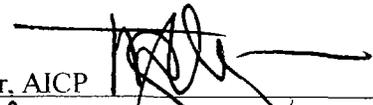
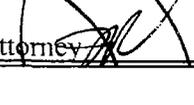




Meeting Date: 11/20/07

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-3

Reviewed By: City Manager  City Attorney  Finance SW Other (Specify) _____

DATE: November 5, 2007

TO: City Council

FROM: Matthew G. Winegar 
Development Services Director

SUBJECT: **Second 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 a second amendment to the Cypress (Garden City) Neighborhood Park Agreement (A-6462) to increase the developer reimbursement by \$453,492.

DISCUSSION

In November 2004, the City Council approved an agreement in which Paragon Communities agreed to improve the new Cypress Neighborhood Park in conjunction with the development adjacent to the Westwinds residential project. The park is almost completed. The City Council previously approved an amendment that clarifies provisions of the original agreement relating to the completion and acceptance of the park and the payment schedule for reimbursement. The proposed Second Amendment reflects additional costs to be reimbursed to the developer principally as a result of unanticipated soil conditions encountered during the construction process and other construction related costs.

FINANCIAL IMPACT

The total park improvement cost of \$4,941,283 will be paid through Quimby fees and redevelopment funds. The additional funds to be reimbursed to the developer amount to \$453,492. The Quimby Fee balance for the Cypress Neighborhood is \$717,531. The balance will be funded by additional expected Quimby funds from the Cypress Neighborhood, and redevelopment funds. Staff will return to City Council for appropriation of funds.

MGW:sae

Attachment #1 – Second Amendment
Attachment #2 – Cypress Park Agreement

Page 2

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 November 19, 2007.

000030

SECOND AMENDMENT TO PARK AGREEMENT

This Second Amendment to Park Agreement ("**Amendment**") is made and entered into as of the ___ day of October 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**") and Westwind Tiburon Associates, LLC., a California limited liability company ("**Assignee**") with respect to the following facts:

- A. City and Applicant are parties to that certain Park Agreement dated as of November 9, 2004 (the "**Original Agreement**") as amended by that certain Amendment to Park Agreement dated as of March 13, 2007 (the "**First Amendment**"). The Original Agreement as modified by the First Amendment is sometimes collectively referred to herein as the "**Agreement**".
- B. Due to changes in various facts and circumstances, including that Assignee holds fee title to the "Neighborhood Park" (as defined in the Original Agreement), City and Applicant desire to amend the 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 Agreement.

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

1. Installation of Neighborhood Park Improvements.

Within ten (10) business days following the "Acceptance Date" (as defined in Section 2 of the First Amendment), Assignee shall execute and deliver to the City for recordation a grant deed conveying to the City fee title to Neighborhood Park.

2. Payment for the Park Site and Construction of the Neighborhood Park.

2.1 Notwithstanding the provisions of Section 2 of the First Amendment to the contrary, City shall pay to Assignee the "Reimbursement Amount" (as defined in Section 3 of the First Amendment, as and when provided in Section 3 of the First Amendment.

ATTACHMENT # 1
PAGE 1 OF 2

000031

2.2 Notwithstanding the provisions of Section 3 of the First Amendment to the contrary, the Reimbursement Amount shall be Four Million Nine Hundred Eighty-Seven Thousand Seven Hundred Ninety-One Dollars (\$4,941,283), Five Hundred Thousand Dollars (\$500,000) of which shall be paid on the third Anniversary of the "Acceptance Date" (defined in Section 2 of the First Amendment), along with the final installment of the Reimbursement Amount set forth in Section 3.3 of the First Amendment.

3. Rights of Offset and Fees. Notwithstanding any provision in this Amendment to the contrary, Applicant, and not the Assignee, shall retain all of the rights set forth in Sections 4 and 5 of the First Amendment.

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

"APPLICANT"

CC COMMUNITIES, LLC,
a California limited liability company

By: 
Brian Catalde, Manager

"ASSIGNEE"

Westwind Tiburon Associates, LLC.,
a California limited liability company,

By: 
Its: _____

"CITY"

CITY OF OXNARD,
a municipal corporation of the State of
California

By: _____
Dr. Thomas E. Holden, Mayor

000032

ATTACHMENT # _____
PAGE 2 OF 2