

**DEVELOPMENT AGREEMENT AMENDMENT #2**  
**for**  
**ELK RIDGE MEADOWS PHASES 5-10**

This Development Agreement Amendment #2 for Elk Ridge Meadows Phases 5-10, hereinafter referred to as “the Agreement,” is entered into this \_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the City of Elk Ridge, a Utah municipal corporation with its main office located at 80 East Park Drive, Elk Ridge, Utah 84651, hereinafter referred to as “City,” and Elk Ridge Meadows Development, LLC, a Utah Limited Liability Company with its principal office located at 733 North Main Street, Spanish Fork, Utah 84660, hereinafter referred to as “Developer” (collectively, “the Parties”), and/or the Parties’ successors and assigns.

**RECITALS**

WHEREAS, the City, on (Date), entered into an agreement with the Developer, regarding the development of the Elk Ridge Meadows Phases 5 – 10 in Elk Ridge, Utah, (See Development Agreement dated (Date) and any Amendment thereto, attached hereto as Attachment A and incorporated herein by reference, hereinafter referred to as the (Date) Agreement); and

WHEREAS, the City has determined that the upfront water system infrastructure payments as initiated with the 2005 Annexation Development Agreement dated December 16, 2005 and clarified with the Elk Ridge Meadows Phases 5 -10 Development Agreement dated (Date), and paid by the Developer at the inception of each phase, and the associated Developer reimbursement paid by the City on a monthly basis with the issuance of building permits within the said development, no longer benefit the payment of the water system infrastructure bonds, and thus is deemed unnecessary to continue; and

WHEREAS, the Developer has proposed to modify the street layout of the Elk Ridge Meadows Development from its approved configuration, preliminary approval July 9, 2013, in order to remove a steep grade from Silver Wolf Drive and adjust the phasing to allow Elk Ridge Drive to be completed with traffic flows rerouted off of 16,000 West prior to development along 16,000 West; and

WHEREAS, the Elk Ridge Meadows park and open space constructed with Phases 1 and 2 are no longer privately held in an HOA and have been dedicated to the City as public park space. The City and the Developer find benefit in utilizing the development costs of the proposed 1.94 acre neighborhood park for improvement of other City parks to better serve the community as a whole and reduce the costs to maintain redundant amenities. Hereafter referred to as neighborhood park in-lieu payment; and

WHEREAS, the City is willing to reinstate the Park Impact Fee, waived with the preliminary approval of Elk Ridge Meadows Phases 5 -10 as a partial offset for landscaping costs associated with construction of the trail along Elk Ridge Drive and credit a portion of these fees toward the neighborhood park in-lieu payment; and

WHEREAS, the City desires to have provisions made during the construction of Elk Ridge Drive for future landscaped islands; and

WHEREAS, the City is willing to trade additional density for the developers contributions of the neighborhood park in-lieu payments and island curbing and utility sleeves; and

WHEREAS, the City has agreed to pay part of the cost for a PRV to be located in the Goosenest Round-about as said PRV provides benefit for not only the Elk Ridge Meadows Development but other development within the City’s northern water pressure zones; and

~~WHEREAS, the Developer has agreed to construct a 12" sewer line along Gooseneck Drive that will serve future development. The City has agreed to reimburse the developer for the cost of this line through the collection of impact fees. The Elk Ridge City Capital Facilities Plan and Impact Fee Analysis Update 2014 designates this line as 100% attributable to development and thus is eligible to be paid for entirely through Impact Fees; and~~

NOW THEREFORE, in consideration of the above recitals and the mutual promises and conditions contained in this Agreement, the receipt and sufficiency of which is hereby willfully acknowledged, the Parties agree as follows:

## TERMS

1. The Parties agree that this Agreement applies to Elk Ridge Meadows Phases 5-10 which were formerly known as Elk Ridge Meadows Phase 3. The provisions of this Agreement are in addition to those which are contained in the (Date) Development Agreement and the December 2005 Annexation Development Agreement attached hereto as Attachment A and incorporated herein. Should any provision or term of this Agreement conflict with any provision or term of the prior Agreements, the conflicting provision or term of this Agreement shall govern and take precedence.
2. The City agrees to the reconfiguration of Silver Wolf Street as depicted on the Phasing Plan located in Attachment B.
3. The City agrees to a revision of the phasing as detailed on the Phasing Plan located in Attachment B. The phasing shall change from six to seven total phases.
4. The City shall reinstate the Park Impact fee beginning with the 60<sup>th</sup> building permit. The Park Impact fee was waived by the City as part of the Elk Ridge Meadows Phases 5 -10 Development Agreement dated (Date) to provide a partial offset of development costs for the landscaped trail along Elk Ridge Drive. The offset was set at \$120,495.00 based upon the Park Impact fee of \$1,385.00 and 87 approved lots. With the increase in the Park Impact fee on July 1, 2015 to \$2,393.00 the total offset will be reached with the 59<sup>th</sup> building permit. (20 Building Permits issued prior to July 1, 2015, 20 x \$1,385.00 = \$27,700. And 39 Building Permits issued after July 1, 2015, 39 x \$2,393.00 = \$93,327.00 for a total of \$121,027.00)

Starting with the 60<sup>th</sup> building permit the City shall reinstate the Park Impact Fee. Collection of the Park Impact Fee from the 60<sup>th</sup> building permit through the 87<sup>th</sup> building permit totaling \$67,004.00 shall be credited toward the Developers neighborhood park in-lieu payment for the neighborhood park as explained below. The Park Impact Fees on the additional 10 building permits granted in this Agreement shall be charged and deposited in the Park Impact Fee fund as required by code.

5. The Developer agrees to provide a total of \$244,776.00 to the City for improvements in surrounding City parks in-lieu of developing the 1.94 acre neighborhood park as approved in the Elk Ridge Meadows Phases 5 – 10 preliminary approval on July 9, 2013. A description of the improvements comprising the \$244,776.00 is found in Attachment C. The payment of funds shall include a lump sum payment of \$177,762 to be paid by the Developer in four installments of \$44,440.50 with the final plat approval for Elk Ridge Meadows Phases 8 through 11. The

remaining difference will be credited with the payment of park impact fees on the 60<sup>th</sup> through 87<sup>th</sup> building permits (\$2,393.00 per lot for a total of \$67,004.00).

6. The Developer agrees to install concrete curbing for planter islands in Elk Ridge Drive along with the necessary pipe sleeves to accommodate utilities to serve future landscaping in the islands.
7. In exchange for the neighborhood park in-lieu payment and installation of the island curbing and utility sleeves on Elk Ridge Drive, the City agrees to increase the density of the Elk Ridge Meadows Development and allow the development of 10 additional lots for a total of 97 lots. The ten lots replacing the 1.94 acre neighborhood park.
8. The City shall pay half (not to exceed \$20,000.00) of the cost of the Developer constructed PRV located in the Elk Ridge Drive round-about.
9. ~~The Developer shall install a 12" sewer line along Gooseneast Drive running approximately 1,300 feet from an existing 8" sewer line stubbed to the east of the Goosnest/Elkridge Drive intersection and tying in to a stub on 16,000 West. This line is described in the Capital Facilities Plan as 100% attributable to new development. The Developer shall pay the initial cost to construct the sewer line. The City shall reimburse the Developer for a total amount of \$130,000.00 to be paid upon acceptance of the improvement by the City Council. The total amount has been derived from the attached cost estimate Attachment D and has been found to be in line with current pricing on similar projects and is less than budgeted in the Capital Facilities Plan.~~

#### MISCELLANEOUS PROVISIONS

1. Waiver. No breach of any provision of this Agreement shall be deemed waived unless the waiver is written and signed by a duly authorized representative of the waiving party. Waiver of one breach shall not be deemed a waiver of any other breach of the same or any other provision of the Agreement.
2. Complete Agreement. This Agreement represents a complete and exclusive statement of the entire agreement between the parties and supersedes all prior and contemporaneous promises and arrangements of any kind, as well as all negotiations and discussions between the parties hereto with respect to the subject matter covered herein. No other agreements, covenants, representations, or warranties, express or implied, oral or written, have been made by any of the parties hereto concerning the subject matter hereof. This is an integrated agreement.
3. No Third Party Beneficiary. Nothing in this Agreement shall create or be read or interpreted to create any rights in or obligations in favor of any person or entity not a party to this Agreement. Except for the parties to this Agreement, no person or entity is an intended third party beneficiary under this Agreement.
4. Assignment. Neither party may assign any interest in this Agreement without prior written consent of the other party. The terms of this Agreement will inure to the benefit of and be binding upon the respective representatives and successors of each of the parties. Any attempted assignment in violation of this Agreement shall be void.
5. Amendment. This Agreement may not be modified or amended except in writing, which writing must be signed by the authorized representatives of each of the parties.

6. Relationship. Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties.
7. Hold Harmless. Developer agrees to defend and hold the City and its officers, agents, employees and consultants harmless for any and all claims, liability, and damages arising out of any work or activity of Developer or its members, agents, contractors, or employees which is permitted or required pursuant to this Agreement. Developer further agrees to and shall indemnify and hold the City and its officers, agents, employees harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of any accident, injury (including death), loss or damage whatsoever, caused to any person or to the property of any person, resulting directly or indirectly from any acts or any errors or omissions of Developer or any of its members, agents, contractors, or employees in connection with the work contemplated by this Agreement, except for the willful misconduct or negligent acts or omission of the City or its officers, agents or employees.
8. Representations. Developer Represents and warrants that it is authorized to enter into the transactions contemplated herein and to carry out its obligations hereunder. The City also represents and warrants that it is authorized to enter into the transactions contemplated herein and to carry out its obligations hereunder.
9. Severability. In the event that any portion of this Agreement is deemed unenforceable, all other provisions of this Agreement shall remain in full force and effect.
10. Conflict. To the extent the terms or provision of this Agreement conflict with any of the terms or provision of the 2005 Annexation Development Agreement or any Amendment thereto, the terms and provisions of this Agreement shall control.
11. Governing Law. It is understood and agreed that the construction and interpretation of this Agreement shall be governed by the laws of the State of Utah.

#### **EFFECTIVE DATE**

12. The terms of this agreement shall become effective at such time as all parties have signed the Agreement and shall continue in effect until all of the financial obligations of both parties as detailed in the Agreement have been fulfilled.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates set forth below.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015

DEVELOPER

CITY

\_\_\_\_\_  
Dean Ingram  
President, Elk Ridge Meadows, LLC

\_\_\_\_\_  
Mayor, Elk Ridge, Utah

WITNESS:

\_\_\_\_\_

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

STATE OF UTAH     )  
                              :ss.  
COUNTY OF UTAH    )

On the \_\_\_\_ day of \_\_\_\_\_ 20\_\_, personally appeared before me, a Notary Public in and for the State of Utah, Dean Ingram, who being by me duly sworn did say that he is the President of ELK RIDGE MEADOWS, LLC, a Utah Limited Liability Company, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of said Company.

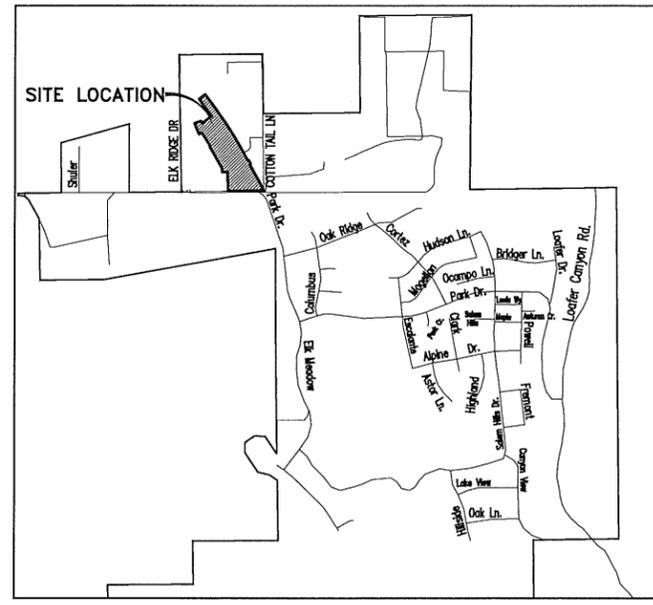
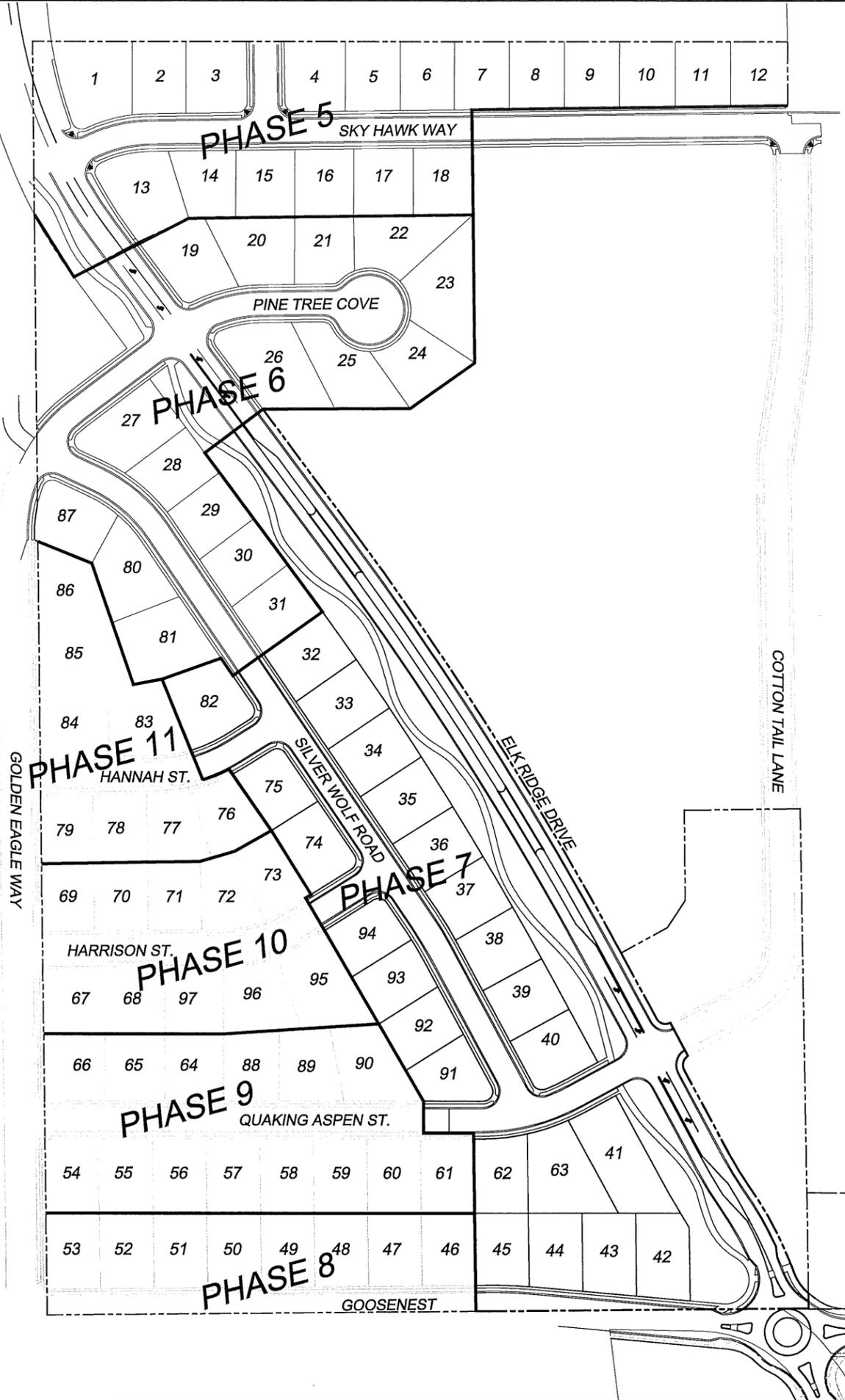
\_\_\_\_\_  
Notary Public

Exhibit A  
Elk Ridge Meadows  
2005 Annexation Development Agreement dated December 16, 2005  
Development Agreement Amendment Elk Ridge Meadows Phases 5-10 dated (Date)

DRAFT

Exhibit B  
Elk Ridge Meadows Phasing Plan  
Dated 6-10-2015

DRAFT



VICINITY MAP  
-NTS-



SHEET NO.  
**1**

**PHASING PLAN**  
AUGUST 2015  
ELK RIDGE, UTAH  
COUNTY, UTAH

**ELK RIDGE MEADOWS PHASE 7**  
ATLAS A SINGLE FAMILY DEVELOPMENT  
**ENGINEERING**  
L.L.C.  
PHONE: 801-655-0566  
FAX: 801-655-0109  
95 WEST 200 NORTH #2  
SPANISH FORK, UT 84660

NO.	REVISIONS	BY	DATE
12			
11			
10			
9			
8			
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2			
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Exhibit C  
Park Improvements Costs

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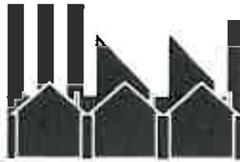
# APPRAISAL REPORT

**1.94 Acres Residential Land**  
**Appx. 550 West 800 North**  
**Elk Ridge, Utah 84651**



**GURNEY & ASSOCIATES** REAL ESTATE APPRAISERS

Phone: 801.610.9555 • 45 N. 490 W. (Cypress Park) American Fork, Utah 84003 • Fax: 801.763.5992



# GURNEY & ASSOCIATES

REAL ESTATE APPRAISERS

Don Gurney  
Todd Gurney, MAI  
Tyler Gurney

April 24, 2015

Elk Ridge Meadows Development LLC  
Attn: Dean Ingram

**RE: 1.94 Acres Residential Land  
Appx. 550 West 800 North  
Elk Ridge, Utah 84651**

Dear Dean:

At your request, we have performed an appraisal analysis of the above-referenced property. The subject is zoned R-1-12000-PUD Residential; the property is within the overall Elk Ridge Meadows development but doesn't have any entitlements for development. No water shares are included either.

The subject is a portion parcel 30-074-0196 on Utah County records; no legal description was provided, but the subject is identified in the other exhibits of this report. This appraisal provides an estimate of the current as-is market value. The property rights appraised are fee simple.

Based on the results of our analysis, we estimate the as-is market value of the subject property, as of the effective appraisal date (April 24, 2015—date of inspection), is **\$51,500 per acre**, or the following rounded total:

**\$100,000**

**\*\* ONE HUNDRED THOUSAND DOLLARS \*\***

This value is contingent upon the Extraordinary Assumptions on page 6 of this report.

Based on our research and analysis, we have concluded that the estimated exposure time to achieve the value estimated herein was approximately six months. The probable marketing time was up to six months as well.

Please find attached the documentation and supportive exhibits that comprise the appraisal report. The appraisal report was prepared in accordance with the Code of Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. This is an *Appraisal Report*.

Please advise if we can be of any further assistance.

Respectfully submitted,



DON GURNEY

Utah State Certified General Appraiser  
Certificate 5476828-CG00 Expires 6-30-15



TODD GURNEY, MAI

Utah State Certified General Appraiser  
Certificate 5487768-CG00 Expires 7-31-16

File 05315

**Attachments:**

- Narrative Summary Report
- Location Map
- Elk Ridge Zone Map
- Aerial View
- Parcel Map
- Site Plan
- Current Subject Photos
- Flood Zone Map
- Appraiser Qualifications





Date: 8/19/2015

## Elk Ridge Meadows Park

Custom Options	Price
Concrete (Yards)	\$4,930.00
Concrete Labor	\$2,160.00
Concrete Prep	\$3,600.00
Park Bench	\$355.00
Park Bench	\$355.00
Park Bench	\$355.00
Picnic Table	\$683.00
Picnic Table	\$683.00
Playground Equipment	\$14,803.00
Pavilion	\$15,178.00
Landscaping	\$90,608.00
Playground Installation Costs	\$6,100.00
Site Grade	\$4,966.00

Total \$144,776.00



\*prices are subject to change without notice.