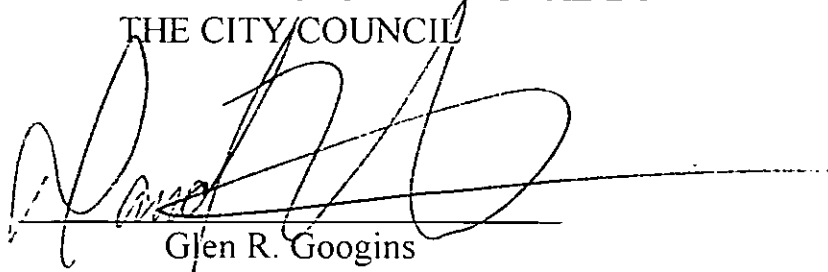


THE ATTACHED AGREEMENT HAS BEEN REVIEWED  
AND APPROVED AS TO FORM BY THE CITY  
ATTORNEY'S OFFICE AND WILL BE  
FORMALLY SIGNED UPON APPROVAL BY  
THE CITY COUNCIL



Glen R. Googins  
City Attorney

Dated: 5/7/15

THREE-PARTY AGREEMENT  
BETWEEN  
THE CITY OF CHULA VISTA,  
DELORENZO INTERNATIONAL AND  
BALDWIN AND SONS  
FOR PARK DESIGN SERVICES FOR PARK P-3, MONTECITO PARK, K  
OTAY RANCH VILLAGE 2

**Three-Party Agreement Between  
City of Chula Vista,  
DeLorenzo International and  
Baldwin and Sons.**

**For Park Design Services for Park P-3, Montecito Park, Otay Ranch Village 2.**

This Three-Party Agreement (“Agreement”), effective \_\_\_\_\_, 2015, is entered into by and among the **City of Chula Vista** (“City”), a municipal corporation of the State of California, **DeLorenzo International** (“Consultant”) whose business form and address are indicated on the attached Exhibit A, and **Baldwin and Sons** (“Applicant”) whose business form and address are indicated on the attached Exhibit A, and is made with reference to the following facts set forth in Section 2 below:

**RECITALS**

A. The land which is the subject of this Agreement is generally located at 1595 Santa Diana Road, Chula Vista, CA 91913 (the “Property”). The Property is designated to become a Neighborhood Park known as “Montecito Park (P-3)” in the adopted Village 2 Sectional Planning Area Plan, approved on 12-2-14 Resolution No.14-0606, and the “Agreement Regarding Construction of Parks P-1, P-2, P-3, P-5 and P-6 in a portion of Otay Ranch Village 2” between City and Applicant, recorded November 21, 2014, as Document No. 2014-0509142 (the “Parks Agreement”).

B. This Agreement is entered into pursuant to the Parks Agreement and a development agreement governing the Property and other land, approved on 11-18-14 (Ordinance of the City of Chula Vista Approving a Development Agreement between the City of Chula Vista, Baldwin and Sons, LLC and Sunranch Capital Partners for Portions of Village 2.) (the “Development Agreement”), which provide, among other things, that, subject to the execution and approval by City Council of a separate reimbursement agreement for Montecito Park P-3, Applicant shall provide Montecito Park P-3 in accordance with its approved Park Master Plan

C. Section 4.1 (a) of the Parks Agreement requires Applicant to enter into a three-party agreement with the City and a landscape architect to prepare construction documents for park facilities.

D. Prior to entering into this Agreement, Applicant and Consultant have entered into a separate 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 the park design for Montecito Park.

E. Applicant acknowledges that the project is a public work, as defined in the California Labor Code section 17.20, and requires the payment of prevailing wage and that Applicant shall pay prevailing wage on all work associated with the design and construction of this park for those trades that are subject to prevailing wage.

F. Additional facts and circumstances, including Scope of Work, regarding the background for this Agreement are set forth on Exhibit A.

## **AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency is hereby acknowledged, the parties hereto agree as follows:

### 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 7.3, 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 benefit of the City and Applicant 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.

#### 1.1 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 to or have any obligation to pay 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.

0.1.1. 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.

0.1.2. 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.

0.1.3. 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 Village 2, 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.

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

1.1. Insurance. Consultant has agreed to provide insurance to Applicant in the Engagement Agreement. These Sections 2.1 and 2.2 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:

1.1.1. Statutory Worker’s Compensation Insurance and Employer’s Liability Insurance coverage in the amount set forth in the attached Exhibit A Paragraph 11.

1.1.2. Commercial General Liability Insurance including Business Automobile Insurance coverage in the amount set forth in Exhibit A, Paragraph 11, 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").

1.1.3. Errors and Omissions insurance, in the amount set forth in Exhibit A, Paragraph 11, unless Errors and Omissions coverage is included in the General Liability policy.

## 1.2. Proof of Insurance Coverage.

1.2.1. 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.

1.2.2. 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.

## 1.3. 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.

## 1.4. Communication to City

Any direct communications between the Consultant and the City shall be in the presence of Applicant (presence meaning: physical presence, conference calls or meetings via electronic media), or if such communication between Consultant and City is by writing an exact copy of the communication shall be simultaneously provided to Applicant, unless Applicant expressly waives the requirement to be present or to received simultaneous communication. Consultant may request such meetings with City to ensure the adequacy of services performed by Consultant.

## 2. Non-Compensation Duties of the Applicant.

### 2.1. 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 8.

## 2.2. Property Access.

Applicant shall obtain a license permitting 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.

## 2.3. 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.

## 4. 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.

## 5. Conflicts of Interest.

### 5.1. Consultant is Designated as an FPPC Filer.

If Consultant is designated on Exhibit A, Paragraph 10, 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 10 of Exhibit A, or if none are specified, then as determined by the City Attorney.

### 2.2. 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.

### 2.3. 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.

### 2.4. 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.

### 2.5. 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.

### 2.6. 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.

## 6. 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.

3. City's Right to Terminate Payment for Convenience. Documents.

3.1. 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.

3.2. 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.

3.3. 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.

3.4. 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

8. 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.

4. Hold Harmless and Indemnification.

4.1. 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, 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 (including without limitation 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, 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.

#### 4.2. 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 demanded by Consultant for the performance of services required by this Agreement.

#### 10. Business Licenses.

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

#### 11. Miscellaneous.

##### 11.1. 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.

##### 11.2. 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.

### 11.3. 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.

### 11.4. 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 the P-3 Montecito Park. 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 7.3 "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.

### 11.5. 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.

### 11.6. 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.

### 11.7. 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.

### 11.8. 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.

11.9. 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.

11.10. Headings.

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

11.11. 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.

11.12. 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.

11.13. 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.

12. 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.

13. 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,  
DeLorenzo International and  
Baldwin and Sons.  
For Park Design Services for Park P-3, Montecito Park, Otay Ranch Village 2.**

**(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: \_\_\_\_\_  
Mary Salas, Mayor

Attest:

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

Approved as to Form:

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

Consultant: DeLorenzo International

By: \_\_\_\_\_  
Joseph A. Contreras  
Chief Executive Officer

**Signature Page To**

**the Agreement Between  
City of Chula Vista,  
DeLorenzo International and  
Baldwin and Sons.  
For Park Design Services for Park P-3, Montecito Park, Otay Ranch Village 2.**

(Page 2 of 2)

Applicant:  
Baldwin and Sons, LLC  
a California Limited Liability Company

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

Page intentionally blank.

**Exhibit A**

Effective Date: The Agreement shall take effect upon full execution of the Agreement, the last party to sign shall enter the effective date on page 1 of the Agreement.

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

Consultant: Delorenzo International Inc.

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

Address: 3990 Old Town Avenue, Suite A 204  
San Diego, CA 92110.

Applicant: Baldwin & Sons, LLC

Business Form of Applicant: a California limited liability company

—

Address: 610 W. Ash Street, Suite 1500  
San Diego, CA 92101  
(619) 234-4050

1. Property (Commonly known address or General Description):  
P-3, Montecito Park.
2. Project Description (Project): Design of P-3, Montecito Park.
3. Entitlements applied for: N/A
4. General Nature of Consulting Services (General Services): Design of P-3, Montecito Park.
  - 4.1 **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-3, Montecito Park. 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.

- 4.2 **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**

With 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 Design Development. This meeting will be used to familiarize the Consultant with design issues related to development of the park, identify appropriate scale, and identify the elements of the park budget. The primary purpose of the Pre-application meeting is for the Consultant to gather information pertaining to the park site and City requirements that would be useful in the preparation of a design development and construction drawing package.

### 5.2 **Deliverables**

#### 5.2.1 Design Development and Preliminary Construction Documents (Deliverable No 1)

The Design Development phase of the Park Development Review Process will focus on the refinement of the Park 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



## LP-Landscape Planting

The following information further describes required content and format of the Preliminary Construction Documents.

### a. 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.

### b. 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.

### c. 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, safety standards and relationship of play area(s) to the park. Product literature describing play equipment components shall also be included.

### d. 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.

### e. 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.

### 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.

k. Cost estimate

The consultant will provide a cost estimate for the construction of the park, including soft costs, to demonstrate that the park can be constructed within the available budget. Revisions may be necessary at this stage if the estimate exceeds the budget.

Once completed, and 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 redlined plan check sets. The Consultant will then review the comments from staff and proceed to make changes, incorporating the changes into a 90 percent complete construction

document package submittal. The 90 percent complete construction document package represents the next phase and is called “Task 5.2.2.2: Construction Documents”.

### 5.2.2 Construction Documents (Deliverable No. 2, 3 & 4)

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 the 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 two separate submittals (90 percent and 100 percent complete). All plan check submittals to the City must be reviewed and approved by the Applicant before being submitted.

#### a. Construction Documents (CD’s), 90 Percent Complete (**Deliverable No. 2**)

The Consultant shall prepare a second plan check that incorporates all Applicant and City comments. The Consultant shall submit the second plan check set (90 percent complete construction documents) for review by the City. The Landscape Architecture Division will distribute the construction documents to other departments to receive input and comments pertaining to the plans.

#### b. Construction Documents (CD’s), 100 Percent Complete (**Deliverable No. 3**)

The Consultant shall prepare a third plan check that incorporates all Applicant and City comments. The Consultant shall submit the third plan check set (100 percent complete construction documents) for review by the City. The Landscape Architecture Division will distribute the construction documents to other departments to receive input and comments pertaining to the plans.

#### c. Final Construction Documents (**Deliverable No. 4**)

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.

### 5.3 **Construction Administration Phase (Deliverable No. 5)**

During construction of the park improvements the Consultant 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 to be preserved. Possible services include:

- a. Review of contractor submittals
- b. Pre construction meeting attendance
- c. Rough & Final grade reviews
- d. Tree & 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. The City will provide the Consultant with the approved landscape master plan for the park.

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

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

(X) 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**

#### **7.3.1 Deliverable No. 1, Design Development and Preliminary Construction Documents (CDs), 50 % complete (First Plan Check)**

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

1. Design Development Preliminary Construction Documents (15 Copies).
2. Estimate of Probable Construction Costs with 15% contingency (One Copy).

#### **7.3.2 Deliverable No. 2, Construction Documents (CD's), 90 Percent Complete (second plan check)**

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

1. Construction Documents, 90 Percent Complete (10 Copies + any additional copies required to obtain a building permit for the restroom and other park structures.)
2. Estimate of Probable Construction Costs with 10% contingency (One Copy).

#### **7.3.3 Deliverable No. 3, Construction Documents (CD's), 100 Percent Complete (third 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. Estimate of Probable Construction Costs with 15% contingency (One Copy).

#### **7.3.4 Deliverable No.4, 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) and three full size copies of CD set and three half-size copies of CD set.

#### **7.3.5 Deliverable No.5, 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: Meet staff to present 50% design.

7.4.3 Deliverable No. 2: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.4 Deliverable No. 3: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.5 Deliverable No. 4: Consultant meets with City Staff per approved Design Project Schedule to discuss/resolve questions/comments.

7.4.6 Deliverable No. 5: 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. Approved Park 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: Nick Lee, Vice President  
Baldwin & Sons, LLC  
610 W. Ash Street, Suite 1500  
San Diego, CA 92101  
(619) 234-4050

City: Mary Radley  
Project Manager  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 91910

(619) 409-5887

Consultant: Michael Spohr  
DeLorenzo International  
3990 Old Town Avenue, Suite A 204  
San Diego, CA 92110.

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]*