

**Recorded at request of:** )  
Clerk, City Council )  
City of Desert Hot Springs )

**When Recorded return to:** )  
City Clerk )  
City of Desert Hot Springs )  
65950 Pierson Blvd. )  
Desert Hot Springs, CA 92240 )  
)  
)

Exempt from Filing Fees  
Per Gov't. Code 6103

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AMENDMENT TO DEVELOPMENT AGREEMENT NO. 01-04  
Stoneridge Specific Plan

This Amendment to Development Agreement No. 01-04 (Stoneridge Specific Plan) ("Amendment") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the City of Desert Hot Springs, a political subdivision of the State of California ("City") and Skyborne Ventures, LLC, a California limited liability company, ("Owner") with respect to the following:

RECITALS

- A. WHEREAS, the City and First West-DHS Associates, LLC entered into that certain Development Agreement No. 01-04 ("DA") for the Stoneridge Specific Plan ("SP") recorded on May 5, 2005 as Instrument No. 2005-0355117 in the Official Records of the Riverside County Recorder, which DA vested certain entitlements to develop the property described therein (the "Property"); and
- B. WHEREAS, section 11.13 of the DA provides that its benefits and burdens are binding upon and inure to the benefit of all successors in interest to the parties to the DA; and
- C. WHEREAS, Owner is the successor in interest to First West-DHS Associates, LLC as fee simple owner of the Property; and
- D. WHEREAS, the global economic crises of 2008 has resulted in a force majeure event which has delayed the development of the Property; and
- E. WHEREAS, the parties now desire to modify certain aspects of the DA to reflect the current schedule of development.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The definition of "Existing Development Approvals" set forth in section 1.1.8 of the DA shall be modified to mean all Development Approvals approved or issued prior to or concurrently with the date of this Amendment, including any and all conditions of approval and the mitigation monitoring plan adopted for the Property.

2. The definition of "Owner" as set forth in section 1.1.11 shall mean Skyborne Ventures, LLC, a California limited liability company.

3. The DA was recorded on May 5, 2005, and Section 2.3 provided that the initial term of the DA, subject to the stated conditions, was 10 years thereafter. Said section further provided that the term of the DA shall be automatically renewed for an additional ten (10) years provided that the Owner is found by the City Council, during the Periodic Review conducted during the tenth (10<sup>th</sup>) year of the Term, to be in substantial conformance with the DA. By this Amendment, the parties agree to extend the Term of the DA to May 5, 2035.

4. Pursuant to section 4.1.1, Owner's predecessor in interest agreed to make a contribution to the City in the sum of \$600,000 toward the cost of improvements required on Pierson Boulevard east of the Project. Said contribution was to be paid in three installments of \$200,000 each. City acknowledges that the first two installments have been paid. As a result of the force majeure circumstances which delayed development of the Project, the parties hereto agree that the schedule for payment of the third \$200,000 installment ("Third Installment") for the Pierson Boulevard improvements shall be modified as follows: upon full execution of this Amendment, Owner will make a payment of \$40,000 which shall be credited to the Third Installment. Thereafter, Owner shall make annual payments in the amount of \$40,000, each of which shall be credited toward the Third Installment, until said Third Installment has been paid in full, provided however, that upon the issuance of a Certificate of Occupancy for the 500<sup>th</sup> residential unit in the Project, any remaining unpaid balance of the Third Installment shall be paid in full.

5. The parties hereto acknowledge that Section 4.1.3 of the DA was modified pursuant to a letter dated September 15, 2008 from the then City Manager to Melissa M. Trunnel of D. R. Horton ("D.R. Horton Letter"), which letter is attached hereto as Exhibit "A," and incorporated herein by this reference. The D.R. Horton Letter and the provisions therein are hereby approved, accepted and ratified.

6. Exhibit E-Performance Schedule which was attached to the DA is hereby modified in its entirety in accordance with the "Revised Exhibit E" attached hereto and incorporated herein by this reference.

7. All defined terms in the DA shall have the same meaning when used in this Amendment. Except as specifically modified by this Amendment, the DA remains in full force and effect as to each and every term contained therein.

8. By its execution of this Amendment, the City hereby confirms that it has performed the required Periodic Review of the DA and the conditions surrounding its implementation, and finds that, considering the delay in development due to force majeure the Owner is in compliance with the requirements of the DA.

Owner's address for purposes of notice is hereby modified as follows:

Skyborne Ventures, LLC  
12671 High Bluff Drive  
Suite 150  
San Diego, CA 92130  
Attn: James M. Kozak

With a copy to:

Emily Perri Hemphill, Esq.  
P.O. Box 1008  
Rancho Mirage, CA 92270

[Balance of page intentionally blank. Signatures on subsequent page.]

In witness whereof, the parties hereto have executed this Amendment on the date first written above.

CITY

City of Desert Hot Springs  
A California municipal corporation

By: \_\_\_\_\_  
Adam Sanchez, Sr., Mayor

ATTEST:

By: \_\_\_\_\_  
Jerryl Soriano, City Clerk

APPROVED AS TO FORM AND CONTENT:

By: \_\_\_\_\_  
Martin Magana, City Manager

By: \_\_\_\_\_  
Steven B. Quintanilla, City Attorney

OWNER:

Skyborne Ventures, LLC, a California limited liability company

By: \_\_\_\_\_  
James M. Kozak, Manager

**EXHIBIT "A"**

**D.R. HORTON LETTER**

**SEE ATTACHED**



**Yvonne Parks**  
*Mayor*

**Scott Matas**  
*Mayor Pro Tem*

**Karl Baker, Jr.**  
*Councilmember*

**Russell Betts**  
*Councilmember*

**Al Schmidt**  
*Councilmember*

**Rick Daniels**  
*City Manager*

September 15, 2008

Melissa M. Trunnel  
Vice-President/Regional Counsel-California  
D.R. Horton, America's Builder  
5790 Fleet Street, Suite 140  
Carlsbad, CA 92008

Dear Ms. Trunnel:

Under the authority granted in Section 3.5 of Development Agreement No. 01-04 Between the City of Desert Hot Springs and Western Pacific Housing, Inc. (successor in interest to First West – DHS Associates, LLC) dated May 5, 2005 (the "Development Agreement"), the City of Desert Hot Springs hereby approves the following Subsequent Development Approval as a minor change to the Development Agreement:

Subsection (a) of Section 4.1.3 of the Development Agreement, related to park improvements, is hereby amended to read in its entirety as follows:

" (a) Karen Street Park. Owner shall contribute the 5-acre site identified in the conditions of approval incorporated in the Development Plan, and improve said site in the manner also described in the conditions of approval incorporated in the Development Plan or as otherwise approved by the City Manager at a total cost not to exceed \$1,200,000, not including land value. Owner shall complete construction on Karen Street Park no later than the date of the issuance of the first Certificate of Occupancy for any unit in villages other than one (Aurora) or two (Hopewell). No Certificate of Occupancy for any unit in villages other than one (Aurora) or two (Hopewell) shall be issued until Karen Street Park is completed in accordance with all approved conditions, plans and specifications, as reasonably determined by the City Director of Public Works."

Except as modified herein and by any other modification or amendment duly approved before this date, the Development Agreement remains in full force and effect in its entirety.

65950 Pierson Blvd.  
Desert Hot Springs  
California 92240

**(760) 329-6411**

[www.cityofdhs.org](http://www.cityofdhs.org)



**Yvonne Parks**  
*Mayor*

**Scott Matas**  
*Mayor Pro Tem*

**Karl Baker, Jr.**  
*Councilmember*

**Russell Betts**  
*Councilmember*

**Al Schmidt**  
*Councilmember*

**Rick Daniels**  
*City Manager*

If you agree to the terms and conditions set forth in the above-described modification, please sign where indicated below, retain a copy for your records, and return the original to me no later than 5 days from the date of this letter.

Sincerely,

Rick Daniels  
City Manager

As the duly authorized representative of Western Pacific Housing, Inc., a Delaware corporation, I hereby acknowledge and agree to the above-described modification. Further, I acknowledge and agree that, except as modified herein and by any other modification or amendment duly approved before this date, the Development Agreement remains in full force and effect in its entirety.

Western Pacific Housing, Inc., a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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California 92240

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## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)



REVISED EXHIBIT "E"

REVISED PERFORMANCE SCHEDULE

SKYBORNE DEVELOPMENT AGREEMENT

EXHIBIT "E"

REVISED PERFORMANCE SCHEDULE

Date Performance Due Measured by

Anniversary Date

Of Recordation of

**Development Agreement (05/05/2005)**

**Description of Cumulative Performance**

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**12<sup>th</sup> Anniversary (7/5/2017)**

Owner to have obtained building permits and begun construction on at least **200** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**14<sup>th</sup> Anniversary (7/5/2019)**

Owner to have obtained building permits and begun construction on at least **300** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**16<sup>th</sup> Anniversary (7/5/2021)**

Owner to have obtained building permits and begun construction on at least **500** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**18<sup>th</sup> Anniversary (7/5/2023)**

Owner to have obtained building permits and begun construction on at least **700** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**20<sup>th</sup> Anniversary (7/5/2025)**

Owner to have obtained building permits and begun construction on at least **900** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**22<sup>th</sup> Anniversary (7/5/2027)**

Owner to have obtained building permits and begun construction on at least **1100** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**24<sup>th</sup> Anniversary (7/5/2029)**

Owner to have obtained building permits and begun construction of at least **1300** homes;

certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**26<sup>th</sup> Anniversary (7/5/2031)**

Owner to have obtained building permits and begun construction on at least **1500** homes; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**29<sup>th</sup> Anniversary (7/5/2033)**

Owner to have obtained building permits and begun construction on at least **1700** homes ; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

**31<sup>th</sup> Anniversary (7/5/2035)**

Owner to have obtained building permits and begun construction on at least **1900** homes ; certificate of occupancy to be issued on each such home within one year of issuance of building permit therefore

\*All unit counts are cumulative and include the 178 completed units in existence at the time of this Amendment.