

NYE COUNTY AGENDA INFORMATION FORM

Action

Presentation

Presentation & Action

| | | | |
|---|------------------|--|----------------------------|
| Department: District Attorney | | Agenda Date: November 16, 2020 | |
| Category: Timed Agenda Item – 10:00 a.m. | | | |
| Contact: Chris Arabia, Nye County District Attorney | | Phone: 775-751-7080 | Continued from meeting of: |
| Return to: | Location: | Phone: | |
| Action requested: (Include what, with whom, when, where, why, how much (\$) and terms) | | | |
| Public Hearing, discussion and deliberation on Nye County Bill No. 2020-17: A Bill proposing to enter into a Second Development Agreement Extension and Amendment between Nye County and L.I. Development, LLC and Pahrump Utility Company, Inc., for the Indian Road Subdivision; and Providing for the Severability, Constitutionality and Effective Date Thereof, and other matters properly relating thereto. | | | |
| Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures) | | | |
| Staff recommends adoption with an effective date of December 7, 2020. | | | |
| Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies. | | | |
| Expenditure Impact by FY(s): (Provide detail on Financial Form) | | | |
| <input checked="" type="checkbox"/> No financial impact | | | |

Routing & Approval (Sign & Date)

| | | | |
|---------|------|--------------------|---|
| 1. Dept | Date | 6. | Date |
| 2. | Date | 7. HR | Date |
| 3. | Date | 8. Legal | Verified by MG 11-09-20 |
| 4. | Date | 9. Finance | Date N/A |
| 5. | Date | 10. County Manager | <input checked="" type="checkbox"/> Place on Agenda |

MG

ITEM # 13

NYE COUNTY ORDINANCE NO. ____

SUMMARY: A Bill proposing to enter into a Second Development Agreement Extension and Amendment between Nye County and L.I. Development, LLC and Pahrump Utility Company, Inc., for the Indian Road Subdivision; providing for the severability, constitutionality and effective date thereof; and other matters related thereto.

TITLE: A BILL PROPOSING TO ENTER INTO A SECOND DEVELOPMENT AGREEMENT EXTENSION AND AMENDMENT BETWEEN NYE COUNTY AND L.I. DEVELOPMENT, LLC AND PAHRUMP UTILITY COMPANY, INC., FOR THE INDIAN ROAD SUBDIVISION; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS RELATED THERETO.

WHEREAS, an agreement for development of land entered into pursuant to NRS 278.021 may be amended in whole or part by mutual consent of the parties pursuant to NRS 278.0205; and

WHEREAS, it is in the best interest of Nye County to agree to grant L.I. Development, LLC and Pahrump Utility Company, Inc., an extension of time to perform certain requirements under the *Development Agreement Extension and Amendment* signed September 19, 2017 for the Indian Road Subdivision; and

WHEREAS, the Nye County Board of County Commissioners voted at their meeting on September 15, 2020 to proceed with a second amendment and extension to the *Development Agreement* previously approved by the Nye County Board of County Commissioners as Ordinance No. 349 and recorded in the Nye County Recorder's Office on March 31, 2008 as Document No. 706215,

THE BOARD OF COMMISSIONERS OF THE COUNTY OF NYE, STATE OF NEVADA, DOES HEREBY ORDAIN:

1. **SEVERABILITY.** If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or

applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

2. **CONSTITUTIONALITY.** If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.
3. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 7th day of December, 2020.

Proposed on the _____ day of _____, 2020.

Proposed by: _____.

Adopted on the _____ day of _____, 2020

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____

John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST: _____

Sandra L. Merlino
Clerk and Ex-Officio
Clerk of the Board

**SECOND DEVELOPMENT AGREEMENT
EXTENSION AND AMENDMENT**

BY AND BETWEEN

NYE COUNTY, STATE OF NEVADA

AND

**L. I. Development, LLC and PAHRUMP UTILITY
COMPANY, INC.**

This **Second Development Agreement Extension And Amendment** (the “Second Amendment”) is made and entered into this _____ day of November, 2020 by and between the County of Nye, State of Nevada (hereinafter “County”) and L.I. Development, LLC. and Pahrump Utility Company, Inc., (PUCI) (hereinafter “Developer”), as owners of certain real property located at 5400 E. Turner Boulevard, Pahrump, Nye County, Nevada, 120 acres of which is commonly known as “Indian Road Subdivision” and 40 acres of which is commonly known as “PUCI Utility Site” more particularly described as County Assessor’s Parcel Numbers 45-361-04 and 45-361-05 (the “Property”).

RECITAL OF PREMISES, PURPOSE AND INTENT

A. On February 5, 2008 the Nye County Board of County Commissioners (“BoCC”) approved a certain **Development Agreement** (hereinafter “Development Agreement”), as Ordinance No. 349 and recorded in the Nye County Recorder’s Office on March 31, 2008 as Document No. 706215, by and between the Parties for the development of the Property.

B. On the 19th day of September, 2017 the BoCC adopted Amended Ordinance No. 526 approving a **Development Agreement Extension and Amendment** and authorizing the execution thereof by duly constituted officers of the County. Said ordinance amendment took effect on the 9th day of October, 2017. The **Development Agreement Extension and Amendment**, was recorded in the Nye County Recorder’s Office on November 6, 2017 as Document No. 883537.

C. Whereas under Section 5.4 of the **Development Agreement Extension and Amendment** the developer may be allowed an automatic extension of time to perform due to unavoidable delays; and

D. Whereas the current Covid 19 Nevada Governor’s emergency declarations and subsequent business shutdowns qualify as an Unavoidable Delay under the **Development Agreement Extension and Amendment**, it is reasonable to allow developer a twenty-four month extension of time in performing the requirements under the **Development Agreement Extension and Amendment** required in section 4.8 Phasing Schedule and Section 11 Duration of Agreement.

E. As a result, under Section 11.1 of the **Development Agreement Extension and Amendment** the deadline for filing the first Tentative Map with Nye County should be extended to seven (7) years after the Effective Date of the **Development Agreement Extension and Amendment**; the deadline for filing the first Final Map should be extended to ten (10) years after the Effective Date of the **Development Agreement Extension and Amendment** and the deadline for filing the last Final Map should be seventeen (17) years after the Effective Date of the **Development Agreement Extension and Amendment**.

F. “Effective Date” is defined in Section 1 of the **Development Agreement Extension and Amendment** as the effective date of an ordinance adopted by the BOCC that approved the execution of the **Development Agreement Extension and Amendment** and which Ordinance is subsequently recorded as required by NRS 278. The parties agree that the

“Effective Date” is October 9, 2017.

G. Therefore, this ***Second Development Agreement Extension and Amendment*** shall extend certain deadlines of the ***Development Agreement Extension and Amendment*** as follows:

1. The deadline for filing the first Tentative Map with Nye County shall be extended for seven (7) years after October 9, 2017;
2. the deadline for filing the first Final Map shall be extended for ten (10) years after October 9, 2017; and
3. the deadline for filing the last Final Map shall be extended for seventeen (17) years after October 9, 2017.

H. In all other respects, the agreements and terms of the ***Development Agreement*** approved by the BOCC as Ordinance No. 349 and recorded in the Nye County Recorder’s Office on March 31, 2008 as Document No. 706215, and as thereafter amended by the ***Development Agreement Extension and Amendment*** adopted by the BOCC as Amended Ordinance No. 526 and recorded in the Nye County Recorder’s Office on November 6, 2017 as Document No. 883537 are hereby ratified and confirmed.

I. On the _____ day of November, 2020 the BoCC adopted Ordinance No. _____ approving this ***Second Development Agreement Extension and Amendment*** and authorizing the execution hereof by duly constituted officers of the County. Said ordinance took effect on the _____ day of _____ 2020. The County agrees to record a certified copy of the ordinance as required by NRS Chapter 278.

In Witness Whereof, this ***Second Development Agreement Extension and Amendment*** has been executed by the parties on the day and year first above written.

COUNTY:

Board of County Commissioners

ATTEST:

County Clerk

By:

John Koenig, Chairman

By:

OWNER:

Pahrump Utility Company, Inc.

By: (signature) _____

Name: (printed) _____

Title: _____

State of Nevada)
County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2020.

Notary Public in and for said County and State

OWNER:
L.I. Development, LLC

By: (signature) _____

Name: (printed) _____

Title: _____

State of Nevada)
County of)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2020.

Notary Public in and for said County and State