

## **AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is made and entered into this day of \_\_\_\_\_, 2011 (the “Effective Date”), by and between **NORTH OGDEN CITY**, a Utah municipal corporation (“City”), and **Westside Investments, LLC**, a Utah Limited Liability Company (“WESTSIDE”) and **Timber Barker**, (“Owner”).

### **RECITALS:**

1. WESTSIDE owns the vast majority of the lots and has succeeded to the rights of the Declarant in The Cove Subdivision; Phases 1 & 2 situated in North Ogden, Weber County, State of Utah, (the “Property”) as described in the official plats recorded in the office of the Weber County Recorder.

2. City is the local government authority exercising land use and development regulation over the Property.

3. Owner is the owner of Lot 147, in Phase 2 of the Property. Owner desires to construct on Lot 147 a home which is intended to be an entry in the 2012 Parade of Homes.

4. Last year’s parade of home entries generated traffic in excess of 3,000 visits per home and marketing the Property by having the home entered in the Parade of Homes is of value to WESTSIDE, City and Owner.

5. WESTSIDE and City are in the process of finalizing a development agreement containing covenants and conditions between the parties relating to completing certain aspects of the development of the Property. Execution of the development agreement is a condition precedent to City issuing building permits to construct homes on the Property.

6. Delay in issuing a building permit for the Parade of Homes entry could lead to the loss of the opportunity which all parties desire to avoid.

7. Owner understands that there are certain risks involved in proceeding with construction of a home on Lot 147, prior to completion of the development agreement between City and WESTSIDE and prior to the completion of certain components of required infrastructure in connection with the Property. Owner is willing to accept those risks in order to eliminate delay in receiving a building permit from City.

NOW THEREFORE in consideration of the covenants and conditions contained in this agreement and other good and valuable consideration, WESTSIDE, City and Owner agree as follows:

1. Prior to finalization of the agreement with WESTSIDE to develop the Property, City shall issue a building permit to Owner for the construction of a single-family home on Lot 147 of the Property (which the parties understand will be entered in the 2012 Parade of Homes) on the following conditions:

- a. Owner shall construct a home on Lot 147 and to apply for entry into the 2012 Utah Parade of Homes.
- b. Owner shall obtain a letter to serve Lot 147 from Ben Lomond Water;
- c. Owner shall install individual drainage swales for Lot 147, if any, as depicted in the Property grading plan prior to occupancy;
- d. Owner acknowledges that landscape, drainage and other developer improvements in the Property are incomplete and will be phased in as per the development agreement yet to be entered into between WESTSIDE and City;  
and
- e. Owner acknowledges that certain subdivision improvements including, but not limited to, avalanche protection features, debris basins, flood water retention basins and drainage swales are presently not functional and will only be completed over time as provided in the development agreement. Certain of these subdivision improvements are intended to mitigate the impact of natural events such as flooding, avalanche, debris flows, etc. that pose a risk of damage to property or injury or death to persons in connection with the intended use of Lot 147. Owner acknowledges these and other risks (both known and unknown) and in consideration for the ability to commence early the construction on the home to be built on Lot 147, Owner is willing to assume the risks and release WESTSIDE and City from any and all liability resulting from the absence of the incomplete infrastructure until completed in accordance with the development agreement.

2. The covenants and conditions contained in this agreement shall not constitute a waiver of any conditions or agreements now existing between WESTSIDE and City

or to become binding upon execution of the development agreement between the parties.

3. This constitutes the entire agreement between the parties in regard to Lot 147.

NORTH OGDEN CITY

WESTSIDE INVESTMENTS, LLC

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

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

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

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

ATTEST:

\_\_\_\_\_  
S. Annette Spendlove, MMC  
City Recorder

TIMBER BARKER

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