FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT FOR PUBLIC FACILITIES WITH TRI POINTE HOMES IE-SD, INC. FOR A PORTION OF PROJECT NO. T-11.1, CALIENTE AVENUE (OTAY MESA ROAD TO PROPOSED SR-905 OVERPASS), IN THE OTAY MESA COMMUNITY PLANNING AREA

This First Amendment to the Reimbursement Agreement for Public Facilities in Otay Mesa [Amendment] is made this _____ day of _____, 2025 between the City of San Diego, a municipal corporation [City], and Tri Pointe Homes IE-SD, a California corporation, [Developer]. This Amendment relates to reimbursement for the planning, permitting, design and construction of a portion of Caliente Avenue (Otay Mesa Road to Proposed SR-905 Overpass) identified as Project No. T-11.1 in the Otay Mesa Public Facilities Financing Plan [Financing Plan]. Developer and City are collectively referred to throughout this Amendment as "the Parties". This First Amendment is entered into with reference to the following recitals:

RECITALS

A. On August 23, 2023, City entered into a Reimbursement Agreement for the planning, design, demolition of existing conditions, rearrangement of existing electric and communications infrastructure, and construction of new street-related improvements, including raised medians, curb, gutter, sidewalk, asphalt paving, striping, and signage south bound on Caliente Avenue and a traffic signal modification in Otay Mesa Community Plan Area with Developer [Agreement]. The Agreement is on file in the Office of the City Clerk as Document No. R-315087. Under the Agreement, Developer is to design and construct projects identified in Exhibit "A", of the Agreement, specifically Project No. T-11.1 [the Project]. The total Estimated Project Cost of the design and construction of the Project was One Million Eight Hundred Four Thousand and Sixty-Nine Dollars ($1,804,069) [Estimated Project Cost]. Resolution No. R-315087, adopted by the City Council on August 1, 2023, authorized an expenditure of an amount not to exceed One Million Eight Hundred Four Thousand Sixty-Nine Dollars ($1,804,069) for the Project.

B. On July 13, 2023, Developer received qualified bids for the construction work for Caliente Avenue. Those bid amounts were significantly higher than the construction estimate provided for in Exhibits "E" of the Agreement.

C. Pursuant to the Agreement, and as authorized by Resolution No. R-315087, City is authorized to reimburse Developer an amount not to exceed $1,804,069. However, due to higher-than-expected contract bids, the current cost estimates have come in higher than expected and Developer has requested that an additional One Million One Hundred Nineteen Thousand Nine Hundred Forty-Nine Dollars $1,119,949 [Requested Increased Cost] be authorized for reimbursement for the Project. With the requested increased costs, the total Estimated Project Cost under the Agreement would be increased to Two Million Nine Hundred Twenty-Four Thousand Eighteen Dollars $2,924,018, for the Project.

D. Developer understands that authorization of the Requested Increased Cost does not automatically entitle Developer to reimbursement for these costs.

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 1.1 is amended by replacing Exhibit E referenced therein, with Exhibit E attached to this First Amendment.

3. Section 3.3 is hereby stricken in its entirety and shall be replaced as follows:
    Estimated Cost(s). Developer's Estimated Project Cost shall consist only of: (i) Project Costs, (ii) Developer's Administrative Costs (as defined in Section 3.3.1), and (iii) the Project Contingency (as defined in Section 3.3.2). The total Estimated Cost of shall not exceed Two Million Eight Hundred Seventy-Four Thousand, Eighteen $2,874,018, plus interest (as set forth in Section 12.1.6).

4. 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, as well as availability of DIF funds. Developer shall submit its Reimbursement Request(s) in accordance with the provisions set forth in Article XII of the Agreement.

5. 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.

6. 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.

[Signatures on Following Page]

IN WITNESS WHEREOF, this First Amendment is executed by the City of San Diego, acting by and through its Mayor, pursuant to San Diego Municipal Code section 142.0640(f), authorizing such execution, and by Developer.

This First Amendment was approved by the City Attorney this _____ of _____, 2025, and this date shall constitute the Effective Date of this Agreement.

THE CITY OF SAN DIEGO, a Municipal Corporation

Dated: **6.3.25**

By: _Elyse Lowe_

Approved:
HEATHER FERBERT , City Attorney

Dated: 6/4/25

By: _____

Tri Pointe Homes IE-SD, Inc, a California Corporation

Dated: **4·21·25**

By: _____

Or. Dept: PLN-Public Facilities Planning

Doc. No.:

R-316202

EXHIBIT E
Developer's Estimated Cost

Project Title: OM T-11.1 Caliente Avenue

ITEM DESCRIPTION		Total Cost
1. Construction (Hard) Costs		
Traffic Control	$	90,099
Clear, Grub & Demo	$	294,411
Erosion Ctrl & SWPPP	$	25,248
Water	$	35,149
Rearrange Dry Utilities	$	271,287
Grading	$	30,998
Curb, Gutter Sidewalk	$	202,456
Sitework	$	70,465
AC Paving	$	139,480
Traffic Signal Modifications	$	411,881
Subtotal Construction (Hard) Costs	$	1,571,474
Owner Controlled Insurance Policy (1% of Subtotal)	$	15,715
Subtotal No. 1:	$	**1,587,189**
2. Design (Soft) Costs		
Consultant Services	$	95,000
Engineering (Construction Documents, Specifications, Cost Estimates)	$	211,000
Bond Premiums	$	63,000
Insurance (Section 19)	$	50,000
Plan Check, City Permits/Processing Fees, Inspection Fees (Paid to City) (Section 12.1.5)	$	137,000
Franchise Utility Fees (SDGE, ATT, Cox)	$	298,414
Public Bidding & Construction Management	$	90,000
Environmental Review / Mitigation	$	15,000
General Conditions	$	15,000
Subtotal No. 2:	$	**974,414**
3. Total Project Costs (Subtotals No. 1 and No.2) (Section 3.1)	$	**2,561,603**
4. Project Contingency (10.0% of Construction Costs) (Section 3.3.2)	$	158,719
5. Developer Administration Costs (6% of Total Project Costs) (Section 3.3.1)	$	153,696
6. Interest on Reimbursement Payment (Up to Maximum per Agreement) (Section 12.1.6)	$	50,000
TOTAL ESTIMATED COST (Section 3.3)	$	**2,924,018**

RESOLUTION NUMBER R- **316202**

DATE OF FINAL PASSAGE **MAY 2 2 2025**

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE FIRST AMENDMENT
TO A REIMBURSEMENT AGREEMENT WITH TRI POINTE
HOMES IE-SD, INC. FOR A PORTION OF PROJECT NO. OM
T-11.1 CALIENTE AVENUE (OTAY MESA ROAD TO
PROPOSED SR-905 OVERPASS) IN THE OTAY MESA
COMMUNITY.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. On August 8, 2023, the City of San Diego (City) and Tri Pointe IE-SD, Inc., a

California corporation (Developer), entered into a Reimbursement Agreement (Agreement) for

the design and construction of Project No. OM T-11.1, Caliente Avenue (Otay Mesa Road to

Proposed SR-905 Overpass) (Project).

B. The Agreement allows for the Developer to complete the design and construction of

the Project.

C. The original estimated costs of the Agreement, as authorized by San Diego

Resolution R-310587, was one million eight hundred and four thousand sixty-nine dollars

($1,804,069).

D. The City and Developer desire to amend the Agreement to update cost estimates that

require an additional one million one hundred nineteen thousand nine hundred forty-nine dollars

($1,119,949) as requested increased costs.

E. To reflect these amendments, the City and Developer have negotiated the terms of the

proposed in the First Amendment to the Agreement, included in the docket materials

accompanying this Resolution.

1

F. The Office of the City Attorney prepared this Resolution based on the information

provided by City staff (including information provided by affected third parties and verified by

City staff), with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. The Council approves the First Amendment.

Section 2. The Mayor or designee is authorized, on the City's behalf, to sign and deliver

the First Amendment. When signed by both parties, the First Amendment will be placed on file

in the Office of the City Clerk as Document No. RR‑ **316202** .

Section 3. The Chief Financial Officer is authorized to increase the Capital

Improvements Program Budget in CIP RD-23009, OM-T-11.1 Caliente Avenue, and to

appropriate and expend funds under the First Amendment in an amount not to exceed $3,014,018

(including the $2,924,018 for Project reimbursement costs from the Agreement and its First

Amendment and $90,000 for City staff charges) from Otay Mesa FBA, Fund 400856, contingent

upon the adoption of the Appropriation Ordinance of the applicable fiscal year and the Chief

Financial Officer first certifying that the funds necessary for expenditure are, or will be, on

deposit with the City Treasurer.

APPROVED: HEATHER FERBERT, City Attorney

By _____ for

Shannon C. Eckmeyer
Deputy City Attorney

SCE:cm
January 28, 2025
May 8, 2025 COR. COPY
Or. Dept: City Planning
Doc. No. 3940595

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on

MAY 1 3 2025

_____ .

DIANA J.S. FUENTES
City Clerk

By _____
    Deputy City Clerk

Approved: _____5/22/25_____   _____
              (date)   TODD GLORIA, Mayor

Vetoed: _____   _____
              (date)   TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on _____ MAY 1 3 2025 _____, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☐	☐	☑	☐
Jennifer Campbell	☑	☐	☐	☐
Stephen Whitburn	☑	☐	☐	☐
Henry L. Foster III	☑	☐	☐	☐
Marni von Wilpert	☐	☐	☑	☐
Kent Lee	☑	☐	☐	☐
Raul A. Campillo	☑	☐	☐	☐
Vivian Moreno	☑	☐	☐	☐
Sean Elo-Rivera	☑	☐	☐	☐

Date of final passage _____ MAY 2 2 2025 _____.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By _Connie Patterson_, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-__316202__

Passed by the Council of The City of San Diego on May 13, 2025, by the following vote:

YEAS:	**CAMPBELL, WHITBURN, FOSTER III, LEE, CAMPILLO, MORENO, & EL-RIVERA.**
NAYS:	**NONE.**
NOT PRESENT:	**LACAVA, VON WILPERT.**
RECUSED:	**NONE.**

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California

(Seal)

By: **Linda Irvin**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of RESOLUTION NO. **R-316202** approved on **May 13, 2025**. The date of final passage is **May 22, 2025**.

DIANA J.S. FUENTES

City Clerk of the City of San Diego, California

(Seal)

By: *Linda Irvin*, Deputy