

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

331A



**FROM:** TLMA – Transportation Department

**SUBMITTAL DATE:**  
October 9, 2013

**SUBJECT:** Partial Assignment and Assumption of TUMF Improvement Credit/Reimbursement Agreement by and between Starfield Sycamore Investors, LLC; VD Sycamore Creek, LLC; and the County of Riverside (County) for Indian Truck Trail/I-15 Interchange Improvements Associated with Tentative Tract Map 31908-2, 1<sup>st</sup>/1<sup>st</sup> District [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the subject Agreement by and between Starfield Sycamore Investors, LLC; VD Sycamore Creek, LLC; and the County; and
2. Authorize the Chairman of the Board of Supervisors to execute the same.

**BACKGROUND:**

Summary

On May 3, 2011, Starfield Sycamore Investors, LLC and the County entered into a TUMF Improvement and Credit Agreement for Indian Truck Trail/I-15 Interchange improvements, which included TUMF credits

Juan C. Perez  
Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
<b>COST</b>	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
<b>NET COUNTY COST</b>	\$ N/A	\$ N/A	\$ N/A	\$ N/A	
<b>SOURCE OF FUNDS:</b> N/A				<b>Budget Adjustment:</b> N/A	
				<b>For Fiscal Year:</b> N/A	

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

APPROVE

BY:   
Tina Grande

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Tavaglione, Stone and Ashley  
Nays: None  
Absent: Benoit  
Date: November 5, 2013  
xc: Transp.

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

Prev. Agn. Ref.: 05/03/11, Item 3-49 | District: 1/1 | Agenda Number:

**3-61**

FORM APPROVED COUNTY COUNSEL  
BY:   
DALE A. GARDNER  
DATE: 10/21/13  
Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11:** Partial Assignment and Assumption of TUMF Improvement Credit/Reimbursement Agreement by and between Starfield Sycamore Investors, LLC; VD Sycamore Creek, LLC; and the County of Riverside (County) for Indian Truck Trail/I-15 Interchange Improvements Associated with Tentative Tact Map 31908-2, 1<sup>st</sup>/1<sup>st</sup> District [\$0]

**DATE:** October 9, 2013

**PAGE:** 2 of 2

**BACKGROUND:**

**Summary (continued)**

for Tentative Tract Map 31908-2. The Credit Agreement provided a means by which eligible developer costs associated with the delivery of the interchange improvements could be offset against the developer's obligation to pay the applicable TUMF.

The existing TUMF Improvement and Credit Agreement with Starfield Sycamore Investors, LLC includes multiple development properties. VD Sycamore Creek, LLC acquired Tentative Tract Map 31908-2 from Starfield Sycamore Investors, LLC. Starfield Sycamore Investors, LLC desires to assign to VD Sycamore Creek, LLC the TUMF credits, interests, and obligations associated with Tentative Tract Map 31908-2 in accordance with the TUMF Improvement and Credit Agreement. The assigned TUMF credits shall be in the amount equal to the developer's TUMF obligation up to a maximum of \$8,873 per each single-family residential unit within the assigned property.

The County administered and recently completed the construction of the Indian Truck Trail/I-15 Interchange improvements. The improvements included the widening of Indian Truck Trail from two to four lanes with dedicated right and left turn lanes at the ramp intersections, freeway ramp widening, and installation of traffic signals.

The Credit Agreement recognizes the cost of engineering work funded by the developer.

**Impact on Citizens and Businesses**

No impact

**SUPPLEMENTAL:**

**Additional Fiscal Information**

This is simply a transfer of ownership; all terms of the original agreement remain the same.

**Contract History and Price Reasonableness**

N/A

Project Number: B40501

**PARTIAL ASSIGNMENT AND ASSUMPTION  
OF IMPROVEMENT CREDIT/REIMBURSEMENT AGREEMENT**

This Partial Assignment and Assumption of Improvement Credit/Reimbursement Agreement (this "Assignment") is made as of Nov. 5, 2013 by and between Starfield Sycamore Investors, LLC, a Delaware limited liability company ("Assignor"), VD Sycamore Creek, LLC, a California limited partnership ("Assignee") and the County of Riverside ("County").

**RECITALS**

A. Assignor is a "Developer" under that certain agreement titled "Improvement and Credit/Reimbursement Agreement, Transportation Uniform Mitigation Fee Program" dated as of May 3, 2011 (Contract No. 11-04-005) (the "TUMF Agreement") with respect to that certain real property described in Exhibit A attached hereto (the "Assigned Property"), which comprises a portion of the Project. The Assigned Property contains 59 single-family residential units. Any capitalized term used but not otherwise defined herein shall have the meaning ascribed thereto in the TUMF Agreement.

B. Assignor and Assignee are parties to that Real Estate Purchase and Sale Contract (the "Contract") dated as of June 14, 2013, respecting the sale of the Assigned Property.

C. Assignor desires to assign to Assignee all of Assignor's rights to Credit against the TUMF Obligation under the TUMF Agreement relating to the Assigned Property, and Assignee desires to assume all of Assignor's obligations thereunder relating to the Assigned Property and such Credit, all on the terms and conditions set forth below.

D. County is an express intended beneficiary of the rights, duties and obligations undertaken by Assignor and Assignee.

**AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns to Assignee all of Assignor's rights, title, interest, and obligations in and under the TUMF Agreement to the extent relating to the Assigned Property, including, without limitation, the TUMF Credit in an amount equal to the Assignee's TUMF Obligation up to \$8,873 per each single-family residential unit within the Assigned Property. At no time will the TUMF Credit exceed the Assignee's TUMF Obligation. The Assignee agrees that should the TUMF in effect on the date a certificate of occupancy is secured for each single-family residential unit is greater than a TUMF Credit of \$8,873 per said unit, the Assignee shall pay the differential amount in cash prior to securing the certificate of occupancy for said unit.

2. Assignee hereby accepts this Assignment and agrees to be bound by all applicable provisions of the TUMF Agreement with respect to the Assigned Property.

3. Assignor hereby covenants that it will, at any time and from time to time upon written request therefor, but at no out-of-pocket cost to Assignor, execute and deliver to Assignee, its nominees, successor and/or permitted assigns, any new or confirmatory instructions and do and perform any other acts which Assignee, its nominees, successors and/or assigns, may reasonably request in order to fully transfer and assign such rights of Assignor in and under the TUMF Agreement to such Credit with respect to the Assigned Property.

4. This Assignment shall be binding upon and inure to the benefit of the successors and assignees of all respective parties hereto. All rights, title, and interest to all benefits accruing under this Assignment shall only be assigned to a subsequent assignee pursuant to the execution of an assignment and assumption agreement among the subsequent assignor, the subsequent assignee and the County, in a form acceptable to the County, whereby the parties consent to such assignment and the subsequent assignee expressly agrees to assume all duties, liabilities, obligations or responsibilities under the TUMF Agreement and to be bound thereby.

5. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

6. This Assignment may be executed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

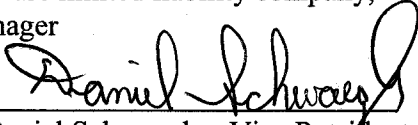
*[Signature page follows]*

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

**ASSIGNOR:**

Starfield Sycamore Investors, LLC,  
a Delaware limited liability company

By: SOF-IV Sycamore Creek Holdings LLC,  
a Delaware limited liability company,  
its Manager

By:   
Daniel Schwaegler, Vice President

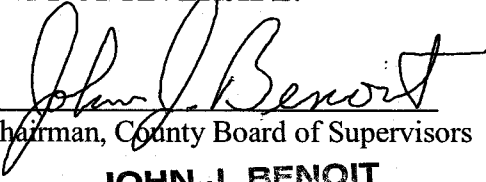
**ASSIGNEE:**

VD Sycamore Creek, LLC, a California  
limited liability company

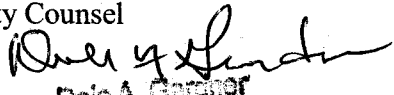
By: Van Daele Homes, LLC, a California  
limited liability company  
its Managing Member

By: \_\_\_\_\_  
Jeffrey M. Hack, President

**COUNTY OF RIVERSIDE:**

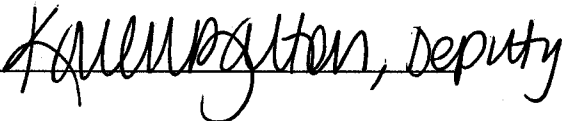
By:   
Chairman, County Board of Supervisors  
**JOHN J. BENOIT**

**APPROVED AS TO FORM:**

County Counsel  
By:   
Dale A. Gardner

**ATTEST:**

Kecia Harper-Ihem  
Clerk of the Board

By: , deputy

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

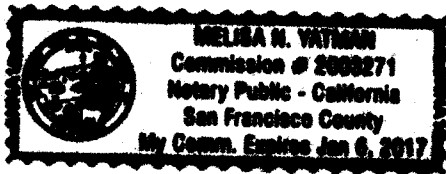
State of California

County of San Francisco }

On 8/14/13 before me, Melisa N. Yatman, Notary  
Date Here Insert Name and Title of the Officer

personally appeared Daniel Schwaegler  
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: Melisa N Yatman  
Signature of Notary Public

Place Notary Seal 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: \_\_\_\_\_

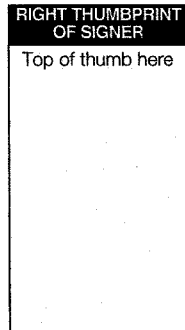
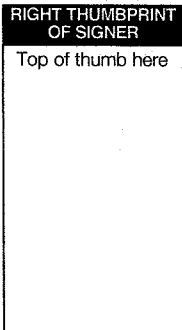
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

- |   |   |
|---|---|
| <input type="checkbox"/> Corporate Officer -- Title(s): _____   | <input type="checkbox"/> Corporate Officer -- Title(s): _____   |
| <input type="checkbox"/> Individual   | <input type="checkbox"/> Individual   |
| <input type="checkbox"/> Partner -- <input type="checkbox"/> Limited <input type="checkbox"/> General | <input type="checkbox"/> Partner -- <input type="checkbox"/> Limited <input type="checkbox"/> General |
| <input type="checkbox"/> Attorney in Fact   | <input type="checkbox"/> Attorney in Fact   |
| <input type="checkbox"/> Trustee  | <input type="checkbox"/> Trustee  |
| <input type="checkbox"/> Guardian or Conservator  | <input type="checkbox"/> Guardian or Conservator  |
| <input type="checkbox"/> Other: _____   | <input type="checkbox"/> Other: _____   |



Signer Is Representing: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

WENDY M. YATMAN  
Commission # 200371  
Notary Public - California  
San Francisco County  
My Comm. Expires Jan 6, 2011



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

**ASSIGNOR:**

Starfield Sycamore Investors, LLC,  
a Delaware limited liability company

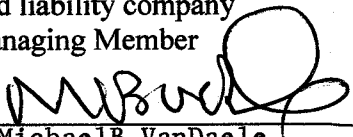
By: SOF-IV Sycamore Creek Holdings LLC,  
a Delaware limited liability company,  
its Manager

By: \_\_\_\_\_  
Daniel Schwaegler, Vice President

**ASSIGNEE:**

VD Sycamore Creek, LLC, a California  
limited liability company

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

By:   
\_\_\_\_\_  
Michael B. VanDaele  
Chairman



STATE OF CALIFORNIA    )  
                                  )  
                                  )  
COUNTY OF RIVERSIDE    )

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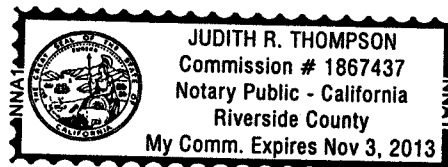
On August 5, 2013, before me, Judith R. Thompson, Notary Public in and for said State and County, personally appeared MICHAEL B. VAN DAELE, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person(s), or the entity upon behalf of which the person 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 official Seal.

  
\_\_\_\_\_

My Commission expires on November 3, 2013



**EXHIBIT A**

**DESCRIPTION OF ASSIGNED PROPERTY**

**Tentative Tract Map 31908-2**

**PARCEL 4 OF PARCEL MAP NO. 34609, IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 224, PAGES 45 THROUGH 49, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.**