

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

541



FROM: EXECUTIVE OFFICE

SUBMITTAL DATE:
April 30, 2007

SUBJECT: Advance and Reimbursement Agreements for Clinton Keith Road

RECOMMENDED MOTION: That the Board approve and adopt Resolution No. 2007-241 authorizing the execution and delivery of developer fee credit agreements, and Mello-Roos advance proposal and reimbursement agreements, for Clinton Keith Road prior to the adoption of the Resolution of Intention to form Community Facilities District No. 07-2 (Clinton Keith).

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 (the "Act") provides the Board with the authority to enter into reimbursement agreements, by resolution, with a person or entity that advances funds to be used to cover costs associated with an authorized facility being funded by a CFD formed under the Act provided certain conditions are met as spelled out in the attached resolution.

Attached with the resolution are signed agreements with the property owners that have agreed to advance funds to pay for some of the preliminary costs associated with the Clinton Keith road improvement project. These property owners are also participating in the formation of a CFD on their properties to fund the cost of construction for the Clinton Keith improvements and need the reimbursement agreements in order to receive monies from the CFD to reimburse them for the advances.

County Counsel has reviewed the resolution and agreements and has approved them as to form.


Jerry Norris, Principal Management Analyst


FINANCIAL DATA

Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
Annual Net County Cost:	\$ N/A	For Fiscal Year:	06/07

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

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature



- Consent
- Policy
- Consent
- Policy

Dept't Recomm.:
Per Exec. Ofc.:

WHT: SP
F. PALM

3.5

2 **RESOLUTION NO. 2007-241**

3 **RESOLUTION OF THE BOARD OF SUPERVISORS**
4 **OF THE COUNTY OF RIVERSIDE AUTHORIZING THE**
5 **EXECUTION AND DELIVERY OF DEVELOPER FEE CREDIT**
6 **AGREEMENTS, AND MELLO-ROOS ADVANCE PROPOSAL**
7 **AND REIMBURSEMENT AGREEMENTS, FOR CLINTON KEITH**
8 **ROAD AND ACTIONS RELATED THERETO**

9 **WHEREAS**, Section 53314.9 of the Mello-Roos Community Facilities Act of 1982 (the
10 “Act”) provides that, at any time either before or after the formation of community facilities
11 district, the legislative body may accept advances of funds from any source, including, but not
12 limited to, private persons or private entities and may provide, by resolution, for the use of those
13 funds for any authorized purpose;

14 **WHEREAS**, Section 53314.9 of the Act further provides that the legislative body may
15 enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all
16 or a portion of the funds advanced, as determined by the legislative body, with or without interest,
17 under all of the following conditions: (a) the proposal to repay the funds is included in both the
18 resolution of intention to establish a community facilities district adopted pursuant to Section
19 53521 of the Act and in the resolution of formation to establish the community facilities district
20 pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified
21 electors of the community facilities district pursuant to the Act, and (c) any agreement shall
22 specify that if the qualified electors of the community facilities district do not approve the
23 proposed special tax, the local agency shall return any funds which have not been committed for
24 any authorized purpose by the time of the election to the person or entity advancing the funds;

25 **WHEREAS**, the County of Riverside (the “County”) and NNP-Spencer’s Crossing, LLC,
26 as predecessor to Lennar Spencer’s Crossing, LLC (“Lennar”), entered into a Development Fee
27 Credit Agreement, dated November 2, 2004 (the “Original NNP Agreement”), in order to provide
28 or the advancement of funds by the original developer to be used to pay costs incurred in
connection with the engineering plans for the construction of Clinton Keith Road as a six-lane

1 urban arterial from Antelope Road to State Route 79 (“Clinton Keith Road”), and to provide for
2 certain fee credits and for the reimbursement of such funds advanced from the proceeds of any
3 special tax bonds (the “Bonds”) issued by a community facilities district (the “Community
4 Facilities District”) proposed to be established by the County;

5 **WHEREAS**, the County and Lennar desire to enter into Amendment No. 1 to
6 Development Fee Credit Agreement for Clinton Keith Road (together with the Original NNP
7 Agreement, the “Lennar Agreement”) in accordance with Section 53314.9 of the Act in order to
8 provide for the advancement of additional funds by Lennar to be used to pay costs incurred in
9 connection with the acquisition of necessary land, rights-of-way and easements in connection
10 with the construction of Clinton Keith Road, and to provide for certain fee credits and for the
11 reimbursement to Lennar of all funds advanced under the Lennar Agreement, without interest,
12 from the proceeds of any Bonds issued by the Community Facilities District;

13 **WHEREAS**, the County and Barratt American Incorporated (“Barratt”) desire to enter
14 into a Mello-Roos Advance Proposal and Reimbursement Agreement for Clinton Keith Road
15 CFD (the “Barratt Agreement”) in accordance with Section 53314.9 of the Act in order to provide
16 for the advancement of funds by Barratt to be used to pay costs incurred in connection with the
17 acquisition of necessary land, rights-of-way and easements and other costs in connection with the
18 construction of Clinton Keith Road, and to provide for the reimbursement to Barratt of all funds
19 advanced under the Barratt Agreement, without interest, from the proceeds of any Bonds issued
20 by the Community Facilities District;

21 **WHEREAS**, the County and BC Yates Road, LLC (“BC Yates”) also desire to enter into
22 a Mello-Roos Advance Proposal and Reimbursement Agreement for the Clinton Keith Road CFD
23 (the “BC Yates Agreement”) in accordance with Section 53314.9 of the Act in order to provide
24 for the advancement of funds by BC Yates to be used to pay costs incurred in connection with the
25 acquisition of necessary land, rights-of-way and easements and other costs in connection with the
26 construction of Clinton Keith Road, and to provide for the reimbursement to BC Yates of all
27 funds advanced under the BC Yates Agreement, without interest, from the proceeds of any Bonds
28 issued by the Community Facilities District;

1 **WHEREAS**, the County and Hill County, S. A. LTD (“Hill County”) desire to enter into
2 a Development Fee Credit Agreement for Clinton Keith Road (the “Hill County Agreement”) in
3 accordance with Section 53314.9 of the Act in order to provide for certain fee credits and for the
4 advancement of funds by Hill County to be used to pay costs incurred in connection with the
5 acquisition of necessary land, rights-of-way and easements in connection with the construction of
6 Clinton Keith Road, and to provide for the reimbursement to Hill County of all funds advanced
7 under the Hill County Agreement, without interest, from the proceeds of any Bonds issued by the
8 Community Facilities District;

9 **WHEREAS**, the County and KB Home Coastal Inc. (“KB Home”) also desire to enter
10 into a Development Fee Credit Agreement for Clinton Keith Road (the “KB Home Agreement”)
11 in accordance with Section 53314.9 of the Act in order to provide for the advancement of funds
12 by KB Home to be used to pay costs incurred in connection with the acquisition of necessary
13 land, rights-of-way and easements in connection with the construction of Clinton Keith Road, and
14 to provide for certain fee credits and for the reimbursement to KB Home of all funds advanced
15 under the KB Home Agreement, without interest, from the proceeds of any Bonds issued by the
16 Community Facilities District;

17 **WHEREAS**, the County and Warm Springs Investments, LTS (“Warm Springs”) also
18 desire to enter into a Development Fee Credit Agreement for Clinton Keith Road (the “Warm
19 Springs Agreement”) in accordance with Section 53314.9 of the Act in order to provide for
20 certain fee credits and for the advancement of funds by Warm Springs to be used to pay costs
21 incurred in connection with the acquisition of necessary land, rights-of-way and easements in
22 connection with the construction of Clinton Keith Road, and to provide for the reimbursement to
23 Warm Springs of all funds advanced under the Warm Springs Agreement, without interest, from
24 the proceeds of any Bonds issued by the Community Facilities District;

25 **WHEREAS**, the County desires to enter into the Agreements in accordance with Section
26 53314.9 of the Act;

27 ///

28 ///

1 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**
2 **RIVERSIDE**, in regular session assembled on May 8, 2007, does hereby resolve, find, determine
3 and order as follows:

4 **Section 1.** The Lennar Agreement, in substantially the form submitted to this meeting
5 and made a part hereof as though set forth herein, be and the same is hereby approved. The
6 Chairman of the Board of Supervisors, and any such other member of the Board of Supervisors as
7 the Chairman may designate, the County Executive Officer and any such other officer of the
8 County as the County Executive Officer may designate (the "Authorized Officers") are, and each
9 of them is, hereby authorized and directed, for and in the name of the County, to execute and
10 deliver the Lennar Agreement in the form submitted to this meeting, with such changes,
11 insertions and omissions as the Authorized Officer executing the same may require or approve,
12 such requirement or approval to be conclusively evidenced by the execution of the Lennar
13 Agreement by such Authorized Officer.

14 **Section 2.** The Barratt Agreement, in substantially the form submitted to this meeting
15 and made a part hereof as though set forth herein, be and the same is hereby approved. The
16 Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name
17 of the County, to execute and deliver the Barratt Agreement in the form submitted to this
18 meeting, with such changes, insertions and omissions as the Authorized Officer executing the
19 same may require or approve, such requirement or approval to be conclusively evidenced by the
20 execution of the Barratt Agreement by such Authorized Officer.

21 **Section 3.** The BC Yates Agreement, in substantially the form submitted to this
22 meeting and made a part hereof as though set forth herein, be and the same is hereby approved.
23 The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the
24 name of the County, to execute and deliver the BC Yates Agreement in the form submitted to this
25 meeting, with such changes, insertions and omissions as the Authorized Officer executing the
26 same may require or approve, such requirement or approval to be conclusively evidenced by the
27 execution of the BC Yates Agreement by such Authorized Officer.

1 **Section 4.** The Hill County Agreement, in substantially the form submitted to this
2 meeting and made a part hereof as though set forth herein, be and the same is hereby approved.
3 The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the
4 name of the County, to execute and deliver the Hill County Agreement in the form submitted to
5 this meeting, with such changes, insertions and omissions as the Authorized Officer executing the
6 same may require or approve, such requirement or approval to be conclusively evidenced by the
7 execution of the Hill County Agreement by such Authorized Officer.

8 **Section 5.** The KB Home Agreement, in substantially the form submitted to this
9 meeting and made a part hereof as though set forth herein, be and the same is hereby approved.
10 The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the
11 name of the County, to execute and deliver the KB Home Agreement in the form submitted to
12 this meeting, with such changes, insertions and omissions as the Authorized Officer executing the
13 same may require or approve, such requirement or approval to be conclusively evidenced by the
14 execution of the KB Home Agreement by such Authorized Officer.

15 **Section 6.** The Warm Springs Agreement, in substantially the form submitted to this
16 meeting and made a part hereof as though set forth herein, be and the same is hereby approved.
17 The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the
18 name of the County, to execute and deliver the Warm Springs Agreement in the form submitted
19 to this meeting, with such changes, insertions and omissions as the Authorized Officer executing
20 the same may require or approve, such requirement or approval to be conclusively evidenced by
21 the execution of the Warm Springs Agreement by such Authorized Officer.

22 **Section 7.** The officers of the County are, and each of them is, hereby authorized and
23 directed to do any and all things, and to execute and deliver any and all documents which said
24 officers may deem necessary or advisable in order to accomplish the purposes of this Resolution
25 and not inconsistent with the provisions hereof.

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADOPTED, SIGNED AND APPROVED this 8th day of May, 2007, by the Board of Supervisors of the County of Riverside.

Chairman of the Board of Supervisors

ATTEST:
Nancy Romero
Clerk to the Board of Supervisors

By: _____
Deputy

FORM APPROVED
COUNTY COUNSEL
MAY 1 2007
BY *[Signature]*

1 STATE OF CALIFORNIA)
2 COUNTY OF RIVERSIDE) ss.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Nancy Romero, Clerk to the Board of Supervisors of the County of Riverside, California, do hereby certify that the foregoing Resolution No. 2007-241 was duly adopted by the Board of Supervisors of said County at a meeting of said Board held on the 8th day of May, 2007, and that it was so adopted by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

_____, Deputy
Clerk to the Board of Supervisors of the
County of Riverside

1 STATE OF CALIFORNIA)
2 COUNTY OF RIVERSIDE) ss.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Nancy Romero, Clerk to the Board of Supervisors of the County of Riverside, California, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2007-241 of the Board of Supervisors of said County, and that the same has not been amended or repealed.

Dated: _____

_____, Deputy
Clerk to the Board of Supervisors of the
County of Riverside