

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

808A



**FROM:** TLMA – Transportation Department

**SUBMITTAL DATE:**  
March 27, 2014

**SUBJECT:** Partial Assignment and Assumption of Transportation Uniform Mitigation Fee Improvement Credit/Reimbursement Agreement by and between MS451 Inc., Brookfield 30069 LLC, and the County of Riverside for Washington Street Improvements Associated with Tract Nos. 30069, 30069-1, and 30069-2. 3<sup>rd</sup>/3<sup>rd</sup> District. [\$0]

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

1. Approve the subject Agreement by and between MS451 Inc.; Brookfield 30069 LLC; and the County of Riverside; and
2. Authorize the Chairman of the Board of Supervisors to execute the same.

**BACKGROUND:**

**Summary**

On September 18, 2007, Brookfield W633 LLC and the County of Riverside (County) entered into a Transportation Uniform Mitigation Fee (TUMF) Improvement and Credit Agreement for Washington Street improvements, which included TUMF credits for Tract Nos. 30069, 30069-1, and 30069-2 (Assigned Properties). The Credit Agreement provided a means by which eligible developer costs associated with

FORM APPROVED COUNTY COUNSEL  
BY: Dale A. Gardner  
DATE: 3/13/14  
Concurrence

Patricia Romo

Assistant Director of Transportation

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>	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0	
<b>SOURCE OF FUNDS:</b> N/A				<b>Budget Adjustment:</b> No	
				<b>For Fiscal Year:</b> 2013/2014	

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

APPROVE

BY:   
Tina Grande

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Prev. Agn. Ref.: 09/18/07, Item 3-66

District: 3/3

Agenda Number:

3-13

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

**FORM11:** Partial Assignment and Assumption of Transportation Uniform Mitigation Fee Improvement Credit/Reimbursement Agreement by and between MS451 Inc., Brookfield 30069 LLC, and the County of Riverside for Washington Street Improvements Associated with Tract Nos. 30069, 30069-1, and 30069-2. 3<sup>rd</sup>/3<sup>rd</sup> District. [\$0]

**DATE:** March 27, 2014

**PAGE:** 2 of 2

**BACKGROUND:**

**Summary (continued)**

the delivery of the Washington Street improvements could be offset against the developer's obligation to pay the applicable TUMF. These improvements were required by conditions of approval of the Assigned Properties.

The Assigned Properties were purchased by MS451 Inc. from Brookfield W633LLC. Subsequently, Brookfield 30069 LLC acquired the Assigned Properties from MS451 Inc. MS451 Inc. desires to assign to Brookfield 30069 LLC the TUMF credits, interests, and obligations associated with the Assigned Properties 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 unit within the Assigned Properties.

The Notice of Completion for the project was issued on October 20, 2008.

WO No.: TR 30069

**Impact on Residents and Businesses**

N/A

**SUPPLEMENTAL:**

**Additional Fiscal Information**

N/A

**Contract History and Price Reasonableness**

N/A

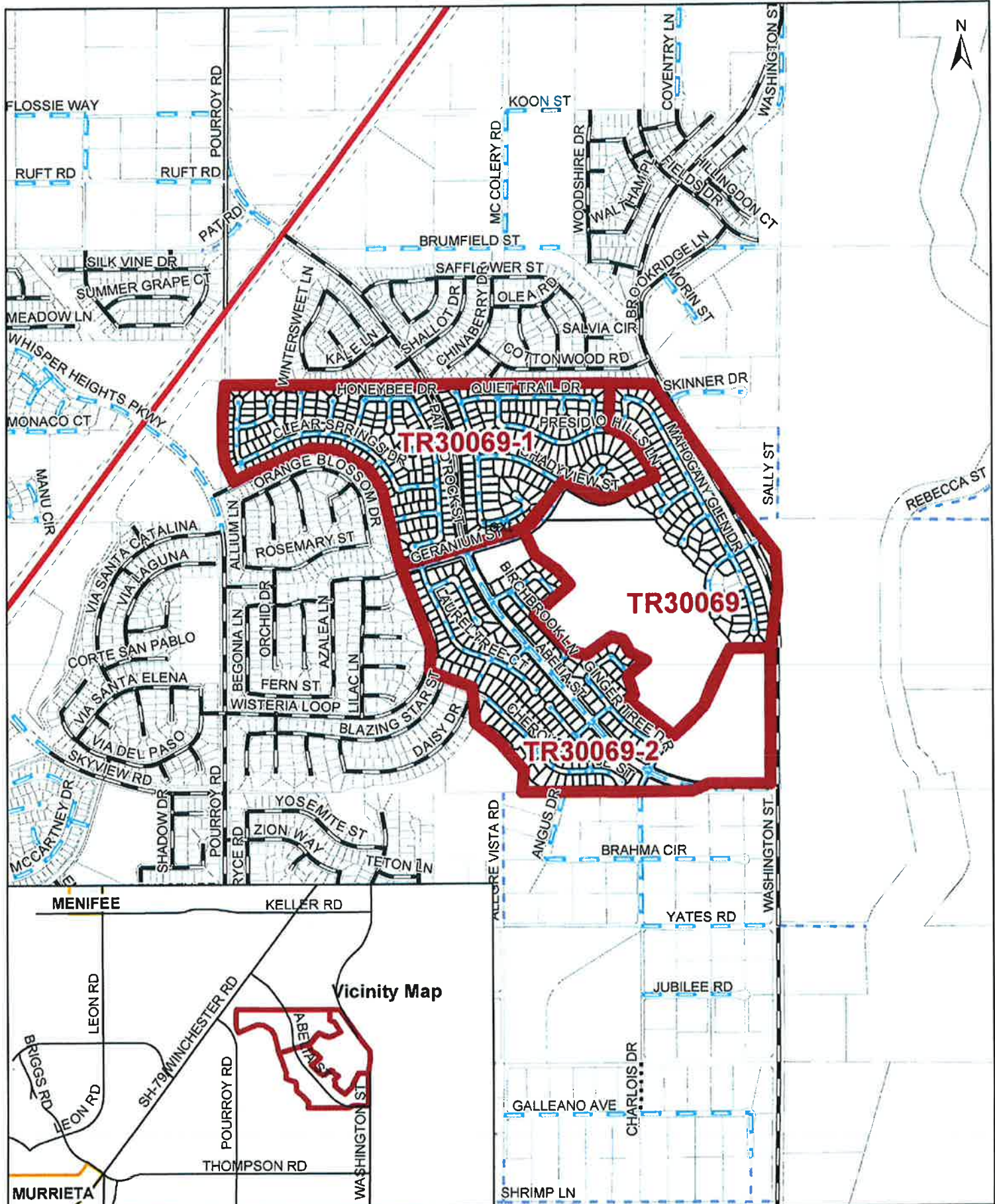
0 600 1,200 2,400 Feet

1 inch = 1,192 feet

Orthophotos Flown 2/11 (WR, CV) or 4/07 (REMAP, Blythe)  
Printed by almedina on 3/10/2014

# TR30069, TR30069-1, TR30069-2 Vicinity Map

The County of Riverside assumes no warranty or legal responsibility for the information contained on this map. Data and information represented on this map is subject to updates, modifications and may not be complete or appropriate for all purposes. County GIS and other sources should be queried for the most current information. Do not copy or reuse this map.





**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 \_\_\_\_\_, 20\_\_ by and between MS451 Inc., a California corporation ("Assignor"), Brookfield 30069 LLC, a Delaware Limited Liability Company ("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 September 18, 2007 (Contract No. 07-07-004) (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 90 single-family residential units in Tract 30069, 172 single-family residential units in Tract 30069-1 and 189 single-family residential units in Tract 30069-2. 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 March 28, 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:**

MS451 Inc.

By: 

Name: Michelle Campbell

Title: SECRETARY

By: 

Name: BRETT FOX

Title: PRESIDENT

**ASSIGNEE:**

Brookfield 30069 LLC

By: 

Name: ADRIAN FOLEY

Title: PRESIDENT

By: 

Name: William B. Seith

Title: SECRETARY

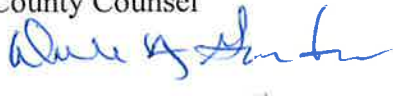
**COUNTY OF RIVERSIDE:**

By: \_\_\_\_\_

Chairman, County Board of Supervisors

**APPROVED AS TO FORM:**

County Counsel

By: 

**Dale A. Gardner**

**ATTEST:**

Kecia Harper-Ihem

Clerk of the Board

By: \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of ORANGE

On 2/20/14 before me,

before me,

Sommer Fox, Notary Public  
Here Insert Name and Title of the Officer

personally appeared

Adrian Foley & William B. Smith  
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: Sommer Fox

Sommer Fox  
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: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Individual

Individual

Partner —  Limited  General

Partner —  Limited  General

Attorney in Fact

Attorney in Fact

Trustee

Trustee

Guardian or Conservator

Guardian or Conservator

Other: \_\_\_\_\_

Other: \_\_\_\_\_

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

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

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

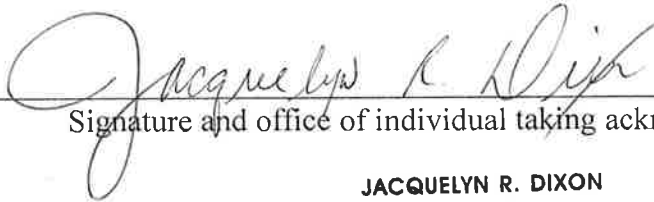




**NEW YORK STATE ACKNOWLEDGEMENT**

State of New York    )  
                                  ) ss.  
County of New York)

On the 27<sup>th</sup> day of January in the year 2014 before me, the undersigned, personally appeared Michelle Campbell, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Signature and office of individual taking acknowledgment

**JACQUELYN R. DIXON**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 01DI6265008**  
**Qualified in New York County**  
**My Commission Expires July 09, 2016**

**EXHIBIT A**

**DESCRIPTION OF ASSIGNED PROPERTY**

Tract 30069

Lots 11 through 90 inclusive and 94 through 103 inclusive of Tract Number 30069, in the County of Riverside, State of California, as shown by map on file in Book 410, pages 74 through 85 inclusive, of maps in the Office of County Recorder of said County.

Tract 30069-1

Lots 72 through 129 inclusive, 148 through 170 inclusive, 181 through 186 inclusive, 189 through 201 inclusive, 213 through 238 inclusive, 260 through 296 inclusive and 333 through 341 inclusive of Tract Number 30069-1, in the County of Riverside, State of California, as shown by map on file in Book 379, page 17 through 36, inclusive, of maps, in the office of the County Recorder of said County.

Tract 30069-2

Lots 1 through 189 inclusive and 193 of Tract Number 30069-2 in the County of Riverside, State of California, as shown on map file in book 424, pages 54 through 77 inclusive, filed in the Office of the County Recorder of said County.