

RECORDING REQUESTED BY:

WHEN RECORDED, MAIL TO:

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(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS
OF MILLENIA**

(LOTS 2, 3, 5, 6 and A OF MAP _____)

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SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS
OF MILLENIA

(LOTS 2, 3, 5, 6 and A OF MAP _____)

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS OF MILLENIA (LOTS 2, 3, 5, 6 and A OF MAP _____) ("**Supplemental Declaration**") is made and executed this ____ day of _____, 201__ by **SLF IV - MILLENIA, LLC**, a Delaware limited liability company, formerly known as SLF IV / McMILLIN MILLENIA JV, LLC, a Delaware limited liability company ("**Declarant**") with reference to the facts set forth below.

RECITALS

A. Declarant is "Declarant" under that certain First Amended and Restated Declaration of Covenants, Conditions and Restrictions and Establishment of Easements of Millenia recorded on September 7, 2016, as Document No. 2016-0468648, in the Official Records of San Diego County, California, as may from time to time be amended and supplemented ("**Community Declaration**"). Pursuant to the terms of the Community Declaration, the Millenia Community Association has been formed to govern the real property subject to the Community Declaration ("**Community**").

B. Declarant is the owner of that certain real property in the City of Chula Vista, County of San Diego, State of California, described on **Exhibit "A"** attached hereto and incorporated herein ("**Annexed Property**").

C. The Annexed Property, which is currently owned by Declarant, is included within the Annexable Property as defined in the Community Declaration. Pursuant to **Article 15 (Annexation of Real Property)** of the Community Declaration, Declarant desires and intends by this Supplemental Declaration to annex the Annexed Property to the Covered Property already subject to the Community Declaration and to make the Annexed Property subject to all the terms and provisions of the Community Declaration.

D. The Annexed Property includes the Metro Park as described in this Supplemental Declaration. Metro Park is intended to act as a vibrant and activated central space and performance venue for the Millenia Community. To support and activate the park space, the Metro Park is bordered on three sides with commercial development. To ensure they remain viable and provide the activation for the park, it is necessary to provide parking within the park to serve those commercial spaces fronting the park on its southern edge. To provide access to those spaces, the park design features a shared-use driveway, known as a "woonerf" which will provide multiple functions including emergency vehicle access, parking access drive and pedestrian circulation. When not in use, the woonerf will serve as recreational space for gathering and events. The Millenia Parking Management Plan includes specific measures to control traffic and manage parking within Metro Park along with implementation, maintenance, monitoring, funding and enforcement provisions. The overall goal of the Community Association and Parking District Council should be to manage the commercial parking, and the traffic it will generate through the park to ensure the commercial space remains viable and active, while at the same time ensuring the primary recreational use of Metro Park is not impaired.

NOW, THEREFORE, pursuant to the powers of Declarant under the Community Declaration, Declarant is recording this Supplemental Declaration to annex the Annexed Property to the Millenia Community and subject the Annexed Property to the provisions of the Community Declaration. The Annexed Property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of the Community Declaration and this Supplemental Declaration and any other Supplemental Declarations recorded pursuant to the Community Declaration, and the same shall run with the title to the Annexed Property and shall be binding upon all persons having any right, title, or any interest in the Annexed Property, their respective heirs, legal representatives, successors, successors-in-title, and

assigns. The provisions of this Supplemental Declaration shall also be binding upon the Community Association in accordance with the terms of the Community Declaration.

1. **Defined Terms.** Except as otherwise expressly provided herein, or as may otherwise clearly appear from the context, the capitalized terms used herein shall have the meanings as provided in the Community Declaration.

2. **Annexation of Annexed Property.** Upon the recordation of this Supplemental Declaration in the Official Records, the annexation of the Annexed Property shall be and become accomplished and all of the incidents of annexation, as set forth in the Community Declaration, shall be in full force and effect and the Annexed Property shall be included within the Covered Property under the Community Declaration.

3. **Commercial Property.** The Commercial Property within the Annexed Property shall consist of the real property identified as Commercial Property on **Exhibit "A."** For purposes of this Supplemental Declaration, the Commercial Property located within the Annexed Property shall be referred to as the "**Metro Park Adjacent Commercial Property.**" The approximate location of the Metro Park Adjacent Commercial Property is depicted on **Exhibit "B"** attached hereto and incorporated herein.

4. **Community Association Property.** The Community Association Property within the Annexed Property shall consist of the real property identified as Community Association Property on **Exhibit "A."**

5. **Metro Park.** The Community Association Property described on **Exhibit "A"** is the Town Square Park as defined in **Section 1.139** of the Community Declaration. All references to the Town Square Park in the Millenia Governing Documents are hereby revised to "**Metro Park.**" The Metro Park will be owned, maintained, and controlled by the Community Association subject to the Park Agreement and the Community Entitlements. The approximate location of the Metro Park is depicted on **Exhibit "B."** All use of the Metro Park shall be subject to this Supplemental Declaration and all Millenia Governing Documents, including without limitation, Section 2.8 of the Community Rules regarding the park.

5.1 **Shared Space "Woonerf."** The Metro Park includes a shared vehicular and pedestrian use space with a one-way loop road around the park and eighteen (18) parking spaces ("**Shared Space 'Woonerf'**"). The Shared Space "Woonerf" also serves as a City required fire access lane. The approximate location of the Shared Space "Woonerf" within the Metro Park is depicted on **Exhibit "B."** All operational and management issues relating to the Shared Space "Woonerf" shall be dealt with in the Parking Management Plan and enforced by the Parking District Council.

5.2 **Commercial Use Zone.** Declarant has reserved portions of the Metro Park for use by the Owner(s) of the Metro Park Adjacent Commercial Property for business purposes ("**Commercial Use Zone**"), subject to the approval of Declarant until the Declarant's Rights Termination Date and after the Declarant's Rights Termination Date subject to the approval of the Millenia Board. Uses of the Commercial Use Zone may include, without limitation, outdoor dining and seating areas, outdoor sales associated with businesses located in the adjacent commercial properties or other similar uses as approved by the Declarant until the Declarant's Rights Termination Date and after the Declarant's Rights Termination Date subject to the approval of the Millenia Board. Declarant and the Millenia Board reserve the right to revoke the Commercial Use Zone privileges of any Commercial Owner for any repeated violations of the Community Rules. The approximate location of the Commercial Use Zone is depicted on **Exhibit "B."** The kiosks described in **Section 5.9** below are also included as part of the Commercial Use Zone; provided, however, that the kiosks shall be separate from the Commercial Use Zone areas located next to the buildings within the Metro Park Adjacent Commercial Property and shall be controlled by the Community Association, not the Owner(s) of the Metro Park Adjacent Commercial Property.

5.3 **Special Events and Performance Venue.** The Community Association shall have the right to allow members of the public and the Owners to use Metro Park for special events, including without limitation farmer's markets, concerts and performances. The Community Association may charge

a fee for such usage and condition such right to use such areas on such requirements as may be deemed reasonably necessary by the Community Association. The City shall be allowed to hold special events in the Metro Park subject to Community Association approval and the Park Agreement. Pursuant to the Park Agreement, the City shall have the right to request and receive approval from the Community Association for at least twelve (12) publicly-sponsored events per year at the Metro Park subject to the provision of blanket insurance as set forth in the Park Agreement. Notwithstanding the foregoing, any events that require shutting down the Shared Space "Woonerf" shall be allowed once per quarter, and any events exceeding once per quarter that require shutting down the Shared Space "Woonerf" shall be subject to approval by the Owner(s) of the Metro Park Adjacent Commercial Property as set forth in **Section 5.7** below. Community Association approval shall be required prior to any use of alcohol or amplified music within the Metro Park, and any such use of alcohol or amplified music must comply with all requirements set forth in the Community Rules. Where alcohol service will be allowed in connection with any event, the Community Association shall require special insurance be provided by the as a condition to hosting of the event and service of alcoholic beverages within Metro Park must comply with Section 9.2 of the Community Rules. Until the Declarant's Rights Termination Date, all special events to occur within the Metro Park must be scheduled and coordinated with Declarant to avoid conflict with any Declarant special events and to ensure compliance with the Park Agreement. Additional rules and procedures relating to the use of the Metro Park for such special events may be set forth in the Community Rules.

5.4 **Water Meters.** Submeters have been installed for the Metro Park and each building within the Metro Park Adjacent Commercial Property to measure water usage. The water and sewer service provider ("**Service Provider**") will prepare a bill based upon overall water usage through the Service Provider's water meters. Declarant shall have the right to enter into a contract with a water metering service company ("**Metering Company**") to read the individual submeters, allocate the water and other charges imposed by the Service Provider and provide individual bills. The Owner(s) of the Metro Park Adjacent Commercial Property and the Community Association shall pay the Metering Company directly for the Community Association's share of water and other charges imposed by the water provider and the service charge to the Metering Company prior to the due date set forth on the bill from the Metering Company. While the Metro Park Adjacent Commercial Property is held in fee title by a single Owner, such Owner of the Metro Park Adjacent Commercial Property shall be responsible for payment of the bill to the Service Provider ("**Responsible Party**") and will be reimbursed by the Metering Company. If, in the future, the Metro Park Adjacent Commercial Property has more than one (1) Owner, the Responsible Party will be designated by Declarant in Supplemental Declaration. In the event that the Responsible Party of the fails to pay the Service Provider, the Community Association shall have the right to levy a Compliance Assessment against such Responsible Party and pay the Service Provider directly.

5.5 **Use of Reclaimed Water for Irrigation.** The Community Association will use reclaimed water for irrigation purposes within the Metro Park. It is possible that reclaimed water will flow into areas outside of the Metro Park or that it will overspray onto yards and buildings adjacent to the areas being irrigated. Reclaimed water is not potable and should not be consumed by people or animals. Reclaimed water may cause discoloring of fences or walls.

5.6 **Private Easements.** Private easements are recorded in the Official Records on _____ as Document No. _____ over the Metro Park to allow access to the Shared Space "Woonerf", and for private utilities to serve the Metro Park Adjacent Commercial Properties ("**Metro Park Easements**"). The Metro Park Easements include easements in favor of Lots 5 and 6 for access over the Shared Space "Woonerf" and parking areas. The Metro Park Easements also include easements for water lines, fire service lines, sewer lines, and storm drainage and storm drain lines. The responsibility for maintenance and repair of these private utilities is the obligation of the Owner(s) of the Metro Park Adjacent Commercial Properties. Any repairs or maintenance by the Owner(s) of the Metro Park Adjacent Commercial Properties shall be performed in such a way as to ensure the Metro Park is restored to the condition it existed prior to the repairs being performed. The Owner(s) of the Metro Park Adjacent Commercial Properties shall comply with all insurance and indemnity requirements set forth in the Metro Park Easements.

5.7 **Parking.** All parking within the Metro Park and Shared Use “Woonerf” shall be subject to the Parking Management Plan, which shall be enforced by the Parking District Council. Hours of use for the Shared Use “Woonerf” shall be consistent with the hours of operation for the occupants of Lots 5 and 6. The Owner(s) of the Metro Park Adjacent Commercial Property shall have the right to designate a representative to serve on the Parking District Council. Any changes to the Shared Use “Woonerf,” affecting either access through the Metro Park or access to the parking spaces, which is not otherwise addressed in the Parking Management Plan, shall require the approval of the Owner(s) of the Metro Park Adjacent Commercial Property as described in **Section 5.7** below. Pursuant to the Parking Management Plan, the City has the right to act as an ad hoc member of the Parking District Council and a representative from the City shall be entitled to attend any meetings of the Parking District Council relating to the Metro Park. For a period of at least two (2) years from the initial occupancy of Lots 5 and 6, the Parking District Council shall be required to report to the City at least annually, any complaints received or problems reported relating to access and parking within the Metro Park and Shared Use “Woonerf”, any steps taken by the Parking District Council to remedy identified issues, and the results of the quarterly traffic counts as required by the Parking Management Plan.

5.8 **Metro Park Maintenance.** The Community Association shall maintain the Metro Park in conformance with the approved plans for Metro Park on file with the City at all times. Such maintenance shall include, without limitation, maintenance of all signage located within Metro Park, the intelligent parking system for the Shared Space “Woonerf,” and all items identified for maintenance by the Community Association in the Parking Management Plan. Any repairs or maintenance shall ensure that the Metro Park is restored to the condition it existed prior to the repairs or maintenance being performed. Any material deviations or modifications to the park plans shall require the approval of the Parking District Council and the City. The Community Association shall also be responsible for conducting regular patrols of the Metro Park and for daily placement and removal of the bollards within the Metro Park.

5.9 **Concessions.** In accordance with **Sections 2.6.10** and **2.8.8** of the Community Declaration, the Community Association and Declarant shall have the right to grant concessions for snack bars and other commercial activities in the kiosks that may be installed within the Metro Park. Such rights shall be subject to and subordinate to any rights reserved by Declarant under the Community Declaration. The Community Association shall be prohibited from operating any kiosk for any use that is a current or planned future use of any portion of the Metro Park Adjacent Commercial Property. To the extent an Owner of any portion of the Metro Park Adjacent Commercial Property has granted exclusives to a tenant, the Community Association shall not operate the kiosks for any such exclusive uses. The Owner(s) of the Metro Park Adjacent Property shall be responsible for providing the Community Association with any exclusives granted to a tenant.

5.10 **Major Decisions.** Notwithstanding anything to the contrary set forth above, the Community Association and/or the Parking District Council shall not take any of the actions set forth below without the consent of the Owner(s) of the Metro Park Adjacent Commercial Property, in which case, the Owner(s) of the Metro Park Adjacent Commercial Property shall have twenty (20) days to provide notice of approval or disapproval of the item for which consent is required. If such Owner(s) fail to respond within such twenty (20) day period and a reminder notice is provided to the Owner which states: “THE FAILURE TO RESPOND WITHIN TEN (10) DAYS OF RECEIPT OF THIS NOTICE SHALL CONSTITUTE APPROVAL OF THE MATTER FOR WHICH APPROVAL IS REQUESTED” and if such Owner(s) fail to respond within such additional ten (10) day period, then the matter shall be deemed approved. If the Owner(s) of the Metro Park Adjacent Commercial Property delivers a notice of disapproval, such notice shall state with reasonable specificity, the basis for disapproval.

5.10.1 **Changes to Parking and Shared Use “Woonerf.”** The approval of the Owner(s) of the Metro Park Adjacent Commercial Property shall be required prior to any action to eliminate, reduce or modify access or parking within the Metro Park, including without limitation the eighteen (18) parking spaces located within the Shared Use “Woonerf.” The Shared Use “Woonerf” shall not be removed or substantially modified without the prior consent of the Owner(s) of the Metro Park Adjacent Commercial Property. Other than temporary closures for special events, any actions taken by the Community

Association and/or the Parking District Council shall not impair the use of function of the Shared Space “Woonerf” as a City-required fire access lane.

5.10.2 **Temporary Closure of Shared Use “Woonerf” for Special Event.** As described in Section 5.3 above, the Shared Use “Woonerf” and parking areas within Metro Park are subject to temporary closure for special events at least once per quarter. The Community Association shall be required to provide written notice of such closure to the Owner(s) of the Metro Park Adjacent Commercial Property and the City Fire Marshall at least thirty (30) days prior to the scheduled date of the special event requiring such closure. Any special events exceeding once per quarter that require shutting down the Shared Space “Woonerf” shall be subject to prior consent of the Owner(s) of the Metro Park Adjacent Commercial Property

5.10.3 **Use of Kiosks.** In the event of any dispute regarding whether the use of any Community Association kiosk located within the Metro Park is competitive with any use of the Metro Park Adjacent Commercial Property, the Community Association shall not continue the disputed use of the kiosk without the approval of the Owner(s) of the Metro Park Adjacent Commercial Property.

5.10.4 **Insurance Requirements.** The approval of the Owner(s) of the Metro Park Adjacent Commercial Property shall be required for any action to eliminate or materially reduce the amount or scope of the insurance coverage required to be maintained by the Community Association under **Article 12** of the Community Association for the Metro Park. Due to proximity of the Metro Park to the Metro Park Adjacent Property and the Commercial Use Zone established within the Metro Park, Owner(s) of the Metro Park Adjacent Property shall be required to include the Community Association as an additional insured on the insurance policies for the Metro Park Adjacent Property.

6. City Enforcement Rights. Pursuant to Section 18.1 of the Community Declaration, the City has the right but not the obligation to enforce the provisions of the Community Declaration, including without limitation the provisions of this Supplemental Declaration.

7. Amendment and Duration of Supplemental Declaration. Declarant may amend this Supplemental Declaration for any purpose by complying with the requirements of the Community Declaration. Unless amended or terminated, this Supplemental Declaration shall continue in full force and effect for so long as the Community Declaration remains in effect.

8. Effect of this Supplemental Declaration. This Supplemental Declaration shall not be deemed to affect the Community Declaration as covenants running with the land or equitable servitudes, all of which shall be applicable to all portions of the Community, including those portions added thereto pursuant to this annexation.

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9. Additional Supplemental Declarations. Nothing contained herein shall limit the right of the Declarant to record future supplemental declarations as may be required to designate any Community Association Maintenance Areas, Community Association Property or for any other purposes for which a Supplemental Declaration may be recorded.

IN WITNESS WHEREOF, Declarant has executed this instrument as of the day and year first herein above written.

DECLARANT:

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: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

That certain real property located in the City of Chula Vista, County of San Diego, State of California and more particularly described as follows:

COMMUNITY ASSOCIATION PROPERTY:

LOT A OF CHULA VISTA TRACT 09-03, OTAY RANCH MILLENIA PHASE 2C, IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP _____ RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON _____ (**"MAP"**).

METRO PARK ADJACENT COMMERCIAL PROPERTY:

LOTS 2, 3, 5, AND 6 OF THE MAP.

EXHIBIT "B"

METRO PARK AREA SITE PLAN



