

DUPLICATE

**FIRST AMENDMENT TO FBA CREDIT AND REIMBURSEMENT AGREEMENT
FOR PUBLIC FACILITIES IN TORREY HIGHLANDS
WITH WPH-CAMINO RUIZ, LLC, WESTERN PACIFIC HOUSING, INC., AND
WESTERN PACIFIC HOUSING-TORREY VILLAGE CENTER, LLC**

This First Amendment to the FBA Credit and Reimbursement Agreement for Public Facilities in Torrey Highlands [Amendment] is made this ____ day of MAY 24 2011, 2011 between the City of San Diego, a municipal corporation [City], and WPH-Camino Ruiz, LLC, a Delaware limited liability company, Western Pacific Housing, Inc., a Delaware corporation, and Western Pacific Housing-Torrey Village Center, LLC, a Delaware limited liability company [Developer]. This Amendment relates to reimbursement for the planning, permitting, design and construction of, or improvements to, Camino del Sur (formerly Camino Ruiz) identified as Project No. T-2.1 (Camino del Sur – Two Lanes, Northerly of SR-56) in the Torrey Highlands Public Facilities Financing Plan and Facilities Benefit Assessment [Financing Plan]. Developer and City are collectively referred to throughout this Amendment as “the Parties.”

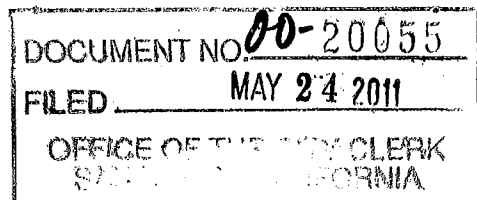
RECITALS

A. On June 5, 2003, City entered into an FBA Credit and Reimbursement Agreement for the design and construction of certain public facilities in Torrey Highlands with Developer [Agreement]. The Agreement is on file in the Office of the City Clerk as Document No. RR-297962. Under the Agreement, Developer was to design and construct several projects which were identified in Exhibits “B”, “D”, and “E” of the Agreement, including Project Nos. P-1, U-2, P-6, U-3, T-2.1, T-2.2, T-3.1, and T-3.2 [“the Projects”]. The total Estimated Project Cost of the design and construction of the Projects was Thirteen Million Four Hundred Fifty Thousand One Hundred Ninety Dollars (\$13,450,190) [Estimated Project Cost]. Resolution No. R-297962, adopted by the City Council on May 20, 2003, authorized an expenditure of an amount not to exceed \$13,450,190 for the Projects.¹

B. Project Nos. T-2.1 and T-2.2 both relate to Camino del Sur (formerly Camino Ruiz) from SR-56 to Carmel Valley Road, and the Agreement identified a combined cost for those two projects. Therefore, pursuant to the Agreement, and as authorized by Resolution No. R-297962, City has already reimbursed Developer \$9,714,815 for Project Nos. T-2.1 and T-2.2 combined. However, the Fiscal Year 2010 Financing Plan accounts for the projects separately, and thus shows that City reimbursed Developer \$7,315,000 for Project No. T-2.1 and \$2,399,815 for Project No. T-2.2.²

¹ Resolution No. R-297962 authorized the expenditure of \$350,000 for “environmental documentation related to Torrey Highlands Neighborhood Park South” (Project No. P-1); \$9,714,815 for “design and construction of Camino Ruiz from SR-56 to Carmel Valley Road” (Project Nos. T-2.1 and T-2.2); \$35,000 for “alignment studies for Camino Ruiz from SR-56 to Dormouse Road” (Project Nos. T-3.1/T-3.2); \$600,000 for “the design and construction of bicycle, pedestrian, and equestrian trails at various locations in Torrey Highlands” (Project No. P-6); \$985,375 for “relocating and upsizing a portion of the Del Mar Heights Pipeline within Torrey Highlands” (Project No. U-2); and \$1,765,000 for “the design and construction of new 16” water mains in a portion of Torrey Highlands” (Project No. U-3).

² City has also reimbursed Developer for Project Nos. P-6, U-2, and U-3, which are not the subject of this Amendment.



C. Project Nos. T-3.1 and T-3.2 both related to an alignment study for Camino del Sur (formerly Camino Ruiz) from SR-56 to Dormouse Road. The costs for that design work have been provided for in Project No. T-3.1B (Camino del Sur (Two Lanes, SR-56 to Carmel Mountain Road)) in the Fiscal Year 2010 Financing Plan.

D. Developer represents that it has completed the design and construction of Project No. T-2.1. Developer has requested that the maximum amount authorized for reimbursement for Project No. T-2.1 be increased by \$3,649,810 [Requested Increased Cost]. With the Requested Increased Cost, the total Estimated Project Cost for Project No. T-2.1 would be \$10,964,810, and the total Estimated Project Cost under the Agreement would be increased to \$17,100,000. Developer understands that authorization of the Requested Increased Cost does not automatically entitle Developer to reimbursement for these costs.

E. Since the date of the Agreement, the City Council adopted updates to the Financing Plan that was in effect at the time of the Agreement, and in particular, on June 15, 2004, by Resolution No. R-299203, the City Council adopted the Financing Plan for Fiscal Year 2004. Among other things, the Fiscal Year 2004 Financing Plan was updated to reflect a projected increase of \$3,649,810 (the amount of the Requested Increased Cost) in project costs for Project No. T-2.1 due to increased costs of construction. On June 2, 2009, by Resolution No. R-304935, the City Council adopted the Financing Plan for Fiscal Year 2010, which continues to account for the estimated increases in project costs for Project No. T-2.1. Specifically, under the Fiscal Year 2010 Financing Plan, the total budget for Project No. T-2.1 is \$10,964,810, of which \$3,649,810 is available for reimbursement under this Amendment.

NOW THEREFORE, in consideration of the recitals and mutual obligations of the parties herein expressed, City and Developer agree as follows:

1. The recitals set forth above are incorporated herein by reference. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.
2. Section 3.1 is hereby stricken in its entirety and shall be replaced as follows:

Project Cost. Developer shall advance the costs for and shall provide a completed Project (including construction, construction management, land, and all incidental costs thereto, and all expenses under the Agreement) (the "Project Cost"). The Project Cost shall not exceed Seventeen Million One Hundred Thousand Dollars (\$17,100,000) (the "Estimated Project Cost"). Any change to the Estimated Project Cost shall require prior approval of the City in accordance with Section 4 of this Agreement. The Project Cost shall include all Direct and Indirect costs, defined below, incurred by Developer in order to successfully complete the Project. For a breakdown of the Estimated Project Cost see Exhibit "B," attached hereto and incorporated herein.

3. Section 4.1 is hereby stricken in its entirety and shall be replaced as follows:

Project Cost. In the event that Developer proceeds with and completes construction of the Project, Developer will advance the Project Cost. Provided the City approves Developer's reimbursement request, Developer shall be entitled to reimbursement and/or credit for one hundred percent (100%) of the Project Cost, in an amount not to exceed \$17,100,000.00.

4. Section 4.11 is hereby stricken in its entirety and shall be replaced as follows:

Change Order. A "Change Order" is an order from Developer and City to the contractor performing the work authorizing a change in the work to be performed. Change Orders may be needed where changes in the Project work are made necessary due to unanticipated conditions encountered during construction or changes in the plans and specifications after construction begins. All Change Orders over \$10,000 must be approved in writing by Developer and City. The consent to a Change Order shall not be unreasonably delayed, conditioned or withheld. No change orders may be requested, authorized, or otherwise approved for work performed after January 31, 2011.

5. Section 4.13 is hereby stricken in its entirety and shall be replaced as follows:

Increases in Estimated Project Cost. Notwithstanding anything herein, to the contrary, the Estimated Project Cost may be increased due to: (i) actual bids received exceeding the Estimated Project Cost; (ii) acts of God, acts of any governmental authority, war, litigation, shortages of material, labor strikes, inflation, later commonly accepted or adopted higher standards and specifications of construction, walkouts, concealed or unknown conditions encountered in the completion of the Project, unknown conditions encountered by a contractor, or other causes beyond Developer's control; or (iii) other factors not the result of unreasonable conduct by Developer. The Estimated Project Cost may be increased by the amount of such increase subject to approval pursuant to an approved Change Order as specified in Paragraph 4.11 of this Agreement. However, the Estimated Project Cost may not be increased to an amount greater than \$17,100,000 under any circumstances.

6. Section 29, with respect to notices to Developer, is replaced as follows:

To the Developer: Western Pacific Housing c/o D.R. Horton
2280 Wardlow Circle, Suite 100
Corona, CA 92880
Attention: David Stearn, Vice President
Telephone: (951) 272-9000
Facsimile: (866) 774-0369

with a copy to: Western Pacific Housing c/o D.R. Horton
Attn: William E. Mayer III, Esq.
Vice President & General Counsel, Western Region
501 West Broadway, Suite 1050
San Diego, CA 92101
Facsimile: (800) 657-8204

with a copy to: Brian C. Fish
Luce Forward
600 W. Broadway, Suite 2600
San Diego, CA 92101
Telephone: (619) 699-2424
Facsimile: (619) 645-5395

7. The Exhibit "B" to the Agreement is replaced with the attached Revised Exhibit "B." Accordingly, the Estimated Project Cost for Project No. T-2.1 is \$10,964,810, and the total Estimated Project Cost under the Agreement is \$17,100,000.
8. The Parties agree that the Estimated Project Cost shall not be further increased beyond the Requested Increased Cost identified in this Amendment. Developer agrees that it may not request and is not entitled to any additional changes to the Estimated Project Cost. Developer also agrees that it is not entitled to the payment of interest on the Estimated Project Cost.
9. The Parties agree that Developer is not automatically entitled to any reimbursement under the Agreement or this Amendment, and that reimbursement is contingent upon City approval of Developer's reimbursement request in accordance with the terms of the Agreement and this Amendment. Developer shall submit its Reimbursement Requests in accordance with the provisions set forth in Section 4.5 of the Agreement.
10. For any work performed after January 1, 2011 under the Agreement, or this Amendment, Developer is subject to the City of San Diego's Equal Benefits Ordinance [EBO], Chapter 2, Article 2, Division 43 of the San Diego Municipal Code [SDMC]. In accordance with the EBO, if Developer seeks reimbursement for work performed after January 1, 2011, Developer must certify that it will provide and maintain equal benefits, as defined in SDMC § 22.4302, for the duration of the work performed under this Amendment. If such a certification is required, failure to maintain equal benefits in accordance with the EBO shall constitute a material breach of the contract.
11. The Parties agree that this Amendment represents the entire understanding of City and Developer. All other terms and conditions of the Agreement not discussed in this Amendment remain in full force and effect; provided, however, that if a term in the Agreement specifically conflicts with this Amendment, this Amendment shall govern the terms of the Agreement.
12. The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Amendment is executed by the City of San Diego, acting by and through its Mayor, pursuant to Resolution No. R- 20053, authorizing such execution, and by Developer.

This Amendment was approved as to form by the City Attorney this _____ of _____, 2011, and this date shall constitute the Effective Date of this Amendment.

THE CITY OF SAN DIEGO, a Municipal Corporation

Dated: 6-30-11

By: [Signature]
Jay Goldstone, Chief Operating Officer

Approved as to form:
JAN I. GOLDSMITH, City Attorney

Dated: 7/1/11

By: [Signature]
Heidi K. Vonblum, Deputy City Attorney

WPH-CAMINO RUIZ, LLC, a Delaware limited liability company

By: Western Pacific Housing Management, Inc., a California corporation
Its: Managing Member

Dated: 3-24-11

By: [Signature]
Name: David Stearn
Title: Vice President

WESTERN PACIFIC HOUSING, INC., a Delaware corporation

Dated: 3-24-11

By: [Signature]
Name: David Stearn
Title: Vice President

WESTERN PACIFIC HOUSING-TORREY VILLAGE CENTER, LLC, a Delaware limited liability company

By: Western Pacific Housing Management, Inc., a California corporation
Its: Managing Member

Dated: 3-24-11

By: [Signature]
Name: David Stearn
Title: Vice President

HKV
03/22/11
Or.Dept: Facilities Financing

0 - 20055

REVISED EXHIBIT "B"
ESTIMATED PROJECT COST

Torrey Highlands Public Facilities Financing Plan (PFFP) and Facilities Benefit Assessment (FBA)

	Original Cost Estimate	Requested Increased Cost	Revised Cost Estimate ^(a)
1 Project T-2.1 & T-2.2 Camino del Sur (Two/Four/Six Lanes Northerly SR 56)			
CONSTRUCTION			
Grading	\$ 1,250,000		
Erosion Control	\$ 150,000		
Storm Drains	\$ 553,500		
Sewer	\$ 148,500		
Curb, Gutter, Sidewalks	\$ 355,000		
Paving	\$ 1,750,000		
Striping	\$ 15,000		
Signage	\$ 10,800		
Street Lights	\$ 268,000		
Traffic Signals	\$ 675,000		
Landscaping	\$ 435,000		
Dry Utilities	\$ 515,000		
Walls, Fencing, Railing	\$ 195,000		
Traffic Control	\$ 150,000		
	\$ 6,470,800		
PROFESSIONAL SERVICES			
Civil Engineering	\$ 435,000		
Soil Geotech	\$ 175,000		
Surveyor	\$ 170,000		
Landscape Arch.	\$ 75,850		
Biologist/Archeo/Paleo	\$ 85,000		
Dry Utility Design	\$ 55,000		
	\$ 995,850		
CITY FEES (Plan Check & Inspection)			
Plan Check & Inspection	\$ 155,000		
Irrigation Meters	\$ 125,000		
	\$ 280,000		
HABITAT MITIGATION			
Uplands & Wetlands	\$ 560,000		
BONDS	\$ 125,000		
PROJECT SUPERVISION			
Field Oversight	\$ 225,000		
Project Management	\$ 175,000		
	\$ 400,000		
Contingency @ 10%	\$ 883,165	^(b)	
Total T-2.1		\$ 3,649,810	\$ 10,964,810
Total T-2.2			\$ 2,399,815
Total T-2.1 & T-2.2	\$ 9,714,815	\$ 3,649,810	\$ 13,364,625 ^(c)

	Original Cost Estimate	Requested Increased Cost	Revised Cost Estimate ^(a)
2 Project T-3.1B Camino del Sur (Two SR 56 to Carmel Mountain Road)			
PROFESSIONAL SERVICES			
T-3.1B (Camino del Sur Two Lanes SR56 to Carmel Mountain Road)	\$ 35,000		\$ 35,000
Total T-3.1	\$ 35,000	\$ -	\$ 35,000 ^(d)
3 Project P-1 Neighborhood Park No. 1			
Advance Funding & Contribution to Design and Agency (USF&W, CDF&G, ACOE) Permits for Park No. 1 per Torrey Santa Fe Tentative Map Condition			
DESIGN & PERMITTING	\$ 100,000		
ADDITIONAL LAND ACQUISITION	\$ 250,000		
TOTAL P-1	\$ 350,000	\$ -	\$ 350,000
4 Project P-6 Trail System			
Oversized Paved Sidewalk Camino Ruiz	\$ 450,000		
Multi-Use Trail Connection to Penasquitos	\$ 75,000		
Multi-Use Trail along SR 56	\$ 75,000		
TOTAL P-6	\$ 600,000	\$ -	\$ 600,000 ^(e)
5 Project U-1 Carmel Valley Trunk Sewer			
Not a Part - to be reimbursed by Separate Agreement			
6 Project U-2 Del Mar Heights Pipeline Relocation			
CONSTRUCTION			
Water Line 36"	\$ 775,000		
PROFESSIONAL CONSULTANTS			
Civil Engineering	\$ 38,750		
Soil/Geotech	\$ 8,500		
Surveyor	\$ 12,500		
SITE SUPERVISION	\$ 46,500		
CITY FEES (Plan Check & Inspect.)	\$ 15,000		
BONDS	\$ 11,625		
CONTINGENCY @ 10%	\$ 77,500		
TOTAL U-2	\$ 985,375	\$ -	\$ 985,375 ^(f)
7 Project U-3 New 16" Water Mains			
CONSTRUCTION			
Water Line 16"	\$ 1,350,000		
PROFESSIONAL CONSULTANTS			
Civil Engineering	\$ 67,500		
Soil/Geotech	\$ 155,000		
Surveyor	\$ 35,000		
SITE SUPERVISION	\$ 47,250		
CITY FEES (Plan Check & Inspect.)	\$ 22,500		
BONDS	\$ 20,250		
CONTINGENCY @ 5%	\$ 67,500		
TOTAL U-3	\$ 1,765,000	\$ -	\$ 1,765,000 ^(g)
TOTAL REIMBURSEMENT AMOUNT	\$ 13,450,190	\$ 3,649,810	\$ 17,100,000

(a) Revised cost estimate as of January 1, 2011. Developer is not automatically entitled to reimbursement for these costs. Reimbursement is subject to the terms and conditions in the Agreement and the Amendment.

(b) As of January 1, 2011, contingency of \$883,165 has already been credited to developer and is no longer available for reimbursement.

(c) As of January 1, 2011, \$9,714,815 has already been reimbursed to Developer (\$7,315,000 for Project No. T-2.1 and \$2,399,815 for Project No. T-2.2) under the Agreement.

(d) Reimbursement for T-3-1B is contingent upon City verification that City has received and is in possession of design work for which reimbursement is sought.

(e) As of January 1, 2011, \$600,000 has already been reimbursed to Developer under the Agreement.

(f) As of January 1, 2011, \$985,375 has already been reimbursed to Developer under the Agreement.

(g) As of January 2, 2011, \$1,765,000 has already been reimbursed to Developer under the Agreement.

ORDINANCE NUMBER O- 20055 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 02 2011

AN ORDINANCE OF THE CITY OF SAN DIEGO
AUTHORIZING THE MAYOR TO EXECUTE A FIRST
AMENDMENT TO FBA CREDIT AND REIMBURSEMENT
AGREEMENT FOR PUBLIC FACILITIES IN TORREY
HIGHLANDS WITH WPH-CAMINO RUIZ, LLC, WESTERN
PACIFIC HOUSING, INC., AND WESTERN PACIFIC
HOUSING-TORREY VILLAGE CENTER, LLC.

WHEREAS, on June 5, 2003, the City of San Diego and WPH-Camino Ruiz, LLC,
Western Pacific Housing, Inc., and Western Pacific Housing-Torrey Village Center, LLC
(Developer) entered into a Facilities Benefit Assessment Credit and Reimbursement Agreement
with respect to the design and construction of various projects in the Torrey Highlands
community, which is on file in the Office of the City Clerk as Document No. RR-297962
(Original Agreement); and

WHEREAS, under the Original Agreement, Developer is to construct several projects
which were identified in Exhibits "B," "D," and "E" of the Original Agreement, including
Project Nos. P-1, U-2, P-6, U-3, T-2.1, T-2.2, T-3.1, and T-3.2 (the Projects), and the City is to
reimburse Developer for its costs associated with the design and construction of the Projects; and

WHEREAS, under the Original Agreement, the total estimated project costs of the design
and construction of the Projects is \$13,450,190; and

WHEREAS, on June 15, 2004, the City Council adopted the Torrey Highlands Public
Facilities Financing Plan and Facilities Benefit Assessment (Financing Plan) for Fiscal
Year 2004, which included a projected increase of \$3,649,810 in projects costs for Project
No. T-2.1; and

WHEREAS, on June 2, 2009, the City Council adopted the Financing Plan for Fiscal Year 2010, which continued to include the \$3,649,810 in increased project costs for Project No. T-2.1 for a total budget for Project No. T-2.1 of \$10,964,810; and

WHEREAS, City has already reimbursed Developer \$7,315,000 for Project No. T-2.1, and therefore, \$3,649,810 remains available for reimbursement to Developer for costs related to the design and construction of Project No. T-2.1; and

WHEREAS, City and Developer desire to amend the Original Agreement to reflect the availability of the \$3,649,810 for costs related to Project No. T-2.1; and

WHEREAS, the First Amendment to FBA Credit and Reimbursement Agreement for Public Facilities in Torrey Highlands (Amendment) with Developer is on file in the Office of the City Clerk as Document No. OO- 20055, and sets forth amended terms and conditions to the Original Agreement; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

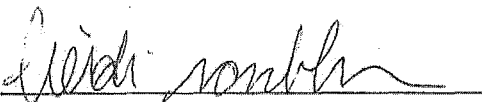
Section 1. That the Mayor be and hereby is authorized and empowered to execute, for and on behalf of the City, the Amendment to increase the Estimated Project Cost for Project No. T-2.1 to \$10,964,810, and the total Estimated Project Cost for all the Projects to \$17,100,000.

Section 2. That the Chief Financial Officer, provided the Amendment is authorized and is fully executed, is authorized to expend an amount not to exceed \$3,649,810 from CIP S-00899.07.01, Camino Del Sur (Two Lanes Northerly of SR-56), Fund No. 400094, Torrey Highlands FBA, consistent with the timing established in the Fiscal Year 2010 Financing Plan, the Original Agreement, and the Amendment, and contingent upon CFO Certification of funds.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance, having been introduced and adopted by a two-thirds vote of the members of the San Diego City Council pursuant to Section 99 of the Charter of the City of San Diego, shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV: cw
04/18/11
Or.Dept: Facilities Financing
PL#2010-00212

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 24 2011.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6-2-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

ORDINANCE NUMBER O- 20055 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 02 2011

AN ORDINANCE OF THE CITY OF SAN DIEGO
AUTHORIZING THE MAYOR TO EXECUTE A FIRST
AMENDMENT TO FBA CREDIT AND REIMBURSEMENT
AGREEMENT FOR PUBLIC FACILITIES IN TORREY
HIGHLANDS WITH WPH-CAMINO RUIZ, LLC, WESTERN
PACIFIC HOUSING, INC., AND WESTERN PACIFIC
HOUSING-TORREY VILLAGE CENTER, LLC.

WHEREAS, on June 5, 2003, the City of San Diego and WPH-Camino Ruiz, LLC,
Western Pacific Housing, Inc., and Western Pacific Housing-Torrey Village Center, LLC
(Developer) entered into a Facilities Benefit Assessment Credit and Reimbursement Agreement
with respect to the design and construction of various projects in the Torrey Highlands
community, which is on file in the Office of the City Clerk as Document No. RR-297962
(Original Agreement); and

WHEREAS, under the Original Agreement, Developer is to construct several projects
which were identified in Exhibits "B," "D," and "E" of the Original Agreement, including
Project Nos. P-1, U-2, P-6, U-3, T-2.1, T-2.2, T-3.1, and T-3.2 (the Projects), and the City is to
reimburse Developer for its costs associated with the design and construction of the Projects; and

WHEREAS, under the Original Agreement, the total estimated project costs of the design
and construction of the Projects is \$13,450,190; and

WHEREAS, on June 15, 2004, the City Council adopted the Torrey Highlands Public
Facilities Financing Plan and Facilities Benefit Assessment (Financing Plan) for Fiscal
Year 2004, which included a projected increase of \$3,649,810 in projects costs for Project
No. T-2.1; and

WHEREAS, on June 2, 2009, the City Council adopted the Financing Plan for Fiscal Year 2010, which continued to include the \$3,649,810 in increased project costs for Project No. T-2.1 for a total budget for Project No. T-2.1 of \$10,964,810; and

WHEREAS, City has already reimbursed Developer \$7,315,000 for Project No. T-2.1, and therefore, \$3,649,810 remains available for reimbursement to Developer for costs related to the design and construction of Project No. T-2.1; and

WHEREAS, City and Developer desire to amend the Original Agreement to reflect the availability of the \$3,649,810 for costs related to Project No. T-2.1; and

WHEREAS, the First Amendment to FBA Credit and Reimbursement Agreement for Public Facilities in Torrey Highlands (Amendment) with Developer is on file in the Office of the City Clerk as Document No. OO- 20055, and sets forth amended terms and conditions to the Original Agreement; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

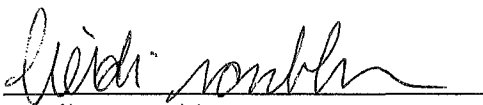
Section 1. That the Mayor be and hereby is authorized and empowered to execute, for and on behalf of the City, the Amendment to increase the Estimated Project Cost for Project No. T-2.1 to \$10,964,810, and the total Estimated Project Cost for all the Projects to \$17,100,000.

Section 2. That the Chief Financial Officer, provided the Amendment is authorized and is fully executed, is authorized to expend an amount not to exceed \$3,649,810 from CIP S-00899.07.01, Camino Del Sur (Two Lanes Northerly of SR-56), Fund No. 400094, Torrey Highlands FBA, consistent with the timing established in the Fiscal Year 2010 Financing Plan, the Original Agreement, and the Amendment, and contingent upon CFO Certification of funds.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance, having been introduced and adopted by a two-thirds vote of the members of the San Diego City Council pursuant to Section 99 of the Charter of the City of San Diego, shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV: cw
04/18/11
Or.Dept: Facilities Financing
PL#2010-00212

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 24 2011.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6-2-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on MAY 24 2011, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 02 2011

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAY 10 2011, and on JUN 02 2011

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 20055

Passed by the Council of The City of San Diego on May 24, 2011, by the following vote:

YEAS: FAULCONER, GLORIA, YOUNG, DEMAIO, ZAPF.
NAYS: EMERALD, ALVAREZ.
NOT PRESENT: LIGHTNER.
RECUSED: NONE.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By:  Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. O - 20055 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on May 10, 2011, and on June 2, 2011.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By:  Deputy

DOCKET SUPPORTING INFORMATION
CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION

DATE:
April 18, 2011

SUBJECT: First Amendment to the Reimbursement Agreement with Western Pacific Housing, Inc for Public Facilities in Torrey Highlands for projects T-2.1 and T-2.2 per resolution #RR-297962 filed on May 20, 2003.

GENERAL CONTRACT INFORMATION

Contractor: Western Pacific Housing, Inc. (Not Certified)

Original Agreement Amount (4/11/03) \$ 13,450,190.
Previous Reimbursed Amount: \$ 9,714,815.
Amount of this Action: \$ **3,649,810.** (Not to Exceed)
Cumulative Amount: \$ 13,364,625.

Funding Source: City of San Diego

Goal: N/A

SUBCONTRACTOR PARTICIPATION

Project completed in 2004, no ongoing or future subcontracting associated with this action.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Equal Opportunity: Required

Western Pacific Housing, Inc submitted a Work Force Report for their San Diego County Employees dated April 15, 2011, with a total of 10 San Diego County Administrative employees. The firm has fewer than 15 employees and therefore, is exempt from the employment category goals.

An approved EO Plan was filed with EOC Staff on January 15, 2004 which described equal employment policies and practices including reasonable goals and timetable that are expected to remedy under representations and an update was submitted April 2011. At the present time, Western Pacific Housing Inc has merged with D.R. Horton America's Builder.

ADDITIONAL COMMENTS

On June 15, 2004 per Resolution # R-299203 FY 2004 approved Financing Plan for the projected increase of \$3,649.810 due to increased costs of construction. This action is an administrative update of a reimbursement agreement for work previously performed by Western Pacific Housing, Inc.

RW