

When recorded, mail to:

City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
(Canyon del Rio)**

This First Amendment to Development Agreement (Canyon Del Rio) ("Amendment") is entered into effective as of _____, 202_, by and between City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona ("City"), and CDR DEVCORP LTD, an Arizona corporation ("CDR Devcorp"), and CDR Land Investors II, L.L.C., an Arizona limited liability company ("CDR Investors II" and together with CDR Devcorp "CDR Developer"), and those other persons or entities executing this Amendment as an "Owner", if any (all of the foregoing, if any, together with CDR Devcorp and CDR Investors II, each an "Owner" and collectively the "Owners"). City and the Owners are each referred to herein as a "Party" and collectively, the "Parties".

RECITALS

A. City and Canyon del Rio Investors, LLC, an Arizona limited liability company ("Original Developer") previously entered into that certain Development Agreement dated July 9, 2019, and recorded July 10, 2019, in the Official Records of Coconino County as Document No. 3846498 (as amended, the "Development Agreement").

B. Each Owner is a successor-in-title to Original Developer and collectively, own all, or a majority, of the Property subject to the Development Agreement. Each portion of the Property owned by an Owner is sometimes referred to as a "Parcel" and collectively, the "Parcels".

C. When the Development Agreement was executed, the City and Original Developer did not anticipate that any portion of J.W. Powell Boulevard ("JWP") would be located within the Property. The Parties have now agreed that a new segment of JWP within the Property will be located from approximately the western boundary of the Canyon Del Rio development to Fourth Street, will be approximately one hundred and one feet (101') in width, together with necessary slope and drainage easements, and be located within the alignment shown on Exhibit "H" attached hereto (the "New JWP Right of Way")

D. In connection with the development of the Property, the Owners upon whose Parcels the New JWP Right of Way will be located (each a "Dedicating Owner") desire to (i) dedicate to the City fee title to that portion of the New JWP Right of Way located within such Dedicating Owner's

Parcel and (ii) grant the City the applicable slope easements and drainage easements required in connection with the construction and operation of the New JWP Right of Way.

E. To accommodate the New JWP Right of Way, and to address changes to the development of the Property necessitated thereby, and to address the other matters set forth herein, the Parties desire to amend the Development Agreement as set forth in this Amendment, which Amendment is made pursuant to Section 10.8 of the Development Agreement. Unless otherwise defined in this Amendment, initially capitalized terms used herein have the meanings given them in the Development Agreement.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby amend the Development Agreement and agree as follows:

1. Dedication and Scope of New JWP Right of Way.

a. Agreement to Dedicate. Subject to the performance by the City of its obligations hereunder, and the other terms of the Development Agreement, each Dedicating Owner agrees to (i) dedicate to the City fee title to that portion of the New JWP Right of Way (which also includes with all land necessary for intersection improvements, including signals) located within such Dedicating Owner's Property and (ii) grant the City each non-exclusive slope, temporary construction and drainage easements required in connection with the construction and operation of the New JWP Right of Way located within such Dedicating Owner's Property (each of (i) and (ii) a "ROW Dedication" and collectively the "ROW Dedications"). Notwithstanding the foregoing, each Dedicating Owner reserves from such slope, temporary construction, and drainage easements the right to utilize and construct improvements within the areas subject to such slope and drainage easements provided the same does not materially and adversely impact the construction or operation of the New JWP Right of Way. The City agrees that the New JWP Right of Way will be used as a public right-of-way only (and will not be expanded beyond a 4 lane roadway), that no overhead powerlines will be located within the New JWP Right of Way, and that all sewer, water, gas, communication and electrical utilities that are now or hereafter placed within the New JWP Right of Way will be placed underground, to the extent it is commercially reasonable to do so.

b. Alignment of New JWP Right of Way and Preparation of Dedication Documents.

i. The Parties agree that the final alignment of the New JWP Right of Way is shown on Exhibit "H" attached hereto.

ii. Within sixty (60) days after the date this Amendment is recorded, each Dedicating Owner shall prepare (at its sole cost and expense) and submit to the City, for City review, its Dedication Documents (defined below), which will dedicate its portion of the ROW Dedication to the City. With respect to any portion of the ROW Dedications running through Parcel R1, the dedication shall be made pursuant to a map of dedication and with respect to all other portions of the ROW Dedications, the dedication shall be made pursuant to the Block Plat for Phase 2 (i.e., Tract Z) of Canyon del Rio (collectively, the "Dedication Documents"). The Dedication Documents will also include a final legal description of such Dedicating

Owner's ROW Dedication. The Dedication Documents are subject to approval through normal City processes; provided that the City agrees to use commercially reasonable efforts to review and process such Dedication Documents within thirty (30) days after receipt. The Dedication Documents and the legal descriptions for the ROW Dedications will be consistent with Exhibit "H".

iii. The Owners and the City will use commercially reasonable efforts to cause the Dedication Documents to be approved by the City within one hundred twenty (120) days after the date this Amendment is recorded and each Dedicating Owner agrees to promptly respond to any City comments on the Dedication Documents.

c. City Acceptance of ROW Dedications. Prior to each ROW Dedication, each Dedicating Owner will satisfy and caused to be removed from title to its portion of the ROW Dedication, any mortgage, deed of trust, tax lien, judgment lien, or mechanic's lien encumbering such ROW Dedication. Subject to the foregoing sentence, the City agrees that if it approves of the Dedication Document for such ROW Dedication, the City will be deemed to have accepted and approved of such ROW Dedication subject to all matters of record.

d. Timing of Dedication. Within ten (10) business days after all of the Dedication Documents have been approved by the City, each Dedicating Owner and the City shall execute the applicable Dedication Documents and cause the same to be recorded in the Official Records of the Coconino County Recorder's Office. City and each Dedicating Owner agree to execute such other documents and agreements, at no cost or liability to such party, as may be reasonably required in order to complete the ROW Dedications.

e. Adjustments to Final ROW Dedications. The Parties acknowledge that in connection with the final design of the Initial Buildout of the New JWP Right of Way, the final dimensions and alignment of the ROW Dedications, and the Roadway Plans, may need to be modified to take into account various engineering or construction changes or modifications. Once the final design of the New JWP Right of Way is complete, the City (through review by City Staff and approval by the City Manager) and each Dedicating Owner agree to execute such additional maps of dedication, plats, and/or other necessary instruments as may be needed to reflect any changes to the New JWP Right of Way, which agreements will not be unreasonably withheld, conditioned, or delayed.

f. Conditions Precedent Obligation to Dedicate. Notwithstanding anything to the contrary contained herein, the Dedicating Owners shall have no obligation to dedicate to the City its ROW Dedication until the City and STL405, LLC, an Arizona limited liability company, Little America Hotels and Resorts, Inc., a Wyoming corporation and Kelly J. Gibson and Christy Gibson have entered into one or more separate agreements providing for the dedication and construction of a 2 lane road for JWP from the western boundary of the Property to the existing JWP roadway adjacent to the Pine Canyon development (the "STL 405 Right of Way").

g. Brighton Dedication. A small portion of the New JWP Right of Way will need to be located on certain real property (currently designated as APN 106-08-003F) owned by Burch6, LLC ("Brighton"). CDR Developer has caused Brighton to enter into an Easement Agreement recorded at Document No. 3986729 in the Official Records of Coconino County (the "Brighton Agreement") pursuant to which CDR Developer has an easement to construct the New JWP Right of Way and Brighton has agreed to dedicate the portion of the New JWP Right of Way located on its property to the City upon approval of the final plat for Phase 2 of Canyon del Rio. The City will pay to CDR

Developer, for use towards costs and expenses of the Initial Buildout, the ROW Purchase Price for the ROW Dedications from Brighton.

2. Compensation for Dedication of JWP.

a. Purchase Price for ROW Dedications. The City agrees to pay to each Dedicating Owner (or a party designated by the Dedicating Owner) an amount equal to the product of (i) the Per Acre Price, multiplied by (ii) the number of gross acres (rounded to the nearest one-thousandth) contained within such Dedicating Owner's ROW Dedications (each, a "ROW Purchase Price").

b. Determination of Per Acre Price. The "Per Acre Price" shall be determined in accordance with this Section 2(b). Within thirty (30) days after the date this Amendment is recorded, City and the Dedicating Owners will each obtain a separate appraisal to determine the fair market value of the ROW Dedications, which appraisals will be conducted in accordance with the Appraisal Assumptions (defined below) (each, a "ROW Appraisal"). Each ROW Appraisal must be prepared by an appraiser who is a member of the American Institute of Real Estate Appraisers, or if it is not then in existence, a member of the most nearly comparable organization, who has a minimum of five (5) years' experience and is familiar with the Flagstaff, Arizona market (a "Qualified Appraiser"). The Parties shall deliver their respective ROW Appraisal to each other for review within fifteen (15) days after receipt thereof. No Party will have the right to object to or dispute its ROW Appraisal unless the ROW Appraisal was not conducted in accordance with the Appraisal Assumptions, this Amendment, or contains a manifest error. The ROW Appraisals will be used by the Parties to agree on the Per Acre Price, and the Parties will negotiate in good faith to determine such amount, provided that the Parties must agree to a Per Acre Price that is not less than the lowest ROW Appraisal and not higher than \$600,000 per acre. The Dedicating Owners believe that the fair market value of the ROW Dedications, taking into account the Appraisal Assumptions, is approximately \$600,000.00 per gross acre. If the Parties are unable to agree upon the Per Acre Price within thirty (30) days after receipt of the ROW Appraisals, then, (1) if the difference between the two ROW Appraisals is less than twenty percent (20%), then the higher ROW Appraisal shall apply and will be the "Per Acre Price" and (2) if the difference between the two ROW Appraisals is more than twenty percent (20%), the Qualified Appraisers shall select a third Qualified Appraiser, who will conduct a third appraisal (without reviewing the other two appraisals but taking into account the Appraisal Assumptions). The third appraisal will then be used by the City and the Dedicating Owners as the basis for negotiating the final Per Acre Price. The fees charged by the third Qualified Appraiser, if applicable, shall be shared equally by the Parties.

c. Appraisal Assumptions. Each ROW Appraisal shall be conducted in accordance with the following assumptions (collectively, the "Appraisal Assumptions"): (1) the ROW Dedications will be valued at their highest and best use as then currently permitted under the existing entitlements, (2) the loss of lot sizes and lot premiums within Canyon del Rio as a result of the ROW Dedications and the Initial Buildout will be included in the value of the ROW Dedications, and (3) the sale prices of Parcels I and G of the Property will not be included or referenced in the appraisals, as those were sales by CDR Devcorp to an affiliated developer. Furthermore, prior to the appraisals being completed, the Parties shall agree on additional mutually agreeable Appraisal Assumptions, including, without limitation, (i) assumptions for how slope and drainage easements are to be valued, which will take into account the development of the Property and (ii) what constitutes the highest and best use as currently permitted under the existing entitlements.

d. Timing of Payment of ROW Purchase Prices. Each ROW Purchase Price shall be paid by the City to the applicable Dedicating Owner (or another party designated by the Dedicating Owner) within thirty (30) days after the execution and recording of the Dedication Documents and agreement on ROW Purchase Price after applicable appraisals.

3. Design and Construction for Initial Buildout.

a. General. As further set forth herein, CDR Developer agrees, at its sole cost and expense, to design and construct the Initial Buildout of the New JWP Right of Way.

b. Scope of Initial Buildout. The improvements to be constructed for the Initial Buildout of the New JWP Right of Way pursuant to this Agreement shall only consist of a two-lane roadway and those improvements contemplated by cross-section Nos. 2, and 4, all as such cross-sections are further described and shown on Exhibit "H" (collectively, the "Initial Buildout"). The Parties acknowledge the New JWP Right of Way is not being fully built out, and that the design and construction obligations hereunder with respect to the New JWP Right of Way is limited to the Initial Buildout.

c. Design. CDR Developer agrees, at its sole cost and expense, to cause the Initial Buildout to be fully designed, including the preparation of all required plans and specifications therefor (the "Roadway Plans"). CDR Developer will obtain the City's approval of the Roadway Plans through normal City processes. The City agrees to review the Roadway Plans and will not withhold, condition or delay its approval of the same provided such Roadway Plans comply with this Amendment and any other applicable City Codes to the extent not contrary to the Development Agreement. CDR Developer will use commercially reasonable efforts to cause the Roadway Plans to be completed and approved by the City within twelve (12) months after the Effective Date, subject to Force Majeure Delay. CDR Developer and the City will work together in connection with the preparation of the Roadway Plans to ensure that the Initial Buildout contains landscaping and design elements that achieve a cohesive and attractive looking roadway, consistent with the STL 405 Right of Way; provided that CDR Developer will not be required to agree to any landscaping or design elements in excess of City Code requirements. The Initial Buildout will be designed in a manner so that it will safely accommodate a vehicular speed of no less than 40 miles per hour; provided, however, that the Parties agree that the posted speed limit for the New JWP Right of Way will not exceed 35 miles per hour, subject to future City Council consideration and revisions.

d. Construction.

i. General. Within one-hundred eighty (180) days after the approval of the Roadway Plans, CDR Developer will select a contractor to construct the Initial Buildout and will enter into a contract with such contractor acceptable to CDR Developer, provided that such contract will provide for a warranty of all improvements for the applicable warranty periods required by the City.

ii. Coordination. CDR Developer and its contractors agree to coordinate the construction of the Roadway Section with the City to avoid any conflicts in design or construction of the STL 405 Right of Way (as defined herein, which includes the extension of JWP from Pine Canyon to the boundary of Canyon del Rio).

iii. Force Majeure Delay. The applicable commencement and/or completion time periods for the design and construction of the Initial Buildout pursuant to this Agreement shall be extended by a time equal to any period that progress and/or construction is delayed due to the following: (i) acts of God; (ii) floods, fires, earthquakes, explosions, or other natural disasters; (iii) wars, invasions, hostilities (whether war is declared or not), terrorist threats or acts, riots, or other civil unrest; (iv) embargoes or blockades in effect on or after the date of this Agreement; (v) epidemics, pandemics, or other national or regional states of emergency; (vi) strikes, labor stoppages or slowdowns, or other industrial disturbances; (vii) shortages of supplies, adequate power, or transportation facilities (not resulting from a Party's failure to timely order supplies, power, or facilities, (viii) injunction in connection with litigation or arbitration not resulting from the actions or inactions of a Party in violation of this Agreement, (ix) the failure of the City, or any state or federal governmental agency, to provide any required approvals, including, without limitation, the Roadway Plans (in each case excluding delays caused by a Party) or (x) other similar events beyond the reasonable control of the Parties (collectively, each, a "Force Majeure Delay"). If any Party obtains notice of any proposed or pending Force Majeure Delay, such Party shall promptly provide written notice of such Force Majeure Delay to the other Parties, which notice shall reasonably detail the reason(s) giving rise to the Force Majeure Delay and what efforts the constructing Party intends to take to minimize the Force Majeure Delay, and which shall also set forth a good faith estimate of the anticipated duration of the Force Majeure Delay.

iv. Self-Help. Subject to Force Majeure Delay, if the Initial Buildout has not been constructed within thirty-six (36) months after the date the Roadway Plans are approved by the City, then the City shall have the right to take over construction of the Initial Buildout upon thirty (30) days written notice to CDR Developer and provided that CDR Developer shall continue to be liable for all costs and expenses required to complete design and construction of the Initial Buildout up to the Initial Buildout Budget. Upon delivery of the foregoing written notice, CDR Developer and the City will execute such documents as may be required to assign the applicable contracts for the design and construction of the Initial Buildout to the City. To facilitate the exercise of self-help rights, all contracts that CDR Developer enters into for construction of the Initial Buildout will be freely assignable to the City.

e. Turn Lanes, Traffic Signals, and Intersection Improvements. If the City requires the construction of any turn lanes, traffic signals, or intersection improvements as may be set forth in any updated Traffic Impact Analysis submitted for, or applicable to, an Owner's Property that are not included in the Initial Buildout, then such Owner will be solely responsible to construct and pay for such improvement when it develops the portion of its Property requiring such improvements.

f. Future Sidewalks. The Parties acknowledge that in connection with the Initial Buildout, a sidewalk and related improvements are only being constructed on one side of the New JWP Right of Way. Each Owner agrees that when it develops any portion of its Property that abuts the New JWP Right of Way, it will complete the sidewalk and related improvements on the side of the New JWP Right of Way that abuts the portion of its Property being developed (the "Remaining Sidewalk"). The improvements for the Remaining Sidewalk shall be as shown on the applicable cross sections.

4. No Further Obligations For JWP. In consideration for CDR Developer's agreement to design and construct the Initial Buildout, the City agrees that this Agreement contains all obligations and liabilities of each Owner with respect to JWP, and the design, construction, and improvement

thereof, and that no Owner will be obligated, now or in the future, to further design, construct, or otherwise improve JWP, except for the improvements identified above in Section 2(e) and 2(f), regardless of the ultimate development that occurs on such Owner's Property. Any further design, construction, or improvement of JWP, or payment for the costs thereof, will be a regional improvement and the obligation of the City or other third party property owners (excluding the Owners and other future owners of the Properties). The City will issue any letters or statements reasonably requested by an Owner evidencing the foregoing and will direct City staff accordingly.

5. Modifications and Grading Permit. The cross-sections for the Initial Buildout identified on Exhibit "H", and the improvements contemplated thereby, are hereby approved by the City and the City hereby grants all modifications to the City's engineering requirements necessary to construct the Initial Buildout as contemplated by such cross-sections. Furthermore, for the New JWP Right of Way, the City hereby grants a modification on the City engineering and/or zoning requirement that retaining walls may not exceed five (5) feet before terracing is required, and instead, the City agrees that retaining walls constructed in connection with the construction of the New JWP Right of Way may be up to ten (10) feet in height before terracing is required and need only run for five (5) feet prior to the next retaining wall being constructed, subject to the requirement that all such improvements must be in accordance with approved engineering plans. For all other modifications that may be requested by an Owner, the City will follow its standard modification process, but will not unreasonably withhold, condition, or delay the approval of a variance. Subject to the satisfaction of standard City requirements and processes, the City will agree to grant to CDR Developer an at-risk rough grading permit after the execution and recording of the Dedication Documents.

6. Construction of Additional Roadway Improvements.

a. Existing Development Agreement Obligations. Under Section 4.7(b) of the Development Agreement, CDR Developer is, as and when set forth therein, obligated to make a cash in lieu contribution to the City in the amount of \$250,000 for the Butler/Peak Point Signal (the obligations of CDR Developer under Section 4.7(b) of the Development Agreement are referred to herein collectively, as the "Butler/Peak Point Signal Obligations"). Under Section 4.7(e) of the Development Agreement, CDR Developer is, under certain circumstances, obligated to either (1) construct the I-40/Butler Traffic Interchange Left Turn Lanes or (2) make a cash in-lieu payment in the amount of \$698,112 to the City in lieu of completing the I-40/Butler Traffic Interchange Left Turn Lanes (the obligations of CDR Developer under Section 4.7(e) of the Development Agreement are referred to herein collectively, as the "I-40/Butler Traffic Interchange Obligations").

b. Pedestrian Underpass. In connection with the construction of the Initial Buildout of the New JWP Right of Way, the City desires that the following additional improvements be constructed, which the Owners are not currently obligated to construct or pay for a pedestrian underpass that meets City standards for the portion of the Flagstaff Urban Trail System that will run under the New JWP Right of Way, the location of which is generally shown on Exhibit "H" (the "Pedestrian Underpass").

c. CDR Developer Construction of Pedestrian Underpass in Lieu of Other Obligations. As consideration for City's agreements set forth in this Section 6(c), CDR Developer agrees that (1) in connection with the construction of the Initial Buildout, it will also design and construct, at its sole cost and expense, the Pedestrian Underpass and (2) it will pay an additional cash

in lieu of construction payment to the City in the amount of \$270,000 (the “Additional Roadway Contribution”) prior to the issuance of a building permit for the 500th Dwelling Unit within the Property. The Additional Roadway Contribution may be used by the City for other area regional traffic improvements. As consideration for CDR Developer’s agreements set forth in this Section 6(c), the City agrees that (1) CDR Developer and all other Owners will have no further obligations with respect to the Butler/Peak Point Signal Obligations or the I-40/Butler Traffic Interchange Obligations, and Section 4.7(b) and Section 4.7(e) are hereby deleted from the Development Agreement in their entirety.

7. Impact of New JWP ROW Dedications; Resource Bank.

a. When the Development Agreement was executed, the City and Original Developer did not anticipate that any portion of JWP would be located within the Property. Because the Owners are not required to permit the New JWP Right of Way to be located within the Property under the current Development Agreement or any other zoning and entitlements for the Property, the City agrees that the ROW Dedications, and loss or disturbance of resources within the ROW Dedications, should not negatively impact the development of the Property.

b. Currently, pursuant to Section 10-50.90.020 of the City Code, resource calculation standards for slope, floodplain, and forest resources do not apply to the area within the public right-of-way of existing or proposed major or minor arterial roads. City staff will be proposing an amendment to the foregoing section of the City Code to make it so that resource calculation standards for slope, floodplain, and forest resources do not apply to public rights-of-way (local, collector, and arterial) (the “Resource Text Amendment”). If the Resource Text Amendment is approved by the City Council, it will apply retroactively to the entire CDR Property and will be documented through revised resource protection plans and updated resource table.

c. If the Resource Text Amendment, as described above, is not adopted by the City Council by the end of March 2025, then to ensure that the New JWP Right of Way does not negatively impact the development of the Property, the City agrees that all slope, floodplain, and forest resources contained within the ROW Dedications, in the amounts set forth on Exhibit “I” (the “JWP Preserved Resources”) will be deemed to be preserved under the Zoning Ordinance, with the final areas and calculations to be provided with the final plans. If applicable, CDR Developer may request that the JWP Preserved Resources exist in a separate resource bank and may be allocated by CDR Developer as it determines in its sole discretion, subject to City approval of a revised resource protection plan and resource bank calculation, which will not be unreasonably withheld. If the Resource Text Amendment is later approved, CDR Developer may elect to use the Resource Text Amendment in lieu of the foregoing resource bank.

8. Changes to Resource Protection.

a. CDR Developer previously sent a letter to the City Planning Director, dated October 15, 2024, requesting a five percent (5%) reduction of all slope, urban floodplain, and forest resources within the Property (i.e., all of Canyon del Rio). Pursuant to City Code 10-50.90.110, the Planning Director has the authority to grant such 5% reduction, and the Planning Director granted such 5% reduction on October 28, 2024. City acknowledges such 5% reduction and agrees that the 5% reduction applies to all resources within the Property (inclusive of Phase 1 and Phase 2 of Canyon del Rio).

b. In addition to the foregoing and Section 7 hereof, the City agrees that if any City codes and ordinances related to floodplains, slope, or forest resources, including, without limitation, Division 10-50.90 of the City Zoning Ordinance, are enacted, amended or replaced (collectively, "Amended Resource Ordinances"), that each Owner may elect to utilize the provisions of such Amended Resource Ordinances for its Parcel in determining whether a Parcel complies with applicable zoning or City requirements (including those related to resources) provided that it occurs prior to preliminary plat approval, or site plan approval (if applicable), and if no preliminary plat is required, prior to final plat approval. A Parcel that has been subdivided pursuant to a block plat shall not be considered platted for purposes of the foregoing sentence. To the extent the application of the Amended Resource Ordinance to any portion of the Property results in a decrease in required resources, such excess resources will be added to a separate resource bank that will be owned and controlled by CDR Developer and may be allocated by CDR Developer across the Property as it determines in its sole and absolute discretion.

c. Forest resources within portions of the Property that have not yet been platted (including preliminary or final subdivision plats) may be further reduced by the thinning of trees in accordance with Fire Wise standards. A Parcel that has been subdivided pursuant to a block plat shall not be considered platted for purposes of the foregoing sentence. If such additional tree thinning occurs within the Property, the resource bank will be automatically updated to reflect the change in resources.

d. Any updates to the approved resource plan for the Property will be administratively reviewed and approved by City Staff and will not require additional City Council review or approval.

9. Modification to Scope of Improvements and Removal of Collector Roads.

a. Removal of Requirement of Certain Collector Roads. Currently, the Preliminary Block Plat of CDRI'S 262.36 Acres of Canyon Del Rio prepared by Shephard Wesnitzer, Inc., dated Mar 19 and designated as Job No. 13184 shows a proposed Boulder Mountain Drive (South of Parcels P and O), South Ridge Road (East of Tracts E, F, Q1, and Q2), and Herold Ranch Road. Given the New JWP Right of Way, the City agrees that the Boulder Mountain Drive (South of Parcels P and O), South Ridge Road (East of Tracts E, F, Q1, and Q2), and Herold Ranch Road (except that portion provided in Section 9(b) below) shall be as set forth on the updated Traffic Impact Analysis (TIA) that will be completed for the block plat for Phase 2 of Canyon del Rio. If the updated TIA determines that additional collector roads are needed in Phase 2 of Canyon del Rio, then the Phasing Matrix will be updated and included in said block plat for Phase 2 of Canyon del Rio.

b. Modification of Requirements for Herold Ranch Road. The Parties desire to clarify the obligations of the Owners to construct Herold Ranch Road, as the exact scope of the improvements to such roadway were to be agreed upon by the Parties at a later date. Accordingly, and notwithstanding anything in the Development Agreement or any other agreement entered into between the City and any Owner (or any predecessor in title of the Property), including, without limitation, the Settlement Agreement (as defined herein), (1) no Owner shall have any obligation to construct or to pay for any portion of Herold Ranch Road that may now or hereafter be located outside of the Property; (2) with respect to any portion of Herold Ranch Road to be located east of the access point of Block Q-3 (the "East Portion") such road will only be required to be improved to the low water crossing and meet emergency standards (and rolled millings and a double chip seal will be permitted in lieu of typical asphalt section), which will be improved upon development of R-4-5 abutting Herold Ranch Road or Q3; and (3) with respect to any portion of Herold Ranch Road from JWP to the access point

of Block Q-3, the Owner of Block Q-3 shall be required to construct the same upon its development of Block Q-3, and the improvements required to be constructed for such segment of Herold Ranch Road will be based off the internal traffic impact when platted, but under no circumstances will this segment be less than a local road standard.

10. Amendment to Section 4(b). Section 4(b) of the Development Agreement is hereby deleted in its entirety and replaced with the following:

“(b) Parcels G, N, O, P and Q-3 Final Plat. Subject to the exception set forth in Section 4.4(e), below, CDRI may develop Parcels G, N, O, P and Q-3 (“Med Density Parcels”) as any combination of single-family attached or detached residential properties and multi-family attached or detached residential properties, based upon the zoning designations and densities as set forth in *Exhibit D*. Final Plat approval for any or all of the Med Density Parcels may be requested by CDRI as part of a separate subdivision application.”

11. General Modifications.

a. Modifications and Corrections of Exhibits. Exhibit C to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit C attached to this Amendment. Exhibits A, B, and D remain unchanged and Exhibit G is hereby deleted. A revised Exhibit E is under review by the City and will be deemed attached hereto once approved by City staff and CDR Developer. Exhibit F will be deemed revised to reflect the changes in Section 6 of this Amendment and a new Exhibit F may be agreed to by City staff and CDR Developer reflecting the same. Exhibits H and I are hereby added to the Development Agreement as contemplated by this Amendment. Furthermore, below is a full list of Exhibits to the Agreement, which supersedes the list set forth in Section 10.7 of the Development Agreement.

<i>Exhibit A</i>	<i>Legal Description of Property</i>
<i>Exhibit B</i>	<i>Parcel Map / Vicinity Map</i>
<i>Exhibit C</i>	<i>Concept Zoning Plan</i>
<i>Exhibit D</i>	<i>Density and Zoning Plan</i>
<i>Exhibit E</i>	<i>Phasing Matrix / Phasing Plan</i>
<i>Exhibit F</i>	<i>Offsite Improvements Master Plan and Financial Allocation</i>
<i>Exhibit G</i>	<i>Intentionally Omitted</i>
<i>Exhibit H</i>	<i>Alignment of New JWP Right of Way and Scope of Initial Buildout</i>
<i>Exhibit I</i>	<i>JWP Preserved Resources</i>

For the avoidance of doubt, to the extent that the City approves any preliminary plat, block plat, Parcel plat, site plan, map of dedication, or other plat that conflicts with any of the Exhibits, the foregoing shall control over the Exhibits.

b. AH In Lieu Contribution. The City and Owners agree that each Owner’s obligation, if any, to pay any AH In Lieu Contribution due as a result of development occurring on such Owner’s Parcel shall be the sole obligation of that Owner, and no Owner shall be liable for any AH In Lieu Contributions on a Parcel not owned by such Owner.

c. [Reserved]

d. Exhibit G. The references to “Exhibit G” in Section 4.9 and Section 5 are hereby deleted and replaced with a reference to “Exhibit E”.

e. Regional Detention Basin. In connection with satisfying any detention requirement, including compliance with Low Impact Development (LID) and rural floodplain standards, as outlined in this Development Agreement or otherwise required for the Property, the City agrees that the Parcels may utilize regional detention basin(s) improvements located within a portion of the Rio de Flag , and such available detention may be allocated among the Parcels as determined by CDR Developer and the City. Such detention basin(s) shall meet emergency overflow requirements in accordance with the City of Flagstaff Stormwater Management Design Manual.

f. Allocation of Liabilities. The City agrees that neither CDR Devcorp, nor CDR Investors II, nor any other owner of a portion of the Property (a “Third Party Owner”) shall have any obligations or liabilities under the Development Agreement with respect to portions of the Property owned by another person or entity. Neither CDR Devcorp, nor CDR Investors II, nor any Third Party Owner will be jointly liable with the others, and any default by a person or entity under the Development Agreement will apply solely to such defaulting person or entity and will not impact a non-defaulting person or entity’s rights under the Development Agreement.

g. Notice Address. Section 10.3 is amended to provide that the notice address for “CDRI” is now as follows:

CDR DEVCORP LTD
CDR Land Investors II, L.L.C.
ABBOTT-RHOTON INVESTMENTS, L.L.C.
3605 W. Flagstaff Ranch Road
Flagstaff, Arizona 86005
Attn: Brian Rhoton
Email: brhoton@capstonehomesaz.com

With a copy to:
Gammage & Burnham, PLC
40 N. Central Avenue, 20th Floor
Phoenix, AZ 85004
Attn: Lindsay Schube and James Senften
Email: lschube@gblaw.com and jsenften@gblaw.com

12. Conflicts with Development Agreement and Settlement and Release Agreement. Except as stated herein, the Development Agreement shall remain in full force and effect and is hereby ratified and approved. If there is any inconsistency between the terms of the Development Agreement and the terms of this Amendment, the provisions of this Amendment will govern and control the rights and obligations of the parties. Furthermore, if there is any inconsistency between the terms of the Development Agreement, as amended hereby, and the terms of that certain Settlement and Release Agreement recorded May 13, 2013 as Instrument No. 3662048 in the Official Records of the Coconino County, Arizona, Recorder, as amended by that certain Amendment to Settlement and Release Agreement dated January 29, 2015 (and as otherwise amended, collectively, the “Settlement”

Agreement”), the terms of the Development Agreement, as amended hereby, will govern and control the rights and obligations of the parties. This Amendment may be signed in counterparts.

13. Amendment. The Parties agree that notwithstanding the fact that certain owners of portions of the Property may not have executed this Amendment, this Amendment shall nevertheless be binding upon the Parties hereto and binding on those portions of the Property now or hereafter owned by the Owners executing this Amendment, as is permitted in accordance with Section 10.8 of the Development Agreement.

14. Conflict of Interest. This Amendment and the Development Agreement may be cancelled by the City pursuant to A.R.S. § 38-511.

[Balance of Page Intentionally Left Blank; Signature Page Follows]

[Signature Page to First Amendment to Development Agreement]

IN WITNESS WHEREOF, City and Owners have executed this Amendment as of the date first set forth above.

“City”

City of Flagstaff, an Arizona municipal corporation

Becky Daggett, Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

STATE OF ARIZONA)
COUNTY OF COCONINO)

ACKNOWLEDGMENT

On this _____ day of _____, 202__, before me, a Notary Public, personally appeared Becky Daggett, Mayor of the City Flagstaff, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same on behalf of the City of Flagstaff, for the purposes therein contained.

Notary Public
My Commission Expires: _____

[Signature Page to First Amendment to Development Agreement]

IN WITNESS WHEREOF, City and Owners have executed this Amendment as of the date first set forth above.

CDR DEVCORP LTD, an Arizona corporation

By: _____
Name: Clint Whiting
Its: President

STATE OF ARIZONA)
COUNTY OF _____)

On this _____ day of _____, 202__, before me, a Notary Public, personally appeared Clint Whiting known to me to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed the same on behalf of CDR DEVCORP LTD, an Arizona corporation, for the purposes therein contained.

Notary Public
My Commission Expires: _____

[Signature Page to First Amendment to Development Agreement]

IN WITNESS WHEREOF, City and Owners have executed this Amendment as of the date first set forth above.

CDR LAND INVESTORS II, L.L.C., an Arizona limited liability company

By: CDR 276, LLC, an Arizona limited liability company, its member and manager

By: CADERI Holdings, LLC, an Arizona limited liability company, its member

By _____
Name _____
Title: Member

By: SMS-CDR Investments, LLC, its member

By _____
Name _____
Title: Manager

STATE OF ARIZONA)
COUNTY OF _____)

On this _____ day of _____, 202__, before me, a Notary Public, personally appeared _____ known to me to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed the same as _____ of CADERI Holdings, LLC, an Arizona limited liability company, a member of CDR 276, LLC, an Arizona limited liability company, the member and manager of CDR Land Investors II, L.L.C., an Arizona limited liability company, for the purposes therein contained.

Notary Public
My Commission Expires: _____

STATE OF ARIZONA)
COUNTY OF _____)

On this _____ day of _____, 202__, before me, a Notary Public, personally appeared _____ known to me to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed the same as _____ of SMS-CDR Investments, LLC, a member of CDR 276, LLC, an Arizona limited liability company, the member and manager of CDR Land Investors II, L.L.C., an Arizona limited liability company, for the purposes therein contained.

Notary Public
My Commission Expires: _____

Exhibit C

Concept Zoning Plan

[SEE ATTACHED]

Exhibit E

Phasing Matrix / Phasing Plan

[SEE ATTACHED]

ON FILE WITH CITY AND CDR DEVELOPER

Exhibit F

Offsite Improvements Master Plan and Financial Allocation

[SEE ATTACHED]

ON FILE WITH CITY AND CDR DEVELOPER

Exhibit H

Alignment of New JWP Right of Way and Scope of Initial Buildout

[SEE ATTACHED]

Exhibit I

JWP Preserved Resources

[SEE ATTACHED]