AGREEMENT REGARDING RED ROCK POINT PHASE 2

This Agreement is entered into as of May 1, 2015 ("Effective Date") between Land5, LLC, a Colorado limited liability company ("Land5"), successor in interest to the Garden of the Gods Club, LLC ("GOTGC"), and the Kissing Camels Property Owners Association ("KCPOA"), a Colorado nonprofit corporation, regarding real property commonly known as Red Rock Point Phase 2 and legally described in Appendix A attached hereto ("Real Property"), to be developed by Land5 as a planned development within Kissing Camels Estates ("KCE"). This Agreement is based upon the following understandings and intentions of the parties hereto:

A. KCPOA is an association for a common interest ownership community known as KCE and has authority and responsibility to all property owners within KCE to maintain the value of common ownership and individual properties within KCE as delegated by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservations for Kissing Camels, recorded in the records of the Clerk and Recorder of El Paso County, State of Colorado, under Reception No. 204032677 on February 26, 2004, as said Amended and Restated Declaration may be appropriately amended from time to time ("Master Declaration").

B. All capitalized terms not otherwise defined herein shall be as defined in the Master Declaration.

C. Land5 is the successor in interest to GOTGC and by assignment dated January 22, 2015, as owner of the Real Property. KCPOA and GOTGC previously entered into that certain Agreement Regarding Red Rock Point Phase 2 ("RRP-2 Agreement") dated to be effective as of July 1, 2009. This Agreement is intended to replace and supersede the RRP-2 Agreement, except for any financial obligations owed to KCPOA by GOTGC under the RRP-2 Agreement that remain outstanding as of the Effective Date.

D. Land5 and KCPOA desire to establish understandings as to the development of the Real Property by Land5 and the assimilation into KCE of the owners and their units developed within the Real Property.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by KCPOA and Land5, the parties agree as follows:

1. Annexation into Master Declaration and KCPOA Membership. Land5 agrees to subject the Real Property to the Master Declaration. The plat (and other legal documents as appropriate) for the Real Property shall reflect that the Real Property shall be annexed into the "Real Estate" as defined in the Master Declaration. Land5 and KCPOA will cooperate to cause the recording of a notice of annexation of all of the Real Property into the Master Declaration at the time the final plat for the Real Property is recorded. Owners of Units (also referred to herein as "lots") within the Real Property shall be members of KCPOA for all purposes. Owners of Units within the Real Property will pay the same KCPOA assessments per Unit (including contributions to the KCPOA Reserve Fund) as all other KCPOA members and shall pay such assessments at the same time as other members. The KCPOA Architectural Control Committee (ACC) shall have the same jurisdiction and authority for Units within the Real Property and ACC issues as it does for the current Units within KCE that are subject to the KCPOA ACC and to the KCPOA Design Guidelines, subject to the additional provisions in the attached Exhibit B, and that are also consistent with the plat for the Real Property approved by the City of Colorado Springs (the "City"). Land5 and KCPOA agree to cooperate in good faith and to execute those documents and take all necessary legal actions required to effectuate the above-intended results. KCPOA shall be allowed to review and pre-approve any formative
documents drafted by Land5 to achieve such agreed upon results, prior to filing with the City or other appropriate authorities.

2. **Land5 Contributions to KCPOA Reserve Fund.** Land5 shall contribute $2,000 to KCPOA as and for KCPOA's Reserve Fund for each recorded, platted lot within the Real Property (7 planned lots at $2,000 each for a planned total of $14,000), payable on a "per-platted-lot" basis to KCPOA when the final plat for such lots is recorded. After final plat recordation and payment to KCPOA of said contribution, Land5 agrees to pay KCPOA quarterly assessments for each lot within the Real Property not sold to an Owner. Such payments shall be at the assessment amount for "unimproved" lots within KCE (currently $50.00 per month), and shall continue for each lot within the Real Property until said lot is sold to an Owner, at which time the responsibility for the payment to KCPOA of the unimproved lot assessment shall be that of the Owner. The payments of assessments by Land5 or Owners for "unimproved" lots will be deposited into the KCPOA Reserve Fund. Upon completion of a residence upon a lot within the Real Property, the Owner of such lot shall become obligated to pay the assessments due KCPOA for an "improved lot" (currently $155.00/month) commencing due as of the first day of the first month following the issuance of a certificate of occupancy. Payment of assessments under this Paragraph 2 shall be subject to all rights of KCPOA set forth in the Master Declaration with respect to collection of Common Expense Assessments.

3. **Other Fees, Conditions and Approvals.**

   A. The Lot Owner shall pay to KCPOA whatever ACC Review Fee is currently approved by the ACC. That Fee is currently waived completely for all applicants if lots are sold to a Single Builder, unless the ACC determines that it needs outside professional review in order to achieve an appropriate evaluation of a specific application, in which case the Applicant must pay the out-of-pocket costs incurred by KCPOA for such outside professional review. At the time of making application for review by the ACC, the Lot Owner shall provide KCPOA with a site plan and complete plan (elevations) for the proposed Unit. If lots are sold to Multiple Builders application fees will be required.

   B. Land5 shall pay or cause to be paid to KCPOA an Impact Fee of $1,750 for each Unit. Impact fees collected are intended to cover the degrading impact on KCPOA roads and infrastructure from the large volume of heavy construction traffic related to construction within the Real Property. The Impact Fee shall be paid to KCPOA upon submission of its application for a building permit for each new residence within the Real Property. Impact Fees collected shall be deposited directly into the KCPOA Reserve fund.

4. **Warranty Assurance Bonds.** Land5 shall complete construction of streets and all infrastructure within the Real Property in full compliance with City of Colorado Springs standards and specifications, and shall provide KCPOA with a two-year construction warranty on such streets and infrastructure, the terms of which will mirror the requirements mandated by the City of Colorado Springs for road construction warranties received from developers. In addition, prior to commencing construction within the Real Property, Land5 shall provide KCPOA with a Warranty Assurance Bond (“WAB”) and other assurances that mirror the requirements mandated by the City of Colorado Springs for commercial or public projects of this nature, or, in lieu thereof, provide other assurances to KCPOA that are mutually agreeable to the parties. At the end of the warranty period, final acceptance by KCPOA will be based upon an inspection and repair as needed to satisfy the warranty, and the WAB will then be released.

5. **Construction Access and Gate.** Prior to commencement of infrastructure and home construction activities for the Real Property, Land5, and/or Lot Owner, and all contractors,
and subcontractors shall obtain construction passes from KCPOA Security Officers and follow established gate entry protocol, as would be expected of any other builder in KCE. Construction access will be the main gate only.

6. **Landscape Buffer and Rights-of-Way along Hill Circle.** Land5 shall install landscaping within Tract A as shown on the Final Development Plan (including a landscape buffer along that portion of the Real Property that abuts the Rights-of-Way for Hill Circle) in a manner approved by the ACC. Land5 shall maintain such landscaping and landscape buffer during the warranty period which shall be 2 years. The parties agree that KCPOA owns the street named Hill Circle, along with related Rights-of-Way that abut the Real Property, and that KCPOA shall maintain such streets and Rights-of-Way for all purposes including drainage. Land5 shall be responsible for obtaining water for the landscaping.

7. **KCPOA Architectural Control Committee Review/Approval.** Prior to issuance of building permits for the Real Property, KCPOA Architectural Control Committee ("ACC") approval of the home plans to be constructed within the Real Property shall occur in accordance with the processes outlined in the KCPOA Design Guidelines. The ACC shall have authority to insure that all of the proposed construction, including landscaping, in the Real Property conforms to those approvals, along with any other unique design, structural, landscaping or other features as set forth in Appendix B hereto.

8. **Construction Rules and Standards.** During construction of the Real Property, Land5 and/or Lot Owner shall comply with those standards of cleanliness and maintenance of the construction sites, and other rules regarding construction activities, that are required by the KCPOA Design Guidelines of other builders and developers and Owners within KCE.

9. **Disputes.** This Disputes provision shall apply to all alleged breaches or disputes regarding this Agreement, except for alleged non-payment by Land5 and/or Lot Owner of amounts specified in this Agreement. For cases involving alleged non-payment by Land5 and/or Lot Owner, KCPOA may seek appropriate remedies as provided in the Master Declaration or by initiating litigation in the appropriate court within El Paso County, Colorado, without following the procedures set forth below. For disputes not related to non-payment by Land5 and/or Lot Owner, in the event either party should allege a breach of this Agreement by the other party or, if either party should fail to agree on compliance with or implementation or interpretation of any part of this Agreement, such alleged breach or failure to agree shall be treated as a Dispute and handled pursuant to the specific provisions of this Paragraph 9. The parties agree not to initiate any litigation unless and until the steps outlined below have been exhausted without resolution of the Dispute. The party alleging breach or failure to agree shall activate this Dispute clause by providing a written Notice of Dispute to the other party. Any such Notice shall be specific as to the nature of the Dispute, the specific provision(s) of this Agreement in dispute, and a stated remedy to resolve the Dispute. Within seven (7) days of the delivery of such Notice, Land5, and KCPOA, by its Executive Board, shall hold discussion in a good faith attempt to resolve the dispute. If the Dispute remains unresolved twenty (20) days following the delivery of such Notice, the parties shall participate in mediation, using a mediator that is acceptable to both sides. In the event the parties cannot agree upon a mediator, a mediator shall be designated by the Judicial Arbiter Group ("JAG") in Colorado Springs, but, in any event within sixty (60) days following the delivery of the Notice of Dispute. Mediation shall commence upon a date mutually agreed by the parties, or if no agreement, then a date selected by the JAG. Mediation shall be deemed to have failed if so declared by the mediator, or, if the Dispute is not resolved within thirty (30) days of commencing mediation. In lieu of mediation, the parties may mutually agree to
another form of alternate disputes resolution (ADR), including binding arbitration, using a mutually agreed arbitrator, or if no agreement, then the arbitrator shall be designated by the JAG. If legal issues are involved in the Dispute, the laws of the State of Colorado shall be the applicable law used to interpret or implement this Agreement. Should any Dispute remain unresolved for any reason within one hundred twenty (120) days following the delivery of the Notice of Dispute, either party shall, thereafter, be free to pursue any remedies available at law or in equity.

10. **Other Developments by Land5 within KCE.** This Agreement is a stand-alone agreement for the Real Property only. However, should Land5 purchase or participate as a majority owner in any other development within KCE, other than a single family property, this Agreement shall serve as a basis for a separate agreement between the developer and KCPOA as to that development.

11. **Miscellaneous:**

   **A. Partial Invalidity.** If any provision of this Agreement shall be held invalid or unenforceable under any applicable law, it shall be replaced by an enforceable provision to the same or the nearest possible equivalent effect. In the event there is no enforceable provision to the equivalent effect, such provision shall not apply in such instance. In such event, then all remaining provisions herein shall be given effect in accordance with their terms.

   **B. Entire Agreement/Modification.** This Agreement constitutes the entire agreement between the parties thereto and supersedes all prior oral and written agreements, communications and negotiations between the parties with respect to the subject matter hereof. This Agreement shall not be revised or modified except by written agreement executed by both parties hereto.

   **C. Assignment.** The rights, duties, obligations and privileges of any party to this Agreement may not be assigned without the specific written approval of the other party.

   **D. Notices.** Any notice required or provided for in this Agreement shall be in writing. For purposes of this Paragraph, "writing" shall mean either a written communication sent and delivered (i) by any USPS mail service, (ii) electronic mail to a recognized and previously approved address for either Land5 or KCPOA (never individual or personal email addresses) or (iii) hand-delivered and which shall be addressed as indicated below or to such other address as Land5 or KCPOA may specify hereinafter in writing to the other party.

   **To Land5:**
   
   Land5, LLC
   P.O. Box 50223
   Colorado Springs, CO 80949
   pmartzlrg@comcast.net

   **To KCPOA:**
   
   Bennett – Shellenberger Realty, Inc.
   Attn: Ms. Stephanie Ammend
   1710 East Pikes Peak Avenue, Ste. 200
   Colorado Springs, CO 80909
   stephanie@bssince1890.com
With copy to:
President
Kissing Camels Property Owners Association c/o
Bennett-Shellenberger Realty, Inc.
1710 East Pikes Peak Avenue, Ste. 200
Colorado Springs, CO 80909

a. **Time is of the Essence.** Time is of the essence with respect to each and every covenant, term and condition provided herein.

b. **Duplicate Originals.** The parties agree that this Agreement shall be executed in duplicate originals.

In WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year below their signatures, acknowledging their authority to do so on behalf of Land5 and KCPOA, respectively.

**Land5, LLC**
A Colorado Limited Liability Company

By: __________________________
Title: MANAGER

STATE OF COLORADO )
) SS.
COUNTY OF EL PASO )

The foregoing agreement was acknowledged before me this 1 day of June, 2015, by Peter R. Martz, as manager of Land5 LLC, a Colorado limited liability company.

Witness my hand and official seal.

My Commission expires 9/3/17

[Notary Seal]

[Notary Signature]
KCPOA
A Colorado Nonprofit Corporation

By: [Signature]
Title: [Signature]

STATE OF COLORADO )
) SS.
COUNTY OF EL PASO )

The foregoing agreement was acknowledged before me this 9th day of June, 2015, by William Hult as President of KCPOA, a Colorado nonprofit corporation

Witness my hand and official seal.

My Commission expires 9-6-2017

JAYME E. PURYEARN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 20024031055
MY COMMISSION EXPIRES SEPTEMBER 06, 2017
APPENDIX A
Red Rock Point Phase 2
Land5 LLC/Kissing Camels Property Owners Association
April 20, 2015

Legal Description

A PORTION OF THE EAST HALF TO THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 13 SOUTH, RANGE 67 WEST OF THE 6TH P.M., CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT NORTHWEST CORNER OF THE UTILITY EASEMENT RECORDED NOVEMBER 20, 2003 AT RECEPTION NO. 203272820 OF THE RECORDS OF SAID EL PASO COUNTY, BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HILL CIRCLE AS DESCRIBED IN THE RESUBDIVISION OF THE PARK AT KISSING CAMELS ESTATES AS RECORDED MAY 25, 1982 AT RECEPTION NO. 871604 IN PLAT BOOK P-3 AT PAGE 92 OF THE RECORDS OF SAID EL PASO COUNTY; THENCE N03°47'44"E ON SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 306.50 FEET TO A POINT OF CURVE; THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE, ON A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 29°21'10", A RADIUS OF 460.00 FEET FOR AN ARC DISTANCE OF 235.66 FEET, WHOSE CHORD BEARS N18°28'19"E; THENCE S57°01'52"E A DISTANCE OF 31.98 FEET; THENCE S79°18'06"E A DISTANCE OF 42.00 FEET; THENCE S54°31'24"E A DISTANCE OF 30.87 FEET; THENCE S62°20'59"E A DISTANCE OF 28.33 FEET; THENCE S37°26'30"E A DISTANCE OF 33.50 FEET; THENCE S06°27'33"W A DISTANCE OF 34.13 FEET; THENCE S34°13'58"W A DISTANCE OF 58.00 FEET TO A POINT ON A CURVE ON THE WESTERLY LINE OF THE UTILITY EASEMENT DESCRIBED IN BOOK 3192 AT PAGE 108 OF THE RECORDS OF SAID EL PASO COUNTY; THENCE ON SAID WESTERLY LINE, ON A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 01°03'28", A RADIUS OF 1625.00 FEET FOR AN ARC DISTANCE OF 30.00 FEET, WHOSE CHORD BEARS S01°22'00"W; THENCE S22°29'44"E A DISTANCE OF 25.00 FEET; THENCE S52°38'33"E A DISTANCE OF 32.00 FEET; THENCE S07°07'43"E A DISTANCE OF 149.19 FEET; THENCE S28°01'12"W A DISTANCE OF 71.28 FEET; THENCE S03°47'54"W A DISTANCE OF 92.85 FEET TO THE NORTHERLY LINE OF SAID UTILITY EASEMENT DESCRIBED AT RECEPTION NO. 203272820; THENCE N86°12'06"W ON SAID NORTHERLY LINE, A DISTANCE OF 210.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.351 ACRES OF LAND, MORE OR LESS.
APPENDIX B
Exhibit B for Land5 LLC/Kissing Camels Property Owners Association
Development Parcel Annexed into KCPOA
April 20, 2015

Conditions and Approvals Applicable to All Development Plans:

1. “Lot Line” shall mean the same as defined in the zoning regulations of the City of Colorado Springs and approved as part of the PUD and development plans for particular area.
2. “Setbacks” for respective lots within the filing are defined by the PUD approved, or as shown on the approved development plan. Side loaded garages shall only be allowed on lot 1 and lot 7, unless otherwise approved by the ACC. The total side yard separation between all structures for all lots shall be greater than 10’. The builders are encouraged to maximize the side yard separation between structures wherever possible.
3. “Minimum Square Footage” shall mean with respect to a dwelling, the square footage of the main level of living space, excluding porches, decks, garages, and basements. The Minimum Square Footage shall be 2,000 square feet.
4. All homes are to be single story “Ranch Style” homes, with a “Maximum height” of 26’ above the “Top of Foundation”. The Maximum Height shall not exceed the height restrictions imposed by the city as part of any approval.
5. Land5 shall establish Bench Marks and Maximum Top of Foundation Elevations for each lot within the development. All dwellings built, erected, or placed upon any Lot shall be constructed using the following elevations:
   
   Lot 1: Maximum Top of Foundation Elevation = 6429.50
   Lot 2: Maximum Top of Foundation Elevation = 6429.50
   Lot 3: Maximum Top of Foundation Elevation = 6429.50
   Lot 4: Maximum Top of Foundation Elevation = 6430.00
   Lot 5: Maximum Top of Foundation Elevation = 6429.50
   Lot 6: Maximum Top of Foundation Elevation = 6429.00
   Lot 7: Maximum Top of Foundation Elevation = 6428.50

6. Curb and gutter is to be constructed adjacent to the property along the East side of Hill Circle from the existing end point, extended and connected to the existing curb and gutter along the North side of Grand Market. KCPOA shall be responsible for payment of the cost of curb and gutter from the Land5 Southeast Boundary to the existing curb and gutter.
7. Mailbox locations shall be as noted on the improvement plans and as approved by the US Postal Service.
8. Sidewalk is to be constructed adjacent to the property along the East side of Hill Circle from the existing end point to the intersection of Hill Circle and Grand Market, including a pedestrian ramp at the intersection. Land5 shall provide KCPOA with a cashier’s check in the amount equal to the cost to construct a sidewalk along the property’s South Boundary adjacent to Grand Market.
9. Curb and gutter is to be constructed along the access road for the property within Tract A, identified as Camels Drivers Lane.
10. Tract A is to be conveyed to KCPOA upon recordation of the Final Plat, and shall be owned and maintained by KCPOA.
11. Landscaping within Tract A and the adjacent landscape buffer along Hill Circle, is to be completed according to a Landscape Plan approved by the ACC, and shall be
constructed by Land5 prior to Certificate of Occupancy for the first home. This landscaping is to be maintained by Land5 during the two year warranty period.

12. All landscaping within individual lots will be the responsibility of the homeowner. Homeowners will be required to submit landscape plans for all landscaping to be installed, and are subject to review and approval by the Architectural Control Committee, and shall meet the standards set forth in the Landscape Standards.

13. All Amendments to the Master Plan, Plats, and construction drawings must be provided to the KCPOA ACC for review and approval before submitting to the City of Colorado Springs or El Paso County for review and approval, recording, and/or for a Building Permit.