

**COMMUNITY PURPOSE FACILITIES AGREEMENT
[OTAY RANCH VILLAGE 8 EAST]**

This COMMUNITY PURPOSE FACILITIES AGREEMENT (“Agreement”) is made as of _____, 2024 (“Effective Date”), by and between HOMEFED OTAY LAND II, LLC, a Delaware limited liability company (“HomeFed”), FLAT ROCK LAND COMPANY, LLC, a Delaware limited liability company (“Flat Rock”), and the CITY OF CHULA VISTA, a California municipal corporation and charter city (“City”).

RECITALS

A. HomeFed owns certain real property generally known as Otay Ranch Village 8 East (the “Project”) and depicted on Exhibit A attached hereto.

B. Flat Rock owns certain real property generally known as Otay Ranch Planning Area 20 (“PA 20”) and depicted on Exhibit B attached hereto.

C. SSBT LCRE V, LLC (“SSBT”) is the prior owner of property generally known as Otay Ranch Village 8 East.

D. The City of Chula Vista Municipal Code (“CVMC”) Section 19.48.025 requires that all development within the Planned Community (“PC”) Zone provide adequate land designated as Community Purpose Facility (“CPF”).

E. The City and SSBT entered into a Restated and Amended Land Offer Agreement dated July 8, 2014 (“Land Offer Agreement”). The Land Offer Agreement provides that the obligation to provide CPF is deemed satisfied with respect to the Project [Village 8 East] except that, subject to the approval of the Development Services Director, four (4) acres of CPF uses will be provided within the Project. SSBT subsequently transferred its interest in the Land Offer Agreement to HomeFed.

F. Pursuant to CVMC 19.48.040 (B) 6. d, “Recreational facility land uses shall not utilize more than 35 percent of the overall CPF acreage...” or, as to the Village 8 East CPF requirement, no more than 1.4 acres.

G. HomeFed proposes to satisfy the Village 8 East CPF requirement by providing a 1.2-acre CPF site in Village 8 East and shall satisfy the remaining Village 8 East CPF requirement of 2.8 acres within the western portion of PA 20.

NOW THEREFORE, in consideration of the mutual promises described herein, the Parties agree as follows:

1. HomeFed shall satisfy a portion of the Village 8 East CPF requirement by designating and constructing a 1.2-acre CPF site in Village 8 East (“CPF-1”). CPF-1 shall be

planned as a Private Recreation Facility as defined in CVMC Section 19.48.025(H), identified in the Village 8 East Sectional Planning Area (“SPA”) Plan and Village 8 East Tentative Map (CVT No. 22-0005) and depicted in Exhibit C attached hereto.

2. HomeFed shall ensure that the CPF-1 Private Recreation Facility is privately owned and maintained by the Village 8 East Homeowners Association established in connection with implementation of the SPA.

3. HomeFed shall ensure that the remaining 2.8-acre CPF requirement is transferred from Village 8 East to the western portion of PA 20, with the intent to provide a CPF site complementary to the active recreation uses in PA 20.

4. Flat Rock shall designate a 2.8-acre CPF site within PA 20 as part of any PA 20 future discretionary approval sought by Flat Rock. Such CPF site shall be in addition to other land uses proposed within the western portion of PA 20.

5. Flat Rock shall ensure that the PA 20 CPF site is used in perpetuity for the CPF purposes permitted by CVMC Section 19.48.025(C), unless an alternative use consistent with the intent of CVMC 19.48.025(C) and compatible with the PA 20 land uses is approved by the Director of Development Services.

6. Flat Rock shall, prior to conveyance of the PA 20 CPF site to a third party, record in the official Records of San Diego County an instrument approved by the Director of Development Services that restricts the use of the CPF site in perpetuity and shall provide the City with a conformed copy of such instrument.

7. CVMC Section 19.48.025(B)(3) allows, subject to the discretion of the Director of Development Services and recommendation from the Planning Commission, an alternative compliance mechanism to provide CPF, provided such alternative compliance mechanism meets all of the following requirements:

- a) The City Council finds that the alternative compliance mechanism proposed is equivalent to the provision of the CPF acreage otherwise required by CVMC 19.48.025(B);
 - b) The proposed alternative compliance mechanism meets the definition of a CPF use per CVMC Section 19.48.025(C);
 - c) The proposed alternative compliance mechanism is guaranteed in perpetuity; and
 - d) At the time of Planning Commission consideration, the Owner has executed a binding agreement, reviewed and approved as to form by the City Attorney, which ensures the availability of the alternative compliance mechanism in perpetuity.
8. If Flat Rock proposes to provide an equivalent of 2.8 acres of CPF land in the western portion of PA 20 in lieu of providing 2.8 acres of CPF land in PA 20, as permitted in CVMC

Section 19.48.025 (C) Alternative Compliance, then Flat Rock shall provide the City with a CPF Alternative Compliance Financial Analysis consisting of the costs of land, grading, utilities, infrastructure, building construction and private site improvements, including landscape, hardscape and parking improvements. Such analysis shall demonstrate compliance with CVMC Section 19.48.025(B) Alternative Compliance.

9. General Provisions.

(a) Authority of Signatories. The individual signing this Agreement on behalf of the City warrant that (i) he or she is duly authorized to sign and deliver this Agreement on behalf of the City in accordance with a duly adopted resolution of the City Council of the City and (ii) this Agreement is binding upon the City in accordance with its terms. The individuals signing this Agreement on behalf of HomeFed and Flat Rock are duly authorized to sign and deliver this Agreement on behalf of each party; and this Agreement is binding upon HomeFed and Flat Rock in accordance with its terms.

(b) Counterparts. This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, but all of which together will constitute one instrument.

(c) Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. The venue for any and all causes of actions or claims shall be the state or federal courts, as applicable, in San Diego County closest to the City of Chula Vista, unless the cause of action or claim is filed by the City of Chula Vista or Housing Authority for the City of Chula Vista, in which case, the City retains its discretion as to venue or otherwise agreed upon by the City of Chula Vista and/or Housing Authority for the City of Chula Vista.

(d) Successors. All terms of this Agreement will be binding upon and inure to the benefit of the parties and their respective administrators or executors, successors and assigns.

(e) Modifications. No modification, waiver or discharge of this Agreement will be valid unless the same is in writing and signed by the parties to this Agreement.

(f) Entire Agreement and No Presumption Against the Drafter. This Agreement contains the entire agreement between the parties relating to the transaction contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein. Furthermore, for purposes of this Agreement, each Party waives any rule of construction that requires ambiguities in the Agreement be construed against the drafter. Both parties reviewed and prepared this Agreement.

(g) Attorney's Fees and Costs. If either party commences litigation for the judicial interpretation, reformation, enforcement or rescission hereof, the prevailing party will be entitled to a judgment against the other for an amount equal to reasonable attorney's fees and court costs incurred. The "prevailing party" shall be deemed to be the party who is awarded substantially the relief sought.

(h) Exhibits. All exhibits referred to in this Agreement are attached and are a part of this Agreement.

(i) Captions. Captions in this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or intent of this Agreement.

(j) No Third Party Beneficiary. No claim as a third-party beneficiary under this Agreement by any person, corporation or any other entity shall be made or be valid against the City, HomeFed or Flat Rock.

(k) Incorporation of Recitals. The recitals set forth herein are part of this Agreement.

(l) Assignment. HomeFed and/or Flat Rock may assign this Agreement in whole or in part to any fee owner of all or any portion of Village 8 East or PA 20, respectively, so long as such assignee agrees in writing to assume the obligations of HomeFed and Flat Rock with respect to the portion of Village 8 East or PA 20 acquired by the assignee.

(m) Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall be render any other provision of this Agreement unenforceable, invalid or illegal.

(n) Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement, against the City unless a claim has first been presented in writing and filed with the City and acted upon by the City in accordance with the procedures set forth in CVMC Chapter 1.34, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by the City in the implementation of same. Upon request by the City, HomeFed and/or Flat Rock shall meet and confer in good faith with the City for the purpose resolving any dispute over the terms of this Agreement.

[Next page is Signature Page]

SIGNATURE PAGE TO THE COMMUNITY PURPOSE FACILITY AGREEMENT [OTAY RANCH VILLAGE 8 EAST]

IN WITNESS WHEREOF, City, HomeFed and Flat Rock have executed this agreement as of the date first written above.

CITY OF CHULA VISTA, a political subdivision of the State of California
By:

John McCann, Mayor

Attested By:

Kerry K. Bigelow, City Clerk

APPROVED AS TO FORM

Jill D. S. Maland, Lounsbery Ferguson Altona & Peak, LLP, Acting City Attorney

HOMEFED OTAY LAND II, LLC, a Delaware limited liability company

By:_____

Name: Erin N. Ruhe

Title: Chief Operating Officer

FLATROCK LAND COMPANY, LLC, a Delaware limited liability company

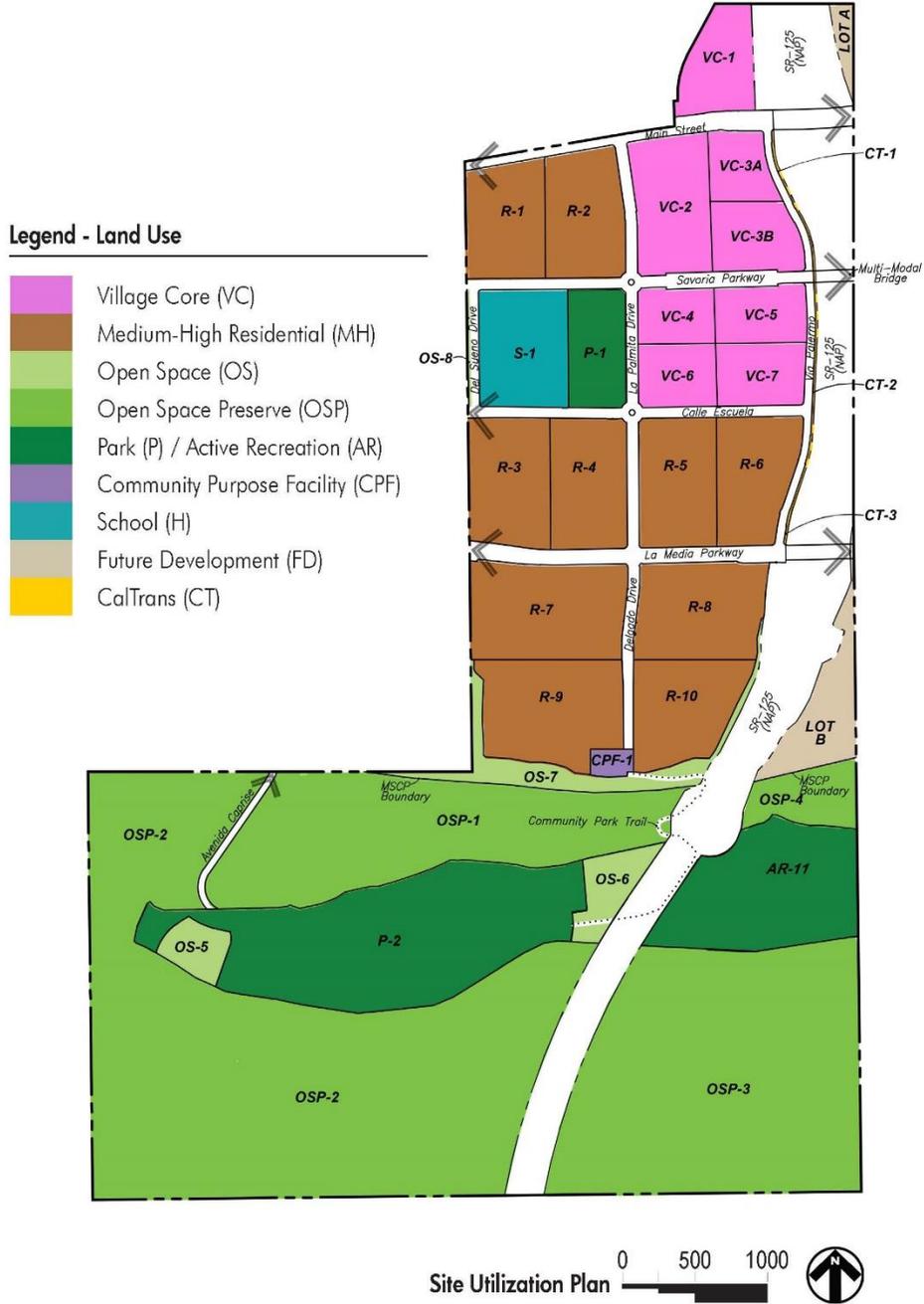
By:_____

Name: Erin N. Ruhe

Title: Chief Operating Officer

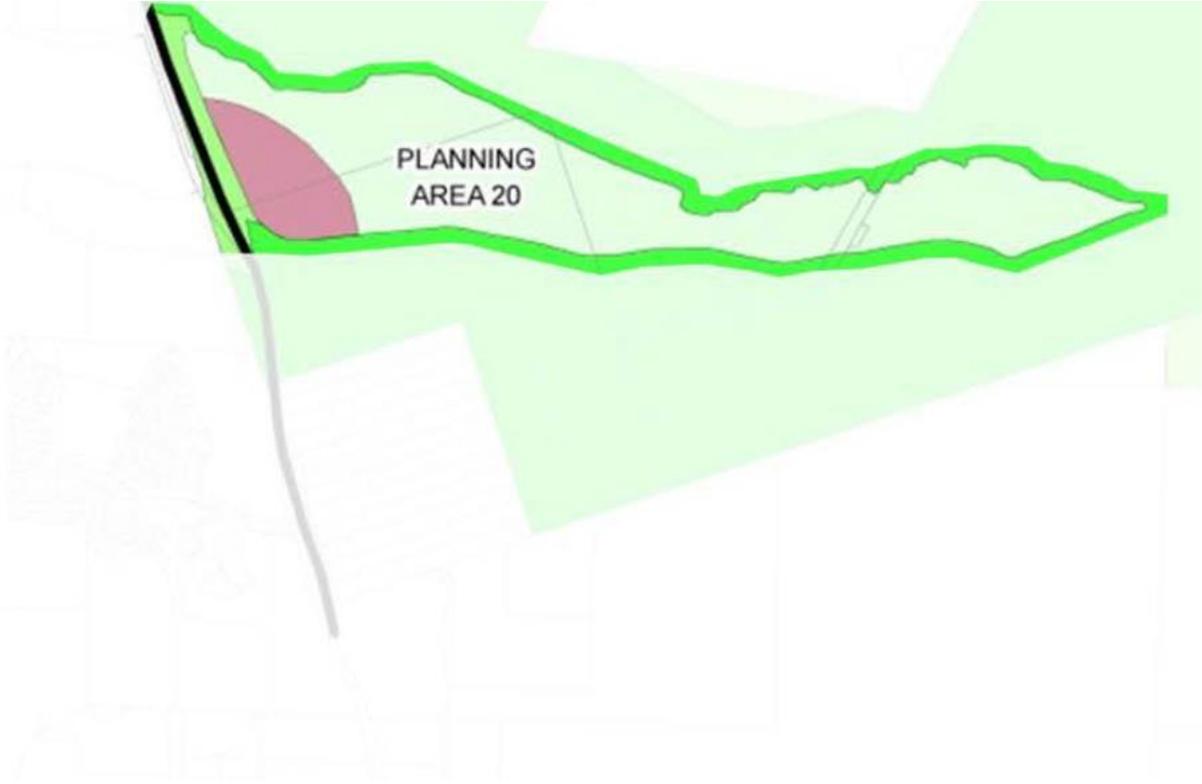
ATTACHMENT A

VILLAGE 8 EAST



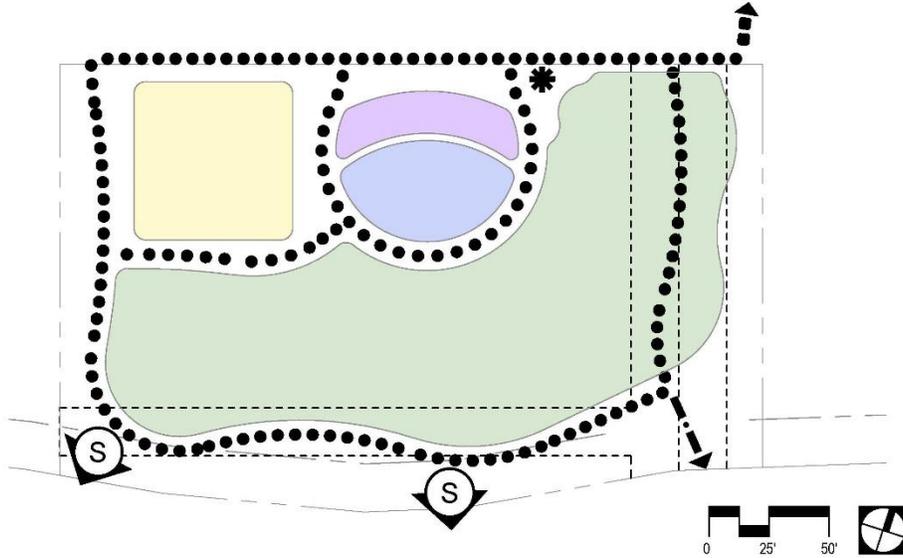
ATTACHMENT B

PLANNING AREA 20 (WEST)



Source: Otay Ranch General Development Plan; Exhibit 79: Planning Area 20 (Otay River Valley) Land Use Map – Western Portion

ATTACHMENT C



LEGEND

SYMBOL	DESCRIPTION
	MULTI-USE SPORTS FIELDS LAWN AREA
	PICNIC +BBQ AREA
	PLAY AREA
	SPORTS COURTS
	LANDMARK MONUMENT
	PEDESTRIAN CIRCULATION
	VILLAGE PATHWAY +BIKE ROUTE CONNECTION
	EDGE TRAIL + COMMUNITY PARK TRAIL CONNECTION
	SCENIC OVERLOOK
	LOT LINE
	EASEMENT

VILLAGE 8 EAST CPF-1 CONCEPTUAL PLAN