

**FIRST AMENDMENT TO THE
LA ENTRADA DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO THE LA ENTRADA DEVELOPMENT AGREEMENT (“First Amendment”) is made and entered into as of _____, 2019 (“Agreement Date”) by and between the CITY OF COACHELLA, a municipal corporation organized and existing under the laws of the State of California (“City”), and PSAV LLC, a Delaware limited liability company and LLSE Holdings LLC, a New Jersey limited liability company (collectively “Owner”). City and Owner are referred to individually as “Party,” and collectively as the “Parties.”

RECITALS

A. On July 25, 2014, the Parties made and entered into a Development Agreement (the “La Entrada Development Agreement”) for the construction of 7,800 single and multi-family units, commercial, retail and offices uses and community/public facilities, on approximately 2,200 acres located immediately south of and adjacent to I-10 and east of the Coachella Branch of the All American Canal.

B. On May 22, 2019, the Owner requested an amendment to the La Entrada Development Agreement for an additional five (5) years to commence construction on the project as set forth in Section 13.1.

C. The City is willing to grant Owner an additional five (5) years to commence construction on the project so long as there is an increase in affordable housing units, the Development Agreement Fee is updated to reflect the City’s current municipal code, and transfer, sale, and assignment fees are increased by five (5) percent.

Except as specifically set forth herein, all other terms and conditions of the La Entrada Development Agreement shall remain in full force and effect.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, City and Owner agree as follows:

AGREEMENT

1. The following language of Paragraph 3.36 is amended:

“FIA” is defined in Section 13.8.2.

shall be amended to read:

“FIA” is defined in Section 13.9.2.

2. The following language of Paragraph 5 is amended:

Landowner Representations and Warranties. The Landowner is PSAV, LLC and LLSE Holdings, LLC. For purposes of this Agreement, the Landowner’s office address is: c/o New West Communities, 5055 West Patrick Lane #101, Las Vegas, Nevada 89118.

shall be amended to read:

Landowner Representations and Warranties. The Landowner is PSAV, LLC and LLSE Holdings, LLC. For purposes of this Agreement, the Landowner's office address is: c/o New West Communities, 5055 West Patrick Lane #105, Las Vegas, Nevada 89118.

3. The following language of Paragraph 13.1 is amended:

Construction Milestones. In order to preserve and maintain the provisions of this Agreement, Landowner must commence Construction on the Project within five (5) years from the Effective Date of the Agreement. For purposes of this section, "Construction" is defined as any one or more of the following: rough grading, finished grading, utility construction, infrastructure construction, and any other physical preparations or building construction either on-site or off-site for the Project.

Notwithstanding any other provisions of this Agreement, Landowner shall be required to perform the following additional construction obligations:

- a. A minimum of eight hundred (800) Units shall receive a certificate of occupancy within the first ten (10) years of the Effective Date.
- b. A minimum of fifty thousand (50,000) square feet of commercial or retail uses, including at least one grocery store, shall be constructed and occupied within the first ten (10) years of the Effective Date.
- c. A minimum of 140 hotel or motel rooms shall be constructed and available for reservations within the first fifteen (15) years of the Effective Date.

Fiscal Reviews of the Project will be performed as further discussed in Section 13.11. If the Fiscal Reviews determine the results of the FIA show a net annual deficit, Master Developer Funding may be required as discussed in Section 13.11.

shall be amended to read:

Construction Milestones. In order to preserve and maintain the provisions of this Agreement, Landowner must commence Construction on the Project within ten (10) years from the Effective Date of the Agreement. Landowner must have an approved Master Tentative and approved and recorded Master Final Map for that phase prior to the start of any Construction. For purposes of this section, "Construction" is defined as any one or more of the following: rough grading, finished grading, utility construction, infrastructure construction, and any other physical preparations or building construction either on-site or off-site for the Project.

Notwithstanding any other provisions of this Agreement, Landowner shall be required to perform the following additional construction obligations:

- a. A minimum of eight hundred (800) Units shall receive a certificate of occupancy within the first fifteen (15) years of the Effective Date.

- b. A minimum of fifty thousand (50,000) square feet of commercial or retail uses, including at least one grocery store, shall be constructed and occupied within the first **fifteen (15)** years of the Effective Date.
- c. A minimum of 140 hotel or motel rooms shall be constructed and available for reservations within the first **twenty (20)** years of the Effective Date.

Fiscal Reviews of the Project will be performed as further discussed in **Section 13.12**. If the Fiscal Reviews determine the results of the FIA show a net annual deficit, Master Developer Funding may be required as discussed in **Section 13.12**.

4. The following language of **Paragraph 13.3** is amended:

Affordable Housing. Prior to or concurrent with the submittal of the first Master Tentative Map, an affordable housing plan must be submitted to, and approved by, the City **Council** that provides for the following:

- 1. A minimum of five hundred (500) affordable dwelling units must be identified and constructed as follows, in accordance with the terms and provisions of Section 26 herein:
 - (i) Two hundred forty (240) affordable dwelling units must be identified and constructed within the first two (2) phases of the La Entrada Project; Phase 1 will contain a minimum of one hundred fifty (150) affordable dwellings units and Phase 2 will contain the balance of ninety (90) affordable dwelling units; and
 - (ii) Two hundred sixty (260) affordable dwelling units must be identified and constructed within the remaining three phases of the La Entrada Project.

shall be amended to read:

Affordable Housing. Prior to or concurrent with the **approval** of the first Master Tentative Map, an affordable housing plan must be submitted to, and approved by, the City that provides for the following:

- 1. A minimum of one thousand (1,000) affordable dwelling units must be identified and constructed as follows, in accordance with the terms and provisions of Section 26 herein:
 - (i) **Four hundred eighty (480)** affordable dwelling units must be identified and constructed within the first two (2) phases of the La Entrada Project; Phase 1 will contain a minimum of **three hundred (300)** affordable dwellings units and Phase 2 will contain the balance of **one hundred eighty (180)** affordable dwelling units; and
 - (ii) **Five hundred twenty (520)** affordable dwelling units must be identified and constructed within the remaining three phases of the La Entrada Project.

Prior to the issuance of the first building permit for any phase, Landowner must have an approved Builder's Tentative and approved and recorded Builder's Final Map for that phase and the City Planning Director shall approve the specific method of implementation of affordable housing in furtherance of the City Council approved affordable housing plan for that phase.

5. The following language of **Paragraph 13.8** is amended:

Development Agreement Fee. Upon issuance of a certificate of occupancy for a Unit within the Project, Owner shall pay to the City a one-time Development Agreement Fee of Two Thousand Five Hundred Dollars (\$2,500.00) for that Unit as set forth below:

A development agreement fee shall be imposed on all new privately-constructed buildings subject to a city building permit on properties affected by a development agreement as a condition for issuance of said building permit. The development agreement fee shall be calculated as two percent of the construction project valuation of the new building, as determined by the city's building official at the time the building permit is issued.

shall be amended to read:

Development Agreement Fee. Upon issuance of a certificate of occupancy for a Unit within the Project, Owner shall pay to the City the applicable Development Agreement Fee pursuant to Section 17.100.030 of the City's Municipal Code as written on the Agreement Date as set forth below:

A development agreement fee shall be imposed on all new privately-constructed buildings subject to a city building permit on properties affected by a development agreement as a condition for issuance of said building permit. The development agreement fee shall be calculated as two percent (2%) of the construction project valuation of the new building, as determined by the city's building official at the time the building permit is issued.

Affordable dwelling units shall be exempt from the Development Agreement Fee.

6. The following language of **Paragraph 13.10** is amended:

Funding for Permanent Fire Station. Upon issuance of the 1st building permit, the Master Developer shall provide a bond to the City sufficient to secure construction of a permanent fire station within the Project at a time as required by the fire department. The amount of the bond shall be determined based on the costs for a permanent facility as outlined in the then-current City's Fee Nexus Study. Compliance with the requirements contained in Section 13.9 and provision of the bond outlined in this Section constitutes full satisfaction of the Fire Facilities portion of the Project's Development Impact Fee.

shall be amended to read:

Funding for Permanent Fire Station. Upon issuance of the 1st building permit, the Master Developer shall provide a bond to the City sufficient to secure construction of a permanent fire station within the Project at a time as required by the fire department. The amount of the bond shall be determined based on the costs for a permanent facility as outlined in the then-current City's Fee Nexus Study. Compliance with the requirements contained in Section 13.9 and provision of the bond outlined in this Section constitutes full satisfaction of the Fire Facilities portion of the Project's Development Impact Fee.

7. The following language of Paragraph 23.1(3) is amended:

3. Concurrent with any transfer, sale, or assignment pursuant to this Section, the transferring, selling or assigning party shall be obligated to pay the City a fee for such transfer, sale or assignment based on the following requirements:

(i) If the transfer, sale or assignment is from one Master Developer to another, or involves more than 2,500 lots, the amount of the fee shall be Fifty Thousand Dollars (\$50,000) ;

(ii) If the transfer, sale or assignment involves the sale of 1,000-2,500 lots, the amount of the fee shall be Twenty Five Thousand Dollars (\$25,000) ; or

(iii) If the transfer, sale, or assignment involves the sale of less than 1,000 lots, the amount of the fee shall be Five Thousand Dollars (\$5,000) .

(iv) A final sale of a Unit to an end user, or a final sale of a commercial lot to an end user, shall not be assessed a fee pursuant to this Section.

shall be amended to read:

3. Concurrent with any transfer, sale, or assignment pursuant to this Section, the transferring, selling or assigning party shall be obligated to pay the City a fee for such transfer, sale or assignment based on the following requirements:

(i) If the transfer, sale or assignment is from one Master Developer to another, or involves more than 2,500 lots, the amount of the fee shall be Fifty Thousand Dollars (\$50,000) **plus an additional five (5) percent thereof;**

(ii) If the transfer, sale or assignment involves the sale of 1,000-2,500 lots, the amount of the fee shall be Twenty Five Thousand Dollars (\$25,000) **plus an additional five (5) percent thereof; or**

(iii) If the transfer, sale, or assignment involves the sale of less than 1,000 lots, the amount of the fee shall be Five Thousand Dollars (\$5,000) **plus an additional five (5) percent thereof.**

(iv) A final sale of a Unit to an end user, or a final sale of a commercial lot to an end user, shall not be assessed a fee pursuant to this Section.

8. The following language of the heading in Exhibit F “Conditions of Approval” at Page 5 is amended:

Prior to or concurrent with submittal of a Master Tentative Map

shall be amended to read:

Prior to or concurrent with approval of a Master Tentative Map

9. The following language of the heading in Exhibit F “Conditions of Approval” at Page 6 is amended:

Prior to or concurrent with submittal of submittal a Builder’s Tentative Map or Commercial Map

shall be amended to read:

Prior to or concurrent with approval of a Builder’s Tentative Map or Commercial Map

10. Counterparts: This First Amendment may be executed by each Party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

11. Authority: Each party to this First Amendment represents and warrants that the person or persons executing this First Amendment on such party’s behalf has the authority to bind his or her respective Party and that all necessary board of directors’, shareholders’, partners’, city councils’, or other approvals have been obtained.

12. The following language of Paragraph 31. “Notice” at page 47 is amended as follows:

Landowner: PSAV, LLC
LLSE Holdings, LLC
c/o New West Communities
5055 West Patrick Lane #101
Las Vegas, NV 89118

With a copy To: Lewis Brisbois Bisgaard & Smith, LLP
Attn: Kelly M. Alhadeff-Black
One Ridgeway Drive, Suite 245
Temecula, CA 92590

shall be amended to read:

Landowner: PSAV, LLC
LLSE Holdings, LLC
c/o Lighthouse Group
Attn: Joseph Teichman
1985 Cedar Bridge, Ste. 1
Lakewood, NJ 08701

**With a copy To: Gresham Savage
Attn: Jonathan Shardlow
550 E. Hospitality Lane, Ste. 300
San Bernardino, CA 92408**

IN WITNESS WHEREOF, City and Owner have executed this Development Agreement as of the date first set forth above.

OWNER:

PSAV LLC,
a Delaware limited liability company, and
LLSE Holdings LLC,
a New Jersey limited liability company

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____

CITY:

CITY OF COACHELLA,
a California municipal corporation

By: _____
Name: _____
Title: _____

ATTESTATION:

By: _____
Angela M. Zepeda, City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____
City Attorney