

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

893



**FROM:** Transportation and Land Management Agency

**SUBMITTAL DATE:**  
September 1, 2011

**SUBJECT:** Development Agreement No. 7 Fee Credit Agreement Between the County of Riverside and Lennar Homes of California, Inc.

**RECOMMENDED MOTION:** That the Board of Supervisors approve and authorize the Chairman to execute the attached Development Agreement No. 7 Fee Credit Agreement

**BACKGROUND:** In 1995, the County entered into a settlement agreement with First Nationwide Development Company, Delta, the then owner of the Rancho Bella Vista Specific Plan (SP184) project. This settlement agreement resolved litigation involving certain assessment liens imposed on the property through Assessment District No. 161. In exchange for the set aside of approximately 250 acres of land described as "unique biological and environmental resources and amenities" valuable to the County, Section 5.a. of the settlement

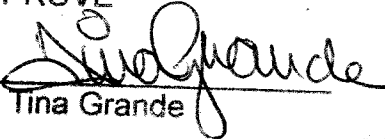
  
 \_\_\_\_\_  
 George A. Johnson  
 Director, Transportation and Land Management Agency

GAJ:KWB:pg  
(Continued On Attached Page)

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	None
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A

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

**C.E.O. RECOMMENDATION:**

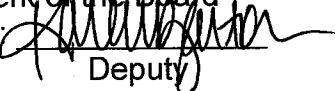
APPROVE  
 BY:   
 Tina Grande

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Buster, Tavaglione, Benoit and Ashley  
 Nays: None  
 Absent: Stone  
 Date: September 13, 2011  
 xc: TLMA

Kecia Harper-Ihem  
 Clerk of the Board  
 By:   
 Deputy

Prev. Agn. Ref.

District: 3rd

Agenda Number:

**3.102**

FORM APPROVED COUNTY COUNSEL  
 BY:   
 KARIN L. WATTS-BAZAN  
 DATE: 9/7/11  
 Departmental Concurrence

Dep't Recomm.:  Consent  Policy   
 Per Exec. Ofc.:  Consent  Policy

The Honorable Board of Supervisors

RE: Development Agreement No. 7 Fee Credit Agreement Between the County of Riverside and Lennar Homes of California, Inc.

September 1, 2011

Page 2 of 2

agreement allowed for First Nationwide to obtain a "per acre credit in an amount to be negotiated in good faith in the future, which credit shall be applied against any fee related to development of the Bella Vista property, including fees related to entitlement processing".

Lennar Homes of California, Inc. has acquired the last remaining property within the Rancho Bella Vista Specific Plan (SP184) and has requested that the County consider approval of a credit against the Development Agreement fees imposed pursuant to Development Agreement No. 7. In order to establish the amount of the per acre fee credit, the County requested Lennar Homes of California, Inc. to obtain a retrospective appraisal of the aforementioned 250 acres set aside within the Rancho Bella Vista Specific Plan. County staff has reviewed the retrospective appraisal and concurs with the value of the property established. (\$3,470,000.00).

Accordingly, the attached agreement allows for a \$2,359.00 per lot public facilities component credit and a \$641.00 per lot public services component credit over 702 remaining lots within the Rancho Bella Vista Specific Plan. The total fee credit against the Development Agreement fees required to be paid is \$2,106,000.00.

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010

Post Office Box 1147, Riverside, Ca 92502-1147

Thank you

**FEE CREDIT AGREEMENT FOR DEVELOPMENT AGREEMENT FEES BETWEEN THE COUNTY OF RIVERSIDE AND LENNAR HOMES OF CALIFORNIA, INC.**

This Agreement is made this \_\_\_\_ day of September, 2011 by and between the County of Riverside, a political subdivision of the State of California, hereinafter referred to as "County", and Lennar Homes of California, Inc., a California corporation referred to as "Developer", and its successors and assigns.

WHEREAS, the Rancho Bella Vista Specific Plan (Specific Plan No. 184) (the "RBV Specific Plan") was approved by the Board of Supervisors on February 4, 1986; and

WHEREAS, the prior owner of the RBV Specific Plan consented to the formation of a special assessment district, Special Assessment District No. 161 (AD 161") in July 1988 for the purpose of providing a financing mechanism to pay for the construction of certain public facilities that would benefit area properties including the RBV Specific Plan property; and

WHEREAS, on November 7, 1988, subsequent to the formation of AD 161, the County and prior owner of the RBV Specific Plan entered into a development agreement for the RBV Specific Plan ("DA 7"); and

WHEREAS, commencing in or around 1993, the County filed multiple litigation actions against the prior owner of the RBV Specific Plan over payment issues involving AD 161; and

WHEREAS, in or around August 31, 1995, the County and prior owner of the RBV Specific Plan entered into a written settlement agreement (the "Settlement Agreement") resolving all AD 161 related disputes conditioned, in part, on the prior RBV Specific Plan owner receiving certain development related concessions, including development fee credits; and

WHEREAS, Section 5 of the Settlement Agreement provides a per-acre fee credit in return for setting aside approximately 250 acres of otherwise developable land for the protection of biological and environmental resources and amenities that were considered unique and valuable (the "Fee Credit"); and

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1           WHEREAS, subsequent to the Settlement Agreement, on or about June 17, 1997, the  
2 County and the then-current owner of the RBV Specific Plan negotiated and finalized the First  
3 Amended and Restated Development Agreement No. 7 ("Amended DA 7") which replaced DA 7  
4 and which made reference to and incorporated certain provisions, including the Fee Credit  
5 provision, of the Settlement Agreement; and

6           WHEREAS, a dollar amount has not previously been assigned to the Fee Credit; and

7           WHEREAS, the Developer, as a successor in interest to one of the prior RBV Specific  
8 Plan owner, now wishes to use the Fee Credit against certain fees due and owing on the remaining  
9 lots in the RBV Specific Plan; and

10           WHEREAS, Developer and County agreed to use the appraised value of the original 250  
11 acres of property that gave rise to the Fee Credit as the value of the Fee Credit; and

12           WHEREAS, on or about May 17, 2011 an appraisal of the 250 acres was completed by  
13 Reinhart-Fontes Associates, Inc.; and

14           WHEREAS, the value of the 250 acres as set forth in the appraisal is approximately Three  
15 Million Four Hundred Seventy Thousand Dollars (\$3,470,000; and

16           WHEREAS, County has reviewed the appraisal and concurs with the value of the 250  
17 acres set forth in the appraisal; and

18           WHEREAS, the total amount of the Fee Credit which may be applied against fees owned  
19 by Developer in connection with its development of property within the RBV Specific Plan is  
20 \$3,470,000; and

21           WHEREAS, Developer has negotiated with the County agreements allowing for use of the  
22 Fee Credit against Developer's obligations to pay fees required pursuant to Amended DA 7; and

23           WHEREAS, Developer now desires to use a portion of the Fee Credit to offset fees that  
24 would otherwise be required to be paid pursuant to Section 4.2.1 of Amended DA 7 (the "DA  
25 Fee").

26           NOW, THEREFORE, in consideration of the foregoing recitals, it is mutually agreed as  
27 follows:

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1           1.     Recitals. The foregoing recitals are deemed to be a material part of this Agreement  
2 and are hereby incorporated into the terms, conditions and provisions of this Agreement.

3           2.     Purpose of the Agreement. The purpose of this Agreement is to provide a DA Fee  
4 credit to Developer in accordance with the Fee Credit provisions of the Settlement Agreement and  
5 Amended DA 7.

6           3.     Fee Credit. The DA Fee credit provided herein only applies to the development of  
7 property within the RBV Specific Plan and to the payment of the DA Fee. No transfer of credit  
8 may occur to a different development entitlement. The total number of remaining residential  
9 dwelling units within the RBV Specific Plan that Developer expects to build and which shall be  
10 subject to this Agreement is 702. Each individual approved dwelling unit shall receive a credit  
11 against the DA Fee applicable to it in the amount of \$2,359.00 for the Public Facilities Fee and  
12 \$641.00 for the Public Services Offset Fee, allocated among the remaining tracts with the RBV  
13 Specific Plan area as follows:

<b>Tract</b>	<b>Number of Lots</b>	<b>Per Lot Public Facilities Fee Credit</b>	<b>Per Lot Public Services Offset Fee Credit</b>	<b>Total Credit</b>
Tract 31871	249	\$2,359	\$641	\$747,000.00
Tract 36376	453	\$2,395	\$641	\$1,359,000.00
<b>Totals</b>	<b>702</b>			<b>\$2,106,000.00</b>

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20           The total DA Fee credit shall be \$2,106,000.00 and shall not exceed this amount. Any DA  
21 Fees required to be paid that exceed \$2,106,000.00 shall remain the responsibility of Developer or  
22 its successor in interest.

23           4.     Recordation of Agreement. This Agreement and any amendments thereto may be  
24 recorded by the County in the Office of the Riverside County Recorder for the County of  
25 Riverside.

26           5.     Paragraph Headings. The paragraph headings herein are for the convenience of the  
27 parties only, and shall not be deemed to govern, limit, modify or in any manner affect the scope,  
28 meaning or intent of the provisions or language of this Agreement.

1           6.     Authority to Execute Agreement. The Developer warrants that its authorized officer  
2 has the authority vested in him or her to execute this Agreement.

3           7.     Entire Agreement. This Agreement is intended: by the parties hereto as a final  
4 expression of their understanding with respect to the subject matter hereof and as a complete and  
5 exclusive statement of the terms and conditions thereof and supersedes any and all prior and  
6 contemporaneous leases, agreements and understandings, oral or written in connection herewith.

7           8.     Amendment. This Agreement shall not be changed, modified, or amended except  
8 upon written consent of the parties hereto.

9           9.     Indemnification. Developer shall indemnify and hold harmless County, including  
10 its officers, Board of Supervisors, employees, agents and representatives from any liability, claim,  
11 damage, proceeding or action, present or future, based upon, arising out of or in any way relating  
12 to County's approval and implementation of this Agreement including but not limited to, the grant  
13 of Fee Credits to Developer specified herein.

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*[Signatures on Following Page]*

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1 IN WITNESS WHEREOF, County and Developer have entered into this Agreement on the  
2 last date indicated below.

3 Dated: OCTOBER 24, 2011

Lennar Homes of California, Inc.,  
4 a California corporation

5  
6 By:   
7 Jeffrey T. Clemens, Vice President

8 Dated: SEP 13 2011

County of Riverside

9  
10 By:   
Chairman, Board of Supervisors  
11 **BOB BUSTER**

12 ATTEST:  
  
13 Clerk of the Board

14 By:   
Deputy

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16 APPROVED AS TO FORM:

17 County Counsel  
18 By:   
Principal Deputy County Counsel

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