

**CANCELLATION OF DEVELOPMENT AGREEMENT
(KILEY RANCH NORTH PROJECT)**

BILL NO. _____

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY OF SPARKS CANCELING THE DEVELOPMENT AGREEMENT (KILEY RANCH NORTH PROJECT) BETWEEN THE CITY OF SPARKS AND KILEY RANCH COMMUNITIES, A NEVADA CORPORATION AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, on October 18, 2004 the Sparks City Council entered into a Development Agreement between the City of Sparks, Kayfam Corporation, Kiley Ranch LLC, the Lazy 5 Company, and David A. and Carol Kiley as Trustees of the Kiley Living Trust, regarding the development of approximately 808 acres of land known as the Kiley Ranch North Project; and

WHEREAS, Section 1.01 of the Development Agreement identified Kayfam as the "master developer," and the collective balance of the parties as the "owner" of the Kiley Ranch North Project; and

WHEREAS, on March 22, 2005, Kayfam assigned "all of its rights, title, and interest in" and delegated "all of its obligations and responsibilities under" the Development Agreement to Kiley Ranch North Communities, a Nevada Corporation (the "Assignment"; and

WHEREAS, the Development Agreement and the Assignment were recorded against the Kiley Ranch North property on May 27, 2005; and

WHEREAS, the Assignment to Kiley Ranch Communities was recognized by Kiley Ranch LLC and the Lazy 5 Company in Section 12 of an unrecorded Option to Purchase Real Property and Water Rights wherein Kiley Ranch Communities was acknowledged as the undisputed "master developer" of the Kiley Ranch North project; and

WHEREAS, on August 26, 2010, Kiley Ranch Communities filed a voluntary petition for reorganization relief under Chapter 11 of the United States Bankruptcy Code; and

WHEREAS, pursuant to Sections 5.04.01 (v) and 5.05.01 of the Development Agreement, the bankruptcy proceedings involving Kiley Ranch Communities are a default of the Development Agreement, a deficiency that cannot be rectified; and

WHEREAS, the City, pursuant to Section 5.05.02 of Development Agreement sent written notice on July 24, 2012 to the Kayfam Corporation and Kiley Ranch Communities of the default and of the City's intent to cancel the Development Agreement; and

WHEREAS, NRS 278.0205 requires that notice of intention to cancel a development agreement be given by publication in newspaper of general circulation and the City of Sparks published such notice in the Reno Gazette-Journal prior to the public hearing for consideration of this Ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

SECTION 1: The Development Agreement for the Kiley Ranch North Project entered into on October 18, 2004 between the City of Sparks and, by assignment, Kiley Ranch Communities, is canceled in its entirety.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law and to record the cancellation of the Development Agreement as provided by law.

SECTION 4: This ordinance shall become effective upon passage, approval, publication and recordation.

SECTION 5: The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

SECTION 6: If any subsection, phrase, sentence or portion

of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 7: The City Council finds that this ordinance is not likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

PASSED AND ADOPTED this _____ day of _____, 2013, by the following vote of the City Council:

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED this _____ day of _____, 2013 by:

GENO MARTINI, Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:

Teresa Gardner, City Clerk

CHESTER H. ADAMS, City Attorney