

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

111A



FROM: TLMA - Transportation Department

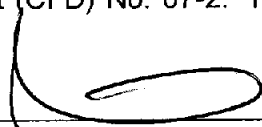
SUBMITTAL DATE:
June 10, 2010

SUBJECT: Agreement Regarding Transfer of TUMF and RBBB Fee Credits by and between Riverside Mitland 03 LLC, Spencer's Crossing 103, LLC and the County for Tract No. 30696-3.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve the Agreement by and between Riverside Mitland 03 LLC, Spencer's Crossing 103, LLC and the County; and
- 2) Authorize the Chairman to execute the same.

BACKGROUND: Spencer's Crossing 103, LLC acquired 103 lots of Tract No. 30696-3 (the Property) from Riverside Mitland 03 LLC in the Spencer's Crossing's Project, which is part of the Clinton Keith Road Community Facilities District (CFD) No. 07-2. Riverside Mitland desires to



Juan C. Perez
Director of Transportation

(Continued On Attached Page)

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:	N/A

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY:  5/25/10
DATE
DALE A. GARDNER

Dep't Recomm.: Policy

Per Exec. Ofc.: Policy

Prev. Agn. Ref. 03/02/10, Item 3.23 | District: 3 | Agenda Number:

3.35

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

The Honorable Board of Supervisors

RE: Agreement Regarding Transfer of TUMF and RBBD Fee Credits by and between Riverside Mitland 03 LLC, Spencer's Crossing 103, LLC and the County for Tract No. 30696-3.

June 10, 2010

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convey to Spencer's Crossing 103 certain fee credits only and retain all reimbursement rights and remaining duties, liabilities, obligations, and responsibilities pertaining to said lots in connection with CFD 07-2.

Riverside Mitland unconditionally conveys to Spencer's Crossing 103 right, title and interest of Riverside Mitland existing credits against the Southwest Road and Bridge Benefit District (RBBD) and Transportation Uniform Mitigation Fee (TUMF) fees in the amount of \$176,907 for said lots.

AGREEMENT REGARDING TRANSFER OF FEE
CREDITS

THIS AGREEMENT REGARDING TRANSFER OF FEE CREDITS (this "Agreement") dated effective as of March 19, 2010, is executed by and between SPENCER'S CROSSING 103, LLC, a Delaware limited liability company ("Transferee"), and RIVERSIDE MITLAND 03 LLC, a Delaware limited liability company ("Transferor").

RECITALS

A. This Agreement is entered into by and between Transferor and Transferee in connection with the transfer to Transferee, pursuant to that certain Limited Liability Company Agreement for Spencer's Crossing 103, LLC between Van Daele Homes, LLC, a California limited liability company and Transferor, dated March 19, 2010 (the "Operating Agreement"), of the real property described in the Operating Agreement and pursuant to the business plan attached thereto (the "Property"). The date on which such transfer of the Property is consummated pursuant to the Operating Agreement shall be the "Effective Date".

B. Pursuant to the terms and conditions of the Operating Agreement, Transferor desires to convey to Transferee its current interest in the Fee Credits (as defined below).

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Transferor and Transferee agree as follows:

1. As of the Effective Date, Transferor hereby unconditionally grants, sells, transfers, conveys and delivers to Transferee, the right title and interest of Transferor pursuant to the County Documents (as defined below) in and to One Hundred Seventy Six Thousand Nine Hundred Seven and 00/100 Dollars (\$176,907.00) of existing credits against the Transportation Uniform Mitigation Fees (collectively, the "Fee Credits"). The "County Documents" shall collectively mean: (i) Development Fee Credit Agreement by and between the County of Riverside (the "County") and NNP-Spencer's Crossing, LLC, a Delaware limited liability company and predecessor-in-interest to Transferor, dated November 2, 2004, (ii) Amendment No. 1 to Development Fee Credit Agreement by and between the County and Transferor dated April 16, 2007, and (iii) Joint Funding, Credit and Reimbursement Agreement by and among the County, Transferor and other parties dated June 12, 2007.

2. Notwithstanding Paragraph 1, above, but subject to the terms and conditions of the Operating Agreement (including without limitation, all required contributions and distributions thereunder): (A) Transferor shall retain all future rights to reimbursement from the County in the amount of \$3,680,000 upon the availability of sufficient funds from (i) County Contribution Amount; (ii) Special Taxes levied on the Development Property within the Community Facilities District ("CFD") prior to the issuance of Bonds received by the CFD and not required to fund Administrative Expenses; (iii) Net Bond Proceeds, and (iv) Funding Advances, as defined in the County Documents, and (B) Transferor shall retain all of Transferor's remaining duties, liabilities, obligations and responsibilities under the County Documents.

3. In the event that any party hereof shall bring any action or suit against the other by reason of any facts or circumstances arising out of this Agreement, the party in whose favor final judgment shall be entered shall be entitled to recover from the other party all costs and expenses of suit, including reasonable attorneys' fees, as awarded by a court of competent jurisdiction.

4. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same instrument.

5. The provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of Transferor, and shall inure to the benefit of the successors and assigns of Transferee. Each party agrees to sign any other and further instruments and documents as may be reasonably necessary or proper in order to accomplish the intent of this Agreement, provided that those instruments and documents are consistent with the terms of this Agreement and do not increase Transfer's obligations or liability under this Agreement or to the County.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

"TRANSFEEE"

"TRANSFEROR"

SPENCER'S CROSSING 103, LLC, a Delaware limited liability company

RIVERSIDE MITLAND 03 LLC, a Delaware limited liability company

By: Riverside Mitland 103 LLC, a Delaware limited liability company

By: [Signature]

By: [Signature]
Name: Dennis J Chapman
Its: Vice-President

Name: Dennis J Chapman
Its: Vice-President

By: [Signature]
Name: William B. Smith
Its: Secretary

By: [Signature]
Name: William B. Smith
Its: Secretary

By: Van Daele Homes, LLC, a California limited liability company

Acknowledged by and agreed to:
COUNTY OF RIVERSIDE

By: [Signature]
Jeffrey M. Hack, President

By: _____
Name: Juan C. Perez
Its: Director of Transportation

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of RIVERSIDE }

On MAY 13, 2010 before me, JUDITH R. THOMPSON, NOTARY PUBLIC —
Date Here Insert Name and Title of the Officer

personally appeared JEFFREY M. HACK —
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
 Signature: Judith R. Thompson
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: AGREEMENT REGARDING TRANSFER OF FEE CREDITS

Document Date: 3/19-10 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual Partner — Limited General Individual Partner — Limited General

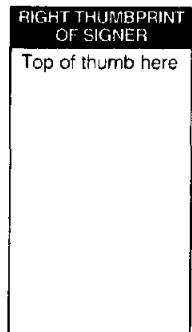
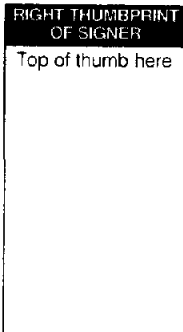
Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

Signer Is Representing: _____ Signer Is Representing: _____



ACKNOWLEDGMENT

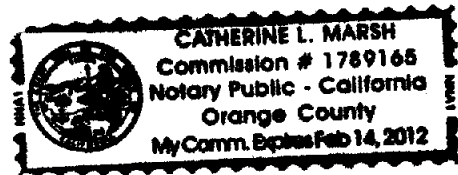
State of California
County of Orange)

On May 13, 2010 before me, Catherine L Marsh, Notary Public
(insert name and title of the officer)

personally appeared William B. Seith,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Catherine L Marsh* (Seal)

ACKNOWLEDGMENT

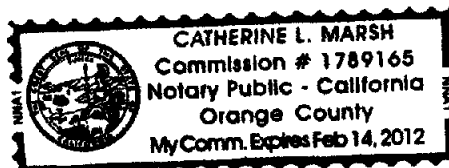
State of California
County of Orange)

On May 13, 2010 before me, Catherine L. Marsh
(insert name and title of the officer)

personally appeared Dennis J Chapman
who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the
person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.


WITNESS my hand and official seal.




Signature Catherine L. Marsh (Seal)

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the day and year first above written.

COUNTY OF RIVERSIDE

By:  Date: 5/24/10
Juan C. Perez
Director of Transportation

APPROVED AS TO FORM:

By:  Date: 5/25/10
Dale A. Gardner
County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:

By: _____ Date: _____
Chairman, County Board of Supervisors

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: _____ Date: _____

Clerk of the Board (SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lots 1-60, inclusive, and 130 to 179, inclusive, of Tract No. 30696-3, in the County of Riverside, State of California, as per Map filed in Book 421, Pages 76 through 92, inclusive, of Maps in the Office of the Riverside County Recorder.