3.4, and 6 shall survive the expiration or early termination of this AGREEMENT. The obligations set forth in Section 3 shall terminate upon conveyance to the DISTRICT of the REPLACEMENT EASEMENTS.

5 DISTRICT Clause. All of the DISTRICT'S revenues as defined below, have been pledged to secure the payment of the principal and interest on certain bonds and refunding bonds ("Bonds") issued by the DISTRICT in May 2007. The pledge constitutes a first lien on the revenues for the payment of the Bonds. Any payments under this AGREEMENT are subject to the prior pledge of revenues described above. DISTRICT payments pursuant to this AGREEMENT will be made to the extent there are sufficient funds available after payment of the Bonds. For purposes of this paragraph, "revenues" shall mean all income and revenue received by the DISTRICT from the operation or ownership of the flood and storm water control and conservation facilities ("Flood Control System") of the DISTRICT (including but not limited to, all real and personal property, or any interest therein, and all additions, improvements, betterments and extensions thereto), determined in accordance with Generally Accepted Accounting Principles, including all ad valorem property taxes received by the DISTRICT pursuant to Article XIII A of the Constitution of the State of California and Section 95 et seq. of the California Revenue and Taxation Code, all rents, royalties and license and permit fees and charges received by the DISTRICT, investment income and all other money howsoever derived by the DISTRICT from the operation or ownership of the Flood Control System or arising from the Flood Control System, but excluding (a) ad valorem property taxes levied to pay any voter approved general obligation indebtedness of the DISTRICT, (b) assessments levied pursuant to Section 43-7 or Section 43-26.9 of the San Bernardino County Flood Control Act (Cal. Water Code App. Sect. 43-1 et seq.), and (c) grants, advances or contributions in aid of construction, except to the extent such grants are unrestricted and available for any expenditure of the DISTRICT.

6 General Provisions.

6.1 LENNAR agrees to indemnify, defend (with counsel reasonably approved by DISTRICT) and hold harmless the DISTRICT, San Bernardino County, and their authorized officers, employees, agents and volunteers (Indemnitees) from any and all claims, actions, losses, damages, and/or liability arising out of this AGREEMENT from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by Indemnitees on account of any claim to the extent arising out of or resulting from the acts or omissions of Lennar in connection with this Agreement except where such indemnification is prohibited by law. LENNAR's indemnification obligation applies to the Indemnitees' "active" as well as "passive" negligence but does not apply to the Indemnitees' "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

6.2 During the Term of this Agreement, LENNAR agrees to comply with the following insurance requirements:

A. Additional Insured - All policies general liability, except for the Workers' Compensation policy, shall contain endorsements naming the DISTRICT, San Bernardino County and their officers, employees, agents and volunteers (DISTRICT and San Bernardino County are collectively referred to as "DISTRICT" for the purpose of this Section 6.2) as additional insureds with respect to acts and omissions of LENNAR arising out of this Agreement. The additional insured endorsements shall not limit the scope of coverage for the DISTRICT to vicarious liability but shall allow coverage for the DISTRICT to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.1185.

- B. Waiver of Subrogation Rights - LENNAR shall require the carriers of required coverages to waive all rights of subrogation against the DISTRICT, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit LENNAR and LENNAR's employees or agents from waiving the right of subrogation prior to a loss or claim. LENNAR hereby waives all rights of subrogation against the DISTRICT.
- C. Policies Primary and Non-Contributory - All policies required herein are to be primary and noncontributory with any insurance or self-insurance programs carried or administered by the DISTRICT.
- D. Severability of Interests - LENNAR agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between LENNAR and the DISTRICT or between the DISTRICT and any other insured or additional insured under the policy.
- E. Proof of Coverage - LENNAR shall furnish Certificates of Insurance to DISTRICT evidencing the insurance coverage, including endorsements, as required, prior to LENNAR's execution of this AGREEMENT document, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to DISTRICT, and LENNAR shall maintain such insurance throughout the term of the AGREEMENT. Within fifteen (15) days of the LENNAR's acceptance of this AGREEMENT,
- F. Acceptability of Insurance Carrier - Unless otherwise approved by the San Bernardino County Department of Risk Management (hereinafter "Risk Management"), insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".
- G. Intentionally Omitted.
- H. Failure to Procure Coverage - In the event that any policy of insurance required under this AGREEMENT does not comply with the requirements, is not procured, or is canceled and not replaced, the DISTRICT has the right, upon at least five (5) business day's prior written notice, but not the obligation or duty to obtain insurance if it deems necessary and any premiums paid by the DISTRICT will be promptly reimbursed by LENNAR.
- I. Insurance Review - Insurance requirements are subject to periodic review by the DISTRICT. County's Director of Risk Management or designee is authorized, but not required, to increase, reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or needed, or not needed, to protect the interests of the DISTRICT. In addition, if Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the DISTRICT, inflation, or any other item reasonably related to the DISTRICT's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this AGREEMENT. LENNAR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the DISTRICT to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the DISTRICT.

J. LENNAR agrees to provide insurance set forth in accordance with the requirements herein. If LENNAR uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, LENNAR agrees to use commercially reasonable efforts to find replacement coverage meeting such requirements. The type(s) of insurance required is determined by the scope of this AGREEMENT.

K. Without in any way affecting the indemnity herein provided and in addition thereto, LENNAR shall secure and maintain throughout the duration of the AGREEMENT the following types of insurance with limits as shown:

(1) Workers' Compensation/Employers Liability - A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of LENNAR and all risks to such persons under this AGREEMENT.

If LENNAR has no employees, it may certify or warrant to the DISTRICT that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the DISTRICT's Director of Risk Management.

With respect to PARTIES that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

(a) Commercial/General Liability Insurance - LENNAR shall carry General Liability Insurance covering all operations performed by or on behalf of LENNAR providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include: Premises operations and mobile equipment.

(b) Products and completed operations.

(c) Broad form property damage (including completed operations).

(d) Explosion, collapse and underground hazards.

(e) Personal injury

(f) Contractual liability.

(g) \$2,000,000 general aggregate limit.

(2) Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence. If LENNAR is transporting one or more non-employee passengers in LENNAR's work on this project, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence. If LENNAR owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(3) Umbrella Liability Insurance - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

(4) Environmental Liability Insurance with a combined single limit of not less than one million (\$1,000,000)

per claim or occurrence. The required additional insured endorsement shall protect DISTRICT without any restrictions.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date the agreement was signed by DISTRICT. The claims made insurance shall be maintained or "tail" coverage provided throughout the duration of the agreement and for a minimum of five (5) years after termination of the AGREEMENT.

- (5) Subcontractor Insurance Requirements. LENNAR agrees to ensure that all parties, including (but not limited to) subcontractors, architects, or others it hires or contracts with related to the excavation, construction, installation, replacement, maintenance and repair, removal, use, or any other work performed by or on behalf of LENNAR at the Property either provide insurance covering the contracted operation with the same policies and provisions required of LENNAR in this AGREEMENT or participate in an Owner Controlled Insurance Program which meets the requirements of this Section 6.2. All policies required under this provision shall include waiver of subrogation rights against DISTRICT and shall name DISTRICT as an additional insured. LENNAR agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required herein.

6.3 Since PARTIES or their agents have participated fully in the preparation of this AGREEMENT, the language of this AGREEMENT shall be construed simply, according to its fair meaning, and not strictly for any or against any PARTY. Any term referencing time, days or period for performance shall be deed work days. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this AGREEMENT.

6.4 In the event of litigation arising from this AGREEMENT, each PARTY shall bear its own costs, including attorney(s) fees. This Section shall not apply to the costs or attorney(s) fees relative to Section 6.1.

6.5 No supplement, modification, or amendment of this AGREEMENT shall be binding unless executed in writing and signed by all PARTIES. The above Recitals are hereby incorporated as if fully set forth herein.

6.6 All notices, approvals, consents or' other documents required or permitted under this AGREEMENT shall be in writing and, except as otherwise provided herein, shall be effective upon personal delivery or three days after deposit in the United States mail, certified, with first class postage fully prepaid, addressed as follows:

LENNAR: Lennar Communities, Inc. 980 Montecito Drive, Suite 302 Corona, CA 92879 Attention: Geoffrey Smith	DISTRICT: San Bernardino County Flood Control District 825 East Third Street, Room 122 San Bernardino, CA 92415-0835 Attn: Chief Flood Control Engineer
AG: AG Essential Housing CA 4, L.P. c/o AGWIP Asset Management LLC 8585 E. Hartford Drive, Suite 118 Scottsdale, AZ 85255 Attn: Steven S. Benson	

- 6.7 No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a PARTY shall give the other PARTY any contractual rights by custom, estoppel, or otherwise.
- 6.8 This AGREEMENT shall be governed by the laws of the State of California. If a court of competent jurisdiction declares any portion of this AGREEMENT invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this AGREEMENT is frustrated. Any dispute or action to enforce any obligation under this AGREEMENT shall be filed and resolved in the appropriate Superior Court in the County of San Bernardino, California.
- 6.9 Nothing set forth herein shall be deemed to obligate the DISTRICT to execute the proposed conveyance of DISTRICT EASEMENTS, in the absence of a duly executed conveyance agreement with LENNAR and AG. LENNAR and AG, therefore, assume all risk for any improvements constructed and/or costs incurred by the LENNAR and AG in furtherance of the DEVELOPMENT prior to the BOARD'S consideration of the proposed conveyance and exchange of DISTRICT EASEMENTS as contemplated hereunder; the BOARD has the sole discretion to approve or deny the proposed conveyance and exchange of DISTRICT EASEMENTS with the REPLACEMENT EASEMENTS.
- 6.10 The PARTIES agree that this AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument, and that a photocopy or facsimile may serve as an original. If this AGREEMENT is executed in counterparts, no signatory hereto shall be bound until all the PARTIES have fully executed a counterpart of this AGREEMENT. The PARTIES shall be entitled to sign and transmit an electronic signature of this AGREEMENT (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the PARTY whose name is contained therein. Each PARTY providing an electronic signature agrees to promptly execute and deliver to the other PARTIES an original signed AGREEMENT upon request.
- 6.11 This AGREEMENT contains the entire AGREEMENT of the PARTIES with respect to subject matter hereof, and supersedes all other prior negotiations, understandings or contracts. This AGREEMENT may only be assigned or modified, in writing, signed by the PARTIES. Any proposed assignment of the AGREEMENT by LENNAR or AG shall condition the assignee to its acceptance of the applicable terms and conditions set forth in Section 3.

[Signatures Continued on the Next Page]

IN WITNESS WHEREOF, the DISTRICT, LENNAR, and AG have each caused this AGREEMENT to be subscribed by its respective duly authorized officers on its behalf.

**SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT**

LENNAR

►

Curt Hagman, Board Chairman

Dated: _____

Name: _____

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

Lynna Monell, Clerk of the
Board

(Print or Type)

By: _____ Deputy

By ►

(Authorized signature - sign in blue ink)

(Print or type name of person signing contract)

Title: _____

Dated: _____

Address: _____

**AG ESSENTIAL HOUSING CA 4, L.P., A
DELAWARE LIMITED PARTNERSHIP**

By Steven S. Benson

Manager of AGWIP Asset Management, LLC, an
Arizona limited liability company,
the Authorized Agent of AG Essential Housing
CA 4, L.P.

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by District
► Sophie A. Akins, Deputy County Counsel	► .	► Brendon Biggs, Chief Flood Control Engineer
Date _____	Date _____	Date _____

EXHIBIT “A”

EXHIBIT “B”

EXHIBIT “C”

EXHIBIT “D”