



"W2342839"

EH 2342839 PG 1 OF 6  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
20-MAY-08 345 PM FEE \$1.00 DEP JPM  
REC FOR: NORTH OGDEN CITY

**DEVELOPER'S AGREEMENT WITH NORTH OGDEN CORPORATION**

*cf.*

*16-278-0001 to 0028*

*16-281-0001 to 0007*

THIS AGREEMENT entered into this 15th day of May, 20 08, between Mason Cove, LLC of Springville, County of Utah, State of Utah, hereinafter referred to as Developer, and NORTH OGDEN CITY CORPORATION, a municipal corporation of the State of Utah located in Weber County, hereinafter referred to as the City, hereby agrees as follows:

1. PRELIMINARY. Developer has presented to the North Ogden City Planning Commission and the North Ogden City Council a proposed final plat for the subdivision of, and construction of improvements on, certain land in North Ogden City to be known as Mason Cove Subdivision. As consideration for the granting of said approval and acceptance, Developer has agreed and does now agree to the provisions hereof and all other ordinances of North Ogden City.

*Phases I and II*

2. **COMPLIANCE WITH SUBDIVISION STANDARDS.** Developer agrees to comply with all of the ordinances, rules, regulations, requirements and standards of the City with respect to the construction and completion of said subdivision, and particularly to install and complete all of the off-site improvements required, within the time hereinafter stated, including but not limited to the following:

- A. Rough grading and finish grading and surfacing of streets.
- B. Curbs, gutters, waterways, and driveway approaches.
- C. Sanitary sewers, including laterals to property line of each lot.
- D. Street drainage and drainage structures.
- E. Water lines, including laterals to each property line of lot.
- F. Fire hydrants.
- G. Sidewalks and walkways.
- H. Traffic control signs.
- I. Street signs with numbers.
- J. Screening when required.
- K. Chip and seal coat on new streets.
- L. Monuments.
- M. Fencing as listed:
- N. Pressure irrigation, including laterals to each property line of lot.
- O. 10% Contingency Fund.

Said improvements and any others designated shall be done according to the specifications and requirements of the City. All work shall be subject to the inspection of North Ogden City and any questions as to conformity with the City specifications or standards or as to the technical sufficiency of the work shall be decided by the City Engineer and his/her decision shall be final and conclusive.

Developer agrees as consideration for City issuing building permits after initial acceptance of improvements to allow the City to collect and retain utility fees for the time between initial and final acceptance of the utility lines.

Building permits will be issued on condition that all improvements necessary to satisfy fire code requirements have been installed and that enough security is held in escrow to complete all required improvements for the subdivision, including any repairs or replacement after initial installation.

3. **TIME FOR COMPLETION AND EXTENSION OF TIME.** All of the said off-site improvements shall be fully installed and completed within two (2) years from the date of the recordation of the Final Plat. If not completed within two (2) years, the Subdivider may apply to the Planning Commission and the City Council for an extension of time of one year with additional one-year extensions after the first extension if the Planning Commission and City Council agree. Said extensions shall be subject to adequate security for the completion of said improvements being made by increasing the amount of the escrow account.

4. **SECURITY FOR COMPLIANCE.** As security for compliance by Developer with the ordinance, rules, regulations, requirements and standards of the city and of Developer's agreements herein stated, Developer has delivered to the City an acceptable Escrow Agreement, approved by the City Council and City Attorney, by the terms of which the Escrow Agent identified therein agrees to hold \$ 1,240,435.50 (which represents the cost of all required improvements as determined by the City Engineer plus 10% contingencies) in escrow for the use of the city in the event of Developer's failure or refusal to install, complete, construct, repair, or replace any off-site improvements in accordance with the provisions of this agreement, the escrow agreement and all City codes and ordinances. The decision of the City as to whether an improvement needs to be installed, constructed, completed or replaced will be final.

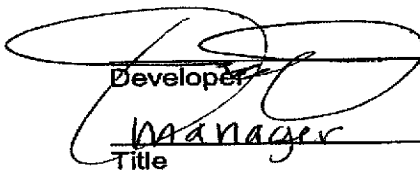
Should Developer fail or refuse to complete the said off-site improvements in accordance with the provisions hereof, and particularly within the time stated, or should Developer become insolvent before a completion thereof, then the City may, at its option, determine the cost of completing said off-site improvements on the basis of reliable estimates and bids and may apply all sums deposited in escrow against the said cost of completion and may proceed to legally obtain the escrow funds and use the proceeds therefrom to pay the cost of completing the said off-site improvements and to pay all related expenses including but not limited to court cost and attorney's fees.

The 10% of above stated, shall constitute a guarantee that the said off-site improvements are installed in accordance with the subdivision standards of the City as to quality and service-ability and shall be held by the City for a period of one (1) year from the time the last improvement is "conditionally accepted" by the City or until one (1) year after the time the last improvements needing repair or placement is again accepted. At the end of the one year period the said 10% shall be returned to Developer provided the off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, otherwise, to be applied toward construction or installation of said improvements in accordance with City standards or the repair or replacing the same so as to bring them into conformity with City standards, Developer will pay the difference to the City on demand. The city shall not issue any building permits until the improvements needing repair, replacement, etc., are completed and again accepted.

5. **APPLICABILITY OF ORDINANCE.** This agreement does not supersede, but implements the North Ogden City Subdivision Ordinance and all other ordinances and regulations applicable to the subdivision of land and construction of improvements thereon, and Developer agrees to comply in all respects with the provisions of said ordinances. No provision of this agreement shall limit the City in its rights or remedies under said subdivision ordinance or other applicable building ordinances.

6. **SUCCESSORS ENFORCEMENT.** The terms of this agreement shall be binding upon the parties hereon, their heirs, executors, administrators, assigns or any parties legally acquiring the parties interest through foreclosure, trust deed, sale, bankruptcy or otherwise. In the event either party must take legal action to enforce the terms of this agreement, the prevailing party shall have costs of court, including a reasonable attorney's fee.

IN WITNESS WHEREOF, the undersigned parties have executed this agreement  
this 15th day of May, 2008.

  
Developer  
Manager  
Title

NORTH OGDEN CITY COPORATION

\_\_\_\_\_  
Mayor

ATTEST:

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

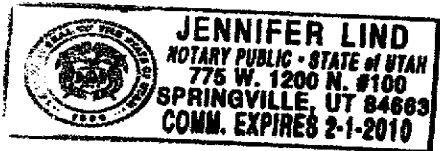
NORTH OGDEN CITY PLANNING COMMISSION

\_\_\_\_\_  
Chairman or Vice-Chairman

ACKNOWLEDGEMENT OF DEVELOPER IF AN INDIVIDUAL  
ASSOCIATION OR PARTNERSHIP

STATE OF UTAH }  
: Utah  
COUNTY OF ~~WEBER~~ }

On the 16<sup>th</sup> day of May, 2008, personally appeared before me Mike Morley, the signer(s) of the above instrument, who duly acknowledged to me that he/~~she~~ executed the same on behalf of himself/~~herself~~ as an individual, or an association or partnership. If for an association or partnership, Mason Care, LLC, acknowledges himself/herself to be legally authorized to act on behalf of said association or partnership by executing the foregoing Developer's Agreement in his/~~her~~ capacity as an associate or partner, as the case may be, with the authority of the association or partnership to said instrument.



[Signature]  
Notary Public  
Springville, UT  
Residing at:

My Commission Expires:

2.1.10

