

When recorded, return to:  
Annette Spendlove, City Recorder  
North Ogden City  
505 E 2600 N  
North Ogden, UT 84414

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2011 (the “Effective Date”), by and between **NORTH OGDEN CITY**, a Utah municipal corporation (“City”), and \_\_\_\_\_ **Westside Investments, LLC** (“**MARRIOTTWESTSIDE**”).

### RECITALS:

A. **MARRIOTTWESTSIDE** owns approximately \_\_\_\_\_ (\_\_\_\_) acres of real property known as the Cove Subdivision, Phases 1 & 2 situated in North Ogden, Weber County, State of Utah, (the “Property”). The Property is depicted in the two plat maps attached hereto as **Exhibit A** and **Exhibit B** and in the Property Legal Description attached hereto as **Exhibit C**.

B. Wentworth Development was the original owner and developer of the Property. Wentworth processed the Property through the North Ogden subdivision development approval process and eventually obtained final plat and improvement plan approval. Shortly after recording, Wentworth sold the Property to Republic Mortgage. Republic completed most of the required subdivision improvements. When the residential housing economy collapsed, the developer was unable to make payments on the construction loan, the Property went into foreclosure and Far West Bank (the lender) became the new owner. ~~Randy MarriottWESTSIDE Construction~~ has now purchased the Property from Far West Bank, intends to complete the development process (the “Project”) and obtain final acceptance of the subdivision by the City.

C. At the request of **MARRIOTTWESTSIDE**, “The Cove Final Development Plan,” as previously approved and accepted by the City, ~~was~~ amended by the North Ogden City Planning Commission, the City’s land use authority, at its meeting on \_\_\_\_\_, April 6, 2011, then modified after appeal to the North Ogden City Council on May 23, 2012. The amended plan as modified by the City Council, is incorporated into this Agreement by this reference. A copy of the amended plan is attached hereto as **Exhibit D**.

D. The North Ogden City Council has determined that facilitating the development of the Project by **MARRIOTTWESTSIDE** within the boundaries of the City will result in substantial benefits to the citizens of the City.

E. The City Council finds that it is in the best interest of the City and its residents, and that it is also in accord with the public purposes of applicable state and local laws, as reflected in

Utah Code Ann. § 10-9a-102(2) to enter into this Agreement to promote and support the development of the Project.

F. The purpose of this Agreement, therefore, is to reduce to writing the respective agreements and understanding of the parties regarding the development of the Property in conformance with City ordinances. The City and ~~MARRIOTT~~WESTSIDE, as well as any permitted successors and assigns, agree to be bound by the terms and conditions of this Agreement as more particularly set forth herein.

#### AGREEMENT:

The recitals set forth above are incorporated into this Agreement. In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **Escrow to complete improvements:**

1. North Ogden City agrees to grant final acceptance to all currently completed improvements listed in the "Schedule of Accepted Improvements" attached hereto as Exhibit E. The City will not require any warranty period or associated financial guarantee for these items.
2. North Ogden City agrees ~~to delete~~that no escrow for completion of the offsite Ben Lomond Irrigation Company secondary water system and the provision of water shares to service the subdivision will be required subject to the requirements of paragraph 8.
3. North Ogden City agrees ~~to delete~~that no escrow for completion of the debris flow and snow avalanche protection berm along the northerly boundary of the subdivision will be required subject to the requirements of paragraph 8.
4. North Ogden City agrees ~~to delete~~that no escrow for completion of the open channel grading improvements and open channel lot drainage swales as shown on sheet # 26 of 26 on the approved construction plans will be required and agrees to defer completion of lot drainage swales until after a building permit has been issued for construction on the lot; a notation will be placed on the Subdivision Plat advising lot owners of their responsibility to construct lot drainage swales as set for in the construction plans.
5. North Ogden City agrees to have ~~Marriott~~WESTSIDE establish a City approved and City controlled cash escrow account covering all uncompleted improvements in the amount of \$ ~~667,285.39~~ \_\_\_\_\_ as shown on the "Schedule of Subdivision Improvements for which Escrow is Required" attached ~~hereto as e~~Exhibit F. Only the items on this list will require a financial guarantee and will be subject to the City one-year warranty period.
6. The landscaping described in the \_\_\_\_\_, 2011~~1~~2 amendment to "The Cove Final Development Plan" including parks, trails and other open space is a required developer

improvement; however, the developer may cause the homeowner's association ("HOA") to install these improvements as long as the HOA is adequately organized and funded by the developer, including an adequate funding mechanism to carry out those tasks and complete all improvements subject to the requirements and timetable of paragraph 8; however, if the developer chooses to delegate the responsibility to complete required landscape improvements to the HOA, escrow in the amount set forth in schedule attached as Exhibit G will be required. If the developer agrees to be responsible for the installation of the landscape improvements, the City agrees not to require escrow for these improvements on the following conditions. Landscape improvements will be installed consistent with the amended final development plan and the following items will be added to the "punchlist" of required developer improvements:

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**Comment [D1]:** The City's intent here was to offer Westside an option to avoid having to escrow for the landscape improvements. While the City has confidence in Westside to complete the required improvements, it is not willing to apply that trust to an unknown non-developer HOA. If Westside wants to shift the responsibility for landscape to the HOA, escrow will be required. If Westside agrees to be responsible to the City for the completion of landscape, no escrow will be required.

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- a. The two parks, North Park and Recreation Center Park, may be built in phases.
- b. North Park must be completed by the time the 86<sup>th</sup> building permit for homes in the subdivision is issued; if it is not completed by that point, no further building permits will be issued until North Park is complete.
- c. Recreation Center Park must be completed by the time the 130<sup>th</sup> building permit for homes in the subdivision is issued; if it is not completed by that point, no further building permits will be issued until Recreation Center Park is complete.
- d. "Neighborhood parks" are the landscaped areas inside private driveways. Each neighborhood park must be completed by the developer within six (6) months after the last building permit for the homes serviced by each private driveway is issued.
- e. All NOS areas, as depicted on the plat, must be dedicated to the City as utility, drainage and public trail easements.
- f. A public trails must be completed through the western drainage corridor that runs from north to south through the subdivision each NOS area. The trails must be graded to a minimum width of six (6) feet. The trail surface may be native onsite materials. Westside will coordinate with the City Parks Department and Storm Water Drainage Department in selecting the course of the graded trail improvement.

**Lot Sale Restriction and Issuing of Building Permits:**

7. ~~Marriott~~WESTSIDE agrees not to close the sale of any lots in the Cove Subdivision until the cash escrow account in the amount of \$~~667,285.39~~ \_\_\_\_\_ has been created and approved by North Ogden City.

8. At such time as the cash escrow account has been established, lots can be offered for sale with the following conditions:

- a. Lots may be sold with a buyer restriction. The restriction must appear in the deed of sale for each lot sold and notify lot owners that building permits will not be processed and approved by the City until the following items have been completed by the developer:
  - i. Sufficient secondary water currently exists to service an additional ten (10) building lots.
  - ii. Upon amendment of the Final Development Plan, approval and execution of this Agreement and recordation of an amended plat, City will immediately issue up to ten

(10) building permits subject to the following restrictions:

i(1). Subject to paragraphs i-ii of this part, tThe offsite secondary water system must be completed, Ben Lomond Irrigation must dedicate sufficient water shares and full secondary water service must be available at the location at which application for a building permit is made~~to all lots in the subdivision.~~

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ii(2). All of the open channel improvements and individual lot drainage swales must be constructed as outlined on sheet # 26 of 26 on the approved construction plans; open channel improvements must be complete before building permits issue, lot drainage swales may be constructed and inspected as part of the building permit/inspection process.

iii(3). A public trail as provided in 6(c) must be completed ~~through each NOS area.~~ The trails must be a graded to a minimum width of 6.0 feet. The trail surface may be native, onsite materials.

iv(4). The developer must dedicate to North Ogden City a public utility, drainage and trail easement over all NOS areas.

v. ~~There will be a moratorium on the issuance of building permits by the City in the event that the North Park landscape improvements are not complete by the time the 86<sup>th</sup> building permit within the subdivision is issued by the City until the improvements are complete.~~

vi. ~~There will be a moratorium on the issuance of building permits by the City in the event that the Recreation Center Park landscape improvements are not complete by the time the 130<sup>th</sup> building permit within the subdivision is issued by the City until the improvements are complete.~~

b. MarriottWESTSIDE will be given two (2) years from the date of this Agreement to construct the protection berm along the north and east line of the subdivision, or higher up the grade on the "Richard's Property" located up the grade from the subdivision as approved by the City Engineer. Once the berm is completed and accepted by the City, it will be dedicated to the City which will assume responsibility for its maintenance. Westside will dedicate to the City by easement a reasonable route for City equipment to access the berm. Pending completion of the protection berm, lots may be sold and building permits may be issued, but buyers must be provided notice of the lack of avalanche and debris protection and must sign a hold harmless and assumption of risk agreement with MarriottWESTSIDE and the City. If the protection berm is not completed within two (2) years to the satisfaction of the City Engineer, no further building permits will be issued until it is completed.

**Acceptance of improvements and warranty period:**

9. North Ogden City personnel will provide inspection of the construction of all remaining subdivision improvements. As the various items are completed in an acceptable manner, MarriottWESTSIDE may request release of funds from the cash escrow covering these items.

10. At such time as all improvements have been completed, the City will issue a "conditional acceptance" of the improvements and the warranty period will begin as outlined in the City

Subdivision Ordinance. When the one-year warranty period has expired and if the improvements have remained in acceptable condition, then the City will issue a “final acceptance” and all funds held in escrow will be returned to the developer.

11. Acceptance and warranty of sidewalk improvements will be subject to the applicable City regulations currently in effect.

**Impact Fee Reimbursements:**

12. North Ogden City signed a reimbursement agreement with Republic Mortgage covering the off-site culinary water system improvements. This agreement stipulates that any culinary water impact fees collected by North Ogden City as part of building permits within the ~~specific service area~~ Property will be transmitted back to the developer to reimburse the developer for the off-site culinary water improvements.

13. The final documented cost of the improvements as determined by the City Engineer is in the amount of \$1,612,000. ~~Marriott~~ WESTSIDE ~~will obtain~~ has obtained an assignment from its predecessors in interest to receive the reimbursement funds. North Ogden City will extend the term of the reimbursement agreement to fifteen (15) years from the date of this Agreement. Attached hereto as Exhibit H is a copy of the “Acknowledgement of Assignment and Extension of Term Agreement.”

**Dedication of Intersection of Dillon Way Mountain Road:**

14. At ~~MARRIOTT~~ WESTSIDE'S request the City Engineer's office will draft a description for the property at the intersection of Dillon Way and Mountain Road. The property is necessary to guarantee access from Dillon Way onto Mountain Road. MARRIOTTWESTSIDE will be responsible to negotiate and secure an agreement with the current owner of the property for transfer at no cost to the City to be used as a public right-of-way. The agreement will advise that the current owner that the owner will remain responsible to complete improvements at this intersection even though it will become a public right of way. If MARRIOTTWESTSIDE is unable to acquire the needed right-of-way after making commercially reasonable efforts to do so, the City will provide ~~Marriott~~ WESTSIDE such support as may reasonably be necessary to make the ~~acquisition~~ acquisition. For purposes of this agreement, only the cost of the land needed for right of way shall be considered for purposes of determining a commercially reasonable price. Disputed sums between developer and the current land owner relating to previous installation of utilities by the land owner to serve the Property shall be resolved separate and apart from the land acquisition transaction.

15. **Vested Rights.** Subject to the terms and provisions of this Agreement and subject to the approvals which have been granted, the parties hereby acknowledge certain vested rights of MARRIOTTWESTSIDE to develop the Property. Nothing herein shall be construed to provide MARRIOTTWESTSIDE with any further or additional vested rights than those recognized by Utah law. Such vested rights shall be subject to all recognized exceptions, including, but not limited to the

**Comment [D2]:** The City is aware that there is a potential dispute between Westside and the current land owner regarding utilities that he installed at his cost to serve the Property for which he was never reimbursed. The City will not use its eminent domain authority as leverage to settle this dispute.

pending ordinance, procedural modes and form, clarifying ambiguity, and compelling public interest doctrines. Except as otherwise provided herein, development of the Property shall be permitted in accordance with the approved plans, plats and permits for the Property, the terms and conditions of this Agreement, and all applicable city ordinances which are in effect on the date of this Agreement.

**16. Police Powers.** Notwithstanding the foregoing, development of the Property shall be subject to subsequent amendments to City Ordinances regarding fees, procedures and police power provisions as may be allowed under applicable vested rights law in the State of Utah. The provisions set forth herein are not intended to retroactively require additional application or permit fees from **MARRIOTTWESTSIDE** for applications or permits which have been completed and approved and for which all fees have been paid in accordance with the fee schedule in effect at the time such fees were due and paid for the subject application or permit in accordance with applicable city ordinances or to allow the imposition of additional conditions on any pending applications except as may otherwise be allowed under applicable vested rights law in the State of Utah. Development of the Property shall also be subject to subsequent city ordinances enacted under the City's police power to protect the public health, safety and welfare as may be allowed under applicable vested rights law in the State of Utah. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the vested rights of **MARRIOTTWESTSIDE** under 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. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the City; and, unless the City declares an emergency, **MARRIOTTWESTSIDE** shall be entitled to notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public policy exception to the vested rights doctrine.

**17. Default.** In the event any party fails to perform its obligations hereunder or to comply with the terms of this Agreement, the non-defaulting party may pursue the following enforcement remedies. Prior to the invoking the remedies provided herein, the non-defaulting party shall provide the defaulting party written notice of default and a thirty (30) day cure period; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, then the defaulting party shall have such additional time as is reasonably necessary to cure such default, provided that the defaulting party commences to cure such default within such thirty (30) day period and proceeds to cure such default with diligence and continuity. All notices of default shall be provided in accordance with the Notice provisions set forth below. In the event the defaulting party does not cure the default within the cure period or enter into a written agreement with the non-defaulting party for curing the default within a reasonable time, acceptable to the non-defaulting party in its reasonable discretion, the non-defaulting party may, at its election, pursue the following remedy or remedies:

- a. all rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance and/or damages except consequential damages; or
- b. The right to withhold all further approvals, licenses, permits or other rights associated with the particular phases in the Project, parcel or building to which the default is applicable until such default has been cured.

c. The rights and remedies set forth herein above shall be cumulative.

**18. Assignment.**

a. MARRIOTTWESTSIDE may from time to time and without the consent of the City, convey any or all portions of the Project or any lots in their entirety to one or more successors of MARRIOTTWESTSIDE, together with the rights granted by this Agreement to develop one or more of the portions of the Project or the lots, as applicable, so transferred or conveyed in accordance with this Agreement; provided, however, such assignment shall in no way relieve MARRIOTTWESTSIDE of its obligations under this Agreement and MARRIOTTWESTSIDE shall remain jointly and severally liable with MARRIOTTWESTSIDE'S assignee(s) to perform all obligations under the terms of this Agreement which are specified to be performed by MARRIOTTWESTSIDE. Notwithstanding the foregoing, MARRIOTTWESTSIDE may request the written consent of the City of an assignment of MARRIOTTWESTSIDE's complete interest in the Agreement. In such cases, the proposed assignee shall have the qualifications and financial responsibility necessary and adequate, as required by the City, to fulfill the obligations undertaken in this Agreement by MARRIOTTWESTSIDE. The City shall be entitled to review and consider the ability of the proposed assignee to perform, including financial ability, past performance and experience. After review, if the City gives its written consent to the assignment, MARRIOTTWESTSIDE shall be released from its obligations under this Agreement for that portion of the Property for which such assignment is approved.

b. Nothing in this Section shall require MARRIOTTWESTSIDE to obtain the City's consent prior to selling a portion of the Project or lots in the ordinary course of the business. The provisions of this Section shall not prohibit the granting of any security interests for financing the acquisition and development of dwelling units, residential lots, commercial structures, or other development parcels within the Project, subject to MARRIOTTWESTSIDE complying with the Plans, the applicable city zoning ordinances, this Agreement and applicable federal, state and local laws, rules, regulations and other ordinances. In addition, MARRIOTTWESTSIDE may grant an assignment of MARRIOTTWESTSIDE's rights under any this Agreement in connection with financing all or a portion of the Project without obtaining the City's approval.

c. In the event of a transfer of all of the Project or any remaining portion of the Project and upon assumption by the transferee of MARRIOTTWESTSIDE's obligations under this Agreement, the transferee shall be fully substituted as the party to this Agreement, and shall agree to be subject to all of the conditions and restrictions to which MARRIOTTWESTSIDE and the Property are subject.

**19. Term.** MARRIOTTWESTSIDE agrees to complete all required developer improvements, with the exception of open space improvements controlled by paragraph 8, and to obtain final acceptance of the subdivision no later than two (2) years from the date of this Agreement. City agrees to grant final acceptance of the subdivision once all improvements, other than open space improvements as described in paragraph 8, are completed. This Agreement will terminate upon: (1) completion of all

developer improvements, including open space improvements, and final acceptance of the subdivision by City; (2) sale of all subdivision lots; or (3) fifteen (15) years; whichever occurs first.

**20. Other Agreements:**

a. Ownership. MARRIOTTWESTSIDE hereby warrants and represents that it has full authority to enter into the terms of this Agreement.

b. Notices. All notices, demands and requests which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when sent by United States Mail, postage prepaid, addressed as follows:

To the City:	North Ogden City Attn: City Manager 505 E 2600 N North Ogden, UT 84414 Facsimile:801-464-6791
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<u>MARRIOTTWESTSIDE:</u> <u>Construction INVESTMENTS, LLC</u>	_____ <u>MarriottWESTSIDE</u> Attn: Randy Marriot 5238 West 2150 North Ogden, Utah 84404
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Any party may change its address for notice under this Agreement by giving written notice to the other party in accordance with the provisions of this paragraph.

c. Attorneys Fees. Each party agrees that should it default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorneys fees which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing a lawsuit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

d. Entire Agreement. This Agreement, together with the Exhibits attached hereto, documents referenced herein and all regulatory approvals given by the City for the Property, the Project and/or the Plan, contains the entire agreement of the parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the parties which are not contained in such agreements, regulatory approvals and related conditions. It is expressly agreed by the parties that this Agreement is intended to and shall govern the development of the Property pursuant to city ordinances, including, but not limited to, all planning, zoning and subdivision issues.

e. Headings. Headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.



f. Construction of Agreement. This Agreement shall be construed so as to effectuate the public purpose of implementing long-range planning objectives, obtaining public benefits, and protecting any compelling countervailing public interest. For purposes of this Agreement and the construction of its terms, the parties acknowledge that both participated in the drafting of this Agreement and neither shall be considered the drafter.

g. Non-Liability of Officials, Employees and Others. No officer, representative, agent or employee of a party hereto shall be personally liable to any other party hereto or any successor in interest or assignee of such party in the event of any default or breach by the defaulting party, or for any amount which may become due the non-defaulting party, or its successors or assigns, or for any obligation(s) arising under the terms of this Agreement. h. No Third Party Rights. Unless otherwise specifically provided herein, the obligations of **MARRIOTTWESTSIDE** and the City set forth in this Agreement shall not create any rights in or obligations to any other persons or third parties.

i. Binding Effect, Covenant Running With the Land. This Agreement shall be binding upon the parties hereto and their respective officers, agents, employees, successors and assigns, as permitted herein. The covenants contained herein shall be deemed to run with the Property and a copy of this Agreement shall be recorded by **MARRIOTTWESTSIDE** in the office of the Weber County Recorder, State of Utah. Notwithstanding the foregoing, at such time as a certificate of occupancy is issued by the City with respect to any portion of the Project, this Agreement and the covenants contained herein shall be deemed to have been satisfied with respect to the Property within such portion and the City agrees, upon the request of **MARRIOTTWESTSIDE** at such time, to execute a certificate of completion with respect to such portion, and as to the last portion, a certificate of completion with respect to the Project.

j. Governing Law and Jurisdiction. The provisions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Utah. The parties to this Agreement agree that any judicial action associated with the Agreement shall be taken in the Utah state or federal court of competent jurisdiction.

k. No Waiver. Any party's failure to enforce any provision of the Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

l. Severability. If any portion of this Agreement is held to be unenforceable by court of competent jurisdiction, any enforceable portion thereof and the remaining provisions shall continue in full force and effect.

m. Exhibits. Exhibits A through D attached hereto are hereby incorporated herein by this reference.

n. Time of Essence. Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.

o. Knowledge. The parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and risks and having had the opportunity to consult with legal counsel of their choice.

p. Supremacy. In the event of any conflict between the terms of this Agreement and those of any document referred to herein, this Agreement shall govern. If there is a conflict between the provisions of this Agreement and city zoning ordinances or the Plan, the terms and conditions of this Agreement shall govern. In the event of conflict between any terms within this Agreement, the more restrictive provision shall govern.

q. No Relationship. Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties.

r. Priority. This Agreement shall be recorded against the Property senior to any protective covenants and any debt security instruments encumbering the Property.

s. Amendment. This Agreement may be amended only in writing signed by the parties hereto.

t. Force Majeure. Neither party hereto shall be liable for any delay or failure in the keeping or performance of its obligations under this Agreement during the time and to the extent that any such failure is due to acts of God, acts of the United States Government or the State of Utah, fires, floods, or other casualties or causes beyond the reasonable control and without the fault or negligence of the party obligated to perform hereunder; provided the party seeking relief under the provisions of this Section: (1) notifies the other party in writing of a force majeure event within fifteen (15) days following the affected party's knowledge of the occurrence of the claimed force majeure event, and (2) promptly resumes the keeping and performance of the affected obligations after such cause has come to an end. Each party shall make every reasonable effort to keep delay in performance as a result of such a cause to a minimum.

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**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

**“CITY”**

**NORTH OGDEN CITY**

ATTEST:

\_\_\_\_\_  
City Recorder

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

Approved as to Form

\_\_\_\_\_  
City Attorney

**“~~MARRIOTT~~WESTSIDE”**

**~~MARRIOTT~~WESTSIDE**

**~~CONSTRUCTION~~INVESTMENTS, LLC**

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

Approved as to Form

\_\_\_\_\_  
Legal Counsel

**CITY ACKNOWLEDGMENT**

STATE OF UTAH                    )  
  : ss.  
WEBER COUNTY                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that he is the Mayor of North Ogden City, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said \_\_\_\_\_ acknowledged to me that the City executed the same.

\_\_\_\_\_  
Notary Public

**~~MARRIOTT~~ WESTSIDE CONSTRUCTION INVESTMENTS, LLC  
ACKNOWLEDGMENT**

STATE OF UTAH                    )  
  : ss.  
WEBER COUNTY                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me \_\_\_\_\_ who being by me duly sworn did say that (s)he is the \_\_\_\_\_ of MarriottWESTSIDE Construction INVESTMENTS, LLC, and that the foregoing instrument was signed in behalf of said ~~corporation-LLC~~ by authority of a resolution of its ~~Board of Directors~~ Members; and ~~they~~ acknowledged to me that said ~~corporation-LLC~~ executed the same.

\_\_\_\_\_  
Notary Public