

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2021, Legislative Day No. 13

Resolution No. 30-21

Introduced by Ms. Lacey, Chair
(by request of the County Executive)

By the County Council, June 7, 2021

1 RESOLUTION approving the terms and conditions of the acquisition of real property
2 consisting of approximately 14.693 +/- acres, known as 7180 Heritage Crossing in Glen
3 Burnie, Maryland 21060 from U.S. Home Corporation, utilizing funds from the Advance
4 Land Acquisition Capital Project
5

6 WHEREAS, § 8-3-101 of the County Code empowers the County Executive to
7 accept a dedication of real property on behalf of and in the name of Anne Arundel
8 County, Maryland (the “County”) for the purposes set forth in Articles 16 and 17
9 of the County Code or to purchase real property by agreement or eminent domain
10 if an adequate appropriation has been made by the County Council; and
11

12 WHEREAS, § 8-3-101(d)(2) requires that each agreement for the purchase of real
13 property utilizing funds from the Advance Land Acquisition Capital Project,
14 Project No. C106700 (“Advance Land Acquisition Capital Project”), shall be
15 contingent upon approval of the purchase by resolution of the County Council; and
16

17 WHEREAS, § 8-3-101(d)(2) further provides that, prior to approval of the purchase
18 by resolution, the County Council shall require an independent appraisal, an
19 environmental study, and a feasibility study for the property being purchased; and
20

21 WHEREAS, the County Executive is utilizing funds from the Advance Land
22 Acquisition Capital Project to purchase real property known as 7180 Heritage
23 Crossing, Glen Burnie, MD 21060, and more particularly described as County Tax
24 Map 10, Parcel 53, Lot 8 as shown on a plat of Tanyard Springs recorded among
25 the plat records of Anne Arundel County, in Plat Book 274, at pages 26 through 33
26 (the “Property”) from U.S. Home Corporation (the “Seller”); and
27

28 WHEREAS, the County’s independent real estate appraisal estimates the fair
29 market value of the Property to be Five Million One Hundred Thousand Dollars
30 (\$5,100,000); and
31

32 WHEREAS, in accordance with § 8-3-101(d)(2), the Department of Public Works
33 conducted an environmental assessment and a feasibility study for the Property;
34 and
35

36 WHEREAS, the County Executive has determined that the Property is needed for
37 public use in that it has been identified as a potential site for a school, as well as
38 other possible public educational, recreational, or civic uses, and that acquisition of

1 the Property for the sum of Five Million One Hundred Thousand Dollars
2 (\$5,100,000) to be paid from the Advance Land Acquisition Capital Project
3 pursuant to the terms and conditions of the Agreement of Sale (“Agreement of
4 Sale”), which is attached to this Resolution as Exhibit A, would be in the best
5 interests of the County; now, therefore, be it

6
7 *Resolved by the County Council of Anne Arundel County, Maryland, That, in*
8 accordance with § 8-3-101(d)(2), it approves the acquisition of the Property pursuant to the
9 terms and conditions as set forth in Exhibit A; and be it further

10
11 *Resolved, That a copy of this Resolution be sent to County Executive Stuart Pittman.*

READ AND PASSED this 6th day of July, 2021.

By Order:



Laura Corby
Administrative Officer

I HEREBY CERTIFY THAT RESOLUTION NO. 30-21 IS TRUE AND CORRECT AND DULY
ADOPTED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY.



Sarah F. Lacey
Chair



Christopher J. Phipps, P.E., Director

MEMORANDUM

TRACKING #: 32217

DATE: May 12, 2021

TO: County Executive

VIA: Office of Law

FROM: Department of Public Works

SUBJECT: Right of Way


PROJECT: Tanyard Springs School Site/C1067.15


DESCRIPTION: Agreement of Sale for a 14.69 site in the Tanyard Springs Subdivision for a school site.

GRANTORS: US Home Corporation

COMPENSATION: \$5,100,000

It is recommended by this Department that the County Executive approve the attached legal documents, subject to the approval of the Office of Law, and return it to the Right of Way Division.

DocuSigned by:

 Christopher J. Phipps, P.E., Director
 Department of Public Works


 BO

CR
Enclosure

Department of Public Works
Right of Way Division
2662 Riva Road
Annapolis, MD 21401

C1067.15

AGREEMENT OF SALE

THIS AGREEMENT OF SALE, (hereinafter called the "Agreement") made this day of , 2021, by and between **U.S. HOME CORPORATION**, a Delaware Corporation (hereinafter "Seller"), and **ANNE ARUNDEL COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (hereinafter "Purchaser").

WHEREAS, the Seller is the owner of all that property located at 7180 Heritage Crossing, Glen Burnie, MD 21060 located in the Third Assessment District of Anne Arundel County identified on Tax Map 10 as Parcel 53, Lot 8 and further described in a Deed recorded in the land records of Anne Arundel County in Liber 18609, folio 711 (hereinafter "Property"); and

WHEREAS, the Purchaser has identified the Property for use as a potential school site as well as other possible uses and funds for the acquisition of the Property will come from the Advanced Land Acquisition Capital Project No. C1067.

NOW THEREFORE WITNESSETH: That for and in consideration of mutual covenants and promises herein made by the parties, the above recitals which are incorporated herein by reference and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Seller agrees to sell and convey to Purchaser and Purchaser agrees to buy and accept from Seller the Property under the terms and conditions set forth in this Agreement.

2. The total purchase price for the Property shall be \$5,100,000 (Five Million One Hundred Thousand Dollars) with settlement on or before September 30, 2021 contingent of the following:

(a) Tests and studies as provided in paragraph 9 of this Agreement.

(b) Sufficient appropriation and authorization by Anne Arundel County, Maryland for the acquisition of the Property, including approval by the Anne Arundel County Council (for funds from the Advanced Land Capital Acquisition Project) as may be required.

3. Seller shall execute this Agreement on or before May 31, 2021, after which time execution does not occur, this offer to purchase made by Purchaser to Seller shall be null, void, and of no effect. Notwithstanding any provision in this Agreement to the contrary, Seller's obligations under this Agreement are contingent upon Seller's receipt of the written approval of the Corporate Investment Committee of Lennar Corporation ("CIC Approval") prior to May 31, 2021. If Seller fails to deliver to Purchaser written notice of CIC Approval prior May 31, 2021, this Agreement shall be null and void, and neither Seller nor Purchaser shall have any further rights or obligations under the Agreement, except for those matters that expressly survive termination of this Agreement. No waiver of such condition shall be implied, but shall be expressed, if at all, only by written notice from the Corporate Investment Committee of Lennar Corporation specifically waiving such condition. Further, Purchaser hereby acknowledges and confirms that Purchaser has been apprised of the corporate policy of Seller to the effect that all contracts and contract amendments entered into by Seller regarding the purchase, sale or development of land must be executed by both (i) either the Region President, Region Vice President or Region Counsel and (ii) another Vice President of Seller, and Seller shall not be

bound under this Agreement unless it has been so executed. In the event the contingencies set forth in paragraph 2 are not satisfied on or before September 15, 2021, than this Agreement shall terminate as of that date, and upon such termination, the parties shall not have any further rights, responsibilities, obligations, or duties to each other hereunder; however, this Agreement may be extended by mutual agreement of both parties.

4. Settlement shall be held at a location in Maryland designated by Purchaser. Purchaser shall give Seller at least fourteen (14) days written notice of the date and location of the settlement.

(a) Real estate taxes, general special taxes and rents, annual front foot benefit charges, special assessment tax or other annualized charges of a like nature are to be adjusted to the date of settlement and thereafter assumed by Purchaser.

(b) Settlement costs including any title examination, title insurance, tax certificates, recordation and transfer taxes, if any, are to be paid by Purchaser.

(c) The Purchaser's financial obligations under this Agreement are contingent upon sufficient appropriations and authorization being made by Anne Arundel County, Maryland for the performance of this Agreement.

5. At the time of settlement, the Seller shall convey a 100% interest in the Property to Purchaser by a fee simple deed with covenants of special warranty and further assurances. Title of the Property shall be good and merchantable, insurable at regular and free and clear of all liens and encumbrances, except for recorded easements, use and occupancy restrictions and encumbrances of public record, use and occupancy restrictions which are generally applicable to properties in the immediate neighborhood or the subdivision in which the property

is located, and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the property.

In the event that Seller is unable to convey such title to Purchaser at settlement as required herein (hereinafter called a "Title Defect"), Seller at Seller's sole expense and election, shall forthwith, but in no longer than 120-days after the settlement date and provided Purchaser agrees to a like extension of the settlement deadline, take such action as is required in order to cure Title Defect. Notwithstanding the foregoing, Seller shall have no obligation to take any action in order to cure the Title Defect. In the event Seller elects not to take such actions, or is unable to do so within the 180-day period, Purchaser at Purchaser's sole option may purchase the Property at the consideration stated in paragraph 2 with the Title Defect, may extend for a reasonable period the necessary time to complete the action undertaken to clear the Title Defect or may declare this Agreement null, void and of no effect, and upon such declaration, the parties shall have no further rights, responsibilities, obligations, or duties to each other hereunder. In the event the Title Defect remains uncured as of September 15, 2021, the upon the expiration of that time period, this Agreement shall automatically terminate, unless the parties mutually agree to extend such dates, and upon such termination, the parties shall not have any further rights, responsibilities, obligations or duties to each other hereunder.

6. Time is of the essence as to the requirements of paragraphs 2, 3 and 4 of the Agreement.

7. (a) Seller and Purchaser represent and warrant to each other that the person or persons executing this Agreement on behalf of each of them possess full legal power to do

so and to carry out each and every obligation of this Agreement, and that Seller is capable of transferring good, insurable, and merchantable title, subject to paragraph 5 above.

(b) Seller further represents that there are no leases, licenses, agreements, tenants or occupants that may or will impair or affect Seller's title to this Property or in any way affect or impair Seller's ability to convey this Property as set forth herein. Seller makes no representations or warranty, express or implied, as to the fitness of this Property for any particular use or purpose now and hereafter.

8. Until execution and delivery of the deed by Seller to Purchaser, Purchaser shall not assume any risk of loss or damage to the Property.

9. The undersigned owner of the real property described above makes no representations or warranties as to the condition of the real property or any improvements thereon, and the Purchaser will be receiving the real property "as-is," with all defects which may exist, except as otherwise may be provided in this Agreement.

10. During the term of this Agreement, Purchaser, at its own expense, shall have the right to cause surveys, boring tests, environmental studies or tests, use feasibility studies, title abstracts, and such other studies with respect to the Property as Purchaser deems necessary to determine the feasibility of the acquisition of the Property. In connection with the performance of its tests, use feasibility studies, title abstracts, and such other studies with respect to the Property, if the surveys, tests and studies conducted by Purchaser do not permit or warrant in the sole discretion of the Purchaser, or its engineers, architects or consultants, the acquisition and development of the Property, the Purchaser shall have the right, exercisable by written notice given to Seller within Ninety (90) days from the date of the execution of this

Agreement ("Study Termination Date"), to terminate this Agreement. In that event, Purchaser and Seller shall be relieved from further liability hereunder for this Agreement or the Property, at law or in equity, except that Purchaser's indemnification and restoration obligations set forth in this paragraph shall survive the termination. To the extent permitted by law, the Purchaser shall indemnify and hold Seller harmless against any damages, liabilities and claims incurred by Seller as a result of Purchaser's activities upon or with respect to the Property. If the Purchaser terminates this Agreement pursuant to the provisions of this paragraph or any other provision of this Agreement, Purchaser, at its own expense, shall restore any damage to the Property caused by Purchaser making boring tests and other tests and studies, and immediately thereafter vacate. Nevertheless and notwithstanding the foregoing, Seller represents that it has no actual knowledge of any environmental physical condition or dumping on or in the Property rendering the Property un-useable. If dumping or environmental conditions are found by the tests and studies, Seller may, in its sole discretion and election, mitigate and perform the clean-up at its sole cost and expense, the Purchaser and Seller may mutually agree to amend the purchase price to reflect this diminution of value based on the cost to cure or clean up costs, or the Purchaser may determine in its sole discretion that, as a result of the aforementioned dumping or environmental conditions found by the tests and studies, the site does not warrant use for its facility and this contract is null and void and of no effect.

11. It is understood and agreed that the Purchaser shall not have any obligation or liability for the payment of any real estate brokerage commission or the Seller's legal expenses. Should any claim for a commission be established by any broker, agent, consultant or attorney of the Seller, Seller expressly agrees to hold Purchaser harmless with respect thereto.

12. All notices under this Agreement shall be in writing and shall be deemed to be duly given if hand delivered or mailed by registered or certified mail, return receipt requested, as follows:

IF TO SELLER: LENNAR
7035 Albert Einstein Drive, Suite 200
Columbia, MD 21046

WITH COPIES TO: Cynthia Berman, Esquire
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202
Facsimile No.: (410) 361-8220
Email: cberman@kg-law.com

LENNAR
4600 W. Cypress Street, Suite 200
Tampa, Florida 33607
Attn: Philip Wolf, Esquire
Regional Counsel
Email: phil.wolf@lennar.com

LENNAR
700 NW 107th Avenue
Miami, Florida 33172
Attn: Mark Sustana, Esquire,
General Counsel
Facsimile No.: (305) 229-6650 May 15

IF TO PURCHASER: Chief, Right of Way Division
2662 Riva Road
Annapolis, MD 21401

Office of Law
2660 Riva Road
Annapolis, MD 21401

WITH COPIES TO: Director of Public Works
2662 Riva Road
Annapolis, MD 21401

The parties shall be responsible for notifying each other of any change of address.

13. This Agreement contains the complete and entire agreement between the parties relating to the Property and no agreement or understanding whether written or oral, not herein contained shall be considered part of this Agreement of Sale unless set forth in writing between the parties.

14. The terms and provisions of this Agreement shall survive the execution and delivery of a deed from Seller to Purchaser for a period of time not to exceed three (3) months after such execution and delivery of the deed and shall not merge therein.

15. If any term, condition or covenant of this Agreement shall be declared invalid or unenforceable the remainder of the Agreement shall not be affected.

16. This Agreement shall be governed by Maryland law and be subject to the exclusive jurisdiction of the courts of Anne Arundel County, Maryland.

17. This Agreement shall inure to the benefit of the parties hereto, their heirs, personal representatives, legal representatives, successors and assigns as appropriate.

18. This Agreement may be executed in counterparts, each of which shall be original, but all of which taken together shall constitute one and the same instrument. Electronic signatures hereon shall be deemed valid to the same extent as the originals.

[SIGNATURE PAGES TO FOLLOW]

Witness:

DocuSigned by:
Anthony Clark
B5F12F8C541C445...

DocuSigned by:
Anthony Clark
B5F12F8C541C445...

Attest:

Seller:

U.S. HOME CORPORATION

DocuSigned by:
Philip Wolf (Seal)
By: _____
Name: Philip Wolf

Title: Regional Counsel

DocuSigned by:
Matthew Wineman (Seal)
By: _____
Name: Matthew Wineman

Title: Vice President of Operations

Purchaser:

Anne Arundel County, Maryland

DocuSigned by:
Matthew S. Power (Seal)
By: _____
Name: Matthew S. Power

Chief Administrative Officer for
Anne Arundel County, Maryland

APPROVED FOR SUFFICIENCY AND AVILABILITY OF FUNDS:

DocuSigned by:
Karin M. Swacke FY21
Controller
C09922811405334CB...

5/20/2021
Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
GREGORY J. SWAIN, COUNTY ATTORNEY

DocuSigned by:
Kelly Phillips Kenney
By: _____
Christine Neiderer,
Assistant County Attorney

5/12/2021
Date

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

I HEREBY CERTIFY that instrument was prepared by Anne Arundel County, Maryland, one of the parties named herein.



Thomas E. Burke
Chief, Right of Way Division

J:\TBURKE\AGR.HERITAGECROSSING