

When Recorded Return To:

Hurricane City Recorder
147 N 870 W
Hurricane, Utah 84737

Space above for County Recorder's Use

PARCEL I.D. #: See Attached

**FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT
FOR PAINTED HILLS COLLINA TINTA**

THIS FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT FOR PAINTED HILLS COLLINA TINTA ("Amendment") is made to be effective as of May __, 2022 (the "Effective Date"), by and among WPP Hurricane Land, LLC, a Utah limited liability company ("Developer"), RR Penga, LLC, a Utah limited liability company ("Penga"), Interstate Homes LLC, a Utah limited liability company ("Interstate"), and the City of Hurricane, a municipal corporation and political subdivision of the State of Utah ("City") (individually a "Party" and collectively the "Parties").

RECITALS

A. Summit-Hurricane Development, Inc, a Nevada corporation ("Summit"), Toquerville Enterprises, a Utah limited liability company ("Toquerville") and City entered into that certain Development Agreement for Painted Hills Collina Tinta dated September 7, 2006, and recorded in the Official Records of Washington County, Utah on October 24, 2006, as Document No. 20060049271 (the "Agreement") for the development of approximately 560 acres of land located in Hurricane, Utah (the "Project") as more particularly described on Exhibit "A" attached hereto.

B. Summit, Toquerville and City entered into the First Amendment to the Agreement, dated January 2, 2008, and recorded in the Official Records of Washington County, Utah on February 6, 2008, as Document No. 20080004968.

C. Summit, Toquerville and City entered into the Second Amendment to the Agreement, dated May 22, 2008, and recorded in the Official Records of Washington County, Utah on May 28, 2008, as Document No.20080021728.

D. Penga became a successor owner and developer on July 19, 2017 of the proposed phases known as Grande Canary, Mira Rosa 1, Mira Rosa II in addition to the parcels to be dedicated as streets known as Rlington Parkway and 1760 West. Penga received a Sheriff's Deed and Bill of Sale dated July 20, 2017, which is recorded in the Official Records of Washington County, Utah on July 21, 2017 as Document No. 20170029809.

E. Summit, Toquerville, City and Penga entered into the Third Amendment to the Agreement, dated June 7, 2018, and recorded in the Official Records of Washington County, Utah on June 25, 2018, as Document No. 20180026189.

F. Interstate became a successor owner and developer upon acquisition from RR Penga of Mira Rosa 1, to be known as the Ridge at Zion Vista ("The Ridge") and Rlington Parkway adjacent to Mira Rosa 1 as recorded in the Official Records of Washington County, Utah on February 10, 2021, as Document No. 20210009584.

G. Developer became a successor owner and developer upon acquisition of multiple properties in the Project on September 17, 2021.

H. Developer, City, Penga and Interstate entered into the Fourth Amendment to the Agreement, dated _____, 2021, and recorded in the Official Records of Washington County, Utah on _____, 2021, as Document No. _____.

I. The Parties desire to again amend the Agreement to update the general development plan of the Development, including the elimination of requirement for a golf course and certain open space requirements.

J. The Parties desire to amend the Agreement by adding the language set forth below.

AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Amendment to Agreement. This Amendment amends the Agreement. In the event of any conflict or inconsistency between the terms of this Amendment and the terms of the Agreement, the terms of this Amendment shall control. Unless otherwise indicated herein, all capitalized terms used in the Amendment shall have definitions assigned to them in the Agreement.

2. Recital K. Section K of the Development Agreement shall be amended to replace the reference to “forty percent (40%)” with “twenty percent (20%).”

3. Golf Course. The parties agree that all references in the Development Agreement to “Golf Course” and “Golf Course Company” shall be stricken and of no further force and effect. The Parties acknowledge and agree that there shall be no requirement to build a Golf Course as part of the Project. Any requirement relating to the Golf Course or obligations of the Golf Course Company or Golf Course Owner shall also be stricken and of no further force and effect.

4. Preliminary Site Plan Update. The Site Plan attached hereto as Exhibit “B-1” shall replace the preliminary site plan attached as Exhibit “B” to the Agreement.

- (a) Density. The Project has been approved for a total of 1886 units, 247 of which may be used as short-term rentals. This density is given in part in recognition of dedicated open space, parks and trails within the Project. The development of the Project shall substantially comply with the attached Site Plan unless otherwise amended by the terms of the Agreement, as amended.
- (b) Roadway and Connectivity. The preliminary site plan approval does not represent final or official approval of any roadway alignments. All roadways and connectivity within the Project shall meet Hurricane City Standards, including connectivity for local roadways, block lengths, approved cross-sections, and Master Plan roadway alignments and design. Alternate cross-section and roadway alignments may be proposed by the Developer as part of preliminary site plans or preliminary plats with the purpose of enhancing the Project, landscaping, or pedestrian facilities.
- (c) Recreation Resort Units. The Developer has been approved for 247 units that may be used in the areas designated for short-term rental units as shown as the crosshatched areas on Exhibit “B-1” attached hereto. Areas actually containing short-term rental units shall comply with Hurricane Recreation Resort standards for amenities and parking.
- (d) Public Trails. Trails located within Master Plan Roadways shall comply with Hurricane’s Active Transportation Master Plan standards and cross-sections. All trails shown as asphalt trails on Exhibit “B-1” attached hereto shall be paved with asphalt and be a minimum of ten feet (10’) wide. The remaining trails in the Development may be primitive trails. Other pedestrian walkways and sidewalks shall be added to meet Hurricane pedestrian connectivity standards.
- (e) Commercial Uses. Commercial uses shall be restricted to permitted and conditional uses within the Neighborhood Commercial Zone.

5. Gated Communities. Section 4 of the Second Amendment to the Agreement is hereby revoked and replaced with the following:

- 4. Gated Communities. The Parties agree that when Developer applies for a preliminary site plan or a preliminary plat, as applicable, the Hurricane

City Council may, after a recommendation from the Hurricane City Planning Commission, allow gated communities in areas with a Recreation Resort designation as shown on Exhibit "B-1". If any gated community is allowed under this section, the standards for any such gated community shall be determined during the approval process.

6. Section 2.4.3. The following sentence is hereby added to the end of Section 2.4.3:

Notwithstanding the foregoing, a residential facility for elderly persons or a residential facility for persons with a disability (both as defined in Hurricane City Code Title 10, Chapter 46, Section 3) to be developed in the Project shall not be required to be in the locations shown for Commercial Uses on Exhibit "B-1", but may be in other locations of the Project as reasonably determined by Developer and Owner. The square footages of such facilities shall not count toward the limit for Commercial Uses set forth in Section 2.4.3, but, if residential facilities for elderly persons or residential facilities for persons with a disability are constructed outside of the locations shown for Commercial Uses and contain more than fifty (50) residential rooms, then, for any residential room at such facilities in excess of fifty (50) residential rooms, such excess rooms shall count toward the total density allowed in the Project at a rate of five (5) rooms for one (1) residential unit. Any such facilities shall comply with Section 10-46-5, Development Standards for Residential Facilities for Elderly Persons and Persons with Disabilities.

7. Section 2.4.5(b). Section 2.4.5(b) is hereby revoked and deleted in its entirety and replaced with the following:

(b) the proposed transfer does not assign any density to park or open spaces shown on the Preliminary Site Plan, unless such park or open space to which density transfers is replaced with park or open spaces of approximately equivalent size in a different location on the Site Plan of the Project;

8. Section 3.2.2. Section 3.2.2 is hereby revoked and deleted in its entirety and replaced with the following:

3.2.2 Project and System Improvements – Cost Sharing.
Developer shall bear the entire cost of constructing Project Improvements needed to service the Project. Developer shall also bear the cost of constructing System Improvements required as a result of the Project but shall be entitled to be reimbursed for the cost of such System Improvements except for Developer's Proportionate Share of System Improvements costs by requesting reimbursement of the cost of constructing eligible public facility improvements pursuant to Hurricane City Code Title 9, Chapter 6.

9. Sections 3.2.3, 3.2.6 and 3.2.9. Sections 3.2.3, 3.2.6, and 3.2.9 are hereby revoked and deleted in their entirety.

10. Section 4.1.1.2. Section 4.1.1.2 is hereby revoked and deleted in its entirety and not replaced.

11. Section 4.6.1.1. Section 4.6.1.1 is hereby deleted in its entirety and replaced with the following:

4.6.1.1 Park Sites, Trails, Ponds and Open Areas. Owners and Developer have provided for approximately one hundred (100) acres of open areas within the Project, including, but not limited to, forty (40) acres of recreational open space, Sullivan's Knoll, public trails and multiple park areas of varying sizes shown on Exhibit "B-1" attached hereto. The placement of the park areas shown on Exhibit "B-1" are approximate and subject to relocation by Developer.

12. Section 4.6.1.6. Section 4.6.1.6 is hereby revoked and deleted in its entirety and not replaced.

13. Section 4.7.1.2. Section 4.7.1.2 is hereby revoked and deleted in its entirety and not replaced.

14. Execution and Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall together constitute and be one and the same document.

15. No Other Changes. Except as herein expressly provided, the Agreement remains in all other respects unmodified and in full force and effect.

IN WITNESS HEREOF, the Parties have executed this FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT FOR PAINTED HILLS COLLINA TINTA as of the date first above written.

(Signatures on Next Page)

Signature Page

DEVELOPER:

WPP Hurricane Land, LLC, a Utah
limited liability company

By: [Signature]

Print Name: Austin Overman

Title: Development Manager

INTERSTATE:

Interstate Homes, LLC, a Utah limited
liability company

By: [Signature]

Print Name: Donald N Stratton

Title: President

PENGA:

RR Penga, LLC, a Utah limited
liability company

By: [Signature]

Print Name: Cross Stokes

Title: MCNCing Member

CITY:

Hurricane City, a municipal
corporation and political subdivision
of the State of Utah

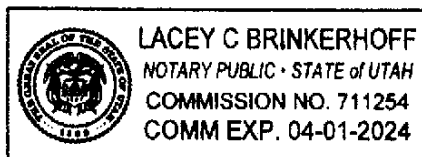
By: [Signature]

Print Name: Nanette Billings

Title: Mayor of Hurricane City

STATE OF)
 : ss.
COUNTY OF)

On the 27 day of July, 2022 personally appeared before me Lacey C Brinkerhoff and Austin Oredman who, being by me duly sworn, did say that he/she/they is/are the Development Manager of WPP Hurricane Land, LLC, a Utah limited liability company, and said person acknowledged to that said company executed the same.



NOTARY PUBLIC
Residing at: _____

My Commission Expires:

04-01-2024

STATE OF Utah)
 : ss.
COUNTY OF Washington)

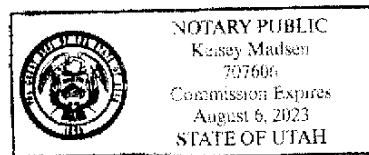
On the 26th day of July, 2022 personally appeared before me Ross Stokes, who, being by me duly sworn, did say that he/she is the managing member of RR Penga, LLC., a Utah limited liability company, and said person acknowledged to that said company executed the same.

NOTARY PUBLIC

Residing at: St. George, UT

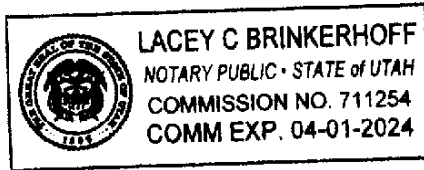
My Commission Expires:

08/06/2023



STATE OF)
 : SS.
COUNTY OF)

On the 27 day of July, 2022 personally appeared before me Lacey C Brinkerhoff, who, being by me duly sworn, did say that he/she is the Donald N Stetten Interstate Homes LLC, a Utah limited liability company, and said person acknowledged to that said company executed the same.

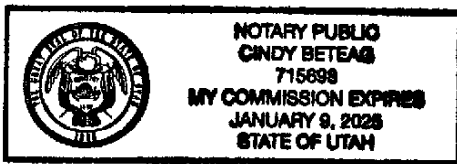


[Signature]
NOTARY PUBLIC
Residing at: Washington, Utah

My Commission Expires:
04-01-2024

STATE OF)
 : SS.
COUNTY OF)

On the 28 day of July, 2022 personally appeared before me Nanette Billings, who, being by me duly sworn, did say that he/she is the Mayor of Hurricane City, a municipal corporation and political subdivision of the State of Utah, and said person acknowledged to that said company executed the same.



Cindy Beteag
NOTARY PUBLIC
Residing at: Hurricane, UT

My Commission Expires:
1/9/25

Exhibit "A"

Legal Description:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 13 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE ALONG THE SECTION LINE SOUTH 89°43'42"EAST 1,688.58 FEET; THENCE SOUTH 00°01'00"WEST 208.71 FEET; THENCE SOUTH 89°43'42"EAST 208.71 FEET; THENCE NORTH 00°01'00"EAST 208.71 FEET TO THE NORTH SECTION OF SAID SECTION 4; THENCE ALONG SAID SECTION LINE SOUTH 89°43'42"EAST 65.85 FEET; THENCE SOUTH 00°00'05"EAST 405.02 FEET; THENCE NORTH 89°59'55"EAST 236.70 FEET; THENCE SOUTH 32°44'48"EAST 802.71 FEET; THENCE SOUTH 00°13'28" WEST 1,718.18 FEET; THENCE SOUTH 89°52'53" EAST 2,392.27 FEET; THENCE SOUTH 00°17'42" WEST 560.86 FEET; THENCE SOUTH 89°50'57" EAST 247.50 FEET TO THE EAST SECTION LINE OF SAID SECTION 4; THENCE ALONG SAID SECTION LINE SOUTH 00°17'41" WEST 757.13 FEET NORTH 89°50'57" WEST 1319.08 FEET; THENCE SOUTH 00°15'32" WEST 1318.25 FEET TO THE SOUTH SECTION LINE OF SAID SECTION 4; THENCE ALONG THE SECTION LINE NORTH 89°49'00" WEST 1318.50 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 4; THENCE ALONG THE SECTION LINE NORTH 89°49'00" WEST 2,636.30 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 4; THENCE ALONG THE SECTION LINE NORTH 00°14'51" EAST 1,316.02 FEET; THENCE NORTH 89°45'29" EAST 1,321.80 FEET; THENCE NORTH 00°14'51" EAST 1,317.75 FEET; THENCE NORTH 00°11'38" EAST 2,800.60 FEET TO THE NORTH SECTION LINE OF SECTION 5, TOWNSHIP 42 SOUTH, RANGE 13 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE ALONG SAID SECTION LINE SOUTH 89°46'40"EAST 1320.18 FEET TO THE POINT OF BEGINNING. CONTAINS 24,379,912 SQUARE FEET OR 559.68 ACRES

Parcel ID#'s:

H-3-2-4-132
H-3-2-4-133
H-3-2-4-139
H-3-2-4-44021
H-3-2-4-1310
H-3-2-4-1311
H-3-2-4-1312
H-3-2-4-146
H-3-2-4-147
H-3-2-4-214

Exhibit "B-1"

