



# City of Chula Vista

## Staff Report

---

**File#:** 16-0098, **Item#:** 4.

---

RESOLUTION NO. 2016-067 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A SECOND AMENDMENT TO THE AGREEMENT REGARDING CONSTRUCTION OF PARKS IN MILLENIA

### **RECOMMENDED ACTION**

Council adopt the resolution.

### **SUMMARY**

The 2009 City Council approval of the Eastern Urban Center project (now called Millenia) included an Agreement for the Master Developer to construct parks ("Parks Agreement"). Recorded on October 28, 2009, the Parks Agreement addresses the design of the Millenia parks, assuming funding generated by the maximum number of residential units which could be constructed in Millenia (i.e., 2,983 multi-family residential units) but does not include any provisions in the eventuality that fewer than the maximum number of units is constructed (e.g., 2,550 units).

In 2015, the City Council approved the first amendment to the Parks Agreement to provide flexibility for payment of in-lieu fees for affordable housing projects in Millenia (Resolution No. 2015-089).

The Master Developer, SLF IV-Millenia, LLC., has requested a second amendment to the Parks Agreement which would include provisions for how the park program funding would be adjusted if fewer than 2,983 multi-family residential units are constructed in the project, while at the same time maintaining the same number of park acres and level of amenities reflected in the current Millenia parks program. The proposed amendment also includes provisions to offset State prevailing wage obligations that were not anticipated in the original agreement.

Lastly, the amendment removes the requirement to enter into a three-party agreement for the design of each park in Millenia while maintaining the requirement of the Master Developer to seek the City's approval for the selection of Landscape Architecture firms designing the parks, as well as the approval of the design documents for each park. The advantage of this method would be a streamlining effect on staff time, allowing the parks to be delivered more quickly than under the current arrangement.

### **ENVIRONMENTAL REVIEW**

The project was adequately covered in previously adopted Final Second Tier Environmental Impact Report, EIR 07-01.

### **Environmental Determination**

The Development Services Director has determined that the project was adequately covered in previously adopted Final Second Tier Environmental Impact Report, EIR 07-01. Therefore, no

additional environmental review is required.

## **BOARD/COMMISSION RECOMMENDATION**

Not Applicable

## **DISCUSSION**

### **Background**

On September 15, 2009, in accordance with City Council Resolution 2009-226, the City Council approved the Parks Agreement (Attachment 2) between the owners of the Millenia project and the City to guide the construction of parks in Millenia. The Parks Agreement includes thresholds for the completion of the Millenia Parks and establishes the parameters for the design, development, and delivery of parks and recreation facilities for Millenia. The funding identified in the Parks Agreement relies on the maximum number of 2,983 multi-family residential units being constructed in the project.

The City's parks standard is three acres per 1,000 residents, which equates to 23.36 acres of park obligation for the project at full buildout of 2,983 multi-family residential units. Per the Parks Agreement, Millenia will satisfy the required parkland obligation by providing the following:

**TABLE 1 (ORIGINAL MILLENIA PARKS AGREEMENT)**

<b><u>PARK PROGRAM ELEMENT</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>ACRES</u></b>
Parks	Six parks (five public; one private)	12.88
Urban Recreational Facilities	Jogging path and Office Plazas	2.75
Equivalency	Park acreage converted to development dollars	5.88
In Lieu Fees	Fees paid to City and used at City's discretion	<u>1.85</u>
	<b>TOTAL</b>	<b>23.36</b>

The Millenia parks program delivers parks by relying on an "equivalency" program converting physical park acres to in-lieu dollars, which are then used to improve the parks at a higher level of amenitization (Attachment 4, Parks Agreement, Section 2.3(b)). A good example is Stylus Park, which is now nearing completion. That park features a unique mix of uses including large open plaza areas, a tot lot, an interactive water feature, a custom restroom, dog parks for both large and small dogs, bocce ball courts with outdoor seating and passive-use areas. According to current Parkland Acquisition and Development (PAD) fee rates, it costs \$509,440 to develop an acre of parkland. Due to the equivalency program authorized in the original Parks Agreement, rather than having an improvement budget of only \$509,440 an acre, Stylus Park's improvement budget is approximately \$1.1 million per acre.

The Millenia parks program has been crafted to deliver six urban parks and other urban recreational facilities which would provide unique recreational opportunities for the residents and visitors of Millenia. The mixed use nature of the Project, and the distribution of recreational amenities throughout all the Districts are designed to ensure the parks are used by residents and visitors of Millenia.

The parks program has also been designed to maximize pedestrian access. All the parks will be linked by a system of park promenades, jogging paths, wide sidewalks and the Regional Trail, all of

which link to the pedestrian circulation system in the surrounding villages, thus facilitating pedestrian access to residents from outside of Millenia. Programmed activities to be planned by the Master Developer, and later the Millenia Community Association would provide an additional draw for residents both within and outside of Millenia.

### **Proposed Amendment**

The Master Developer has proposed a second amendment to the Parks Agreement (Attachment 3) to:

1) Specify how the park program would be adjusted in the event fewer residential units were to be built in the project while maintaining, to the extent possible, the level of park amenities proposed in the parks agreement; and

2) Increase the funding of park improvement per acre to offset the impact of the recent State prevailing wage legislation requiring all projects with a public end-use, including parks, to be bid at prevailing wage rates resulting in a park construction increase of approximately 20-25% or more, depending on current construction bids. The legislation of Senate Bill 7 went into effect in January 2015.

Currently, Parks Agreement Section 2.5, includes provisions for how the park program funding would be adjusted if more than 2,983 multi-family residential units are constructed in the project but it does not indicate how the park program would be adjusted if less than 2,983 units are constructed. Therefore, the amendment proposes establishing a baseline of 2,550 units and recalibrating the funding levels based on that lower unit count, while also including provisions for what would happen in the event more than 2,550 units are realized.

The second Millenia park (Strata Park) is under design and the park's development budget is being established. The timing of this amendment is intended to avoid a circumstance in which the later parks would be less amenitized because the dollars are not available as a result of a reduced number of units in the project, or due to higher costs resulting from prevailing wage legislation at the State level.

### **Reallocation of Dollars**

The table below shows that based on current park fee rates, a 2,983 unit project would generate approximately \$40 million in park fees to purchase land and provide improvements in the parks. With a 2,550 unit project, the overall park budget would be reduced by \$5.8 million, to \$34.2 million. This shows that the lower unit count would significantly reduce the equivalency dollars which are available to upgrade the amenities in the Millenia parks.

The goal of this amendment is to ensure that even with the reduced level of funding generated by the 2,550 units, that the same number of park acres is provided, and improved at the maximum level of amenitization financially possible. This is accomplished by reallocating dollars within the various program element categories as follows:

**TABLE 2 (ORIGINAL VS. PROPOSED)**

<b><u>PROGRAM ELEMENT</u></b>	<b><u>2,983 UNITS</u></b>		<b><u>2,550 UNITS</u></b>	
	<b><u>ACRES</u></b>	<b><u>VALUE</u></b>	<b><u>ACRES</u></b>	<b><u>VALUE</u></b>

Six Parks	12.88	\$22,071,992	12.88	\$22,071,992
Urban Recreational Facilities	2.75	4,712,576	0.00(b)	0
Equivalency	5.88	10,076,344	7.09	12,149,877
In Lieu Fees	1.85	3,170,278	0.00	0
<b>TOTAL</b>	<b>23.36</b>	<b>\$40,031,190</b>	<b>19.97</b>	<b>\$34,221,869</b>

**Notes:**

- a. All dollar values reflect the current park fee rate of \$1,713,664 per acre, updated annually on October 1<sup>st</sup> and subject to escalation per Parks Agreement.
- b. The Master Developer would provide 1.43 acres of urban recreational facilities but no park credit or dollars from the program go to fund their construction.

**Urban Recreational Facilities**--Per the approved Parks Agreement, Section 2.2, the Master Developer shall provide 2.75 acres of Urban and Recreational Facilities in Districts 1, 4 and 8 and would receive parkland dedication and improvement credit. If 2,550 units are built, the proposed amendment would require the Master Developer to provide 1.43 acres of urban recreational facilities at no cost to the City and the dollars currently allocated to provide the urban facilities would be reallocated to improve the planned parks. The Master Developer would be eligible for future credit should additional dollars be realized in the form of a fee increase greater than the Construction Cost Index (CCI) annual increase, or if more than 2,550 units are built in the project.

**In-lieu fees**-- Parks Agreement Section 2.4 indicates that the Master Developer shall pay the City the in-lieu fees equivalent to 1.85 acres of parkland acquisition and development in three payments. The first payment of the in-lieu fees, \$1,056,726.72 representing 0.63 acres of park obligation, was made to the City in September 2013. The proposed amendment would require the City to advance those in-lieu fee dollars back into the Millenia Parks equation to assist funding the Millenia parks. The Agreement also makes it possible for the City to be reimbursed for what it advances should additional dollars be realized by a fee increase or more than 2,550 units being developed. If approved, this modification would result in in-lieu fees contributed by the Project being spent to develop parks within the Project area.

**State's Prevailing Wage Legislation**--The proposed amendment would also increase the per-acre funding allocated to the parks to account for the increased park construction costs resulting from the State's recent prevailing wage legislation. The amendment would increase the per-acre improvement budget for each park by approximately 25% or more from the current \$1.1 million per acre to \$1.4 million per acre, assuming the City Council amends the Parkland Acquisition and Development (PAD Fee) program to reflect prevailing wage development costs. Should the City Council not amend the PAD fee to reflect higher development costs, no increase to the dollars available for these parks would be imposed by this action.

**Chelsea Corporation PAD fee deferral**--The City approved the first amendment to the Parks Agreement on April 22, 2015 (Attachment 4) to amend Section 2.4 by adding a new paragraph (c) stating that the City and the Master Developer may agree to defer in-lieu fees for projects that the City determines qualify as affordable housing within the EUC. Therefore, the City and Chelsea Corporation entered into an agreement in which \$1,225,065 would be deferred for approximately 15 years. During that period, the City plans to advance community park development funds contributed by nearby developments to construct the last park in Millenia until the PAD funds are received from

---

**File#: 16-0098, Item#: 4.**

---

Chelsea Corporation. This advance is not anticipated to impact the timing of constructing community parks. However, should such an impact occur, staff would recommend the City consider finding alternative funds to bridge this gap on a short-term basis, until the Chelsea deferred fees are collected.

The last park to be built in Millenia is the Town Square (P3), a 2.28-acre park and paseo within the Main Street District, which will be connected to other Millenia parks and to destinations throughout Otay Ranch by the Regional Trail connecting to Otay Ranch Village 7 to the west via Bob Pletcher Way, the western Millenia gateway emerging from the Route 125 underpass, and to Otay Ranch Village 11 to the east via the planned pedestrian bridge over Eastlake Parkway. Construction of the Town Square is required to commence prior to occupancy of the first building on Tentative Map (TM) lots 17 or 18 within the Main Street District, approximately in year 2020.

The Main Street District is planned to have widened pedestrian corridors with café zones creating a central activated spine in Millenia. The Main Street District is planned to be the most active and urban component of the project, a mixed-use, pedestrian environment that will combine office and residential uses over ground floor retail, entertainment, restaurants, bars and public spaces accommodating community events, street fairs, and farmer's markets.

The Main Street District's Town Square Park (P3) is anticipated to draw from a broad geographic area, due to both its connectivity and unique nature. The funds to be temporarily advanced from other planned community park uses would be appropriate for long-term application to this park. However, the City intends for this advance to be temporary in nature, providing an opportunity to expend the Chelsea funds (once collected) on a park that directly serves the fee payers.

**Three-Party Agreement**--The current Parks Agreement, Section 2.1(a)(i), would be revised to remove the requirement to enter into a three-party agreement for the design of each park while maintaining the requirement of the Master Developer to seek the City's approval for the selection of the Landscape Architect designing the parks in Millenia, as well as design and preparation of construction documents to the satisfaction of the Director of Development Services. This would streamline the process to allow parks to be delivered more quickly than under the current arrangement.

The end result of this amendment is to reflect the possibility that a fewer number of units could be developed in the Millenia project and to reallocate those reduced park dollars resulting from the lower park obligation to developing the six parks so they can be developed in a manner which is consistent with the adopted Sectional Planning Area (SPA) plan. While the Millenia park obligation would be reduced, the proposed amendment would still deliver the same acres of parks (12.88 acres) in the project, and at the same level of amenitization as is being provided under the approved agreement.

Therefore, staff recommends that Council approve the second amendment to the Millenia Parks Agreement and adopt the Resolution.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 500 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of

---

**File#: 16-0098, Item#: 4.**

---

interest under California Code of Regulations Title 2, section 18702.2(a)(11), for purposes of the Political Reform Act (Cal. Gov't Code §87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community.

The intent of this amendment is to provide support for the Millenia project as it develops into a thriving and safe destination with strong connections to the surrounding communities while providing recreation for its residents.

### **CURRENT YEAR FISCAL IMPACT**

The proposed amendment does not appropriate funds. The previously approved second amendment assumes the temporary use of community park funds contributed by neighboring projects to address short-term cash flow impacts of the affordable housing fee deferral. The 1.85 acres equivalent of in-lieu fees that would have otherwise been available for off-site park development will now be dedicated to Millenia parks. There are provisions to restore this funding if sufficient residential units occur.

### **ONGOING FISCAL IMPACT**

There will be no ongoing fiscal impact to the City from this amendment.

### **ATTACHMENTS**

1. Project Location Map
2. Approved Millenia Parks Agreement
3. Proposed Second Amendment to the Parks Agreement
4. Approved First Amendment to the Parks Agreement
5. Resolution

*Staff Contact: Patricia Ferman, Project Manager, Development Services Department*