



AFTER RECORDING, MAIL TO:
KARI JIMENEZ
IVINS CITY
55 NORTH MAIN
IVINS, UT 84738

APN: I-SB-19-G; I-SB-19-K; I-SB-19-F; I-SB-19-D; I-SB-19-E & I-SB-19-H

First Amendment to the
Development Agreement for the Palisades and
Palisades Park Subdivision Project
Ivins City, Washington County, Utah

This Amendment ("Amendment") is made and entered into this 29th day of July, 2013, by and between Hart of Dixie, L.C., a Utah limited company (referred to herein as the "Original Developer"), and Gardner-Plumb, L.C., a Utah limited liability company (collectively referred to herein as the "New Developer") and Ivins City, a municipality and political subdivision of the State of Utah (referred to herein as "Ivins City" or "Ivins") by and through its City Council.

This Amendment amends the Development Agreement for the Palisades and Palisades Park Subdivision project dated September 30, 2004, and recorded in the Washington County Recorder's Office, entry number 00904213, ("Original Agreement").

Recitals

- A. The Original Agreement applied to approximately 108.464 acres of real property located in Ivins City, Washington County, Utah, as reflected in the Original Agreement (referred to as the "Original Project").
- B. This Amendment will only apply to that portion of the Original Project as shown in Exhibit "A" which is attached hereto and incorporated herein by this reference. The approximate size of the property is 60.77 acres (referred to as the "Amended Project"); the Amended Project is also described by the following Parcel Numbers on file with the Washington County Recorder's Office:

- I-SB-19-G Owner: Gardner-Plumb, L.C.
- I-SB-19-K Owner: Gardner-Plumb, L.C.
- I-SB-19-F Owner: Gardner-Plumb, L.C.
- I-SB-19-D Owner: Gardner-Plumb, L.C.
- I-SB-19-E Owner: Gardner-Plumb, L.C.
- I-SB-19-H Owner: Gardner-Plumb, L.C.

- C. The other portions of the Original Project have either been fully developed pursuant to

the Original Agreement or deeded to Ivins City, Utah, and are not a part of this Amendment. Specifically these portions are Palisades Phase 1 and Palisades Phase 2 as recorded in the Washington County Recorder's office, and Parcel Number I-SB-19-J now owned by Ivins City.

- D. All other provisions of the Original Agreement which are not specifically and expressly altered by this Amendment shall remain in full force and effect.

Now, therefore, in consideration of the mutual covenants, conditions, and consideration as more fully set forth herein, the parties hereby agree as follows.

Agreement

1. Reaffirm: This Amendment confirms and republishes the Original Agreement dated September 30, 2004, and reaffirms it in its entirety, unless expressly amended by this Amendment.
2. Recitals and Findings. The foregoing recitals are incorporated herein by reference. The City finds that this Amendment, the Original Agreement and the City Ordinances shall result in meaningful planning and economic benefits to and shall further the health, safety, and welfare of the City and its residents. The City is entering into and approving this Amendment pursuant to its authority under the Land Use Act and City ordinances, policies, and regulations and has made certain determinations with respect to both the Original Project and Amended Project and, in the exercise of its legislative discretion, has elected to approve this Amendment as an agreement, compromise, and settlement as to the matters covered herein.
3. Project and Preliminary Plan. The Original Preliminary Plat for the Original Project was approved by the City Planning Commission on December 2, 2003, and by the City Council on December 18, 2003. The New Developer submitted to the City a Revised Preliminary Plat for the Amended Project, a copy of which is attached hereto as Exhibit "A". The Revised Preliminary Plat was approved by the City Planning Commission on April 16, 2013, and by the City Council on May 2, 2013.
4. Name of Project. The name of the Amended Project is "Palisades at Snow Canyon". To distinguish between the different phases of the Amended Project, the term "Phase" with a numerical number identifying the phase will be added to each phase. For example, phase one will be known as "Palisades at Snow Canyon Phase 1".
5. Release of Hart of Dixie. The City and the New Developer agree to release Hart of Dixie, L.C. from the Original Development Agreement as to the Amended Project. This release does not apply to any other agreement or Contracts the City or the New Developer may have with Hart of Dixie, L.C. This release does not release Hart of Dixie, L.C. from the Original Development Agreement for The Palisades Phase 1 or The Palisades Phase 2 developments.

6. Preliminary Plan Expiration Extension. In accordance with Section 15.04.305 of the Ivins Subdivision Ordinance and section 3 of the Original Agreement, the Revised Preliminary Plan shall expire ten (10) years following the recording date of this document, unless extended by the City Council.
7. Emergency Access. Ivins City and New Developer agree to cooperate in providing a second emergency access to the southern portion of Amended Project. Ivins City agrees to provide an access from the southern entrance to the project through park property. As determined by the City, the access may be through a parking lot, roadway, or access road. New Developer agrees to pay for half the cost to build an access drive up to 625 linear feet. New Developer agrees to provide and construct an emergency access on the northern portion of the Amended Project into the existing Palisades Phase 1 Subdivision.
8. Trail. New Developer agrees to construct a trail along the east property line of the Amended Project. The trail shall follow the Ivins City Specifications for trails. Once constructed, New Developer will dedicate the trail to the City. The City agrees to continue the trail through the future city park to the existing trail along Center Street.
9. Drainage. New Developer agrees to design and construct a storm drain system such that the storm drain inlet located on the east side of Crest View Circle may connect into the new storm drain system. The City will be responsible for connecting the existing inlet in Crest View Circle to the new storm drain system. With the first phase of the Amended Project, New Developer will construct a drain channel for the City to direct the runoff from the inlet in Crest View Circle into the channel. New Developer also agrees to construct a grate inlet and the associated piping near the northeast corner of the Palisades Phase 1 Final Plat.

The storm drain system will connect into the existing city storm drain system located in Center Street. The City agrees that New Developer may construct a trunk line along the east property line of the future city park. New Developer will pay for the cost of installing the storm drain trunk line in the future city park.

10. Standards. New Developer agrees to install all utilities, roadways, and other improvements to the current City standards and specifications.
11. Assignment. Neither this Amendment nor any of the provisions, terms, or conditions hereof can be assigned to any other party, individual, or entity without assigning the rights as well as the responsibilities under this Amendment and without the prior written consent of Ivins City, which consent shall not be unreasonably withheld. The Parties may assign their rights among each other.
12. No Joint Venture, Partnership, or Third Party Rights. It is not intended by this Amendment to, and nothing contained in this Amendment shall, create any partnership, joint venture or other arrangement between New Developer and the City. No term or provision of this Amendment is intended to, or shall be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

13. Binding Effect, The provisions of this Amendment shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.
14. Integration, This Amendment contains the entire agreement with respect to the subject matter hereof and integrates all prior conversations, discussions, or understanding of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.
15. Severability, If any part or provision of this Amendment shall be determined to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Amendment except that specific provision determined to be unconstitutional, invalid, or unenforceable. If any condition, covenant, or other provision of this Amendment shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
16. Previous Agreements, Except as otherwise expressly provided herein, this Amendment is the exclusive agreement of the parties and replaces and supersedes all prior agreements between the parties pertaining to this Project.
17. Miscellaneous,
 - a. Legal Fees. Should any party default in any of the covenants or agreements herein contained, that defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Amendment or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation of the defaulting party to pay costs and expenses includes, without limitation, all costs and expenses, including a reasonable attorney's fee, incurred on appeal and in bankruptcy proceedings.
 - b. Survival. It is expressly agreed that the terms, covenants, and conditions of this Amendment shall survive any legal act or conveyance required under this Amendment.
 - c. Headings, The section and other headings contained in this Amendment are for reference purposes only and shall not in any way affect the meaning or interpretation of this Amendment.
 - d. Plat notes and preliminary provisions of this Amendment, as determined by the City, shall be included as notes on any Final Plat of the Amended Project, as well as incorporated into the Restrictive Covenants and Homeowners Association corporate documents applicable to the Amended Project.

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In WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written,

IVINS CITY:

By: *Chris Hart*
Chris Hart, Mayor



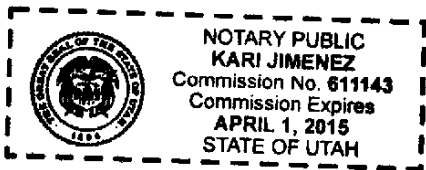
Attest: *Kari Jimenez*
Kari Jimenez, City Recorder

HART OF DIXIE, L.C.:

By: *Elizabeth Hart*
Its: *Manager*

STATE OF UTAH)
) :SS
COUNTY OF WASHINGTON)

On the *29th* day of *July* 2013, *Elizabeth Hart* personally appeared before me, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he~~(s)~~he is the Manager of Hart of Dixie, L.C. who did duly acknowledge to me that the foregoing document was entered into on behalf of such entity by authority of Its Operating Agreement.



Kari Jimenez
NOTARY PUBLIC


GARDNER-PLUMB, L.C.:

By: Walter Plumb

Its: Manager

STATE OF UTAH)
)
) :ss
COUNTY OF WASHINGTON)

On the 19 day of Aug, 2013, Walter Plumb personally appeared before me whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the Manager of Gardner-Plumb, L.C. and who did duly acknowledge to me that the foregoing document was entered into on behalf of such entity by authority of its Operating Agreement.

 ZACHARY D. RENSTROM
NOTARY PUBLIC - STATE OF UTAH
1871 N SERENITY DR.
ST. GEORGE, UT 84770
COMM-EXP 09/27/2014
NOTARY PUBLIC

ZDR



BUSH & GUDGELL, INC.
Engineers • Planners • Surveyors
205 East Tabernacle
St. George, Utah 84770
(435) 673-2337 (ph.)
(435) 673-3161 (fax)

3/21/13

Legal Description

The Palisades at Snow Canyon Prepared for Walter Plumb

Section 32, Township 41 South, Range 16 West, SLB&M

BEGINNING AT THE EAST 1/4 CORNER OF SECTION 32, TOWNSHIP 41 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE S 1°18'27" W 1881.96 FEET ALONG THE EAST SECTION LINE TO A POINT BEING N 1°18'27" E 748.94 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 32, POINT ALSO BEING THE NORTHEAST CORNER OF A PARCEL MORE PARTICULARLY DESCRIBED IN DOCUMENT NO. 20110009313, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL THE FOLLOWING TEN (10) COURSES, (1) N 89°45'29" W 101.62 FEET; (2) THENCE S 81°41'02" W 86.56 FEET; (3) THENCE N 89°45'29" W 172.58 FEET; (4) THENCE N 83°56'46" W 86.97 FEET; (5) THENCE N 79°05'09" W 94.20 FEET; (6) THENCE S 53°00'33" W 54.73 FEET; (7) THENCE SOUTH 125.51 FEET; (8) THENCE N 89°45'35" W 256.73 FEET; (9) THENCE N 77°23'10" W 169.35 FEET; (10) THENCE S 87°26'15" W 170.92 FEET TO A POINT ON THE EASTERLY BOUNDARY OF PALISADES PHASE 1, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE ALONG SAID BOUNDARY THE FOLLOWING SIXTY THREE (63) COURSES, (1) THENCE N 89°45'29" W 44.10 FEET; (2) THENCE N 0°14'31" E 8.00 FEET; (3) THENCE N 89°45'29" W 23.10 FEET; (4) THENCE N 62°56'14" W 27.74 FEET; (5) THENCE N 26°40'21" E 72.75 FEET; (6) THENCE N 20°54'12" W 46.94 FEET; (7) THENCE N 0°14'31" E 30.97 FEET; (8) THENCE N 88°44'23" W 3.22 FEET; (9) THENCE N 1°15'37" E 36.77 FEET; (10) THENCE N 88°44'23" W 4.00 FEET; (11) THENCE N 1°15'37" E 56.16 FEET; (12) THENCE N 88°44'23" W 4.00 FEET; (13) THENCE N 1°15'37" E 25.60 FEET; (14) THENCE S 88°44'23" E 4.00 FEET; (15) THENCE N 1°15'37" E 35.58 FEET; (16) THENCE N 88°44'23" W 4.00 FEET; (17) THENCE N 1°15'37" E 38.81 FEET; (18) THENCE S 88°44'23" E 4.00 FEET; (19) THENCE N 1°15'37" E 29.665 FEET; (20) THENCE S 88°44'23" E 4.00 FEET; (21) THENCE N 1°15'37" E 47.67 FEET; (22) THENCE N 88°44'23" W 4.00 FEET; (23) THENCE N 1°15'37" E 22.665 FEET; (24) THENCE S 88°44'23" E 4.00 FEET; (25) THENCE N 1°15'37" E 29.97 FEET; (26) THENCE N 88°44'23" W 4.00 FEET; (27) THENCE N 1°15'37" E 70.03 FEET; (28) THENCE N 88°44'23" W 4.00 FEET; (29) THENCE N 1°15'37" E 23.96 FEET; (30) THENCE S 88°44'23" E 4.00 FEET; (31) THENCE N 1°15'37" E 10.53 FEET; (32) THENCE S 88°44'23" E 4.00 FEET; (33) THENCE N 1°15'37" E 39.69 FEET; (34) THENCE N 88°44'23" W 8.00 FEET; (35) THENCE N 1°15'37" E 45.40 FEET; (36) THENCE N 89°14'39" W 122.57 FEET TO A POINT OF THE EASTERLY RIGHT OF WAY OF PARK AVENUE. POINT ALSO BEING ON A 30.00 FOOT RADIUS CURVE TO THE RIGHT, WITH A RADIUS WHICH BEARS S 46°58'19" E; (37) THENCE NORTHEASTERLY 1.72 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 3°16'55" TO A POINT ON A 55.00 FOOT RADIUS REVERSE CURVE TO THE LEFT; (38) THENCE NORTHWESTERLY 95.40 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 99°22'56"; (39) THENCE N 84°34'08" E 57.51 FEET; (40) THENCE N 1°15'37" E 59.52 FEET; (41) THENCE N 88°44'23" W 4.00 FEET; (42) THENCE N 1°15'37" E 79.75 FEET; (43) THENCE N 88°44'23" W 8.00 FEET; (44) THENCE N 1°15'37" E 41.365 FEET; (45) THENCE N 88°44'23" W 4.38 FEET; (46) THENCE N 1°15'37" E 37.84 FEET; (47) THENCE N 88°44'23" W 8.00 FEET; (48) THENCE N 1°15'37" E 83.88 FEET; (49) THENCE N 88°42'25" W 11.875 FEET; (50) THENCE N 1°15'37" E 74.86 FEET; (51) THENCE N 88°44'23" W 8.00 FEET; (52) THENCE N 1°15'37" E 99.79 FEET; (53) THENCE

S 88°44'23" E 8.00 FEET; (53) THENCE N 1°15'37" E 60.00 FEET; (54) THENCE N 88°44'23" W 4.00 FEET; (55) THENCE N 1°15'37" E 66.01 FEET; (56) THENCE N 88°44'23" W 27.87 FEET; (57) THENCE N 1°06'49" E 84.465 FEET; (58) THENCE N 88°53'11" W 13.57 FEET; (59) THENCE N 1°08'49" E 63.42 FEET; (60) THENCE N 88°51'11" W 8.00 FEET; (61) THENCE N 1°11'55" E 162.46 FEET TO THE NORTHEAST CORNER OF SAID SUBDIVISION; THENCE N 1°11'55" E 344.44 FEET ALONG THE EXTENTION OF THE SAID EASTERLY BOUNDARY TO A POINT ON THE QUARTER SECTION LINE OF SAID SECTION 32; THENCE S 88°45'24" E 1426.27 FEET TO THE POINT OF BEGINNING.

CONTAINS 60.85 ACRES MORE OR LESS

