**FIRST AMENDMENT TO RESTATED AND AMENDED MARIN VALLEY MOBILE COUNTRY CLUB DELEGATION AGREEMENT**

This First Amendment to the Restated and Amended Marin Valley Mobile Country Club Delegation Agreement is made as effective as of August 2, 2018, by and between the City of Novato, a municipal corporation, hereafter referred to as “Owner”, and the Park Acquisition Corporation of the Marin Valley Mobile Country Club (“PAC”)

Recitals

1. WHEREAS, the City entered into that certain Restated and Amended Marin Valley Mobile Country Club Delegation Agreement on June 4, 2013 (the “Delegation Agreement”); and
2. WHEREAS, pursuant to Section 4.02 of the Delegation Agreement, the parties were to review and potentially amend the Delegation Agreement on October 1, 2017; and
3. WHEREAS, due to changes in staffing and other circumstances, the parties were not able to complete the review contemplated in Section 4.02 on or before October 1, 2017; and
4. WHEREAS, the Delegation Agreement contains, as Exhibit A, a copy of the Management Agreement between the Property Manager, Al Frei Real Estate Services (“Frei”), and the PAC (“Management Agreement”). The Delegation Agreement requires the consent of the City to any changes to the Management Agreement; and
5. WHEREAS, earlier this year, Owner and PAC were advised by Frei of Frei’s intent to transfer the company’s existing contracts, including the Management Agreement, to another company; and
6. WHEREAS, City and PAC desire to examine options available for the Management of the Marin Valley Mobile Country Club; and
7. WHEREAS, at the request of City staff and with the consent of the PAC, staff has requested that Frei continue under the Management Agreement as it currently exists with minor edits for six to twelve months in order to examine alternatives; and
8. WHEREAS, Frei has agreed to consider such an extension.

NOW THEREFORE, in consideration of the mutual promises and conditions as set forth herein, OWNER and PAC agree as follows:

1. Section 4.02 of the Delegation Agreement is hereby amended to read as follows:

**Section 4.02. Periodic Renegotiation**.

On or before June 30, 2019; this Agreement shall be subject to review by both parties hereto. During this review period, the parties agree to meet together at mutually agreeable times for the review of this Agreement and, if necessary, to renegotiate one or more of the terms hereof. If the parties agree to modifications of this Agreement, such modifications shall be incorporated herein by amendment as hereinafter provided, such amendments to become effective on the date stipulated therein. If, after good faith negotiations, the parties cannot reach agreement on the proposed changes noticed for renegotiation by such date, this Agreement shall terminate as of such date.

2. The City consents to the following amendments to Section 4 and Section 8(a) of the Management Agreement attached to the Delegation Agreement as Exhibit A:

**Section 4 Term**

The initial term of the appointment of the Contractor (the "Initial Term") shall be for the period beginning on the Effective Date and ending on the 31st day of December 2013. On January 1, 2014 and each anniversary thereof, this Agreement will be extended for an additional term (each such term, a "Subsequent Term") consisting of the next 12 consecutive months, except that any such extension, beginning on January 1, 2018, shall expire on or before June 30, 2019, unless (a) an Event of Default exists under this Agreement, (b) a Trigger Event exists, (c) the Contractor or [with the consent, which shall not be unreasonably withheld, or at the direction, of Owner the PAC gives written notice to each other party hereto that it does not intend to extend the term of this Agreement or (d) the parties hereto and the Owner are unable to reach an agreement as set forth in this Section 4.

On December 1, 2013, and on or before June 30, 2019, this Agreement shall be subject to review by both parties hereto and by the Owner. The parties agree to meet together with the Owner at mutually agreeable times for the review and, if necessary, renegotiate one or more of the terms hereof. If the parties and the Owner agree to modifications of this Agreement, such modifications shall be incorporated herein by amendment as hereinafter provided, such amendments to become effective on the date stipulated therein. In the event the parties and the Owner do not agree to modifications of this Agreement, this Agreement shall continue in effect without modifications until a replacement property manager is retained by the PAC, with the prior written consent of Owner, with respect to the Project; provided, however, that if a replacement manager has not been retained within six months following the commencement of such renegotiations, Owner, shall have the right to appoint a replacement property manager. If an Event of Default or a Trigger Event exists, this Agreement may not be extended for a Subsequent Term without prior written consent of Owner, such consent to be in the sole discretion of Owner. This paragraph of Section 4 may be amended in accordance with Section 24 herein only upon the delivery of an opinion of Counsel to the effect that such amendment shall not affect the exclusion of the interest on the Loan from the gross income of the owners thereof for federal income tax purposes.

Either Owner, the PAC with the prior written consent of Owner, or the Contractor may terminate this Agreement for any reason by giving 60 days' prior written notice to the other party hereto and the Owner. In addition, if the Delegation Agreement is terminated, the Owner shall assume all of the rights, duties and obligations of the PAC contained herein.

**Section 8. Hold Harmless and Insurance.**

1. PAC agrees to indemnify, hold the Contractor harmless, and defend the Contractor from and against any claim, loss, proceeding, liability, judgment, cost, or expense (including but not limited to attorneys' fees) of any kind and character suffered or incurred by the Contractor as a result of Contractor's performance of this Agreement, except to the extent the same results from the willful misconduct or gross negligence of Contractor, anyone directly or indirectly employed by Contractor, or any of its officers, shareholders, employees, partners or managers. Contractor agrees to indemnify, hold the harmless, and defend the PAC the Owner and Bank, and their officers, officials and employees from and against any claim, loss, proceeding, liability, judgment, cost, or expense (including but not limited to attorneys' fees) of any kind and character suffered or incurred by the to the extent the same results or is alleged to result from willful misconduct or gross negligence of the Contractor, anyone directly or indirectly employed by Contractor, or any of Contractor’s partners, officers, shareholders, employees, or managers.

Contractor shall include in all contracts for any work to be performed within the Project, the requirement that any contractor, subcontractor, or other person, firm or entity performing work within the Project to indemnify, defend and hold harmless the PAC, the Owner, the Bank and their officers, officials and employees from and against all claims, damages, losses and expenses including attorney fees, arising out of or relating to the work to be performed by such contractor or subcontractor or anyone directly or indirectly employed by same.

3. In all other respects the provisions of the Delegation Agreement shall remain in full force and effect.

CITY OF NOVATO

DATED:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Regan M. Candelario

City Manager

Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATED:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PARK ACQUISITION CORPORATION OF THE MARIN VALLEY MOBILE COUNTRY CLUB:

By:

John Shelfer, President

Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary