



Meeting Date: 03/13/07

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other Study Session

Prepared By: Matthew G. Winegar, AICP

Agenda Item No. I-2

Reviewed By: City Manager [Signature]

City Attorney [Signature]

Finance SW

Other (Specify) _____

DATE: March 1, 2007

TO: City Council

FROM: Matthew G. Winegar
Development Services Director [Signature]

SUBJECT: **Amendment to Agreement for the Improvement of Cypress Neighborhood Park Located at the Intersection of Cypress Road and Clara Street**

RECOMMENDATION

That City Council approve an amendment to the Cypress Neighborhood Park Agreement.

DISCUSSION

In November 2004, the City Council approved an agreement in which Paragon Communities agrees to improve the new Cypress Neighborhood Park in conjunction with the development adjacent to the Westwinds residential project. The park is expected to be complete later this year. The amendment clarifies provisions of the original agreement relating to the completion and acceptance of the park and the payment schedule for reimbursement.

FINANCIAL IMPACT

The park improvement cost of \$4,487,791 will be paid through Quimby fees and redevelopment funds. The Quimby Fee balance for the Cypress Neighborhood is \$717,531. The balance will be funded by additional expected Quimby funds and redevelopment funds. Staff will return to City Council for appropriation of funds.

MGW:sae

Attachment #1 – Amendment

Note: Attachment #2 has been provided to the City Council under separate cover. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on March 12, 2007.

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AMENDMENT TO PARK AGREEMENT

This Amendment to Park Agreement ("**Amendment**") is made and entered into as of the ___ day of January, 2007 by and between the CITY OF OXNARD, a municipal corporation of the State of California ("**City**") and CC Communities, LLC, a California limited liability company ("**Applicant**") with respect to the following facts:

- A. City and Applicant are parties to that certain Park Agreement dated November 9, 2004 (the "**Original Agreement**").
- B. Due to changes in various facts and circumstances, City and Applicant desire to amend the Original Agreement on the terms and conditions set forth in this Amendment.
- C. Defined terms that are used in this Amendment and that are not defined in this Amendment shall have the same meaning as in the Original Agreement.

Now, therefore, the City and Applicant agree as follows:

1. Installation of Neighborhood Park Improvements.

Notwithstanding the provisions of section 1.1.2 of the Original Agreement to the contrary, City acknowledges that Applicant commenced construction and installation of the Neighborhood Park on July 27, 2006.

2. Phase 6 Delay. In consideration for City's accommodation of Applicant as set forth in section 1 above, Applicant agrees that Applicant will not apply to the City for any residential building permits, and City shall not be obligated to issue any building permits, for residents in Phase 6 of Tract No. 5441-2, comprised of 32 units, unless and until Applicant has completed the Neighborhood Park and the City, by and through the City Manager or his designee, has accepted the Neighborhood Park for maintenance (the "**Acceptance Date**").

3. Payment for the Park Site and Construction of the Neighborhood Park. Notwithstanding the provisions of section 2.2 of the Original Agreement to the contrary, City shall pay to Applicant the sum of \$4,487,791 ("**Reimbursement Amount**") as follows:

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3.1 Within five business days following the Acceptance Date, the City shall pay to Applicant all monies collected by the City, as of the Acceptance Date, from within the Cypress Neighborhood Park Area, which sum is anticipated to be approximately \$679,000.

3.2 On the first anniversary of the Acceptance Date, the City shall pay \$500,000 to the Applicant.

3.3 On the second anniversary of the Acceptance Date, the City shall pay \$500,000 to the Applicant.

3.4 On the third anniversary of the Acceptance Date, the City shall pay the balance of the Reimbursement Amount to the Applicant.

4. Right of Offset. Notwithstanding the provisions of section 3.2 above, with respect to the development of Tentative Tract Map 5659 and homes and infrastructure to be built thereon and in connection therewith, to the extent the City does not fully and timely pay to Applicant any Reimbursement Amount as and when required under section 3.2 above, to the extent of any such shortfall in payment, Applicant shall not be obligated to pay prescribed park or any other fees whatsoever otherwise payable to the City until Applicant has received offsets equal to any such shortfall.

5. Fees. Notwithstanding the provisions of section 2.1 of the Original Agreement to the contrary, subject to the provisions of section 4 above, all fees of any nature whatsoever that are charged by the City and any department thereof, that may be payable by Applicant, including, without limitation, for the development in Tracts 5441-1 and 5441-2 and Tentative Tract 5659, will be charged to Applicant at the same rate(s) as those that were in effect on July 27, 2006.

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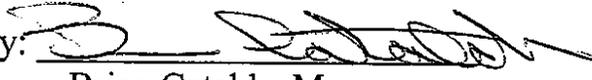
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5. Full Force and Effect. Except as expressly modified by this Amendment, the Original Agreement shall remain in full force and effect.

"APPLICANT"

CC COMMUNITIES, LLC

By: 
Brian Catalde, Manager

"CITY"

CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Daniel Martinez
City Clerk

By:  for
Gary L. Gillig
City Attorney

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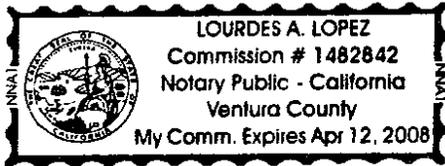
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Ventura } ss.

On January 9, 2007 before me, Louides A. Lopez, Notary Public
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")
personally appeared Brian Catalde
Name(s) of Signer(s)

personally known to me
 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.



WITNESS my hand and official seal.

Louides A. Lopez
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Amendment to Park Agreement

Document Date: _____ Number of Pages: - 3 -

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Brian Catalde

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

