

When recorded, mail to
City Clerk
City of Fernley
595 Silver Lace Boulevard
Fernley, NV 89408

DEVELOPMENT AGREEMENT

Regarding development of

The Golf Club at Fernley Subdivision Fernley, Nevada

Article 1. Parties, definitions and property description.

This Agreement is by and between:

“Developer” D L G Associates, LLC
A Domestic Limited Liability Company
PO Box 19688
Reno, NV 89511

“City” City of Fernley
A Municipal Corporation
595 Silver Lace Boulevard
Fernley, NV 89408

Key definitions in this Agreement are:

“Project” means the subdivision known as The Golf Club at Fernley described on a tentative subdivision map approved pursuant to Chapter 278 of Nevada Revised Statutes (“NRS”), by the City Council for the City of Fernley (TSM 05-05), APN(s) 020-581-02, 03, 04, 05.

“Project Property” means that real property located in the City of Fernley, County of Lyon, State of Nevada, more particularly described as Exhibit A attached hereto.

Article 2. Recitals.

A. D L G Associates, LLC is the Owner of the Project.

- B. On or about June 1, 2005, the City Council approved a tentative subdivision map (TSM 05-05) for the Project. Per Nevada Revised Statutes in effect at the time, tentative subdivision maps expired two (2) years from the date of City Council approval, but could be extended for an additional year subject to City Council approval.
- C. On or about April 18, 2007, the City Council approved an extension of time request (EOT 07-06) to extend the time for presenting a final map, in accordance with state law, to June 1, 2008.
- D. On or about May 20, 2008, the City Council approved a final map (FSM 08-05) for the Golf Club at Fernley Phase I subdivision which was recorded with the Lyon County Recorder's Office on May 23, 2008, Lyon County Recorder Document number 426503.
- E. On May 7, 2009, AB 74 was signed into law, thus extending the time period for presenting a subsequent final map to May 23, 2011.
- F. Per the Lyon County Recorder Document number 475081, titled "Development Agreement" regarding development of The Golf Club at Fernley, between the City of Fernley and D L G Associates, LLC, the project approvals associated with a tentative subdivision map (TSM 05-05) were extended to May 23, 2013. Specifically, the time frame for presenting a Final Map consisting of a portion of the Golf Club at Fernley Phase II under NRS 278.360 for the project was extended to May 23, 2013
- G. Per the Lyon County Recorder Document number 503441, titled "Development Agreement" regarding development of The Golf Club at Fernley, between the City of Fernley and D L G Associates, LLC," the project approvals associated with a tentative subdivision map (TSM 05-05) were extended to May 23, 2015. Specifically, the time for presenting a Final Map consisting of a portion of the Golf Club at Fernley Phase II under NRS 278.360 for the project was extended for two (2) years to May 23, 2015.
- H. Per the Lyon County Recorder Document number 541238, titled "Development Agreement Between the City of Fernley and D L G Associates, LLC," the project approvals associated with a tentative subdivision map (TSM 05-05) were extended to August 19, 2017. Specifically, the time frame for the presentation of a final subdivision map, in accordance with the provisions set forth in NRS 278, for The Golf Club at Fernley was extended to August 19, 2017.
- I. Per the Lyon County Recorder Document number 573350, titled "Development Agreement Between the City of Fernley and D L G Associates, LLC," the project approvals associated with a tentative subdivision map (TSM 05-05) were extended to August 19, 2021. Specifically, the time frame for the presentation of a final subdivision map, in accordance with the provisions set forth in NRS 278, for The Golf Club at Fernley was extended to August 19, 2021.
- I.J. The conditions of approval for the tentative subdivision map, including the recordation of the current phase of the Project have been, or will be, satisfied with the construction of

onsite improvements and offsite improvements contained in Developer's submittals for the final maps. The conditions are attached hereto as Exhibit B.

J.K. The parties desire to enter into this Development Agreement to extend the deadline for filing final maps under NRS 278.360 and to provide for such other matters as set forth herein.

K.L. Pursuant to the provisions of NRS 278.360(1) and 278.0201(4), a Development Agreement may extend time for filing final subdivision maps.

NOW, THEREFORE, in exchange for mutual considerations, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 3.1 Development Standards.

The parties agree that the permitted uses of the land, the density or intensity of its use, the maximum height and size of the proposed buildings, and any dedication of land to the City shall be as provided in the City's approvals for the Project, including the current zoning and master plan designations existing as of the date hereof.

The parties also agree that the Project shall be developed in accordance with the "Conditions of Approval" attached as Exhibit B, unless amended.

Section 3.2 Extension of Final Map deadline

The parties hereby agree that the time for presenting a Final Map consisting of a portion of the Golf Club at Fernley under NRS 278.360 for the project is hereby extended for ~~four~~two (42) years to August 19, 2024~~3~~. The time for the first successive Final Map recordation shall be in accordance with the provisions set forth in NRS 278.360.

Section 3.3 Limitation.

The provisions of NRS 278.0201 apply to this Agreement.

Article 4. General Terms.

Section 4.1 Effective Date; approved by ordinance.

This Agreement is not effective until it has been approved by ordinance by the City Council, and has been recorded in the Official Records of Lyon County.

Section 4.2 Expiration.

Unless modified pursuant to Section 4.3 of this Agreement, expiration shall occur in accordance with the terms of Section 3.2., above.

Section 4.3 Modifications and Amendments.

Modifications and amendments to this Agreement are not effective or binding until approved by Ordinance of the City Council and recorded in accordance with NRS 278.0205.

Section 4.4 Entire Agreement.

With respect to the matters addressed herein (including the recitals), this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties.

Section 4.5 Assignments; Transfer of rights.

Developer shall have the right to assign all or any portion of its rights and delegate any obligations under this Agreement to third parties who acquire fee simple absolute ownership to any portion of the Project Property.

Section 4.6 Notices; when deemed sufficiently given.

- A. Formal notices, demands and communications between the City and Developer must be in writing and must be sent to the addresses or facsimile numbers stated in Article 1 above and to each successor or assign of Developer to the address given by such party in writing and if no written notice is given, then to the address stated in the transfer agreement, and/or to any address or number subsequently communicated to the sending party in writing.
- B. If notice is sent by registered or certified mail to the correct address, postage prepaid, it will be deemed sufficiently given the earlier of when actually received by the addressee or three business days after it is received by the U.S. Post Office as indicated on the receipt.
- C. If notice is sent by courier, or overnight delivery service (Federal Express, UPS Overnight, U.S. Postal Priority Mail), and is properly addressed, it will be deemed sufficiently given when delivered as indicated in the records of the courier or service.
- D. If notice is sent by facsimile, properly addressed to the addressee specified in Article 1 above and is actually sent to the correct facsimile number, it will be deemed sufficiently given when receipt is confirmed by either the receiving or sending facsimile machine, provided that that confirmation is in writing and sufficiently identifies the document, and indicates the time and date that the document was received by the receiving facsimile machine.

Section 4.7 Further documents.

Each party agrees to honor any reasonable requests by the other party to complete, execute, and deliver any document necessary to accomplish the purposes hereof.

Section 4.8 Attorney's fees and costs.

If any party hereto institutes any action or proceeding (including arbitration, if authorized or mutually agreed upon) against the other or others arising out of or relating to this Agreement, the prevailing party shall be awarded attorney's fees and costs by the other party.

Section 4.9 Time of Essence.

Time is of the essence in the performance of this Agreement.

Section 4.10 Governing law.

The laws of the State of Nevada, without regard to conflicts of law principles, shall govern the interpretation and enforcement of this Agreement.

Section 4.11 Severability of invalid or unenforceable provisions.

If any provision contained in Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

Section 4.12 Binding effect; successors and assigns; assignment/delegation.

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, and permitted successors and assigns of the parties hereto. To the extent that any assignment of any right under this Agreement changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Agreement, attempts to operate as novation, or includes a waiver or abrogation of any defense to payment by Fernley, such offending portion of the assignment shall be void, and shall be a breach of this Agreement.

Section 4.13 No third party beneficiaries intended.

Unless otherwise specifically identified in this Agreement, there are no third party beneficiaries intended by this Agreement and no third parties have any standing to enforce any of the provisions of this Agreement.

Section 4.14 Representation and warranties by persons who sign this Agreement.

Each person who signs this Agreement represents and warrants to each other person who signs this Agreement that he or she is an authorized agent of and has actual authority to execute this Agreement on behalf of the party for whom he or she is signing, and that all required approvals and actions have been taken to authorize the execution of this Agreement with the intent and effect of binding the party to this Agreement.

|

[Signature Page Follows]

DRAFT

EXECUTED on the dates indicated:

City: CITY OF FERNLEY, a municipal corporation

Dated _____, 2017~~2021~~

By: _____

Its: _____

Attest:

City Clerk

Developer: D L G ASSOCIATES, LLC

Dated _____, 2017~~2021~~

By: _____

Its: _____

STATE OF NEVADA)
)
COUNTY OF _____)

This instrument was acknowledged before me on _____, 20__ by _____ as _____ of D L G Associates, LLC, a Nevada limited liability company.

Notary Public

Notary Stamp Here

My Commission Expires: _____