

RESOLUTION NO. 2009-182

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE MAYOR TO EXECUTE A LETTER AGREEMENT WITH AXIOS
HOMES, INC. REGARDING PARK OBLIGATIONS FOR LAGUNA RIDGE
VILLAGE 1A IN THE GROVE SUBDIVISION (RIVERVIEW II)**

WHEREAS, Axios Homes, Inc. (the "Applicant") filed an application with the City of Elk Grove ("City") for a Development Agreement Amendment for Village 1A in The Grove subdivision, hereinafter is referenced as the "Project"; and

WHEREAS, the City Council approved a Development Agreement (DA) in October 2006 which established parks obligations for The Grove subdivision in its entirety; and

WHEREAS, the existing DA distributes park requirements cover approximately 1,990 single family dwelling units in multiple Villages; and

WHEREAS, ownership of each Village has changed and properties are now being developed by smaller, independent homebuilders or are currently bank owned; and

WHEREAS, it is no longer feasible to construct parks as originally anticipated in the DA due to reduced opportunities for collaboration and ability to uniformly apply parks obligations throughout the subdivision; and

WHEREAS, the letter agreement provides an alternative way for Axios Homes, Inc. to perform the terms of the DA and ensures the City's continued efforts towards providing parks in Laguna Ridge.


NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby authorizes the Mayor to execute a letter agreement with Axios Homes, Inc. regarding parks obligations for Village 1A in The Grove subdivision attached to this Resolution as Exhibit A and incorporated by this reference.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 9th day of September 2009.



**PATRICK HUME, MAYOR of the
CITY OF ELK GROVE**

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

EXHIBIT A



8401 LAGUNA PALMS WAY • ELK GROVE, CALIFORNIA 95758
TEL: 916.683.7111 • FAX: 916.691.3175 • www.elkgrovecity.org

August 20, 2009

Axios Homes, Inc.
975 Fee Drive
Sacramento, CA 95815
Attn: Thomas Borge

Re: Letter Agreement Between the City of Elk Grove and Axios Homes Regarding Park Obligations for Laguna Ridge Village 1A (the Subject Property)

Dear Mr. Borge:

The City of Elk Grove ("City") has considered the request of Axios Homes, Inc ("Axios Homes") to adopt an interim measure for addressing Axios Homes' obligation to construct or fund parks within the Laguna Ridge Specific Plan (the "Park Obligations"), as necessitated by the recent change in market conditions. As an interim measure, the City is prepared to enter into this Letter Agreement in order to: (1) allow Axios Homes to continue building and selling homes with the Village 1A of the Laguna Ridge Specific Plan, as depicted on Exhibit A hereto (the "Subject Property"); and (2) ensure that the City receives adequate funding to construct the planned parks within the Laguna Ridge Specific Plan. Accordingly, upon execution by you where indicated below, this shall constitute an Agreement between the City and Axios Homes with respect to the matters set forth herein.

RECITALS

- A. The City is currently evaluating potential changes to its plan for funding and constructing parks within the Laguna Ridge Specific Plan, which changes may ultimately necessitate amending the existing Development Agreement between the City and Reynen & Bardis.
- B. In the meantime, the City would like to allow Axios Homes to continue constructing and selling homes within the Subject Property, subject to depositing sufficient funds with the City to cover Axios Homes' obligations to fund parks within the Laguna Ridge Specific Plan.
- C. The City has reviewed the economic analyses prepared by EPS, which analyze the per unit cost of completing the parks planned for the Laguna Ridge Specific Plan. Based upon the EPS analysis, the City is willing to accept a cash deposit of \$15,510.00 per unit (approximately 1.5 times the amount calculated by EPS) to cover the estimated per unit cost of satisfying Axios Homes' park obligations for the remaining units to be constructed on the Subject Property.

NOW, THEREFORE, the City and Axios Homes hereby agree as follows:

1. Axios Homes shall be permitted to build and sell homes on the Subject Property, subject to all applicable conditions of approval and other restrictions, except that the Park Obligations (including the restriction on the number of building permits that the City will issue prior to completion of certain park improvements) shall be interpreted according to the terms of this Letter Agreement.

2. For each building permit within the Subject Property for which Axios Homes does not have a park voucher, Axios Homes shall deposit with the City the sum of Fifteen Thousand Five Hundred Ten Dollars (\$15,510.00), which shall be held by the City in an interest bearing account, and shall be used to satisfy Axios Homes' Park Obligations for the Subject Property (collectively, the "Park Deposit").

3. In the event that the City establishes an in lieu fee that may be used to satisfy Axios Homes' Park Obligations, the Park Deposit (including all interest thereon) shall be used to pay the in lieu fee. Any unused funds, including accrued interest, shall be returned to Axios Homes.

4. In the event that the City and Axios Homes agree to have Axios Homes construct park improvements in satisfaction of Axios Homes' Park Obligations for the Subject Property, the Park Deposit, including all interest thereon, shall be refunded to Axios Homes upon acceptance by City of the park improvements.

5. This Letter Agreement shall remain in effect until expressly superseded by a subsequent written agreement between the City and Axios Homes.

6. This Letter Agreement was reviewed and approved by the Elk Grove City Council at its regularly noticed meeting of September 9, 2009.

PATRICK HUME, MAYOR of the
CITY OF ELK GROVE

ATTEST:

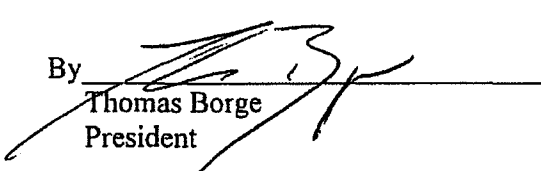
APPROVED AS TO FORM:

SUSAN J. BLACKSTON, CITY CLERK

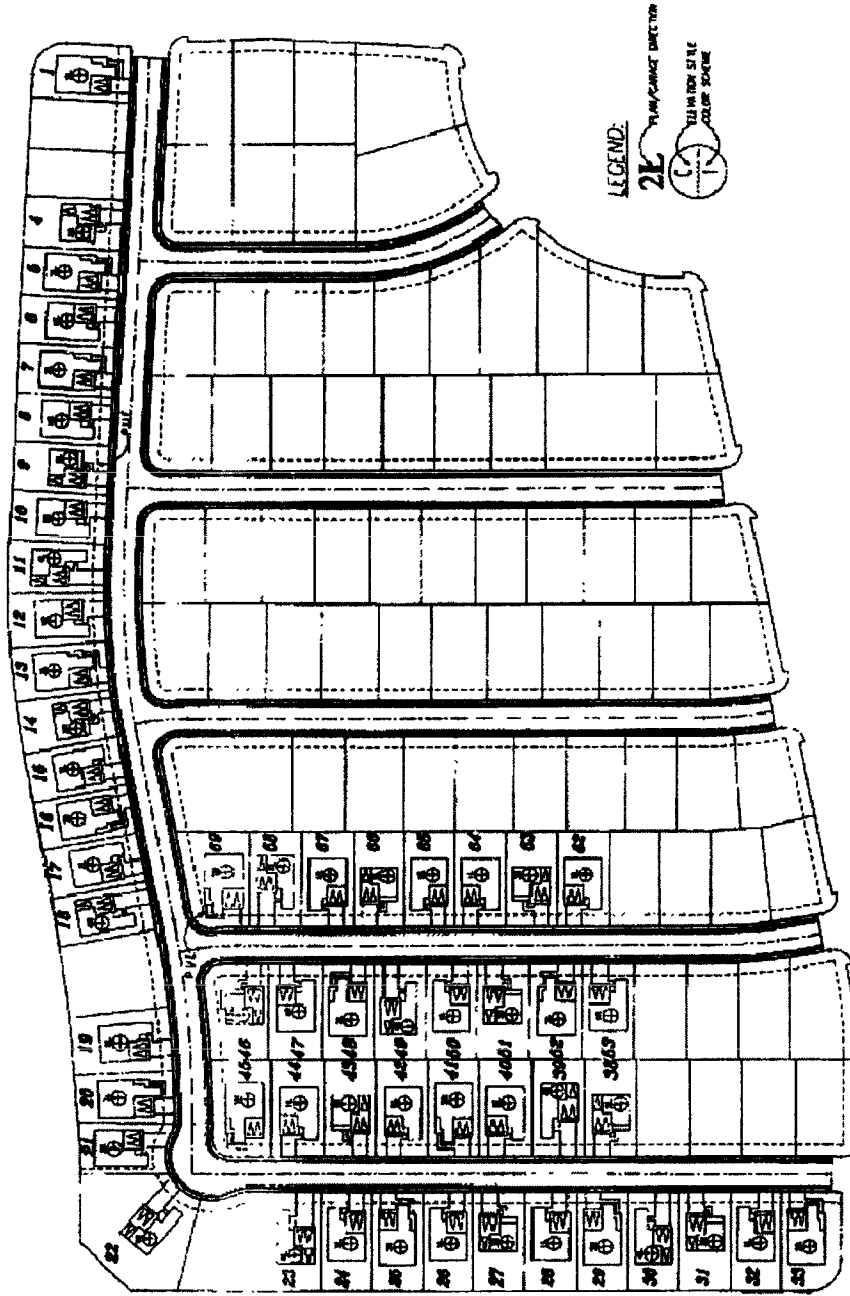
SUSAN COCHRAN, CITY ATTORNEY

APPROVED AND AGREED:

AXIOS HOMES, INC.

By 
Thomas Borge
President

Civic Center Drive



Bruceville Road



RIVERVIEW II
56 x 106 ELK GROVE, CALIFORNIA
PRE-LOT SITE PLAN
DATE: 11-11-04
DRAWN BY: NHT-JS/SLL

AXIOS
HOMES

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2009-182**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) **ss**
CITY OF ELK GROVE)

I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 9, 2009 by the following vote:

AYES : COUNCILMEMBERS: *Hume, Scherman, Cooper, Detrick*

NOES: COUNCILMEMBERS: *None*

ABSTAIN : COUNCILMEMBERS: *None*

ABSENT: COUNCILMEMBERS: *Davis*



**Susan J. Blackston, City Clerk
City of Elk Grove, California**