

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



ITEM  
3.47  
(ID # 7382)

MEETING DATE:

Tuesday, July 17, 2018

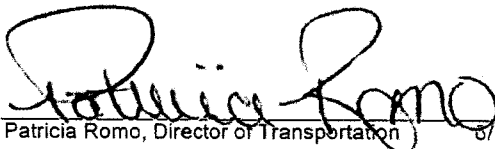
FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/ TRANSPORTATION:  
Approve and Execute the Transportation Uniform Mitigation Fee (TUMF) Improvement and Credit Agreement between Western Pacific Housing Inc. and the County of Riverside Associated with Tract Nos. 36430 and 36430-1. 3rd District, [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and Execute the Transportation Uniform Mitigation Fee (TUMF) Improvement and Credit Agreement between Western Pacific Housing Inc. (Developer) and the County of Riverside (County) associated with Tract Nos. 36430 and 36430-1; and

ACTION: Policy


  
Patricia Romo, Director of Transportation 8/19/2018

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MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley  
Nays: None  
Absent: None  
Date: July 17, 2018  
xc: Transp.

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> Applicant Fees 100%. No General Funds will be used.			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 18/19	

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

**BACKGROUND:**

**Summary**

Western Pacific Housing Inc. (Developer) is developing a community commonly known as Mountain Gate, located on Briggs Road just north of Matthews Road and south of State Route 74. This project includes Tract Nos. 36430 and 36430-1, which consists of 150 single family residential units.

The Developer is conditioned to construct improvements on Briggs Road, which includes construction of approximately 3,523 linear feet of one additional northbound lane including sidewalk improvements along the frontage of this development. This segment of Briggs Road is identified in the TUMF Regional System of Highways and Arterials (RSHA), and is among those facilities whose improvements are to be financed partly by the collection of TUMF. The proposed TUMF Improvement and Credit Agreement (Agreement) would allow the Developer to receive TUMF credits for constructing improvements to Briggs Road.

The Developer and the County desire to enter into this Agreement to provide a means by which the Developer's eligible costs for construction of certain road improvements are offset against the Developer's obligation to pay the applicable TUMF for the Project. Upon completion of the improvements, acceptance by the County and verification of actual costs, the County of Riverside Transportation Department will determine the actual credits due to the Developer.

**Impact on Residents and Businesses**

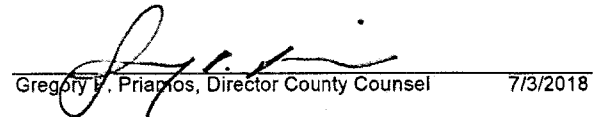
Briggs Road is identified in the County's General Plan Circulation Element and the improvements to this road will improve traffic flow and help to mitigate traffic impacts in this vicinity.

**ATTACHMENTS:**

- Vicinity Map
- TUMF Improvement and Credit Agreement

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

  
Scott Bruzner 7/9/2018

  
Gregory F. Priamos, Director County Counsel 7/3/2018

  
Leila Moshref-Danesh 7/3/2018

0 625 1,250 2,500 Feet

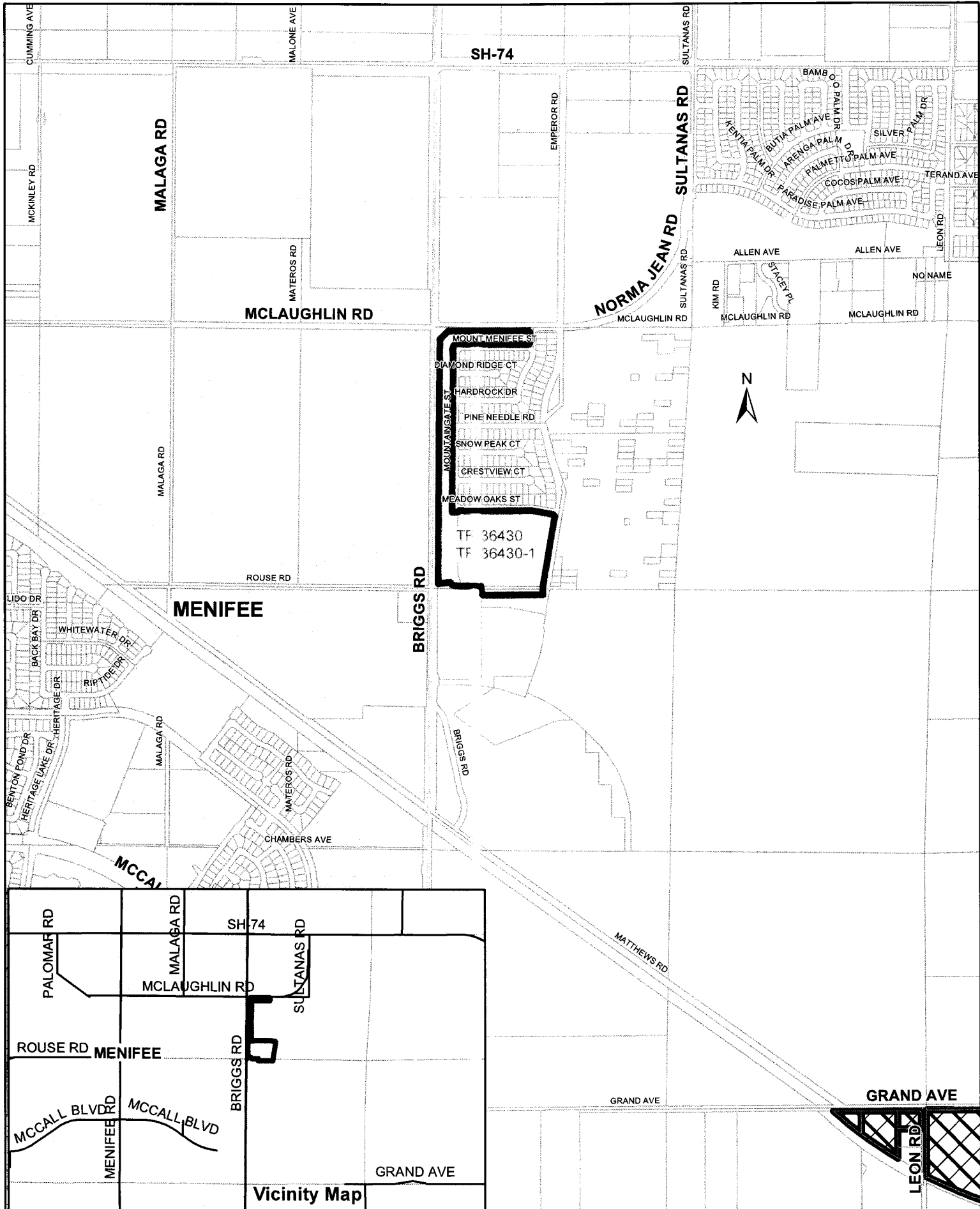
1 inch = 1,250 feet

Orthophotos Flown 2/11 (WR, CV) or 4/07 (REMAP, Blythe)  
Printed by almedina on 5/31/2018

# Vicinity Map

## Tract Nos. 36430 & 36430-1

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.



**IMPROVEMENT AND CREDIT AGREEMENT  
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM**

This **IMPROVEMENT AND CREDIT AGREEMENT** ("Agreement") is entered into this <sup>14<sup>th</sup></sup> day of July, 2018, by and between the County of Riverside, a subdivision of the State of California ("AGENCY"), and Western Pacific Housing, Inc., a Delaware Corporation, with its principal place of business at 2280 Wardlow Circle, Suite 100 Corona, CA 92880 ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

**RECITALS**

**WHEREAS**, Developer owns 36.73 acres of real property located within the AGENCY of Menifee, California, which is more specifically described in the legal description set forth in Exhibit "A", attached hereto and incorporated herein by this reference ("Property");

**WHEREAS**, Developer has requested from AGENCY-certain entitlements and/or permits for the construction of improvements on the Property, which are more particularly described as a total of 150 single family residential units in Tract Nos. 36430 (52 units) and 36430-1 (98 units) ("Project");

**WHEREAS**, the AGENCY is a member agency of the Western Riverside Council of Governments ("WRCOG"), a joint powers agency comprised of the County of Riverside and 18 cities located in Western Riverside County. WRCOG is the administrator for the Transportation Uniform Mitigation Fee ("TUMF") Program;

**WHEREAS**, as part of the TUMF Program, the AGENCY has adopted "Transportation Uniform Mitigation Fee Nexus Study: 2016 Update" ("2016 Nexus Study")

**WHEREAS**, as a condition to AGENCY's approval of the Project, AGENCY has required Developer to construct certain street and transportation system improvement(s) of regional importance ("TUMF Improvements");

**WHEREAS**, pursuant to the TUMF Program, the AGENCY requires Developer to pay the TUMF which covers the Developer's fair share of the costs to deliver those TUMF Improvements that help mitigate the Project's traffic impacts and burdens on the Regional System of Highways and Arterials (also known as the "TUMF Network"), generated by the Project and that are necessary to protect the safety, health and welfare of persons that travel to and from the Project using the TUMF Network;

**WHEREAS**, the TUMF Improvements have been designated as having Regional or Zonal Significance as further described in the 2016 Nexus Study and the 5 year Transportation Improvement Program as may be amended;

**WHEREAS**, AGENCY and Developer now desire to enter into this Agreement for the following purposes: (1) to provide for the timely delivery of the TUMF Improvements, (2) to ensure that delivery of the TUMF Improvements is undertaken as if the TUMF Improvements were constructed under the direction and authority of the AGENCY, (3) to provide a means by which the Developer's costs for project delivery of the TUMF Improvements and related right-of-ways is offset against Developer's obligation to pay the applicable TUMF for the Project in accordance with the TUMF Administrative Plan adopted by WRCOG, and (4) to provide a means, subject to the separate approval of WRCOG, for Developer to be reimbursed to the extent the actual and authorized costs for the delivery of the TUMF Improvements exceeds Developer's TUMF obligation.

**NOW, THEREFORE**, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, Developer and AGENCY hereby agree as follows:

## **TERMS**

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Construction of TUMF Improvements. Developer shall construct or have constructed at its own cost, expense, and liability certain street and transportation system improvements generally described as the Right-of-Way dedication and construction of approximately 3,523 linear feet of one (1) additional northbound lane fronting the Project on Briggs Road including grading, base paving, AC paving as well as curb and gutter, sidewalk, and as shown more specifically on the plans, profiles, and specifications which have been or will be prepared by or on behalf of Developer and approved by AGENCY, and which are incorporated herein by this reference ("TUMF Improvements"). Construction of the TUMF Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. Developer shall be responsible for the replacement, relocation, or removal of any component of any existing public or private improvement in conflict with the construction or installation of the TUMF Improvements. Such replacement, relocation, or removal shall be performed to the complete satisfaction of AGENCY and the owner of such improvement. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the TUMF Improvements.

2.1 Pre-approval of Plans and Specifications. Developer is prohibited from commencing work on any portion of the TUMF Improvements until all plans and specifications for the TUMF Improvements have been submitted to and approved by AGENCY. Approval by AGENCY shall not relieve Developer from ensuring that all TUMF Improvements conform with all other requirements and standards set forth in this Agreement.

2.2 Permits and Notices. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and

incidental notices required for the lawful construction of the TUMF Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer.

2.3 Public Works Requirements. In order to insure that the TUMF Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, AGENCY, Developer shall comply with all of the following requirements with respect to the construction of the TUMF Improvements:

(a) Developer shall obtain bids for the construction of the TUMF Improvements, in conformance with the standard procedures and requirements of AGENCY with respect to its public works projects, or in a manner which is approved by the Public Works Department.

(b) The contract or contracts for the construction of the TUMF Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of the TUMF Improvements.

(c) Developer shall require, and the specifications and bid and contract documents shall require, all such contractors to pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and to otherwise comply with applicable provisions of the Labor Code, the Government Code and the Public Contract Code relating to public works projects of cities/counties and as required by the procedures and standards of AGENCY with respect to the construction of its public works projects or as otherwise directed by the Public Works Department.

(d) All such contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the TUMF Improvements which they will construct in conformance with AGENCY's standard procedures and requirements.

(e) Developer and all such contractors shall comply with such other requirements relating to the construction of the TUMF Improvements which AGENCY may impose by written notification delivered to Developer and each such contractor at any time, either prior to the receipt of bids by Developer for the construction of the TUMF Improvements, or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof.

Developer shall provide proof to AGENCY, at such intervals and in such form as AGENCY may require that the foregoing requirements have been satisfied as to the TUMF Improvements.

2.4 Quality of Work; Compliance With Laws and Codes. The construction plans and specifications for the TUMF Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements.

The TUMF Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and special amendments thereto on file with AGENCY, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required, constructing the TUMF Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to TUMF Improvements. All work shall be done and the TUMF Improvements completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation it is determined that the public interest requires alterations in the TUMF Improvements, Developer shall undertake such design and construction changes as may be reasonably required by AGENCY. Any and all alterations in the plans and specifications and the TUMF Improvements to be completed may be accomplished without first giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of TUMF Improvements. AGENCY shall not be responsible or liable for the maintenance or care of the TUMF Improvements until AGENCY approves and accepts them. AGENCY shall exercise no control over the TUMF Improvements until accepted. Any use by any person of the TUMF Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to AGENCY's acceptance of the TUMF Improvements. Developer shall maintain all of the TUMF Improvements in a state of good repair until they are completed by Developer and approved and accepted by AGENCY, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by AGENCY. If Developer fails to properly prosecute its maintenance obligation under this section, AGENCY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. AGENCY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the TUMF Improvements or their condition prior to acceptance.

4.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay all fees, charges, and taxes arising out of the construction of the TUMF Improvements, including, but not limited to, all plan check, design review, engineering, inspection, sewer treatment connection fees, and other service or impact fees established by AGENCY.



5.0 AGENCY Inspection of TUMF Improvements. Developer shall, at its sole cost, expense, and liability, and at all times during construction of the TUMF Improvements, maintain reasonable and safe facilities and provide safe access for inspection by AGENCY of the TUMF Improvements and areas where construction of the TUMF Improvements is occurring or will occur.

6.0 Liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 8412 and 8414 of the Civil Code with respect to the TUMF Improvements, Developer shall provide to AGENCY such evidence or proof as AGENCY shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the TUMF Improvements, have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Rather than await the expiration of the said time for the recording of claims of liens, Developer may elect to provide to AGENCY a title insurance policy or other security acceptable to AGENCY guaranteeing that no such claims of liens will be recorded or become a lien upon any of the Property.

7.0 Acceptance of TUMF Improvements; As-Built or Record Drawings. If the TUMF Improvements are properly completed by Developer and approved by AGENCY, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, AGENCY shall be authorized to accept the TUMF Improvements. AGENCY may, in its sole and absolute discretion, accept fully completed portions of the TUMF Improvements prior to such time as all of the TUMF Improvements are complete, which shall not release or modify Developer's obligation to complete the remainder of the TUMF Improvements. Upon the total or partial acceptance of the TUMF Improvements by AGENCY, Developer shall file with the Recorder's Office of the County of Riverside a notice of completion for the accepted TUMF Improvements in accordance with California Civil Code sections 8182, 8184, 9204, and 9208 ("Notice of Completion"), at which time the accepted TUMF Improvements shall become the sole and exclusive property of AGENCY without any payment therefore. Notwithstanding the foregoing, AGENCY may not accept any TUMF Improvements unless and until Developer provides one (1) set of "as-built" or record drawings or plans to the AGENCY for all such TUMF Improvements. The drawings shall be certified and shall reflect the condition of the TUMF Improvements as constructed, with all changes incorporated therein.

8.0 Warranty and Guarantee. Developer hereby warrants and guarantees all the TUMF Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the TUMF Improvements, for a period of one (1) year following completion of the work and acceptance by AGENCY ("Warranty"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise unsatisfactory portion of the TUMF Improvements, in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of AGENCY, and to the approval of AGENCY. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any TUMF Improvements which have been repaired, replaced, or reconstructed during the Warranty,

Developer and its surety hereby agree to extend the Warranty for an additional one (1) year period following AGENCY's acceptance of the repaired, replaced, or reconstructed TUMF Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any TUMF Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

9.0 Administrative Costs. If Developer fails to construct and install all or any part of the TUMF Improvements, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to AGENCY for all administrative expenses, fees, and costs, including reasonable attorney's fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

10.0 Default; Notice; Remedies.

10.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if AGENCY determines there is a violation of any federal, state, or local law, ordinance, regulation, code, standard, or other requirement, AGENCY may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("Notice"). Developer shall substantially commence the work required to remedy the default or violation within five (5) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, AGENCY may provide the Notice verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon AGENCY's issuance of the Notice, Developer and its surety shall be liable to AGENCY for all costs of construction and installation of the TUMF Improvements and all other administrative costs or expenses as provided for in this Section 10.0 of this Agreement.

10.2 Failure to Remedy; AGENCY Action. If the work required to remedy the noticed default or violation is not diligently prosecuted to a completion acceptable to AGENCY within the time frame contained in the Notice, AGENCY may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. AGENCY's right to take such actions shall in no way be limited by the fact that Developer or its surety may have constructed any of the TUMF Improvements at the time of AGENCY's demand for performance. In the event AGENCY elects to complete or arrange for completion of the remaining work and the TUMF Improvements, AGENCY may require all work by Developer or its surety to cease in order to allow adequate coordination by AGENCY.

10.3 Other Remedies. No action by AGENCY pursuant to this Section 10.0 et seq. of this Agreement shall prohibit AGENCY from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. AGENCY may exercise its rights and remedies independently or cumulatively, and AGENCY may pursue inconsistent remedies. AGENCY may institute an action for damages, injunctive relief, or specific performance.

11.0 Security; Surety Bonds. Prior to the commencement of any work on the TUMF Improvements, Developer or its contractor shall provide AGENCY with surety bonds in the amounts and under the terms set forth below ("Security"). The amount of the Security shall be based on the estimated actual costs to construct the TUMF Improvements, as determined by AGENCY after Developer has awarded a contract for construction of the TUMF Improvements to the lowest responsive and responsible bidder in accordance with this Agreement ("Estimated Costs"). If AGENCY determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer or its contractor shall adjust the Security in the amount requested by AGENCY. Developer's compliance with this Section 11.0 et seq. of this Agreement shall in no way limit or modify Developer's indemnification obligation provided in Section 12.0 of this Agreement.

11.1 Performance Bond. To guarantee the faithful performance of the TUMF Improvements and all the provisions of this Agreement, to protect AGENCY if Developer is in default as set forth in Section 10.0 et seq. of this Agreement, and to secure the one-year guarantee and warranty of the TUMF Improvements, Developer or its contractor shall provide AGENCY a faithful performance bond in an amount which sum shall be not less than one hundred percent (100%) of the Estimated Costs. The AGENCY may, in its sole and absolute discretion, partially release a portion or portions of the security provided under this section as the TUMF Improvements are accepted by AGENCY, provided that Developer is not in default on any provision of this Agreement and the total remaining security is not less than one hundred percent (100%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, or any extension thereof as provided in Section 11.0 of this Agreement, provided that Developer is not in default on any provision of this Agreement.

11.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, materialmen, and other persons furnishing labor, materials, or equipment for performance of the TUMF Improvements and this Agreement, Developer or its contractor shall provide AGENCY a labor and materials bond in an amount which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section may be released by written authorization of AGENCY after six (6) months from the date AGENCY accepts the TUMF Improvements. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which AGENCY is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of AGENCY's anticipated administrative and legal expenses arising out of such claims.

11.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best rating of at least "A" and FSC-VIII, shall be licensed to do business in California, and shall be satisfactory to AGENCY. As part of the obligation secured by the Security and in addition to the face amount of the Security, Developer, its contractor or the surety shall secure the costs and reasonable expenses and fees, including reasonable attorney's fees and costs, incurred by AGENCY in enforcing the obligations of this Agreement. Developer, its contractor and the surety shall stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the TUMF Improvements, or the plans and specifications for the TUMF Improvements shall in any way affect its obligation on the Security.

11.4 Evidence and Incorporation of Security. Evidence of the Security shall be provided on the forms set forth in Exhibit "B", unless other forms are deemed acceptable by the AGENCY, and when such forms are completed to the satisfaction of AGENCY, the forms and evidence of the Security shall be attached hereto as Exhibit "B" and incorporated herein by this reference.

12.0 Indemnification. Developer shall defend, indemnify, and hold harmless AGENCY, the Western Riverside Council of Governments (WRCOG), their elected officials, board members, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its employees, contractors, or agents in connection with the performance of this Agreement, or arising out of or in any way related to or caused by the TUMF Improvements or their condition prior to AGENCY's approval and acceptance of the TUMF Improvements ("Claims"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys fees, and related costs or expenses, and the reimbursement of AGENCY, WRCOG, their elected officials, board members, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any Claim which is caused solely and exclusively by the negligence or willful misconduct of AGENCY as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by AGENCY, WRCOG, their elected officials, board members, employees, or agents.

### 13.0 Insurance.

13.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during performance of this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

13.1.1 General Liability. Occurrence form general liability insurance at least as broad as Insurance Services Office Form CG 00 01, or equivalent form, with an occurrence limit of Two Million Dollars (\$2,000,000) and aggregate limit of Four Million Dollars (\$4,000,000) for bodily injury, personal injury, and property damage.

13.1.2 Business Automobile Liability. Business automobile liability insurance at least as broad as Insurance Services Office Form CA 00 01 (coverage symbol 1 – any auto), or equivalent form, with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

13.1.3 Workers' Compensation. Workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence, at all times during which insured retains employees.

13.1.4 Professional Liability. For any consultant or other professional who will engineer or design the TUMF Improvements, liability insurance for errors and omissions with limits not less than Two Million Dollars (\$2,000,000) per occurrence, shall be procured and maintained for a period of five (5) years following completion of the TUMF Improvements. Such insurance shall be endorsed to include contractual liability.

13.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by AGENCY. At the option of AGENCY, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects AGENCY, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to AGENCY guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

13.3 Additional Insured; Separation of Insureds. The Required Insurance, except for the professional liability and workers' compensation insurance, shall name AGENCY, WRCOG, their elected officials, board members, officers, employees, and agents as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including any materials, parts, or equipment furnished in connection therewith. For Required Insurance provided by Developer's contractors, WRCOG shall be added as an additional insured using ISO CG 2038 or an exact equivalent. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to AGENCY, WRCOG, their elected officials, board members, officers, employees, or agents.

13.4 Primary Insurance; Waiver of Subrogation. The Required Insurance, except for the professional liability and workers' compensation insurance shall be primary with respect to any insurance or self-insurance programs covering AGENCY, WRCOG, their elected officials, board members, officers, employees, or agents. The Required Insurance, except for the

professional liability insurance, shall provide that the insurance company waives all right of recovery by way of subrogation against AGENCY and WRCOG in connection with any damage or harm covered by such policy.

13.5 Certificates; Verification. Developer and its contractors shall furnish AGENCY with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by AGENCY before work pursuant to this Agreement can begin. AGENCY reserves the right to require complete, certified copies of all required insurance policies, at any time.

13.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days' prior written notice to AGENCY. If such notice of cancellation endorsements are unavailable, Developer shall provide such thirty (30) days' written notice of cancellation.

13.7 Insurer Rating. Unless approved in writing by AGENCY, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least "A" and FSC-VIII.

#### 14.0 TUMF Credit.

14.1 Developer's TUMF Obligation. Developer hereby agrees and accepts that as of the date of this Agreement, the amount Developer is obligated to pay to AGENCY pursuant to County Ordinance 824 as part of the TUMF Program is **ONE MILLION THREE HUNDRED THIRTY THOUSAND NINE HUNDRED FIFTY DOLLARS (\$1,330,950)** ("TUMF Obligation"). This TUMF Obligation shall be initially determined under the TUMF fee schedule in effect for the AGENCY at the time the Developer submits a building permit application for the TUMF Improvement. Notwithstanding, this TUMF Obligation does not have to be paid until the Certificate of Occupancy is obtained.

14.2 Fee Adjustments. Notwithstanding the foregoing, Developer agrees that this Agreement shall not estop AGENCY from adjusting the TUMF in accordance with the provisions of County Ordinance 824.

14.3 Credit Offset Against TUMF Obligation. Pursuant to County Ordinance 824 and in consideration for Developer's obligation under this Agreement for the delivery of TUMF Improvements, credit shall be applied by AGENCY to offset the TUMF Obligation ("Credit") subject to adjustment and reconciliation under Section 14.5 of this agreement. Developer hereby agrees that the amount of the Credit shall be applied after Developer has initiated the process of

project delivery of TUMF Improvements to the lowest responsible bidder in accordance with this Agreement. Developer further agrees that the dollar amount of the Credit shall be equal to the lesser of: (A) the bid amount set forth in the contract awarded to the lowest responsible bidder, or (B) the unit cost assumptions for the TUMF Improvement in effect at the time of the contract award, as such assumptions are identified and determined in the most recent TUMF Nexus Study and the TUMF Administrative Plan adopted by WRCOG ("Unit Cost Assumptions").

The bid amount and the Unit Cost Assumptions shall hereafter be collectively referred to as "Estimated Credit". At no time will the Credit exceed the Developer's TUMF Obligation. If the dollar amount of the Estimated Credit exceeds the dollar amount of the TUMF Obligation, Developer will be deemed to have completely satisfied its TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. If the dollar amount of the Estimated Credit is less than the dollar amount of the TUMF Obligation, the Developer agrees the Credit shall be applied to offset the TUMF Obligation as follows:

(1) For residential units in the Project, the Credit shall be applied to all residential units to offset and/or satisfy the TUMF Obligation. The residential units for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to each unit, shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

(2) For commercial and industrial structures in the Project, the Credit shall be applied to all commercial and industrial development to offset and/or satisfy the TUMF Obligation. The commercial or industrial structure(s) for which the TUMF Obligation has been offset and/or satisfied by use of the Credit, and the amount of offset applicable to such structure(s), shall be identified in the notice provided to the Developer by AGENCY pursuant to this section.

AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section, including how the Credit is applied to offset the TUMF Obligation as described above.

14.4 Verified Cost of the TUMF Improvements. Upon recordation of the Notice of Completion for the TUMF Improvements and acceptance of the TUMF Improvements by AGENCY, Developer shall submit to the AGENCY Public Works Director the information set forth in the attached Exhibit "C". The AGENCY Public Works Director, or his or her designee, shall use the information provided by Developer to calculate the total actual costs incurred by Developer in delivering the TUMF Improvements covered under this Agreement ("Verified Costs"). The AGENCY Public Works Director will use his or her best efforts to determine the amount of the Verified Costs and provide Developer written notice thereof within thirty (30) calendar days of receipt of all the required information from Developer.

14.5 Reconciliation; Final Credit Offset Against TUMF Obligation. The Developer is aware of and accepts the fact that Credits are speculative and conceptual in nature. The actual amount of Credit that shall be applied by AGENCY to offset the TUMF Obligation shall be equal to the lesser of: (A) the Verified Costs or (B) Unit Cost Assumptions for the TUMF Improvements as determined in accordance with Section 14.3 of this Agreement (“Actual Credit”). No Actual Credit will be awarded until the Verified Costs are determined through the reconciliation process. Please be advised that while a Developer may use an engineer’s estimates in order to estimate Credits for project planning purposes, the Actual Credit awarded will only be determined by the reconciliation process.

(a) TUMF Balance. If the dollar amount of the Actual Credit is less than the dollar amount of the TUMF Obligation, the AGENCY Public Works Director shall provide written notice to Developer of the amount of the difference owed (“TUMF Balance”) and Developer shall pay the TUMF Balance in accordance with County Ordinance 824 to fully satisfy the TUMF Obligation (see Exhibit “F” - Example “A”).

(b) TUMF Reimbursement. If the dollar amount of the Actual Credit exceeds the TUMF Obligation, Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may apply for a reimbursement agreement, to the extent applicable, as provided in Section 14.6 of this Agreement. AGENCY shall provide Developer written notice of the determinations that AGENCY makes pursuant to this section (see Exhibit “F” - Example “B”).

(c) TUMF Overpayment. If the dollar amount of the Actual Credit exceeds the Estimated Credit, but is less than the TUMF Obligation, but the Actual Credit plus additional monies collected by AGENCY from Developer for the TUMF Obligation exceed the TUMF Obligation (“TUMF Overpayment”), Developer will be deemed to have fully satisfied the TUMF Obligation for the Project and may be entitled to a refund. The AGENCY’s Public Works Director shall provide written notice to WRCOG and the Developer of the amount of the TUMF Overpayment and AGENCY shall direct WRCOG to refund the Developer in accordance with County Ordinance 824 (see Exhibit “F” - Example C).

14.6 Reimbursement Agreement. If authorized under either Section 14.3 or Section 14.5 Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the Actual Credit exceeds the TUMF Obligation, as determined pursuant to Section 14.3 of this Agreement, County Ordinance 824, and the TUMF Administrative Plan adopted by WRCOG (“Reimbursement Agreement”). If AGENCY and WRCOG agree to a Reimbursement Agreement with Developer, the Reimbursement Agreement shall be executed on the form set forth in Exhibit “D,” and shall contain the terms and conditions set forth therein. The Parties agree that the Reimbursement Agreement shall be subject to all terms and conditions of this Agreement, and that upon execution, an executed copy of the Reimbursement Agreement shall be attached hereto and shall be incorporated herein as a material part of this Agreement as though fully set forth herein.

## 15.0 Miscellaneous.



15.1 Assignment. Developer may assign all or a portion of its rights pursuant to this Agreement to a purchaser of a portion or portions of the Property ("Assignment"). Developer and such purchaser and assignee ("Assignee") shall provide to AGENCY such reasonable proof as it may require that Assignee is the purchaser of such portions of the Property. Any assignment pursuant to this section shall not be effective unless and until Developer and Assignee have executed an assignment agreement with AGENCY in a form reasonably acceptable to AGENCY, whereby Developer and Assignee agree, except as may be otherwise specifically provided therein, to the following: (1) that Assignee shall receive all or a portion of Developer's rights pursuant to this Agreement, including such credit as is determined to be applicable to the portion of the Property purchased by Assignee pursuant to Section 14.0 et seq. of this Agreement, and (2) that Assignee shall be bound by all applicable provisions of this Agreement.

15.2 Relationship Between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between or among AGENCY, WRCOG and Developer. Developer's contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of AGENCY. This Agreement shall be interpreted and administered in a manner consistent with the TUMF Administrative Plan in effect at the time this Agreement is executed.

15.3 Warranty as to Property Ownership; Authority to Enter Agreement. Developer hereby warrants that it owns fee title to the Property and that it has the legal capacity to enter into this Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

15.4 Prohibited Interests. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer, to solicit or secure this Agreement. Developer also warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Developer, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon the making of this Agreement. For breach of this warranty, AGENCY shall have the right to rescind this Agreement without liability.

15.5 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

To County: County of Riverside, Transportation Department  
4080 Lemon St., 8<sup>th</sup> Floor  
Riverside, CA 92501  
Attn: Patricia Romo  
Director of Transportation

Tele: (951) 955-6747

Fax: (951) 955-3198

To Developer: Western Pacific Housing, Inc.  
Attn: Barbara Murakami  
2280 Wardlow Circle, Suite 100  
Corona, CA 92880  
Tele: 951.739.5443  
Fax: 800.773.0485

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

15.6 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

15.7 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to AGENCY include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

15.8 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

15.9 Termination. This Agreement shall terminate 10 years after the Effective Date, unless extended in writing by the Parties. In addition, this Agreement shall terminate 5 years after the Effective Date in the event that the TUMF Improvements as specified in the Credit Agreement is not commenced within 5 years of the Effective Date.

15.9.1 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

15.9.2 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal

representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

15.9.3 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

15.9.4 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

15.9.5 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Riverside, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

15.9.6 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

15.9.7 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

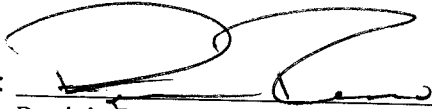
15.9.8 Entire Agreement. This Agreement contains the entire agreement between AGENCY and Developer and supersedes any prior oral or written statements or agreements between AGENCY and Developer.

**[SIGNATURES OF PARTIES ON NEXT PAGE]**

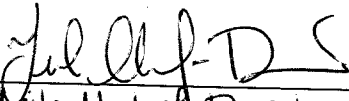
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF RIVERSIDE


RECOMMENDED FOR APPROVAL:

By:   
Patricia Romo  
Director of Transportation

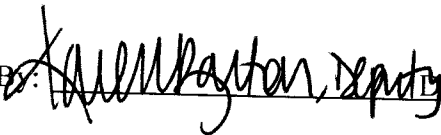
APPROVED AS TO FORM:

By:   
Leila Mashref-Danesh  
Deputy County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:


By:  Date: JUL 17 2018  
CHUCK WASHINGTON  
Chairman, County Board of Supervisors

ATTEST:

By:  Date: JUL 17 2018  
Kecia Harper-Ihem  
Clerk of the Board

DEVELOPER

Western Pacific Housing, Inc., a Delaware corporation

By:   
Todd Funk  
Printed Name

Assistant Vice President  
Title

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Riverside

On June 12, 2018 before me, S.J. Paradiso, Notary Public  
(insert name and title of the officer)

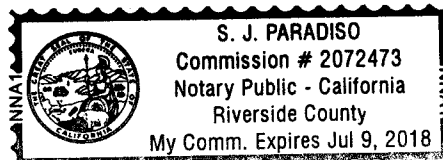
personally appeared Todd Funk  
who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by 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 

(Seal)



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

[ATTACHED BEHIND THIS PAGE]

## LEGAL DESCRIPTION OF PROPERTY

PARCEL 1: (PORTION APN: 459-030-010)

Parcel 1A of Lot Line Adjustment No. 05548 recorded on September 16, 2016, as Instrument No. 2016-0404388, Official Records of Riverside County, California, lying within Section 18, Township 5 South, Range 2 West, San Bernardino Meridian, Riverside County, California, said portion being described as follows:

BEGINNING at the intersection of centerline Mclaughlin Road (60 feet wide) with the northerly prolongation of the easterly right-of-way line of Briggs Road (formerly Alicantes Road) (60 feet wide) as shown on Romola Farms No. 15 map on file in Book 15, Pages 98 through 100, inclusive of Maps, Records of Riverside County, California;

Thence North  $89^{\circ}32'35''$  East along said centerline of Mclaughlin Road, a distance of 972.00 feet to a point on the westerly line of Tract No. 28801-1 as shown by map on file in Book 375, Pages 49 through 53, inclusive of Maps, in the Office of the County Recorder of Riverside County, California;

The following (11) eleven courses being along the westerly and northerly line of said Tract:

- 1) Thence South  $00^{\circ}27'25''$  East, a distance of 33.00 feet;
- 2) Thence South  $47^{\circ}25'55''$  East, a distance of 20.52 feet;
- 3) Thence South  $00^{\circ}27'25''$  East, a distance of 111.00 feet;
- 4) Thence South  $44^{\circ}32'35''$  West, a distance of 21.21 feet;
- 5) Thence South  $89^{\circ}32'35''$  West, a distance of 635.87 feet to the beginning of a tangent curve concave northerly having a radius of 100.00 feet;
- 6) Thence westerly along said curve to the right through a central angle of  $10^{\circ}14'12''$ , an arc distance of 17.87 feet;
- 7) Thence North  $80^{\circ}13'13''$  West tangent to said curve, a distance of 41.04 feet to the beginning of a tangent curve concave southeasterly having a radius of 70.00 feet;
- 8) Thence westerly, southwesterly and southerly along said curve to the left through a central angle of  $110^{\circ}06'41''$ , an arc distance of 134.53 feet;
- 9) Thence South  $10^{\circ}19'55''$  East tangent to said curve, a distance of 41.04 feet to the beginning of a tangent curve concave westerly having a radius of 100.00 feet;
- 10) Thence southerly along said curve to the right through a central angle of  $10^{\circ}14'12''$ , an arc distance of 17.87 feet;
- 11) Thence South  $00^{\circ}05'43''$  East tangent to said curve, a distance of 563.79 feet to a point on the westerly line of Tract No. 28801-2 as shown by map on file in Book 404, Pages 25 through 30, inclusive of Maps, Records of Riverside County, California;

The following (9) nine courses along the westerly and southerly line of said Tract:

- 1) Thence South 00°05'43" East, a distance of 915.11 feet;
- 2) Thence South 44°43'26" West, a distance of 21.15 feet;
- 3) Thence South 00°27'25" East, a distance of 30.00 feet;
- 4) Thence South 89°32'35" West, a distance of 0.57 feet;
- 5) Thence South 00°27'25" East, a distance of 30.00 feet;
- 6) Thence South 45°16'34" East, a distance of 21.28 feet;
- 7) Thence North 89°54'17" East, a distance of 30.00 feet;
- 8) Thence North 00°05'43" West, a distance of 0.57 feet;
- 9) Thence North 89°54'17" East, a distance of 28.00 feet;

Thence South 00°05'43" East, a distance of 609.73 feet to the beginning of a tangent curve concave easterly having a radius of 100.00 feet;

Thence southerly along said curve to the left through a central angle of 16°18'41", an arc distance of 28.47 feet;

Thence South 16°24'24" East tangent to said curve, a distance of 50.00 feet to the beginning of a tangent curve concave westerly, having a radius of 48.00 feet;

Thence southerly, southwesterly, westerly and northwesterly along said curve to the right through a central angle of 183°09'35", an arc distance of 153.44 feet;

Thence South 84°13'57" West, a distance of 162.05 feet;

Thence South 89°54'17" West, a distance of 29.00 feet to a point on said easterly right-of-way line of Briggs Road;

Thence North 00°05'43" West along said right-of-way line, a distance of 2596.49 feet to the POINT OF BEGINNING.

**PARCEL 2** (PORTION APNS : 459-030-010, 461-020-004 and 461-020-006)

Parcel 1 of Lot Line Adjustment No. 05562 recorded on November 2, 2016 as Instrument No. 2016-0485376, Official Record of Riverside County, California being that portion of Parcels 3A of Lot Line Adjustment No. 05548 recorded on September 16, 2016, as Instrument No. 2016-0404388, Official Records of Riverside County, California, lying within Sections 18 and 19, Township 5 South, Range 2 West, San Bernardino Meridian, Riverside County, California, said portions being described as follows:

BEGINNING at the intersection of centerline Rouse Road (60 feet wide) with centerline of Emperor Road (60 feet wide) as shown on Romola Farms No. 15 map on file in Book 15, Pages 98 through 100, inclusive of Maps, Records of Riverside County, California;

Thence North 09°30'27" East along said centerline of Emperor Road, a distance of 745.38 feet to a point on the southerly line of Tract No. 28801-2 as shown by map on file in Book 404, Pages 25 through 30, inclusive of Maps, Records of Riverside County, California;

The following (7) seven courses along the southerly line of said Tract:



- 1) **Thence** North 80°29'33" West, a distance of 33.00 feet;
- 2) **Thence** North 33°31'03" West, a distance of 20.52 feet;
- 3) **Thence** North 80°29'33" West, a distance of 192.87 feet to the beginning of a tangent curve concave southerly having a radius of 270.00 feet;
- 4) **Thence** westerly along said curve to the left through a central angle of 9°57'52", an arc distance of 46.96 feet;
- 5) **Thence** South 89°32'35" West tangent to said curve, a distance of 716.80 feet;
- 6) **Thence** South 44°43'26" West, a distance of 21.15 feet;
- 7) **Thence** South 89°54'17" West, a distance of 2.00 feet to the westerly line of said Parcel 3A;

The following (12) Twelve courses along said Parcel 3A:

- 1) **Thence** South 00°05'43" East, a distance of 609.74 feet to the beginning of a tangent curve concave easterly having a radius of 100.00 feet;
  - 2) **Thence** southerly along said curve to the left through a central angle of 16°18'41", an arc distance of 28.47 feet;
  - 3) **Thence** South 16°24'24" East tangent to said curve, a distance of 50.00 feet to the beginning of a tangent curve concave westerly having a radius of 48.00 feet;
  - 4) **Thence** southerly along said curve to the right through a central angle of 67°08'31", an arc distance of 56.25 feet;
  - 5) **Thence** South 51°12'15" East, a distance of 36.29 feet;
  - 6) **Thence** North 89°54'17" East, a distance of 209.52 feet;
  - 7) **Thence** South 10°12'06" West, a distance of 16.47 feet to the beginning of a tangent curve concave easterly having a radius of 66.00 feet;
  - 8) **Thence** southerly along said curve, through a central angle of 52°06'26", an arc distance of 60.02 feet;
  - 9) **Thence** South 57°21'49" West, a distance of 22.31 feet;
  - 10) **Thence** South 00°05'43" East, a distance of 120.00 feet;
  - 11) **Thence** North 89°54'17" East, a distance of 265.50 feet;
  - 12) **Thence** South 80°29'33" East, a distance of 390.48 feet;
- Thence** North 09°30'27" East, a distance of 258.07 feet to a point on centerline Rouse Road;
- Thence** South 89°56'00" West along said centerline of Rouse Road, a distance of 37.53 feet to the intersection with centerline of Emperor Road and the **TRUE POINT OF BEGINNING**.

**EXHIBIT "B"**  
**FORMS FOR SECURITY**

[ATTACHED BEHIND THIS PAGE]

EXHIBIT B

**FAITHFUL PERFORMANCE BOND**  
**COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
(Government Code Section 66499.1)

FOR: Streets and Drainage	<u>\$980,000.00</u>	Tract/Parcel Map	<u>TR36430/MS4321</u>
Water System	<u>\$477,500.00</u>	Bond No.	<u>016076811</u>
Sewer System	<u>\$6,000.00</u>	Premium	<u>\$4,391.00</u>

**Western Pacific Housing, Inc.,**

Surety <u>Liberty Mutual Insurance Company</u>	Principal <u>a Delaware Corporation</u>
Address <u>175 Berkeley Street</u>	Address <u>2280 Wardlow Circle, Ste. 100</u>
City/State <u>Boston, MA</u>	City/State <u>Corona, CA</u>
Zip <u>02116</u>	Zip <u>92880</u>
Phone <u>(617) 357-9500</u>	Phone <u>(951) 739-5482</u>

WHEREAS, the County of Riverside, State of California, and Western Pacific Housing, Inc., a Delaware Corporation (hereinafter designated as "principal") have entered into, or are about to enter into, the attached agreement(s) whereby principal agrees to install and complete the above designated public improvements relating to (Tract/Parcel) TR36430/MS4321, which agreement(s) is/are hereby referred to and made a part hereof; and,

WHEREAS, said principal is required under the terms of said agreement(s) to furnish bond(s) for the faithful performance of said agreement(s);

NOW, THEREFORE, we the principal and Liberty Mutual Insurance Company, as surety, are held and firmly bound unto the County of Riverside in the penal sum of **One Million, Four Hundred Sixty Three Thousand, Five Hundred and 00/100 Dollars (\$1,463,500.00)** lawful money of the United States, for the payment of which sum will and truly be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the County of Riverside, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise, it shall remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the County in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

**FAITHFUL PERFORMANCE BOND**

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of this agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code and commencement of construction are not conditions precedent to surety's obligations hereunder and are hereby waived by surety.

When the work covered by the agreement is complete, the County of Riverside will accept the work and thereupon, the amount of the obligation of this bond is reduced by 90% with the remaining 10% held as security for the one-year maintenance period provided for in the agreements(s).

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on March 26, 2018.

NAME OF PRINCIPAL: Western Pacific Housing, Inc., a Delaware Corporation

AUTHORIZED SIGNATURE(S): By: *B. M. Mura Kani*  
Title BAEDARA M. MURA KANI, ASST. SECRETARY

*Todd Funk*  
Title TODD FUNK, ASST. VICE PRESIDENT

\_\_\_\_\_  
Title

(IF CORPORATION, AFFIX SEAL)

NAME OF SURETY: Liberty Mutual Insurance Company

AUTHORIZED SIGNATURE: *Margaret A. Ginem*  
Margaret A. Ginem, Its Attorney-in-Fact Title

(IF CORPORATION, AFFIX SEAL)

ATTACH NOTARIAL ACKNOWLEDGMENT OF SIGNATURES OF PRINCIPAL AND ATTORNEY-IN-FACT.

## ACKNOWLEDGEMENT BY SURETY

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH } SS.

On this 26<sup>th</sup> day of **March, 2018** before me, personally came **Margaret A. Ginem**, who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within Instrument as Attorney-In-Fact on behalf of **Liberty Mutual Insurance Company**, and acknowledged to me that he/she executed the within instrument on behalf of said surety company and was duly authorized to do.

In witness whereof, I have signed and affixed my official seal on the date in this certificate first above written.

Signature *Marianella Barnola*  
Marianella Barnola



*This area for Official Notarial Seal*

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Riverside )

On 3/28/2018 before me, Alyssa Marie Bottinelli, Notary Public  
(insert name and title of the officer)

personally appeared Barbara M. Murakami and Todd Funk  
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 *[Handwritten Signature]*

(Seal)

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.**

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 7908941

Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company West American Insurance Company

**POWER OF ATTORNEY**

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, **Brandy L. Baich; Anett Cardinale; David H. Carr; Margaret A. Ginem**

all of the city of Tampa, state of FL, each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 6th day of October, 2017.



The Ohio Casualty Insurance Company  
Liberty Mutual Insurance Company  
West American Insurance Company

By: [Signature]  
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss  
COUNTY OF MONTGOMERY

On this 6th day of October, 2017, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Teresa Pastella, Notary Public  
Upper Merion Twp., Montgomery County  
My Commission Expires March 28, 2021  
Member, Pennsylvania Association of Notaries

By: [Signature]  
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

**ARTICLE IV - OFFICERS** - Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

**ARTICLE XIII - Execution of Contracts - SECTION 5** Surety Bonds and Undertakings Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

**Certificate of Designation** - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

**Authorization** - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 26th day of March, 2018.



By: [Signature]  
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**MATERIAL AND LABOR BOND**  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
(Government Code Section 66499.1)

FOR: Streets and Drainage	<u>\$490,000.00</u>	Tract/Parcel Map	<u>TR36430/MS4321</u>
Water System	<u>\$238,750.00</u>	Bond No.	<u>016076811</u>
Sewer System	<u>\$3,000.00</u>	Premium	<u>Included with Faithful Performance Bond</u>

**Western Pacific Housing, Inc.,**

Surety <u>Liberty Mutual Insurance Company</u>	Principal <u>a Delaware Corporation</u>
Address <u>175 Berkeley Street</u>	Address <u>2280 Wardlow Circle, Ste. 100</u>
City/State <u>Boston, MA</u>	City/State <u>Corona, CA</u>
Zip <u>02116</u>	Zip <u>92880</u>
Phone <u>(617) 357-9500</u>	Phone <u>(951) 739-5482</u>

WHEREAS, the County of Riverside, State of California, and Western Pacific Housing, Inc., a Delaware Corporation

(hereinafter designated as "principal") have entered into, or are about to enter into, the attached agreement(s) whereby principal agrees to install and complete the above designated public improvements relating to (Tract/Parcel) TR36430/MS4321, which agreement(s) is/are hereby referred to and made a part hereof; and,

WHEREAS, under the terms of said agreement, principal is required, before entering upon the performance of the work, to file a good and sufficient payment bond with the County of Riverside to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California;

NOW, THEREFORE, said principal and the undersigned, as corporate surety, are held firmly unto the County of Riverside and all contractors, subcontractors, laborers, material persons and other persons employed in the performance of said Civil Code in the sum of **Seven Hundred Thirty One Thousand, Seven Hundred Fifty and 00/100 Dollars (\$731,750.00)** for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the County in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed upon that this bond shall inure to the benefit of any and all persons, companies and corporations entitles to full claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.



**MATERIAL AND LABOR BOND**

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of this agreement or to the specifications accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code are not a condition precedent to surety's obligations hereunder and are hereby waived by surety.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on **March 26, 2018**.

NAME OF PRINCIPAL: Western Pacific Housing, Inc., a Delaware Corporation

AUTHORIZED SIGNATURE(S) By: *Barbara M. Murakami*  
Title BARBARA M. MURAKAMI, ASST. SECRETARY

*Todd Funk*  
Title TODD FUNK, ASST. VICE PRESIDENT

\_\_\_\_\_  
Title

(IF CORPORATION, AFFIX SEAL)

NAME OF SURETY: Liberty Mutual Insurance Company

AUTHORIZED SIGNATURE: *Margaret A. Ginem*  
Margaret A. Ginem, Its Attorney-in-Fact Title

(IF CORPORATION, AFFIX SEAL)

ATTACH NOTARIAL ACKNOWLEDGMENT OF SIGNATURES OF PRINCIPAL AND ATTORNEY-IN-FACT.

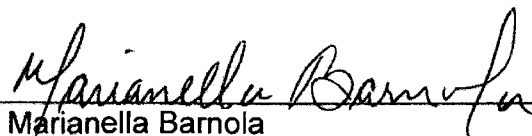
## ACKNOWLEDGEMENT BY SURETY

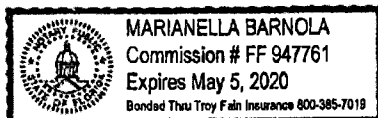
STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH } SS.

On this 26<sup>th</sup> day of **March, 2018** before me, personally came **Margaret A. Ginem**, who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within Instrument as Attorney-In-Fact on behalf of **Liberty Mutual Insurance Company**, and acknowledged to me that he/she executed the within instrument on behalf of said surety company and was duly authorized to do.

In witness whereof, I have signed and affixed my official seal on the date in this certificate first above written.

Signature

  
Marianella Barnola



*This area for Official Notarial Seal*

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Riverside)

On 3/28/2018 before me, Alyssa Marie Bottinelli, Notary Public  
(insert name and title of the officer)

personally appeared Barbara M. Murakami and Todd Funk,  
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  (Seal)

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.**

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 7908942

Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company      West American Insurance Company

**POWER OF ATTORNEY**

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the 'Companies'), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Brandy L. Baich; Anelt Cardinale; David H. Carr; Margaret A. Ginem

all of the city of Tampa, state of FL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 6th day of October, 2017.



The Ohio Casualty Insurance Company  
Liberty Mutual Insurance Company  
West American Insurance Company

By: [Signature]  
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA      ss  
COUNTY OF MONTGOMERY

On this 6th day of October, 2017, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Teresa Pastella, Notary Public  
Upper Merion Twp., Montgomery County  
My Commission Expires March 28, 2021  
Member Pennsylvania Association of Notaries

By: Teresa Pastella  
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

**ARTICLE IV – OFFICERS** – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

**ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings.** Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

**Certificate of Designation** – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

**Authorization** – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 26th day of March, 2018.



By: [Signature]  
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

## EXHIBIT "C"

### DOCUMENTATION TO BE PROVIDED TO AGENCY BY DEVELOPER FOR DETERMINATION OF CONSTRUCTION COSTS

To assist AGENCY in determining the Construction Costs for a completed TUMF Improvement, Developer shall provide the following documents to AGENCY:

1. Plans, specifications and Developer's civil engineer's cost estimate;
2. List of bidders from whom bids were requested;
3. Construction schedules and progress reports;
4. Contracts, insurance certificates and change orders with each contractor or vendor;
5. Invoices received from all vendors;
6. Canceled checks for payments made to contractors and vendors (copy both front and back of canceled checks);
7. Spreadsheet showing total costs incurred in and related to the construction of each TUMF Improvement and the check number for each item of cost and invoice;
8. Final lien releases from each contractor and vendor; and
9. Such further documentation as may be reasonably required by AGENCY to evidence the completion of construction and the payment of each item of cost and invoice.

## EXHIBIT "D"

### REIMBURSEMENT AGREEMENT TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM

**THIS REIMBURSEMENT AGREEMENT** ("Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the [INSERT "City" OR "County"] of \_\_\_\_\_, **[\*\*INSERT "a California municipal corporation" FOR CITY OR "a subdivision of the State of California" FOR COUNTY\*\*]** ("AGENCY"), and \_\_\_\_\_, a California **[\*\*INSERT TYPE OF ENTITY - corporation, partnership, sole proprietorship or other legal entity\*\*]**, with its principal place of business at **[\*\*ENTER ADDRESS\*\*]** ("Developer"). AGENCY and Developer are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

#### RECITALS

WHEREAS, AGENCY and Developer are parties to an agreement dated \_\_\_\_\_, 20\_\_\_, entitled "Improvement and Credit Agreement - Transportation Uniform Mitigation Fee Program" (hereinafter "Credit Agreement");

WHEREAS, Sections 14.1 through 14.3 of the Credit Agreement provide that Developer is obligated to pay AGENCY the TUMF Obligation, as defined therein, but shall receive credit to offset the TUMF Obligation if Developer constructs and AGENCY accepts the TUMF Improvements in accordance with the Credit Agreement;

WHEREAS, Section 14.5 of the Credit Agreement provides that if the dollar amount of the credit to which Developer is entitled under the Credit Agreement exceeds the dollar amount of the TUMF Obligation, Developer may apply to AGENCY and WRCOG for a reimbursement agreement for the amount by which the credit exceeds the TUMF Obligation;

WHEREAS, Section 14.5 additionally provides that a reimbursement agreement executed pursuant to the Credit Agreement (i) shall be executed on the form attached to the Credit Agreement, (ii) shall contain the terms and conditions set forth therein, (iii) shall be subject to all terms and conditions of the Credit Agreement, and (iv) shall be attached upon execution to the Credit Agreement and incorporated therein as a material part of the Credit Agreement as though fully set forth therein; and

WHEREAS, AGENCY and WRCOG have consented to execute a reimbursement agreement with Developer pursuant to the Credit Agreement, (insert appropriate reference for city or county), and the TUMF Administrative Plan adopted by WRCOG.

**NOW, THEREFORE, for the purposes set forth herein, and for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:**

### TERMS

1.0 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2.0 Effectiveness. This Agreement shall not be effective unless and until the Credit Agreement is effective and in full force in accordance with its terms.

3.0 Definitions. Terms not otherwise expressly defined in this Agreement, shall have the meaning and intent set forth in the Credit Agreement.

4.0 Amount of Reimbursement. Subject to the terms, conditions, and limitations set forth in this Agreement, the Parties hereby agree that Developer is entitled to receive the dollar amount by which the Actual Credit exceeds the dollar amount of the TUMF Obligation as determined pursuant to the Credit Agreement, ( insert appropriate reference for city or county ), and the TUMF Administrative Plan adopted by WRCOG (“Reimbursement”). The Reimbursement shall be subject to verification by WRCOG. AGENCY and Developer shall provide any and all documentation reasonably necessary for WRCOG to verify the amount of the Reimbursement. The Reimbursement shall be in an amount not exceeding [INSERT DOLLAR AMOUNT] (“Reimbursement Amount”). AGENCY shall be responsible for obtaining the Reimbursement Amount from WRCOG and transmitting the Reimbursement Amount to the Developer. In no event shall the dollar amount of the Reimbursement exceed the difference between the dollar amount of all credit applied to offset the TUMF Obligation pursuant to Section 14.3, 14.4, and 14.5 of the Credit Agreement, and one hundred (100%) of the approved unit awarded, as such assumptions are identified and determined in the Nexus Study and the TUMF Administrative Plan adopted by WRCOG.

5.0 Payment of Reimbursement; Funding Contingency. The payment of the Reimbursement Amount shall be subject to the following conditions:

5.1 Developer shall have no right to receive payment of the Reimbursement unless and until (i) the TUMF Improvements are completed and accepted by AGENCY in accordance with the Credit Agreement, (ii) the TUMF Improvements are scheduled for funding pursuant to the five-year Transportation Improvement Program adopted annually by WRCOG, (iii) WRCOG has funds available and appropriated for payment of the Reimbursement amount.

5.2 Developer shall not be entitled to any interest or other cost adjustment for any delay between the time when the dollar amount of the Reimbursement is determined and the time when payment of the Reimbursement is made to Developer by WRCOG through AGENCY.

6.0 Affirmation of Credit Agreement. AGENCY and Developer represent and warrant to each other that there have been no written or oral modifications or amendments of the Credit Agreement, except by this Agreement. AGENCY and Developer ratify and reaffirm each and every one of their respective rights and obligations arising under the Credit Agreement. AGENCY and Developer represent and warrant that the Credit Agreement is currently an effective, valid, and binding obligation.

7.0 Incorporation Into Credit Agreement. Upon execution of this Agreement, an executed original of this Agreement shall be attached as Exhibit "D" to the Credit Agreement and shall be incorporated therein as a material part of the Credit Agreement as though fully set forth therein.

8.0 Terms of Credit Agreement Controlling. Each Party hereby affirms that all provisions of the Credit Agreement are in full force and effect and shall govern the actions of the Parties under this Agreement as though fully set forth herein and made specifically applicable hereto, including without limitation, the following sections of the Credit Agreement: Sections 10.0 through 10.3, Section 12.0, Sections 13.0 through 13.7, Sections 14.0 through 14.6, and Sections 15.0 through 15.17.

**[SIGNATURES OF PARTIES ON NEXT PAGE]**



**IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.**

\_\_\_\_\_  
("Developer")

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

Its: \_\_\_\_\_

ATTEST:

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

Its: \_\_\_\_\_

[INSERT "City" OR "County") of \_\_\_\_\_

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

Its: \_\_\_\_\_

ATTEST:

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

Its: \_\_\_\_\_

## EXHIBIT "E"

### TUMF CREDIT / REIMBURSEMENT ELIGIBILITY PROCESS

1. Prior to the construction of any TUMF Improvement, Developer shall follow the steps listed below:
  - a. Prepare a separate bid package for the TUMF Improvements.
  - b. The plans, cost estimate, specifications and contract document shall require all contractors to pay prevailing wages and to comply with applicable provisions of the Labor Code, Government Code, and Public Contract Code relating to Public Works Projects.
  - c. Bids shall be obtained and processed in accordance with the formal public works bidding requirements of the AGENCY.
  - d. The contract(s) for the construction of TUMF Improvements shall be awarded to the lowest responsible bidder(s) for the construction of such facilities in accordance with the AGENCY's requirements and guidelines.
  - e. Contractor(s) shall be required to provide proof of insurance coverage throughout the duration of the construction.
2. Prior to the determination and application of any Credit pursuant to a TUMF Improvement and Credit Agreement executed between AGENCY and Developer ("Agreement"), Developer shall provide the AGENCY and WRCOG with the following:
  - a. Copies of all information listed under Item 1 above.
  - b. Surety Bond, Letter of Credit, or other form of security permitted under the Agreement and acceptable to the AGENCY and WRCOG, guaranteeing the construction of all applicable TUMF Improvements.
3. Prior to the AGENCY's acceptance of any completed TUMF Improvement, and in order to initiate the construction cost verification process, the Developer shall comply with the requirements as set forth in Sections 7, 14.2 and 14.3 of the Agreement, and the following conditions shall also be satisfied:
  - a. Developer shall have completed the construction of all TUMF Improvements in accordance with the approved Plans and Specifications.
  - b. Developer shall have satisfied the AGENCY's inspection punch list.
  - c. After final inspection and approval of the completed TUMF Improvements, the AGENCY shall have provided the Developer a final inspection release letter.
  - d. AGENCY shall have filed a Notice of Completion with respect to the TUMF Improvements pursuant to Section 3093 of the Civil Code with the County Recorder's Office, and provided a copy of filed Notice of Completion to WRCOG.
  - e. Developer shall have provided AGENCY a copy of the As-Built plans for the TUMF Improvements.
  - f. Developer shall have provided AGENCY copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation and maintenance of any TUMF Improvements.
  - g. Developer shall have submitted a documentation package to the AGENCY to determine the final cost of the TUMF Improvements, which shall include at a minimum, the following documents related to the TUMF Improvements:

- i. Plans, specifications, and Developer's Civil Engineer's cost estimates; or Engineer's Report showing the cost estimates.
- ii. Contracts/agreements, insurance certificates and change orders with each vendor or contractor.
- iii. Invoices from all vendors and service providers.
- iv. Copies of cancelled checks, front and back, for payments made to contractors, vendors and service providers.
- v. Final lien releases from each contractor and vendor (unconditional waiver and release).
- vi. Certified contract workers payroll for AGENCY verification of compliance with prevailing wages.
- vii. A total cost summary, in spreadsheet format (MS Excel is preferred) and on disk, showing a breakdown of the total costs incurred. The summary should include for each item claimed the check number, cost, invoice numbers, and name of payee. See attached sample for details. [ATTACH SAMPLE, IF APPLICABLE; OTHERWISE DELETE REFERENCE TO ATTACHED SAMPLE]

## EXHIBIT "F"

### RECONCILIATION EXAMPLES

All examples are based on a single family residential development project of 200 dwelling units:  
200 SF dwelling units @ \$6,650 / dwelling unit = \$1,330,000 in fees (TUMF Obligation)

#### Example A: "TUMF BALANCE"

<b>CREDIT</b>	
TUMF Obligation:	\$1,330,000
Estimated Credit: Bid (\$1,500,000) or unit Cost Assumption (\$1,600,000) whichever is less	<u>\$1,500,000</u>
Potential Reimbursement:	(\$170,000)

<b>RECONCILIATION</b>	
TUMF Obligation:	\$1,330,000
Actual Credit:	<u>\$1,200,000</u>
TUMF Balance (Payment to TUMF):	<b>\$130,000</b>

#### Example B: "REIMBURSEMENT"

<b>CREDIT</b>	
TUMF Obligation:	\$1,330,000
Estimated Credit: Bid (\$1,500,000) or unit Cost Assumption (\$1,600,000) whichever is less	<u>\$1,500,000</u>
Potential Reimbursement:	(\$170,000)

<b>RECONCILIATION</b>	
TUMF Obligation:	\$1,330,000
Actual Credit:	<u>\$1,500,000</u>
Reimbursement Agreement with Developer (Based on Priority Ranking):	<b>(\$170,000)</b>

#### Example C: "TUMF OVERPAYMENT"

<b>CREDIT</b>	
TUMF Obligation:	\$1,330,000
Estimated Credit: Bid (\$1,200,000) or unit Cost Assumption (\$1,500,000) whichever is less	<u>\$1,200,000</u>
Remaining TUMF Obligation:	\$130,000
Prorated Fee: \$130,000 / 200 du =	\$650 / du

<b>RECONCILIATION</b>	
Actual Credit:	\$1,300,000
TUMF payments from Developer (\$650 per unit x 200 units)	<u>\$130,000</u>
Actual Credit plus TUMF Payment	\$1,430,000
TUMF Obligation:	\$1,330,000
Actual Credit plus TUMF Payment	<u>\$1,430,000</u>
TUMF Overpayment (Refund to Developer):	<b>(\$100,000)</b>

## EXHIBIT "G"

### Estimated TUMF Credit Summary

Western Pacific Housing Inc.  
Tract Nos. 36430 and 36430-1  
MS4321-IP170029

#### List of Eligible Streets/Facilities under the TUMF Network:

Briggs Road (Central TUMF Zone)

#### TUMF Credit Cost Factors:

Paid TUMF (see next page for details)	\$	-
Estimated TUMF Obligation (see next page for details)	\$	1,330,950
TUMF Unit Cost Assumptions (see next page for details)	\$	877,466
Improvement Costs (Engineer's Estimate) (see below for details)	\$	1,073,975

#### Improvement Costs Breakdown

Street Improvement Construction Costs (Engineer's Estimate)	\$	632,352
Right of Way Costs (Estimated)	\$	230,206
Planning, Engineering,(Estimated)	\$	211,417
Improvement Costs Total	\$	1,073,975

#### Estimated TUMF Credit:

Estimated Credit (Lesser of Obligation, Bid Amount, or Unit Cost Assumptions)	\$	877,466
Estimated number of remaining units		150
Prorated Credit per each remaining unit (up to max TUMF fee per unit)	\$	5,850
Estimated Credit to be applied to remaining units		<b>\$877,466</b>

#### TUMF Overpayment / Refund:

Estimated TUMF Obligation	\$	1,330,950
Estimated Credit amount + Paid TUMF amount	\$	877,466
Estimated Refund (Credit + Paid TUMF amount that exceeds Obligation amount)		<b>\$0</b>

#### TUMF Reimbursement:

Estimated TUMF Obligation	\$	1,330,950
Estimated Cost (Lesser of Bid Amount or Unit Cost Assumptions)	\$	877,466
Estimated TUMF Reimbursement (Cost exceeding Obligation amount)		<b>\$0</b>

Note: The amounts shown in this Exhibit are subject to cost validation and reconciliation.

Western Pacific Housing Inc.  
 Tract Nos. 36430 and 36430-1  
 MS4321-IP170029

**ESTIMATED TUMF OBLIGATION CALCULATION**

Paid TUMF	Fee per Unit	Units	Amount
Single Family Residential	\$ 8,873	0	\$ -
	Paid Subtotal	0	\$ -

Unpaid TUMF - Estimated Remaining Units	Fee per Unit	Units	Amount
Single Family Residential (TR 36430)	\$ 8,873	52	\$ 461,396
Single Family Residential (TR 36430-1)	\$ 8,873	98	\$ 869,554
	Estimated Subtotal	150	\$ 1,330,950
	Obligation Total	150	\$ 1,330,950

**TUMF UNIT COST ASSUMPTION CALCULATION (2016 Nexus Study Unit Cost Assumption)**

TUMF Network Road Segment applicable to Proposed Improvements		Cost Item	Amount
<b>Briggs Road (SR-74 Pinacate to Simpson)</b>			
Network Distance:	0.67 miles	Road Const	\$ 462,000
Existing Lanes:	3	ROW/Utilities	\$ 192,000
Increase in Lanes:	1	Planning (10%)	\$ 46,000
		Engring (25%)	\$ 116,000
		Conting (10%)	\$ 65,000
		Network Road Segment Cost Est	\$ 881,000
		Network Unit Cost per Lane mile	\$ 1,314,925
		Network Unit Cost per Lane foot	\$ 249

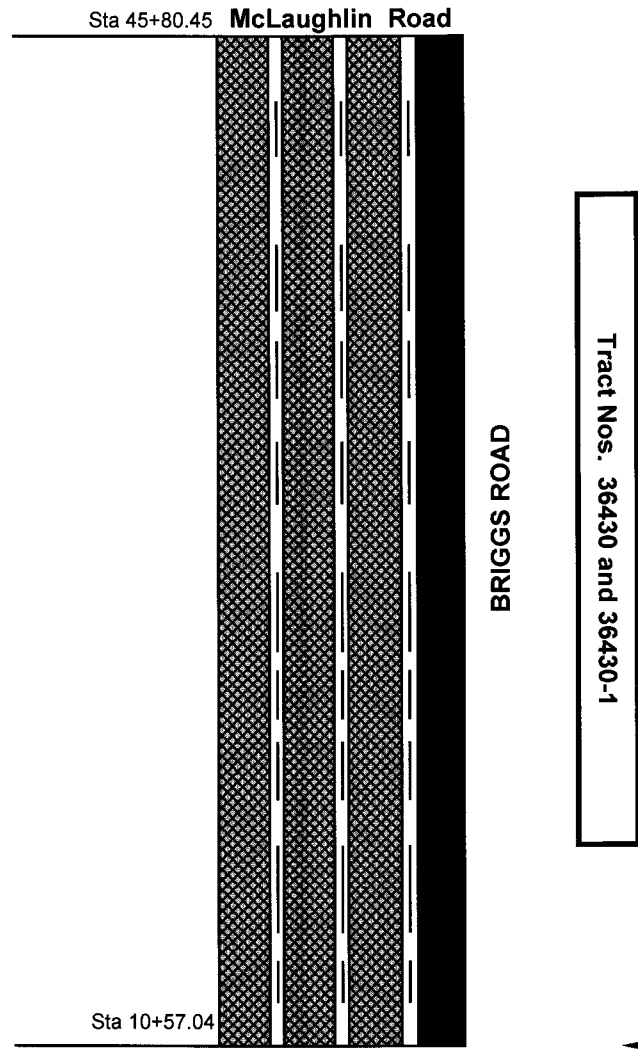
**Road Improvement Cost Estimate (based on Network Unit Cost per Lane foot)**

Lane	Construction Limits (Sta. to Sta.)	Linear Feet	Amount
3	10+57.04 45+80.45	3,523.41	\$ 877,466
		TUMF Road Total	3,523.41 \$ 877,466

<b>TOTAL TUMF UNIT COST ASSUMPTION FOR ELIGIBLE IMPROVEMENTS</b>	<b>\$ 877,466</b>
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**Briggs Road (TR 36430 & TR 36430-1 )**

(MS4321-IP170029)



★ Lane 3 new roadway covered under TUMF

☆ Lanes 1, 2, and 4 existing lanes

**EXHIBIT G-3**

0 625 1,250 2,500 Feet

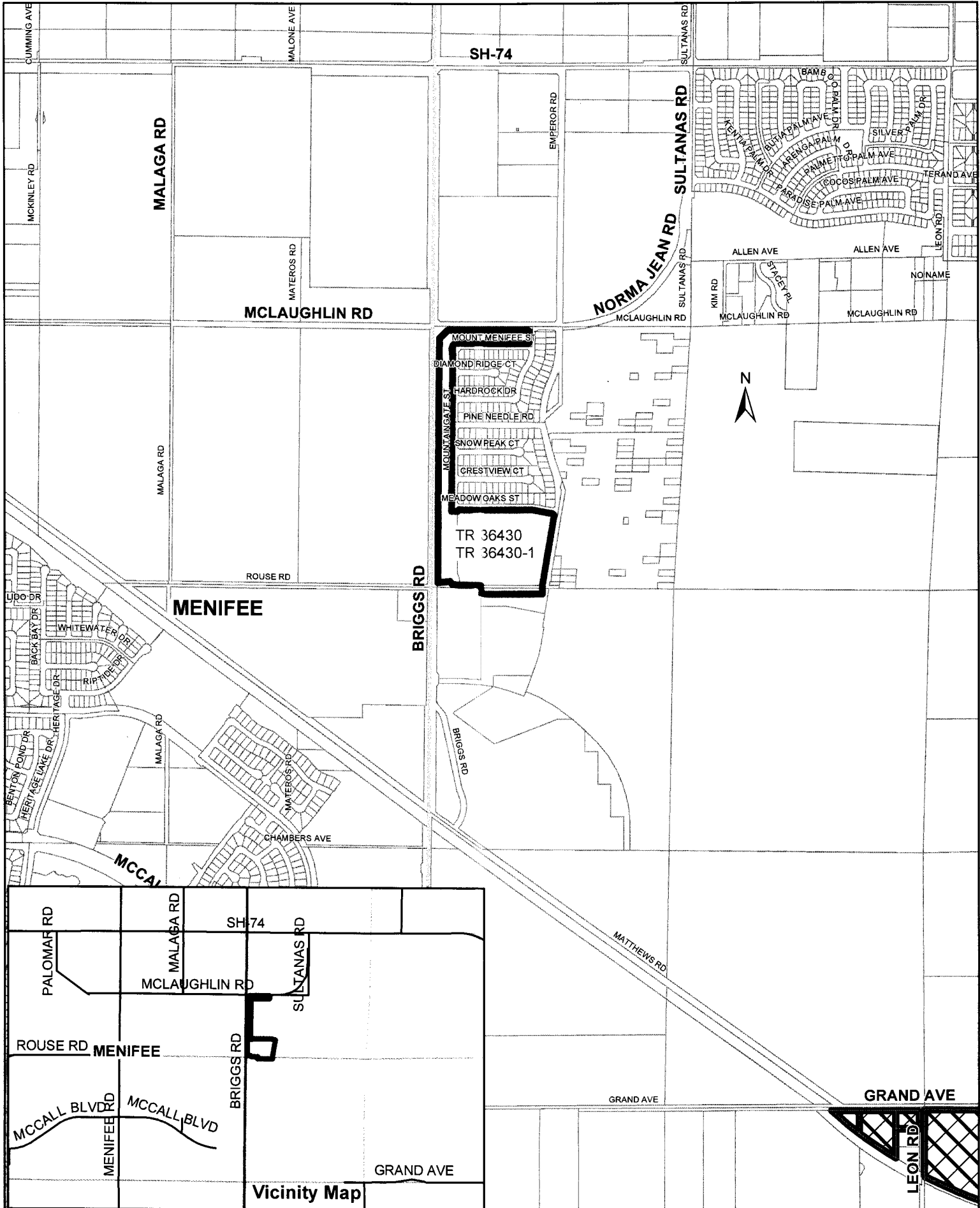
1 inch = 1,250 feet

Orthophotos Flown 2/11 (WR, CV) or 4/07 (REMAP, Blythe)  
Printed by almedina on 5/31/2018

# Vicinity Map

## Tract Nos. 36430 & 36430-1

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Vicinity Map