

PLANNED RESIDENTIAL DEVELOPMENT AGREEMENT

ATLAS AT TIMBER SKY

This Planned Residential Development Agreement (the “Agreement”) is entered into by and between Abbott-Rhoton Investments L.L.C., an Arizona limited liability company hereinafter referred to as the “Developer,” and the **City of Flagstaff, Arizona**, a municipal corporation (the “City”).

RECITALS

WHEREAS, pursuant to the City of Flagstaff Zoning Code, Section 10-40.60.280 (the “Zoning Code”), a Planned Residential Development Agreement is required to accompany the final plat for any subdivision utilizing the Planned Residential Development Building Form and Property Development Standards; and

WHEREAS, the purpose of this Agreement is to ensure implementation of the design elements elected by the Developer pursuant to Section 10-40.60.280(D)(3) of the Zoning Code in a manner satisfactory to the Planning Director; and

WHEREAS, the Developer proposes a residential subdivision known as Atlas at Timber Sky (the “Subdivision”) on approximately 6.36 gross acres of land located within the City of Flagstaff; and

WHEREAS, the Developer has elected to implement design elements d and q totaling a value of five (5) points as required by the Zoning Code.

AGREEMENT

NOW, THEREFORE, 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:

1. Design Elements Implementation. The Developer shall implement the following design elements in accordance with the Zoning Code and as approved by the Planning Director:

1.1. Design element d. Average dwelling units no larger than 1,800 square feet, not including garage (Points Awarded: 3). The Developer has prepared a Product Mix Tracking Table to be updated and included with each submittal of a model plan and building permit for the subdivision. The average floor area of dwelling units, both constructed and proposed, shall not exceed 1,800 square feet, not including garage.

1.2 Design element q. Subdivision includes enhanced pedestrian environments, including outdoor seating areas or larger landscaping areas (Points Awarded: 2). The Developer shall construct two (2) enhanced outdoor seating areas to improve the pedestrian environment. These enhanced outdoor seating areas will be located in Tract A and Tract C as

shown on the approved final plat. These improvements shall be constructed prior to Conditional Acceptance of Public Improvements, and will be maintained by the Homeowners Association.

2. Final Plat and Recordation. This Agreement shall be recorded with the Coconino County Recorder concurrently with the recordation of the final plat for Atlas at Timber Sky.

3. Binding Effect. This Agreement shall run with the land and shall be binding upon the Developer, its successors, assigns, and any future owners of the Subdivision.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and the ordinances and regulations of the City of Flagstaff.

5. Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the matters addressed herein and supersedes all prior discussions or agreements, whether written or oral.

6. Amendment. This Agreement may only be amended in writing and signed by both the Developer and the Planning Director.

SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

DEVELOPER:

Abbott-Rhoton Investments L.L.C.

By: _____

Name:

Title:

CITY OF FLAGSTAFF:

By: _____

Name:

Title: Planning Director