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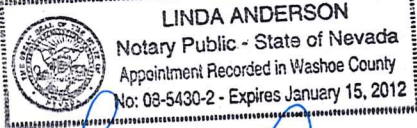
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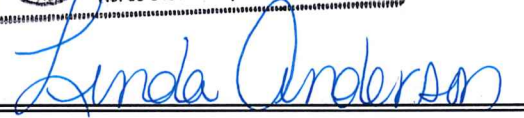
STATE OF NEVADA
COUNTY OF WASHOE

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the dates: **06/13/2008 - 06/20/2008**, for exact publication dates please see last line of Proof of Publication below.

Signed: 

JUL 1 2008

Subscribed and sworn to before me

LINDA ANDERSON
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 08-5430-2 - Expires January 15, 2012



Proof of Publication

NOTICE OF ADOPTION WASHOE COUNTY ORDINANCE NO. 1372 NOTICE IS HEREBY GIVEN THAT: Bill No. 1550, Ordinance No.1372 entitled: AN ORDINANCE PURSUANT TO NEVADA REVISED STATUTES 278.0201 THROUGH 278.0207 APPROVING DEVELOPMENT AGREEMENT CASE NO. DA06-001 FOR TENTATIVE SUBDIVISION MAP CASE NO. TM04-005 FOR WARM SPRINGS RANCH SUBDIVISION AS PREVIOUSLY APPROVED BY THE WASHOE COUNTY PLANNING COMMISSION. (Bill No 1550.) PUBLIC NOTICE IS HEREBY GIVEN that an adequate number of typewritten copies of the above-numbered and entitled Ordinance are available for public inspection and distribution at the office of the County Clerk of Washoe County, at her office in the County Courthouse in Reno, Nevada, 75 Court Street, Reno, Washoe County, Nevada; and can be found on the County Clerk's website, www.washoecounty.us/clerks. Such Ordinance was proposed on May 27, 2008 and passed and adopted at a regular meeting of the Washoe County Board of County Commissioners on June 10, 2008, by the following vote of the Board of County Commissioners: Those Voting Aye: Jim Galloway, Bonnie Weber, Robert M. Larkin, David Humke, Kitty Jung, Those Voting Nay: None Those Absent: None This ordinance shall be in full force and effect from and after June 20, 2008, i.e., the date of the second publication of such

1372 ✓

ordinance by its title only. IN WITNESS WHEREOF, The Board of County Commissioners of Washoe County, Nevada, has caused this ordinance to be published by title only. AMY HARVEY, Washoe County Clerk and Clerk of the Board of County Commissioners No. 567090 - June 13, 20, 2008

SUMMARY: An ordinance approving the amendment of Development Agreement Case No. DA06-001 which will extend the approval of Tentative Subdivision Map Case No. TM04-005 for Warm Springs Ranch, as previously approved by the Planning Commission until June 29, 2009 and upon sixty (60) days written request from Landowner, the Director of the Department of Community Development of Washoe County may, in his sole discretion, grant an additional one (1) year extension of time to file the final map from June 29, 2009 to June 29, 2010.

BILL NO. 1550

ORDINANCE NO. 1372

AN ORDINANCE PURSUANT TO NEVADA REVISED STATUTES 278.0201 THROUGH 278.0207 APPROVING DEVELOPMENT AGREEMENT CASE NO. DA06-001 FOR TENTATIVE SUBDIVISION MAP CASE NO. TM04-005 FOR WARM SPRINGS RANCH SUBDIVISION AS PREVIOUSLY APPROVED BY THE WASHOE COUNTY PLANNING COMMISSION.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1.

The amendment to Development Agreement for Tentative Subdivision Map Case No. TM04-005 for Warm Springs Ranch is attached and is an acceptable document with which to extend the expiration date of said map.

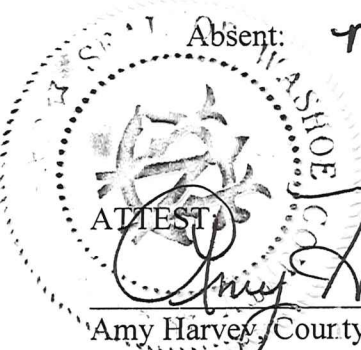
Proposed on the 27th day of May, 2008.
Proposed by Commissioner Humke.
Passed on the 10th day of JUNE, 2008.

Vote:
Ayes: LARKIN, WEBER, Humke, Galloway & Jung

Nays: none

Absent: none

Robert M Larkin
Robert M. Larkin, Chairman
Washoe County Commission

 ATTEST
Amy Harvey
Amy Harvey, County Clerk

This ordinance shall be in force and effect from and after the 20th day of June, 2008.

**RECORDING REQUESTED BY,
AND WHEN RECORDED, MAIL TO:**

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

**AMENDMENT TO INITIAL DEVELOPMENT AGREEMENT
FOR WARM SPRINGS RANCH**

THIS AMENDMENT TO INITIAL DEVELOPMENT AGREEMENT FOR WARM SPRINGS RANCH ("Amendment") is made by and between **PALOMINO VALLEY, LLC**, a Nevada limited liability company ("Landowner"); and the **COUNTY OF WASHOE**, a political subdivision of the State of Nevada ("County").

1. **GENERAL.**

1.1 **Property.** Landowner is the owner of real property known as the Warm Springs Ranch subdivision located in Washoe County, Nevada which are Assessor's Parcel Numbers 077-090-03, 077-090-07, 077-090-13, 077-090-14, 077-090-15, 077-340-04, 077-340-05, 077-340-37, 077-340-44, and 077-340-45, located at the northeast and southeast intersection of Pyramid Highway and Whiskey Springs Road, as more particularly described in Exhibit "A" attached hereto (the "Property"). The Property consists of approximately 1154.57 acres located within the Warm Springs Specific Plan ("WSSP").

1.2 **Tentative Map.** On June 29, 2004, County issued its Action Order approving a tentative map application of Landowner known as Tentative Subdivision Map Case No. TM04-005 (Warm Springs Ranch Subdivision) (the "Tentative Map"). The development of the Property must be conducted pursuant to the provisions of the Tentative Map, the WSSP and the Washoe County Development Code (the "Code").

1.3 **Development Agreement And Final Map.** On or about June 20, 2006, County and Landowner entered into that certain Development Agreement for Warm Springs Ranch (the "Initial Agreement"), pursuant to which the parties agreed to a plan for development and to an extension of the time within which Landowner must file its first final subdivision map related to the Tentative Map (the "Final Map"). Pursuant to NRS 278.360(1), unless the parties agree to amend the Initial Agreement as allowed under NRS 278.0205, or otherwise enter into an additional agreement

concerning the development of land authorized by NRS 278.0201, Landowner must cause the Final Map to be recorded prior to the expiration date of the extension period, which is June 29, 2008 (the "Expiration Date").

1.4 Circumstances Requiring Agreement Amendment. The parties, by this Amendment, desire to amend the Initial Agreement in order to continue their efforts to better plan the project and community infrastructure. This Amendment and its extension of time to record the Final Map is justified by the following facts, circumstances, and agreements.

1.4.1 Planning Updates. County is currently in the process of updating both the WSSP and the Warm Springs Area Plan (the "Area Plan"), of which the WSSP is a part (such updating process being hereinafter referred to as the "Update"). County anticipates completion of the initial Update to the Area Plan in 2008, with additional changes to that portion of the Area Plan involving the WSSP (such as it may be following the initial Area Plan Update) coming later in 2008 or thereafter. The Update may result in changes in land uses, financing mechanisms, infrastructure requirements, or other development policies on certain properties within the WSSP, which may affect the Property. Landowner would prefer to process and record the Final Map in connection with the activities and changes pursued in the Update so as to avoid committing to a development and/or financing plan for the Property under the Tentative Map until any changes in land use, financing mechanisms, infrastructure requirements, or development policies pursuant to the Update are known. County also believes it would be in the public's best interest to delay commencement of development under the Final Map on the Property until after the Update is completed, because changes resulting from the Update may impact said development, or may require a new tentative map or other discretionary approval to be submitted. Those extraordinary and unforeseeable circumstances require that an extension of time be granted to Landowner to file the Final Map (including without limitation a final map related to a minimum of five lots).

1.4.2 Infrastructure Improvements and Open Space Dedication. As part of the development of the Property, Landowner will develop substantial off-site and on-site infrastructure that will benefit portions of the County beyond the Property. Furthermore, in connection with the development of the Property, Landowner will dedicate substantial open space to Washoe County. It is in the public interest to foster development of the aforementioned infrastructure and obtain the open space, neither of which could occur without an extension of the Final Map.

1.4.3 WSSP Requirements. The WSSP requires a development agreement between WSSP property owners and the County in order to develop property located within the WSSP. One of the reasons for imposing that requirement relates to its assumed method of securing financing for public infrastructure within the area covered by the WSSP, and as those assumptions are currently undergoing significant review and reconsideration in connection with the Area Plan Update, it would result in a significant loss of time and resources to the parties to process a final development agreement and final map prior to resolution of the revisions to the financing aspects of the WSSP. Thus, the parties intend hereby to amend the Initial Agreement and disengage and cancel any processing of any other development agreement submitted by Landowner, anticipating amendment of this Agreement again in the future as the Area Plan update and infrastructure financing arrangements are completed.

1.4.4 Amendments Allowed. Pursuant to both NRS 278.0205 and Section 110.814.40 of the Code, the County and Landowner are authorized to amend the Initial Agreement by mutual consent.

1.4.5 New County Policy. The County and Landowner acknowledge and agree that recently the County adopted a new policy regarding the way in which a development agreement may be used to extend the final map filing deadline on a tentative map. While this policy was adopted subsequent to approval of the Tentative Map and the Initial Agreement, the parties believe equity and public interest would be best served by affording to Landowner the same rights and opportunities, and subjecting Landowner to the same requirements, as are available to and/or imposed upon other developers in the County under the new policy.

1.4.6 Covenant to Cooperate and Best Efforts. Landowner acknowledges and agrees that, in connection with the County's pending Update of the Area Plan, the County has included Appendices B and G of the WSSP in its draft Area Plan, primarily due to concerns raised by Landowner about how the modification of those Appendices might create inequities in the use of water and payment of costs for public infrastructure within the area covered by the WSSP. Landowner further acknowledges and agrees that modifications are needed to one or both Appendices in order to create a workable, orderly plan for development within the area covered by the WSSP. To that end, Landowner hereby covenants and agrees to use its best efforts and cooperate with the County in developing additional modifications to the Area Plan to address satisfactorily the topics covered by the Appendices. Landowner further covenants and agrees to support the pending Update of the Area Plan, provided the pending Update of the Area Plan incorporates Appendices B and G of the WSSP.

2. AMENDMENT TO AGREEMENT CONCERNING DEVELOPMENT OF LAND.

2.1 Compliance with NRS 278.0205 and Code. This Amendment is an amendment to an agreement concerning the development of land under NRS 278.0201, NRS 278.0205 and Article 814 of the Code.

2.2 Amendment to Initial Agreement and Expiration Date. The parties hereby agree that Expiration Date set forth in the Initial Agreement is hereby extended from June 29, 2008, to June 29, 2009, subject to Section 2.3, and the Initial Agreement is so modified. The parties hereby acknowledge that any prior extension of the time to record the Final Map set forth in the Initial Agreement, the extension of the Expiration Date provided for herein, and any future extension of the Expiration Date that may be provided as set forth in Section 2.3 shall be deemed an extension of all special use permits approved and issued by County in connection with the Tentative Map.

2.3 Further Extension. Landowner acknowledges that a development agreement or amendment to development agreement, a stated purpose of which is to extend the time for recording a final subdivision map, henceforth may be used only once with respect to the Tentative Map. Notwithstanding Section 2.2 above, upon sixty (60) days written request from Landowner, the Director of the Department of Community Development of Washoe County (the "Director") may, in his sole discretion, grant an additional one (1) year extension of time to file the Final Map, from June 29, 2009, to June 29, 2010. Landowner acknowledges that, in exercising the aforementioned

discretion to extend, the Director will take into consideration Landowners compliance with the duties imposed under Section 1.4.6. Landowner knowingly and voluntarily waives any right it may have to extend any deadline to record any other map under the Tentative Map by a development agreement or amendment to development agreement.

2.4 Code Changes. The parties agree that changes in federal, state or county law concerning public health, safety or welfare will apply to any final map or other permit.

2.5 Public Notice. Any and all public notices required to be given in connection with this Amendment shall be given in accordance with Section 110.814.25 of the Code.

2.6 Assumption of Risk. Landowner acknowledges and agrees that Landowner is proceeding voluntarily and at its own risk in entering into this Amendment and without advice, promises or guarantees of any kind from County, other than as expressly set forth herein.

2.7 Effect on Other Applications. Landowner agrees that upon final approval, adoption, and execution hereof, any of its other applications pending in the County to develop the Property shall be deemed withdrawn and of no legal effect as of their submittal date to the County. Landowner and County acknowledge and agree that the Tentative Map, and all special use permits approved by the County in connection with the Tentative Map, shall not be deemed pending applications for purposes of this Section 2.7.

3. MISCELLANEOUS PROVISIONS.

3.1 Time is of the Essence. Time is of the essence of this Amendment.

3.2 Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

3.3 Successors. This Amendment shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

3.4 Professional Fees. If either party commences an action against the other to interpret or enforce any of the terms of this Amendment or because of the breach by the other party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment.

3.5 Entire Agreement. The Initial Agreement, as modified by this Amendment, is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto.

3.6 Governing Law. The parties hereto acknowledge that this Amendment has been negotiated and entered into in the State of Nevada. The parties hereto expressly agree that this

Amendment shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Nevada and venue for any action shall be solely in state district court for Washoe County, Nevada.

3.7 Days of Week. If any date for performance herein falls on a Saturday, Sunday or holiday, pursuant to the laws of the State, the time for such performance shall be extended to 5:00 p.m. on the next business day.

3.8 Written Amendments. This Amendment may not be modified, amended, altered or changed in any respect whatsoever except by further agreement in writing, duly executed by both parties. No oral statements or representations subsequent to the execution hereof by either party are binding on the other party, and neither party shall have the right to rely on such oral statements or representations.

3.9 Future Cooperation. Each party shall, at the request of the other, at any time, execute and deliver to the requesting party all such further instruments as may be reasonably necessary or appropriate in order to effectuate the purpose and intent of this Amendment.

3.10 Third Party Beneficiary Rights. This Amendment is not intended to create any third-party beneficiary rights in any person not a party hereto.

3.11 Interpretation. The parties hereto acknowledge and agree that each has been given the opportunity to review this Amendment with legal counsel independently. The parties have equal bargaining power and intend the plain meaning of the provisions herein. In the event of an ambiguity in or dispute regarding the interpretation of the Amendment, the interpretation of this Amendment shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist, or against the draftsmen.

3.12 Counterparts. This instrument may be executed in two or more counterparts, which, when taken together, shall constitute one and the same instrument. Any signature page of this instrument may be detached from any counterpart without impairing the legal effect of any signatures thereon, and may be attached to another counterpart identical in form thereto, but having attached to it one or more additional signature pages.

3.13 No Further Amendments. Except as set forth herein, the Initial Agreement remains unmodified and in full force and effect. In the event of any inconsistency between the terms of the Initial Agreement and this Amendment, the terms and provisions of this Amendment shall control.

[remainder of page intentionally left blank.]

[Signature page to Amendment to Development Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date above last written below.

LANDOWNER:

**PALOMINO VALLEY, LLC, a Nevada
limited liability company**

By: _____

Date: _____

COUNTY:

**COUNTY OF WASHOE, a political
subdivision of the State of Nevada, by its
BOARD OF WASHOE COUNTY
COMMISSIONERS**

By: _____
ROBERT LARKIN, Chairman

Date: _____

ATTEST:

AMY HARVEY, County Clerk

State of Nevada)
)
County of Washoe)

This instrument was acknowledged before me on _____, 2008, by _____ as _____ of Palomino Valley, LLC, a Nevada limited liability company.

Notary Public
My commission expires: _____

State of Nevada)
)
County of Washoe)

This instrument was acknowledged before me on _____, 2008, by Robert Larkin,
Chairman of Washoe County, Board of Washoe County Commissioners.

Notary Public
My commission expires: _____



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

www.co.washoe.nv.us

CM/ACM DA
Freund DA
Finance NA
DA DA
Risk Mgt. NA
HR NA
Other NA

STAFF REPORT

BOARD MEETING DATE: May 27, 2008

DATE: May 7, 2008
TO: Board of County Commissioners
FROM: Trevor Lloyd, Senior Planner, Community Development
328-3620, tlloyd@washoecounty.us
THROUGH: Adrian P. Freund, FAICP, Director of Community Development
SUBJECT: To consider adopting an amendment of Development Agreement Case No. DA06-001 for Tentative Subdivision Map Case No. TM04-005, Warm Springs Ranch, located in the Warm Springs Specific Plan, pursuant to Nevada Revised Statutes 278.0201 through 278.0207. The sole purpose of this amendment to the Development Agreement is to extend the expiration date of said subdivision map until June 29, 2009 and upon sixty (60) days written request from Landowner, the Director of the Department of Community Development of Washoe County may, in his sole discretion, grant an additional one (1) year extension of time to file the final map from June 29, 2009 to June 29, 2010. [APN: 077-090-03, 077-090-07, 077-090-13, 077-090-14, 077-090-15, 077-340-04, 077-340-05, 077340-37, 077-340-44, 077-340-45]. COMMISSION DISTRICT #4

AND IF APPROVED

To introduce and have the first reading of an ordinance pursuant to Nevada Revised Statutes 278.0201 through 278.0207 approving the amendment to Development Agreement Case No. DA06-001 for Warm Springs Ranch for Tentative Subdivision Map Case No. TM04-005, and to provide for a second reading on June 10, 2008, and further to authorize the Chair to execute the final Development Agreement upon adoption of the ordinance.

SUMMARY

This amendment to Development Agreement case no. DA06-001 is solely for the purpose of an extension of time for the approved tentative subdivision map within the Warm Springs Planning Area. To support the development of the property, the applicant must develop substantial off-site and on-site infrastructure. Additionally, in order to record any final map on the property, the applicant is required to adopt a Development

AGENDA ITEM _____

Ord. 1372

Agreement with Washoe County that includes but is not limited to the establishment of a funding mechanism and financing plan for the necessary services and infrastructure.

CIRCUMSTANCES REQUIRING EXTENSION OF TIME TO FILE MAP:

Washoe County is currently in the process of updating the Warm Springs Area Plan and the Warm Springs Specific Plan (WSSP). The updates to the area plan and specific plan may have significant ramifications to the financing mechanism to support the funding of infrastructure and services within the Warm Springs Specific Plan. The landowner would prefer and it is in the best interest of the County to process and record the final map in connection with the activities and changes pursued in the update so as to avoid committing to a development and/or financing plan for the property under the tentative map until any changes in land use, financing mechanisms, infrastructure requirements or development policies pursuant to the update are known. Under current WSSP policies, the landowner is required to adopt a development agreement prior to any final map recordation. Washoe County staff agrees with the applicant's contention that it would result in a significant loss of time and resources to the parties involved to process a final development agreement and final map prior to resolution of the revisions to the financing aspects of the WSSP. These are extraordinary and unforeseeable circumstances requiring that an extension of time be granted to Landowner to file the Final Map.

County Priority/Goal supported by this item:

- Responsible Growth Management.
- Manage the use of our natural assets.

PREVIOUS ACTION

On June 29, 2004 the Washoe County Planning Commission unanimously approved the Tentative Subdivision Map for Warm Springs Ranch for 750 single family lots, Case No. TM04-005. The current expiration date is June 29, 2008 for the remaining 750 lots.

On June 20, 2006, Washoe County and the landowner entered into a Development Agreement for the Warm Springs Ranch to grant an extension of time until June 29, 2008.

The process by which a development agreement becomes effective is enumerated in Section 110.814.30 of the Development Code. The following is the process for effectuating a development agreement:

1. Approve the development agreement; approve subject to specified conditions not included in the agreement as submitted; or deny approval of the development agreement.
2. If the development agreement is approved, introduce an ordinance and have the first reading adopting the development agreement.

3. Schedule a public hearing for second reading and possible adoption of the ordinance that adopts the development agreement.¹

FISCAL IMPACT

No fiscal impact from the extension of the tentative subdivision map.

RECOMMENDATION

It is recommended that the Washoe County Commission approve the development agreement providing for the extension of the Warm Springs Ranch, Tentative Subdivision Map Case No. TM04-005, represented by the signatures on the Development Agreement, as presented to staff with the application packet.

Should the Board approve the development agreement, the first reading of the ordinance approving the Development Agreement and the scheduling of the second reading should occur.

POSSIBLE MOTION

Staff recommends the following motions for the Board of County Commissioners' consideration:

Approval of the Development Agreement

"I move to approve amendment to Development Agreement Case No. DA06-001."

First Reading

"I move to introduce Bill Number ____ and further have a public hearing and second reading conducted on June 10, 2008."

Second Reading

APPROVAL

"I move to approve Ordinance Number ____ based on the following findings.

1. That the development agreement is in the best interests of Washoe County since the County is updating the Warm Springs Area Plan and Warm Springs Specific Plan and the development agreement offers the opportunity for the county to implement appropriate financing mechanism(s) to support the Warm Springs Ranch tentative map.
2. That the development agreement promotes the public interest and welfare of the County by granting additional time for the Landowner and the County to establish an effective financing plan for the construction of on-site and off-site infrastructure improvements and open space dedication.
3. That this development agreement does not include any departures from the development code, regulations and conditions in effect at the time of the original project approval, and the project is deemed to be in the public

¹ Approval of the development agreement, introduction of an ordinance and setting a public hearing for second reading is typically addressed at the first meeting.

interest; and

4. That the development agreement which proposes development over a period of years sufficiently addresses the terms and conditions intended to protect the interests of the public, residents and owners of the land subject to the development agreement in the integrity of the plan.

Attachments:

Exhibit A: Development Agreement

Exhibit B: Ordinance

xc: Blaine Cartlidge, Assistant District Attorney;
David Childs, Assistant County Manager;
Adrian P. Freund, AICP, Community Development Director;
Warm Springs Citizen Advisory Board Chair;
Randy Walter, Places Consulting Services, Inc.

APN# _____

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City/State/Zip: Reno

When Recorded Mail to:

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Address: 75 Court St.
City/State/Zip: Reno

Mail Tax Statement to:

Name: _____
Address: _____
City/State/Zip: _____

DOC # 3922550

09/15/2010 11:51:22 AM

Requested By
WASHOE COUNTY CLERK
Washoe County Recorder
Kathryn L. Burke - Recorder
Fee: \$0.00 RPTT: \$0.00
Page 1 of 14



(for Recorder's use only)

Ordinance No. 1372
(Title of Document)

Please complete Affirmation Statement below:

I the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the personal information of any person or persons.
(Per NRS 239B.030)

-OR-

I the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain the personal information of a person or persons as required by law: _____
(State specific law)

Jaime Sellaera
Signature

Deputy Clerk
Title

JAIME SELLERA
Printed Name

This page added to provide additional information required by NRS 111.312 Sections 1-2 and NRS 239B.030 Section 4.

This cover page must be typed or printed in black ink.

(Additional recording fee applies)

Ord. 1372

SUMMARY: An ordinance approving the amendment of Development Agreement Case No. DA06-001 which will extend the approval of Tentative Subdivision Map Case No. TM04-005 for Warm Springs Ranch, as previously approved by the Planning Commission until June 29, 2009 and upon sixty (60) days written request from Landowner, the Director of the Department of Community Development of Washoe County may, in his sole discretion, grant an additional one (1) year extension of time to file the final map from June 29, 2009 to June 29, 2010.

BILL NO. 1550

ORDINANCE NO. 1372

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THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

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Proposed on the 27th day of May, 2008.
Proposed by Commissioner Humke
Passed on the 10th day of JUNE, 2008.

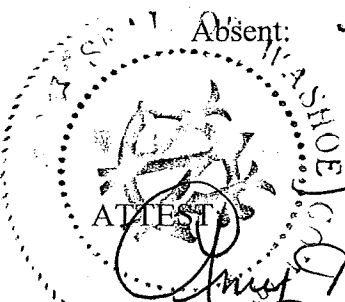
Vote:

Ayes: LARKIN, WEBER, Humke, Galloway & Jung

Nays: none

Absent: none

Robert M Larkin
Robert M. Larkin, Chairman
Washoe County Commission


ATTEST
Amy Harvey
Amy Harvey, County Clerk

This ordinance shall be in force and effect from and after the 20th day of June, 2008.

**RECORDING REQUESTED BY,
AND WHEN RECORDED, MAIL TO:**

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

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concerning the development of land authorized by NRS 278.0201, Landowner must cause the Final Map to be recorded prior to the expiration date of the extension period, which is June 29, 2008 (the "Expiration Date").

1.4 Circumstances Requiring Agreement Amendment. The parties, by this Amendment, desire to amend the Initial Agreement in order to continue their efforts to better plan the project and community infrastructure. This Amendment and its extension of time to record the Final Map is justified by the following facts, circumstances, and agreements.

1.4.1 Planning Updates. County is currently in the process of updating both the WSSP and the Warm Springs Area Plan (the "Area Plan"), of which the WSSP is a part (such updating process being hereinafter referred to as the "Update"). County anticipates completion of the initial Update to the Area Plan in 2008, with additional changes to that portion of the Area Plan involving the WSSP (such as it may be following the initial Area Plan Update) coming later in 2008 or thereafter. The Update may result in changes in land uses, financing mechanisms, infrastructure requirements, or other development policies on certain properties within the WSSP, which may affect the Property. Landowner would prefer to process and record the Final Map in connection with the activities and changes pursued in the Update so as to avoid committing to a development and/or financing plan for the Property under the Tentative Map until any changes in land use, financing mechanisms, infrastructure requirements, or development policies pursuant to the Update are known. County also believes it would be in the public's best interest to delay commencement of development under the Final Map on the Property until after the Update is completed, because changes resulting from the Update may impact said development, or may require a new tentative map or other discretionary approval to be submitted. Those extraordinary and unforeseeable circumstances require that an extension of time be granted to Landowner to file the Final Map (including without limitation a final map related to a minimum of five lots).

1.4.2 Infrastructure Improvements and Open Space Dedication. As part of the development of the Property, Landowner will develop substantial off-site and on-site infrastructure that will benefit portions of the County beyond the Property. Furthermore, in connection with the development of the Property, Landowner will dedicate substantial open space to Washoe County. It is in the public interest to foster development of the aforementioned infrastructure and obtain the open space, neither of which could occur without an extension of the Final Map.

1.4.3 WSSP Requirements. The WSSP requires a development agreement between WSSP property owners and the County in order to develop property located within the WSSP. One of the reasons for imposing that requirement relates to its assumed method of securing financing for public infrastructure within the area covered by the WSSP, and as those assumptions are currently undergoing significant review and reconsideration in connection with the Area Plan Update, it would result in a significant loss of time and resources to the parties to process a final development agreement and final map prior to resolution of the revisions to the financing aspects of the WSSP. Thus, the parties intend hereby to amend the Initial Agreement and disengage and cancel any processing of any other development agreement submitted by Landowner, anticipating amendment of this Agreement again in the future as the Area Plan update and infrastructure financing arrangements are completed.

1.4.4 Amendments Allowed. Pursuant to both NRS 278.0205 and Section 110.814.40 of the Code, the County and Landowner are authorized to amend the Initial Agreement by mutual consent.

1.4.5 New County Policy. The County and Landowner acknowledge and agree that recently the County adopted a new policy regarding the way in which a development agreement may be used to extend the final map filing deadline on a tentative map. While this policy was adopted subsequent to approval of the Tentative Map and the Initial Agreement, the parties believe equity and public interest would be best served by affording to Landowner the same rights and opportunities, and subjecting Landowner to the same requirements, as are available to and/or imposed upon other developers in the County under the new policy.

1.4.6 Covenant to Cooperate and Best Efforts. Landowner acknowledges and agrees that, in connection with the County's pending Update of the Area Plan, the County has included Appendices B and G of the WSSP in its draft Area Plan, primarily due to concerns raised by Landowner about how the modification of those Appendices might create inequities in the use of water and payment of costs for public infrastructure within the area covered by the WSSP. Landowner further acknowledges and agrees that modifications are needed to one or both Appendices in order to create a workable, orderly plan for development within the area covered by the WSSP. To that end, Landowner hereby covenants and agrees to use its best efforts and cooperate with the County in developing additional modifications to the Area Plan to address satisfactorily the topics covered by the Appendices. Landowner further covenants and agrees to support the pending Update of the Area Plan, provided the pending Update of the Area Plan incorporates Appendices B and G of the WSSP.

2. AMENDMENT TO AGREEMENT CONCERNING DEVELOPMENT OF LAND.

2.1 Compliance with NRS 278.0205 and Code. This Amendment is an amendment to an agreement concerning the development of land under NRS 278.0201, NRS 278.0205 and Article 814 of the Code.

2.2 Amendment to Initial Agreement and Expiration Date. The parties hereby agree that Expiration Date set forth in the Initial Agreement is hereby extended from June 29, 2008, to June 29, 2009, subject to Section 2.3, and the Initial Agreement is so modified. The parties hereby acknowledge that any prior extension of the time to record the Final Map set forth in the Initial Agreement, the extension of the Expiration Date provided for herein, and any future extension of the Expiration Date that may be provided as set forth in Section 2.3 shall be deemed an extension of all special use permits approved and issued by County in connection with the Tentative Map.

2.3 Further Extension. Landowner acknowledges that a development agreement or amendment to development agreement, a stated purpose of which is to extend the time for recording a final subdivision map, henceforth may be used only once with respect to the Tentative Map. Notwithstanding Section 2.2 above, upon sixty (60) days written request from Landowner, the Director of the Department of Community Development of Washoe County (the "Director") may, in his sole discretion, grant an additional one (1) year extension of time to file the Final Map, from June 29, 2009, to June 29, 2010. Landowner acknowledges that, in exercising the aforementioned

discretion to extend, the Director will take into consideration Landowners compliance with the duties imposed under Section 1.4.6. Landowner knowingly and voluntarily waives any right it may have to extend any deadline to record any other map under the Tentative Map by a development agreement or amendment to development agreement.

2.4 Code Changes. The parties agree that changes in federal, state or county law concerning public health, safety or welfare will apply to any final map or other permit.

2.5 Public Notice. Any and all public notices required to be given in connection with this Amendment shall be given in accordance with Section 110.814.25 of the Code.

2.6 Assumption of Risk. Landowner acknowledges and agrees that Landowner is proceeding voluntarily and at its own risk in entering into this Amendment and without advice, promises or guarantees of any kind from County, other than as expressly set forth herein.

2.7 Effect on Other Applications. Landowner agrees that upon final approval, adoption, and execution hereof, any of its other applications pending in the County to develop the Property shall be deemed withdrawn and of no legal effect as of their submittal date to the County. Landowner and County acknowledge and agree that the Tentative Map, and all special use permits approved by the County in connection with the Tentative Map, shall not be deemed pending applications for purposes of this Section 2.7.

3. MISCELLANEOUS PROVISIONS.

3.1 Time is of the Essence. Time is of the essence of this Amendment.

3.2 Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

3.3 Successors. This Amendment shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

3.4 Professional Fees. If either party commences an action against the other to interpret or enforce any of the terms of this Amendment or because of the breach by the other party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment.

3.5 Entire Agreement. The Initial Agreement, as modified by this Amendment, is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto.

3.6 Governing Law. The parties hereto acknowledge that this Amendment has been negotiated and entered into in the State of Nevada. The parties hereto expressly agree that this

Amendment shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Nevada and venue for any action shall be solely in state district court for Washoe County, Nevada.

3.7 Days of Week. If any date for performance herein falls on a Saturday, Sunday or holiday, pursuant to the laws of the State, the time for such performance shall be extended to 5:00 p.m. on the next business day.

3.8 Written Amendments. This Amendment may not be modified, amended, altered or changed in any respect whatsoever except by further agreement in writing, duly executed by both parties. No oral statements or representations subsequent to the execution hereof by either party are binding on the other party, and neither party shall have the right to rely on such oral statements or representations.

3.9 Future Cooperation. Each party shall, at the request of the other, at any time, execute and deliver to the requesting party all such further instruments as may be reasonably necessary or appropriate in order to effectuate the purpose and intent of this Amendment.

3.10 Third Party Beneficiary Rights. This Amendment is not intended to create any third-party beneficiary rights in any person not a party hereto.

3.11 Interpretation. The parties hereto acknowledge and agree that each has been given the opportunity to review this Amendment with legal counsel independently. The parties have equal bargaining power and intend the plain meaning of the provisions herein. In the event of an ambiguity in or dispute regarding the interpretation of the Amendment, the interpretation of this Amendment shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist, or against the draftsmen.

3.12 Counterparts. This instrument may be executed in two or more counterparts, which, when taken together, shall constitute one and the same instrument. Any signature page of this instrument may be detached from any counterpart without impairing the legal effect of any signatures thereon, and may be attached to another counterpart identical in form thereto, but having attached to it one or more additional signature pages.

3.13 No Further Amendments. Except as set forth herein, the Initial Agreement remains unmodified and in full force and effect. In the event of any inconsistency between the terms of the Initial Agreement and this Amendment, the terms and provisions of this Amendment shall control.

[remainder of page intentionally left blank.]

[Signature page to Amendment to Development Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date above last written below.

LANDOWNER:

PALOMINO VALLEY, LLC, a Nevada limited liability company

By: _____

Date: _____

COUNTY:

COUNTY OF WASHOE, a political subdivision of the State of Nevada, by its BOARD OF WASHOE COUNTY COMMISSIONERS

By: _____

ROBERT LARKIN, Chairman

Date: _____

ATTEST:

AMY HARVEY, County Clerk

State of Nevada)

County of Washoe)

This instrument was acknowledged before me on _____, 2008, by _____ as _____ of Palomino Valley, LLC, a Nevada limited liability company.

Notary Public

My commission expires: _____



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

www.co.washoe.nv.us

CM/ACM DA
Freund DA
Finance NA
DA DA
Risk Mgt. NA
HR NA
Other NA

STAFF REPORT

BOARD MEETING DATE: May 27, 2008

DATE: May 7, 2008
TO: Board of County Commissioners
FROM: Trevor Lloyd, Senior Planner, Community Development
328-3620, tlloyd@washoecounty.us
THROUGH: Adrian P. Freund, FAICP, Director of Community Development

SUBJECT: To consider adopting an amendment of Development Agreement Case No. DA06-001 for Tentative Subdivision Map Case No. TM04-005, Warm Springs Ranch, located in the Warm Springs Specific Plan, pursuant to Nevada Revised Statutes 278.0201 through 278.0207. The sole purpose of this amendment to the Development Agreement is to extend the expiration date of said subdivision map until June 29, 2009 and upon sixty (60) days written request from Landowner, the Director of the Department of Community Development of Washoe County may, in his sole discretion, grant an additional one (1) year extension of time to file the final map from June 29, 2009 to June 29, 2010. [APN: 077-090-03, 077-090-07, 077-090-13, 077-090-14, 077-090-15, 077-340-04, 077-340-05, 077340-37, 077-340-44, 077-340-45]. COMMISSION DISTRICT #4

AND IF APPROVED

To introduce and have the first reading of an ordinance pursuant to Nevada Revised Statutes 278.0201 through 278.0207 approving the amendment to Development Agreement Case No. DA06-001 for Warm Springs Ranch for Tentative Subdivision Map Case No. TM04-005, and to provide for a second reading on June 10, 2008, and further to authorize the Chair to execute the final Development Agreement upon adoption of the ordinance.

SUMMARY

This amendment to Development Agreement case no. DA06-001 is solely for the purpose of an extension of time for the approved tentative subdivision map within the Warm Springs Planning Area. To support the development of the property, the applicant must develop substantial off-site and on-site infrastructure. Additionally, in order to record any final map on the property, the applicant is required to adopt a Development

AGENDA ITEM _____

Ord. 1372

Agreement with Washoe County that includes but is not limited to the establishment of a funding mechanism and financing plan for the necessary services and infrastructure.

CIRCUMSTANCES REQUIRING EXTENSION OF TIME TO FILE MAP:

Washoe County is currently in the process of updating the Warm Springs Area Plan and the Warm Springs Specific Plan (WSSP). The updates to the area plan and specific plan may have significant ramifications to the financing mechanism to support the funding of infrastructure and services within the Warm Springs Specific Plan. The landowner would prefer and it is in the best interest of the County to process and record the final map in connection with the activities and changes pursued in the update so as to avoid committing to a development and/or financing plan for the property under the tentative map until any changes in land use, financing mechanisms, infrastructure requirements or development policies pursuant to the update are known. Under current WSSP policies, the landowner is required to adopt a development agreement prior to any final map recordation. Washoe County staff agrees with the applicant's contention that it would result in a significant loss of time and resources to the parties involved to process a final development agreement and final map prior to resolution of the revisions to the financing aspects of the WSSP. These are extraordinary and unforeseeable circumstances requiring that an extension of time be granted to Landowner to file the Final Map.

County Priority/Goal supported by this item:

- Responsible Growth Management.
- Manage the use of our natural assets.

PREVIOUS ACTION

On June 29, 2004 the Washoe County Planning Commission unanimously approved the Tentative Subdivision Map for Warm Springs Ranch for 750 single family lots, Case No. TM04-005. The current expiration date is June 29, 2008 for the remaining 750 lots.

On June 20, 2006, Washoe County and the landowner entered into a Development Agreement for the Warm Springs Ranch to grant an extension of time until June 29, 2008.

The process by which a development agreement becomes effective is enumerated in Section 110.814.30 of the Development Code. The following is the process for effectuating a development agreement:

1. Approve the development agreement; approve subject to specified conditions not included in the agreement as submitted; or deny approval of the development agreement.
2. If the development agreement is approved, introduce an ordinance and have the first reading adopting the development agreement.

3. Schedule a public hearing for second reading and possible adoption of the ordinance that adopts the development agreement.¹

FISCAL IMPACT

No fiscal impact from the extension of the tentative subdivision map.

RECOMMENDATION

It is recommended that the Washoe County Commission approve the development agreement providing for the extension of the Warm Springs Ranch, Tentative Subdivision Map Case No. TM04-005, represented by the signatures on the Development Agreement, as presented to staff with the application packet.

Should the Board approve the development agreement, the first reading of the ordinance approving the Development Agreement and the scheduling of the second reading should occur.

POSSIBLE MOTION

Staff recommends the following motions for the Board of County Commissioners' consideration:

Approval of the Development Agreement

"I move to approve amendment to Development Agreement Case No. DA06-001."

First Reading

"I move to introduce Bill Number _____ and further have a public hearing and second reading conducted on June 10, 2008."

Second Reading

APPROVAL

"I move to approve Ordinance Number _____ based on the following findings.

1. That the development agreement is in the best interests of Washoe County since the County is updating the Warm Springs Area Plan and Warm Springs Specific Plan and the development agreement offers the opportunity for the county to implement appropriate financing mechanism(s) to support the Warm Springs Ranch tentative map.
2. That the development agreement promotes the public interest and welfare of the County by granting additional time for the Landowner and the County to establish an effective financing plan for the construction of on-site and off-site infrastructure improvements and open space dedication.
3. That this development agreement does not include any departures from the development code, regulations and conditions in effect at the time of the original project approval, and the project is deemed to be in the public

¹ Approval of the development agreement, introduction of an ordinance and setting a public hearing for second reading is typically addressed at the first meeting.

interest; and

4. That the development agreement which proposes development over a period of years sufficiently addresses the terms and conditions intended to protect the interests of the public, residents and owners of the land subject to the development agreement in the integrity of the plan.

Attachments:

Exhibit A: Development Agreement

Exhibit B: Ordinance

xc: Blaine Cartlidge, Assistant District Attorney;
David Childs, Assistant County Manager;
Adrian P. Freund, AICP, Community Development Director;
Warm Springs Citizen Advisory Board Chair;
Randy Walter, Places Consulting Services, Inc.

CERTIFIED COPY

The foregoing document is a full, true and correct copy of the original on file and of record in my office.

Date: September 13, 2010

AMY HARVEY, County Clerk in and for the County of Washoe, State of Nevada.

By [Signature]

Deputy Clerk

Pursuant to NRS 239B.030 the SSN may be redacted, but in no way affects the legality of the document.



WASHOE COUNTY RECORDER

OFFICE OF THE RECORDER
KATHRYN L. BURKE, RECORDER

1001 E. NINTH STREET
POST OFFICE BOX 11130
RENO, NEVADA 89520-0027
PHONE (775) 328-3661
FAX (775) 325-8010

LEGIBILITY NOTICE

The Washoe County Recorder's Office has determined that the attached document may not be suitable for recording by the method used by the Recorder to preserve the Recorder's records. The customer was advised that copies reproduced from the recorded document would not be legible. However, the customer demanded that the document be recorded without delay as the parties rights may be adversely affected because of a delay in recording. Therefore, pursuant to NRS 247.120 (3), the County Recorder accepted the document conditionally, based on the undersigned's representation (1) that a suitable copy will be submitted at a later date (2) it is impossible or impracticable to submit a more suitable copy.

By my signing below, I acknowledge that I have been advised that once the document has been microfilmed it may not reproduce a legible copy.

Jaime Sella
Signature

9-15-10
Date

JAIME Sella
Printed Name