

RECORDING REQUESTED BY;
WHEN RECORDED RETURN TO:

City of Chula Vista
Office of the City Clerk
276 Fourth Avenue
Chula Vista 91910

With a copy to:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**FIRST AMENDMENT
TO AGREEMENT BETWEEN THE
CITY OF CHULA VISTA
AND
HOMEFED VILLAGE III MASTER, LLC
FOR CONSTRUCTION OF NEIGHBORHOOD PARK P-1 IN OTAY RANCH
VILLAGE 3 AND A PORTION OF COMMUNITY PARK P-2 IN OTAY RANCH
VILLAGE 4**

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AND
HOMEFED VILLAGE III MASTER, LLC
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This First Amendment (First Amendment) is entered into effective as of this ____ day of _____, 20____ (Effective Date) by and between the City of Chula Vista (City) and HOMEFED VILLAGE III MASTER, LLC, a Delaware limited liability company (HomeFed) with reference to the following facts:

RECITALS

WHEREAS, City and HomeFed previously entered into that certain agreement, namely, Agreement Regarding Construction of Neighborhood Park P-1 in Otay Ranch Village 3 and a portion of Community Park P-2 in Otay Ranch Village 4 (Original Agreement) on December 6, 2016; and

WHEREAS, City and HomeFed desire to Amend the Original Agreement to allow for the contribution of additional funds to supplement the Neighborhood Park P-1 budget as more specifically set forth below; and

WHEREAS, pursuant to the Original Agreement, the Neighborhood Park Budget for Neighborhood Park P-1 is based upon the proportional ratio of neighborhood parkland acres required for Village 3, assuming the Development portion of the City's current Parkland Acquisition and Development Fee as the budget per acre; and

WHEREAS, the City and HomeFed agree that construction costs have recently increased significantly, including, but not limited to labor and materials; and

WHEREAS, applying the Development portion of the City's current Parkland Acquisition and Development Fee results in a budget shortfall for Neighborhood Park P-1 of \$1,000,000, assuming a prototypical park design; and

WHEREAS, the City and HomeFed agree to each contribute matching fund amounts, up to but not to exceed five hundred thousand dollars (\$500,000.00) each for a combined total not to exceed one million dollars (\$1,000,000.00), in addition to the Development Fees pursuant to the Original Agreement; and

WHEREAS, pursuant to Resolution 2006-191, the City has collected funds from the Eastlake III Senior Project (Olympic Pointe) which may be utilized on any park or public facility serving the Eastern Territories of Chula Vista (the "Olympic Pointe Park Funds"); and

WHEREAS, the City desires to contribute up to five hundred thousand dollars (\$500,000.00) of the Olympic Pointe Park Funds toward the Neighborhood Park P-1 budget; and

WHEREAS, the City and HomeFed agree that HomeFed's additional contribution of up to \$500,000.00 is in excess of their fee obligation pursuant to the City's Parkland Acquisition and Fee Program and is not eligible for credit against said fee program; and

WHEREAS, the City and HomeFed agree to utilize the combined additional park funding of up to one million dollars (\$1,000,000.00) for the purposes of increasing the Neighborhood Park P-1 budget established by the Development Fees pursuant to the Original Agreement; and

WHEREAS, HomeFed agrees to provide the selected Neighborhood Park P-1 amenities noted on Exhibit A, attached hereto and incorporated herein by this reference, in a "Turnkey" condition (as the term "Turnkey is defined in the Original Agreement) for the P-1 Park in Village 3 pursuant to the Original Agreement; and

WHEREAS, the City and HomeFed agree to amend Exhibit A if the increase to the Neighborhood Park P-1 budget cannot satisfy in full the estimated construction costs for all amenities noted on Exhibit A.

NOW, THEREFORE, in consideration of the above Recitals and the mutual obligations of the parties set forth herein, City and HomeFed agree as follows:

Section I. Amendment to Original Agreement Section 3.2

Section 3.2 shall be revised to read as follows:

3.2 Costs to Construct Neighborhood Park (P-1). The Construction Costs for Neighborhood Park (P-1) shall be provided for as follows:

3.2.1 Neighborhood Park Budget. The Neighborhood Park Budget is the share of the Budget allocated to the construction of the Neighborhood Park (P-1) in Village 3, proportional to the ratio of neighborhood park acres to total required parkland acres for Village 3. Budget shall be amended annually, consistent with the annual index-based on adjustment of in-lieu development fees authorized by CVMC 17.10.110, until the earlier of the effective date of the First Amendment to this Agreement or such time as the contract is executed for construction of the Neighborhood Park.

3.2.2 Supplemental Funding. The Neighborhood Park Budget shall include the Development Fees plus an increase of up to an additional one million dollars (\$1,000,000.00). The additional one million dollars (\$1,000,000.00) shall be comprised of a five hundred thousand dollar (\$500,000.00) contribution of funds by each of HomeFed and the City. HomeFed shall utilize the amended Neighborhood Park Budget to provide all Improvements for Neighborhood Park P-1 pursuant to the Original Agreement and additionally those included on Exhibit F of the First Amendment. HomeFed and the City acknowledge a need to revise Exhibit F if the amended Neighborhood Park Budget cannot satisfy in full the estimated construction costs for all items noted on Exhibit F.

3.2.3 City Contributed Funds. The City shall provide its contribution of funds by means of a reimbursement to HomeFed of fifty percent (50%) of Construction Costs for P-1 in excess of the Neighborhood Park Budget that have been incurred by HomeFed as discussed in the First Amendment. The City and HomeFed acknowledge a separate Reimbursement Agreement, subject to City Council approval by Resolution, is required for HomeFed to receive said reimbursement. With approval of the Reimbursement Agreement Resolution, the City shall appropriate five hundred thousand dollars (\$500,000.00) from the Parkland Acquisition and Development (PAD) fund for the purposes of funding the City's contribution toward the Neighborhood Park Budget increase.

Section II. Amendment to Original Agreement Section 3.4.3

Section 3.4.3 shall be revised to read as follows:

3.4.3 Level of Improvements. The Improvements for the P-1 Park provided pursuant to this Agreement shall be in Turnkey condition and consistent with the SPA Plan. The Improvements shall additionally include the items attached hereto and incorporated herein by Exhibit F of the First Amendment. As adjacent land uses are defined, Master Developer or City may propose that facilities to be provided within the P-1 Park be modified or arranged to compliment adjacent land uses. Such changes are subject to review and approval by the Director of Development Services, or designee.

Section III. Miscellaneous Provisions to this First Amendment

3.1 Except as expressly provided herein, all other terms and conditions of the Original Agreement shall remain in full force and effect.

3.2 Each party represents that it has full right, power and authority to execute this First Amendment and to perform its obligations hereunder, without the need for any further action under its governing instruments, and the parties executing this First Amendment on the behalf of such party are duly authorized agents with authority to do so.

- 3.3 This First Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one First Amendment after each party has signed such a counterpart.
- 3.4. The captions and headings in this First Amendment are for convenience only and shall not define or limit the provisions hereof.

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**SIGNATURE PAGE TO FIRST AMENDMENT
TO
AGREEMENT REGARDING CONSTRUCTION OF NEIGHBORHOOD PARK P-1 IN
OTAY RANCH VILLAGE 3 AND A PORTION OF COMMUNITY PARK P-2 IN OTAY
RANCH VILLAGE 4**

HOMEFED VILLAGE III MASTER, LLC, a
Delaware limited liability company

CITY OF CHULA VISTA, a California charter
city and municipal corporation

BY: _____

Name: Chris Foulger

Title: Vice President

BY: _____

Gary Halbert
City Manager

ATTEST

BY: _____

Kerry Bigelow
City Clerk

APPROVED AS TO FORM

BY: _____

Glen R. Googins
City Attorney

EXHIBIT F

**OTAY RANCH VILLAGE 3, PARK 1
 ESCAYA PARK PRELIMINARY MASTER PLAN
 SELECTED PARK AMENITIES PAID
 FOR BY ADDITIONAL PARK FUNDS**

Description	Direct Cost
1. 10' EAST WALK AT SOCCER FIELDS	
6" nom. gray light vehicular pavement	\$ 80,500
drinking fountain	\$ 4,460
benches	\$ 7,700
additional walkway lighting	\$ 58,221
SUBTOTAL	\$ 150,881
2. LARGE GROUP SHADE STRUCTURE	
24' x 34' shade structure	\$ 102,000
4" nom. gray pedestrian pavement	\$ 18,900
additional picnic tables	\$ 2,780
trash/recycle receptacles	\$ 2,360
hot ash receptacles	\$ 915
barbecue	\$ 1,180
SUBTOTAL	\$ 128,135
3. SMALL GROUP PICNIC AREA AT SOCCER FIELDS	
4" nom. gray pedestrian pavement	\$ 8,820
additional picnic tables	\$ 5,560
trash/recycle receptacles	\$ 2,360
hot ash receptacles	\$ 915
barbecue	\$ 1,180
SUBTOTAL	\$ 18,835
4. ADDITIONAL TREES	
park trees, 24" box	\$ 61,750
SUBTOTAL	\$ 61,750
5. SODDED TURF	
sodded turf (increase over hydroseed)	\$ 128,706
SUBTOTAL	\$ 128,706
6. 10' WEST WALK LOOP WITH LIGHTING	
6" nom. gray light vehicular pavement	\$ 83,869
additional walkway lighting	\$ 58,178
SUBTOTAL	\$ 142,047



OTAY RANCH VILLAGE 3, PARK 1
ESCAVA PARK PRELIMINARY MASTER PLAN
SELECTED PARK AMENITIES PAID
FOR BY ADDITIONAL PARK FUNDS

Description	Direct Cost
7. OVERLOOK PICNIC AREA	
additional picnic tables	\$ 5,560
benches	\$ 7,700
trash/recycle receptacles	\$ 2,360
4" Concrete paving, integral color, pedestrian	\$ 11,724
decomposed granite paving	\$ 3,500
SUBTOTAL	\$ 30,844
8. SPORTS FIELD LIGHTING	
Musco lights	\$ 180,000
Musco controls	\$ 10,500
Caltrans concrete pull boxes	\$ 2,700
Musco lighting branch	\$ 9,160
SUBTOTAL	\$ 202,360
SUBTOTAL OF ADDITIONAL AMENITIES	\$ 863,558
SOFT COSTS AND INSPECTION FEES	\$ 136,442
TOTAL COST OF ADDITIONAL AMENITIES	\$ 1,000,000

