

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

112A



FROM: TLMA - Transportation Department

SUBMITTAL DATE:
June 10, 2010

SUBJECT: Agreement Regarding Transfer of TUMF and RBBD Fee Credits by and between Riverside Mitland 03 LLC, Richmond American Homes of Maryland and the County for Tract No. 30696-1.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve the Agreement by and between Riverside Mitland 03 LLC, Richmond American Homes of Maryland and the County; and
- 2) Authorize the Chairman to execute the same.

BACKGROUND: Richmond American Homes of Maryland acquired 71 lots of Tract No. 30696-1 (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

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: DALEA GARDNER 5/25/10 DATE

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

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

3.36

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, Richmond American Homes of Maryland and the County for Tract No. 30696-1.

June 10, 2010

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desires to convey to Richmond American Homes 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 Richmond American Homes 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 \$471,014 for said lots.

AGREEMENT REGARDING TRANSFER OF TUMF
AND RBBB FEE CREDITS

THIS AGREEMENT REGARDING TRANSFER OF TUMF AND RBBB FEE CREDITS (this "Agreement") dated as of November 30, 2009, is executed by and between RICHMOND AMERICAN HOMES OF MARYLAND, a Maryland corporation ("Transferee"), and RIVERSIDE MITLAND 03 LLC, a Delaware limited liability company ("Transferor").

RECITALS

A. This Agreement is entered into by and among Transferor and Transferee in connection with the acquisition by Transferee, pursuant to that certain Real Property Purchase Agreement between Transferee and Transferor, dated November 17, 2009 (the "Purchase Contract"), of the real property (the "Property") previously owned by Transferor in the Spencer's Crossing project (the "Project"). The date on which such sale is consummated and Transferee acquired the Property pursuant to the Purchase Contract shall be the "Effective Date".

B. Pursuant to the terms and conditions of the Purchase Contract, Transferor desires to convey to Transferee its current interest in 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 Four Hundred Seventy-One Thousand and Fourteen and 00/100 Dollars (\$471,014.00) of existing credits against the Southwest Road and Bridge Benefit District fees and/or 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, (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"

RICHMOND AMERICAN HOMES OF MARYLAND, a Maryland corporation

By: [Signature]
Name: Sandra Kretzer
Its: VP

"TRANSFEROR"

RIVERSIDE MITLAND 03 LLC, a Delaware limited liability company

By: _____
Richard T. Whitney, President

By: _____
William B. Seith, Secretary

Acknowledged by and agreed to:

COUNTY OF RIVERSIDE

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

FORM APPROVED COUNTY COUNSEL
BY [Signature] DATE 5/25/10
DALE A. GARDNER

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA) SS

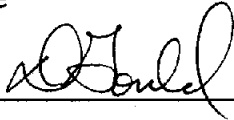
COUNTY OF **ORANGE**

On April 28, 2010 before me, Danielle Gould, Notary Public, personally appeared Sondra Netzer, 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



My Commission Expires: December 10, 2010



This area for official notarial seal.

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.

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


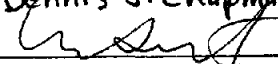
"TRANSFEEE"

RICHMOND AMERICAN HOMES OF MARYLAND, a Maryland corporation

By: _____
Name: _____
Its: _____

"TRANSFEROR"

RIVERSIDE MITLAND 03 LLC, a Delaware limited liability company

By: 
Richard T. Whitney, President
Dennis J. Chapman, Vice President
By: 
William B. Seith, Secretary

Acknowledged by and agreed to:

COUNTY OF RIVERSIDE

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

FORM APPROVED COUNTY COUNSEL

BY:  5/25/10
DALE A. GARDNER DATE

ACKNOWLEDGMENT

State of California
County of Orange)

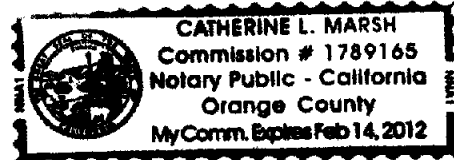
On May 13, 2010 before me, Catherine L Marsh, Notary Public
(insert name and title of the officer)

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/it~~ 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  (Seal)



ACKNOWLEDGMENT

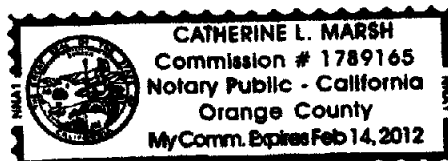
State of California
County of Orange)

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.



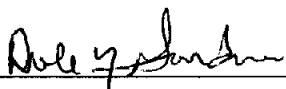
Signature Catherine L. Marsh (Seal)

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: 5/29/10
Juan C. Perez
Director of Transportation

APPROVED AS TO FORM:

By:  Date: 5/25/10
Dale A. G.
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

DESCRIPTION OF PROPERTY

Lots 1 through 71, inclusive of Tract No. 30696-1 in the unincorporated area of Riverside County, as per Map Recorded in Book 421, pages 54 through 63, inclusive, of maps in the Office of the County Recorder of Riverside County.