

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew J. Fertal	From:	William E. Murray
Dept:	City Manager	Dept:	Public Works
Subject:	APPROVAL OF FINAL TRACT MAP NO. 17521 AND SUBDIVISION IMPROVEMENT AGREEMENT WITH RICHMOND AMERICAN HOMES OF MARYLAND, INC. FOR THE PROPERTY LOCATED AT 10418 KATELLA AVENUE, GARDEN GROVE		
		Date:	May 13, 2014

OBJECTIVE

To receive City Council approval of Final Tract Map No. TR 17521 and a Subdivision Improvement Agreement with Richmond American Homes of Maryland, Inc., for the property located at 10418 Katella Avenue, Garden Grove (at the south side of Katella Avenue between Brookhurst Street and Euclid Street).

BACKGROUND

On May 16, 2013, pursuant to Planning Commission Resolution No. 5793-13, the applicant, Brandywine Homes, received Planning Commission approval of Site Plan No. SP-475-13, and Tentative Tract Map No. TT-17521. A copy of Planning Resolution No. 5793-13 is attached.

Subsequent to the Planning Commission's approval, the project was taken over by Richmond American Homes of Maryland, Inc.

DISCUSSION

The subject map is a subdivision of eighteen (18) numbered lots and four (4) lettered lots located at the south side of Katella Avenue between Brookhurst Street and Euclid Street, at 10418 Katella Avenue, Garden Grove. The applicant is proposing to develop the lettered lots with common areas for landscaping and recreation purposes, private streets, drainage and utilities, and to construct 18 units of single family residential development on individual lots. An easement for a domestic water system and appurtenances has also been dedicated. The vehicular access rights to Katella Avenue along with subsurface water rights have also have been released and relinquished except at access locations approved by the City.

The Subdivision Improvement Agreement requires the posting of security to ensure completion of the improvement of street, sewer, water, drainage, related onsite improvements and survey monumentation to guarantee the construction of these improvements for the subject development. The developer has opted to provide a deposit in the form of cashier's checks in lieu of bonds.

Staff has reviewed all subdivision documentation mandated by City Ordinances and the Subdivision Map Act and finds this map to be in compliance.

FINANCIAL IMPACT

There is no financial impact.

RECOMMENDATION

It is recommended that the City Council:

- Approve Final Tract Map No. TR 17521 and the Subdivision Improvement Agreement with Richmond American Homes of Maryland, Inc. for the property located at 10418 Katella Avenue, Garden Grove, and accept the Deposit in lieu of Subdivision Improvement Bonds; and
- Authorize the City Manager to execute the Agreement on behalf of the City and make minor modifications as appropriate.



WILLIAM E. MURRAY, P.E.  
Public Works Director



By: Kamyar Dibaj, MS  
Associate Engineer

Attachments:

1. Tract Map No. TR 17521
2. Subdivision Improvement Agreement

**Recommended for Approval**



Matthew Fertal  
City Manager

**TRACT NO. 17521**  
 IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA  
 BEING A SUBDIVISION OF LOT 1 OF TRACT NO. 18888, AS SHOWN ON A MAP FILED IN BOOK 607 PAGES 38 AND 39 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAND COUNTY,  
 JANUARY 2013 DNS CONSULTANTS, INC. WALTER F. LINDON L.S. 7717

**OWNERSHIP CERTIFICATE**  
 YES, WE UNDERSTAND THAT ALL PARTIES HAVING AN INTEREST IN THIS TRACT ARE REGISTERED IN THE RECORDS OF SAND COUNTY, AS SHOWN ON THE INSTRUMENT RECORDING LIST.  
 WE HEREBY WARRANT TO THE CITY OF GARDEN GROVE  
 1. AN EASEMENT FOR WATER SYSTEMS AND UNDERGROUND WATER RIGHTS TO THE TRACT.  
 2. A PUBLIC UTILITY EASEMENT, AS SHOWN ON SAID MAP AS EASEMENT NO. 1.  
 3. AN EASEMENT FOR EMERGENCY VEHICLE ACCESS PURSUING ACROSS LOT A.  
 WE ALSO HEREBY RELEASE AND RELINQUISH TO THE CITY OF GARDEN GROVE  
 1. ALL RIGHTS TO UNDERGROUND WATER WITHOUT THE RIGHT OF SURFACE ENTRY.  
 2. ALL RIGHTS TO UNDERGROUND WATER WITHOUT THE RIGHT OF SURFACE ENTRY.  
 RECHONIA UNDERWRITERS OF MARYLAND, INC., A MARYLAND CORPORATION.  
 BY: *[Signature]* **Scottie Harris**, Vice President  
 BY: *[Signature]* **Erica D. Eads**, Secretary  
**ACKNOWLEDGMENTS**  
 STATE OF CALIFORNIA  
 COUNTY OF ORANGE  
 on April 25, 2014 before me, Erica D. Eads, a Notary Public, personally appeared Scottie Harris and Erica D. Eads of the legal age, sound mind, and legal capacity, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. I certify that the execution of this instrument complies with all requirements of the law of the State of California.  
 MY COMM. EXPIRES 9/25/14  
 BY: *[Signature]* **Erica D. Eads**, Notary Public in and for said State.  
 STATE OF CALIFORNIA  
 COUNTY OF ORANGE  
 BY: *[Signature]* **Walter F. Lindon**, County Recorder  
 DATE: 4/25/14

**CITY CLERK'S CERTIFICATE**  
 I, Erica D. Eads, County Clerk of the City of Garden Grove, do hereby certify that the within instrument was recorded in the public records of the City of Garden Grove on April 25, 2014 at 10:00 AM and that the same was duly filed and recorded in the public records of the City of Garden Grove.  
 DATED THIS 25th DAY OF April, 2014.  
 BY: *[Signature]* **Erica D. Eads**, County Clerk  
 CITY OF GARDEN GROVE

**CITY ENGINEER'S STATEMENT**  
 I, Erica D. Eads, City Engineer of the City of Garden Grove, do hereby state that I have examined the map and have found it to be in compliance with the provisions of the City of Garden Grove Ordinance No. 1424 (02) of the Subdivision Map Act, and that all provisions of the Subdivision Map Act and City Subdivision Ordinance No. 1424 (02) have been complied with.  
 DATED THIS 25th DAY OF April, 2014.  
 BY: *[Signature]* **Erica D. Eads**, City Engineer  
 CITY OF GARDEN GROVE

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 IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA  
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 DATED THIS 25th DAY OF April, 2014.  
 BY: *[Signature]* **Erica D. Eads**, City Engineer  
 CITY OF GARDEN GROVE

**SURVEYOR'S STATEMENT**  
 THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS BASED UPON A FIELD SURVEY IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYING ACT AND THE PROFESSIONAL LAND SURVEYING BOARD. I AM A LICENSED LAND SURVEYOR IN THE STATE OF CALIFORNIA, LICENSE NO. 12345. I HAVE PERSONALLY CONDUCTED THE SURVEY AND HAVE BEEN AWARE OF ALL APPLICABLE LAWS AND REGULATIONS. I HEREBY CERTIFY THAT THIS MAP IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEYED LAND AND THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYING ACT AND THE PROFESSIONAL LAND SURVEYING BOARD. I HEREBY CERTIFY THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYING ACT AND THE PROFESSIONAL LAND SURVEYING BOARD.  
 DATED THIS 25th DAY OF April, 2014.  
 BY: *[Signature]* **Walter F. Lindon**, Surveyor  
 COUNTY CLERK-RECORDER

**COUNTY TREASURER-TAX COLLECTOR'S CERTIFICATE**  
 STATE OF CALIFORNIA } 35  
 COUNTY OF ORANGE }  
 I, Erica D. Eads, County Treasurer-Tax Collector of the County of Orange, do hereby certify that the within instrument was recorded in the public records of the County of Orange on April 25, 2014 at 10:00 AM and that the same was duly filed and recorded in the public records of the County of Orange.  
 DATED THIS 25th DAY OF April, 2014.  
 BY: *[Signature]* **Erica D. Eads**, County Treasurer-Tax Collector

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 DATED THIS 25th DAY OF April, 2014.  
 BY: *[Signature]* **Erica D. Eads**, City Engineer  
 CITY OF GARDEN GROVE

**SIGNATURE OMISSION NOTES**  
 PURSUANT TO SECTION 64543(b)(4) OF THE SUBDIVISION MAP ACT, THE FOLLOWING SIGNATURES HAVE BEEN OMITTED:  
 1. SOUTHERN CALIFORNIA EDISON COMPANY, HOLDER OF AN EASEMENT FOR POLE LOCATION OVER THE TRACT, AS SHOWN ON THE INSTRUMENT RECORDING LIST, THIS IS BEING FILED AS A PUBLIC UTILITY EASEMENT.  
 2. SOUTHERN CALIFORNIA EDISON COMPANY, HOLDER OF AN EASEMENT FOR POLE LOCATION OVER THE TRACT, AS SHOWN ON THE INSTRUMENT RECORDING LIST, THIS IS BEING FILED AS A PUBLIC UTILITY EASEMENT.

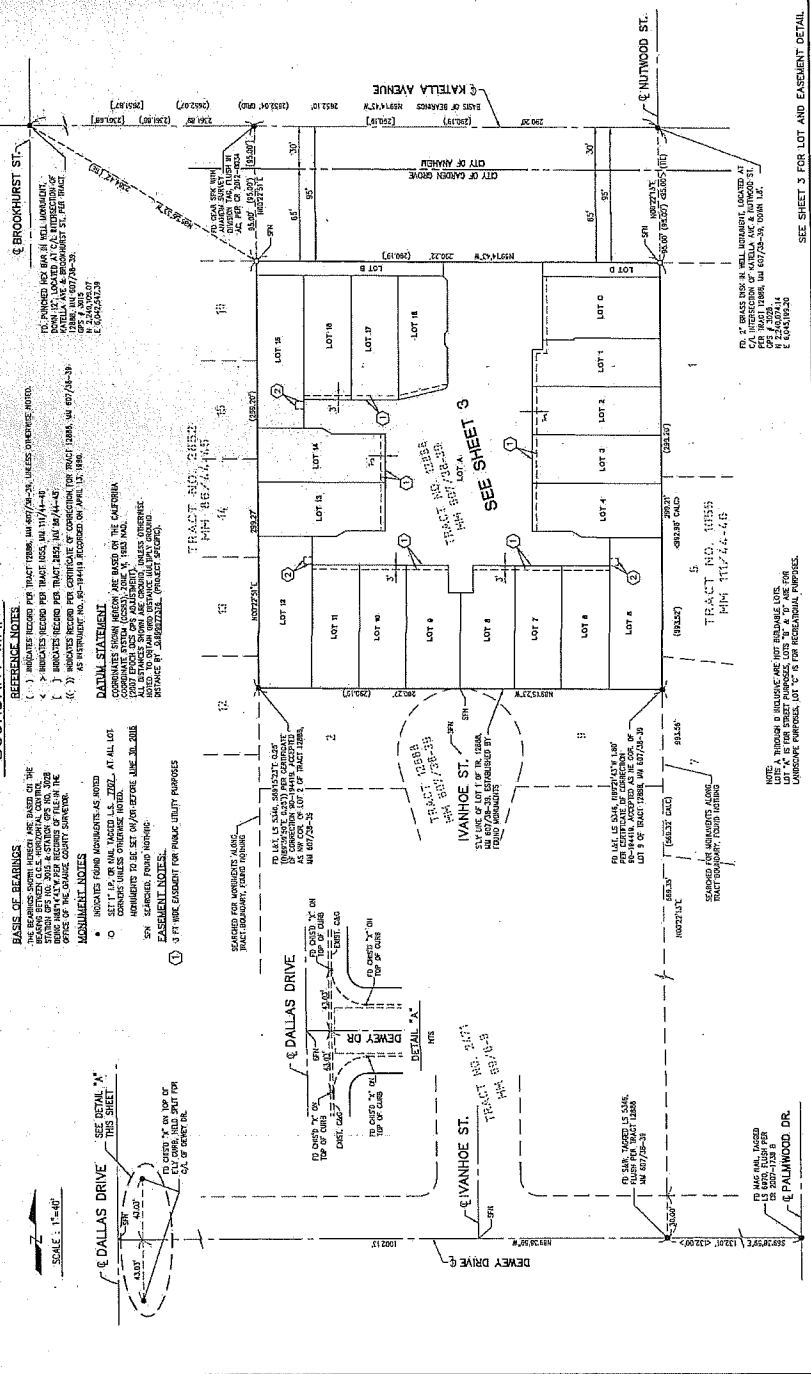
SHEET 2 OF 3 SHEETS  
 18 NUMBERED LOTS  
 TOTAL AREA: 1394 ACRES  
 DATE OF SURVEY: JANUARY 2013  
 SCALE: 1"=40'

**TRACT NO. 17521**  
 IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA  
 JANUARY 2013. DMS CONSULTANTS, INC. WALTER F. LUNDIN L.S. 7707  
**BOUNDARY MAP**

**REFERENCE NOTES:**  
 ( ) INDICATES RECORD FOR TRACT 17521, UNLESS OTHERWISE NOTED.  
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**MONUMENT NOTES:**  
 ( ) INDICATES FOUND MONUMENTS AS NOTED.  
 ( ) SET 1" P.A. OR 1/4" M.A. TO 1/4" T.O.P. AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.  
 ( ) SET 1" P.A. OR 1/4" M.A. TO 1/4" T.O.P. AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.  
 ( ) SET 1" P.A. OR 1/4" M.A. TO 1/4" T.O.P. AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.

**EASEMENT NOTES:**  
 ( ) 3 FT. WIDE EASEMENT FOR PUBLIC UTILITY PURPOSES.



SEE SHEET 3 FOR LOT AND EASEMENT DETAIL

SHEET 3 OF 3 SHEETS  
 TRACT NO. 17521  
 18 NUMBERED LOTS & 4 LETTERED LOTS  
 TOTAL AREA: 1.984 ACRES  
 DATE OF SURVEY: JANUARY 2013  
 SCALE: 1"=50'

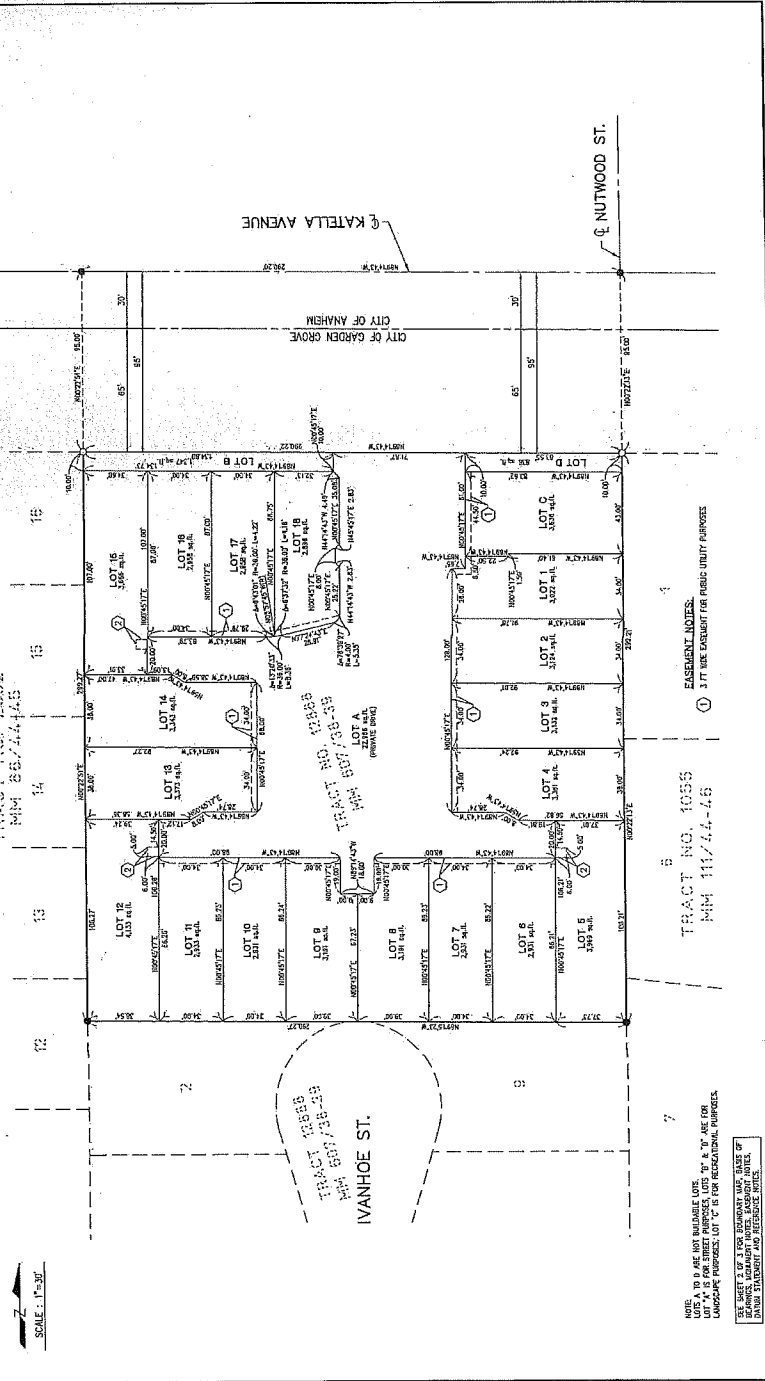
**TRACT NO. 17521**  
 IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA  
 JANUARY 2013, DMS CONSULTANTS, INC. WALTER F. LUNDIN L.S. 7707

**LOT AND EASEMENT DETAIL**

TRACT NO. 2852  
 MM 86744-4-5

TRACT NO. 12856  
 MM 80748-5-3

TRACT NO. 1055  
 MM 111744-4-6



NOTE: LOTS 1 & 2 ARE NOT SURVEYED LOTS  
 LOT 'A' IS FOR STREET PURPOSES, LOTS 'B' & 'C' ARE FOR  
 LANDSCAPE PURPOSES, LOT 'D' IS FOR RECREATIONAL PURPOSES.  
 SEE SHEET 2 OF 3 FOR EXHIBIT AND BASIS OF  
 SURVEY, UNLESS OTHERWISE NOTED.  
 DMS CONSULTANTS, INC.

EASEMENT NOTES:  
 ① 3 FT. WIDE EASEMENT FOR PUBLIC UTILITY PURPOSES

**SUBDIVISION IMPROVEMENT AGREEMENT**

**SUBDIVIDER: RICHMOND AMERICAN HOMES OF MARYLAND, INC.**

**TRACT MAP NO. 17521**

**THIS AGREEMENT** is made this 13<sup>th</sup> day of May 2014, by the CITY OF GARDEN GROVE, a municipal corporation ("CITY"), and RICHMOND AMERICAN HOMES OF MARYLAND, INC a Maryland Corporation ("SUBDIVIDER"). CITY and SUBDIVIDER are sometime referred to herein individually as the "Party" or collectively as the "Parties."

**RECITALS:**

The following recitals are a substantive part of this Agreement:

1. SUBDIVIDER has obtained initial City approval of a subdivision map for Tentative Tract Map No. 17521 ("Project"), subject to certain conditions of approval for the development of the Project ("Conditions of Approval").
2. As a condition precedent to the approval of the Final Map by CITY, SUBDIVIDER is required to construct, install and/or offer for dedication to CITY certain streets, highways, easements, infrastructure improvements and/or parcels of land intended for public use.
3. SUBDIVIDER, by the Final Map, has offered for dedication to CITY certain streets, easements, property, and infrastructure improvements.
4. CITY desires to accept the dedications of such streets, easements, property, and other improvements as shown on the Final Map, and certain other improvements described in this Agreement.
5. SUBDIVIDER has delivered to CITY and CITY has approved plans and specifications and related documents for certain "Improvements" (as hereinafter defined), which are required to be constructed and installed in order to accommodate the development of the Project.
6. SUBDIVIDER has requested approval of the Final Map prior to completion of all of the Improvements required by CITY.
7. To assure CITY that SUBDIVIDER will complete construction and installation of all required Improvements, the Parties have entered into this Agreement.
8. SUBDIVIDER's agreement to construct and install the Improvements pursuant to this Agreement and its offer of dedication of the streets, easements, and other improvements, as shown on the Final Map, are a material consideration to CITY in approving the Final Map and permitting development of the Project to proceed.
9. This Agreement is entered into in accordance with the Subdivision Map Act (Government Code sections 66410 et seq.) and the ordinances, rules, regulations, and determinations of the CITY.

## AGREEMENT

NOW THEREFORE, based on the foregoing Recitals, which are incorporated herein by reference, and in consideration of the CITY's approving the Final Map and permitting development of the Project to proceed, CITY's acceptance of the streets, easement, and other improvements offered for dedication by SUBDIVIDER, and the mutual promises contained herein, the Parties mutually agree as follows:

1. **Improvements.** SUBDIVIDER, at his or her sole expense, agrees to construct and install, as applicable, the street, sidewalks, drainage, domestic water, sanitary sewer, and other improvements (herein sometimes collectively referred to as the "Improvements") required to be constructed or agreed to be constructed as a condition precedent to the approval of the Final Map and acceptance of such streets and easements, as expressly shown on (1) the Improvement Lists attached hereto at Exhibit "A" and incorporated herein, and/or (2) the approved Project Improvement Plans on file with CITY and/or subsequently approved or revised by CITY and SUBDIVIDER (the "Improvement Plans"). The estimated construction cost for the Improvements is \$52,918.00
  
2. **Security.** To secure the faithful performance of each improvement required under this Agreement and to ensure full payment to all persons furnishing or supplying labor or materials for each improvement required, SUBDIVIDER shall provide CITY, prior to the execution of this Agreement by CITY, with the following bonds (or a cash deposit in lieu of bonds):

Improvement	Type of Bond	Amount
100% of total estimate for Off-Site Improvements and On-Site Grading & Drainage Improvements as shown on Grading Plan No. G-1268	Faithful Performance	\$52,918.00
50% of total estimate for Off-Site Improvements and On-Site Grading & Drainage Improvements as shown on Grading Plan No. G-1268	Labor & Material	\$26,459.00
100% total estimate for Survey Monument Bond for setting required survey monuments and filing all documentation and records as described and required by the Final Tract Map on file with the CITY	Monument Bond	\$2000.00

The bonds shall be executed on CITY forms by a surety authorized to do business in the State of California and shall be subject to approval by the City Attorney.

3. **Time for Completion.** SUBDIVIDER shall complete construction and installation of the improvements within 365 days, or such later time as approved by the CITY in writing.
4. **CITY Inspection and Acceptance.** The City Engineer or his or her duly authorized representative, upon request of SUBDIVIDER, shall inspect the improvements herein agreed to be constructed or installed by SUBDIVIDER, and, if determined to be in accordance with the applicable CITY standards, as set forth in the Garden Grove Municipal Code, Conditions of Approval and Improvement Plans, shall recommend the acceptance of such improvements by the CITY.
5. **Changes or Alterations.** SUBDIVIDER shall perform any changes or alterations in the construction and installation of the improvements required by CITY, to the extent such changes or alterations are needed to cause the improvements to comply with the applicable CITY standards, as set forth in the Garden Grove Municipal Code, Conditions of Approval and Improvement Plans.
6. **Guarantee.** SUBDIVIDER shall guarantee such improvements for a period of one (1) year following the completion by SUBDIVIDER and acceptance by CITY against any defective work or labor done, or defective materials furnished, in the performance of work pursuant to this Agreement.
7. **Insurance and Indemnification Requirements.**
  - 7.1 **Commencement of Work.** SUBDIVIDER, all contractors, and subcontractors shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. *All contractors and subcontractors shall obtain and maintain the same insurance as required of SUBDIVIDER. SUBDIVIDER shall be responsible to collect and maintain all insurance from all contractors and subcontractors.* All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
  - 7.2 **Workers Compensation Insurance.** For the duration of this Agreement, SUBDIVIDER shall maintain Workers Compensation Insurance in the amount and type required by California law, if applicable. The insurer shall waive its rights of subrogation against the CITY, its officers, officials, agents, employees, and volunteers.
  - 7.3 **Insurance Amounts.** SUBDIVIDER shall provide and maintain or shall cause it's Contractor and all subcontractors to provide and maintain the following insurance for the duration of this Agreement:
    - (a) Commercial general liability in an amount not less than \$1,000,000 per occurrence; **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
    - (b) Automobile liability in an amount not less than of \$1,000,000 combined single limit; **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.



An Additional Insured Endorsement, **ongoing and products-completed operations**, for the policy under section 7.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the SUBDIVIDER. SUBDIVIDER shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 7.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the SUBDIVIDER shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, SUBDIVIDER's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the SUBDIVIDER'S insurance and shall not contribute with it.

In the event any of SUBDIVIDER's underlying policies do not meet policy limits within the insurance requirements, SUBDIVIDER shall provide: 1) the schedule of underlying policies for a follows form excess liability policy, 2) state that the excess policy follows form on the insurance certificate, and 3) an additional insured endorsement for the follows form excess liability policy designating CITY, its officers, officials, employees, agents, and volunteers.

If SUBDIVIDER maintains higher insurance limits than the minimums shown above, SUBDIVIDER shall provide coverage for the higher insurance limits otherwise maintained by the SUBDIVIDER.

#### 7.4 **Indemnification.**

- A. SUBDIVIDER agrees to protect, defend, and hold harmless CITY and its officials, officers, employees and agents from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees for injury to or death of any person, damage to property, interference with use of property, and monetary damages of any nature resulting from, arising out of, or in any way connected with performance of the Agreement by SUBDIVIDER and its agents, officers, employees, subcontractors, or independent contractors hired by SUBDIVIDER. The only exception to SUBDIVIDER'S responsibility to protect, defend, indemnify and hold harmless CITY, is due to the negligence or willful misconduct of CITY, or any of its officials, officers, employees or agents.
- B. CITY does not, and shall not waive any rights against SUBDIVIDER, which it may have by reason of this hold harmless agreement. This hold harmless agreement shall apply to all liability regardless of whether or not any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by SUBDIVIDER in the event of loss, claim, damage,

or expense. The indemnification obligations of SUBDIVIDER shall survive the termination of this Agreement until all such obligations are fully and finally resolved.

8. **Default.**

8.1 **Remedies Not Exclusive.** In any case where this Agreement provides a specific remedy to CITY for a default by SUBDIVIDER hereunder, such remedy shall be in addition to, and not exclusive of, CITY's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.

8.2 **CITY Right to Perform Work.** In the event SUBDIVIDER fails to perform any obligations under this Agreement, SUBDIVIDER hereby authorizes CITY to perform such obligations twenty (20) days after mailing written Notice of Default to SUBDIVIDER at the address given below, and agrees to pay the entire cost of such performance by CITY, unless SUBDIVIDER cures such default in such twenty (20) day period, or such additional time as CITY deems reasonable in its sole discretion.

8.3 **Costs and Attorney's Fees.** In the event SUBDIVIDER fails to perform any obligations under this Agreement, SUBDIVIDER agrees to pay all costs and expenses reasonably incurred by CITY in securing performance of such obligations, including costs of suit and reasonable attorney's fees. In the event of any dispute arising out of SUBDIVIDER's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and cost shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to the litigation. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

9. **Non-Liability of Officials and Employees of CITY.** No member, official or employee of CITY shall be personally liable to SUBDIVIDER, or any successor in interest, in the event of any default or breach by CITY, or for any amount which may become due from CITY or its successor, or any obligation under the terms of this Agreement.

10. **Labor.**

10.1 **Labor Standards.** SUBDIVIDER shall be responsible for causing itself and all contractors and subcontractors constructing or installing any of the Infrastructure Improvements to comply with all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. CITY makes no warranty or representation concerning whether any of the Infrastructure Improvements required to be constructed and/or installed pursuant to this Agreement constitute public works subject to the prevailing wage requirements.

10.2 **Non-Discrimination.** SUBDIVIDER covenants and agrees that there shall be no discrimination against or segregation of any person, group, or employee due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any action or activity undertaken pursuant to this Agreement.

- 10.3 **Licensed Contractors.** SUBDIVIDER shall cause all of the Infrastructure Improvements to be constructed and/or installed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed.
11. **Change of Subdivider.** If SUBDIVIDER ceases to have legal interest in the Project, then a notice to that effect shall be filed with CITY by Subdivider. The notice shall include the name and address of the new Subdivider. SUBDIVIDER shall require as a condition of the transfer of the legal interest in the Project, that the new Subdivider shall (1) submit new bonds in accordance with this Agreement (at which time the original bonds shall be released); (2) submit to CITY a certified copy of the recorded deed referencing the transfer of the legal interest; and (iii) require that, upon transfer, the successor Subdivider undertake all of the obligations under this Agreement in lieu and in place of SUBDIVIDER. Thereafter, SUBDIVIDER shall have no further obligations to CITY under this Agreement except for any liability, obligations, acts or omissions incurred prior to such transfer. Subdivider's responsibility for such liability, obligations, acts or omissions shall survive until such liability or obligations are fully and finally resolved, or until the statute of limitations on such acts or omissions has elapsed.
12. **General Provisions.** It is mutually agreed as follows:
- 12.1 **Assignment or Delegation.** Neither CITY nor SUBDIVIDER shall assign this Agreement without the consent of the other. SUBDIVIDER shall not delegate its obligations under this Agreement to another.
- 12.2 **Independent Contractor.** It is understood and agreed that, in connection with the performance of SUBDIVIDER's obligations under this Agreement, SUBDIVIDER, its employees, agents, contractors, and any subcontractors acting on behalf of SUBDIVIDER shall act and be independent contractors and shall not be agents or employees of the CITY, and as independent contractors, shall obtain no rights to retirement benefits, or other benefits which accrue to CITY employees, and SUBDIVIDER, on behalf of itself, its employees, agents, contractors, and any subcontractors acting on behalf of SUBDIVIDER, hereby expressly waives any claim it may have to any such rights.
- 12.3 **Compliance with Law.** SUBDIVIDER shall comply with, and require all those acting on SUBDIVIDER's behalf to comply with, all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
- 12.4 **Conflict of Interest and Reporting.** SUBDIVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
- 12.5 **Notices.** All notices shall be personally delivered or mailed, postage prepaid, to the below-listed address, or to such other address as may be designated by written notice. These addresses shall be used for delivery of service of process.

If to SUBDIVIDER:  
RICHMOND AMERICAN HOMES OF MARYLAND, INC  
Attn: Leonard S. Miller  
5171 California Avenue, Suite 120  
Irvine, California 92617

If to CITY:  
City of Garden Grove  
Attention: Public Works Director  
11222 Acacia Parkway  
Garden Grove, California 92840

- 12.6 **Licenses, Permits, Fees, and Assessments.** At its sole cost and expense, SUBDIVIDER shall obtain such license, permits, and approvals as may be required by law for the performance of SUBDIVIDER's obligations under this Agreement. SUBDIVIDER shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the performance of the obligations required under this Agreement.
- 12.7 **Time of Essence.** Time is of the essence in the performance of this Agreement.
- 12.8 **Heirs, Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties, including all successors and assigns to SUBDIVIDER's right, title, and interest in the property covered by the Project and any portion thereof.
- 12.9 **Corporate Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.
- 12.10 **Modification.** This Agreement constitutes the entire agreement between the parties. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and SUBDIVIDER.
- 12.11 **Waiver.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and SUBDIVIDER. SUBDIVIDER agrees that waiver by CITY of any one or more of the conditions of performance under this Agreement shall not be construed as waiver of any other condition of performance under this Agreement.
- 12.12 **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced pursuant to this Agreement shall be initiated in the central or main branch of the Orange County Superior Court.
- 12.13 **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
- 12.14 **Preservation of Agreement.** Should any paragraph, clause, provision or word of this Agreement be found invalid or unenforceable, such decision shall affect only the paragraph, clause, provision or word so construed and interpreted, and all remaining provisions shall remain valid and enforceable.
13. **Mutual Agreement.** The parties hereto do mutually covenant and agree to the full and faithful performance of their respective obligations under this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

**"CITY"**

**CITY OF GARDEN GROVE**

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
City Manager

**ATTEST:**

\_\_\_\_\_  
City Clerk

**"SUBDIVIDER"**

Date: \_\_\_\_\_

**RICHMOND AMERICAN HOMES OF MARYLAND, INC**, a Maryland Corporation

By: \_\_\_\_\_  
*[Signature]*

Name: Leonard S. Miller

Date: \_\_\_\_\_

Its: DIVISION PRESIDENT

Date: \_\_\_\_\_

By: LEONARD S. MILLER

Name: RAH HOMES

Its: REGIONAL PRESIDENT

APPROVED AS TO FORM:

*[Signature]*  
\_\_\_\_\_  
Garden Grove City Attorney

If SUBDIVIDER is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

Date: 5/8/14

INSTRUCTIONS: If SUBDIVIDER is a corporation or limited liability company, the Agreement must be executed in the corporate/LLC name and signed by the President or a Vice-President and the Secretary or Assistant Secretary. If SUBDIVIDER is a limited liability company with designated centralized management (i.e., those that specifically designate in their articles of organization that they will be managed by a manager or managers), the Agreement must be executed in the LLC's name and signed by at least *two managers* (or by one manager in the case of an LLC whose articles of organization state that it is managed by only one manager). If SUBDIVIDER is a partnership, it must be signed by all general partners. If SUBDIVIDER is an individual doing business under a fictitious name, it must be signed by all persons having an interest in the business, and the fictitious name must be included.

**CERTIFICATE OF RESOLUTION**

I, Joseph H. Fretz, as Secretary of Richmond American Homes of Maryland, Inc., a Maryland corporation (the "Company"), do hereby certify on behalf of the Company that the following resolutions were unanimously adopted by the Board of Directors of the Company pursuant to the Minutes of Action of the Board of Directors of the Company dated as of May 5, 2008, and that such resolutions are in full force and effect as of the date of this Certificate of Resolution:

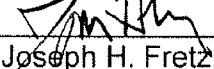
**WHEREAS**, Richmond American Homes of California, Inc. has merged into Richmond American Homes of Maryland, Inc.; and

**WHEREAS**, the Company desires to reflect this change with respect to the appointment of officers; therefore, be it

**RESOLVED**, that Leonard S. Miller is hereby appointed Regional President (California Division), effective immediately, to serve until his successor is duly appointed or until the earlier of his resignation, retirement, termination of his employment, or death; and it is

**FURTHER RESOLVED**, that Leonard S. Miller, as an officer of the Company, is authorized hereby to enter into and execute and deliver, on behalf of the Company, any and all documents necessary or advisable in connection with his position as Regional President (California Division).

RICHMOND AMERICAN HOMES OF  
MARYLAND, INC., a Maryland corporation

By:  \_\_\_\_\_  
Joseph H. Fretz, Secretary

Executed at Denver, Colorado this 6<sup>TH</sup> day of May, 2008.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA) SS

COUNTY OF **ORANGE**

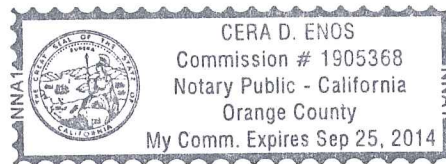
On May 5, 2014, before me, Cera D. Enos, Notary Public, personally appeared Leonard S. Miller, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ 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

*Cera D. Enos*



This area for official notarial seal.

My Commission Expires: September 25, 2014

**EXHIBIT A**




Exhibit "A"

October 2, 2013

Engineer's Probable Cost Estimate  
 Tract 17521 - Garden Grove  
 10418 Katella Ave, Garden Grove, CA

GRADING IMPROVEMENTS

No.	Description	Quantity	Unit	Unit Price	Total	
1	Earthwork	11,332	CY	\$ 3.78	\$ 42,835	
2	Import	1,749	CY	\$ 4.10	\$ 7,165	
Rough Grade/Earthwork						\$ 50,000
3	Construct AC over AB	12,778	SF	\$ 3.99	\$ 51,000	
Asphalt Paving						\$ 51,000
4	Construct curb & gutter (6"cf) per city std. B-113	466	LF	\$ 24.00	\$ 11,184	
5	Construct conc. Alley gutter	195	LF	\$ 36.00	\$ 7,020	
6	Construct conc. Curb (6"cf) per city std. B-112	870	LF	\$ 24.00	\$ 20,880	
7	Construct conc. Sidewalk	1,306	SF	\$ 5.65	\$ 7,379	
8	Construct Residential Driveway	1,142	SF	\$ 5.65	\$ 6,452	
9	Construct Case C ramp per Caltrans std. Plan A88A	1	EA	\$ 1,244.00	\$ 1,244	
10	Construct Case CM ramp per Caltrans std. Plan A88A	3	EA	\$ 1,244.00	\$ 3,732	
11	Construct Driveway per city std. B-121	1	EA	\$ 2,559.87	\$ 2,560	
12	Construct Full depth AC/ slot patch	160	LF	\$ 28.00	\$ 4,480	
13	Remove Existing Driveway	2	EA	\$ 698.00	\$ 1,396	
14	Remove Existing Sidewalk	790	SF	\$ 3.54	\$ 2,797	
15	Remove Existing Curb & Gutter	107	LF	\$ 8.19	\$ 876	
Curb and Gutter/Sidewalks/Driveways/Ramps						\$ 70,000
11	Construct 6" thick stamped conc.	465	SF	\$ 21.00	\$ 9,765	
Decorative Concrete						\$ 9,765
12	Construct 4" pipe curb outlet through curb face	33	EA	\$ 18.29	\$ 604	
13	Construct 4" dia. (sch40) pvc drain pipe	2,817	LF	\$ 3.00	\$ 8,451	
14	Construct EcoStone Pavers	3,660	SF	\$ 6.53	\$ 23,896	
15	Construct drain inlet	103	EA	\$ 8.30	\$ 855	
16	Construct trash and debris gaurd	2	EA	\$ 125.00	\$ 250	
17	Construct conc. Rectangular channel	64	LF	\$ 86.00	\$ 5,504	
18	Construct Parkway culvert	2	EA	\$ 220.00	\$ 440	
Storm Drainage Improvements						\$ 40,000
					\$	-
Subtotal					\$	220,765
Total Engineer's Estimate					\$	220,765

  
 Surender Dewan, P.E.  
 34559 Expires: 09/30/15



Total as of  
 4/24/2014

**\$ 52,918**

Remaining KD



Exhibit "A"

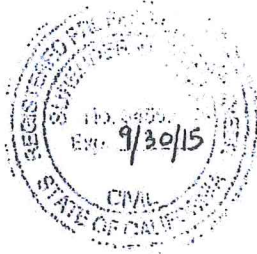
October 2, 2013

Engineer's Probable Cost Estimate  
 Tract 17521 - Garden Grove  
 10418 Katella Ave, Garden Grove, CA

		SEWER IMPROVEMENTS			
No.	Description	Quantity	Unit	Unit Price	Total
1	Construct Sewer Manhole	6	EA	\$ 5,500.00	\$ 33,000
2	Construct 8" Dia. Extra strength VCP Sewer pipe with wedge lock joints	733	LF	\$ 58.75	\$ 43,064
3	Construct Sewer Cleanout	19	EA	\$ 320.00	\$ 6,080
4	Construct 4" PVC (SDR35) Sewer Lateral with PEA gravel backfill	368	LF	\$ 39.66	\$ 14,595
Subtotal					\$ 96,739
Total Engineer's Estimate					\$ 96,739



Surender Dewan, P.E.  
 34559 Expires: 09/30/15



*Completed as  
 of 4/25/14*

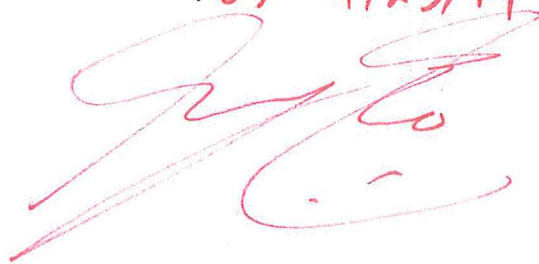
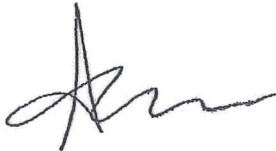


Exhibit "A"

October 2, 2013

Engineer's Probable Cost Estimate  
 Tract 17521 - Garden Grove  
 10418 Katella Ave, Garden Grove, CA

		WATER IMPROVEMENTS			
No.	Description	Quantity	Unit	Unit Price	Total
1	Install 6" PVC AWWA C-900 Class 200 Water Main with 36" cover from Finished surface and 24" cover at the time of installation	575	LF	\$ 50	\$ 28,751
2	Install 8" PVC AWWA C-900 Class 200 Water Main with 36" cover from Finished surface and 24" cover at the time of installation	124	LF	\$ 60	\$ 7,440
3	Construct 12"x8" DI Tapping Sleeve and Tapping Valve	1	EA	\$ 6,000	\$ 6,000
4	Install 6"x6"x6" Tee	4	EA	\$ 500	\$ 2,000
5	Install 8"x6" Reducer	1	EA	\$ 500	\$ 500
6	Install 6" resilient Wedge gate valve	1	EA	\$ 500	\$ 500
8	Install conc anchor block	4	EA	\$ 300	\$ 1,200
12	Install Wet Barrel Fire Hydrant Assembly	2	EA	\$ 6,000	\$ 12,000
18	Install 1" Water Service	18	EA	\$ 1,000	\$ 18,000
19	Install 4" Blowoff	3	EA	\$ 1,203	\$ 3,609
Subtotal					\$ 80,000
Total Engineer's Estimate					\$ 80,000

  
 Surender Dewan, P.E.  
 34559 Expires: 09/30/15



Completed as of  
 4/25/2014

