WHEN RECORDED, MAIL TO:

KARI JIMENEZ
IVINS CITY
55 NORTH MAIN
IVINS, UT 84738

APN: I-

AMENDED AND RESTATED

DEVELOPMENT AGREEMENT FOR

SENTIERRE PADRE CANYON RESORT AND SANCTUARY

IVINS, UTAH

This Amended and Restated Development Agreement (this "Amended Agreement") is made and entered into as of the ___ day of _____, 2019 ("Effective Date"), by and between PADRE CANYON RESORT, L.C., a limited liability company ("Owner"), and IVINS CITY, a political subdivision of the State of Utah ("City"). Owner and City may each sometimes be referred to herein as a "party" or, collectively as the "parties".

RECITALS

A. Owner is the successor-in-interest to Parkway Partners, L.C., a limited liability company, and the Owner of record of approximately 42 acres of real property situated in the City (the "Property"), as more particularly described in Exhibit A which is attached hereto and incorporated herein for all purposes.

B. On September 18, 2014 Owner received approval from the Ivins City Council for a Conditional Use Permit (the "CUP") for the development of a master planned resort community commonly referred to as Sentierre Padre Canyon (the "Project"). To document the terms and conditions for the CUP City and Owner entered into a Development Agreement for Sentierre Padre Canyon Resort and Sanctuary dated December 17, 2015, which was recorded in the Office of the Washington County Recorder on January 12, 2016, as Entry No. 20160001172 (the "Initial Development Agreement").

C. The CUP and Initial Development Agreement allow for flexibility in the number and type of units developed in the Project, to meet changing market needs. Accordingly, the Developer has made certain modifications to the development plan for the Project, and has submitted to the City revised development plans included as Exhibits B-1 and B-2 (the "Amended Presentation Materials"), which is attached hereto and incorporated herein for all purposes. The City Council has determined that such modifications do not constitute "material

changes", as provided in Section 19(a) of the Initial Development Agreement, and therefore do require an amendment to the CUP; however, the Initial Development Agreement is being amended to reflect such modifications and to bind the Developer to the development plan described in the Amended Presentation Materials and in this Amended Agreement.

D. To implement and govern the modified development plan for the Project the parties desire now to enter into this Amended and Restated Development Agreement to further memorialize the development rights, terms, requirements and conditions granted by the CUP, as modified by the Amended Presentation Materials, which rights are now appurtenant to the Property, for the development of the Project, as more fully described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Initial Development Agreement is hereby amended, modified and restated in its entirety as follows:

1. Amendment and Restatement. This Amended Agreement extinguishes, replaces, amends, supersedes and replaces, in its entirety the Initial Development Agreement.

2. Conditional Use Permit. The Property is zoned Resort Commercial under City ordinances. The CUP granted to Owner the right to develop the Project in accordance with the Presentation Materials, as modified by the Amended Presentation Materials, and subject to the conditions included the CUP. Without limiting the generality of the foregoing, such approvals include the right to develop the Property with:

   (a) Casitas: A total of 58 units. The 58 units may have up to 70 individual rental rooms and suites ("keys");

   (b) Signature Suites: 22 suites situated in multiple smaller buildings of 1-4 Suites that will be retained by the Developer and offered for nightly rental (22 keys);

   (c) Tuachan Suites: 12 units situated in detached single-family and duplex buildings for nightly rental (18 keys);

   (d) Villas: 18 lots to be developed with single-family detached homes ("Villas"). Some of the Villas may have lock-off rooms and suites that can be separately rented (17 keys);

   (e) Hospitality Suites: 5 lots to be developed with single-family homes which may be used for meetings, events and conferences, and which may contain lockoff units available for nightly rentals (15 keys);

   (f) Spa Suites: 8 attached units, each of which will be available for nightly rental (8 keys);

(g) Hotel buildings ("Hotel Central"), containing space for lobbies, retail stores, restaurants and other food and beverage facilities, meeting space, back of house space and other components typically found in a premium resort hotel, together with one or more swimming pools and other outdoor recreational facilities

(h) A spa facility for the use of owners, guests and the public; and

(i) Roads, sidewalks, trails, parking, landscaping, and other facilities determined by Owner to be beneficial to the owners and guests at the Project.

Building heights, setbacks, parking, approximate lot sizes, unit configuration and other details of the Project are included in the Presentation Materials and, to the extent not shown or described in the Presentation Materials, shall be determined by the applicable provisions of Title 16 of the Ivins City Code in effect at the time the CUP was approved ("Zoning Code"), unless otherwise agreed by Owner and the City.

3. Development Phasing. The Project shall be developed in a single continuous development phase, except for the Villas, Casitas and Hospitality Suites ("For-Sale Units") that will be developed as they are sold. With respect to the For-Sale Units:

(a) No Certificates of Occupancy for For-Sale Units (other than the Villa on Lot 13 and the Hospitality Suite on Lot 19, which are already constructed) will be issued by the City prior to the issuance of a building permit and commencement of construction on the Hotel Central.

(b) No more than 15 Certificates of Occupancy will be issued by the City for For-Sale Units prior to the completion of a restaurant, lobby, meeting space, fitness center, trail gathering area, loading dock and support space of Hotel Central.

The parties acknowledge that it may be appropriate to modify the foregoing plan for the phasing of For-Sale Units to accommodate market demand, financing availability or requirements, or other changes in facts and circumstances; provided, however, any modification of the phasing plan shall require the approval of the City Council.

4. Platting. It is anticipated that final subdivision plats for the Villa Lots will be submitted based on the pace of sales of the Villa Lots and Hospitality Suites. Following approval by the City Council, Owner shall have the right to submit multiple final plats for one or more Villa Lots (each a "Final Plat"), with the number and selection of lots on each Final Plat to be determined by Owner provided there is dual paved access to the lots being platted (for example the paved loop road that provides access to each "arm" of the Villa Lots). The numbering of the Villa Lots on each Final Plat shall be based on whether the Final Plat is for lot(s) in the North or South Villas and shall be numbered sequentially as "N-#" or "S-#." Each Final Plat may be approved by the Ivins Planning Commission, without requiring the approval of the City Council. At Owner's option some or all of the Casitas and Suites may be submitted to a condominium form of ownership, which will require approval by the City of one or more condominium plats. Alternatively, some or all of the Casitas and Suites may be platted as individual lots. The City may require Owner to enter into a separate development agreement for each approved preliminary

plan or final plat, as determined necessary to assure the construction of required infrastructure and other issues necessary to satisfy applicable City ordinances.

5. Trails.

(a) Trail Gathering Area. Owner will provide a trail gathering area at or near Hotel Central that will be open to the public as well as Project owners and guests. The trail gathering area will include trail maps and a concession area for the purchase of food and drink. The diagonal trail running from Tuacahn Drive to the trail gathering area will be open to the public. Other trails through the Property may be open to the public at the discretion of the Owner. The owner of Hotel Central will have the right to establish reasonable hours for operation of the trail gathering area, as well as reasonable rules and regulations for the use of the public trails and gathering area. A limited number of parking stalls in the Project will be available for the public users of the trails.

(b) Tuacahn Drive Trail. Owner has previously installed or will install, as the case may be, a paved trail ("Tuachan Drive Trail") on the west side of Tuacahn Drive that is or shall be at least ten (10) feet wide, running from the point where it connects to the existing paved trail at the southern boundary of the Property to the northern boundary of the Property. Owner will obtain the City's prior approval of any construction plans for offsite improvements within the City's right-of-way for any improvements within the City's right-of-way that have not, as of the date hereof, previously been approved by the City.

6. Soil Conditions. A geotechnical study prepared for Owner identified areas of the Property containing collapsible soils. Owner shall be required to over excavate or otherwise treat all areas having collapsible soils as recommended by AGEC in its report.

7. Rockfall Mitigation. A rockfall study of the Property by AGEC, summarized in a letter from AGEC dated March 10, 2014 ("Rockfall Study"), identified certain areas on the western portion of the Property as being hazardous for rockfall (the "Rockfall Hazard Zone"). Applicant must either: (i) not build any structures within the Rockfall Hazard Zone; or (ii) adopt tested and proven rockfall mitigation methods recommended by AGEC or another consultant approved by the City (both, a "Rockfall Consultant"), before any building permits will be issued by the City for structures situated within any portion of the Rockfall Hazard Zone. Any such mitigation technology and materials must be determined by the Rockfall Consultant to be functional for at least twenty (20) years. Owner must also satisfy the City that any company used to install such mitigation measures can meet recognized technical standards for such mitigation work. Owner, or a homeowner's association formed to maintain the common areas or open space of the Project, shall be responsible for the long-term inspection and maintenance of the rockfall mitigation facilities, including the performance of all inspections and maintenance as recommended by the installation company. Owner must disclose such mitigation measures to anyone purchasing property within the Rockfall Hazard Zone, as recommended by the State of Utah Geological Service. Owner must mitigate the adverse aesthetic impacts from any rockfall mitigation facilities by exercising commercially

reasonable efforts to blend the color of the mitigation facilities with the surrounding environment, and must exercise commercially reasonable efforts to use screening, by the placement of buildings and landscaping, to reduce the visibility of the materials and facilities used for rockfall mitigation.

8. Storm Drainage. Owner shall submit to the City a Stormwater Management Plan ("SMP") that provides for the capture of storm water and other runoff from the Project, including sediments and discharge such water and sediment into an internal storm drain system within the Project before discharging the water into either: (i) the Tuacahn Wash to flow into the Tuacahn Detention Basin (approximately 2/3 of the upstream flows), provided Owner obtains a drainage easement through the property owned by Tuacahn; or (ii) into the City's storm drain culverts located within the Tuacahn Drive right-of-way (the remaining upstream flows on the southern 1/3 of the Project) but not more than the pre-development flows from the Property. The City will grant to Owner all necessary and appropriate easements and other rights and interest necessary for Owner's use of the City's storm drain system. Owner may not discharge more than historical flows to or across Tuacahn Drive into the washes on the discharge side of the existing culverts on the Snow Canyon State Park property to the east of the Project. The Owner may discharge any excess stormwater generated by the project without a requirement for a detention basin through the property owned by Tuacahn to the main wash if a drainage easement is obtained on that property from Tuacahn. Appropriately sized drainage facilities shall be installed to prevent increased erosion on the Tuacahn property for this scenario. The SMP must take into consideration the impact of sediment laden storm water and its potential to restrict and reduce capacity of the drainage facility, and provide for a method to clear blockages when they occur and regular maintenance to remove buildup of sediment in the system components situated on the Property. Owner, or a homeowners' association formed to operate and maintain the common areas of the Project, will be responsible for all maintenance necessary to maintain the integrity of the system components situated on the Property. It is currently anticipated that the SMP will call for a concrete channel to be constructed along the western boundary of the Project that will effectively capture such upstream flows, provide storage for expected sediment deposition, and convey storm water as described above. All pipes used in the SMP must be large enough to allow sediment to be cleaned out of the pipe system and all detention basins on the Property must be large enough to accommodate the expected sediment deposition of at least a 100 year event. Any final construction plans must demonstrate that all such requirements have been met before receiving City approval. Prior to the issuance of any permits for the construction of vertical or hard surface construction on the Property, Owner shall submit to the City, for its review and approval, engineering drawings for the storm drainage system to be constructed on the Property, consistent with the requirements of this paragraph.

9. Property Access and Grading. All roadways into and through the Project shall either be concrete, asphalt or other material demonstrated to be sufficiently strong to hold the weight of a fire truck loaded with water in all weather conditions. The main road accessing the Property (Tuacahn Drive) will be thirty (30) feet in width. Interior roads providing vehicular access to the Villas may be reduced to twenty-four (24) feet but must be twenty-six (26) feet wide wherever a fire hydrant is located. Subject to the foregoing,

all roads must comply with all of the requirements of the Fire Code as adopted by the City. Owner shall install a left turn lane into the Project on Tuacahn Drive. No parking shall be allowed on the sides of the roads within the Project. No roads within the Project shall have grades in excess of a ten percent (10%) slope. Final grading plans for each development parcel in the Project will provide for finished grades that convey water away from all buildings within the Project.

10. Tuacahn Drive. The parties acknowledge that Tuacahn Drive is in need of modifications, and that the Project and the City may benefit from the addition of traffic-calming features, additional landscaping and other upgrades to that portion of Tuacahn Drive immediately adjacent to, and running along the eastern boundary of the Property to the entrance of Tuacahn. Upon the request of Owner, and with the consent of the governing board of Tuacahn, the City shall vacate by ordinance and transfer to Owner by quit-claim deed all or a portion of Tuacahn Drive abutting the Property as requested by Owner, provided however, that all state and local legal requirements for the vacation and sale of such road, including without limitation any public hearings and City Council approval required by law, are fully complied with. In the event that a portion of Tuacahn Drive is vacated and conveyed to Owner, the City shall reserve a public utility easement for the maintenance of existing and future power, communication, water and sewer facilities, and a public access easement to enable the public to access Tuacahn. The City's maintenance responsibilities will be limited to only the above-mentioned utilities. Nevertheless, the City will continue to provide police monitoring of the entirety of Tuacahn Drive (including any portion owned by Owner) to enforce applicable traffic laws, except that the City shall not be required to enforce a speed limit of less than 25 miles per hour unless approved by state law. Following vacation of a portion of Tuacahn Drive, Owner will be responsible for ongoing maintenance of street improvements, including storm drain culverts on that portion of Tuacahn Drive conveyed to Owner. Both the ordinance providing for vacation of a portion of Tuacahn Drive and the deed conveying such property to Owner shall include a right of reversion, whereby title to any portion of Tuacahn Drive conveyed to Owner shall revert to the City if Owner, or any successor in interest with respect to the ownership and operation of the Project, fails to adequately maintain the portion of Tuacahn Drive that it owns to a standard compatible with that portion of Tuacahn Drive retained by the City. The City shall only be authorized to exercise this right of reversion if the City first provides written notice to Owner, or its successor, of its failure to adequately maintain the road and Owner or its successor fails to take the necessary corrective action within a reasonable time thereafter (not less than 90 days). Upon the City successfully taking the reversion of ownership option, the City may seek damages from the Owner or its successor based on the cost of returning the road to full service standards and a lump sum cost of perpetual ongoing maintenance into the future.

11. Utilities. Project improvements will tie into existing water, sewer, telephone, power and cable existing within the Tuacahn Drive right-of-way. Owner will be allowed to connect to, and be obligated to pay to Tuacahn an appropriate share of the initial cost of, the natural gas line that services Tuacahn, in accordance with an agreement to be negotiated between Owner and Tuacahn.

12. Fire Protection. Owner will comply with all applicable provisions of the Fire Code as adopted by the City ("Fire Code") and will substantially comply with the Fire Plan contained in the Presentation Materials, which identifies the proposed locations and number of Wet Standpipes with Fire Hose/Cabinet, Fire Department Connections, Fire Hydrants, Fire Command Center and Fire Lanes. Hotel Central, the Sanctuary, and all Casitas, Suites and Villas will have interior fire sprinkler systems.

13. Landscaping. The landscaping plan for the Project shall be in substantial compliance with the Landscape Plan and Plant List contained in the Presentation Materials. As provided in Paragraph 7, appropriate landscaping shall be used to provide reasonable screening of any rockfall mitigation materials, whether viewing the mitigation materials from within or from outside the Project.

14. Lighting. All Project lighting must comply with the City's lighting ordinances as set forth in Title 14, Chapter 10 and Title 16, Chapter 22 of the City Code. Owner shall also lessen the impact of lights coming from within all Project buildings at night through the use of tinted glass and/or deformed or frosted glass. No bollard lighting will be required along the Tuacahn Drive Trail. At its option, Owner may install other lighting along the Tuacahn Drive Trail that is less impactful than bollard lighting. In the event the City retains ownership of Tuacahn Drive along the Property, Owner will install a fourteen foot (14') standard city street light at both Project access points. Lighting alternatives may be considered in accordance with City standard specifications.

15. Water. Water service for the Project shall be provided by the City, in accordance with its fees and procedures applicable to other property owners and developers in the City. Owner intends to replace and bury (or other acceptable method of masking) the water tank situated on property owned by Tuacahn that services Tuacahn and will be part of the water delivery system for the Project. The City acknowledges the aesthetic and functional benefits to the City and its residents from replacing and burying (or other acceptable method of masking) the water tank, and so long as Owner proceeds with the burying (or other acceptable method of masking) of the water tank based on a schedule and other terms acceptable to the City and Tuacahn, the City will contribute $100,000 to the cost of replacing and burying (or other acceptable method of masking) the water tank, with Owner and Tuacahn sharing the balance of such costs on terms acceptable to both Owner and Tuacahn.

16. Sewer. Wastewater collection and treatment services will be provided by the City for the Project in accordance with the policies, procedures and standards of the City.

17. Public Finance Options and Tools. Utah law allows for the creation of special project areas in order to provide tax increment incentives to promote and encourage development deemed beneficial to the community. The City may consider with Owner, at some point in the future, the creation of a tax increment area pursuant to the provisions outlined in Utah Code Title 17C, that might be used to provide financial incentives for the development of infrastructure and related improvements to the Property. Notwithstanding the foregoing, the parties acknowledge and agree that the City has made

no commitments to Owner to provide any tax increment rebates or other financial incentives, and that the City has no obligation to provide any such incentives.

18. Financial Assurances. As a condition to the issuance of the building permits for the Project, Owner will submit written evidence to the City that it has the financial resources, or commercially reasonable and reliable commitments from third party lenders and/or investors to provide such resources, sufficient to pay the costs of constructing the Project. Such evidence may include some or all of the following: construction/development loan commitments, agreements to provide equity capital for the project, written confirmation of Owner's financial resources designated for development of the Project, bonding commitments, letters of credit, non-refundable deposits from unit purchasers, and similar items. All materials submitted to the City with respect to such financial assurances shall be kept confidential and deemed to be "private record" under Utah's Government Records and Access Management Act (Utah Code Section 63G-2-101, *et seq.*). At the option of the City Council the responsibility to review and approve the sufficiency of financial resources may be assigned to an employee or advisor to the City that is acceptable to the City Council and to Owner, provided that in such event Owner shall have the right to appeal the decision of such person to the City Council. This requirement to provide financial assurances shall apply not only to Owner, but to any other person or entity that may acquire the Property from Owner in the future and step into the legal position of the Owner as the developer of the Project; provided, however, the requirement to provide financial assurances will not apply to property owners, other than Developer, constructing a Villa or Hospitality Suite on any of the lots.

19. Vested Rights.

(a) Vesting. This Agreement shall vest with respect to the Property, the rights to develop the Property and the Project in accordance with all of the uses, densities, maximum building heights, roads, massing, phasing, trails, parking, lot sizes, building types and all other development details as shown in the Presentation Materials. Owner shall have the right to make modifications to the specifications and details included in the Presentation Materials, so long as such modifications are not determined by the City Council to constitute material changes. In addition, Owner shall have the right to make material changes to the Presentation Materials from time to time, at Owner's discretion, so long as such material changes are approved by the City Council ("Approved Changes"). All Approved Changes to the Presentation Materials shall constitute part of the vested rights of Owner hereunder. Owner may submit and obtain building permits for all Project improvements that are consistent with the Presentation Materials and Approved Changes, and comply with applicable City Building and Fire Codes, without any further approvals by the Planning Commission or City Council.

(b) State and Federal Laws. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law") applicable to the Property. In the event the Changes in the Law prevent or

preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law

20. Reserved Legislative Powers: Compelling Countervailing Public Interest. Nothing in this Agreement shall limit the future exercise of the police power of the City in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the City to enact such legislation under its police power, such legislation shall only be applied to modify the vested rights described in Section 18 and the other provisions of this Agreement, based upon policies, facts and circumstances meeting the "compelling, countervailing public interest" exception to the vested rights doctrine in the State of Utah, as set forth in *Western Land Equities, Inc., v. City of Logan*, 617 P.2d 388 (Utah 1980) or successor case and statutory law. Any such proposed change affecting the vested rights of the Owner and the Property, or other provisions of this Agreement, shall be of general application to all development activity in the City, unless the City declares an emergency. Owner shall be entitled to prior written notice and an opportunity to be heard with respect to any proposed changes of law and their applicability to the Property under the compelling, countervailing public policy exception to the vested rights doctrine. In the event that the City does not give prior written notice in accordance with state law, Owner shall retain the right to be heard before an open meeting of the City Council, and to take other legal action deemed appropriate by Owner to protect its rights and interests hereunder, in the event Owner alleges that its rights under this Agreement have been adversely affected.

21. Construction of Agreement. This Agreement and any future amendments thereto, shall be construed so as to effectuate the public purpose of resolving disputes, implementing long-range planning objectives, obtaining public benefits, and protecting any compelling, countervailing public interest; while providing reasonable assurances of continued vested development rights under this Agreement.

22. Binding Effect. This Agreement shall be binding on the successors and assigns of the Owner in the Ownership or development of any portion of the Property. Notwithstanding the foregoing, a purchaser of any portion of the Property shall be responsible for performance of Owner's obligations hereunder only as to the portion of the Property so transferred. In the event of any such transfer of an Owner's interest in any portion of the Property, the parties shall execute a written transfer agreement approved by the City. Once such an agreement is executed, the transferee shall be deemed to be the Owner for all purposes under this Agreement with respect to that portion of the Property transferred, and the transferring Owner shall be released from any further obligations with respect to this Agreement as to the parcel so transferred.

23. Agreements to Run with the Land. This Agreement shall be recorded against the Property. The agreements contained herein, including the Exhibits hereto, shall be deemed to run with the land constituting the Property, and shall be binding on and shall inure to the benefit of all successors in ownership of the Property. As used herein, Owner

shall include the parties signing this Agreement and identified as "Owner", and all successor Owner of any part of the Property or Project.

24. Duration. The term of this Agreement shall commence on the Effective Date, which shall be the date that the Ivins City Council approves this Agreement. The term of this Agreement shall extend for a period of fifty (50) years following such effective date. Owner and the City may agree to extend this Agreement for additional ten (10) year terms as long as the terms of this Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment. The joinder of any additional parties following the initial effective date shall not extend or otherwise affect the term of this Agreement.

25. State and Federal Law. The parties agree, intend and understand that the obligations imposed by this Agreement are intended to be consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended or modified to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of this Agreement shall remain in full force and effect.

26. Notices. Any notice delivered personally or by courier shall be deemed to have been given when delivered to the addresses set forth below. Any party may change its address by giving notice to the other party as provided below. Any and all notices and demands shall be in writing and shall be validly given or made only if personally delivered, sent by FedEx or other recognized courier service that provides a receipt of delivery, or sent by the United States mail, certified with return receipt requested, and addressed as follows:

If to Owner:	Padre Canyon Resort, L.C. 800 Tuacahn Drive Ivins, Utah 84738
With a copy to:	Thomas G. Bennett Ballard Spahr LLP 201 So. Main St., Suite 800 Salt Lake City, Utah 84111
If to City:	Ivins City 55 No. Main St. Ivins, Utah 84738 Attn: City Manager

27. Exhibits and Recitals. The Recitals at the beginning of this Agreement and exhibits attached hereto are hereby incorporated herein by this reference.

28. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise such right at some future time said right or any other right it may have hereunder.

29. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the issues addressed herein and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by the parties to this Agreement. Further, this Agreement may be amended with respect to terms and conditions solely affecting any particular portion of the Property with the consent and agreement of the Owner(s) of such Property, and the City, but without the necessity of obtaining the consent or approval of any other Owner or third parties.

30. Attorneys' Fees. Should any party hereto employ attorneys (whether such attorney be in house or outside counsel) for the purpose of enforcing this Agreement, or any judgment based on this Agreement, including but not limited to bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reasonable attorneys' fees and reimbursements for all costs and expenses (including expert witnesses). Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein. For purposes of calculating reasonable attorneys' fees, any in-house counsel shall be entitled to fees at the same rate as comparable outside counsel would charge for similar work.

31. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

32. Execution of Agreement. This Agreement may be executed in multiple counterparts or originals or by electronic copies of executed originals

33. Relationship of Parties. The contractual relationship between the City and Owner arising out of this Agreement is one of independent contractor and not agency. The parties do not intend, and this Agreement shall not create, any partnership, joint venture, or other business association between the City and Owner. It is specifically understood by the parties that: (i) the Project is a private development, (ii) City has no interest in, responsibilities for, or duty to third parties concerning any improvements to the Property unless the City accepts the improvements pursuant to the provisions of this Agreement or in connection with subdivision plat, site plan, deed, or map approval, and (iii) the Owner shall have the full power and exclusive control of the Property, subject to this Agreement and applicable City ordinances.

34. Rights of Third Parties. This Agreement is made and entered into for the sole protection and benefit of the parties hereto, and their successors and assigns with respect to the Property. It is not intended to affect or create any additional rights or obligations on the part of third parties, whether as third party beneficiaries or otherwise.

35. Titles and Captions. All section titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the context nor affect the interpretation hereof.

36. Authorization. The parties represent and warrant that they are duly authorized to enter into this Agreement, that this Agreement shall not violate their charter documents or any other agreement to which they are bound, and that the individual executing this Agreement on behalf of such party is duly authorized and empowered to bind such party to the terms and provisions of this Agreement.

37. Further Acts. In addition to the acts recited in this Agreement to be performed by the parties hereto, the parties agree to perform or cause to be performed any and all such further acts as may be reasonably necessary to consummate the transactions contemplated hereby and to carry out the terms and provisions, spirit and intent of this Agreement.

[Signatures on the following page]

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written by a duly authorized representative of each of the parties hereto.

Ivins City, a political subdivision of the
State of Utah

By: _____
Name: _____
Its: _____

Padre Canyon Resort, L.C.
a Delaware limited liability company

By: _____
Name: _____
Its: _____

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by _____, the _____of the City Council of Ivins City, State of Utah.

_____
Notary Public

[Notarial Seal]

STATE OF _____)
: ss.
CITY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by _____, the _____of Parkway Partners, LC.

_____
Notary Public

[Notarial Seal]

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BOOK OF EXHIBITS

EXHIBIT A— Description of the Property

Presentation Materials

EXHIBIT B-1—Comparison of Building Programs

EXHIBIT B-2—Amended Site Plan

EXHIBIT A

Description of the Property

THAT PARCEL AS DESCRIBED IN ENTRY #722710 IN THE RECORDS OF WASHINGTON COUNTY, UTAH, DESCRIBED MORE PARTICULARLY AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE NW 1/4, SW 1/4, SECTION 28, TOWNSHIP 41 SOUTH, RANGE 16 WEST. SALT LAKE BASE AND MERIDIAN, SAID POINT BEING LOCATED NORTH 00°41'41" WEST ALONG THE SECTION LINE 1317.08 FEET FROM THE SOUTHWEST CORNER OF SECTION 28; THENCE NORTH 00°41'41" WEST ALONG THE SECTION LINE A DISTANCE OF 507.68 FEET; THENCE SOUTH 48°14'47" EAST, A DISTANCE OF 144.62 FEET; THENCE NORTH 48°53'14" EAST, A DISTANCE OF 40.34 FEET; THENCE NORTH 39°40'45" EAST, A DISTANCE OF 108.20 FEET; THENCE SOUTH 70°41'54" EAST, A DISTANCE OF 77.84 FEET; THENCE SOUTH 56°01'46" EAST A DISTANCE OF 67.12 FEET; THENCE SOUTH 68°25'27" EAST A DISTANCE OF 102.89 FEET; THENCE SOUTH 62°02'45" EAST, A DISTANCE OF 243.11 FEET; THENCE NORTH 89°58'21" EAST, A DISTANCE OF 99.20 FEET; THENCE NORTH 82°39'56" EAST, A DISTANCE OF 224.41 FEET; THENCE SOUTH 73°20'28" EAST, A DISTANCE OF 195.93 FEET; THENCE SOUTH 04°43'26" EAST A DISTANCE OF 39.51 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 79.00 FEET AND A CENTRAL ANGLE OF 11°05'34'; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 15.29 FEET; THENCE SOUTH 06°22'08" WEST, A DISTANCE OF 142.02 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 521.00 FEET AND A CENTRAL ANGLE OF 25°38'18"; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 233.13 FEET; THENCE SOUTH 19°16'13" EAST, A DISTANCE OF 245.56 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 979.00 FEET AND A CENTRAL ANGLE OF 20°31'50'; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 350.80 FEET; THENCE SOUTH 01°15'37" WEST, A DISTANCE OF 501.51 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 679.00 FEET AND A CENTRAL ANGLE OF 13°20'51'; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 158.18 FEET; THENCE SOUTH 14°36'28" WEST, A DISTANCE OF 134.55 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 779.00 FEET AND A CENTRAL ANGLE OF 10°55'31"; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 148.54 FEET: THENCE SOUTH 25°31'59" WEST, A DISTANCE OF 137.47 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 779.00 FEET AND A CENTRAL ANGLE OF 09°53' 46"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 134.55 FEET; THENCE SOUTH 35°25'45" WEST, A DISTANCE OF 534.15 FEET; THENCE NORTH 42°55'51" WEST, A DISTANCE OF 422.32 FEET; THENCE NORTH 62°13'01" EAST, A DISTANCE OF 184.29 FEET; THENCE NORTH 22°59'24" WEST, A DISTANCE OF 211.96 FEET; THENCE NORTH 12°45'58" WEST, A DISTANCE OF 527.21 FEET; THENCE NORTH 21°48'25" EAST, A DISTANCE OF 226.51 FEET; THENCE NORTH 03°11'22" EAST, A DISTANCE OF 279.76 FEET; THENCE NORTH 73°16'44" EAST A DISTANCE OF 238.95 FEET; THENCE NORTH 29°34'14" EAST, A DISTANCE OF 238.45 FEET; THENCE NORTH 70°12'17" WEST, A DISTANCE OF 223.98

FEET; THENCE NORTH 42°20'40" WEST, A DISTANCE OF 108.78 FEET; THENCE NORTH 84°35'37" WEST, A DISTANCE OF 91.40 FEET; THENCE NORTH 01°22'57' WEST, A DISTANCE OF 88.63 FEET; THENCE NORTH 46°20'42" EAST, A DISTANCE OF 32.12 FEET; THENCE NORTH 03°16"20" EAST, A DISTANCE OF 181.05 FEET; THENCE SOUTH 89°53'44" WEST, A DISTANCE OF 523.19 FEET T0 THE POINT OF BEGINNING.
LESS AND EXCLUDING THE FOLLOWING:
LOTS 13 AND 19 IN SENTIERRE PADRE CANYON PHASE 1A, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE WASHINGTON COUNTY RECORDER.

EXHIBIT B-1

Comparison of Building Programs

PROGRAM PER FIRST AMENDMENT WITH DEVELOPMENT AGREEMENT					PROPOSED SECOND AMENDMENT					DIFFERENCE	COMMENTS
PROGRAM USES	SF / UNIT	UNITS	KEYS	TOTAL SF	PROGRAM USES	SF / UNIT	UNITS	KEYS	TOTAL SF		
MAIN HOTEL					MAIN HOTEL						
Lobby Area	3,789 SF	n/a	n/a	3,789 SF	Lobby Areas	1,906 SF	n/a	n/a	1,906 SF		
Retail	1,632 SF	n/a	n/a	1,632 SF	Retail	1,632 SF	n/a	n/a	1,632 SF		Includes Sundry & Market
Food & Beverage Outlets	3,203 SF	n/a	n/a	3,203 SF	Food & Beverage Outlets	5,359 SF	n/a	n/a	5,359 SF		Includes Poolside Restaurant
Meeting Space	7,290 SF	n/a	n/a	7,290 SF	Meeting Space & Support, Club	18,350 SF	n/a	n/a	18,350 SF		Function Portico/Support, Club Rms, Pool Lockers
Spa/Wellness Facilities	13,225 SF	n/a	n/a	13,225 SF	Spa/Wellness Facilities	12,290 SF	n/a	n/a	12,290 SF		Functionally Attached to Spa Suites
Back of House and Other	24,024 SF	n/a	n/a	24,024 SF	Back of House and Other	10,201 SF	n/a	n/a	10,201 SF		Approximately 9,400 SF is underground
Subtotal Main Hotel				53,163 SF	Subtotal Main Hotel				49,738 SF	-3,425 SF	Most of reduction is in F & B Support
GUESTROOMS					GUESTROOMS						
Casitas "A" (Note 1)	1,612 SF	20 Units	44 Keys	37,224 SF	Casitas (Note 3)	2,400 SF	58 Units	70 Keys	139,200 SF		50% Casita and 70% Lock-Off Rental Participation
Casitas "B" (Note 1)	1,150 SF	12 Units	24 Keys	15,903 SF	Not Used						
Senterra Suites (Note 1)	1,431 SF	11 Units	22 Keys	31,194 SF	Senterra Signature Suites (Note 4	640 SF	22 Units	22 Keys	14,080 SF		New Ultra-Luxury Hotel Guestroom
Hospitality Suite (Note 4)	557 SF	1 Units	1 Keys	557 SF	Villa/Hospitality Suite	26,368 SF	5 Units	15 Keys	26,368 SF		New Luxury Hospitality & Meeting Area w/ pools
Tuscahn Suites (Note 4)	1,192 SF	5 Units	5 Keys	5,960 SF	Tuscahn Suites (Note 4)	1,109 SF	12 Units	18 Keys	19,962 SF		More Luxurious Suites w/pools
Spa Suites (Note 4)	623 SF	8 Units	8 Keys	4,984 SF	Spa Suites (Note 4)	1,090 SF	8 Units	8 Keys	8,720 SF		Distinctive Large Luxurious Suites w/Treatment Areas
Subtotal Guestrooms	921 SF	57 Units	104 Keys	95,822 SF	Subtotal Guestrooms		105 Units	133 Keys	208,330 SF	112,508 SF	117% Increase in New Guestroom Products
VILLAS					VILLAS						
VILLA "G" (Note 2)	4,329 SF	12 Units	0 Keys	51,948 SF	Villas & Lock-Offs (Note 3)	5,092 SF	18 Units	17 Keys	91,656 SF		33% Villa and 60% Lock-Off Rental Participation
VILLA "H" (Note 2)	4,364 SF	13 Units	0 Keys	56,732 SF							
VILLA "I" (Note 2)	4,047 SF	12 Units	0 Keys	48,564 SF							
VILLA "J" (Note 2)	3,692 SF	7 Units	0 Keys	25,844 SF							
Subtotal Villas	4,161 SF	44 Units	0 Keys	183,088 SF	Villa/Residences	5,092 SF	18 Units	17 Keys	91,656 SF	-91,432 SF	49.9% Decrease in Villas
Totals		101 Units	104 Keys	332,073 SF	Totals		123 Units	150 Keys	349,724 SF	17,651 SF	With underground area, this is less than 9,000 SF
Site Coverage per Amended Program as of 12-17-15 (Note 6)				16.5%					Amended Site Coverage	18.5%	2.0%	Using similar methodology
									Net Building SF Difference		5.3%	2.8% Above Ground

General Note: The square footages noted above are estimates based on the current state of design. These will change as the design is refined.

Note 1: These Guestroom Units were contemplated in the original CUP in the Development Agreement to be possible condominium or full ownership "Units" (see phasing section of the Development Agreement page 3 and 4). It was contemplated that they would be part of the Rental Program if they had been sold to a third party.

Note 2: These Villas Units were contemplated to be whole ownership Units, but we did not originally plan for heavy hotel use nor did we contemplate any Lock-Off keys in the Villas in the First Amendment calculations above.

Note 3: These Units replace the original Casita A and B products and a number of the original Villas. Each Casita will be sold to a third party who will most likely elect to participate in the Rental Program. Each Casita and Villa has one or more Lock-Off Guestrooms and possess an elegant hospitality look, function and feel. We are underwriting much higher rates, but for purposes of this analys we assumed the following rental participation rates

Product Participation	1st Amendment	2nd Amendment
Villas	0%	33%
Villa Lock-Offs	n/a	60%
Casitas	n/a	50%
Casitas Lock-Offs	n/a	70%

Note 4: Developer owned Guestroom Units and Keys.

Note 5: The Area Summary Program in Original CUP was Amended when the Development Agreement was approved on 12-17-2015. In order to maintain the integrity of this Comparison, underground parking areas, outdoor rooms, plazas, and linkages are not reflected in these numbers. Also, the order of presentation of some line items has been changed from the Amended CUP Program to make the comparison easier.

EXHIBIT B-2

Amended Site Plan

