

**THE AFSHARI LPGA
TRANSPORTATION IMPROVEMENTS COST ALLOCATION AGREEMENT**

THIS AGREEMENT is entered into by and between the following entities: **Afshari LPGA LLC**, a Florida limited liability company (Owner), the record title property owner mailing address: 26 Amsden Road, Ormond Beach, FL 32174 and **The City of Daytona Beach**, a Florida municipal corporation (City), mailing address: 301 S. Ridgewood Ave., Daytona Beach, FL 32114.

WHEREAS, the Owner and the City have previously entered into the Afshari LPGA Planned District Agreement for the construction of a 4.5+/- acre commercial development to be known as the Afshari LPGA; and

WHEREAS, through the Afshari LPGA Transportation Impact Analysis, certain transportation impacts were identified in the area of the development ("impact area") and payment for such site related improvements are set forth in this Agreement; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and with the intent to be legally bound and to bind their successors and assigns, the Owner and City do hereby agree as follows:

1. The recitals set forth above are true and correct, form a material part of this Agreement, and are incorporated herein by reference.
2. Roadway Improvements. Owner shall take the following actions to address transportation improvements identified by the City as a result of the impacts by the Afshari LPGA development:

(a) Proportionate Fair Share: For purposes of this Agreement, the amount of Forty-three thousand, nine hundred twenty-two dollars (\$43,922.00) sometimes referred to herein as "Proportionate Fair Share," shall be paid to the City prior to the City's issuance of a Certificate of Occupancy ("CO") for the first phase of Afshari LPGA. The City shall apply the Proportionate Fair Share for the purpose of installing improvements in the impact area. Once payment is made to the City, the Owner agrees to waive the right to request a return of the Proportionate Fair Share.

(b) Additionally, Owner shall:

- i. Make a road impact fee payment to the City as required by City Ordinance, in the estimated amount of \$12,264.39 for first phase (Dunkin Donuts and Franchise Office) and \$45,544.00 for the final phase (Professional/Medical). The required road impact fees for each phase shall be paid to the City at the time of Building Permit for the individual building structure, and shall be based on the actual square footage of uses permitted under the Building Permit and the adopted fee schedule in effect at the time of development order issuance; and

ii. Reconstruct the median on LPGA Boulevard at Concierge Boulevard to be a raised concrete median that restricts southbound left turns from the site onto LPGA Boulevard. Additionally, the existing southbound left turn lane on Concierge Boulevard needs to be striped with reflective paint that restricts southbound left turns onto LPGA Boulevard and must be completed prior to the issuance of the first CO.

(c) The parties agree that the driveway and related construction on LPGA Boulevard shall be constructed as determined by the County of Volusia by and through a County driveway permit.

3. Effective Date. The effective date of this Agreement shall be the last date upon which all parties hereto cause this Agreement to be executed as indicated below their respective signatures.
4. Binding Nature of this Agreement. This Agreement shall inure to the benefit of the parties hereto and the subject property, and shall be binding upon any person, firm, or corporation that may become a subsequent owner, successor in interest or assign, directly or indirectly, of the subject property or any portion thereof.
5. Indemnification. The Owner shall indemnify and hold harmless the City and their respective officers, employees and agents, from and against all claims, damages, injuries, liability, losses and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from the Owner's construction of improvements or performance of operations under this Agreement.
6. Venue. In the event of any claim, action, litigation or proceeding under this Agreement, venue shall be in the State of Florida.
7. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The electronic (i.e. facsimile or email) transmittal of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on behalf of the respective entities, their successors and assigns.

Signed, sealed and delivered in the presence of:

THE CITY OF DAYTONA BEACH,
FLORIDA, a Florida municipal corporation

Witness 1

By: _____
Derrick L. Henry, Mayor

Print Name of Witness 1

Attest

Witness 2

By: _____
Letitia LaMagna, City Clerk

Print Name of Witness 2

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by Derrick L. Henry and Letitia LaMagna, Mayor and City Clerk, respectively, of The City of Daytona Beach, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public
Commission No: _____

Approved as to form by:

Robert Jagger, City Attorney

Date: _____

Signed, sealed and delivered in the presence of:

Garry Sims
Witness 1
Garry Sims
Print Name of Witness 1

Sherry Kay Gillan
Witness 2
Sherry Kay Gillan
Print Name of Witness 2

Afshari LPGA LLC, a Florida Limited Liability Company

By Susan Afshari
Name: Susan Afshari
Title: Manager

Date: October 9, 2017

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 9th day of October, 2017, by Susan Afshari as Manager of Afshari LPGA, LLC, referred to in this agreement as "Developer." He or she is personally known to me or produced as identification and did not take an oath.

Garry Sims
Notary Public
State of Florida
My Commission Expires:

