

E 2802835 B 6015 P 95-101
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
05/09/2014 10:42 AM
FEE \$22.00 Pgs: 7
DEP RT REC'D FOR CENTERVILLE CITY

When recorded, return to:

Centerville City
Attn: City Recorder
250 North Main Street
Centerville, Utah 84014

RETURNED
MAY 09 2014

Effects Parcel: 07-070-0123 ✓

**ASSIGNMENT AND ASSUMPTION AGREEMENT
FOR DEVELOPMENT AGREEMENT WITH CENTERVILLE
CITY FOR THE WOODS PARK PLANNED DEVELOPMENT (PDO) TO
OAKWOOD HOMES OF UTAH, LLC**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment Agreement") is made and entered into as of the 2 day of May, 2014, by and between **HWD WOODS PARK, LLC**, a Utah limited liability company ("Assignor"), **OAKWOOD HOMES OF UTAH, LLC**, a Delaware limited liability company ("Assignee"), and **CENTERVILLE CITY**, a Utah municipal corporation ("City"). The City, Assignee and Assignor may collectively be referred to herein as the "Parties", or individually, as a "Party".

RECITALS:

WHEREAS, the City, Ellis, Val D. Wood, Trustee of the Val D. Wood Revocable Trust and Val D. Wood, as their interests appear ("Wood Trust"), and William J. Wright and Suzanne B. Right, as joint tenants ("Wrights"), previously entered into that certain Development Agreement, dated April 4, 2013, as recorded in the Davis County Recorder's Office as Entry No. 2731793, Book No. 5743, Pages 390-430 ("Development Agreement") regarding the development of a planned residential development on real property located at the southeastern corner of 2250 North (Lund Lane) and 800 West (Frontage Road) in Centerville City, Davis County, State of Utah (the "Woods Park PDO"), as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, HWD Woods Park, LLC previously purchased the the Property and the rights to develop the Woods Park PDO by that certain Assignment and Assumption Agreement recorded as Entry No. 2795278, Book 5980, Page 625-631; and

WHEREAS, HWD Woods Park, LLC desires to convey its interest in the Property and all existing rights and obligations to develop the Property in accordance with the

terms and conditions of the Development Agreement as more particularly provided herein to Assignee, who is now the property owner of record the Property; and

WHEREAS, the Parties desire to enter into this Assignment Agreement in order to effect an assignment by Assignor and acceptance and assumption by Assignee of all of the terms and conditions of the Development Agreement as they pertain to the Property and development of the Property as more particularly provided herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Development Agreement as it pertains to the Property, together with Assignor's rights, powers and privileges thereunder existing from and after the date Assignee acquires fee title ownership to the Property ("Effective Date of Assignment"). Assignee hereby accepts the same and assumes the rights and responsibilities of the Development Agreement as it pertains to the Property and agrees to timely pay and perform each and every obligation to be paid and performed under the Development Agreement as it pertains to the Property from and after the Effective Date of Assignment. Pursuant to Section 23 of the Development Agreement, Assignee agrees to be bound by the terms of the Development Agreement and to be liable for the performance of each of the obligations contained in the Development Agreement as they relate to the Property and any other applicable obligation regarding development of the Property from and after the Effective Date of Assignment.

2. **Acknowledgment of Recording.** Assignor and Assignee hereby acknowledge the recording of the Development Agreement against the Property and authorize the recording of this Assignment Agreement against the Property.

3. **Successors and Assigns.** This Agreement shall bind the Parties, their personal representatives, successors and assigns. Any assignment of the rights and duties of Assignee as assigned herein shall be subject to and comply with the terms of the Development Agreement, including, but not limited to Section 23 of the Development Agreement.

4. **Attorneys' Fees.** Should any Party commence a legal proceeding to enforce any of the terms or provisions of this Assignment Agreement, the prevailing Party in such proceeding shall recover reasonable attorneys' fees and costs from the defaulting Party, as fixed by the court in such proceeding.

5. **Effective Date.** The provisions of this Assignment Agreement shall become effective immediately upon proper execution by the Parties. The assignment and assumption provided herein shall become effective on the Effective Date of Assignment as defined in Section 1.

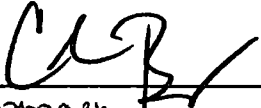
6. **Miscellaneous.** Nothing herein shall be deemed to create the relationship of principal and agent, partnership or joint venture between the Parties. This Assignment Agreement shall be interpreted and construed only by the content hereof, and there shall be no presumption or standard of construction in favor of or against any Party. This Assignment Agreement may be amended or modified only in writing. The invalidity or unenforceability of any provision of this Assignment Agreement, as determined by a court, shall in no way affect the validity or enforceability of any of the remaining provisions hereof. This Assignment Agreement shall be construed according to and governed by the laws of the State of Utah.

[Signature page to follow]

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

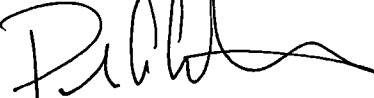
"Assignor"

HWD WOODS PARK, LLC

By: 
Its: Management

"City"

CENTERVILLE CITY



Mayor Paul A. Cutler

ATTEST:


Marsha L. Morrow, City Recorder

"Assignee"

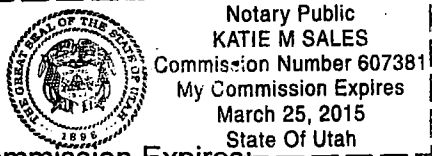
OAKWOOD HOMES OF UTAH, LLC

By: 
Its: MP&D

ASSIGNOR ACKNOWLEDGMENT

STATE OF Utah)
)
) : ss.
)
COUNTY OF DAVIS)

On the 5 day of MAY, 2014, personally appeared before me Chad Beeringer, who being by me duly sworn did say that (s)he is the managing member of **HWD WOODS PARK, LLC**, a Utah limited liability company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and such signator duly acknowledged to me that said limited liability company executed the same.



My Commission Expires:

03/25/2015

Katie M Sales
Notary Public

Residing at:

2602 W. Remuda Dr. FARR WEST, UT 84404

CITY ACKNOWLEDGMENT

STATE OF UTAH)
)
) : ss.
)
COUNTY OF DAVIS)

On the 8 day of May, 2014, personally appeared before me Paul A. Cutler, who being duly sworn, did say that he is the Mayor of **CENTERVILLE 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 Paul A. Cutler acknowledged to me that the City executed the same.

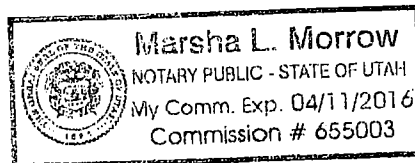
Marsha L Morrow
Notary Public

My Commission Expires:

4-11-2016

Residing at:

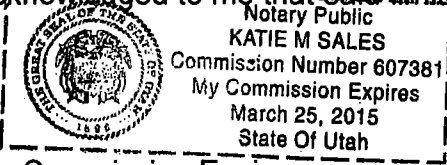
Centerville



ASSIGNEE ACKNOWLEDGMENT

STATE OF Utah)
)
COUNTY OF Davis) : ss.
)

On the 5 day of May, 2014, personally appeared before me James Doherty, who being by me duly sworn did say that (s)he is the managing member of **OAKWOOD HOMES OF UTAH, LLC**, a Delaware limited liability company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and such signator duly acknowledged to me that said limited liability company executed the same.



Katie M Sales
Notary Public

My Commission Expires:
03/25/2015

Residing at:
2102 W. Demond Dr. Park West, UT 84404

EXHIBIT "A"

Legal Description of Property

Beginning at the intersection of the quarter section line and the east line of a Frontage Road on the east side of the Interstate 15 Freeway, said point being North $89^{\circ}13'20''$ East 384.08 feet along the quarter section line from the West Quarter corner of Section 31, Township 3 North, Range 1 East, Salt Lake Meridian, and running;

Thence North $0^{\circ}11'10''$ East 396.61 feet along the east line of said Frontage Road to the south line of Lund Lane;

Thence South $89^{\circ}30'30''$ East 498.00 feet along the south line of said Lund Lane to a line defined in a Boundary Line Agreement, recorded April 8, 2013, as Entry No. 2731793, in Book 5743, at Page 390;

Thence South $0^{\circ}11'15''$ West 418.58 feet along the line defined in said Boundary Line Agreement to a point 33.00 feet south of the quarter section line;

Thence North $89^{\circ}13'20''$ East 2.00 feet;

Thence South $0^{\circ}11'15''$ West 50.00 feet;

Thence South $89^{\circ}13'20''$ West 500.05 feet to the east line of a Frontage Road;

Thence North $0^{\circ}11'10''$ East 83.00 feet along the east line of a Frontage Road to the point of beginning.

Contains 236,196 square feet, 5.422 acres.