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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
CITY OF HOLLADAY
4580 S 2300 E
HOLLADAY CITY UT 84117
BY: TMM, DEPUTY - WI 8 P.

When recorded, return to:
City of Holladay
4580 South 2300 East
Holladay, UT 84117
Attn: Stephanie Carlsson
City Recorder

**DEVELOPMENT AGREEMENT FOR
PHEASANT GROVE DEVELOPMENT
CITY OF HOLLADAY, UTAH**

THIS DEVELOPMENT AGREEMENT ("Development Agreement") is entered into as of this 9 day of Dec, 2013 by and among (NCD-III, LLC. or Daw Management, Inc.), its successors and assigns ("Developer") and City of Holladay, a Utah municipal corporation ("Holladay" or "City") for the Pheasant Grove Development Project ("Pheasant Grove Project") which is located at approximately 5555/5561 South Highland Drive, Holladay, Utah.

- A. Pheasant Grove Development. Developer is the owner/authorized agent of a certain portion of property. This property (the "Property") is specifically described in **Exhibit A** attached hereto. The development intent for the Property is a not-to-exceed 11 lot single family detached residential development.

NOW THEREFORE, in consideration of the above recitals, the parties agree as follows:

**Article 1
The Project**

1.1 Adoption of Recitals; Legal Description of Property. The recitals set forth above in paragraph A are hereby adopted by the City and Developer as true and correct, and any promises, agreements, or obligations set forth therein are hereby incorporated into this Development Agreement and enforceable provisions hereof. The property covered by this Development Agreement consists of approximately 4.1 acres of land located at approximately 5555/5561 South Highland Drive. This property is more fully described in **Exhibit A** attached hereto.

1.2 Project Description. The Pheasant Grove Project covered by this Development Agreement consists of not-to-exceed 11 single family detached residential lots. This project plan is more fully described and generally shown in **Exhibit B**.

1.3 Project Approval. Pursuant to the City of Holladay Zoning Ordinance, the Pheasant Grove Project, as more particularly described in Section 1.2 above, is in compliance with Appendix K of the City of Holladay General Plan, the Highland Drive Corridor Master Plan and has been approved under the R-1-10 Zone (Chapter _____).

The review and approval process included lawfully advertised public hearings with the City of Holladay Planning Commission on September 4, 2013 and November 7, 2013 before the Holladay Municipal Council. Holladay acknowledges and agrees that Developer shall have the vested right to develop and construct the Pheasant Grove Project in accordance with the provisions of this Development Agreement and the R-1-10 Zoning and other applicable ordinances and regulations of the City. Planning Commission approval of a Final Subdivision Plat and a formal pre-construction meeting with City Staff will be required to ensure that all conditions of the Zoning Ordinance and other approvals are satisfied before construction can commence.

Article 2

Infrastructure Improvements, Performance Bond and Guarantee of Amenities

2.1 Security for Off and On Site Public Improvements. Developer agrees to complete all required off-site and on-site public improvements related to the Pheasant Grove Project in accordance with approved Construction/Civil Plans for the Pheasant Grove Project. Developer shall guarantee such improvements through one or more infrastructure performance bond consistent with the City's infrastructure bonding policies. These bonds provide for the financial security for the public improvements, including, but not limited to, water, sewer, curb and gutter, public sidewalk and street improvements, surface drainage, and other public improvements. Developer agrees to bond for and construct the public improvements in such a manner as to ensure adequate infrastructure exists for the buildings being constructed as per the City Engineer. This includes providing appropriate access through the site for emergency vehicles as determined by the Fire Marshal and Building Official.

Article 3

Specific Conditions of Master Planned Development

3.1 Agreement to Comply with Specific Conditions of Approval. The Developer agrees to the following conditions of approval:

3.1.1 Development Layout:

- 3.1.1.1 The Pheasant Grove Project shall be constructed in accordance with the approved subdivision/P.U.D, **Exhibit C**, with regard to layout and Concept Master Plan. Attached Exhibit C may be modified during the approval process.
- 3.1.1.2 Proposed Lots 1, 2 and 3 as shown on Exhibit B shall not be subdivided and must contain at least 0.50 acres. All other lots shall contain at least 13,000 square feet.
- 3.1.1.3 All buildings and parking along the private road shall be set back a minimum as approved in the subdivision/P.U.D.
- 3.1.1.4 A buffering or screening perimeter project fence shall be required

along the east and north property boundary. It shall be constructed as set forth in Section 13.78.110 of the Code of Ordinances of the City.

The fence to be constructed along the perimeter of the property that it is adjacent to Highland Drive shall be an "open" fence and not of a solid barrier construction.

3.1.2 Landscaping:

3.1.2.1 The Pheasant Grove Project shall include landscaping/open space as shown on **Exhibit C** or subsequent approved revisions with regard to planting areas, turf areas, street trees, walkways, etc. as further defined by the Planning Commission.

3.1.2.2 Detailed landscaping plans for all landscape/open space areas shall be submitted as part of a Final Subdivision/P.U.D. review process. These plans shall comply with Chapter 37 of the Zoning Ordinance.

3.1.2.3 Street trees along Highland Drive shall be planted in compliance with the requirements of this Development Agreement and the City's street tree requirements.

3.1.2.4 Special planning efforts must take place to retain and protect as many existing trees on the site of the proposed subdivision. As dwellings and buildings are designed and constructed, efforts must be made to protect the trees.

3.1.3 Building Architecture:

3.1.3.1 All buildings shall comply with the applicable Building Code requirements adopted by the City on the day a complete application is filed for a Building Permit. Such applications shall be reviewed and approved by the City Building Official through the standard Building Permit process.

3.1.3.2 All accessory structures, i.e. trash enclosures, etc., shall be compatible with and include similar exterior materials and colors as the primary buildings.

3.1.3.3 All buildings shall include fire sprinkler systems in accordance with the Fire Marshal's requirements and approval, if any.

3.1.4 Final Subdivision/P.U.D. Approval:

3.1.4.1 Developer shall prepare and submit a Final Subdivision P.U.D. plan for the project that is consistent with and complies with the provisions of this Development Agreement, the Zoning Ordinance, and all requirements of the City Engineer, Community Economic Developer, Fire Marshal, Building Official and City Planner. This submittal shall include development layout, landscaping, grading, infrastructure, sidewalks, representative building elevations and any other details of the project required for review and approval.

3.1.4.2 Performance bonds for public improvements shall be in place prior to any construction of the Pheasant Grove Development Project.

Article 4
General Terms and Conditions

- 4.1 Construction of Agreement. This Development Agreement shall be constructed and interpreted to ensure that Developer strictly complies with the requirements and conditions of the Zoning Ordinance, and this Development Agreement.
- 4.2 Laws of General Applicability. Where this Development Agreement refers to laws of general applicability to the Pheasant Grove Project, that language shall be deemed to refer to laws which apply to all other subdivided properties within City of Holladay.
- 4.3 Agreements to Run with the Land. This Development Agreement shall be recorded against the Pheasant Grove Property. The agreements contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors and assigns as described in 4.4 below.
- 4.4 Binding Effect. This Development Agreement shall be binding on any and all successors and assigns of Developer in the ownership or development of any portion of the Pheasant Grove Project or Property.
- 4.5 Assignment and Transfer of Pheasant Grove Project. Any transfer or assignment of this Development Agreement shall comply with the consent of both parties hereto based on reasonable cause.
- 4.6 Duration. The term of this Development Agreement shall commence on the date the Development Agreement is executed by both parties. The term of this Development Agreement shall extend for the period of time Developer, its successors or assigns own any portion of the Pheasant Grove Property, but in no event longer than December 31, 2015. Developer, at its sole discretion, may reduce the size of the development or terminate this Agreement. At such termination, the zoning for the described parcels shall revert to the zoning designations as of December 1, 2013.
- 4.7 Notices. Any notice, confirmation or other communication hereunder shall be given in writing by mail or facsimile at the following addresses or numbers:

City of Holladay, City Manager
4580 South 2300 East
Holladay , UT 84117
FAX: (801) 272-9451

Holladay City Community Development Director
4580 South 2300 East
Holladay , UT 84117
FAX: (801) 527-3891

Holladay City Attorney
4580 South 2300 East
Holladay, UT 84117
FAX: (801) 272-9384

Developer:

ATTN: Norm C. Dahle
NCD-III, LLC
PO Box 27952
Holladay, UT 84117
PHONE: (801) 608-5119
FAX: (801) 618-4108

Any of the above parties may change its address by notice given to the other parties in the manner required for other notices above.

4.8 Savings Clause. If any provision of this Development Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remaining provisions of the Development Agreement, or the application of such provision to the persons or circumstances other than those to which it is held invalid, shall not be affected thereby or considered invalid.

IN WITNESS WHEREOF, this Development Agreement has been executed by City of Holladay, acting by and through the Holladay Municipal Council, and by a duly authorized representative of NCD-III, LLC (Developer), as of the above stated date.

CITY:

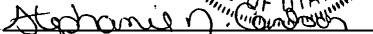


CITY OF HOLLADAY

By:


Dennis R. Webb, Mayor

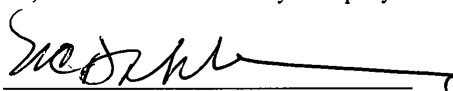
ATTEST:


Stephanie Carlson City Recorder

DEVELOPER:

NCD-III, LLC, a Utah Limited Liability Company

By:


Norm C. Dahle
Its: Manager

Subscribed and sworn to me this 18th day of December, 2013.



Shantel Marsell
(Notary)

Residing in Salt Lake County, Utah
My Commission expires: 2-18-2015

Norm C. Dahle is personally known to me.

EXHIBIT "A"

Legal Description:

Commencing at a point that is South 00°04'40" West, a distance of 737.01 feet and South 89°59'18" East, a distance of 3.00 feet; from the Northwest Corner of Section 15, Township 2 South, Range 1 East; Salt Lake Base & meridian; thence South 72°00'00" East, a distance of 150.27 feet; thence South, a distance of 24.07 feet; thence South 72°00'00" East, a distance of 186.45 feet; thence South 07°37'25" West, a distance of 291.72 feet; thence North 87°21'56" West, a distance of 463.07 feet; more or less to the Right-of-Way line of Highland Drive; thence North 00°38'37" West, a distance of 226.54 feet; thence Continue northerly along said line, a distance of 169.50 feet; thence South 89°59'18" East, a distance of 182.49 feet to the Point of Beginning.

Containing 178,604 square feet or 4.100 acres, more or less

PARCELS: 22-15-103-00A, 005, 006, 020 &
22-16-231-002

Exhibit B
ARC FLO+
FLORRES
SAHAGUN
 a visionary design firm

SALT LAKE CITY
 228 EAST 500 SOUTH, SUITE 101
 84111, UTAH
 T 801 320 9773
 F 801 320 9774
 E info@arcflo.com

PREPARED FOR
Norm Dahle
 P.O. Box 17941
 Salt Lake City, Utah
 84117

PROJECT LOCATION

5555 - 5561 South
 Highland Drive

MUNICIPALITY

Holladay City, Utah

ZIP CODE 84117

PROJECT TITLE
 PHEASANT GROVE
 DEVELOPMENT

PROJECT ID
 PUD-08-11A-13

ISSUE DATE
 September 19th 2013

SHEET TITLE
 CONCEPT
 VICINITY MAP

SCALE
 NIS

SHEET NUMBER
 SD 102

