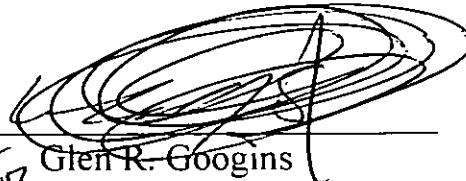


THE ATTACHED AGREEMENT HAS BEEN REVIEWED
AND APPROVED AS TO FORM BY THE CITY
ATTORNEY'S OFFICE AND WILL BE
FORMALLY SIGNED UPON APPROVAL BY
THE CITY COUNCIL


FOR Glen R. Googins
City Attorney

Dated: 4/27/16

SECOND AMENDMENT TO AGREEMENT
BETWEEN
THE CITY OF CHULA VISTA
AND
SLF IV MILLENIA, LLC
REGARDING THE CONSTRUCTION OF PARKS
IN A PORTION OF OTAY RANCH EASTERN URBAN CENTER

Recording Requested By:
and
When Recorded Mail To:

City Clerk
City of Chula Vista
276 Fourth Avenue
Chula Vista, California 91910

EXEMPT FROM RECORDER'S FEES
Pursuant to GOVERNMENT CODE §6103

(ABOVE SPACE FOR
RECORDER'S USE ONLY)

**SECOND AMENDMENT TO AGREEMENT REGARDING
CONSTRUCTION OF PARKS IN A PORTION OF
OTAY RANCH EASTERN URBAN CENTER**

THIS SECOND AMENDMENT TO AGREEMENT REGARDING CONSTRUCTION OF PARKS IN A PORTION OF OTAY RANCH EASTERN URBAN CENTER (“**Second Amendment**”) is made as of this ____ day of _____, 2016, by and between the CITY OF CHULA VISTA, a California municipal corporation and charter city (“**City**”) and SLF IV - MILLENIA, LLC, a Delaware limited liability company (“**Master Developer**”) with reference to the following facts:

RECITALS

A. MCMILLIN OTAY RANCH, LLC, a Delaware limited liability company (“**McMillin**”) and City entered into the “Development Agreement by and between the City of Chula Vista and McMillin Otay Ranch LLC,” recorded October 27, 2009 as Document No. 2009-0595116 of Official Records of the San Diego County Recorder (the “**Development Agreement**”), and the “Agreement Regarding Construction of Parks in a Portion of Otay Ranch Eastern Urban Center,” recorded October 28, 2009 as Document No. 2009-0599389 of Official Records of the San Diego County Recorder (the “**Parks Agreement**”). The Development Agreement and Parks Agreement relate to what they called the “**EUC**,” which is now known as “**Millenia**.”

B. By an assignment, memorandum and confirmations recorded February 22, 2011 as Document No. 2011-0098720 of Official Records of the San Diego County Recorder, McMillin assigned its rights and transferred its obligations under the Development Agreement and Parks Agreement to SLF IV/McMILLIN MILLENIA JV, LLC, a Delaware limited liability company (“**SLFMM**”). SLFMM changed its name to that of Master Developer (SLF IV-Millenia, LLC) by amendments filed in Delaware on March 4, 2015, and in California on March 9, 2015. This Second Amendment will refer to “**EUC**” and “**McMillin**” in new language for the

Parks Agreement for clarity, only because those were the terms used in the original Parks Agreement.

C. Master Developer and City previously wanted to refine the Parks Agreement by providing some flexibility for the payment of In-Lieu Fees for certain developments, such as affordable housing projects. Accordingly, they entered into the "First Amendment" to the Parks Agreement (Resolution No. 2015-089). The First Amendment was recorded on December 8, 2015 as Document No. 2015-0627423 of Official Records of the San Diego County Recorder.

D. Master Developer and City now wish to further refine the Parks Agreement by providing additional flexibility to address the possibility that fewer residential units could be built in the EUC (2,550) than had originally been anticipated (2,983).

E. Master Developer no longer owns some of the McMillin Property. However, the Parks Agreement, as amended by the First Amendment and this Second Amendment, is intended to provide for the development of parks throughout the EUC; thus, remaining consistent with the original Parks Agreement with respect to Master Developer's rights and obligations under the Development Agreement. To the extent parks have already been developed and parts of the EUC have been sold, the effect of this amended agreement is to ensure compliance by the time of the EUC's build-out. The legal description to which this Second Amendment pertains (Exhibit "A" attached hereto and incorporated herein) thus includes all of the original McMillin Property, less only land which has been sold to merchant builders and some property dedicated to Caltrans.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Total Development Adjustment. The sixth recital of the Parks Agreement (beginning, "WHEREAS, approximately 23.36 acres") is hereby amended by adding to the end of that recital, after "equals 23.36 acres":

. However, only 19.97 acres (comprised of both acquisition and development components) would be required if only 2,550 units are built. This Parks Agreement, as amended by the First Amendment and Second Amendment, is intended to provide for the development of parks throughout the EUC, so to the extent parks have already been developed and parts of the EUC have been sold, its effect will ensure compliance by the time of the EUC's build-out[;]

2. Total Park Adjustment. Section 2 of the Parks Agreement is amended by adding the following to the end of the introductory paragraph thereof:

If the EUC builds out with only 2,550 multi-family units, the PLDO for the McMillin Property shall be satisfied by McMillin providing 12.88 acres of Urban Parks and 6.38 acres of park equivalents, and by City applying (to the last park to be developed within EUC) the amount it receives pursuant to the fee deferral contemplated by the First Amendment (\$1,225,065 million). In addition, McMillin shall provide 1.43 acres of Urban Recreational Facilities, subject to credit only as provided for in Section 2.6 of this Agreement. If the EUC builds

out with more than 2,550 multi-family units or if the In-Lieu Fee increases by more than general Construction Cost Index increases (e.g., to accommodate a prevailing wage requirement), the provisions of Section 2.6 shall govern.

3. Fee Adjustment. Section 2.6 (including sections 2.6.1, 2.6.2, and paragraphs (a), (b) and (c) thereof) is hereby added to the Parks Agreement, reading:

2.6 Additional Development and Availability of Additional Funds. This Section 2.6, including sections 2.6.1, 2.6.2, and paragraph (a), (b) and (c) hereof, shall govern, notwithstanding any provision of this Agreement to the contrary, to the extent that additional funds become available (either through an In-Lieu Fee increase greater than general Construction Cost Index increases or if the EUC builds out with more than 2,550 multi-family units) "Additional Funds."

2.6.1 The PLDO for the 2,551st through 2,983rd units on the McMillin Property shall be satisfied by the payment of In-Lieu Fees at the rate required by Section 2.7 of the Development Agreement.

2.6.2 In-Lieu Fees received from the first 2,550 units built in the EUC, to the extent arising from an increase in the In-Lieu Fee greater than the Construction Cost Index, and all In-Lieu Fees received on account of development of the 2,551st through 2,983rd units, shall be used as follows:

(a) First, any funds available pursuant to this Section 2.6 shall be used to establish park credit to McMillin for the cost of up to 1.43 acres of Urban Recreational Facilities.

(b) Next, any funds available pursuant to this Section 2.6 after payment pursuant to paragraph (a) hereof shall be used to reimburse City for its actual expenditures of In-Lieu Fees advanced pursuant to the fee deferral contemplated by the First Amendment, up to \$1,225,065 for .71 acres.

(c) Finally, any funds available pursuant to this Section 2.6 after payments pursuant to paragraphs (a) and (b) hereof shall be used to reimburse City for In-Lieu Fees to the extent City advanced to acquire and develop .63 acres of parkland in EUC, over and above the .71 acres described in paragraph (b).

4. Three Party Agreement. Section 2.1(a)i. is deleted in its entirety and replaced with:

i. McMillin and their landscape architect, whose selection shall be approved by the City, shall design a Park Master Plan and prepare construction documents to the satisfaction of the Director of Development Services.

5. Fee Advance. Paragraph (c) of Section 2.4 of the Parks Agreement, previously added to the Parks Agreement by the First Amendment thereto, is hereby deleted in its entirety and replaced with the following:

(c) Notwithstanding paragraph 2.4(b), above, City and Master Developer may agree to defer payment of In-Lieu Fees for projects within the EUC that City determines qualify as affordable housing projects (“Affordable Project”). Notwithstanding Section 13.10(a), upon City Council approval and City and the owner (“Owner”) of the Affordable Project entering into an agreement with respect to deferring payment of the In-Lieu Fees generated by the Affordable Project, the obligation to pay the In-Lieu Fees generated by the Affordable Project shall be transferred from the Master Developer to the Owner and the Master Developer shall have no further obligation to City with respect to the In-Lieu Fees generated by the Affordable Project. Any such deferral shall decrease the Master Developer’s obligation and its park credits by the same amount and shall not increase the obligations of Master Developer under the Parks Agreement or this Second Amendment. Prior to the construction of the final park to be constructed in the Millenia project as contemplated in the Millenia SPA plan, the City shall advance (from other available PLDO funds) to Master Developer, for the use of Master Developer in providing the facilities described in this Agreement, the amount of the In-Lieu Fees that were deferred hereunder; City shall reimburse itself the advanced funds from the deferred In-Lieu Fees once received.

6. Update to Notice. The address for notice to McMillin (but not to its counsel) in Section 13.1 of the Parks Agreement is amended by deleting the existing address and replacing it with the following:

If to McMillin: SLF IV – Millenia, LLC
Attn: Heather Shannon
5949 Sherry Lane, Suite 1750
Dallas, Texas 75225

with a copy to: Todd Galarneau
Millenia Real Estate Group
9988 Hibert Street, Suite 210
San Diego, California 92131

7. Effect of Second Amendment. Except as expressly stated herein, the Parks Agreement, as amended by the First Amendment and this Second Amendment, remains in full force and effect on its own terms. To the extent this Second Amendment relates to the Development Agreement, City and Master Developer agree that the First Amendment and this Second Amendment are minor “clarifications” thereof and that Master Developer is not hereby surrendering, waiving, or otherwise affecting its rights under the Development Agreement.

8. Recordation. Upon approval by both parties, this Second Amendment shall be recorded.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date set forth above.

"CITY"

CITY OF CHULA VISTA, a municipal corporation

By _____
Mary Casillas Salas, Mayor

Attest:

Donna R. Norris, City Clerk

APPROVED AS TO FORM:

By _____
Glen R. Googins, City Attorney

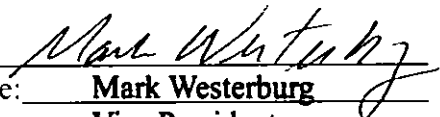
"MASTER DEVELOPER"

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: Mark Westerburg
Title: Vice President

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 CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____
 _____ (*insert name and title of the officer*)

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 California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

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 TEXAS)
)ss.
COUNTY OF DALLAS)

On April 20, 2016 before me, Susan C. Evans, Notary Public, personally appeared Mark Weskerburg, ~~personally known to me~~ (or 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)

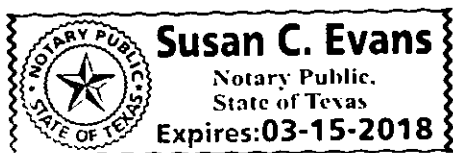


EXHIBIT A

LEGAL DESCRIPTION

Lots 1, B-D and H-M of Final Map 15942 filed in the Office of the County Recorder of San Diego County on September 23, 2013 and Lots 1-3, 8, 11-19, 21, 22 and A-O of Final Map 16081 filed in the Office of the County Recorder of San Diego County on December 28, 2013 .