



MOUNTAINS RECREATION & CONSERVATION AUTHORITY

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MEMORANDUM

TO: The Governing Board

FROM:  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: April 14, 2010

SUBJECT: **Agenda Item XI: Consideration of resolution authorizing entering into a settlement agreement with Toll CA IV, Limited Partnership regarding Memorandum of Understanding for Tract Nos. 44327 and 44327-01, Indian Oaks, unincorporated Chatsworth area.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing entering into a settlement agreement with Toll CA IV, Limited Partnership regarding Memorandum of Understanding for Tract Nos. 44327 and 44327-01 adjacent to Rocky Peak Park in the Santa Susana Mountains.

In the early 1990s, Los Angeles County approved Tract Nos. 44327 and 44327-01, and they were called the Indian Springs project. To assure that the 278 acres of open space landed with a public agency, in 1993, the Santa Susana Mountains Park Association (SSMPA) was able to secure a recorded agreement (MOU) with the developer that required both fee simple and conservation easement dedications. The agreement is recorded against every lot in the tract and in the recorded CC & Rs.

The agreement had the two open space lots and multiple conservation easements go to the Santa Monica Mountains Conservancy. The MOU was revised in 1998. To ease the transfer of the land, in January 2003 the Conservancy, the SSMPA, the developer and the MRCA signed and recorded an Assignment and Assumption Agreement. All rights in the MOU were officially assigned to the MRCA. The MRCA also adopted a resolution authorizing acceptance of the two open space lots and conservation easements. The tract maps recorded in October 2003.

Unfortunately, all of the lots were sold and built on and neither the fee simple lots or conservation easements were transferred or recorded by a public agency. The current owner Toll Brothers is now eager to transfer the 278-plus acres of fee simple open space. However Toll Brothers no longer has the authority to force dedication of the conservation easements on approximately 15 residential lots. Achieving that

objective would require a laborious journey to force those approximately 15 homeowners to comply retroactively. Fortunately the conservation easement areas have not been damaged and virtually all of the backyard fence lines along two section of drainage do not encroach into the easement areas. Toll Brothers is doing everything else possible to cooperate to fulfill the obligations of the MOU.

However, Toll Brothers wants to enter into a Settlement Agreement and Release with the MRCA to finally and fully settle, resolve and satisfy all existing or potential claims associated with the MOU. Staff agrees that the critical elements of the MOU have been preserved and that entering into such an agreement is the benefit of the public, the SSMPA and the MRCA.

The MRCA would receive the two large open space lots with free and clear title. The MRCA would also receive a water meter and wildlife guzzler to its specifications to benefit the open space. The property is the second longest outstanding open space dedication and every effort should be made to complete the transfer most expeditiously. Toll Brothers is essentially ready to sever all ties with the Tracts.