AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Fourth Addendum to the Development Improvements Agreement for Skyland Filing III, Phase II; N.D. Enterprises, LLC; Extension of Work Completion Date to 11/30/16

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: BOCC and GK Investments, LLC

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
GK Investments, LLC has requested another 3 year extension of the work completion date for improvements at Skyland Filing III, Phase II. The bank has committed to extension of the letter of credit and is in the process of finalizing the extension. The original addendum will be presented at the meeting for BOCC signature. The addendum will not be recorded until receipt of the extension of the letter of credit. SGM reviewed the 2011 cost estimate which was approved as sufficient.

Fiscal Impact: 0

Submitted by: Rachel Magruder **Submitter's Email Address:** rmagruder@gunnisoncounty.org

Finance Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ● Required ○ Not Required

Comments:

Reviewed by: ATrezise Discharge Date: 8/2/2013 Certificate of Insurance Required Yes ○ No ●

County Manager Review:

Comments:

Reviewed by: KHaase Discharge Date: 8/2/2013

● Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 8/6/2013 Follow Up Agenda Date: N/A

Revised April 2013

FOURTH ADDENDUM TO THE DEVELOPMENT IMPROVEMENTS AGREEMENT FOR SKYLAND FILING III, PHASE II

This Fourth Addendum to the Development Improvements Agreement for Skyland Filing III, Phase II modifies that certain Development Improvements Agreement by and between the Board of County Commissioners of the County of Gunnison, Colorado (hereinafter "Gunnison County") and N.D. Enterprises, L.L.C., a Colorado limited liability company, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on December 29, 2004, bearing Reception No: 549685 (hereinafter "Agreement") and the following Addendums thereto:

1. Addendum to Development Improvements Agreement by and between Gunnison County and GK Investments, L.L.C., a Colorado limited liability company, (hereinafter "GK Investments") recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on June 4, 2008, bearing Reception No: 584252 (hereinafter "First Addendum"); and

2. Second Addendum to Development Improvements Agreement by and between Gunnison County and GK Investments, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on May 14, 2010, bearing Reception No: 598461(hereinafter "Second Addendum"); and

3. Third Addendum To Development Improvements Agreement by and between Gunnison County and GK Investment, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on January 1, 2012, bearing Reception No: 610758 (hereinafter "Third Addendum").

The Agreement and Addendums thereto referenced above were entered into pursuant to the approval of Land Use Change No: 2002-56 for the development of Skyland Filing III, Phase II, a subdivision consisting of 12 single family residential lots (Lots 184 through 195) as identified on the plat titled "Final Plat Skyland-Third Filing, Phase II located in the NE1/4NW1/4 & NE1/4 of Section 1, Township 14 South, Range 86 West of the Sixth Principal Meridian, County of Gunnison, State of Colorado", recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on December 29, 2004, bearing reception No: 549684.

The Agreement and Addendums thereto are hereby modified as follows:

1. Work Completion Date.

Relevant to paragraphs 3 and 6 of the Agreement,paragraph 3 of the First Addendum and paragraph 1 of the Second Addendum, the current work

completion date for the construction of improvements as identified in paragraph 7 of the Agreement is November 30, 2013. The work completion date is hereby extended to November 30, 2016.

2. Adequate Security to be Provided. Relevant to paragraphs 5 and 7.C of the Agreement, paragraph 2 of the Second Addendum and paragraph 2 of the Third Addendum, GK Investments, L.L.C. reaffirms, understands and agrees that 125 percent of the estimated cost of improvements for the development of Skyland Filing III, Phase II shall be provided to Gunnison County in a form and content satisfactory to Gunnison County to the benefit of Gunnison County to be held as security for the completion of the said improvements. GK Investments, L.L.C. shall ensure that this security is current at all times and, at the direction of Gunnison County, shall extend the security to the date identified by Gunnison County.

This Fourth Addendum to the Development Improvements Agreement shall not be effective until it is recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado.

Except as modified hereby, the Development Improvements Agreement and Addendums thereto as identified above are hereby reaffirmed and ratified.

APPROVED this 6th day of August, 2013.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chairperson

ATTEST:

_____
Deputy County Clerk

GK Investments, L.L.C.,
a Colorado limited liability company

By: _____
Richard D. Divine, General Manager

STATE OF COLORADO)
) ss.
County of Gunnison)

The foregoing was acknowledged before me this 30 day of July, 2013, by Richard D. Divine, General Manager of GK Investments, L.L.C., a Colorado limited liability company.

Witness my hand and official seal.
My commission expires:

SUSAN MABRY
NOTARY PUBLIC, STATE OF COLORADO
My Comm. Expires July 28, 2014

Susan Mabry
Notary Public
Address: