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8971

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Ernest J. Dronenburg, Jr., COUNTY RECORDER
FEES: 100.00

PAGES: 29

CITY OF CHULA VISTA
OFFICE OF THE CITY CLERK
276 FOURTH AVENUE
CHULA VISTA, CA 91910



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**AMENDED AND RESTATED INTERIM DESILTATION AND MAINTENANCE
AGREEMENT WITH SLF IV/MCMILLIN MILLENIA JV, LLC FOR THE
EASTERN URBAN CENTER (MILLENIA)**

This Amended and Restated Interim Desiltation and Maintenance Agreement ("Agreement") is made by and between SLF IV/McMillin Millenia JV, LLC (referred to herein as "Company" or "Applicant"), and the City of Chula Vista, a California municipal corporation ("City"), with reference to the following facts:

RECITALS

- 1 Company owns approximately 207 acres of land known as the "Otay Ranch Eastern Urban Center" (hereinafter referred to as the "Project") south of Birch Road and the Otay Ranch Town Center, north of the future extension of Hunte Parkway, adjacent to and east of State Route 125 (SR-125), and west of Eastlake Parkway. The property which is the subject matter of this agreement is more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property").
- 2 On September 15, 2009, the City approved a Tentative Subdivision Map for the Project, Chula Vista Tract 09-03 (hereinafter referred to as the "Tentative Map"), by Resolution Number 2009-225.
- 3 On June 1, 2004, Company's predecessor and the City entered into that certain Interim Desiltation and Maintenance Agreement (Eastern Urban Center Interim Grading) for the Project recorded in the San Diego County Recorder's Office on June 9, 2004, as Official Record Number 2004-0538918, which was assigned to and assumed by the Company by that certain Assignment and Assumption Agreement dated September 14, 2011 and recorded on November 2, 2011, as Official Record Number 2011-0582266 (together, "Interim Desiltation and Maintenance Agreement 1"). On September 14, 2011 Company and City entered into that certain Interim Desiltation and Maintenance Agreement for the Mass

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Grading of the Eastern Urban Center (Millenia) for the Project recorded in San Diego County Recorder's Office on November 2, 2011, as Official Record Number 2011-0582265 (Interim Desiltation and Maintenance Agreement 2").

- 4 This Agreement hereby supersedes and replaces Interim Desiltation and Maintenance Agreement 1 and Interim Desiltation and Maintenance Agreement 2.
- 5 Condition number 52 of the Tentative Map, as more particularly set forth on Exhibit B, requires, that prior to approval of each grading permit for the Project, the Applicant shall:
 - (a) Prepare a maintenance program of all the proposed drainage and water quality treatment facilities, the channel or basin, including but not limited to naturalized channels down stream of the Project, wetlands restoration areas, detention basins, and water quality treatment facilities;
 - (b) Demonstrate compliance with Section 1803 of the California building code (CBC); and
 - (c) Enter into an agreement with the City wherein the Applicant agrees to provide for the maintenance of all proposed drainage and water quality treatment facilities attributable to the Project, and provide security, satisfactory to the City Engineer, guaranteeing the performance of the aforementioned maintenance and siltation removal obligations. This obligation may be transferred to another property owner if approved by the City.
- 6 The City Engineer has determined that certain temporary drainage, desilting basins, and erosion/sedimentation control facilities, as shown on Approved Construction Change "B" of the Mass Grading Plans for the Project, Chula Vista Drawing Number 10044 ("Construction Change "B") are adequate as of the date of this Agreement to temporarily service the mass-grading proposed for the Property.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Defined Terms.** The following defined terms shall have the meaning set forth herein, unless otherwise specifically indicated.
 - 1.1. "Temporary Private Facilities" shall mean the temporary private drainage, desilting basins, and erosion/sedimentation control facilities proposed for construction within the Project, as shown on Construction Change "B" as approved by the City Engineer.

- 1.2. "Complete Construction" shall mean that construction of the Temporary Private Facilities has been completed to the satisfaction of the City Engineer.
 - 1.3. "Maintain" or "Maintenance" shall mean to furnish, or the furnishing of, services and materials for the ordinary and usual maintenance required for the operation of the Temporary Private Facilities as set forth in the IOMP.
 - 1.4. "Inspection, Operation, and Maintenance Plan," or "IOMP," means a description of the inspection, operation, and maintenance activities and schedules required to ensure proper operation and effectiveness of the Temporary Private Facilities, which IOMP is attached hereto as Exhibit C and incorporated herein by this reference.
2. **Condition No. 52 of Tentative Map.** In partial satisfaction of Condition No. 52 of the Tentative Map, Company agrees to the following:
- 2.1. Construction. Company, agrees to construct Temporary Private Facilities, as shown on Construction Change "B." These facilities may be phased in accordance with a phased grading plan as approved by the City Engineer. The Temporary Private Facilities shall comply with all the provisions of the National Pollutant Discharge Elimination System and the Clean Water Program. Company understands and agrees that Company is responsible for obtaining all necessary permits, approvals, and certifications, if any, from applicable federal or state agencies, including but not limited to Caltrans, the California Department of Fish and Game and/or the US Army Corps of Engineers. City shall cooperate with Company as necessary to obtain all such permits, approvals and certifications.
 - 2.2. Maintenance. Company shall operate and maintain the Temporary Private Facilities in accordance with the IOMP until the responsibility for maintenance has been assumed by another owner of the Property or the City determines that the Temporary Private Facilities are no longer needed because they have been superseded by new private or public facilities approved by the City Engineer. City agrees to ensure, but shall not be liable for in any way whatsoever, that adequate securities, consistent with this Agreement, are put in place as a condition of the transfer of responsibility to another owner. Immediately upon the occurrence of any of the aforementioned events, Company's maintenance obligations shall terminate and City shall release and return to Company any and all security provided pursuant to this Agreement

after adequate securities are put in place as a condition of the transfer of responsibility to another owner.

- 2.3. Fulfillment of Condition No. 52. Condition No. 52 shall be considered fully satisfied when the City Engineer makes the determination that the last grading permit for the Project has been issued; otherwise, the requirements of Condition No. 52 shall be enforced for each grading permit for the Project.
- 2.4. Securities. Company shall provide the City with maintenance securities, in accordance with paragraph 3 below, to guarantee Company-maintenance obligations herein.

3. Security for Performance.

- 3.1. Cash Deposit. At least thirty (30) days before the filing of the City of Chula Vista Form 5512 for Approval to Commence Work, Company shall provide the City with a cash deposit ("Cash Deposit") to guarantee Company's maintenance obligations pursuant to Section 2.2 of this Agreement, in the sum set forth in Exhibit D, which represents one year of maintenance costs for the Temporary Private Facilities as estimated by the City Engineer. The Cash Deposit amount may be adjusted by the City Engineer to reflect phased grading. City shall hold the Cash Deposit for the duration of Company's maintenance obligations hereunder. City may spend money from the Cash Deposit solely as necessary to correct any default of Company in the performance of Company's maintenance obligations. Should the City spend any of the Cash Deposit to correct any default of Company in the performance of Company's maintenance obligations, Company agrees to restore the Cash Deposit to its original level within 30 days of the City's written request. Company also agrees that the City may take any and all actions necessary, in order to obtain the funds necessary for the purpose of fulfilling such obligations. Any unexpended amount of the Cash Deposit, including any interest earned, shall be released and remitted to Company upon the termination of its maintenance obligations as set forth in this Agreement. The Cash Deposit amount may be reduced upon transfer of responsibility to another party or upon replacement of the temporary facilities with permanent facilities as determined by the City Engineer.
 - (a) Company's Costs and Expenses. It is also expressly agreed and understood by the parties hereto that in no case will the City, or any department, board or officer thereof, be liable for any portion of the costs and expenses of the work obligated herein, nor shall the City or the City's officers, sureties or

bondsmen, be liable for the payment of any sum or sums for said work or any materials furnished therefor.

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- 3.2. Municipal Code Requirements. Company understands and agrees that Company shall be subject to all the provisions of the Ordinances, Standards, and Policies of the City of Chula Vista (including Section 14.20.310 of the Municipal Code), the laws of the State of California, and federal law as applicable to said work as all may be amended from time to time.
4. **Future Approvals.** Company acknowledges and agrees that the performance of Company's obligations herein is required for the health and safety of the residents of the City. Therefore, the Company agrees that the City shall have the absolute and unfettered right to withhold the issuance of any grant of approval for the Property, if the Company is determined by the City not to be in compliance with the terms of this Agreement. If Company is determined by the City not to be in compliance with any term of this Agreement, the City shall notify Company of Company's non-compliance and provide the Company with thirty (30) days to cure said non-compliance. The Company shall not be in non-compliance if, upon notification of non-compliance, Company starts immediately to work toward cure of said non-compliance and diligently pursues, as determined by the City Engineer, a course of action to achieve a cure within a reasonable time-frame.
5. **Agreement Binding upon Successors.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company as to any or all of the Property until released by the City or terminated in accordance with the terms hereof. However, City agrees to release individual properties from the obligations of this Agreement upon completion of permanent facilities approved by the City as part of a development plan for those individual properties or upon City approval of a transfer of responsibility pursuant to sections 2.1 or 2.2 of the Agreement.
6. **Agreement Running with the Land and in favor of City.** The burden of the covenants contained in this Agreement is for the benefit of the City, City is deemed the beneficiary of such covenants running with the land without regard to whether City has been, remained or are owners of any particular land or interest therein. If such covenants are breached, the City shall have the right, but not the obligation, to exercise all rights and remedies and to maintain any action or suits at law or in equity or other proper proceedings to enforce the curing of such breach to which it or any other beneficiaries of this Agreement and covenants may be entitled.
7. **Indemnification.** Company further understands and agrees that City, as indemnitee, or any officer or employee thereof, shall not be liable for any injury to person or property occasioned by reason of the acts or omissions of

Company, its agents or employees, related to the construction of the Temporary Private Facilities and Company's maintenance activities. Company further agrees to protect and hold the City, its officers and employees, harmless from any and all claims, demands, causes of action, liability or loss of any sort, because of or arising out of acts or omissions of Company, its agents or employees, related to the construction of the Temporary Private Facilities and Company's maintenance activities. The approved improvement securities referred to above shall not be deemed to limit the provisions of this paragraph. Such indemnification and agreement to hold harmless shall extend to damages to adjacent or downstream properties as a result of Company's construction and maintenance activities as provided herein. It shall also extend to damages resulting from erosion or siltation, or modification of the point of discharge as the result of the construction of the Temporary Private Facilities and maintenance and/or siltation removal activities. The approval of plans for the Temporary Private Facilities and any related improvements shall not constitute the assumption by City of any responsibility for such damage or taking, nor shall City, by said approval, be an insurer or surety for the construction of the temporary Private Facilities and any related improvements. The provisions of this paragraph shall become effective upon the execution of this Agreement and shall remain in full force and effect regardless of the City's approval of the Temporary Private Facilities. However, nothing in this paragraph shall apply to any liability or claims arising from the active negligence or willful misconduct of City or its officers or employees.

8. Miscellaneous Provisions.

- 8.1. Entire Agreement. 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 subject matter hereof and any and all other prior or contemporaneous oral or written agreements are hereby superseded. This Agreement may be amended, but only pursuant to a written amendment properly authorized and executed by both parties hereto.
- 8.2. Compliance with Laws. In the performance of its obligations under this Agreement, Company shall comply with any and all applicable federal, state and local laws, regulations, policies, permits and approvals.
- 8.3. Recitals and Exhibits. All Recitals and attached Exhibits referred to herein are hereby incorporated hereunder.
- 8.4. Term. This Agreement shall remain in effect for so long as either party has executory obligations hereunder.

- 8.5. Recording. The parties hereto shall cause this Agreement to be recorded in the Office of the County Recorder of San Diego County.
- 8.6. Assignment. The obligations of the Company under this Agreement shall not be assigned in whole or in part without the express written consent of the City pursuant to Section 10.2.3 of the Development Agreement. City's consent shall not be withheld if the assignment and delegation is to a Merchant Builder (as defined in the Development Agreement) by private agreement and the Company remains obligated to the City.
- 8.7. Authority of Signatories. 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, and that all resolutions and/or other actions have been taken so as to enable it to enter into this Agreement.
- 8.8. Termination. Upon the termination of this Agreement pursuant to applicable provisions hereof, at the request of Company or any successor in interest who owns any portion of the Project encumbered by this Agreement, the City will execute an instrument in recordable form prepared by Company in a form acceptable to the City Attorney which evidences the termination of this Agreement and confirms the release of the Project or applicable portion thereof from the encumbrance of this Agreement.
- 8.9. Attorney's Fees. If either party commences litigation for the judicial interpretation, reformation, enforcement or rescission hereof, the prevailing party shall be entitled to a judgment against the other for an amount equal to reasonable attorney's fees and court costs incurred. The "prevailing party" shall be deemed to be the party who is awarded substantially the relief sought.
- 8.10. Preparation of Agreement. No inference, assumption or presumption shall be drawn from the fact that a party or his/her attorney prepared and/or drafted this Agreement. It shall be conclusively presumed that both parties participated equally in the preparation and/or drafting of this Agreement.
- 8.11. Notices. Unless otherwise provided in this Agreement or by law, any and all notices required or permitted by this Agreement or by law to be served on or delivered to either party shall be in writing and shall be deemed duly served, delivered, and received when

personally delivered to the party to whom it is directed, or in lieu thereof, when three (3) business days have elapsed following deposit in the U. S. Mail, certified or registered mail, return receipt requested, first-class postage pre-paid, addressed to the address indicated in this Agreement. A party may change such address for the purpose of this paragraph by giving written notice of such change to the other party.

CITY OF CHULA VISTA
276 Fourth Avenue
Chula Vista, CA 91910
Attention: City Engineer

COMPANY:
SLF IV/McMillin Millenia JV, LLC
P.O. Box 85104
San Diego, CA 82186-5104
Attention: Todd Galarneau, Senior Vice President

With a copy to:

c/o The Stratford Company
5090 North 40th Street, Suite 260
Phoenix, Arizona 85018
Attn: Diane W. Belcher

- 8.12. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be original but all of which, when taken together shall constitute but one instrument.
- 8.13. Miscellaneous. The above-referenced Recitals are true and correct and are incorporated into the body of this Agreement by this reference. This Agreement supersedes and replaces in its entirety that certain Storm Water Management Facilities Maintenance Agreement with Grant of Access and Covenants (Otay Ranch Eastern Urban Center [EUC]) by and between McMillin Otay Ranch, LLC and the City, Interim Desiltation and Maintenance Agreement 1, and Interim Desiltation and Maintenance Agreement 2.

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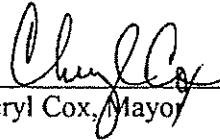
**SIGNATURE PAGE
AMENDED AND RESTATED INTERIM DESILTATION AND MAINTENANCE
AGREEMENT WITH SLF IV/MCMILLIN MILLENIA JV, LLC, FOR THE
EASTERN URBAN CENTER (MILLENIA)**

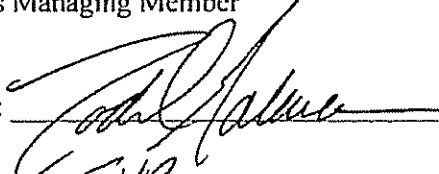
IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the 11th day of December, 2012 (the "Effective Date").

COMPANY:
SLF IV/McMillin Millenia JV, LLC
a Delaware Limited Liability Company

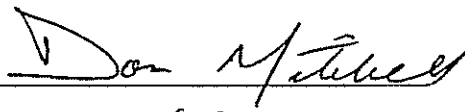
CITY OF CHULA VISTA

By: The Corky McMillin Real Estate Group, LLC
a Delaware Limited Liability Company
Its Managing Member

By: 
Cheryl Cox, Mayor


By: 
Its: SVP

APPROVED AS TO FORM:

By: 
Its: SVP

By: 
For Glen R. Googins, City Attorney

ATTEST:

By: 
Donna Norris, City Clerk

*(Notary to attach acknowledgement for each signature)
(Corporate Authority required for each signatory)*

Attachments:

- Exhibit A: Legal Description of the Property
- Exhibit B: Condition No. 52 of Tentative Map from CCV Resolution No. 2009-225
- Exhibit C: Inspection, Operation, and Maintenance Plan (IOMP)
- Exhibit D: Security Requirements

**CALIFORNIA ALL PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

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STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On November 27, 2012, before me, Ann M. Futo, Notary Public, personally appeared Todd Galarnau and Don Mitchell, 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

Ann M Futo

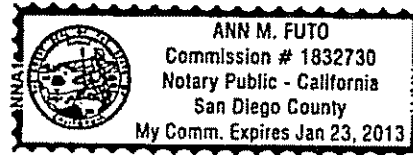


Exhibit "A"

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Legal Description

Real property in the City of Chula Vista, County of San Diego, State of California, described as follows:

PARCEL A: (643-060-18-00)

PARCEL 3 OF PARCEL MAP NO. 18481, IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 31, 2000 AS INSTRUMENT NO. 2000-283684 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THE LAND DESCRIBED IN THAT CERTAIN IRREVOCABLE OFFER OF DEDICATION OF FEE INTEREST RECORDED MAY 22, 2003 AS INSTRUMENT NO. 2003-0604602 AND ACCEPTED BY THAT CERTAIN ACCEPTANCE OF IRREVOCABLE OFFER OF DEDICATION OF FEE INTEREST RECORDED MAY 22, 2003 AS INSTRUMENT NO. 2003-0604603 AND CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED MAY 22, 2003 AS INSTRUMENT NO. 2003-0604607 ALL OF OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA.

PARCEL B: (APN: 643-060-24)

THAT PORTION OF LAND CONVEYED TO THE STATE OF CALIFORNIA RECORDED ON MAY 22, 2003 AS INSTRUMENT NO. 2003-0604607 LYING EASTERLY AND NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A 2" IRON PIPE WITH DISC STAMPED "R.C.E 22606" MARKING THE NORTHEAST CORNER OF LOT 23 OF RANCHO OTAY, AS SHOWN ON RECORD OF SURVEY NO. 16504, RECORDED MARCH 9TH, 2000, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID PIPE BEARING NORTH 71°57'57" EAST 2640.41 FEET FROM A 2" IRON PIPE WITH DISC STAMPED "L.S. 5284" MARKING THE SOUTHWEST CORNER OF LOT 10 OF MAP NO. 14432, RECORDED AUGUST 30TH, 2002, IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 23 SOUTH 71°57'57" WEST 22.30 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 63°24'16" WEST 138.24 FEET TO THE BEGINNING OF A 550.03 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°39'08" A DISTANCE OF 217.46 FEET TO THE BEGINNING OF A NON-TANGENT 433.15 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL BEARING TO SAID POINT BEARS SOUTH 44°15'53" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°00'16" A DISTANCE OF 15.15 FEET; THENCE NON-TANGENT TO SAID CURVE NORTH 60°45'28" WEST 30.31 FEET TO THE BEGINNING OF A NON-TANGENT 320.41 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL BEARING TO SAID POINT BEARS SOUTH 46°22'51" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°43'46" A DISTANCE OF 54.41 FEET TO THE BEGINNING OF A 3606.39 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°30'08" A DISTANCE OF 157.51 FEET TO THE BEGINNING OF A 1913.84 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°38'03" A DISTANCE OF 188.19

FEET TO THE BEGINNING OF A 6998.01 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°24'52" A DISTANCE OF 172.745 FEET TO THE BEGINNING OF A NON-TANGENT 3624.21 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 65°27'01" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°14'26" A DISTANCE OF 204.98 FEET; THENCE NORTH 21°18'33" WEST 204.19 FEET; THENCE NORTH 17°29'08" WEST 83.50 FEET TO THE BEGINNING OF A 1407.94 FOOT RADIUS CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°37'48" A DISTANCE OF 212.07 FEET; THENCE NORTH 08°37'59" WEST 232.59 FEET TO THE POINT OF TERMINUS; THENCE NORTH 09°11'35" WEST 169.93 FEET; THENCE NORTH 08°22'34" WEST 56.24 FEET; THENCE NORTH 09°10'03" WEST 77.41 FEET TO THE BEGINNING OF A 137.26 FOOT RADIUS CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°32'35" A DISTANCE OF 32.44 FEET; THENCE NORTH 04°22'32" EAST 131.80 FEET TO THE BEGINNING OF A 284.84 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°16'08" A DISTANCE OF 70.93 FEET TO THE BEGINNING OF A 121.88 FOOT RADIUS REVERSE CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°00'59" A DISTANCE OF 40.45 FEET; THENCE NORTH 09°07'23" EAST 160.03 FEET TO THE BEGINNING OF A 911.54 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°39'39" A DISTANCE OF 233.25 FEET TO THE BEGINNING OF A 2155.33 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°35'30" A DISTANCE OF 172.73 FEET; THENCE NORTH 28°22'31" EAST 120.32 FEET; THENCE NORTH 26°32'21" EAST 169.27 FEET TO THE BEGINNING OF A 593.50 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33°33'34" A DISTANCE OF 347.62 FEET TO THE BEGINNING OF A 1262.42 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°09'41" A DISTANCE OF 157.79 FEET TO THE BEGINNING OF A 36.88 FOOT RADIUS REVERSE CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°39'38" A DISTANCE OF 58.35 FEET; THENCE NON-TANGENT TO SAID CURVE NORTH 08°18'56" WEST 45.88 FEET; THENCE ALONG A RADIAL BEARING NORTH 08°10'13" WEST 65.00 FEET TO A POINT ON A 3700.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, SAID POINT BEING ON THE SOUTHERLY LINE OF LAND DESCRIBED AS PARCEL 32019-1 CONVEYED TO THE STATE OF CALIFORNIA RECORDED ON MAY 22, 2003 AS INSTRUMENT NO. 2003-0604607; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID STATE LAND THROUGH A CENTRAL ANGLE OF 03°48'57" A DISTANCE OF 246.42 FEET TO THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE IN SAID STATE LAND BEARING NORTH 04°21'16" WEST 95.92 FEET.

THE ABOVE DESCRIBED LAND WAS CONVEYED TO MCMILLIN OTAY RANCH, L.L.C. A DELAWARE LIMITED LIABILITY COMPANY IN GRANT DEED RECORDED AUGUST 6, 2010 AS INSTRUMENT NO. 2010-0403982 OF OFFICIAL RECORDS.

PARCEL C: (APN: 643-060-23)

THAT PORTION OF LAND CONVEYED TO THE STATE OF CALIFORNIA RECORDED ON MAY 22, 2003 AS INSTRUMENT NO. 2003-0604607 LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A 2" IRON PIPE WITH DISC STAMPED "R.C.E 22606" MARKING THE NORTHEAST CORNER OF LOT 23 OF RANCHO OTAY, AS SHOWN ON RECORD OF SURVEY NO. 16504, RECORDED MARCH 9TH, 2000, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID PIPE BEARING NORTH 71°57'57" EAST 2640.41 FEET FROM A 2" IRON PIPE WITH DISC STAMPED "L.S. 5284" MARKING THE SOUTHWEST CORNER OF LOT 10 OF MAP NO. 14432, RECORDED AUGUST 30TH, 2002, IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 23 SOUTH 71°57'57" WEST 22.30 FEET; THENCE NORTH 63°24'16" WEST 138.24 FEET TO THE BEGINNING OF A 550.03 FOOT RADIUS CURVE CONCAVE, NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°39'08" A DISTANCE OF 217.46 FEET TO THE BEGINNING OF A NON-TANGENT 433.15 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL BEARING TO SAID POINT BEARS SOUTH 44°15'53" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°00'16" A DISTANCE OF 15.15 FEET; THENCE NON-TANGENT TO SAID CURVE NORTH 60°45'28" WEST 30.31 FEET TO THE BEGINNING OF A NON-TANGENT 320.41 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL BEARING TO SAID POINT BEARS SOUTH 46°22'51" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°43'46" A DISTANCE OF 54.41 FEET TO THE BEGINNING OF A 3606.39 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°30'08" A DISTANCE OF 157.51 FEET TO THE BEGINNING OF A 1913.84 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°38'03" A DISTANCE OF 188.19 FEET TO THE BEGINNING OF A 6998.01 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°24'52" A DISTANCE OF 172.743 FEET TO THE BEGINNING OF A NON-TANGENT 3624.21 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 65°27'01" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°14'26" A DISTANCE OF 204.98 FEET; THENCE NORTH 21°18'33" WEST 204.19 FEET; THENCE NORTH 17°29'08" WEST 83.50 FEET TO THE BEGINNING OF A 1407.94 FOOT RADIUS CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°37'48" A DISTANCE OF 212.07 FEET; THENCE NORTH 08°37'59" WEST 232.59 FEET; THENCE NORTH 09°11'35" WEST 169.93 FEET; THENCE NORTH 08°22'34" WEST 56.24 FEET; THENCE NORTH 09°10'03" WEST 77.41 FEET TO THE BEGINNING OF A 137.26 FOOT RADIUS CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°32'35" A DISTANCE OF 32.44 FEET; THENCE NORTH 04°22'32" EAST 131.80 FEET TO THE BEGINNING OF A 284.84 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°16'08" A DISTANCE OF 70.93 FEET TO THE BEGINNING OF A 121.88 FOOT RADIUS REVERSE CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°00'59" A DISTANCE OF 40.45 FEET; THENCE NORTH 09°07'23" EAST 160.03 FEET TO THE BEGINNING OF A 911.54 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°39'39" A DISTANCE OF 233.25 FEET TO THE BEGINNING OF A 2155.33 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°35'30" A DISTANCE OF 172.73 FEET; THENCE NORTH 28°22'31" EAST 120.32 FEET; THENCE NORTH 26°32'21" EAST 169.27 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE BEGINNING OF A 593.50 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33°33'34" A DISTANCE OF 347.62 FEET TO THE BEGINNING OF A 1262.42 FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID

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CURVE THROUGH A CENTRAL ANGLE OF 07°09'41" A DISTANCE OF 157.79 FEET TO THE BEGINNING OF A 36.88 FOOT RADIUS REVERSE CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°39'38" A DISTANCE OF 58.35 FEET; THENCE NON-TANGENT TO SAID CURVE NORTH 08°18'56" WEST 45.88 FEET; THENCE ALONG A RADIAL BEARING NORTH 08°10'13" WEST 65.00 FEET TO A POINT ON A 3700.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY. SAID POINT BEING THE POINT OF TERMINUS AND BEING ON THE SOUTHERLY LINE OF LAND DESCRIBED AS PARCEL J2019-1 CONVEYED TO THE STATE OF CALIFORNIA RECORDED ON MAY 22, 2003 AS INSTRUMENT NO. 2003-0604607; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID STATE LAND THROUGH A CENTRAL ANGLE OF 03°48'57" A DISTANCE OF 246.42 FEET TO THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE IN SAID STATE LAND BEARING NORTH 04°21'16" WEST 95.92 FEET.

THE ABOVE DESCRIBED LAND WAS CONVEYED TO MCMILLIN OTAY RANCH, L.L.C. A DELAWARE LIMITED LIABILITY COMPANY, IN GRANT DEED RECORDED AUGUST 6, 2010 AS INSTRUMENT NO. 2010-0403982 OF OFFICIAL RECORDS.

52. Prior to approval of each grading permit for the project, Applicant shall:

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- a. Prepare a maintenance program of all the proposed drainage and water quality treatment facilities, the channel or basin, including but not limited to naturalized channels down stream of the project, wetlands restoration areas, detention basins, and water quality treatment facilities. The maintenance program shall include, but not be limited to: a) a manual describing the operation and maintenance of the drainage and water quality treatment facilities; b) an estimate of the cost of such operation and maintenance activities; and c) a funding mechanism and schedule for financing the maintenance program. Said maintenance program shall be subject to approval by the City Engineer. The Applicant shall be responsible for obtaining all required approvals of the maintenance program from all applicable federal and state agencies.
- b. Demonstrate compliance with Section 1803 of the California Building Code (CBC).
- c. Enter into an agreement with the City of Chula Vista, wherein Applicant agrees to:
 - i) Provide for the maintenance of all proposed drainage and water quality treatment facilities attributable to the project, and provide security, satisfactory to the City Engineer, guaranteeing the performance of the aforementioned maintenance and siltation removal obligations. This obligation may be transferred to another property owner if approved by the City. Treatment facilities including but not limited to naturalized drainage channels, wetlands restoration areas as allowed by the resource agencies, detention basins, and water quality treatment facilities shall be maintained by the Applicant until occurrence of the latter of the following: (a) maintenance of such facilities is assumed by the City, open space district or Master Homeowner's Association, or; (b) the City determines all erosion protection plantings are adequately established.
 - ii) ~~Provide for the removal of siltation, attributable to the Project, from all proposed drainage and water quality treatment facilities, including but not limited to naturalized drainage channels, wetlands restoration areas, detention basins, and water quality treatment facilities until the Project is completed and all erosion protection planting is adequately established as determined by the City Engineer.~~

- iii) Provide for the removal of any siltation resulting from all proposed drainage and water quality treatment facilities, including but not limited to the naturalized drainage channel, wetlands restoration areas as allowed by the resource agencies, detention basins, and water quality treatment facilities, attributable to the Project, for a minimum period of five years after maintenance of such facility is accepted by the City or an appropriate Maintenance District.

- iv) Applicant shall provide security, satisfactory to the City Engineer, guaranteeing the performance of the aforementioned maintenance and siltation removal obligations.

**SEDIMENT BASIN OPERATION AND
MAINTENANCE PLAN**

PHASE 1 OF MILLENIA

JULY 25, 2012

Prepared For:

SLE IV / McMillin Millenia JV, LLC
P.O. Box 85104
San Diego, CA 92186-5104

Prepared By:



PROJECT DESIGN CONSULTANTS

Planning | Landscape Architecture | Engineering | Survey

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San Diego, CA 92101
619.235.6471 Tel
619.234.0349 Fax

Job No. 3366.40



Debby Reccc, PE RCE 56148
Registration Expires 12/31/12

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Figure 1: Project Vicinity Map 1

APPENDICES

- 1. Mass Grading Plans
- 2. Operation and Maintenance Procedures & Checklists

1. INTRODUCTION AND DESCRIPTION

This Operations and Maintenance (O&M) manual was prepared as a maintenance guide for the proposed temporary sediment basins for the first phase of the Millenia project. The project was formerly known as the Eastern Urban Center (EUC) development and is located east of SR-125, south of Birch Road, and west of Eastlake Parkway in the City of Chula Vista, California.

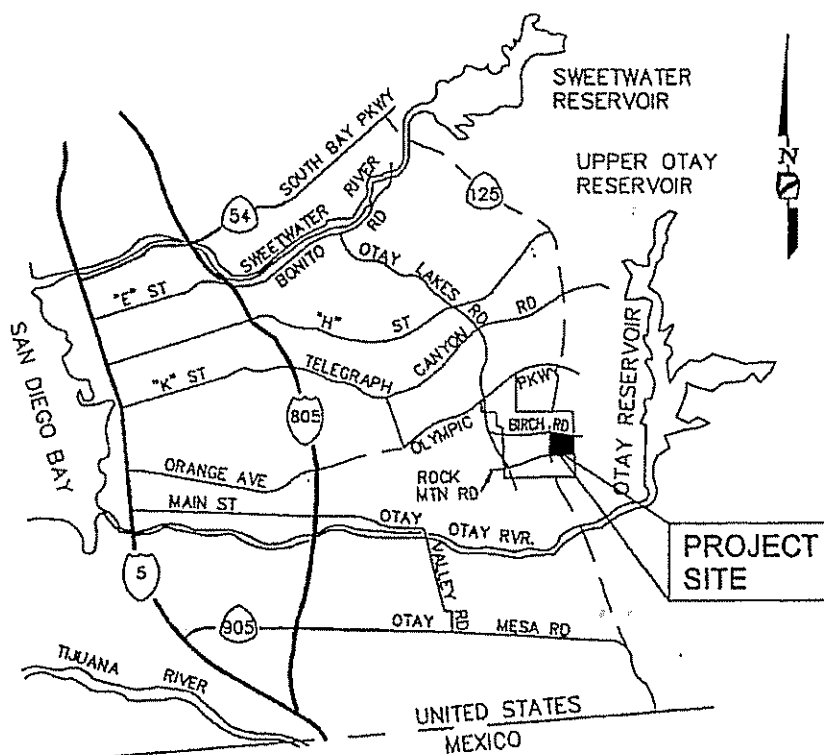


Figure 1: Project Vicinity Map

Phase 1 of the Millenia project consists of constructing a portion of the overall Millenia project per the mass grading operation shown on City of Chula Vista Drawing 10044, as modified by Construction Change 'B'. (Construction Change 'B' is the construction change that was processed with the City for the Phase 1 grading). The Phase 1 project includes the grading of

streets and sheet graded pads, and construction of the back-bone storm drain system for Final Map Lots 2, 3, 4, C, 5, 6, 7, 8, 9, and H, and a portion of Final Map Lot 1. (Note that the Final Map shows different lot numbers for some of the pads compared to the original lot numbers per the VTM). Future phases will develop the balance of the Millenia property.

2. OVERVIEW OF BASINS

This report supports the maintenance requirements for the proposed temporary sediment basins for the Phase I condition. The proposed temporary sediment basins will be graded as part of the Phase I grading and will be temporary in nature to serve the interim conditions prior to full project build out. Refer to Appendix I for an exhibit showing the location of the temporary sediment basins. The three types of basins included in this O&M manual include the following:

- 1) Temporary desilting basins to capture sediment from proposed building pad areas. (These include Basins 1-2, 2-1, 2-2, 2-3, 3-1, 4-1, C-1, 5-1, 6-1, 7-1, 8-1, H-1, and 9-1). The basin on each mass-graded lot will be privately maintained. When any of the mass-graded pads are developed with future development, the temporary desilting basin(s) on that lot will be removed because the basin(s) will no longer be necessary.
- 2) Previously constructed temporary desilting basin to remain for the Phase I condition. (Basin 1-1 is the main existing basin that will remain to accommodate the Phase I condition and it is located northwest of the future A Street / future Bob Fletcher Way intersection). This basin was previously built per Drawing 03070-10 and will be reconfigured to remain for the Phase I condition. The basin will be privately maintained until a future phase of the Millenia project constructs Bob Fletcher Way and completes the fill grading for Lot 1. At that time, Basin 1-1 will be removed.
- 3) Proposed temporary detention/hydromodification basin near Future Street M. The M Street Basin is not a desilting basin but will function as a detention facility for the south-central basin. The basin will detain 50-year flows to the canyon south of the intersection of C Street and M Street to less than pre-project conditions. The basin will be a combined detention/hydromodification basin. The basin will be privately maintained until the lot immediately northwest of C Street / M Street intersection is developed.

In addition to maintenance of temporary basins, maintenance for a series of ditches that will be used to help direct runoff to the basins is also included in this report. Temporary storm drain outfalls will also be privately maintained.

3. MAINTENANCE PROGRAM

The following section describes the maintenance procedures for the sediment basin and ditch maintenance and other temporary facilities. It is understood that maintenance will be required until the responsibility for maintenance has been assumed by another owner of part or all of the Property or the City determines that the Temporary Private Facilities are no longer needed because they have been superseded by new private or public facilities approved by the City Engineer. The designated responsible party listed below shall be solely responsible for the maintenance and operation of the sediment basins and any liability resulting there from.

Designated Responsible Party: SLF IV / McMillin Millenia JV, LLC, ATTN: Todd Galameau

Inspection Frequency: The basins should be inspected prior to a 40% or greater probability of precipitation, at 24 hour intervals during extended rain events and after the conclusion of rain events greater than 0.5-inches of rainfall or greater during normal business hours defined as Monday through Friday from 7:00 a.m. to 3:30 p.m. At a minimum, basins should be inspected at least twice per year. The inspection checklist in Appendix 2 should be used to document the items inspected. The most important item to inspect is the outlet structure to ensure it is unobstructed.

Maintenance Activities: See below. Refer to maintenance checklists in Appendix 2 for maintenance task descriptions.

Sediment Basins:

- Examine basin banks for seepage and structural soundness
- Check outlet structures and spillways for any damage or obstructions. Repair damage and remove obstructions as needed.
- Check inlet and outlet area for erosion and stabilize if required.
- Remove accumulated sediment in the bottom of the basin when sediment reaches one half the designated sediment storage volume. The sediment should be managed properly and placed to preclude erosion, or disposed of accordingly. Options include: incorporating sediment into earthwork on the site; or off-site export/disposal at an

appropriate location (e.g., sediment characterization and disposal to an appropriate landfill).

- If basin has not drained within 96 hours after accumulation, remove standing water.
- If the basin does not drain properly due to storms that are more frequent or larger than the design storm or other unforeseen site conditions, dewatering should be conducted in accordance with appropriate dewatering procedures.
- Remove excessive emergent and perimeter vegetation as needed or as advised by local or state vector control agencies.
- Inspect and maintain chain link fence as required to preclude entrance to the fenced basins.

Concrete or Earthen Ditches:

- Remove silt, vegetation and debris from all ditches as necessary to maintain design capacity of the ditches.
- Inspect outlet locations into the sediment basins to check for undermining and/or headcutting. Repair and/or regrade as necessary.

Temporary Storm Drain Outfalls:

- Remove silt, vegetation, and debris from all outfalls as necessary to maintain an unobstructed outlet.
- Repair and/or replace riprap as necessary.

Temporary Parkway Swale:

- The master developer (SLF IV / McMillin Millenia JV, LLC) will construct a temporary parkway swale behind the proposed curb and gutter. The drainage within each temporary parkway swale will be collected in a private temporary drain and discharged into the public storm drain system. Future owners of the developable lots will be responsible for removal of the temporary parkway swale and construction of the parkway improvements, including sidewalks. The purpose of the temporary parkway swale is to protect the public bioretention areas within the streets from construction runoff as the landscaping on the slopes gets established.
- Maintenance activities include removal of silt and debris and vegetation management on an ongoing basis. Temporary erosion and sediment control devices (such as gravel bag check dams) will be replaced as needed.
- Repair and/or regrade as necessary.
- Inspect for signs of burrowing animals such as gophers.

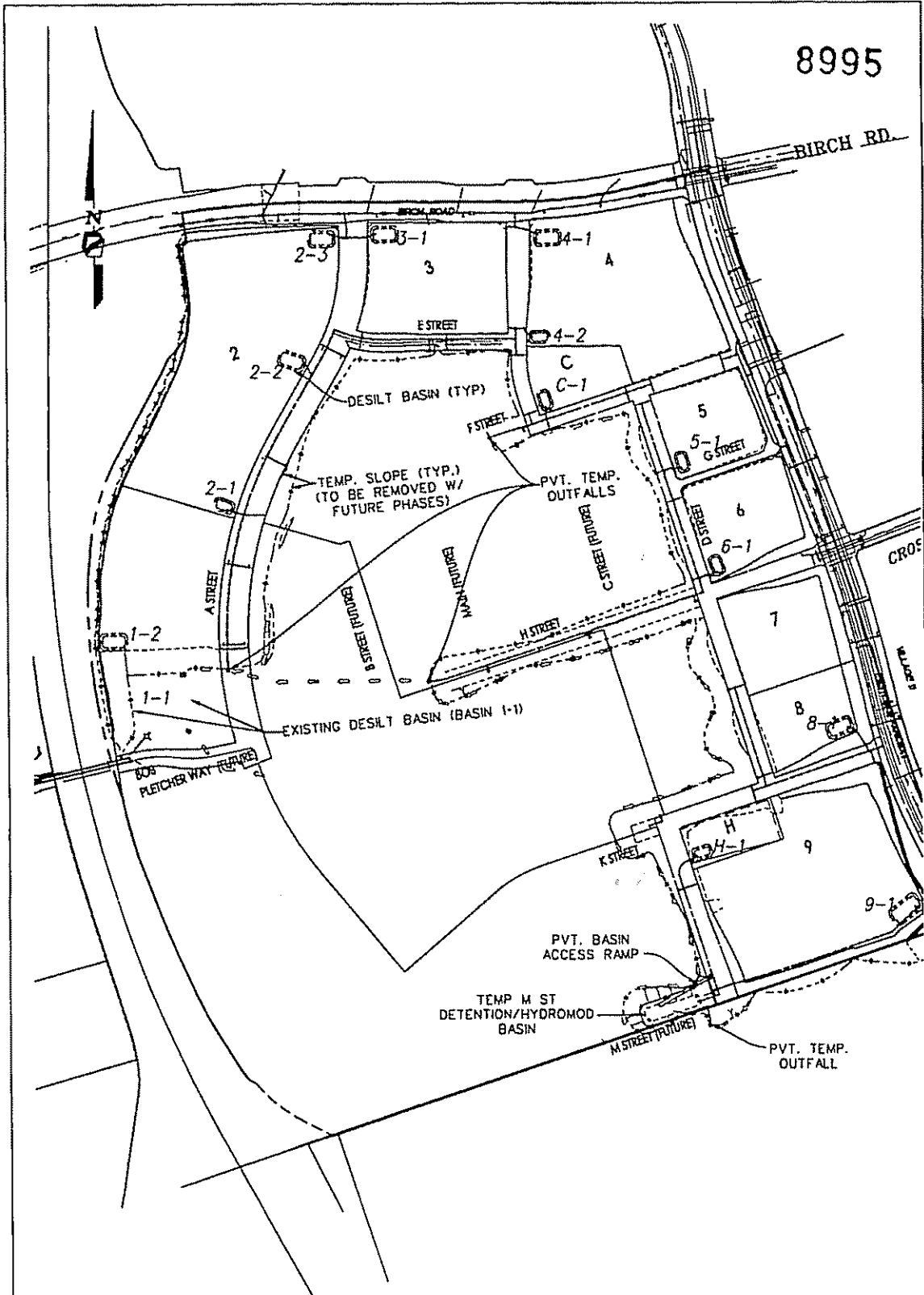
4. CONCLUSIONS

Routine maintenance and inspections are important to ensure proper performance of the proposed sediment basins in the EUC. The Designated Responsible Party shall inspect the proposed basins at a minimum of twice per year, near the beginning and end of the wet season (generally circa September 1st and before May 1st of each year). Retention of records of inspections and maintenance activities is required by the State Construction General Permit. Inspection and maintenance checklists can be found in Appendix 2.

APPENDIX 1

Temporary Sediment Basin Exhibit

8995



TEMPORARY DESILTING BASIN KEY MAP (LOT #-BASIN#)
BASIN NAME = (LOT #-BASIN#)

SCALE: 1"=350'

NOTE: STORM DRAIN INFRASTRUCTURE COLORED IN RED SIGNIFIES TEMPORARY FACILITIES THAT WILL BE REMOVED WITH FUTURE PHASES OF THE MILLENNIA PROJECT.

TRUE COPY CERTIFICATION

(Government Code 27361.7)

San Diego

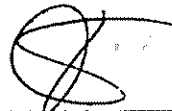
Place of Execution

I certify under penalty of perjury that this material is a true copy of the original material contained in this document.

BIRCH ROAD
EASTLAKE PARKWAY

1, 25, 13

Date



Signature of Declarant

Chalino Sanchez

Type or Print Name

APPENDIX 2

Operation and Maintenance Procedures & Checklists

Checklist for Routine Sediment Basin Maintenance:

- ORIGINAL - MAKE COPIES. KEEP PAST RECORDS FOR REFERENCE -

Basin : _____		
Inspection Date: _____ Time: _____ Inspected By: _____		
Item to Inspect & Task Description	Condition	Comments/Corrective Action
Trash and Debris Removal -Inspect for presence of debris. -Inspect basin for presence of trash. -Inspect basin outlets and pipes for clogging & remove any obstructions.	<input type="checkbox"/> Satisfactory	
	<input type="checkbox"/> Needs Attention	
	<input type="checkbox"/> Not Inspected	
Erosion Repair -Make sure there are no bare soil areas that have eroded -Inspect riprap pad for damage and for presence of trash or signs of erosion.	<input type="checkbox"/> Satisfactory	
	<input type="checkbox"/> Needs Attention	
	<input type="checkbox"/> Not Inspected	
Standing Water -Inspect for mosquitoes, -Determine if any areas of basin do not have positive drainage to outlet. -Check for signs of standing water	<input type="checkbox"/> Satisfactory	
	<input type="checkbox"/> Needs Attention	
	<input type="checkbox"/> Not Inspected	
Sediment Management -Inspect level of sediment accumulation in basin with a tape measurer from the outlet. -If major cleaning is required, schedule maintenance.	<input type="checkbox"/> Satisfactory	
	<input type="checkbox"/> Needs Attention	
	<input type="checkbox"/> Not Inspected	
Concrete/Earthen Ditch Maintenance -Clean out sediment and debris from ditches to maintain capacity. -Inspect outlets of ditches to sediment basins.	<input type="checkbox"/> Satisfactory	
	<input type="checkbox"/> Needs Attention	
	<input type="checkbox"/> Not Inspected	

Additional Comments:

EXHIBIT "D"**SECURITY REQUIREMENTS**

Maintenance Obligations per Section 3 of this Agreement.

- Cash Deposit

Cash deposit equivalent to one (1) year of maintenance cost in the amount of \$58,800.00 (Fifty Eight Thousand Eight Hundred Dollars and No/100) to be submitted at least thirty (30) days before the filing of the City of Chula Vista Form 5512 for Approval of Commencement of Work

