

AMENDED DEVELOPMENT AGREEMENT

THIS AGREEMENT is made this 8 day of Dec 2005, by and between Clearfield City (the "City"), a municipal corporation, and Briarwood Hollow LLC ("Developer").

Recitals

- A. Developer intends to develop certain property situated in Clearfield City, Davis County, Utah, more particularly described in Exhibit A hereto and known as the "Property."
- B. Developer owns or has a contractual right to purchase the Property.
The Developer desires to develop the Property in two phases with this agreement covering phases 1 & 2 according to the Briarwood Hollow Final Plats and Utility Improvement Plans and Drawings.
- D. The City has approved the Plat submitted by the Developer for the development of the Property.
- E. Developer and City are entering into this Development Agreement as part of the final plat approval for the Plat.

NOW, THEREFORE, in consideration of the premises and the terms and conditions herein stated and for other valuable consideration, the adequacy of which is acknowledged by the parties hereto, it is agreed as follows:

1. Developer's Undertaking

a. Developer hereby agrees to construct and to install, all improvements described in the Plat. Developer agrees to pay for such improvements. In the event that Developer does not complete such improvements according to the specific plans set forth in the Plat, the City shall have the right to cause such work to be done as is necessary to reasonably complete the installation of the improvements and Developer shall be liable for the cost of such additional work.

No building permits shall be issued for construction of homes in the subdivision until the streets pertaining to that particular phase have road base installed for the roads and no occupancy permit shall issue until the roads are paved and the curb, gutter and sidewalk are installed.

b. All housing units within the development of the Property must meet the requirements of R-1-OPEN zoning, shall be single-family dwellings and shall have a two-car garage.

c. Residential units shall have at least 1,200 square feet of finished floor space above grade of the unit is one story with a full basement. All other home styles shall have at least 1500 square feet of finished floor space above grade. A residence without a basement shall be built on footings and foundation. No slab on grade construction without footings is allowed.

d. Each residential unit in the Property shall have the following setbacks:

(1) Front yards: 25 feet for all odd numbered and cul-de-sac lots and 30 feet for all even numbered lots which are not part of a cul-de-sac and have front-positioned garages, and 20 feet for units with rear-positioned garages; (2) side yards: 9 feet on the garage side of the lot and 6 feet on the other side. The side yard which is has the greatest width shall always be on the garage side of the home; (3) rear yards: 25 feet; and (4) corner yards: 15 feet at the street side yard.

Lots 15 and 16 are to be flag lots and to have designated build pads as reflected in the final plot Plan. Lot 15 to have house face south and Lot 16 to have house face west. Both lots to have 30 Foot minimum front yard, 25 foot minimum backyard and 10 foot minimum side yard setbacks

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 TS LLC

e. Each unit shall have vinyl siding on units where siding is used, and front elevations shall have at least fifty percent (50%) of brick or rock and the remainder stucco. All side and rear exterior finishes may be brick, stucco, rock, vinyl siding, or combinations thereof. Any stucco finishes shall not be installed using an exterior insulated finish system (EIFS).

f. Developer shall construct residential units on the Property in substantial conformance with the building construction plans and elevations presented to the City during the approval process which elevations shall be kept on file at Clearfield City. The developer may modify the plans and elevations for residential units on the Property provided that such modifications satisfy the requirements of paragraphs 1 (b), 1(c) and 1 (e) of this Agreement and further provided that such modifications of the plans and elevations shall be presented to and approved by the Planning Commission and the City Council.

g. Developer agrees to develop a park on the 18900 sq ft. parcel of land on the Property as shown on the plat. City acknowledges that this park shall also be used as a storm drain detention area for the Property. Developer shall construct, install, and pay for all improvements related to the park, which at a minimum shall be that the detention areas be maintained at a proper grade and that it has grass covering it, which shall be mowed, watered and maintained. Developer shall establish a homeowners association to be responsible for all aspects of maintenance of the park. Should the homeowners association fail to maintain the park, the city shall have the right, but not the obligation to perform such maintenance and bill the charges therefore to the individual homeowners on a pro-rated basis.

h. Developer shall construct a 6' wide walkway leading from cul-de-sac to the park area between lots 22 and 23. Developer will also construct a 6' wide walkway from street to canal trail. Each side of walkways to have a 6' high screened fence.

- i. Developer shall construct a 6' high screened fence at entrance drive and on all rear yards of lots.
- ii. Developer shall reroute existing sewer line in lots 11 and 12 to follow approved plot plan easements.

j. The Developer shall record this Agreement as covenants running with the lots and land in the Development and indicate on the Plats approved for each phase the existence of this Agreement and the recording data therefore.

2. City's Undertakings.

a. City shall approve the Plat as provided for in Exhibit A attached hereto and record said plat with the County Recorder's office

b. City shall approve the final plats for the development of the Property provided that such final plats are consistent with the Plat.

3. General Terms and Conditions.

a. Integration Clause. This document and those incorporated by reference constitute the entire agreement between the Parties and may not be amended except in writing signed by the Parties.

b. Exhibits Incorporated. Each exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

c. Attorneys Fees. In the event of any action or suit by a party against the other party for any reason of any breach of any of the covenants, conditions, agreements, provisions on the part of the other party arising out of this Agreement, the prevailing party in such action or suit shall be entitled to have and recover from the other party all costs and expenses incurred therein, including reasonable attorney's fees.

d. **Governing Law.** It is mutually understood and agreed that this Agreement shall be governed by the laws of the state of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in courts of the State of Utah.

e. **Remedies for Breach.** In addition to any other remedies allowed under law or equity, the parties shall specifically be entitled to specific performance of the terms and conditions under this Agreement.

f. **Successors and Assigns of the Parties.** This Agreement shall be binding upon the parties and their successors and assigns, and where the term "Developer", "Party" or "Parties" is used in this Agreement it shall mean and include the successors and assigns of Developer. In addition, Developer may assign the rights to develop part of the Property to a third party pursuant to the terms of this Agreement, provided that such third party agrees to be bound by the terms of this Agreement.

g. **Headings.** The paragraph headings of this Agreement are for the purposes of performance only and shall not limit or define the provisions of this Agreement or any of said provisions.

h. **Severability or Partial Validity.** If any term, covenant, paragraph, or condition of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such remaining term, covenant, or condition of this Agreement shall be valid and enforceable to the full extent permitted by law.

i. **Warranty of Authority.** Each party signing or executing this Agreement warrants that they have full authority to sign this Agreement and by signing said Agreement do bind the parties thereto.

j. **Development in Phases.** The Property is to be developed in two phases. This agreement covers Phases one and two.

WITNESS WHEREOF, the Developer and Clearfield City have executed this Agreement effective as of the date first above written.

CLEARFIELD CITY CORPORATION, A municipal corporation

By Thomas C. Waggoner

ATTEST:

By: Nancy R. Dean

(DEVELOPER) Mimi Mann
By:

(Officer)



Attest:

BY: _____

STATE OF UTAH }
 } ss
COUNTY OF DAVIS }

On _____ day of _____, _____ personally appeared before me, _____ and _____ who being by me duly sworn did say, that they are the Mayor and City Recorder

of Clearfield City Corporation, a Utah municipal corporation, and that the within and foregoing instrument was signed in behalf of said corporation and owner and the said, Thomas C. Waggoner and Nancy R. Dean acknowledged to me that said corporation and owner executed the same.

Carol W. Rodgers

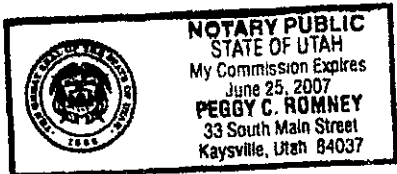


Notary Public
CAROL W. RODGERS
55 South State Street
Clearfield, UT 84015
My Commission Expires
July 25, 2008
State of Utah

STATE OF UTAH }
 } ss
COUNTY OF DAVIS }

On 8 day of Dec., 2005 personally appeared before me, Marvin R. Muri and Birchwood Hollow LLC, who being by me duly sworn did say, that they are the officers of said, partner, and that the foregoing instrument was signed in behalf of said company and the same. acknowledged to me that said company executed the same.

Peggy C. Romney



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ON INC~~

July 22, 2005

BRIARWOOD HOLLOW LLC
MURRI CONSTRUCTION INC
JAMES LEE MURPHY
SANDRA J. MURPHY
DAN HART
RAYMOND HANSON
JOYCE M. HANSON

BRIARWOOD HOLLOW SUBDIVISION

LOTS 1 THRU 34 & PARCELS A, B, C, D

07 T4N R1W NE

Out of 09-021-0071, 0072, 0069, 0070, 0066, 0067,
0024

New # 9-345 +

File # 4284

BOUNDARY DESCRIPTION

Beginning at a point on the east line of 1500 East Street, said point being North 00°03'10" East 858.58 feet along the quarter section line and South 89°57'19" East 48.06 feet from the Center of, Section 7, Township 4 North, Range 1 West, Salt Lake Base and Meridian, and running;

thence North 00°03'10" East 436.45 feet along the east line of 1500 East Street;
thence South 89°57'19" East 157.00 feet;
thence North 00°03'10" East 100.00 feet;
thence North 89°57'19" West 157.00 feet to the east line of 1500 East Street;
thence North 00°03'10" East 100.00 feet along said east line of 1500 East Street;
thence South 89°57'19" East 275.43 feet to the southwesterly line of the Davis and Weber Counties Canal;
thence South 58°01'07" East 631.20 feet along the southwesterly line of the Davis and Weber Counties Canal;
thence South 55°48'44" East 539.07 feet along the southwesterly line of the Davis and Weber Counties Canal to the Northeast Corner of Phyllis Subdivision;
thence North 89°57'19" West 1257.33 feet along the north line of Phyllis Subdivision and beyond, to the point of beginning.

Contains 478,612 square feet, 10.987 acres.