

**RESOLUTION NUMBER 6225**

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS APPROVING AND AUTHORIZING EXECUTION OF AN ACQUISITION AND FUNDING AGREEMENT IN CONNECTION WITH THE FORMATION OF COMMUNITY FACILITIES DISTRICT 2022-2 (PERRIS LOGISTICS CENTER) OF THE CITY OF PERRIS; AND MAKING FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH***

**WHEREAS**, the City of Perris (the “City”) is taking proceedings pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the “Act”) for the formation of Community Facilities District 2022-2 (Perris Logistics Center) of the City of Perris (“District”) and for the issuance of bonds by the District; and

**WHEREAS**, IDIL Perris North 3, L.P., a Delaware limited partnership, IDIL Perris Logistics Center North LP, a Delaware limited partnership, and IDIL Perris Fulfillment Center LP, a Delaware limited partnership (collectively, the “Property Owners”), are the owners of the entirety of approximately 363.77 gross acres of property within the District (the “Property”) and with IDI Logistics, LLC, a Delaware limited liability company (the “Developer”) propose to develop the Property with six industrial buildings; and

**WHEREAS**, pursuant to Section 53316.2 of the Act, a community facilities district is authorized to finance facilities to be owned or operated by an entity other than the agency that created the community facilities district pursuant to a joint community facilities agreement; and

**WHEREAS**, attached hereto as Exhibit “A” is the Acquisition and Funding Agreement (the “Funding Agreement”) by and between the City, the Property Owners, and the Developer, relating to the authorized facilities and authorized fees to be funded by the City pursuant to the Act; and

**WHEREAS**, the Property Owners and Developer have approved the form of Funding Agreement; and

**WHEREAS**, the City has determined that it is necessary and desirable to enter into the Funding Agreement, and that such agreements will be beneficial to the interests of the residents residing within the boundaries of the City and the District.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Perris as follows:

**Section 1.** The above recitals are all true and correct.

**Section 2.** That said form of the Funding Agreement on file with the City Clerk be and are each hereby approved, with such changes as may be approved by the Mayor, City Manager, Deputy City Manager or Finance Director (each, an "Authorized Officer"), said Authorized Officer's execution thereof to constitute conclusive evidence of said Authorized Officer's approval of all such changes, and each of said Authorized Officers be and is hereby authorized, together or alone to execute and deliver said Funding Agreement. The City Clerk or a duly authorized Deputy or Assistant City Clerk is hereby authorized to attest to said Authorized Officer's signature.

**ADOPTED, SIGNED and APPROVED** this 25<sup>th</sup> day of July, 2023.

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Michael M. Vargas, Mayor

ATTEST:

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Nancy Salazar, City Clerk

STATE OF CALIFORNIA    )  
COUNTY OF RIVERSIDE    ) §  
CITY OF PERRIS            )

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 6225 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 25<sup>th</sup> day of July, 2023, by the following called vote:

AYES: CORONA, RABB, ROGERS, NAVA, VARGAS  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

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City Clerk, Nancy Salazar

**EXHIBIT A**  
**FUNDING AGREEMENT**

[SEE ATTACHED]

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**ACQUISITION AND FUNDING AGREEMENT**

**by and among**

**CITY OF PERRIS**

**and**

**IDI LOGISTICS, LLC,  
a Delaware limited liability company,**

**IDIL PERRIS NORTH 3, L.P.,  
a Delaware limited partnership,  
and**

**IDIL PERRIS FULFILLMENT CENTER L.P.,  
a Delaware limited partnership**

**IDIL PERRIS LOGISTICS CENTER NORTH LP,  
a Delaware limited partnership,**

**Dated July 25, 2023**

**Community Facilities District No. 2022-2  
(Perris Logistics Center)  
of the City of Perris**

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## ACQUISITION AND FUNDING AGREEMENT

THIS ACQUISITION AND FUNDING AGREEMENT (this “Acquisition Agreement”) is made and entered into July 25, 2023, by and among the CITY OF PERRIS (the “City”), on behalf of itself and the District (defined below), on the one hand, and IDI LOGISTICS, LLC , a Delaware limited liability company (“Developer”), IDIL PERRIS NORTH 3, L.P., a Delaware limited partnership, IDIL PERRIS LOGISTICS CENTER NORTH LP, a Delaware limited partnership, and IDIL PERRIS FULFILLMENT CENTER L.P., a Delaware limited partnership (collectively, the “Property Owners”), on the other hand.

WITNESSETH:

**WHEREAS**, the City Council of the City (the “City Council”) has undertaken proceedings to form Community Facilities District No. 2022-2 (Perris Logistics Center) of the City of Perris (the “District”), pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (constituting Sections 53311 *et seq.* of the California Government Code) (the “Act”);

**WHEREAS**, the Property Owners, wholly-owned subsidiaries of the Developer, are the owners of the Property described on Exhibit “A” hereto (the “Property”), all of which property is included within the proposed District;

**WHEREAS**, Developer, on behalf of the Property Owners, proposes to develop the Property with approximately six industrial buildings expected to total approximately 6,033,403 square feet, the first two of which are: (1) a 799,522 square feet build-to-suit building for a confidential user on approximately 55.1 acres, which is currently under construction and is anticipated to be complete by the end of Q2 2023, and (2) a 1,000,000 square feet building that is estimated to commence construction in Q3 2023 and be completed by Q3 2024, all as depicted in Exhibit “A” (collectively, the “Project”);

**WHEREAS**, the facilities described in Exhibit “B” hereto (the “Facilities”) and the development fees to fund capital improvements, which fees are described in Exhibit “C” hereto (the “Authorized Fees”), are all authorized to be financed from the Special Taxes and Bonds of the District pursuant to this Acquisition Agreement to the extent Developer complies with the provisions under this Acquisition Agreement;

**WHEREAS**, the Developer, the Property Owners, and City wish to enter into this Acquisition Agreement to provide a means to finance the acquisition of the Financed Improvements (defined below) and the payment of Authorized Fees, pursuant to the Act;

**WHEREAS**, the Developer has graded the Property and has constructed, or is in the process of constructing, the major backbone infrastructure required to serve the Property;

**WHEREAS**, in conjunction with the issuance of permits for the construction of the Project, the Developer, the Property Owners, or their successors or assigns, have agreed to either make Deposits (as defined below) with the City to secure the future payments of the Authorized Fees from the proceeds of the Bonds or loans to the City to pay the Authorized Fees

("Advances"), which loans will be repaid from the proceeds of the Bonds when issued, to the extent Bonds are issued;

**WHEREAS**, if such Deposits or Advances are made, the Developer, Property Owners or their successors and assigns shall be entitled to (i) payment of the Authorized Fees (which shall fund the Facilities after the issuance of the Bonds) from the proceeds of the Bonds and reimbursement of Deposits from funds other than the proceeds of the Bonds or (ii) repayment of such Advances limited to proceeds of the Bonds allocated for that purpose and the Advances being considered an interest-free loan by the Developer and/or or Property Owners with no repayment obligation except to the extent there are proceeds of the Bonds allocated therefore;

**WHEREAS**, the City, on behalf of the District will, upon satisfaction of the conditions and in accordance with the terms set forth in this Acquisition Agreement, purchase the Financed Improvements and take title to such Financed Improvements and the Developer will be paid from the proceeds of the Special Taxes and/or Bonds for the costs of the acquisition of such Financed Improvements at the prices determined as set forth herein;

**WHEREAS**, Section 53313.5 of the Act provides that a community facilities district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the community facilities district is adopted pursuant to Section 53325.1 of the Act, except that a community facilities district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the City;

**WHEREAS**, notwithstanding Section 53313.5 of the Act, at any time either before or after the formation of the District, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose;

**WHEREAS**, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds or work in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as determined by the legislative body, with or without interest, under all of the following conditions: (a) the proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included both in the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish the community facilities district adopted pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any work in-kind accepted pursuant to Section 53314.9 of the Act shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the City; and

**WHEREAS**, the Financed Improvements are to be acquired by the City under this Acquisition Agreement pursuant to the Act and, specifically, pursuant to the provisions of Sections 53313.5 and 53314.9 thereof.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

## **ARTICLE I DEFINITIONS**

**Section 1.1. Definitions.** Unless the context otherwise requires, the terms defined in this Article I shall have the meanings herein specified.

“Acceptable Title” means title to land, or an easement therein, delivered free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether any such item is recorded or unrecorded, except those non-monetary items which are either (a) required by the City or another public agency having jurisdiction thereover, or (b) reasonably determined by the City not to interfere materially with the intended use of such land or easement and therefore are not required to be cleared from title.

“Acceptance Date” means, with respect to a Financed Improvement, the date that the Financed Improvement is accepted by the City and Acceptable Title to the underlying land is conveyed to the City.

“Acquisition Agreement” or “Agreement” means this Acquisition and Funding Agreement, dated July 25, 2023, by and among the City, for itself and on behalf of the District, the Developer, and the Property Owners, as originally executed or as the same may be amended from time to time in accordance with its terms.

“Act” means the Mello-Roos Community Facilities Act of 1982, constituting Section 53311 *et seq.* of the California Government Code, as amended.

“Actual Cost” means, with respect to a Financed Improvement, an amount equal to the sum of (a) the actual, reasonable cost of constructing such Financed Improvement, including labor, material and equipment costs, (b) the actual, reasonable cost of preparing the Plans for such Financed Improvement, (c) the amount of the fees actually paid by the Property Owner or Developer to governmental agencies in order to obtain permits, licenses or other necessary governmental approvals for such Financed Improvement, (d) the actual, reasonable cost for professional services directly related to the construction of such Financed Improvement, including engineering, inspection, construction staking, materials testing and similar professional services, (e) the actual, reasonable costs incurred for construction management and supervision, which cost shall not exceed 5% of the cost of constructing such Financed Improvement, as determined pursuant to clause (a) of this definition, (f) the actual, reasonable cost of any title insurance required hereby for such Financed Improvement, and (g) the actual, reasonable cost of any real property or interest therein acquired, from a party other than the Property Owners and/or Developer, which real property or interest therein is either necessary for the construction of such Financed Improvement (e.g., temporary construction easements, haul roads, etc.) and is required to be conveyed with such Financed Improvement in order to convey Acceptable Title thereto to the City, all as specified in a Payment Request that has been reviewed and approved by the City Engineer; provided, however, that no item of cost relating to a Financed Improvement shall be included in more than one category of cost under this definition.

“Advances” means amounts advanced by the Property Owner and/or Developer to the City as loans in the amount of Authorized Fees, which are eligible for repayment by the City only upon sale of the Bonds, or at the sole discretion of the City, from the collection of Special Taxes and payment of Authorized Fees therefrom prior to the issuance of the Bonds pursuant to this Acquisition Agreement.

“Authorized Fees” means development, impact or other fees imposed by the City as shown on Exhibit “C” hereto so long as such fees shall be traceable to a public facility or public facilities authorized to be financed pursuant to the Act and in accordance with the provisions of this Agreement.

“Bonds” means the bonds to be issued by the District, if any, that are payable from and secured by Special Taxes, a portion of the proceeds of which are to be used to finance the Financed Improvements and Authorized Fees.

“CFD Proceeds” means, either (i) prior to the issuance of the first series of Bonds, the Special Taxes levied and collected within the District, not including any Special Taxes required for administrative expenses or reserves for delinquencies, that the District in its discretion determines to use to pay for Financed Improvements and Authorized Fees, or (ii) following the issuance of Bonds, the Net Proceeds of the Bonds that the District will use to pay for Financed Improvements and Authorized Fees (including the repayment of Advances). In clarification of the previous sentence, following the issuance of any series of Bonds, any surplus of Special Taxes collected within the District shall no longer be considered CFD Proceeds. Following the issuance of the Bonds through the final term of the Special Taxes, the City may in its discretion, use any surplus Special Taxes to finance the Financed Improvements and Authorized Fees described in Exhibits A and B hereto, or prepay Special Taxes, or lower the cost of the levy of the Special Taxes, but is not obligated to do so. The City currently intends during the term of the Bond to use surplus Special Taxes to reduce the levy and prepay the Bonds. The City may also cease to levy the Special Taxes at any time following the payment of the Bonds.

“City” means the City of Perris, a general law city organized and existing under the laws of the State, and its successors.

“Deposits” means an amount deposited with City or another public agency by the applicable Property Owner or Developer as security for the payment of Authorized Fees and which are eligible for refund by the City or other public agency only upon sale of the Bonds and the payment of such Authorized Fees from the CFD Proceeds, or at the sole discretion of the City, from the collection of Special Taxes and payment of Authorized Fees therefrom prior to the issuance of the Bonds pursuant to this Acquisition Agreement or any other agreement between the City and the Property Owners and/or Developer.

“Disbursement Request” means the document to be provided by the Developer to request payment of Authorized Fees to the City from the CFD Proceeds in the form attached as Exhibit “E” hereto. To the extent the Authorized Fees subject to the Disbursement Request are the subject of prior Deposits or Advances, the Developer shall request release of said Deposits or Advances following payment of Authorized Fees to the City.

“District Representative” means the City Manager, Assistant City Manager or Finance Director of the City, or such other person as set forth in a certificate signed by the current

District Representative, the City Manager, Assistant City Manager or Finance Director of the City, and delivered to the Developer, which certificate shall contain an original or specimen signature of each person so designated.

“City Engineer” means the city engineer.

“Facilities” or “Facility” means the facilities or facility described in Exhibit “B” attached hereto.

“Financed Improvements” means those completed Facilities, or Segment thereof, that the City has determined to acquire from the Property Owners with CFD Proceeds and for which the Developer has determined to construct and will seek payment from the CFD Proceeds for the Purchase Price of such Facilities or Segment thereof.

“Fiscal Agent” means the entity initially acting as fiscal agent under the Fiscal Agent Agreement, or trustee acting under an indenture, and any successor thereto permitted under any Fiscal Agent Agreement.

“Fiscal Agent Agreement” means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Improvement Fund” means (i) prior to the issuance of Bonds, the special fund maintained by the City into which the Special Taxes are be deposited and (ii) following the issuance of Bonds, the fund of that name established under a Fiscal Agent Agreement from which amounts are to be withdrawn to pay the Purchase Price of the Financed Improvements or to pay for the Authorized Fees.

“Net Proceeds of the Bonds” means the proceeds of each series of Bonds remaining after funding administrative fees, if applicable and at the discretion of the City, all costs of issuance of the Bonds, capitalized interest on the Bonds, if any, a reserve fund, a delinquency management fund or any like fund or account for the Bonds established by in accordance with the Fiscal Agent Agreement and/or indenture.

“Payment Request” means the document to be provided by the Developer to substantiate the Purchase Price of one or more Financed Improvements, which shall be in the form of Exhibit “D” attached hereto.

“Plans” means the designs, detailed bid documents, construction plans, specifications, and construction contracts for the Financed Improvements prepared or to be prepared at the direction of the Developer pursuant to Section 3.1 hereof.

“Property” means the real property located within the District.

“Property Owners” have the meaning assigned in the recitals hereto, and their successors and assigns.

“Property Owner Representative” means the person or persons signing this Acquisition Agreement on behalf of each the Property Owners and Developer or such person designated as such in a certificate signed by the Property Owners and Developer and delivered to the District

and the Fiscal Agent, which certificate shall contain an original or specimen signature of each person so designated.

“Purchase Price” means, with respect to a Financed Improvement, subject to the provisions of Section 2.2 hereof, the Actual Cost of such Financed Improvement.

“Segment” means a functional segment or major component of a Facility that the City Engineer has agreed can be separately identified as a major component of a Financed Improvement and be the subject of a Payment Request hereunder. The Segments are shown on Exhibit B hereto.

“Special Taxes” means the special taxes approved and authorized by the qualified electors of the District to be levied in the District to finance, among other things, the Facilities and Authorized Fees or to pay debt service on the Bonds to finance the Facilities and Authorized Fees.

“State” means the State of California.

## ARTICLE II ACQUISITION OF FACILITIES

**Section 2.1. Acquisition of Financed Improvements.** For each Financed Improvement, the respective Property Owner hereby agrees to sell to the City, and the City hereby agrees to purchase from the respective Property Owner, each Financed Improvement constructed by the Developer on behalf of the respective Property Owner for the Purchase Price thereof, subject to the terms and conditions hereof. Title to each Financed Improvement purchased pursuant hereto shall be conveyed by appropriate instrument by the Property Owner to the City as of the Acceptance Date of such Financed Improvement.

In order to finance the Financed Improvements, the District expects to levy Special Taxes and issue Bonds. The Financed Improvements are to be acquired, constructed and installed with the CFD Proceeds deposited in the Improvement Fund. Neither the City nor the District is obligated to pay the Purchase Price of the Financed Improvements except from the proceeds of the CFD Proceeds. Neither the District nor the City makes any warranty, either express or implied, that the District will be able to issue and sell Bonds or that the CFD Proceeds available for the payment of the Purchase Price of the Financed Improvements will be sufficient for such purpose.

Notwithstanding anything in this Acquisition Agreement to the contrary, this Acquisition Agreement shall not obligate the Property Owner and/or Developer to construct the Facilities in the manner set forth in this Acquisition Agreement, or obligate the Property Owners and/or Developer to otherwise comply with any of the provisions of this Acquisition Agreement concerning, among other things, bidding, financing, insuring, maintaining and constructing any Facility, unless the Developer seeks payment or reimbursement for such Facility from the CFD Proceeds as a Financed Improvement; provided, Property Owners and Developer each must comply with provisions of this Acquisition Agreement and applicable law with respect to such Financed Improvement. In clarification of the foregoing, the parties agree that if the Developer wants to be paid or reimbursed for the costs of any Facility from the CFD Proceeds as a Financed Improvement, it must comply with the provisions of this Acquisition Agreement with respect to

the entire Facility for which reimbursement is sought. If the Developer chooses not to be paid or to seek reimbursement for a particular Facility from the CFD Proceeds as a Financed Improvement, then the Developer may construct such Facility without complying with the provisions of this Acquisition Agreement, provided, however that Developer shall comply with all provisions of the Labor Code with respect to the payment of prevailing wages and any law necessary for the financing of City improvements with respect to funding public facilities.

To the extent of significant delays in the development of the property or a portion of the property such that Bonds are not issued within a reasonable time following formation of the District but not prior to two years following formation of the District, the City may in its discretion cease to levy Special Taxes within the District or determine to use Special Taxes, if any, to prepay certain special taxes of the owners that have paid taxes and remove the lien

**Section 2.2. Payment of Purchase Price.** In order to receive the Purchase Price for a completed Financed Improvement, the Developer shall deliver to the District Representative and the City Engineer (a) a Payment Request for such Financed Improvement, together with all attachments and exhibits to be included therewith, (b) a copy of either the recorded documents that conveyed, or documents suitable for recording and conveying, to the City Acceptable Title to the real property on, in or over which such Financed Improvement is located, as described in Section 2.3 hereof, and (c) a copy of the recorded Notice of Completion of such Financed Improvement filed in accordance with Section 3093 of the California Civil Code, if applicable, and (d) such other documentation as may be requested by the City in order to best transfer its interest in the Financed Improvement.

Upon receipt of a completed Payment Request (and accompanying documentation) for a Financed Improvement, the City Engineer shall conduct a review in order to confirm that such Financed Improvement was constructed in accordance with the Plans therefor and to verify and approve the Actual Cost of such Financed Improvement specified in such Payment Request. The Property Owner and Developer agrees to cooperate with the City Engineer in conducting each such review and to provide the City Engineer with such additional information and documentation as is reasonably necessary for the City Engineer to conclude each such review. The City agrees to cause the City Engineer to conduct such review without unreasonable delay. If the City Engineer determines that the Actual Cost specified in such Payment Request as initially submitted exceeds the Developer's actual, reasonable cost of constructing such Financed Improvement, the Developer shall resubmit such Payment Request, with the Actual Cost specified therein modified so as to take into account such determination by the City Engineer. Upon confirmation that such Financed Improvement has been constructed in accordance with the Plans therefor, and verification and approval of the Actual Cost of such Financed Improvement, the City Engineer shall sign the Payment Request and forward the same to the District Representative. Upon receipt of the reviewed and fully signed Payment Request, the District Representative shall, without unreasonable delay, direct the Fiscal Agent to pay the Purchase Price of such Financed Improvement to the Developer out of one or more Improvement Funds (or accounts therein), but only to the extent of funds on deposit in the Improvement Funds (or accounts therein). Any Payment Request not paid due to an insufficiency of funds in the applicable Improvement Funds (or accounts therein) shall be paid promptly following the deposit into said Improvement Funds (or accounts therein) of additional CFD Proceeds, any investment earnings or other amounts transferred to the Improvement Funds under the terms of the Fiscal Agent Agreement, if any. Notwithstanding, anything herein to the contrary, the Developer shall

submit and the District Representative shall only pay the Purchase Price of the Financed Improvement upon receipt of the items (a) through (c) and (d), as applicable, listed above in addition to the Payment Request such that the City may acquire said Financed Improvement.

**Section 2.3. Dedication of Property and Easements to the City.** Acceptable Title to all property on, in or over which each Financed Improvement will be located shall be conveyed to the City by way of grant deed or dedication of such property, or easement thereon, if such easement is approved by the City as being a sufficient interest therein to permit the City to properly own, operate and maintain such Financed Improvement located therein, thereon or thereover, and to permit the Developer to perform its obligations as set forth in this Acquisition Agreement.

For the City to acquire and pay for a Financed Improvement, the Property Owner and/or Developer shall transfer ownership of such Financed Improvement to the City by grant deed, bill of sale or such other documentation as the City may require. The Property Owner may transfer completed Financed Improvements to the City prior to the availability of sufficient funds from the CFD Proceeds with the understanding that the Purchase Price for such Financed Improvements will be payable if, and when, such funds become available. The conveyance of the Financed Improvements to the City under such circumstances shall be made with the expectation of payment of the Purchase Price from the CFD Proceeds subsequently deposited in the Improvement Fund, and such conveyance shall not be construed as a dedication or gift of the Financed Improvements, or a waiver of payment of the Purchase Price for such Financed Improvements.

Upon the request of the City, the Developer shall furnish to the City a preliminary title report for such property not previously dedicated or otherwise conveyed to the City that is required for a Financed Improvement, for review and approval at least twenty (20) calendar days prior to the transfer of Acceptable Title to the Financed Improvement to the City. The City shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, could materially affect the City's use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the City does not approve the preliminary title report, the City shall not be obligated to accept title to such Financed Improvement, and the District shall not be obligated to pay any portion of the Purchase Price for such Financed Improvement, until the Property Owner and/or Developer has cured such objections to title to the reasonable satisfaction of the City. Upon the request of the City, at the time title to such Financed Improvement is conveyed to the City, the Property Owner or Developer shall furnish to the City a CLTA title insurance policy in the amount of the Purchase Price of such Financed Improvement, which title policy shall be issued by an insurance company reasonably acceptable to the City and shall insure the City's interest in such Financed Improvement, subject only to the title exceptions set forth in the previously approved preliminary title report.

**Section 2.4. Modifications To Financed Improvements.** The District, the City and the Developer may make modifications to the Facilities described in Exhibit "B", whenever the District, the City and the Developer deem such modifications to be appropriate. Any such modification shall be implemented by the District, the City and the Developer by executing a supplement to Exhibit "B" containing a description of the modifications. Upon the execution of any such supplement to Exhibit "B", the description of such Facilities in Exhibit "B" shall be deemed to have been modified in accordance therewith.

Upon written request of the Developer, the City Engineer shall consider modification of the description of any Facilities, provided such modifications do not increase the Facilities authorized to be financed by the resolution of formation or resolution of change adopted by the City Council in connection with the District.

**Section 2.5. Construction in Advance of Payment.** The parties hereto acknowledge that (i) the Developer will commence the construction of the Facilities prior to the issuance of Bonds, the proceeds of which (or CFD Proceeds prior to the issuance of Bonds) will be used to pay the Developer for Financed Improvements, (ii) upon completion of the Financed Improvements, the Developer will submit Payment Requests to the City, with knowledge that there may be insufficient funds available in the Improvement Fund (or accounts therein) for reimbursement, (iii) the Financed Improvements that are the subject of the Payment Requests submitted when there are insufficient CFD Proceeds will be inspected and reviewed as set forth herein and that such Payment Requests will be reviewed and submitted to the District Representative in the manner set forth in Section 2.2, and (iv) the payment for any Payment Requests approved in the preceding manner will be deferred until there are sufficient CFD Proceeds in the Improvement Fund (or accounts therein) or in a separate account held by the City to make such payment, at which time the District Representative shall direct the Fiscal Agent to pay all or a portion of the Purchase Price of such Financed Improvement to the Developer out of the Improvement Funds (or accounts therein) identified by Developer in the Payment Request. Notwithstanding, anything herein to the contrary, the District Representative shall only pay the Purchase Price of the Financed Improvement upon receipt of the items (a) through (d) listed in Section 2.2 above in addition to the Payment Request such that the City may acquire said Financed Improvement.

### **ARTICLE III CONSTRUCTION OF FACILITIES**

**Section 3.1. Preparation and Approval of Plans and Specifications.** To the extent that it has not already done so, the Developer shall cause Plans to be prepared for the Financed Improvements to be constructed by the Developer. The Plans shall conform to all applicable federal, state and local governmental rules, ordinances, and regulations and all applicable environmental protection laws. All Plans shall be subject to review and written approval by the City Engineer and/or its designee, and the applicable public agencies. Preliminary and final plans and specifications for Financed Improvements to be constructed by the Developer shall be submitted to the City and the applicable public agencies for review and approval. The Developer, the City or the District, as applicable, shall then obtain the approval of the appropriate acquiring public agencies of the construction plans, specifications and construction documents. The Financed Improvements to be acquired or constructed with the CFD Proceeds shall be constructed in accordance with public agency contracting requirements, including the payment of prevailing wages, in addition to all conditions of approval and requirements of the City.

**Section 3.2. Duty of to Construct.** This Acquisition Agreement does not obligate the Property Owners to construct any of the Facilities. However, if the Developer determine to seek payment from the CFD Proceeds for the costs to construct any such Facilities, then this Acquisition Agreement shall obligate the Developer to construct those Financed Improvements in the manner set forth herein, and to convey the Financed Improvements to the City in the manner set forth herein. For the Financed Improvements, the Developer shall construct or cause

to be constructed such Financed Improvements in accordance with the approved Plans. Once it is determined to seek payment from CFD Proceeds for the cost to construct a Financed Improvement, the Developer shall perform all of its obligations hereunder and shall conduct all operations with respect to the construction of the Financed Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken.

### **Section 3.3. Public Works Requirements.**

**(A) Public Works Requirements Prior to Formation of District.** In order to insure that the Financed Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, the City, so that they may be acquired pursuant to California Government Code Section 53313.5 or so that the value or cost, whichever is less, of portions thereof constituting work in-kind may be reimbursed pursuant to California Government Code Section 53314.9, for the Financed Improvements, the Developer shall comply with the California Labor Code, including the following requirements or shall cause such requirements to be complied with prior to formation of the District:

(i) The Developer shall use commercially best efforts to bid out each Financed Improvement to a minimum of three (3) qualified bidders, who bidders shall be on the City's list of qualified contractors (only if such list is available at the time of the bid), and to award the contract for the construction of each Financed Improvement to the responsible bidder submitting the lowest responsive bid for the construction of such Financed Improvement or, if the Developer elect to perform the work pursuant to Section 53329.5 of the Act, the Developer shall perform the work at the prices specified in the bid of the lowest responsible bidder.

(ii) The Developer shall require, and the specifications and bid and contract documents shall require, all contractors engaged to perform work on a Financed Improvement to pay prevailing wages and to otherwise comply with applicable provisions of the California Labor Code, the California Government Code and the California Public Contracts Code relating to public works projects of cities.

(iii) Each contractor engaged to perform work on a Financed Improvement shall be required to furnish (a) labor and material payment bonds, and (b) contract performance bonds, each in an amount equal to 100% of the contract price naming the Developer and the City as obligees and issued by insurance or surety companies approved by the City. All such bonds shall be in a form approved by the City. Rather than requiring its contractors to provide such bonds, the Developer may elect to provide the same for the benefit of its contractors.

(iv) Each contractor engaged to perform work on a Financed Improvement shall be required to provide proof of insurance coverage conforming to the requirements of Section 3.7 hereof throughout the term of the construction of such Financed Improvement, and such contractor shall be required to perform such work in conformance with all applicable federal and State law and the ordinances and policies of the City.

(v) The Property Owners and the City and all such contractors shall comply with such other requirements relating to the construction of the Financed Improvements as the

City may impose by written notification delivered to the Developer and each such contractor, to the extent required as a result of changes in applicable State or federal laws or the ordinances and policies of the City.

The Developer shall provide proof to the City, at such intervals and in such form as the City may require that the foregoing requirements have been satisfied as to all of the Financed Improvements.

**(B) Public Works Requirements After Formation of District.** Any contracts for bids approved and awarded to construct Financed Improvements prior to the formation of the District or within 30 days following the formation date of the District may use the procedure outline in Section 3.3(A). Contracts for bids for the remaining Financed Improvements after the 30<sup>th</sup> day following the formation date shall comply with the requirements of the Perris Municipal Code, California Labor Code and such other requirements related to public works projects.

(i) Developer shall prepare a bid package and the form of the required notices for review and comment by the City or its designated representative (the “City Representative”).

(ii) Developer shall mail notices inviting formal sealed bids. The notices shall be mailed to all qualified contractors on the list maintained by the City (only if such list is available at such time), as well as to all construction trade journals on the list maintained by the City pursuant to Section 3.32.260 of the Perris Municipal Code, unless the product or service is proprietary. Notices shall be published as provided in Section 3.32.260.

(iii) The notices shall be mailed no later than thirty (30) calendar days before the opening date of the bids. The notices shall distinctly describe the project and state the time and place for submission of bids and disclose the Developer’s right to elect to perform the work under Section 53329.5 of the Act.

(iv) The notice inviting bids shall be published by Developer as provided in Perris Municipal Code 3.32.260. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation, printed and published in the City, or, if there is none, it shall be posted in at least three (3) public places in the City that have been designated by Ordinance as the places for placing public notices.

(v) Developer shall provide a final copy of the notice to the City for posting by the City Representative on a public bulletin board at Perris City Hall.

(vi) Sealed bids shall be submitted to Developer and shall be identified as bids on the envelope. Bids shall be opened in public at Perris City Hall by Developer at the time stated in the public notices. The City Representative shall attend the bid opening.

(vii) Developer shall submit to the City written evidence of compliance with the competitive bidding procedures set forth herein, including evidence of the required noticing, a listing of all responsible bids and their amounts and the name or names of the contractor or contractors to whom Developer proposed to award the contracts for such construction. A tabulation of all bids shall be maintained by the City and open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

(viii) If the City Representative is unable to attend the bid opening, the City Representative shall approve or disapprove of a recommended contractor or contractors, in writing, within five (5) business days after receipt from Developer of the written evidence of compliance with the competitive bidding procedures described hereinabove. If the City Representative reasonably disapproves any such contractor, Developer will select the next lowest responsible bidder from the competitive bids received who is acceptable to the City Representative.

**Section 3.4. Performance Bonds.** Upon commencement of construction of a Financed Improvement, Developer shall be required to secure the construction and completion of construction of such Financed Improvement as required by Sections 66499 through 66499.10 of the California Government Code and the Perris Municipal Code. The Developer's obligations pursuant to this Section may be satisfied through the contract performance bonds to be provided by the Developer's contractors pursuant to Section 3.3 hereof.

**Section 3.5. Inspection; Completion of Construction.** The City shall have primary responsibility for providing inspection of the work of construction of the Financed Improvements to insure that the work of construction is accomplished in accordance with the Plans. The City's personnel shall have access to the site of the work of construction at all reasonable times for the purpose of accomplishing such inspection. Upon the completion of the construction of a Financed Improvement to the satisfaction of the City's inspectors, the Developer shall notify the District Representative, the City and the City Engineer in writing that the construction of such Financed Improvement has been completed in accordance with the Plans.

Upon receiving such written notification from the Developer, and upon receipt of written notification from its inspectors that construction of a Financed Improvement has been completed in accordance with the Plans and the City's standard requirements, the City shall, without unreasonable delay, notify the Developer in writing that the construction of such Financed Improvement has been satisfactorily completed and City may accept the Financed Improvement in the City's normal scope of procedures. Upon receiving such notification, the Developer shall forthwith file with the Riverside County Recorder a Notice of Completion as applicable. The Developer shall furnish to the City a duplicate copy of each such Notice of Completion showing thereon the date of filing with said County Recorder.

**Section 3.6. Maintenance of Financed Improvements; Warranties.** The Developer shall maintain each Financed Improvement in good and safe condition until the Acceptance Date thereof. As of the Acceptance Date of a Financed Improvement, the performance bond provided by the Developer for such Financed Improvement pursuant to Section 3.4 hereof shall be reduced to an amount equal to 20% (unless the City requires otherwise as a condition of approval or per another agreement) of the original amount thereof and shall serve as a warranty bond to guarantee that such Financed Improvement will be free from defects due to faulty workmanship or materials for a period of 12 months from the Acceptance Date of such Financed Improvement, or the Developer may elect to provide a new warranty bond in such an amount. As of the Acceptance Date of a Financed Improvement, the Developer and/or Property Owners shall assign to the City all of the Developer's and/or Property Owner's rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to such Financed Improvement. Developer hereby regardless of warranty bond also warrants the property for 12 months following completion.

**Section 3.7. Insurance Requirements.** The Developer and/or Property Owners shall, at all times prior to the final Acceptance Date of all Financed Improvements, maintain, deliver to the City and keep in full force and effect, or cause to be maintained, delivered to the City and kept in full force and effect, insurance in conformance with the requirements set forth below. The Developer and/or Property Owners will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth herein, it will be amended to do so. The Developer acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds in excess of the limits and coverage required in this Acquisition Agreement and which is applicable to a given loss, will be available to the City.

(i) The Developer or Property Owners shall provide the following types and amounts of insurance:

(A) Commercial General Liability Insurance using Insurance Services Office (“ISO”) “Commercial General Liability” policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits shall be no less than \$2,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregate.

(B) Workers’ Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than \$1,000,000 per accident for all covered losses.

(C) Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol I (Any Auto) or the exact equivalent. Limits shall be no less than \$1,000,000 per accident, combined single limit. If the Property Owner owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If the Developer or the Developer’s employees will use personal autos in any way relating to this Acquisition Agreement, the Developer shall provide evidence of personal auto liability coverage for each such person.

(D) Excess of Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a “drop down” provision with a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be “pay on behalf”, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City and the District for injury to employees of the Developer, subcontractors or other involved in the performance of the acts contemplated by this Acquisition Agreement. The scope of coverage provided is subject to approval of the City and the District following receipt of proof of insurance as required herein.

(E) Construction Risk Insurance

Insurance procured pursuant to the requirements set forth in this section shall be written by insurers that are admitted carriers in the state of California and with an A.M. Best rating of A or better and a minimum financial size of VII.

(ii) The Developer and the City agree as follows:

(A) The Developer agrees to endorse the third party general liability coverage required herein to include as additional insureds the City, the District, and their respective officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition date of 1985. The Developer also agrees to require all contractors, subcontractors, and anyone else involved in any way with the acquisition or construction of the Financed Improvements contemplated by this Acquisition Agreement to do likewise.

(B) Any waiver of subrogation express or implied on the part of the City or the District to any party involved in this Acquisition Agreement or related documents applies only to the extent of insurance proceeds actually paid. The City and the District, having required that each be named as an additional insured to all insurance coverage required herein, expressly retain the right to subrogate against any party for sums not paid by insurance. For its part, the Developer agrees to waive subrogation rights against the City and the District regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors or others involved in any way with the acquisition or construction of the Financed Improvements contemplated by this Acquisition Agreement, to do likewise.

(C) All insurance coverage maintained or procured by the Developer or required of others by the Developer pursuant to this Acquisition Agreement shall be endorsed to delete the subrogation condition as to the City and the District, or to specifically allow the Developer or others providing insurance herein to waive subrogation prior to a loss. This endorsement shall be obtained regardless of existing policy wording that may appear to allow such waivers.

(D) It is agreed by the Developer and the City that insurance provided pursuant to these requirements is not intended by any party to be limited to providing coverage for the vicarious liability of the City, or to the supervisory role, if any, of the City. All insurance coverage provided pursuant to this or any other agreement (express or implied) in any way relating to the City or the District is intended to apply to the full extent of the policies involved. Nothing referred to here or contained in any agreement involving the City or the District in relation to the Facilities contemplated by this Acquisition Agreement is intended to be construed to limit the application of insurance coverage in any way.

(E) None of the coverages required herein will be in compliance with these requirements if they included any limiting endorsements of any kind that has not been first submitted to the City and the District and approved in writing.

(F) All coverage types and limits required are subject to approval, modification and additional requirements by the City and the District, as the need arises. The Developer shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) which may affect either the City or the District's protection without the City's and the District's prior written consent.

(G) Proof of compliance with these insurance requirements, consisting of binders of coverage, or endorsements, or certificates of insurance, at the option of the City and the District, shall be delivered to the City and the District at or prior to commencement of construction of the Financed Improvements. In the event such proof of any insurance is not

delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, the City and the District have the right, but not the duty, to obtain any insurance they deem necessary to protect their respective interests under this or any other agreement and to pay the premium. Any premium so paid by the City or the District shall be charged to and promptly paid by the Developer or deducted from sums due to the Developer, at the City's and the District's option.

(H) The Developer agrees to endorse, and to require others to endorse, the insurance provided pursuant to these requirements, to require thirty (30) days notice to the City and the District and the appropriate tender prior to cancellation of such liability coverage and notice of any material alteration or non-renewal of any such coverage, and to require contractors, subcontractors, and any other party in any way involved with the Financed Improvements contemplated by this Acquisition Agreement to do likewise.

(I) It is acknowledged by the parties to this Acquisition Agreement that all insurance coverage required to be provided by the Developer or any subcontractor, is intended to apply first and on a primary non-contributing basis in relation to any other insurance or self-insurance available to the City and the District.

(J) The Developer agrees to ensure that subcontractors, and any other party involved with the Financed Improvements who is brought on to or involved in the acquisition or construction of the Financed Improvements by the Developer, provide the same minimum insurance coverage required of the Developer. The Developer agrees to monitor and review all such coverage and assume all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. The Developer agrees that upon request, all agreements with subcontractors and others engaged in the Financed Improvements will be submitted to the City and the District for review.

(K) The Developer agrees that all layers of third party liability coverage required herein, primary, umbrella and excess, will have the same starting and expiration date. The Developer agrees further that all other third party coverages required herein will likewise have concurrent starting and ending dates.

(L) The Developer agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, architect, engineer or other entity or person in any way involved in the performance of work on the Financed Improvements contemplated by this Acquisition Agreement to self-insure its obligations to the City and the District. If the Developer's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City and the District. At that time the City and the District shall review options with the Developer, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

(M) For purposes of applying insurance coverage only, all contracts pertaining to the Financed Improvements will be deemed executed when finalized and any activity commences in furtherance of performance under this Acquisition Agreement.

(N) The Developer acknowledges and agrees that any actual or alleged failure on the part of the City or the District to inform the Developer of non-compliance with any

insurance requirements in no way imposes any additional obligations on the City or the District nor does it waive any rights hereunder in this or any other regard.

(O) The Developer will renew the required coverage annually as long as the City and the District, or their respective employees or agents face an exposure from operations of any type pursuant to this Acquisition Agreement. This obligation applies whether or not the Acquisition Agreement is canceled or terminated for any reason. The insurance shall include but not be limited to products and completed operations and discontinued operations, where applicable. Termination of this obligation is not effective until the City and the District each execute a written statement to that effect.

(P) The Developer agrees to waive its statutory immunity under any workers' compensation statute or similar statute, in relation to the City and the District, and to require all subcontractors and any other person or entity involved in the acquisition or construction of the Financed Improvements contemplated by this Acquisition Agreement to do likewise.

(Q) Requirements of specific coverage features are not intended as limitations on other requirements or as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be all-inclusive.

(R) All liability coverage provided according to these requirements must be endorsed to provide a separate aggregate limit for the Financed Improvements that are the subject of this Acquisition Agreement and evidencing products and completed operations coverage for not less than two years after issuance of a final certificate of occupancy by all appropriate government agencies or acceptance of the completed work by the City.

(S) The Developer agrees to obtain and provide to the City and the District, a copy of Professional Liability coverage for architects or engineers working on the Financed Improvements through the Developer. The City shall determine the liability limit.

**Section 3.8. Ownership of Financed Improvements.** Notwithstanding the fact that some or all of the Financed Improvements may be constructed in dedicated street rights-of-way or on property which has been or will be dedicated to the City, the Financed Improvements shall be and remain the property of the Property Owners until Acceptable Title thereto is conveyed to and accepted by the City as provided herein.

#### **ARTICLE IV REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION; DAMAGES**

**Section 4.1. Representations, Warranties and Covenants of the Property Owners and Developer.** The Property Owners and Developer make the following representations, warranties and covenants for the benefit of the City:

(i) *Organization.* The Developer and Property Owners hereby represent and warrant that each respective entity is an organization duly organized and validly existing and in good standing under the laws of the State of Delaware, are authorized to conduct business in the

State of California, and have the power and authority to own their respective properties and assets and to carry on their business as now being conducted and as now contemplated.

(ii) *Authority.* The Developer and Property Owners represent and warrant that they each have the power and authority to enter into this Acquisition Agreement, and have taken all action necessary to cause this Acquisition Agreement to be executed and delivered, and this Acquisition Agreement has been duly and validly executed and delivered on behalf of the Developer and Property Owners.

(iii) *Binding Obligation.* The Developer and Property Owners represent and warrant that this Acquisition Agreement is a valid and binding obligation of each of them and is enforceable against each of them in accordance with its terms.

(iv) *Completion of Financed Improvements.* The Developer covenants that it will use reasonable and diligent efforts to do all things which may be lawfully required of it in order to cause the Financed Improvements to be completed in accordance with this Acquisition Agreement.

(v) *Compliance with Laws.* The Developer and Property Owners covenant that they will not commit, suffer or permit any act to be done in, upon or to the Financed Improvements in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the Property or the Financed Improvements.

(vi) *Requests for Payment.* The Developer represents and warrants that (a) it will not request payment from the District for the acquisition of any improvements that are not part of a Financed Improvement, and (b) it will diligently follow all procedures set forth in this Acquisition Agreement with respect to the Payment Requests and submit the correct forms and attachments required by the Acquisition Agreement in connection therewith.

(vii) *Financial Records.* Until the final Acceptance Date of the Financed Improvements, the Developer covenants to maintain proper books of record and account for the Financed Improvements and all costs related thereto. The Developer covenants that such accounting books will be maintained in accordance with generally accepted accounting principles, and will be available for inspection by the District and the City, and their respective agents, at any reasonable time during regular business hours on reasonable notice.

(viii) *Hazardous Materials.* The Developer and Property Owners represent and warrant that except as used in the normal course of construction on the Property, to the actual knowledge of the Developer and Property Owners there is not present upon the Property, or any portion thereof, or upon any portion of the Facilities currently existing, or any portion thereof, any Hazardous Materials, as defined below, including, but not limited to, asbestos, or any structure, fixtures, equipment, or other objects or materials containing Hazardous Materials including, but not limited to, asbestos. The Developer and Property Owners represent and warrant that to the actual knowledge of the Developer and Property Owners all operations or activities upon, or use or occupancy of the Property and the Facilities, and each portion thereof, by the Developer and Property Owners, is in all material respects in compliance with all state, federal and local laws, ordinances, regulations, rules, decisions or policy statements governing or in any way relating to the generation, handling, manufacturing, treatment, storage, use,

transportation, spillage, leakage, dumping, discharge or disposal (whether accidental or intentional) of any toxic or hazardous substances, materials, or wastes, including, but not limited to, Hazardous Materials. The Developer and Property Owners represent and warrant that to the actual knowledge of the Developer and Property Owners there is no proceeding or inquiry by any governmental authority body or agency with respect to the presence of Hazardous Materials on the Property or the Facilities or the migration thereof from or to other property. The Developer represents and warrants that neither the Developer, nor any subcontractor, agent or employee thereof will use, generate, manufacture, procure, store, release, discharge or dispose of any Hazardous Material on, under or about the Property or the Facilities or transport any Hazardous Material to or from the Property or the Facilities in violation of any federal, state or local law, ordinance, regulation, rule, decision or policy statement regulating Hazardous Material. “Hazardous Material” means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State or the United States Government. The term “Hazardous Material” includes, without limitation, any material or substance which is (a) designated as a “hazardous substance” pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (33 U.S.C. § 1321), (b) defined as a “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (42 U.S.C. § 6903), (c) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.*, (d) petroleum, or (e) asbestos. The term “actual knowledge” means the knowledge that the undersigns currently have as of the date of this Acquisition Agreement.

(ix) *Permits.* The Developer covenants that it will obtain all governmental or other permits required to proceed with the acquisition, construction and installation of the Financed Improvements and that it will pay all fees relating thereto. The Developer covenants that it will obtain all such permits as have not yet been obtained and will pay all fees relating thereto that have not been paid.

(x) *No Material Impediment.* The Developer represents and warrants that to the best of the Developer’s knowledge there is no material impediment to the Developer’s proceeding with and completing the acquisition, construction and installation of the Financed Improvements or to the development of the Property as contemplated by the Developer.

(xi) *Property Ownership.* The Developer represents and warrants that the Property Owners own all the property on which Financed Improvements will be built or constructed and the Property Owners are able to convey such property and Financed Improvements to the City without issue.

**Section 4.2. Representations, Warranties and Covenants of the City and the District.** The City and the District make the following representations, warranties and covenants for the benefit of the Developer:

(i) *Authority.* The City and the District represent and warrant that the City and the District have the power and authority to enter into this Acquisition Agreement, and have taken all action necessary to cause this Acquisition Agreement to be executed and delivered, and this Acquisition Agreement has been duly and validly executed and delivered on behalf of the City and the District.

(ii) *Binding Obligation.* The City and the District represent and warrant that this Acquisition Agreement is a valid and binding obligation of the City and the District and is enforceable against the City and the District in accordance with its terms.

(iii) *Completion of Financed Improvements.* The City covenants that it will use its reasonable and diligent efforts to take all actions which may be lawfully required of it in issuing permits, processing and approving Plans and inspecting and accepting the Financed Improvements in accordance with this Acquisition Agreement, the City's requirements and applicable law.

(iv) *Request for Payment.* The City and the District represent and warrant that each will diligently follow all procedures set forth in this Acquisition Agreement with respect to each Payment Request and Disbursement Request.

(v) *Financial Records.* The City and the District covenant to maintain proper books of record and account with respect to the Bonds and all funds and accounts established pursuant to the Fiscal Agent Agreement.

(vi) *Permits.* The City and the District represent and warrant that they have no actual knowledge of any material impediment to the Developer's proceeding or completing the acquisition, construction and installation of any of the Facilities as contemplated by this Acquisition Agreement and the existing land use approvals with respect to the Property.

**Section 4.3. Indemnification.** To the fullest extent permitted by law, the Property Owners and the Developer, jointly and severally, agree to protect, indemnify, defend and hold the District and the City, and their respective officers, employees and agents, and each of them, harmless from and against any and all claims, losses, expenses, suits, actions, decrees, judgments, awards, attorney's fees, and court costs which the District or the City, or their respective officers, employees and agents, or any combination thereof, may suffer or which may be sought against or recovered or obtained from the District or the City, or their respective officers, employees or agents, or any combination, thereof as a result of or by reason of or arising out of this Agreement, the District, the Bonds or in consequence of (a) the acquisition, construction, installation or financing of the Financed Improvements, (b) the untruth or inaccuracy of any representation or warranty made by the Property Owners or the Developer in this Acquisition Agreement or in connection with the Bonds, (c) the payment or non-payment of prevailing wages, or (d) any act or omission, negligent or otherwise, of the Property Owners or Developer or any developer or any of its subcontractors, agents or anyone who is directly employed by or acting in connection with the Property Owners or the Developer or any of their subcontractors, or agents, in connection with the acquisition, construction, installation or financing of the Financed Improvements. If the Property Owners or Developer fail to do so, the District and the City shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including any reasonable attorneys fees or court costs, to and recover the same from the Property Owners or Developer, as applicable. No provision of this Agreement shall in any way limit the Property Owners' responsibility for payment of damages resulting from the operations of the Property Owners, the Developer, and their agents, employees, or contractors.

The provisions of this Section shall survive the termination of this Acquisition Agreement.

**Section 4.4. Remedies in General; Damages Limited.** The Developer acknowledges that neither the District nor the City would have entered into this Acquisition Agreement if it were to be liable in damages under or with respect to this Acquisition Agreement. Any and all obligations of the District and the City hereunder shall be payable only from proceeds of Bonds to the extent permissible and, to the extent such proceeds may become available. Neither the District nor the City shall have any pecuniary liability for any act or omission of the District or the City, except as set forth in this Section. In no event will an act, or an omission or failure to act, by the District or the City with respect to the sale or proposed sale of Bonds subject the District or the City to pecuniary liability therefor.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Acquisition Agreement; provided, however, that the District and the City shall not be liable in damages to the Developer. In light of the foregoing, the Developer covenants to the extent permitted by law not to sue for or claim any damages for any alleged breach of, or dispute which arises out of, this Acquisition Agreement, other than to compel payment of CFD Proceeds by the District to the Developer for the acquisition of the Financed Improvements in accordance with the provisions hereof and other than as set forth in Section 6.6.

## **ARTICLE V. PAYMENT OF AUTHORIZED FEES AND ABANDONMENT OF DISTRICT**

**Section 5.1. Payment of Fees.** The CFD Proceeds may also be used to pay such Authorized Fees to the City upon the direction of the Property Owners, the Developer, and the applicable agency or may be used to reimburse the Developer for Authorized Fees paid prior to the date of the Acquisition Agreement. The Developer may request payment from the CFD Proceeds for the payment of Authorized Fees by executing and submitting to the District Representative a Disbursement Request, along with invoices for the payment of such Authorized Fees, and proof of payment of the same if appropriate (“Proof of Payment”). Upon receipt of such Disbursement Request and Proof of Payment, the District Representative shall direct the Fiscal Agent to wire transfer (or pay in another mutually acceptable manner) to the City, applicable agency, or Developer such requested funds to the extent of funds on deposit in the Improvement Fund (or applicable accounts therein) as designated by the Developer. Any Disbursement Request not paid due to an insufficiency of funds in the Improvement Fund (or applicable accounts therein) shall be paid by applicable Property Owner from its own funds.

Notwithstanding anything herein to the contrary, immediately following the issuance of the Bonds, the Property Owners or Developer shall pay to City all of the Authorized Fees requested by City as described below from the CFD Proceeds. Following the issuance of the Bonds, the Developer shall cause a Disbursement Request or Payment Request, as applicable, to be submitted to the City for the payment of all of the Authorized Fees. Developer agrees to submit such Payment Request immediately upon the issuance of the Bonds.

City may in its discretion prior to the issuance of the Bonds permit the payment of Authorized Fees from the collection of Special Taxes deposited into the Improvement Fund or maintained by the City in a separate account (i.e. CFD Proceeds).

**Section 5.2. Payment of Authorized Fees as Deposits.** In conjunction with the recording of the final subdivision map(s) for the Project, and the issuance of building permits for

the construction of the Project within the facilities, it may be necessary for Developer or Property Owners, or their successors or assigns, to make Deposits or Advances (prior to or following execution of this Acquisition Agreement) equal to the amount of Authorized Fees prior to the issuance of Bonds. Property Owners or Developer shall notify City in writing of its intention pay Authorized Fees as Deposits and Advances at the time it applies for the necessary permit or action and the City shall determine whether to treat it as an Advance (pursuant to Section 5.4) or Deposit. To the extent the City does not make such determination, such amount shall be treated as an Advance pursuant to Section 5.3. With respect to Deposits, upon or following the issuance and sale of the Bonds, Developer may execute and submit a Disbursement Request to the District requesting payment of such Authorized Fees to the City or other public agency of an amount equal to such Authorized Fees from the CFD Proceeds. Within ten (10) business days of the City's receipt of funds pursuant to such Disbursement Request, the City shall return the Deposits to Developer. In the event Bonds are not issued within eighteen (18) months of the date of any Deposit, such Deposit may at the written discretion of the City, be applied to pay the Authorized Fees, and shall no longer be reflected as a Deposit on the accounts of City. To the extent Property Owners or Developer desire to make Deposits equal to the sum of the Authorized Fees due to other public agencies prior to the issuance of the Bonds, Property Owners or Developer must enter into an agreement with such agency to such effect.

**Section 5.3. Payment of Authorized Fees as Advances.** In conjunction with the recording of the final subdivision map(s) for the Project, and/or the issuance of building permits for the construction of the buildings within the Project, the Property Owners or Developer, or their successors or assigns, may make Advances of Authorized Fees as a no interest loan to the City equal to the amount of Authorized Fees then required. All payments by the Property Owners and Developer shall be deemed to be Advances unless the City has determined to treat them as Deposits per Section 5.2 above. Upon or following the issuance and sale of the Bonds, the Developer may execute and submit a Disbursement Request to the District requesting reimbursement of such Advances from Bond Proceeds. Within ten (10) business days of the City's receipt of funds pursuant to such approved Payment Request, the City shall return the Advances to the Developer. In the event Bonds are not issued within eighteen (18) months of the date of any Advances, such Advances may at the written discretion of the City and the District shall no longer be required to reimburse such Advances. The City may expend the Advances on the Facilities prior to the issuance of the Bonds. For allocation purposes, the City's policy is to spend Advances and Authorized Fees which constitute proceeds of the Bonds on the first eligible capital expenditure for public improvements.

**Section 5.4. Abandoned District.** The Developer and Property Owners agree and acknowledge that the District may be deemed abandoned if any of the following circumstances exist:

(i) Prior to the issuance of Bonds within the District, and to the extent that twenty-five percent (25%) of the Project is not built within two (2) years after the effective date of this Acquisition Agreement.

(ii) Prior to the issuance of Bonds within the District, if Developer is not in full compliance with the City's Debt Issuance and Management Policy, adopted on January 10, 2023 ("Debt Policy"), as required by Resolution No. \_\_\_ of the City, adopted on April \_\_\_, 2023.

(iii) Developer plans to sell, assign, or transfer any portion of the Project to an entity(ies) which the City does not approve or does not comply with the requirements of the Debt Policy.

(iv) Prior to the issuance of any Bonds if any transferee does not meet the requirements of the Debt Policy.

Under any of the above-mentioned circumstances, the City at its discretion may discontinue the levy of Special Taxes in order to finance the Financed Improvements and record a notice of cessation of special tax lien against the Property and may terminate this Acquisition Agreement. Alternatively, the City may determine to treat taxes paid by the Property Owners as a prepayment of taxes to lower the tax rate for such property owners in connection with a later issue of Bonds.

**Section 5.5. Pending Transfer of Portion of Project.** Developer acknowledges that it intends to transfer a portion of the Project to a new owner and represents and warrants that such new owner will meet the requirements of the Debt Policy and/or that Developer will provide a letter of credit to secure such portion related to any Bonds if requested or required by the City.

**Section 5.6. Community Facilities Fee.** The Developer and Property Owners authorize, agree, and acknowledge to pay the City's fee of \$.0825 per industrial building per square foot, which fee may be paid from proceeds of the Bonds. Such funds shall be expended by the City on capital improvements.

**Section 5.7. No Double Reimbursement.** The Developer and Property Owners agree that they will not seek payment or reimbursement for the Financed Improvements or Authorized Fees described herein by any other source of funds of the City or other public agency and therefore will not be reimbursed more than once for such items.

## **ARTICLE VI MISCELLANEOUS**

**Section 6.1. The Developer as Independent Contractor.** In performing under this Acquisition Agreement, it is mutually understood that the Developer is acting as an independent contractor, and not an agent of the District or the City. Neither the District nor the City shall have any responsibility for payment to any contractor, subcontractor or supplier of the Developer.

**Section 6.2. Other Agreements.** Nothing contained herein shall be construed as affecting the City's, Developer's or the Property Owners' respective rights or duties to perform their respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the Property, which obligations are and shall remain independent of the Property Owners' and Developer's rights and obligations, and the City's rights and obligations, under this Acquisition Agreement; provided, however, that the Property Owners and Developer shall use their reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, lease, sublease, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which would or may materially and adversely affect the acquisition, construction and installation of the Financed Improvements.

**Section 6.3. Binding on Successors and Assigns.** Neither this Acquisition Agreement nor the duties and obligations of the Developer or Property Owners hereunder may be assigned without the written consent of the District and the City. The agreements and covenants included herein shall be binding on and inure to the benefit of any partners, permitted assigns, and successors-in-interest of the parties hereto. The Property Owners and Developer shall notify the City and District in writing at least sixty (60) days prior to its disposing of substantially all of its assets, any dissolution, bankruptcy or other event which substantially affects its assets so that the City and District can determine if it needs to protect any of its interests hereunder.

**Section 6.4. No Third Party Beneficiaries.** No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Acquisition Agreement (either express or implied) is intended to confer upon any person or entity, other than the District, the City, the Developer, and the Property Owners (and their respective successors and assigns), any rights or remedies by reason of this Acquisition Agreement.

**Section 6.5. Notices.** Any notice, payment or instrument required or permitted by this Acquisition Agreement to be given or delivered to any party shall be deemed to have been received (regardless of whether copies thereof have been delivered, transmitted or sent to, or received by, the entities designated to receive copies, as set forth below) when personally delivered, transmitted by email, telecopy or facsimile transmission (which shall immediately be confirmed by telephone and be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified, postage prepaid, addressed as follows:

District: Community Facilities District No. 2022-2  
(Perris Logistics Center) of the City of Perris  
ATTN: City Manager  
City of Perris  
101 North "D" Street  
Perris, CA 92570  
Tel. (951) 943-6100  
Fax (951) 657-1087

City: City of Perris  
ATTN: City Manager  
City of Perris  
101 North "D" Street  
Perris, CA 92570  
Tel. (951) 943-6100  
Fax (951) 657-1087

Developer and Property Owners: IDI Logistics, LLC  
840 Apollo Street, Suite 343  
El Segundo, CA 90245  
Phone: (213) 330-8030  
ATTN: Charles McPhee

The District, the City and the Developer may designate, by notice in writing, any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 6.6. Attorneys' Fees.** If any action is instituted to interpret or enforce any of the provisions of this Acquisition Agreement, the party prevailing in such action shall be entitled to recover from the other party thereto reasonable attorney's fees and costs of such suit (including both prejudgment and post judgment fees and costs) as determined by the court as part of the judgment.

**Section 6.7. Jurisdiction and Venue.** Each of the District, the City, the Developer and the Property Owners (a) agree that any suit, action or other legal proceeding arising out of or relating to this Acquisition Agreement shall be brought in a state or local court in the County of Riverside or in the Courts of the United States of America in the district in which said county is located, (b) consent to the jurisdiction of each such court in any such suit, action or proceeding, and (c) waive any objection that it may have to the laying of venue of any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the District, the City, the Developer and the Property Owners agree that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

**Section 6.8. Governing Law.** This Acquisition Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

**Section 6.9. Usage of Words.** As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine. The use of the word the Property Owner shall apply to each Property Owner.

**Section 6.10. Counterparts.** This Acquisition Agreement may be executed in counterparts, each of which shall be deemed an original.

**Section 6.11. Excusable Delay.** Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes, or other acts of God, war, civil commotion, terrorist activity, riots, strikes, picketing, or other labor disputes, damage to work in progress by casualty, or by other cause beyond the reasonable control of the party, then the specified time for performance shall be extended by the amount of the delay actually so caused.

**IN WITNESS WHEREOF**, the parties hereto have executed this Acquisition Agreement as of the day and year first hereinabove written.

**CITY, FOR ITSELF, AND ON BEHALF OF  
THE DISTRICT**

**CITY OF PERRIS**

By: \_\_\_\_\_  
City Manager

ATTEST

\_\_\_\_\_  
City Clerk

**DEVELOPER**

**IDI LOGISTICS, LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PROPERTY OWNERS**

**IDIL PERRIS NORTH 3, L.P.**, a Delaware limited partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IDIL PERRIS FULFILLMENT CENTER LP**, a Delaware limited partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IDIL PERRIS LOGISTICS CENTER NORTH LP**, a Delaware limited partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT "A"  
RECORDED CFD BOUNDARY MAP

[see attached]

EXHIBIT "B"  
FINANCED IMPROVEMENTS  
FACILITIES

| <b>City of Perris Facilities</b>                           | <b>Total</b>                  |
|--|-------------------------------|
| Offsite Improvements for Phase 2 at Case Road:             |                               |
| <i>Street Improvements</i>                                 | \$ 16,383,608                 |
| <i>Street Improvements – DIF Reimbursable</i>              | (2,992,500)                   |
| <i>Case Road Bridge</i>                                    | 9,500,000                     |
| <i>Case Road Bridge – DIF Reimbursable</i>                 | (2,800,000)                   |
| <i>Case Road Street and Bridge – TUMF Reimbursable</i>     | (14,014,746)                  |
| <i>Intersections / Signals (4 each)</i>                    | 1,800,000                     |
| <i>Intersections / Signals (4 each) – DIF Reimbursable</i> | (1,000,000)                   |
| <i>Water &amp; Sewer Utilities</i>                         | 6,359,545                     |
| <i>Dry Utilities</i>                                       | 2,895,000                     |
| <b>TOTAL AUTHORIZED FACILITIES</b>                         | <b>SubTotal \$ 16,130,907</b> |

EXHIBIT "C"

AUTHORIZED FEES<sup>(1)</sup>

| <b>City of Perris Fees</b>                     | <b>Total</b>                  |
|--|-------------------------------|
| <i>Development Impact Fee (DIF)</i>            | <i>\$ 14,864,106</i>          |
| <i>TUMF Fee</i>                                | <i>2,616,573</i>              |
| <i>Capital Facilities Fee</i>                  | <i>500,000</i>                |
| <i>Community Facilities Fee in Section 5.6</i> | <i>TBA</i>                    |
| <b>TOTAL AUTHORIZED FEES</b>                   | <b>SubTotal \$ 17,980,679</b> |

<sup>(1)</sup> The description of authorized fees is subject to change by the City. The actual City of Perris Authorized Fees to be financed through the District may include additional Authorized Fees not listed in the above description provided such Authorized Fees are for the construction and/or acquisition of public infrastructure and/or other governmental facilities with an estimated useful life of five years or longer. Estimated costs are subject to change.

EXHIBIT “D”

FORM OF PAYMENT REQUEST

Community Facilities District No. 2022-2  
(Perris Logistics Center)  
of the City of Perris

The undersigned, \_\_\_\_\_, the Property Owner’s Representative, hereby requests payment of the Purchase Price of the Financed Improvement described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Acquisition and Funding Agreement, dated July 25, 2023 (the “Acquisition Agreement”), by and between the City of Perris (the “City”) and IDIL Perris North 3, L.P., a Delaware limited partnership, IDIL Perris Logistics Center North LP, a Delaware limited partnership, and IDIL Perris Fulfillment Center LP, a Delaware limited partnership (collectively, the “Property Owners”), and IDI Logistics, LLC, a Delaware limited liability company (“Developer”). In connection with this Payment Request, the undersigned hereby represents and warrants to the District and the City as follows:

1. He (she) is the Property Owner’s Representative, qualified to execute this request for payment on behalf of the Developer and knowledgeable as to the matters forth herein.
2. Each of the Financed Improvements described in Attachment A has been completed in accordance with the Plans therefor.
3. The true and correct Actual Cost of each Financed Improvement for which payment is requested is set forth in Attachment A.
4. Attached hereto are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City Engineer to verify the Actual Cost of each Financed Improvement for which payment is requested.
5. The Developer has submitted or submits herewith to the City Engineer as-built drawings or similar plans and specifications for the Financed Improvements for which payment is requested, and such drawings or plans and specifications, as applicable, are true, correct and complete.
6. There has not been filed with or served upon the Developer notice of any lien, right to lien or attachment upon, or claim affecting the right to receive the payment requested herein which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen’s or mechanics’ liens accruing by operation of law. Copies of lien releases for all work for which payment is requested hereunder are attached hereto.

7. The Developer is in compliance with the terms and provisions of the Acquisition Agreement. All conditions precedent to the payment requested herein have been satisfied. Attached hereto is a copy of the Acquisition Agreement.

8. Attached hereto is (a) a copy of either the recorded documents or documents that conveyed or are suitable for recording and conveying to the City Acceptable Title to the real property on, in or over which such Financed Improvement is located, as described in Section 2.3 of the Acquisition Agreement, and (b) a copy of the recorded Notice of Completion of such Financed Improvement.

9. Developer has paid prevailing wages in connection with the Financed Improvement and all other public improvements constructed in connection with the Project. Developer has filed all items required by law in connection with the payment of prevailing wages.

10. The Purchase Price for the Financed Improvement described in Attachment A shall be payable out of CFD Proceeds either residing in the Improvement Funds or held by the City in a separate account.

11. This Request is being executed pursuant to the Acquisition Agreement and all conditions precedent to disbursement therein have been met.

12. The Developer has not been paid or reimbursed for the Financed Improvements or Authorized Fees described herein by any other source of funds of the City or other public agency and therefore is not being reimbursed more than once. and the Developer will not seek reimbursement for the items described herein by any other source of funds.

I hereby certify that the above representations and warranties are true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Property Owner Representative

APPROVAL BY THE CITY ENGINEER

The Actual Cost of each Financed Improvement described in Attachment A has been reviewed, verified and approved by the City Engineer. Payment of the Purchase Price of each such Financed Improvement is hereby approved.

**CITY ENGINEER OF THE CITY OF PERRIS**

By: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT A

Facility Description

Actual Cost

Total

EXHIBIT "E"

FORM OF DISBURSEMENT REQUEST

Community Facilities District No. 2022-2  
(Perris Logistics Center)  
of the City of Perris

1. Community Facilities District No. 2022-2 (Perris Logistics Center) of the City of Perris (the "CFD") is hereby requested to pay the party listed on the attached Exhibit A, as Payee, from the bond proceeds of the CFD, the sum set forth in 3 below.

2. The undersigned certifies that the amount requested for reimbursement of Advances Authorized Fees is due and payable, and has not formed the basis of prior request or payment. Appropriate documentation is attached.

3. Amount requested: \$ \_\_\_\_\_

4. The Advances for Authorized Fees that are the subject of this request are described as follows:

[insert name of agency charging the fees and a description of the fees].

5. The amount set forth in 3 above is authorized and payable pursuant to terms of the Acquisition and Funding Agreement dated July 25, 2023 (the "Acquisition Agreement"), by and between the City of Perris, acting on behalf of the CFD (the "City") and IDIL Perris North 3, L.P., a Delaware limited partnership, IDIL Perris Logistics Center North LP, a Delaware limited partnership, and IDIL Perris Fulfillment Center LP, a Delaware limited partnership (collectively, the "Property Owners"), and IDI Logistics, LLC, a Delaware limited liability company ("Developer"). Capitalized terms not defined herein shall have the meaning set forth in the Acquisition Agreement. A copy of the Acquisition Agreement is attached.

6. Such amounts will not be subject to reimbursement or credit by the City or the District and have not been previously paid.

7. All conditions precedent to Disbursement pursuant to the Acquisition Agreement have been met.

8. The Developer has not been paid or reimbursed for the Financed Improvements or Authorized Fees described herein by any other source of funds of the City or other public agency and therefore is not being reimbursed more than once and the Developer will not seek reimbursement for the items described herein by any other source of funds.

*[signature page follows]*

PROPERTY OWNER

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_