

**Three-Party Agreement Between  
City of Chula Vista,  
SLF IV - Millenia, LLC and  
MIG, Inc.  
For Park Design Services for Millenia Park P-4 (Strata Park)**

1. Parties.

This agreement ("Agreement"), effective \_\_\_\_\_, 2016, is between the City of Chula Vista ("City"), a municipal corporation of the State of California, MIG, Inc. ("Consultant") whose business form and address are indicated on the attached Exhibit A, and SLF IV-Millenia, LLC ("Applicant") whose business form and address are indicated on the attached Exhibit A, and is made with reference to the following facts:

2. Warranties and Representations.

2.1. Applicant warrants that Applicant is the owner of land (the "Property") commonly known as Millenia. The Property is generally located at the southwest corner of Birch Road and Eastlake Parkway in the City. City and Applicant's predecessor have entered into a development agreement governing the Property, recorded October 27, 2009 as Doc. No. 2009-0595116 (the "Development Agreement").

2.2. Applicant desires to design and construct the park and urban recreational facilities contemplated in the adopted Eastern Urban Center Sectional Planning Area Plan and the "Agreement Regarding Construction of Parks in a Portion of Otay Ranch Eastern Urban Center" between City and Applicant's predecessor, recorded October 28, 2009 as Document No. 2009-0599389 (the "Parks Agreement"). City desires to allow Applicant to manage the process, including paying Consultants, with City reviewing and approving plans and participating in the design process to the extent that the City considers appropriate to ensure that City design principles, standards and approach to the long term success of the park are met.

2.3. Section 2.1(a)(i) of the Parks Agreement requires Applicant to enter into a three-party agreement with the City and a landscape architect to design a park master plan and to prepare construction documents for park facilities covered by the Parks Agreement. Prior to entering into this Agreement, Applicant and Consultant have entered into a separate employment contract (the "Engagement Agreement") governing the relationship between Applicant and Consultant. The purpose of this Agreement is to address the Applicant's, Consultant's and City's role, rights and obligations with respect to park design in Millenia.

2.4. The Property will contain several parks of different types. City and Applicant wish to streamline the process of entering into agreements with consultants for Millenia by establishing this Agreement as the form to be used by different Consultants. Consequently, the defined term "Consultant" herein shall include each Consultant in turn, and each Consultant shall enter into this Agreement by signing its own signature page with its own exhibits. Each Consultant will perform

“Work” of the general nature and type described in Exhibit A, Paragraph 4. Each Consultant that becomes bound by signing its own Agreement shall be bound only as to its own Agreement, and shall not have any responsibility or liability for any other Consultant; conversely, any rights of Consultant against City and/or Applicant shall be limited to that Consultant’s rights under its own Agreement.

2.5. Additional facts and circumstances regarding the background for this Agreement are set forth on Exhibit B.

### 3. Agreement.

NOW, THEREFORE, for valuable consideration it is mutually agreed to by and between the City, Consultant, and Applicant as follows:

#### 3.1. Employment of Consultant by Applicant.

Consultant has been engaged by Applicant, not by City, and at Applicant’s sole cost and expense, to perform for the primary benefit of City, and subject to City’s review and approval, all of the services described on the attached Exhibit A, Paragraph 4, entitled General Nature of Consulting Services (“General Services”); all of the services described in Exhibit A, Paragraph 5, entitled Detailed Scope of Work (“Detailed Services”); and all services reasonably necessary to accomplish said General Services and Detailed Scope of Work. Consultant shall deliver such documents required (“Deliverables”) herein, all within the time frames herein set forth, and in particular as set forth in Exhibit A, Paragraph 7, and if none are set forth, within a reasonable period of time for the diligent execution of Consultant’s duties hereunder. Consultant understands and agrees that time is of the essence for this Agreement.

The Consultant does hereby agree to perform said General and Detailed Services to and for the primary benefit of the City for the compensation herein fixed to be paid by Applicant.

In delivering the General and Detailed Services hereunder, the Consultant shall do so in a good, professional manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions and in similar locations, at its own cost and expense except for the compensation and/or reimbursement, if any, herein promised, and shall furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, machinery, equipment, printing, vehicles, transportation, office space and facilities, calculations, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by the City or Applicant, necessary or proper to perform and complete the work and provide the Services required of the Consultant.

#### 3.2. Compensation of Consultant.

Applicant shall compensate Consultant for all services rendered by Consultant pursuant to the Engagement Agreement between Applicant and Consultant. City shall not make any payments of compensation or otherwise directly to Consultant but Consultant shall provide a duplicate invoice to

the City to allow the City to confirm that the work to be paid for has been completed to the satisfaction of City. City shall have five (5) working days from receipt of each invoice to provide its objections to Applicant regarding payment of the invoice. City may suspend its review of park plans and/or further processing of any application of Applicant should Applicant not pay Consultant.

3.2.1. Additional Work. If Applicant, with the concurrence of City, determines that additional services ("Additional Services") are needed from Consultant of the type Consultant is qualified to render and which are reasonably related to the Services Consultant is otherwise required to provide by this Agreement, Consultant agrees to provide such additional services on a time and materials basis paid for by Applicant at the rates set forth in the separate agreement between Applicant and Consultant.

3.2.2. In the event that City determines that additional work is required to be performed above and beyond the scope of work herein provided in order for the Work to result in a functional park, City shall consult with Applicant regarding the additional work, and if thereupon the Applicant fails or refuses to arrange and pay for said Additional Services, City may, at its option, suspend its review of park plans and/or further processing of any application of Applicant that is dependent on this Agreement until Applicant agrees to pay the costs of the additional work which City determines is or may be required. Applicant shall pay any and all additional costs for the additional work.

3.2.3. Reductions in Scope of Work. Applicant may independently, or upon request from Consultant, from time to time reduce the Services to be performed by Consultant under this Agreement. Such reductions in the scope of work are subject to City review and approval prior to any reduction being made. City approval shall not be unreasonably withheld for any changes that are consistent with the approved entitlements for Millenia, including but not limited to the Parks Agreement. If upon receipt of such a request by Consultant, or by Applicant of its own fruition, Applicant shall notify City in writing informing City of the requested reductions in the scope of work. Applicant and Consultant agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction in the compensation associated with said reduction. Upon failure to agree, Consultant's compensation may be unilaterally reduced by Applicant by the amount of time and materials budgeted by Consultant for the Services deleted.

#### 4. Non-Service Related Duties of Consultant.

4.1. Insurance. Consultant has agreed to provide insurance to Applicant in the Engagement Agreement. These Sections 4.1 and 4.2 address insurance Consultant must carry to provide assurances to City and are in addition to insurance required by the Engagement Agreement.

Consultant represents that it and its agents, staff and subconsultants employed by it in connection with the Services required to be rendered, are protected against the risk of loss by the following insurance coverages, in the following categories, and to the limits specified, policies of which are issued by Insurance Companies that have a Best's Rating of "A, Class V" or better, or shall meet with the approval of the City:

4.1.1. Statutory Worker's Compensation Insurance and Employer's Liability Insurance coverage in the amount set forth in the attached Exhibit A, Paragraph 10.

4.1.2. Commercial General Liability Insurance including Business Automobile Insurance coverage in the amount set forth in Exhibit A, Paragraph 10, combined single limit applied separately to each project away from premises owned or rented by Consultant, which names City as an Additional Insured, and which is primary to any policy which City may otherwise carry (Primary Coverage), and which treats the employees of the City in the same manner as members of the general public ("Cross-liability Coverage").

4.1.3. Errors and Omissions insurance, in the amount set forth in Exhibit A, Paragraph 10, unless Errors and Omissions coverage is included in the General Liability policy.

#### 4.2. Proof of Insurance Coverage.

4.2.1. Certificates of Insurance. Consultant shall demonstrate proof of coverage herein required, prior to the commencement of services required under this Agreement, by delivery of Certificates of Insurance demonstrating same, and further indicating that the policies may not be canceled without at least thirty (30) days written notice to the Additional Insured.

4.2.2. Policy Endorsements Required. In order to demonstrate the Additional Insured Coverage, Primary Coverage and Cross-liability Coverage required under Consultant's Commercial General Liability Insurance Policy, Consultant shall deliver a policy endorsement to the City and Applicant demonstrating same.

#### 4.3. Public Statements.

All public statements and releases to the news media shall be the responsibility of City and Applicant. Consultant shall not publish or release news items, articles or present lectures on the Project, either during the course of the study or after its completion, except on written concurrence of City and Applicant.

#### 4.4. Communication to City.

Consultant shall communicate directly to City in the presence of Applicant (presence meaning: physical presence, conference calls or meetings via electronic media), or by writing an exact copy of the communication which is simultaneously provided to Applicant, except with the express consent of Applicant. Consultant may request such meetings with City to ensure the adequacy of services performed by Consultant.

5. Non-Compensation Duties of the Applicant.

5.1. Documents Access.

Applicant shall provide to Consultant and City, for use by Consultant and City such documents, or copies of such documents requested by Consultant or City, within the possession of Applicant reasonably useful to Consultant and City in performing the services herein required of Consultant, including but not limited to those described in Exhibit A. City shall provide to Consultant, through Applicant, for the use by Consultant and Applicant, such documents, or copies of such documents requested by Consultant or Applicant, within the possession of City reasonably useful to Consultant and Applicant in performing the services herein required of Consultant, including but not limited to those described in Exhibit A, Paragraph 7.

5.2. Property Access.

Applicant hereby grants permission to City and Consultant to enter and access the Property, to take any borings, make any tests, conduct any surveys or reconnaissance necessary to perform the Services of Consultant, subject to the approval of Applicant which shall not be unreasonably withheld. Consultant shall promptly repair any property damage occasioned by such entry and shall indemnify, defend, and hold City and Applicant, and their agents, and employees harmless from all loss, cost, damage, expenses, claims, liens, and liabilities in connection with or arising from any such entry and access.

5.3. Communication to Consultant.

City shall communicate directly to Consultant in the presence of Applicant (“presence” meaning: physical presence, conference calls or meetings via electronic media), or by writing an exact copy of the communication which is simultaneously provided to Applicant, except with the express consent of Applicant. City may request such meetings with Applicant and Consultant as it deems necessary to ensure adequacy of services performed by Consultant.

6. Administrative Representatives.

Each party designates the individuals (“Administrators”) indicated in Exhibit A, Paragraph 9, as said party’s contract administrator who is authorized by said party to represent it in the routine administration of this Agreement.

7. Conflicts of Interest.

7.1. Consultant is Designated as an FPPC Filer.

If Consultant is designated on Exhibit A, Paragraph 9, as an “FPPC Filer,” Consultant is deemed to be a “Consultant” for the purposes of the Political Reform Act conflict of interest and disclosure provisions, and shall report its economic interests to the City Clerk on the required

Statement of Economic Interests in such reporting categories as are specified in Paragraph 9 of Exhibit A, or if none are specified, then as determined by the City Attorney.

7.2. Decline to Participate.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant shall not make, or participate in making or in any way attempt to use Consultant's position to influence a governmental decision in which Consultant knows or has reason to know Consultant has a financial interest other than the compensation promised by this Agreement.

7.3. Search to Determine Economic Interests.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant warrants and represents that Consultant has diligently conducted a search and inventory of Consultant's economic interests, as the term is used in the regulations promulgated by the Fair Political Practices Commission, and has determined that Consultant does not, to the best of Consultant's knowledge, have an economic interest which would conflict with Consultant's duties under this Agreement.

7.4. Promise Not to Acquire Conflicting Interests.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant further warrants and represents that Consultant will not acquire, obtain, or assume an economic interest during the term of this Agreement which would constitute a conflict of interest as prohibited by the Fair Political Practices Act.

7.5. Duty to Advise of Conflicting Interests.

Regardless of whether Consultant is designated as an FPPC Filer, Consultant further warrants and represents that Consultant will immediately advise the City Attorney if Consultant learns of an economic interest of Consultant's which may result in a conflict of interest for the purpose of the Fair Political Practices Act, and regulations promulgated thereunder.

7.6. Specific Warranties Against Economic Interests.

Consultant warrants and represents that neither Consultant, nor Consultant's immediate family members, nor Consultant's employees or agents ("Consultant Associates") presently have any interest, directly or indirectly, whatsoever in the Property ("Prohibited Interest").

Consultant further warrants and represents that no promise of future employment, remuneration, consideration, gratuity or other reward or gain has been made to Consultant or Consultant Associates by Applicant or by any other party as a result of Consultant's performance of this Agreement. Consultant promises to advise City of any such promise that may be made during the term of this Agreement, or for 12 months thereafter.

Consultant agrees that Consultant Associates shall not acquire any such Prohibited Interest within the term of this Agreement, or for 12 months after the expiration of this Agreement.

Consultant may not conduct or solicit any business for any party to this Agreement, or for any third party which may be in conflict with Consultant's responsibilities under this Agreement.

8. Default of the Consultant for Breach.

This Agreement may be terminated by the City for default if Consultant or Applicant breach this Agreement or if Consultant refuses or fails to pursue the work under this Agreement or any phase of the work with such diligence which would assure its completion within a period of time as provided for in the Parks Agreement. Termination of this Agreement because of a default of Consultant or Applicant shall not relieve Consultant or Applicant from liability of such default.

9. City's Right to Terminate Payment for Convenience, Documents.

9.1. Notwithstanding any other section or provision of this Agreement, City, with prior written notice to the Applicant shall have the absolute right at any time to terminate this Agreement or any work to be performed pursuant to this Agreement.

9.2. In the event of termination of this Agreement by City in the absence of default of Consultant, Applicant shall pay Consultant for the reasonable value of the services actually performed by Consultant up to the date of such termination, less the aggregate of all sums previously paid to Consultant for services performed after execution of this Agreement and prior to its termination.

9.3. Consultant and Applicant hereby expressly waive any and all claims for damage or compensation arising under this Agreement, except as set forth herein, in the event of such termination.

9.4. In the event of termination of this Agreement, and upon demand of City or Applicant, Consultant shall, at Consultant's sole expense, deliver to the City and Applicant all field notes, surveys, studies, reports, plans, drawings and all other materials and documents prepared by Consultant in performance of this Agreement, and all such documents and materials shall be the property of the City and Applicant; provided however, that Consultant may retain copies for its own use.

10. Administrative Claims Requirement and Procedures.

No suit shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, the provisions of which are incorporated by this reference as if set fully set forth herein.

11. Hold Harmless and Indemnification.

11.1. Consultant to Indemnify City re. Injuries.

Consultant shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers and employees from and against all claims for damages, liability, cost and expense (including without limitation attorneys' fees) arising out of or alleged by third parties to be the result of the negligent acts, errors or omissions or the willful misconduct of Consultant, and Consultant's employees, subcontractors or other persons, agencies or firms for whom Consultant is legally responsible in connection with the execution of the work covered by this Agreement, except only for those claims, damages, liability, costs and expenses (including without limitations, reasonable attorneys' fees) arising from the sole negligence or sole willful misconduct of the City, its officers, or employees. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party.

With respect to losses arising from Consultant's professional errors and omissions, Consultant shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers and employees from and against all claims for damages, liability, cost and expense to the extent caused by the negligence of Consultant (including without limitation reasonable attorneys fees) except those claims arising from the negligence or willful misconduct of City, its officers or employees.

Consultant's indemnification shall include any and all costs, expenses, reasonable attorneys' fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgment or not. Consultant's obligations under this Section shall not be limited by any prior or subsequent declaration by the Consultant. Consultant's obligations under this Section shall survive the termination of this Agreement.

11.2. Applicant to Indemnify City re. Compensation of Consultant.

Applicant agrees to defend, indemnify and hold City harmless against and from any and all claims, losses, damages, expenses or expenditures of City, including its elected officials, officers, employees, agents, or representatives of City ("City Indemnitees"), in any way resulting from or arising out of the refusal to pay compensation as demanded by Consultant for the performance of services required by this Agreement.

12. Business Licenses.

Applicant and Consultant agree to obtain business licenses from City and to otherwise comply with Chula Vista Municipal Code Title 5.



13. Miscellaneous.

13.1. Consultant not authorized to Represent City.

Unless specifically authorized in writing by City, neither Consultant nor Applicant shall have authority to act as City's agent to bind City to any contractual agreements whatsoever.

13.2. Notices.

All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified for the parties in Exhibit A.

13.3. Entitlement to Subsequent Notices.

No notice to or demand on the parties for notice of an event not herein legally required to be given shall in itself create the right in the parties to any other or further notice or demand in the same, similar or other circumstances.

13.4. Integration.

This Agreement, together with any other written document referred to or contemplated herein, embody the entire Agreement and understanding between the parties relating to the role, rights and obligations of City concerning Consultant's design of urban parks for Millenia. Neither this Agreement nor any provision hereof may be amended, modified, waived or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought. Nothing in this Agreement shall be deemed to conflict with the Engagement Agreement including, but not limited to, Exhibit A Paragraph 4 "General Services," Paragraph 5 "Detailed Services," and Paragraph 7 "Schedule, Milestone, Time-Limitations within which to Perform Services." Consultant shall at all times comply with both this Agreement and the Engagement Agreement. Nothing in this Agreement shall be deemed to constitute an amendment to any other agreement between City and Applicant, including but not limited to the Development Agreement and the Parks Agreement.

13.5. Capacity of Parties.

Each signatory and party hereto hereby warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement; that all resolutions or other actions have been taken so as to enable it to enter into this Agreement.

13.6. Governing Law/Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the federal or state courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement and performance hereunder, shall be the City of Chula Vista.

13.7. Modification.

No modification or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by the parties hereto, and then shall be valid only in the specific instance and for the purpose for which given.

13.8. Counterparts.

This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which, when taken together shall constitute but one instrument.

13.9. Severability.

In the event that any provision of this Agreement shall for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements to this Agreement or such other appropriate action as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein.

13.10. Headings.

The captions and headings in this Agreement are for convenience only and shall not define or limit the provisions hereof.

13.11. Waiver.

No course of dealing or failure or delay, nor the single failure or delay, or the partial exercise of any right, power or privilege, on the part of the parties shall operate as a waiver of any rights herein contained. The making or the acceptance of a payment by either party with knowledge of the existence of a breach shall not operate or be construed to operate as a waiver of any such breach.

13.12. Remedies.

The rights of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which the parties might otherwise have unless this Agreement provides to the contrary.

13.13. No Additional Beneficiaries.

Despite the fact that the required performance under this Agreement may have an effect upon persons not parties hereto, the parties specifically intend no benefit therefrom, and agree that no performance hereunder may be enforced by any person not a party to this Agreement. Notwithstanding the foregoing, this is a three party agreement and the City is an express third party beneficiary of the promises of Consultant to provide services paid for by Applicant.

14. Ownership, Publication, Reproduction and Use of Material.

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced under this Agreement, with the exception of signed copies of City approved documents, shall be the sole and exclusive property of Applicant. No such materials or properties produced in whole or in part under this Agreement shall be subject to private use, copyrights or patent rights by Consultant in the United States or in any other country without the express written consent of Applicant. Applicant shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement. Signed copies of City approved documents produced under this Agreement shall be the sole property of City.

15. Reserved.

16. Assignability.

The obligations of Applicant and Consultant are personal to the City, and Applicant and Consultant shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or notation), without prior written consent of City. As to the Applicant the City's consent shall not be unreasonably withheld if the assignment is to a Master Developer (as defined in the Development Agreement) and shall not be withheld if the assignment is to a Merchant Builder (also as defined in the Development Agreement) by private agreement and Applicant remains obligated to the City pursuant to Development Agreement section's 10.2.2 and 10.2.3, respectively.

17. Entire Agreement.

This Agreement supersedes any and all other agreements, either oral or written with respect to the subject matter contained herein.

*[Remainder of page intentionally left blank]*

**Signature Page To  
the Agreement Between  
City of Chula Vista,  
SLF IV - Millenia, LLC and  
MIG, Inc.  
For Park Design Services for Millenia Park P-4 (Strata Park)  
(Signature Page 1 of 2)**

NOW THEREFORE, the parties hereto, having read and understood the terms and conditions of this Agreement, do hereby express their consent to the terms hereof by setting their hand hereto on the date set forth adjacent thereto.

**City of Chula Vista**

By: \_\_\_\_\_  
Kelly Broughton  
Director of Development Services


Attest:

\_\_\_\_\_  
Donna Norris  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Glen R. Googins  
City Attorney

**Consultant: MIG, Inc.**

By: \*  
Name: Carolyn Verheyen, Chief Operating Officer

Title: Principal

\* Consultant to provide signature authority for signatory.

**Signature Page To  
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(Signature Page 2 of 2)**

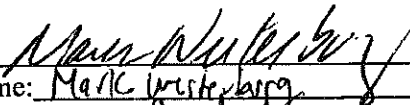
**Applicant:**

**SLF IV - MILLENIA, LLC,**  
a Delaware limited liability company

By: SLF IV Millenia Investor, LLC,  
a Texas limited liability company,  
its sole and managing member

By: Stratford Land Fund IV, L.P.,  
a Delaware limited partnership,  
its co-managing member

By: Stratford Fund IV GP, LLC,  
a Texas limited liability company,  
its general partner

By:  \*  
Name: Marc Westberg  
Title: Vice President

\* Applicant to provide signature authority for signatory.

## Exhibit A

Effective Date: The Agreement shall take effect upon full execution of the Agreement, as of the effective date stated on page 1 of the Agreement.

City: City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 91910

Consultant: MIG, Inc.

Business Form of Consultant:  
( ) Sole Proprietorship  
( ) Partnership  
(X) Corporation

Address: 1111 Sixth Avenue, Suite 404  
San Diego, CA 92101  
(619) 677-2003

Applicant: SLF IV - Millenia, LLC

Business Form of Applicant: A Delaware Limited Liability Company

Address: C/O Millenia Real Estate Group  
2750 Womble Road, Suite 200  
San Diego, CA 92106  
(619) 794-1204

1. Property (Commonly known address or General Description): Millenia (formerly known as Eastern Urban Center)

2. Project Description (Project): Design of Millenia Park P-4 (Strata Park)

3. Entitlements applied for: N/A

4. General Nature of Consulting Services (General Services): Design of Millenia Park P-4 (Strata Park)

4.1 **Urban Park Master Plan** - Provide professional Landscape Architectural Services as required to prepare, submit and obtain the Approval from the City Council for an Urban Park Master Plan for Millenia Park P-4 ("Strata Park" or the "Southeastern Park"). The plan shall be prepared and all Consultant services shall be performed to the satisfaction of the Director of Development Services. The plan shall consist of a Park Site Analysis,

Preliminary Park Master Plan, and Draft Park Master Plan with accompanying support documents as outlined in Section 5 - Detailed Scope of Work.

- 4.2 **Design Development** (Preliminary Construction Documents and Construction Documents) – Provide professional Landscape Architectural Services as required to prepare, submit and obtain the Approval from the Director of Development Services for Preliminary through Final construction documents for Park P-4. The documents shall be prepared and all Consultant services shall be performed to the satisfaction of the Director of Development Services. Documents shall be as outlined in Section 5 - Detailed Scope of Work.
- 4.3 **Construction Administration** - Provide professional Landscape Architectural Services as required to represent Applicant's and City's interest during construction of the park improvements. The Landscape Architect shall meet with the construction contractor to ensure the design intent of the drawings is interpreted accurately. At this time questions of interpretation are to be resolved, construction industry quality standards are to be realized, and the interest of the City is to be preserved with all matters arising to said questions.

## 5. Detailed Scope of Work

Consultant shall provide the following services all to the satisfaction of the Applicant and City (Director of Development Services):

### 5.1 **Pre-application Meeting with Staff**

Within 10 business days of City Council approval of the consultant selection and Three Party Agreement and approval to proceed from the Applicant, the consultant shall schedule and attend a Pre-application Meeting with the City's Landscape Architecture Division and Applicant prior to preparation of the Site Analysis. This meeting will be used to familiarize the Consultant with design issues related to the development of the park, identify appropriate scale, and identify the elements of the park budget. The primary purpose of the scoping meeting is for the consultant to gather information pertaining to the park site, to confirm the design intent for the park and to identify applicable City requirements that would be useful in the development of a park site analysis, development of the preliminary Master Plan concepts, and completion of the Park Master Plan.

### 5.2 **Preparation of Park Site Analysis**

The Park Site Analysis process includes the inventory by Consultant of specific on-site and off-site characteristics of the park which goes beyond the analysis which is reflected in the Conceptual Park Master Plan included in the Millenia SPA plan. The Analysis will evaluate changed conditions or more specific information that exists relative to legal and physical boundaries and easements; road, pedestrian corridors and other circulation elements; existing or planned utilities; adjacent land uses (existing and planned);

topography, gradients, and drainage patterns; sun and wind orientations; views (off-site and on-site) and; significant features, noise, spatial patterns, and general impressions regarding the experience potential of the site and its parts. The Park Site Analysis may be combined with the Preliminary Master Plan document as a single deliverable. (Deliverable No. 1)

### 5.3 Preparation of Preliminary Park Master Plan

The Preliminary Master Plan Phase is the refinement of the Concept Plan (identified in the approved Millenia SPA plan and in the MIG proposal) to bring the park design to a detail and graphic level acceptable for presentation to the City Staff and the Applicant. The Preliminary Master Plan is to be accompanied by a cost estimate (for the purpose of demonstrating compliance with the project budget).

Conceptual Park Site Facilities are identified for this park in the Millenia SPA Plan and within the adopted Parks Agreement. While the City has developed a standard comfort station floor plan for use in its parks, building elevations are typically unique to each park site and for Strata Park are to be compatible with the conceptual park plan, project vision, and the surrounding neighborhoods.

Rough Park Grading is shown on the Mass Grading Plans prepared by Project Design Consultants (Drawing number 10044 approved by the City Engineer on January 10, 2011, work order #PG-799). The Consultant should evaluate whether the site's grading needs to be modified in order to accommodate desired recreation facilities or to provide an optimized interface between surrounding streets or adjacent development. Vehicular access to the site will be provided via the fronting streets as well as a private driveway long the eastern boundaries of the park which will be constructed as part of the private development planned for the adjoining lot. Pedestrian access will occur via sidewalks on the adjacent streets, as well as, via the Regional Trail.

Development of the Preliminary Park Master Plan will be driven primarily by the conceptual design provided for in the Millenia SPA plan, streetscape plans (civil and landscape), Millenia stormwater standards, and proposed and future development on adjacent lots and shall take into consideration other applicable City development standards including the City of Chula Vista Landscape Manual, building and fire codes, site facility accessibility requirements for the disabled, grading and subdivision regulations and the Project Environmental Impact Report. These City guidelines may be supplemented or superseded by the more specific guidance found in the Millenia SPA plan, the Parks Agreement and associated entitlement documents.

The Preliminary Master Plan Phase includes preparation by Consultant of a preliminary cost estimate. A preliminary construction budget for this park is included in the adopted Parks Agreement.



## 5.4 Deliverables

### 5.4.1. Park Site Analysis (Deliverable No. 1):

Analysis of the park site evaluating changed conditions or new information relative to the park site, including interface with planned and future development, integration with streetscape plans, views to be retained and other opportunities and constraints.

Park Site Analysis may be combined with the Preliminary Master Plan as a single deliverable.

### 5.4.2. Preliminary Master Plan Requirements (Deliverable No. 2):

The Preliminary Master Plan shall include, but is not limited to:

- a. A concept statement summarizing the park theme – refined from SPA concept.
- b. All the program elements listed in the approved SPA plan and any refinement to the park improvements identified in that plan.
- c. Park and recreational facilities clearly identified.
- d. Open space areas.
- e. Pedestrian circulation, including accessible circulation, both within the park and to the planned pedestrian improvements on adjacent streets.
- f. Types of fencing, retaining and freestanding walls.
- g. Walkways, pedestrian and vehicular circulation, interface, and protections and on-street parking.
- h. Interface with adjacent developments and planned improvements in the fronting rights of way.
- i. Irrigation mainline layout, with proposed and existing water meters and a brief description of the irrigation type.
- j. Areas to receive irrigation.
- k. Lighting concepts.
- l. Indicate plant palette (botanical and common name), with types, locations, sizes.
- m. Slope and erosion control treatment (as needed).
- n. Distinguish between groundcovers or lawn areas and method of separation.
- o. Grading and drainage design, including stormwater management
- p. Signage and sculptural / art elements
- q. Property lines, easements, and any deed restrictions.
- r. Paved, unpaved areas, and types of paving.
- s. Preliminary concepts for buildings and/or structures.

### 5.4.3. Preparation of the Draft Park Master Plan (Deliverable No. 3):

Following review of the Preliminary Park Master Plan by the Applicant and City, and a determination of acceptability of the Preliminary Park Master Plan, the consultant will proceed with the preparation of the Draft Park Master Plan.

The Draft Park Master Plan represents the fine-tuning of the Preliminary Park Master Plan, incorporating comments and direction given by the Applicant and City Staff. The components are as listed above for the preliminary park master plan.

The Consultant shall present the Draft Park Master Plan to the Park and Recreation Commission and thereafter the City Council for review and approval.

#### 5.4.4 Draft Park Master Plan to Master Plan

Once approved by the City Council, the Draft Park Master Plan becomes the approved Park Master Plan.

#### 5.4.5 Design Development and Preliminary Construction Documents (Deliverable No.4)

The Design Development phase of the Park Development Review Process will focus on the refinement of the Master Plan to a level of detail sufficient to move into the Construction Document Phase. Consultant shall prepare a preliminary set (50 percent complete) of the construction documents package (**Deliverable No. 4**). The content and format of the preliminary construction documents shall be consistent with the requirements outlined in The Chula Vista Landscape Manual.

The Landscape Manual identifies that all construction plan sheets are to be issued City sheet numbers and are to include the following types of sheets:

- C- Civil Engineering Sheets
- HC-Horizontal Control Sheets
- LC-Landscape Construction
- LI-Landscape Irrigation

The following information further describes required content and format of the preliminary construction documents.

##### a. Construction Plan

The Construction Plan represents a 50 percent complete construction plan as defined by the Chula Vista Subdivision Manual Section 4-200 Grading Plans. Construction Plans shall be consistent with the requirements of the Chula Vista Landscape Manual and the Chula Vista Subdivision Manual Sections 4-100 and 4-200 as appropriate to the construction of a public park.

##### b. Play Area Plan

The Play Area Plan represents a scaled drawing that depicts in plan view the park's play area(s). The plan shall contain sufficient enough information to demonstrate design intent,

conformance to applicable ADA requirements, and relationship of play area(s) to the park. Product literature describing play equipment components shall also be included.

c. Construction Materials and Finish Schedule

The Construction Materials and Finish Schedule represents a description of park paving, walkways, jogging paths, mow strips, play surfaces, monument signs, and park furnishings (benches, picnic tables, BBQ units, hot ash containers, trash receptacle, bike rack, drinking fountain, etc.). Product literature describing park furnishings and fixtures shall also be included.

d. Landscape Construction Details

Landscape construction details identify the manner and methods of park construction. The details should be drawn to scale and in a format suitable for inclusion in the construction documents.

e. Grading and Drainage Plan

The Grading and Drainage Plan represents a 50 percent complete grading plan as defined by the Chula Vista Subdivision Manual Section 4-200 Grading Plans. Grading and Drainage Plans shall be consistent with the requirements of the Chula Vista Landscape Manual and the Chula Vista Subdivision Manual Sections 4-100 and 4-200 as appropriate to the construction of a public park.

f. Lighting Plan and Details/ Electrical Plans

The Lighting Plan and Details identify the location (in plan view) of site lighting including walkway/path lighting, architectural/site, and security lighting. Product literature describing light fixtures shall also be included. Site electrical service and metering from San Diego Gas & Electric shall also be included.

g. Planting Plan

The Planting Plan shall be to scale and shall include the identification of the type, size, and quantities of proposed plant materials.

h. Irrigation Equipment and Details

The Irrigation Equipment and Details consists of a listing of irrigation system components including irrigation heads (Manufacturer and Equipment Model numbers). Appropriate Irrigation details shall also be provided.

i. Building Architecture

The Building Architecture information shall be drawn to scale (typically at one inch equals four feet). Information presented shall include a floor plan and building elevation drawings and the identification of proposed construction materials and colors. The plans shall contain sufficient information to demonstrate design intent, conformance to applicable ADA requirements, and relationship of use to the park. Product literature describing fixtures and equipment shall also be included.

j. Specifications

Specifications shall include method of installation and set quality standards for materials and workmanship for the finished product.

Once completed the Preliminary Construction Documents have been given preliminary approval by the Applicant, they shall be provided to the City's Landscape Architecture Division. The Landscape Architecture Division Staff will distribute the information to other City Staff members for the purpose of receiving comment.

City staff will identify necessary plan corrections and provide Consultant with redlines plan check sets. The Consultant will then review the comments from staff and proceed to make changes, incorporating the changes into an 80 percent complete construction document package submittal. The 80 percent complete construction document package represents the next phase and is called "Task 5.4.6: Construction Documents".

5.4.6 Construction Documents (Deliverables No. 5 through 8)

The Construction Document Phase consists of the preparation, review and approval of all plans necessary for utilization by the contractor for the installation of the Park. Construction documents are to be prepared by Consultant in accordance with the requirements of applicable City codes, the Uniform Building Code, the City of Chula Vista Landscape Manual, and other pertinent park development standards and specifications. With each plan check submittal as described below, an updated estimate of probable cost shall be included. Construction Document submittals include a total of three separate submittals (80 percent, 90 percent, and 100 percent complete). All plan check submittals to the City must be reviewed and approved by the Applicant before being submitted.

It should be noted that this stage involves the preparation of three review sets of construction documents including 80%, 90% and 100% submittals; however the goal is to complete this stage with two submittals at 80% and 100% completeness. The 90% submittal is an optional submittal that should be called out separately in the proposed budget. The need for this optional submittal will be determined by the City based on the sufficiency and completeness of the 80% submittal.

Task 5.4.6A: Construction Documents (CD's) (80 Percent Complete)

The Consultant shall prepare a second plan check that incorporates all Applicant and City comments. The Consultant shall submit the second plan check set (**Deliverable No. 5**) (80 percent complete construction documents) for review by Applicant and the City.

Task 5.4.6B: Construction Documents (CD's) (90 Percent Complete) **OPTIONAL SUBMITTAL**

The Consultant shall prepare a third plan check that incorporates all Applicant and City comments. The Consultant shall submit the third plan check set (90 percent complete construction documents) for review by the City. (**Deliverable No. 6**). The Landscape Architecture Division will distribute the construction documents to other staff departments to receive input and comments pertaining to the plans.

Task 5.4.6C: Construction Documents (CD's) (100 Percent Complete)

The Consultant shall prepare a fourth plan check that incorporates all Applicant and City comments. The Landscape Architectural Consultant shall submit the fourth plan check set (100 percent complete construction documents) for review by the City (**Deliverable No. 7**). The Landscape Architecture Division will distribute the construction documents to other staff departments to receive input and comments pertaining to the plans.

Final Construction Documents: Consultant shall work with Applicant and the City to complete the construction documents until the Development Services Director, or designee, determines that construction of the park can proceed per the construction documents. Separate packages of plans may be required in order to obtain a building permit for the restroom building and other structures. (**Deliverable No. 8**).

## 5.5 Construction Administration Phase

During construction of the Strata Park improvements, the Landscape Architect shall be available to coordinate throughout the construction process as needed to ensure the design intent of the drawings is interpreted accurately to ensure that the interests of the Applicant and the City are preserved with all matters arising to question.

These services are to be provided on an hourly not-to-exceed rate.

Possible services include:

- a. Review of contractor submittals
- b. Pre-construction meeting attendance
- c. Rough and final grade reviews

- d. Tree and shrub location / layout reviews
- e. Water feature reviews
- f. Hardscape form and features review
- g. Site lighting review
- h. 30-day maintenance walk
- i. Final acceptance walk through and certification letter
- j. Preparing and processing as-built plans following the completion of park construction.

6. Documents to be provided by Applicant to Consultant

The Applicant will provide to the Consultant all maps, grading plans, drainage, soils and other relevant technical reports, improvement plans, landscape plans, aerial photographs, etc necessary for the Consultant to perform the services described in Sections 4 and 5 above.

7. Schedule, Milestone, Time-Limitations within which to Perform Services per approved Design Project Schedule

7.1 **Date for Commencement of Consultant Services:**

Same as Effective Date of Agreement

7.2 **Format of Deliverables**

The work for this phase will be in the form of scaled, dimensioned drawings as necessary to communicate the design intent, sizes and material selection for all scope items. The instruments will be prepared in AutoCAD on base plans issued by the City and Applicant. The base plans will be in AutoCAD, and will be fully coordinated with other consultant's work prior to issuance to Consultant.

▪ **Instruments of Service / Electronic Media:**

Hard copy, original drawings and specifications are the deliverable instruments of service. If work is prepared in electronic media format the Consultant will provide electronic copies for convenience only. Electronic media will be prepared in AutoCAD. In accepting and utilizing any drawings or other data on any form of electronic media generated and provided by the Consultant, the City and Applicant covenants and agrees that all such drawings and data are instruments of service of the Consultant. The electronic files submitted by the Consultant to the City and Applicant are submitted for an acceptance period of five working days. Any defects the City and Applicant discovers during this period will be reported to the Consultant and will be corrected by the Consultant.

### 7.3 General Dates or Time Limits for Delivery of Deliverables

All full-size sheets are 24 x 36, unless otherwise noted.

#### 7.3.1 Deliverable No. 1, Park Site Analysis

The following is due on the date stated in the approved Design Project Schedule

1. Site Analysis (30 Scale) (4) copies. (3 for Chula Vista (CV) ; 1 for Millenia Real Estate Group (MREG)

#### 7.3.2 Deliverable No. 2, Preparation of Preliminary Park Master Plan

The following is due on the date stated in the approved Design Project Schedule; (4) copies. (3 for CV; 1 for MREG)

1. Sheet 1 - Site Plan (30 Scale)
2. Sheet 2 - Site Cross Sections at appropriate scale as needed to communicate design intent
3. Sheet 3 - Plan view of buildings (1/4" Scale)
4. Sheet 4 - An exhibit of proposed construction materials and colors
5. Sheet 5 - Preliminary Construction Budget

#### 7.3.3 Deliverable No. 3, Preparation of Draft Park Master Plan

The following is due on the date stated in the approved Design Project Schedule, and is to commence once confirmation is obtained that City and Applicant comments have been fully addressed; ; (4) copies. (3 for CV; 1 for MREG)

1. Sheet 1 - Site Plan (30 scale)
2. Sheet 2 - Plan and thematic elevations of buildings (1/4" Scale)
3. Sheet 3 - A list of proposed construction materials and colors
4. Sheet 4 - Draft Construction Budget
5. One Set of colored renderings, mounted on foam-core board.
6. Full color, full size and reduced (8 1/2" x 11") reproductions of Sheets 1 and 2 ( Site Plan, Sections, and Elevations drawings
7. A PDF of a Power Point presentation of the Draft Park Master Plan and it's components for presentation to Park and Recreation Commission and City Council.

#### 7.3.4 Deliverable No. 4, Design Development and Preliminary Construction Documents (CDs), 50 percent complete (first plan check)

The following is due on the date stated in the approved Design Project Schedule

1. Design Development Preliminary Construction Documents (12 Copies; 10 for CV; 2 for MREG).
2. Estimate of Probable Construction Costs with 15% contingency (One Copy).

7.3.5 Deliverable No. 5, Construction Documents (CD's), 80 percent Complete (second plan check)

The following is due on the date stated in the approved Design Project Schedule

1. Design Development Preliminary Construction Documents (12 Copies; 10 for CV; 2 for MREG).
2. Estimate of Probable Construction Costs with 15% contingency (One Copy).

7.3.6 Deliverable No. 6, Construction Documents (CD's), 90 percent complete (third plan check) OPTIONAL

The following is due on the date stated in the approved Design Project Schedule

1. Construction Documents, 90 Percent Complete (10 Copies; 8 for CV; 2 for MREG).
2. Estimate of Probable Construction Costs with 10% contingency (One Copy).

7.3.7 Deliverable No. 7, Construction Documents (CD's), 100 Percent Complete (third or fourth plan check)

The following is due on the date stated in the approved Design Project Schedule

1. Construction Documents, 100 Percent Complete (3 Copies; 2 for CV; 1 for MREG)
2. Estimate of Probable Construction Costs with 15% contingency (One Copy).

7.3.8 Deliverable No.8, Construction Document Mylars (CD's), 100 Percent Complete

The following is due on the date stated in the approved Design Project Schedule

1. Construction Document Mylars, 100 Percent Complete (1 Copy for CV) and three full size copies of CD set and three half-size copies of CD set (2 for CV; 1 for MREG).

7.3.9 Deliverable No. 9, Project Status Memorandums and Meetings

Consultant to update City Staff on the Project Status on a regular bi-monthly basis related to Consultant /Applicant meeting schedule. Updates will be in writing in a format to be agreed to by all parties. City Staff needs to be aware of all issues resolved and unresolved. Scheduled meetings may be substituted for formal written memoranda.

**7.4 Project Meetings**

7.4.1 Kick-off meeting with City Staff per approved Design Project Schedule.

7.4.2 Deliverable No. 1: No Mandatory Meeting.

7.4.3 Deliverable No. 2: Consultant meets with City Staff per attached Design Project Schedule and presents work products.



7.4.4 Deliverable No. 3 Meetings:

1. Consultant meets with City Staff per approved Design Project Schedule and presents work products.
2. Presentation to Parks and Recreation Committee.
3. Presentation to the City Council.

7.4.5 Deliverable No. 4: No Mandatory Meeting.

7.4.6 Deliverable No. 5: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.7 Deliverable No. 6: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.8 Deliverable No. 7: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.9 Deliverable No. 8: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.10 Deliverable No. 9: Project Status reporting to City Staff through out the Contract Administration phase will be made available via the Applicant and the Consultant. Meetings to be determined.

**7.5 Date for completion of all Consultant services**

Times for performance, as identified in the approved Design Project Schedule may be revised in the sole discretion of the Director of Development Services.

**8. Documents to be provided by City to Consultant**

1. Parks Master Plan
2. City Landscape Design Manual
3. Other engineering, planning and landscape architect standards, manuals, plans or other documents applicable to the work contemplated by this Agreement.

**9. Contract Administrators**

Applicant: SLF IV – Millenia, LLC  
C/O Millenia Real Estate Group  
Attn: Todd Galarneau, Executive Vice President  
2750 Womble Road, Suite 200  
San Diego, CA 92106  
(619) 477-4117

City: Patricia Ferman  
Project Manager  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 91910  
(619) 409-5887

Consultant: Richard D. Barrett  
Principal  
MIG, Inc.  
1111 Sixth Avenue, Suite 404  
San Diego, CA 92101  
(619) 677-2003

10. Statement of Economic Interests, Consultant Reporting Categories, per Conflict of Interest Code

- (X) Not Applicable. Not an FPPC Filer.
- ( ) Category No. 1. Investments and sources of income.
- ( ) Category No. 2. Interests in real property.
- ( ) Category No. 3. Investments, interest in real property and sources of income subject to the regulatory, permit or licensing authority of the department.
- ( ) Category No. 4. Investments in business entities and sources of income which engage in land development, construction or the acquisition or sale of real property.
- ( ) Category No. 5. Investments in business entities and sources of income of the type which, within the past two years, have contracted with the City of Chula Vista (Redevelopment Agency) to provide services, supplies, materials, machinery or equipment.
- ( ) Category No. 6. Investments in business entities and sources of income of the type which, within the past two years, have contracted with the designated employee's department to provide services, supplies, materials, machinery or equipment.
- ( ) Category No. 7. Business positions.

11. City Insurance Requirements

(X) Commercial General Liability: \$1,000,000.

- (X) Automobile Liability: \$1,000,000.
- (X) Worker's Compensation: Statutory
- (X) Employer's Liability: \$1,000,000.
- (X) Errors and Omissions Liability: \$2,000,000.

*[End of Agreement]*