



ORDINANCE No. 2492

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN ORDINANCE APPROVING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT (MIS20-0001) BETWEEN THE COUNTY OF NEVADA AND YOUNG ENTERPRISES, L.P., FOR THE MODIFIED RINCON DEL RIO CONTINUING CARE RETIREMENT COMMUNITY PROJECT, LOCATED ¼ MILE EAST OF HIGHWAY 49, AT THE TERMINUS OF RINCON WAY / HIDDEN RANCH ROAD ON FOUR PARCELS KNOWN AS ASSESSOR'S PARCEL NUMBERS 057-130-013; 057-240-017; 057-240-018; 057-240-19 ; 10412, 10420 RINCON WAY AND 24885 CONNIE COURT, WITHIN UNINCORPORATED SOUTHERN NEVADA COUNTY.

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION I:

The Second Amendment to the Development Agreement submitted by Young Enterprises, L.P., for Assessor's Parcel Numbers 057-130-013; 057-240-017; 057-240-018; and 057-240-019-003, which are located at 10420 Rincon Way and 24885 Connie Court, in unincorporated Southern Nevada County, be approved, based on the following findings A-E:

- A. That the proposed project is consistent with the goals, objectives, policies and applicable land use designations of the Nevada County General Plan, including policies encouraging efficient, orderly development; and,
- B. That the proposed project complies with all of the provisions of the Nevada County Land Use and Development Code; and,
- C. That the proposed project is consistent with the public convenience, general welfare, and good land use practice, making it in the public interest to enter into the development agreement with the applicant; and,
- D. That the Second Amendment to the Development Agreement is consistent with the requirements of California Government Code Section 65864 et seq., allowing for a Development Agreement between the developer and the County.

- E. That the Board finds that the information presented or obtained at the public hearing substantiates all of the facts necessary for approval of the Second Amendment to the Development Agreement and that the Second Amendment to the Development Agreement:
1. Is consistent with the goals, objectives, policies and applicable land use designations of the Nevada County General Plan; and
 2. Complies with all of the provisions of the Nevada County Land Use and Development Code; and
 3. Is consistent with the public convenience, general welfare and good land use practice, making it in the public interest to enter into the development agreement with the applicant; and
 4. Will not:
 - a. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; and
 - b. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; and
 - c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
 - d. Adversely affect the orderly development of property or the preservation of property values.

SECTION II:

Pursuant to Government Code Section 65865.2 and Nevada County Land Use Development Code Section L-II 5.18,G, and Article 5.1(c) of the Approved Development Agreement, the Second Amendment to the Development Agreement is approved, and the Chair of the Board of Supervisors is hereby authorized upon the effective date of this Ordinance to execute, on behalf of the County of Nevada, the Second Amendment to the Development Agreement by and between the County of Nevada and Young Enterprises L.P., in the form attached hereto as "Attachment A", with authorized changes, if any, approved by the Board prior to adoption of this Ordinance and subject to such minor and clarifying changes consistent with the terms thereof as may be necessary and approved by County Counsel prior to execution thereof. Within ten (10) days after execution of the Development Agreement on behalf of the County, the Clerk of the Board of Supervisors shall record the Second Amendment to the Development Agreement and this Ordinance with the Recorder of the County of Nevada.

SECTION III:

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION IV:

This Ordinance shall take effect and be in full force thirty (30) days from and after introduction and adoption, and it shall become operative on the 10th day of June, 2021, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union, a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 11th day of May, 2021, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 



Dan Miller, Chair

5/11/2021 cc: GIS*
Union*
COB*
CoCo*
QC*
Planning*

ATTACHMENT A

AMENDMENT NO. 2 TO DEVELOPMENT AGREEMENT BY AND BETWEEN THE COUNTY OF NEVADA AND YOUNG ENTERPRISES, L.P.

THIS AMENDMENT 2 TO DEVELOPMENT AGREEMENT is made and entered into by and between the COUNTY OF NEVADA, a political subdivision of the State of California ("County") and YOUNG ENTERPRISES, L.P., a California limited partnership ("Developer"). This Amendment is effective as of _____, _____, 2021, and amends that certain Development Agreement between the parties dated May 8, 2013 ("Agreement").

WHEREAS, County and Developer approved certain entitlements and entered into an Agreement for a Planned Development, Continuing Care Retirement Community (PD-CCRC) to be located at the east terminus of Rincon Way in the unincorporated territory of the County of Nevada, commonly known as the "Rincon Del Rio" project ("Project"); and,

WHEREAS, on or about November 21, 2013, the Parties entered into Administrative Amendment No. 1 to reflect minor Administrative Amendment as provided in Paragraph 5.1(a) of the Agreement (the Development Agreement as amended on November 21, 2013 is referred to herein as the "Development Agreement"); and

WHEREAS, Developer has submitted an application for a Use Permit to amend the approved Comprehensive Master Plan to allow for a revision and relocation of some of the uses and to allow for individual fee title ownership of some of the residential (detached and attached) units. The application also seeks to revise the Tentative Final Map, to subdivide the subject parcels from four (4) existing to 323 parcels, along with larger common space and open space parcels (the proposed amendments to the Project approvals are referred to herein as "Project Amendments"); and

WHEREAS, due to non-activity of the approved entitlements by the Developer, the Parties agree to extend the term of the Agreement as outlined in Section 1.4(a) of the Development Agreement and shall commence upon the Effective Date of Amendment 2 of the Development Agreement and its enacting Ordinance ("Effective Date") and,

WHEREAS, the Parties now desire to execute this Amendment 2 to document further proposed amendments to the Agreement as provided by 5.2(b):

Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be a Minor Administrative Amendment as set forth above, shall be subject to review, consideration and action pursuant to the applicable substantive and procedural provisions of the County's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations in effect when such an amendment or modification requires is approved. Any such approved

amendment or modification shall be reflected in an amendment to this Agreement and/or its pertinent exhibits. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be a Minor Administrative Amendment or otherwise permitted by this Agreement, shall be considered a new discretionary action by County ("Discretionary Action") and may be subject to further CEQA review. County shall not be precluded from considering and/or applying any County law or other rule, regulation, standard or policy which is in effect at the time such Discretionary Action is acted upon by County.

NOW THEREFORE, for good and valuable consideration, the Parties hereto agree as follows:

1. That Exhibit D to the Development Agreement will be replaced with the attached amended Exhibit D. Further, the second sentence and the third sentence of Recital Section D, Parties' Intent, are hereby amended to read as follows:

"The proposed construction includes up to 345 detached and attached residential housing units of various sizes to serve a population not to exceed 415 residents, and would require up to 43 employee FTEs, as shown on the Site Plan attached hereto as Exhibit C and incorporated herein by this reference ("Site Plan"). Construction would occur by means of a phased development consisting of up to ten (10) phases of construction as shown and described in Exhibit D attached hereto and incorporated herein by this reference (the "Project").

2. That Recital Section F, Project Approvals, shall remain as set forth in the Development Agreement with the following language added at the end of the paragraph:

Concurrent with the approval of this Amendment 2 to the Development Agreement, the County has prepared an Addendum to the Environmental Impact Report prepared for the original Project approvals. The Addendum was approved and adopted by the County on _____, 2021.

3. That Recital Section I, Planning Commission – Board of Supervisors Approval, shall remain as set forth in the Development Agreement with the following language added at the end of the paragraph:

On March 25, 2021, the Nevada County Planning Commission, after giving notice provided by law held a public hearing to consider Developer's application for the Project Amendments, including this Amendment 2 to the Development Agreement, and recommended that the Nevada County Board of Supervisors ("Board of Supervisors") approve Developer's application for the Project Amendments, including this Amendment 2 to the Development

Agreement. On May 11, 2021, the Board of Supervisors, after giving notice as provided by law, held a public hearing to consider Developer's application for the Project Amendments and this Amendment 2 to the Development Agreement.

4. That Recital K, County Ordinance, shall remain as set forth in the Development Agreement with the following language added at the end of the paragraph:

On _____, 2021, the Board of Supervisors adopted Ordinance No. _____ approving this Amendment 2 to the Development Agreement and authorizing the Chair of the Board of Supervisors to execute Amendment 2 to the Development Agreement ("Second Ordinance"). The Second Ordinance becomes effective on _____, 2021 a copy of which is attached hereto as Exhibit 1.

5. That Section 1.4 Term (a) be amended to read as follows:

- (a) Effective Date. This Agreement shall become effective upon the execution of Amendment 2 to this Development Agreement and its enacting Ordinance ("Effective Date").

6. That Section 1.5 Project Approvals (a)(1) be added as follows:

- (a)(1) An Addendum to the certified Final Environmental Impact Report, State Clearinghouse No. 2011052030 (EIR10-001) and the associated mitigation measures are incorporated herein by reference.

7. That Section 1.5 Project Approvals (f)(1) be added as follows:

- (f)(1) Adoption of a Management Plan (MGT 20-0001) to address and manage the natural resource Ares on the Property including encroachments into Steep Slopes, Landmark Oak Groves, Landmark Oak Woodlands, and Watercourses.

8. That Section 1.5 Project Approvals (g)(1) be added as follows:

- (g)(1) A Petition for Exceptions (PFX19-0003), for the interior primary access roads, including that they shall be constructed to Local Class II Road Standards, with an exception of allowing of a reduction of the right-of-way width from 50 feet to 40 feet and a shoulder width from 4 feet to 2 feet when AC dike is used. The Petition also includes an exception from the Local Class II Road Standards on portions of Rincon Way to allow for a 30-foot primary access road with no vegetation maintenance easement on Rincon Way and for use of

Rodeo Flat Road as an emergency access route having grades in excess of 16-percent.

9. That Section 1.5 Project Approvals (h) be amended to read as follows:

- (h) A Tentative Final Subdivision Map (TFM19-0008) to subdivide the project site from the existing four (4) lots into 102 Single-Family Residential Parcels ranging in size from 4,699 square feet to 8,391 square feet. 221 Single Ownership Condominium parcels ranging in size from 1,300 square feet to 1,500 square feet. 23 common area parcels with letter lots A-D and F-X ranging in size from 11,807 square feet to 130.42 acres for parking, landscaping, open space, Memory Care and other common facilities as shown on the approved Tentative Final Map.

10. That Section 1.5 Project Approvals (i) be amended to read as follows:

- (i) A Use Permit (U19-0001) to establish a Comprehensive Master Plan (CMP) for the entire site to facilitate the development of the site as a 345-unit Continuing Care Retirement Community.

11. That the first sentence Section 2.1.2 is amended to read as follows:

Developer agrees and warrants that the Project will only be construed and operated as a CCRC, as defined by the Nevada County General Plan, and the County's Land Use and Development Code, and shall include the operation of facilities as described in Health & Safety Code Section 1770, et seq., as such laws may be amended from time to time (collectively "CCRC law"), including the definition of "elderly"

12. That Section 2.1.7 is replaced with the following:

Acquisition of Future Sewer Capacity: The Project will need to acquire future sewer capacity from the Nevada County Sanitation District No. 1, Lake of the Pines, Zone 2 Wastewater Treatment Facility through the purchase of EDUs as established in the Sanitation District Code. Once connected to the sewer each EDU would be charged an annual sewer service charge. An estimated 253.68 EDUs will need to be acquired for the capacity needs of the proposed project. The Developer shall prepare a Sewer Design Report detailing the development's proposed infrastructure needs, anticipated hydraulic loads, system sizing and criteria, and any data to provide actual flow information for comparable units that are already in existence in order to make the final determination as to the EDU allocation per dwelling unit/type.

The Lake of the Pines Wastewater Treatment Plant (WWTP) is currently near capacity (considering both existing and already approved projects), with a

calculated 68 EDU's available for new proposed projects, available on a first come, first serve basis. As such, the Project may pay for up to 68 EDU's in advance, based on availability of EDU's at the time of payment.

Under the current EDU Charge and after the existing 68 EDU's are either paid for and/or used, any additional EDU's from the Project will require the construction/installation of an additional two cassette pairs for two basins at the Lake of the Pines WWTP since the cost for said cassettes are not included in the current EDU charge. As such, the Project/Developer shall be required to pay the County actual cost determined as a result of a competitive bid (estimated at an amount of \$700,000) to be utilized for the purposes of expanding the capacity of the existing treatment plant's MBR and shall concurrently provide a Service Commitment Agreement as outlined and further discussed in the approved Development Agreement. This payment shall be made pursuant to the following terms and/or schedule:

- One year prior to the issuance of any building permit for any structure approved after available EDU's (currently 68) are connected in order to allow time for the work to occur.

Should the EDU Charge for the Lake of the Pines WWTP be revised to include the cost of additional cassettes in the MBR, the separate cost for the construction/installation of an additional two cassette pairs described above would not be required.

13. That Section 2.1.3 include a new sub-section (g) as follows:

- (g) Developer shall include in the CC&R's for the Project the following provision, and shall continue to retain up to 24 rental units until such time as the homeowners association is able to demonstrate to the County that the individual sale of the units will not result in the Project population exceeding 415: "The subdivider reserves the right to retain up to 24 condominium units as rentals not subject to the commencement of homeowners association regular assessments until the subdivider can document to the County that the individual sale of the condominium units will not result in a violation of the terms of the 2013 Settlement Agreement."

14. That Exhibit C – Site Plan and Exhibit D – Construction Phases described in Section 10.8. Entire Agreement, shall be replaced with amended Exhibit C and amended Exhibit D attached hereto.

15. That Exhibit G described in Section 7.5, Indemnification Agreement, shall be replaced with amended Exhibit G attached hereto.

16. That Section 10.4, Notices, Demands and Communications between the Parties, be amended to replace Lemmon – Land & Law, P.C. with the following:

The Law Office of Marsha A. Burch
131 S. Auburn Street
Grass Valley, CA 95945

17. That in all other respects the Development Agreement, and all terms and conditions as set forth therein, shall remain in full force and effect except as amended herein.

COUNTY OF NEVADA

YOUNG ENTERPRISES, L.P.

By: _____
Dan Miller, Chair
Nevada County Board of Supervisors

By: _____
Carol Young
Partner

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Katharine Elliott,
County Counsel

By: _____
Marsha A. Burch
Attorney for Developer

OVERALL SITE PLAN RINCON DEL RIO SENIOR LIVING JANUARY, 2021



PHASING EXHIBIT

SCALE: 1" = 250'

| PHASING & UNIT COUNT | |
|----------------------|--|
| PHASE 1: | Emergency Access Road Connection Primary Access Road Improvements Gleahouse Sewer Lift Stations, Water Tank & Other Utility Connections 15 Cottage Units 4 5-Plex Condominiums (20 units) Garden |
| PHASE 2: | 24 Bungalow Units |
| PHASE 3: | 4 Attached Condominiums (56 units) 2 5-Plex Condominiums (10 units) |
| PHASE 4: | 5 5-Plex Condominiums (25 units) |
| PHASE 5: | 11 Cottage Units 7 5-Plex Condominiums (35 units) |
| PHASE 6: | 21 Cottage Units |
| PHASE 7: | Village Service Center Group House/Memory Care Pool/Fitness Center |
| PHASE 8: | 3 Cottage Units 6 5-Plex Condominiums (30 units) |
| PHASE 9: | 7 Cottage Units Pickleball/Tennis Court Rowing/Golf/Park Auto/Tractor Repair Barn |
| PHASE 10: | 21 Cottage Units 5 5-Plex Condominiums (25 units) |

PHASING NOTE:
1. THIS IS A PHASED PROJECT. THE ORDER OF PHASING MAY BE MODIFIED AND/OR COMBINED WITH OTHER PHASES, BUT SHALL BE IN CONFORMANCE WITH THE DEVELOPMENT AGREEMENT.



| Rincon del Rio Proposed Project Revisions | | | | | |
|---|------------------|--------------|-----------------|-----------------------|-------------------------|
| Building Type | No. of Buildings | No. of Units | Unit Size | Building Size (sq ft) | Parking |
| Residential Independent Living | | | | | |
| Cottages | 78 | 78 | 1785-2000 sq ft | Varies | 78 Resident, 78 Guest |
| Bungalows | 24 | 24 | 1750 | Varies | 24 Resident, 24 Guest |
| 5 Unit Condos | 29 | 145 | | | 150 Resident, 94 Guest |
| 14 Unit Condos | 4 | 56 | 1300 | 28,000 | 56 Resident, 24 Guest |
| Subtotals | 135 | 303 | | | 628 |
| Residential Nursing Care | | | | | |
| Group House/Memory Care | 1 | 22 | 88 Beds | 46,000* | 44 |
| Subtotals | 1 | 22 | | | 44 |
| Village Center | | | | | |
| Support Rental | 4 | | | 30,000 | 100 |
| Residential Loft Condominiums | 20 | | 1,500 | | 20 Residential, 7 Guest |
| Subtotals | 4 | 20 | | | 127 |
| Common Area Support Services | | | | | |
| Clubhouse (Franchise/Business) | 1 | | | 14,000 | 8 |
| Pool | | | | | |
| Building/Classroom/Gathering | 1 | | | 10,000 | 18 |
| Community Barn | 2 | | 2,800 | | 6 |
| Gleahouse | 1 | | | 935 | |
| Subtotals | 5 | | | | 32 |
| Totals | 148 | 348 | | | 791 |

PROJECT INFORMATION:
OWNER / APPLICANT:
YOUNG ENTERPRISES, L.P.
P.O. BOX 8028
MARIETTA, GA 30067
CONTACT PERSON: CARRI YOUNG
CDD: 398-1041

PLANNING & ENGINEERING:
SDD PLANNING & ENGINEERING, INC.
140 LUTON DRIVE, SUITE 240
DUNWOODY, GA 30340
(770) 279-3441
SOUTH WEST P.L.S. OR
CONTRACT PERSON: SAUL DRONIKOV, A.L.P.
CDD: 398-1041

ASSESSOR'S PARCELS:
057-240-017-000, 057-240-018-000,
057-240-019-000, 057-130-013-000

LAND AREA:
37.96 AC

ZONING / GENERAL PLAN:
SNC

FIRE PROTECTION:
MARIETTA FIRE PROTECTION DISTRICT

WATER:
NORTON BRIDGEMAN DISTRICT

ELECTRICAL & GAS UTILITIES:
PACIFIC GAS & ELECTRIC

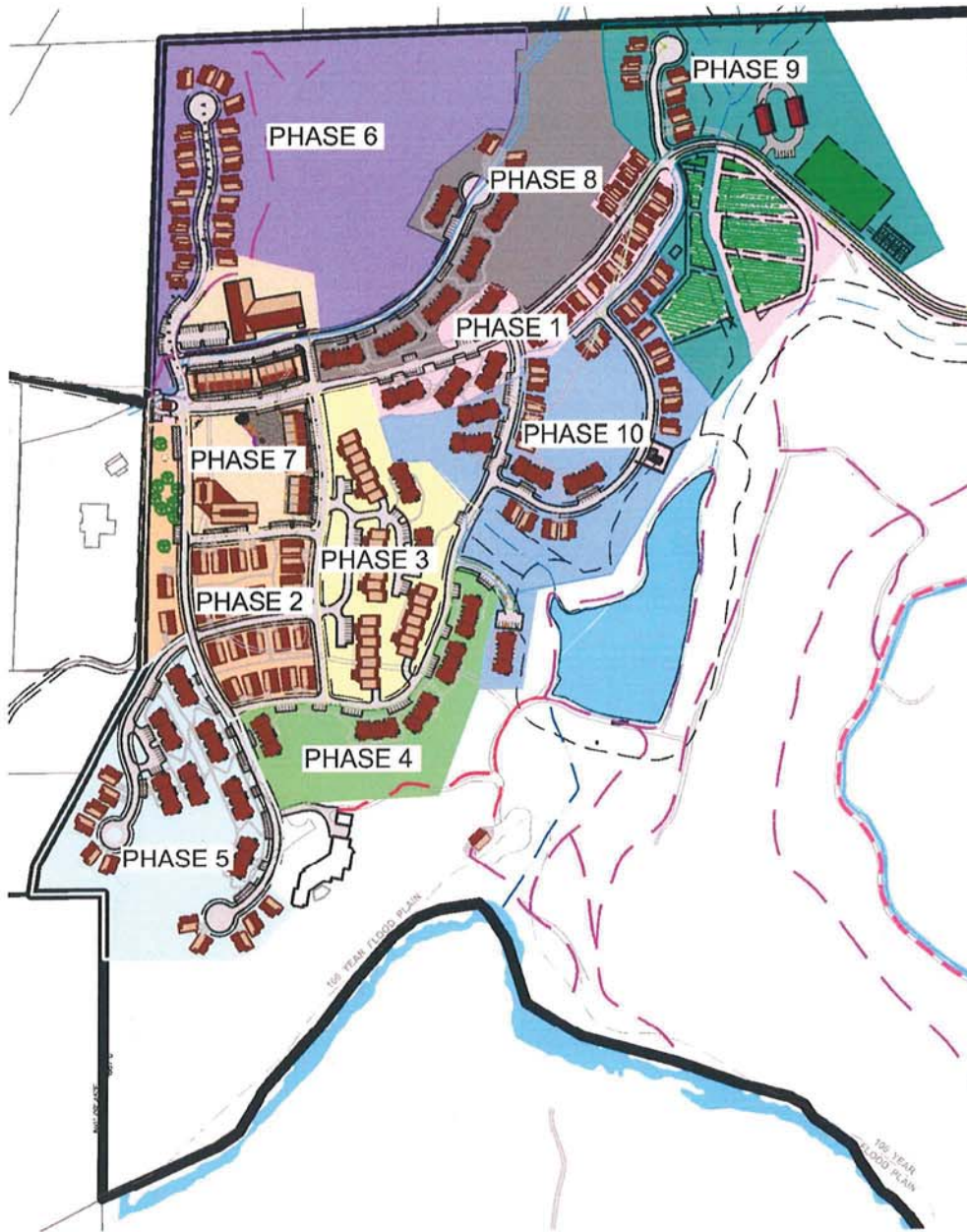
TELEPHONE:
AT&T

SEWAGE DISPOSAL:
LAKE OF THE PINES TREATMENT PLANT

LEGEND:

- WETLANDS w/ WET WEATHER FLOODED ZONES (BY STATE REGULATIONS)
- FLOODED OVER 50%
- FABRIC LAYS OF LOCAL IMPORTANCE
- SEASONAL TROPICAL
- ROCKHILL STRAWHAT
- FRESHWATER EMBANKMENT WETLAND
- LARGE WOOD GROVE
- LARGE WOOD GROVE TREE
- 4" WIDE SOFT SURFACE TRAIL
- 6" WIDE ASPHALT TRAIL
- EXISTING 16-FOOT DRIVE ACCESS ROAD
- SPRIGGLE COTTAGE
- SPRIGGLE COTTAGE
- BUNGALOW
- POOL
- MEMORY CARE GROUP HOUSE
- ATTACHED 14 UNIT CONDOMINIUM
- ATTACHED 5 UNIT CONDOMINIUM
- VILLAGE RETAIL w/ RESIDENTIAL ABOVE

EXHIBIT "D" RINCON DEL RIO SENIOR LIVING



PHASING EXHIBIT

SCALE: 1" = 500'



PLANNING, ENGINEERING & SURVEYING
140 LITTLETON DRIVE, SUITE 240
GRASS VALLEY, CA 95945
T 530.272.5841 / F 530.272.5880
www.scopeinc.net

EXHIBIT "D"
RINCON DEL RIO SENIOR LIVING

PHASING & UNIT COUNT

PHASE 1:

- Emergency Access Road Connection
- Primary Access Road Improvements
- Gatehouse
- Sewer Lift Stations, Water Tank & Other Utility Connections
- 15 Cottage Units
- 4 5-Plex Condominiums (20 units)
- Garden

PHASE 2:

- 24 Bungalow Units

PHASE 3:

- 4 Attached Condominiums (56 units)
- 2 5-Plex Condominiums (10 units)

PHASE 4:

- 5 5-Plex Condominiums (25 units)

PHASE 5:

- 11 Cottage Units
- 7 5-Plex Condominiums (35 units)

PHASE 6:

- 21 Cottage Units

PHASE 7:

- Village Service Center
- Group House Memory Care
- Pool/ Fitness Center

PHASE 8:

- 3 Cottage Units
- 6 5-Plex Condominiums (30 units)

PHASE 9:

- 7 Cottage Units
- Pickleball/ Tennis Court
- Row Gardens/Farm
- Auto/ Tractor Repair Barn

PHASE 10:

- 21 Cottage Units
- 5 5-Plex Condominiums (25 units)

PHASING NOTE:

1. THIS IS A PHASED PROJECT. THE ORDER OF PHASING MAY BE MODIFIED AND/OR COMBINED WITH OTHER PHASES, BUT SHALL BE IN CONFORMANCE WITH THE DEVELOPMENT AGREEMENT.



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EXHIBIT G
DEFENSE AND INDEMNIFICATION AGREEMENT

This Defense and Indemnity Agreement ("Agreement") is made and entered into between the County of Nevada, a political subdivision of the State of California ("County"), and Young Enterprises, L.P., ("Applicant"), and is effective as of _____, 2021. This Agreement is made with regard to the following facts:

RECITALS

WHEREAS, Applicant is the owner of the real property located in the east terminus of Rincon Way in the unincorporated area of Nevada County, at 10450 Rincon Way, Auburn CA, APNs: 057-240-017, 057-240-018, 057-240-019, and 057-130-013, for which the Applicant has Proposed Amendments to the approved May 2013 Development Agreement and the associated project approvals ("Approved Project", see Exhibit A); and

WHEREAS, the Proposed Amendments to the Approved Project consists of PLN19-0024; TFM19-0008 and CUP19-0010; and

WHEREAS, County, Applicant and persons representing Keep Nevada County Rural ("Petitioners"), entered into a Settlement Agreement and Release in the fall of 2013 to avoid further litigation expenses and disputes ("Settlement Agreement"), see Exhibit B; and

WHEREAS, it is in the public interest for County and Applicant to enter into this Defense and Indemnification Agreement as Applicant will benefit from the County's processing of the Proposed Amendments as well as the Approved Project that may result therefrom.

NOW THEREFORE, in consideration of the processing of the Proposed Amendments, the Approved Project and the mutual promises and agreements contained herein, and in satisfaction of an express condition of the Project Amendments and Approved Project, the Applicant hereby agrees as follows:

1. The Applicant agrees to defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action, or proceeding against the County or its elected supervisors individually, agents, officers, or employees (collectively "County Parties") to attack, set aside, void or annul the above-referenced Project Amendments and/or the Approved Project or any of the proceedings, acts or determinations taken done or made as a result of County's processing and/or approval of the Proposed Amendments and/or Approved Project or to impose personal liability against such County Parties based upon or arising out of the Proposed Amendments and/or Approved Project, including any claim, action, or proceeding under the terms of the Settlement Agreement. Applicant's obligation to defend and indemnify under this Agreement shall apply to any lawsuit or challenge against the County Parties alleging

failure to comply with the Settlement Agreement, the California Environmental Quality Act or with the requirements of any other federal, state, or local laws, including but not limited to general plan and zoning requirements. Applicant's obligations under this Agreement to defend and indemnify the County Parties shall include, but not be limited to, payment of all court costs and attorneys' fees, all litigation-related costs, all costs of any judgments or awards against the County, all settlement costs and/or any claim for private attorney general fees claimed by or awarded to any party from the County. Applicant further agrees to cooperate in good faith with County in performance of obligations as set forth in this Agreement.

2. The County Parties shall notify the Applicant promptly of any claim, action or proceeding against any or all of the County Parties as described in Paragraph 1 above, and cooperate fully in the defense. Upon receipt of such notification, Applicant shall assume the defense of the claim, action, or proceeding, including the employment of counsel reasonably satisfactory to the County Counsel's Office and Applicant, and the prompt payment of the attorneys' fees and costs of such counsel. Applicant will consult with the County in good faith concerning litigation issues and in the event of a disagreement between the County and Applicant over litigation issues, the County will provide its position in writing to Applicant and within 30 days therefrom, the County and Applicant will meet and confer in good faith to attempt to resolve the disagreement. Should County and Applicant not resolve the disagreement after a reasonable period of good faith negotiations, the County shall have the authority to control the litigation and make litigations decisions, including but not limited to, settlement or other disposition of the matter. If County reasonably determines that having common counsel would present such counsel with a conflict of interest, or if Applicant fails to promptly assume the defense of the claim, action, or proceeding or to promptly employ counsel reasonably satisfactory to County, then County may employ separate counsel to represent or defend the County, and Applicant shall pay the reasonably attorneys' fees and costs of such counsel within 30 days of receiving an itemized billing therefore. At its sole discretion, the County may participate in the defense of any such claim, action, or proceeding in good faith, either through County Counsel's Office at the Applicant's expense or through outside counsel at the County's expense; but such participation shall not relieve Applicant of its obligations under this Agreement.

3. Applicant's obligations to defend and indemnify under this Agreement shall apply whether or not there is concurrent, active, or passive negligence on the part of County Parties. Applicant's obligations under this Agreement shall be effective regardless of whether any or all Project approvals, Proposed Amendments, terms of the Settlement Agreement and/or actions by the County regarding the Approved Project, Proposed Amendments and/or Settlement Agreement remain valid or are invalidated by the court.

4. Failure to promptly defend or indemnify the County is a material breach which shall entitle County to all remedies available under the law, including but not limited to specific performance and damages. Moreover, failure to defend or indemnify shall constitute grounds upon which the County decision-making body may rescind its approval(s) associated with the Approved Project and/or the Proposed Amendments, and a waiver by Applicant of any right to proceed with the Approved Project and/or Proposed

Amendments or any portion thereof.

5. Applicant shall be and remain personally obligated to all of the terms of this Agreement, notwithstanding any attempt to assign, delegate or otherwise transfer all or any of the rights or obligations of this Agreement, and notwithstanding a change in or transfer of ownership of the real property upon which the Project is located (or any interest therein). However, the Applicant may be released from such obligations if the Applicant obtains the County's prior written consent to such transfer, which consent shall not be unreasonably withheld.

6. All notices required under this Agreement shall be in writing and shall be deemed given as of the date of actual delivery if by personal delivery or sent by a nationally recognized overnight carrier, or three days after deposit in the United States mail, first class postage prepaid, to the addresses indicated below:

For Applicant: Young Enterprises, L.P.
P.O. Box 6626
Auburn, CA 95604
Attn: Carol Young

With a copy to: Law Office of Marsha A. Burch
131 S. Auburn Street
Grass Valley, CA 95945

For County: Planning Director
Nevada County Planning Department 950
Maidu Avenue
Nevada City, CA 95959 Attn:
Brian Foss

With a copy to: County Counsel
County of Nevada 950
Maidu Avenue
Nevada City, CA 95959

Either party may change the place for the giving of notice to it by thirty (30) days prior written notice to the other party, as provided herein.

7. This Agreement shall be binding upon Applicant and his heirs, executors, administrators, assigns and successors in interest.

8. This Agreement shall constitute the complete understanding of the parties with respect to the matters set forth herein. Neither party is relying on any other representation, oral or written. This Agreement may not be changed except by a written amendment signed

by all parties.

9. It is agreed and understood that this Agreement shall be interpreted fairly in accordance with its terms to effectuate the intent of the parties and not strictly for or against any party by reason of authorship that none of them is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.

10. Each party executing this Agreement represents and warrants that it has been duly authorized to enter into this Agreement, that it has full and complete authority to do so, that it has consulted with or had the opportunity to consult with an attorney prior to executing this Agreement, that it enters into this Agreement knowingly and voluntarily, and that it agrees to be bound by the terms of this Agreement.

11. This Agreement may be signed in counterparts, manually or electronically, each of which will be an original, with the same effect as if the signatures to each were upon the same instrument.

IN WITNESS WHEREOF, the County and Applicant(s) have caused this Agreement to be duly executed, as of the date first set forth above.

COUNTY:

COUNTY OF NEVADA, a political
subdivision of the State of California

By: _____
Alison Lehman
County Executive Officer

APPLICANT:

YOUNG ENTERPRISES, L.P.
a limited partnership

By: _____
Carol Young
Partner

Approved as to form:

By: _____
Katharine Elliott
County Counsel

Approved as to form:

By: _____
Marsha A. Burch
Attorney for Developer