

**Case No. 84221**

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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CITY OF LAS VEGAS, a political subdivision of the State of Nevada,

*Petitioner,*

v.

EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the  
County of Clark, and the Honorable Timothy C. Williams, District Judge,

*Respondents,*

and

180 LAND CO, LLC, a Nevada limited-liability company, FORE STARS LTD., a  
Nevada limited-liability company,

*Real Parties in Interest.*

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Eighth Judicial District Court, Clark County, Nevada

Case No. A-17-758528-J

Honorable Timothy C. Williams, Department 16

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**APPENDIX TO ANSWER TO PETITIONER'S EMERGENCY PETITION  
FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF  
CERTIORARI**

**VOLUME 8**

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## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing APPENDIX TO ANSWER TO PETITIONER’S EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF CERTIORARI - **VOLUME 8** was filed electronically with the Nevada Supreme Court on the 8<sup>th</sup> day of March, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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/s/ Sandy Guerra

An Employee of the Law Offices of Kermitt L. Water

development of the Community or portion thereof. Notwithstanding the foregoing, City may adopt ordinances, resolutions or rules or regulations that are necessary to:

(a) comply with any state or federal laws or regulations as provided by Section 2.04, above;

(b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Property, except for construction-related operations contemplated herein, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or

(c) maintain City's compliance with non-City and state sewerage, water system and utility regulations. However, the City as the provider of wastewater collection and treatment for this development shall make all reasonable best efforts to insure that the wastewater facilities are adequately sized and of the proper technology so as to avoid any sewage caused moratorium.

In the event of any such moratorium, future ordinance, resolution, rule or regulation, unless taken pursuant to the three exceptions contained above, Master Developer shall continue to be entitled to apply for and receive consideration of Entitlement Requests and other applications contemplated in Section 3 in accordance with the Applicable Rules.

3.07. Property Dedications to City. Except as provided in herein, any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances (except for any encumbrances that existed on the patent, at the time the Property was delivered to Master Developer, from the United States of America).

3.08 Additional Improvements. Should Master Developer enter into a separate written agreement with Queensridge HOA with respect to Development Area 4 taking access to both the Queensridge North and Queensridge South gates, and utilizing the existing Queensridge roads, then Master Developer shall provide the following additional improvements.

(a) Development Areas 1, 2 and 3.

(i) Master Developer shall construct a controlled access point to public walkways that lead to those portions of The Seventy Open Space that are open to the public, which includes a dog park. The controlled access point will be maintained by the One Queensridge Place HOA.

(ii) Master Developer shall construct a minimum of thirty-five (35) parking spaces along the property line of Development Area 1 and One Queensridge Place. The parking spaces will be maintained by the One Queensridge Place HOA.

(iii) Master Developer will work with the One Queensridge Place HOA to design and construct an enhancement to the One Queensridge Place perimeter wall to enhance security on the southerly boundary of One Queensridge Place. The enhanced wall will be maintained by the One Queensridge Place HOA.

(iv) The multifamily project, approved under SDR 62393, with four hundred thirty-five (435) for sale, luxury multifamily units, shall be amended administratively to lower a portion of the building adjacent to the One Queensridge Place swimming pool area from four (4) stories to three (3) stories in height.

(b) Development Area 4.

(i) Master Developer shall construct the following in Queensridge South to be maintained by the Queensridge HOA:

- (a) a new entry access way at the Queensridge South entrance;
- (b) new entry gates for Queensridge South;
- (c) a new entry gate house for Queensridge South; and
- (d) an approximate four (4) acre park with a vineyard component located near the Queensridge South entrance.

(ii) Master Developer shall construct the following for Queensridge North to be maintained by the Queensridge HOA:

- (a) an approximate one and one-half (1.5) acre park located near the Queensridge North entrance; and
- (b) new entry gates for Queensridge North.

## **SECTION FOUR**

### **MAINTENANCE OF THE COMMUNITY**

4.01 Maintenance of Public and Common Areas.

(a) Community HOAs. Master Developer shall establish Master HOAs, Sub-HOAs or Similar Entities to manage and maintain sidewalk, common landscape areas, any landscaping within the street rights-of-way including median islands, private sewer facilities, private drainage facilities located within common elements, including but not limited to, grassed and/or rip-rap lined channels and natural arroyos as determined by the Master Drainage Study or applicable Technical Drainage Studies, but excluding public streets, curbs, gutters, sidewalks and streetlights upon City-dedicated public streets, City owned traffic control devices and traffic control signage and permanent flood control facilities.

(b) Maintenance Obligations of the Master HOAs and Sub-HOAs. The Master HOAs or Similar Entities and the Sub-HOAs (which hereinafter may be referred to collectively as the "HOAs") shall be responsible to maintain in good condition and repair all common areas that are transferred to them for repair and maintenance (the "Maintained Facilities"), including, but not limited to sidewalks, walkways, private streets, private alleys, private drives, landscaped areas, signage and water features, parks and park facilities, trails, amenity zones, flood control facilities not meeting the criteria for public maintained facilities as defined in Title 20 of the Code, and any landscaping in, on and around medians and public rights-of-way. Maintenance of the drainage facilities, which do not meet the criteria for public maintained facilities as defined in Title 20 of the Code, shall be the responsibility of an HOA or Similar Entity that encompasses a sufficient number of properties subject to this Agreement to financially support such maintenance, which may include such HOAs or Similar Entities posting a maintenance bond in an amount to be mutually agreed upon by the Director of Public Works and Master Developer prior to the City's issuance of any grading or building permits within Development Area 4, excluding any grub and clear permits outside of FEMA designated flood areas and/or demolition permits.

Master Developer acknowledges and agrees that the HOAs are common-interest communities created and governed by declarations ("Declarations") as such term is defined in NRS 116.037. The Declarations will be recorded by Master Developer or Designated Builders as an encumbrance against the property to be governed by the appropriate HOA. In each case, the HOA shall have the power to assess the encumbered property to pay the cost of such maintenance and repair and to create and enforce liens in the event of the nonpayment of such assessments. Master Developer further agrees that

such Declarations will contain a covenant running to the benefit of City, and enforceable by City, that such facilities will be maintained in good condition and repair. Such HOAs will be Nevada not-for-profit corporations with a board of directors elected by the subject owners, provided, however, that Master Developer may control the board of directors of such HOA for as long as permitted by applicable law.

(c) The Declaration for the HOAs, when it has been fully executed and recorded with the office of the Clark County Recorder, shall contain (or effectively contain) the following provisions:

(i) that the governing board of the HOAs must have the power to maintain the Maintained Facilities;

(ii) that the plan described in Section 4.02 can only be materially amended by the HOAs;

(iii) that the powers under the Declaration cannot be exercised in a manner that would defeat or materially and adversely affect the implementation of the Maintenance Plan defined below; and

(iv) that in the event the HOAs fail to maintain the Maintained Facilities in accordance with the provisions of the plan described in Section 4.02, City may exercise its rights under the Declaration, including the right of City to levy assessments on the property owners for costs incurred by City in maintaining the Maintained Facilities, which assessments shall constitute liens against the land and the individual lots within the subdivision which may be executed upon. Upon request, City shall have the right to review the Declaration for the sole purpose of determining compliance with the provisions of this Section.

(d) City's right to enforce any HOA maintenance provisions are at the sole discretion of the City.

4.02 Maintenance Plan. For park and common areas, maintained by the HOAs, the corresponding Declaration pursuant to this Section shall provide for a plan of maintenance. In Development Area 4, there will be a landscape maintenance plan with reasonable sensitivities for fire prevention provided to the City Fire Department for review.

4.03 Release of Master Developer. Following Master Developer's creation of HOAs to maintain the Maintained Facilities, and approval of the maintenance plan with respect to each HOA, City

will hold each HOA responsible for the maintenance of the Maintained Facilities in each particular development covered by each Declaration and Master Developer shall have no further liability in connection with the maintenance and operation of such particular Maintained Facilities. Notwithstanding the preceding sentence, Master Developer shall be responsible for the plants, trees, grass, irrigation systems, and any other botanicals or mechanical appurtenances related in any way to the Maintained Facilities pursuant to any and all express or implied warranties provided by Master Developer to the HOA under NRS Chapter 116.

4.04 City Maintenance Obligation Acknowledged. City acknowledges and agrees that all of the following will be maintained by City in good condition and repair at the City's sole cost and expense: (i) permanent flood control facilities meeting the criteria for public maintenance defined in Title 20 of the Code as identified in the Master Drainage Study or applicable Technical Drainage Studies and (ii) all City dedicated public streets (excluding any landscape within the right-of-way), associated curbs, gutters, City-owned traffic control devices, signage, and streetlights upon City-dedicated right-of-ways within the Community and accepted by the City. City reserves the rights to modify existing sidewalks and the installation of sidewalk ramps and install or modify traffic control devices on common lots abutting public streets at the discretion of the Director of Public Works.

Master Developer will maintain all temporary detention basins or interim facilities identified in the Master Drainage Study or applicable Technical Drainage Studies. The City agrees to cooperate with the Master Developer and will diligently work with Master Developer to obtain acceptance of all permanent drainage facilities.

## **SECTION FIVE**

### **PROJECT INFRASTRUCTURE IMPROVEMENTS**

5.01. Conformance to Master Studies. Master Developer agrees to construct and dedicate to City or other governmental or quasi-governmental entity or appropriate utility company, all infrastructure to be publicly maintained that is necessary for the development of the Community as required by the Master Studies and this Agreement.

5.02 Sanitary Sewer.



(a) Design and Construction of Sanitary Sewer Facilities Shall Conform to the Master Sanitary Sewer Study. Master Developer shall design, using City's sewer planning criteria, and construct all sanitary sewer main facilities that are identified as Master Developer's responsibility in the Master Sanitary Sewer Study. Master Developer acknowledges and agrees that this obligation shall not be delegated or transferred to any other party.

(b) Off-Property Sewer Capacity. The Master Developer and the City have analyzed the effect of the build out of the Community on Off-Property sewer pipelines. Master Sanitary Sewer Study indicates that sufficient offsite capacity in the offsite sewer pipelines exists for the development of the project contemplated herein. Master Developer and the City agree that the analysis may need to be revised as exact development patterns in the Community become known. All future offsite sewer analysis for the Community will consider a pipe to be at full capacity if it reaches a d/D ratio of 0.90 or greater. The sizing of new On-Property and Off-Property sewer pipe will be based on peak dry-weather flow d/D ratio of 0.50 for pipes between eight (8) and twelve (12) inches in diameter, and 0.60 for pipes larger than fifteen (15) inches in diameter.

#### 5.03 Traffic Improvements.

(a) Legal Access. As a condition of approval to the Master Traffic Study and any updates thereto, Master Developer shall establish legal access to all public and private rights-of-way within the Community.

(b) Additional Right Turn Lane on Rampart Boulevard Northbound at Summerlin Parkway. At such time as City awards a bid for the construction of a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp, Master Developer will contribute twenty eight and three-tenths percent (28.3%) of the awarded bid amount, unless this percentage is amended in a future update to the Master Traffic Study ("Right Turn Lane Contribution"). The Right Turn Land Contribution is calculated based on a numerator of the number of AM peak trips from the Property, making a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp necessary, divided by a denominator of the total number of AM peak trips that changes the traffic count from a D level of service to an E level of service necessitating a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound

on-ramp. If the building permits for less than eight hundred (800) residential units have been issued, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eight hundredth (800<sup>th</sup>) residential unit, on the Property at the time the City awards a bid for this second right turn lane, the Right Turn Lane Contribution may be deferred until the issuance of the building permit for the eight hundredth (800<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eight hundredth (800<sup>th</sup>) residential unit, or a date mutually agreed upon by the Parties. If the City has not awarded a bid for the construction of the second right turn lane by the issuance of the building permit for the sixteen hundred and ninety ninth (1699<sup>th</sup>) residential unit, a dollar amount based on the approved percentage in the updated Master Traffic Study shall be paid prior to the issuance of the seventeen hundredth (1,700<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the seventeen hundredth (1,700<sup>th</sup>) residential unit, based on the preliminary cost estimate. At the time the work is bid, if the bid amount is less than the preliminary cost estimate, Master Developer shall be refunded proportionately. At the time the work is bid, if the bid amount is more than the preliminary cost estimate, Master Developer shall contribute up to a maximum of ten percent (10%) more than the cost estimate already paid to the City.

(c) Dedication of Additional Lane on Rampart Boulevard.

(i) Prior to the issuance of the 1<sup>st</sup> building permit for a residential unit in Development Areas 1, 2 or 3, Master Developer shall dedicate a maximum of 16 feet of a right-of-way for an auxiliary lane with right-of-way in accordance with Standard Drawing #201 on Rampart Boulevard along the Property's Rampart Boulevard frontage which extends from Alta Drive south ~~through-up to~~ the Property's southern boundary on Rampart Boulevard. City shall pursue funding for construction of this additional lane as part of a larger traffic capacity public improvement project, however no guarantee can be made as to when and if such a project occurs.

(ii) On the aforementioned dedicated right-of-way, from the Property's first Rampart Boulevard entry north two hundred fifty (250) feet, Master Developer will construct a right hand turn lane into the Property in conjunction with Development Area 1's site improvements.

(d) Traffic Signal Improvements.

(i) Master Developer shall comply with Ordinance 5644 (Bill 2003-94), as amended from time to time by the City. The Master Developer shall construct or re-construct any traffic signal that is identified in the Master Traffic Study as the Master Developer's responsibility and shall provide appropriate easements and/or additional rights-of-way, as necessary.

(ii) The Master Traffic Study proposes the installation of a new traffic signal located on Rampart Boulevard at the first driveway located south of Alta Drive to Development Area 1. The Master Traffic Study indicates that this proposed signalized driveway on Rampart Boulevard operates at an acceptable level of service without a signal at this time. The installation of this proposed traffic signal is dependent on additional traffic improvements as described in Sections 5.03 (b) and (c), and therefore, is not approved by the City at this time. The City agrees to accept in the future an update to the Master Traffic Study to re-evaluate the proposed traffic signal. Any such updated Master Traffic Study shall be submitted six (6) months after the issuance of the last building permit for Development Area 1 and/or at such earlier or subsequent times as mutually agreed to by the City and Master Developer. If construction of a traffic signal is approved at Rampart Boulevard at this first driveway to Development Area 1, the Master Developer shall, concurrently with such traffic signal, construct that portion of the additional lane dedicated pursuant to Section 5.03(c)(i) to the extent determined by the updated Master Traffic Study, unless such construction has already been performed as part of a public improvement project.

(e) Updates. The Director of Public Works may require an update to the Master Traffic Study as a condition of approval of the following land use applications: tentative map; Site Development Plan Review; or special use permit, but only if the applications propose land use, density, or entrances that substantially deviate from the approved Master Study or the development differs substantially in the opinion of the City Traffic Engineer from the assumptions of the approved Master Traffic Study. Additional public right-of-way may be required to accommodate such any changes.

(f) Development Phasing. See Development Phasing plan attached hereto as **Exhibit "F"**.

5.04 Flood Control.

(a) Prior to the issuance of any permits in portions of the Property which do not

overlie the regional drainage facilities on the Property, Master Developer shall ~~increase the~~ maintain the existing \$~~12575~~,000 flood maintenance bond for the existing public drainage ways on the Property ~~at~~ \$125,000. Prior to the issuance of any permits in portions of the Property which overlie the regional drainage facilities on the Property, Master Developer shall ~~have in place a~~ increase this bond amount ~~to~~ of \$250,000.

(b) Obligation to Construct Flood Control Facilities solely on Master Developer. Master Developer shall design and construct flood control facilities that are identified as Master Developer's responsibility in the Master Drainage Study or applicable Technical Drainage Studies. Except as provided for herein, Master Developer acknowledges and agrees that this obligation shall not be delegated to or transferred to any other party.

(c) Other Governmental Approvals. The Clark County Regional Flood Control and any other state or federal agencies, as required, shall approve the Master Drainage Study prior to final approval from City.

(d) Updates. The Director of Public Works may require an update to the Master Drainage Study or Master Technical Study as a condition of approval of the following land use applications: tentative map (residential or commercial); ~~or~~ Site Development Plan Review (multifamily or commercial); ~~or parcel map (except Parcel Map 64285)~~ if those applications are not in substantial conformance with the approved Master Land Use Plan or Master Drainage Study. The update must be approved prior to the approval of any construction drawings and the issuance of any final grading permits, excluding any grub and clear permits outside of FEMA designated flood areas and/or demolition permits. An update to the exhibit in the approved Master Drainage Study depicting proposed development phasing in accordance with the Development Agreement shall be submitted for approval by the Flood Control Section.

(e) Regional Flood Control Facility Construction by Master Developer. The Master Developer agrees to design and substantially complete the Clark County Regional Flood Control District facilities as defined in the Master Drainage Study pursuant to an amendment to the Regional Flood Control District 2008 Master Plan Update prior to the issuance of any permits for units located within the flood zone. Notwithstanding the above, building permit issuance is governed by section 3.01(f).

(f) Construction Phasing. Master Developer shall submit a phasing and sequencing plan for all drainage improvements within the Community as a part of the Master Drainage Study. The phasing plan and schedule must clearly identify drainage facilities (interim or permanent) necessary prior to permitting any downstream units for construction. Notwithstanding the above, building permit issuance is governed by section 3.01(ff).

## SECTION SIX

### DEFAULT

6.01 Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a ten (10) day notice of default and opportunity to cure. The time of notice shall be measured from the date of receipt of the certified mailing. The notice of noncompliance shall specify the nature of the alleged noncompliance and the manner in which it may be satisfactorily corrected, during which ten (10) day period the party alleged to be in noncompliance shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the noncompliance cannot reasonably be cured within the ten (10) day cure period, the non-compliant Party may timely cure the noncompliance for purposes of this Section 64 if it commences the appropriate remedial action with the ten (10) day cure period and thereafter diligently prosecutes such action to completion within a period of time acceptable to the non-breaching Party. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than ninety (90) days from the date the ten (10) day notice of noncompliance and opportunity to cure was mailed to the non-compliant Party.

If the noncompliance is corrected, then no default shall exist and the noticing Party shall take no

further action. If the noncompliance is not corrected within the relevant cure period, the non-complaint Party is in default, and the Party alleging non-compliance may declare the breaching Party in default and elect any one or more of the following courses.

(a) Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged noncompliance, the Party alleging the default may give notice of intent to amend or terminate this Agreement as authorized by NRS Chapter 278. Following any such notice of intent to amend or terminate, the matter shall be scheduled and noticed as required by law for consideration and review solely by the City Council.

(b) Amendment or Termination by City. Following consideration of the evidence presented before the City Council and a finding that a substantial default has occurred by Master Developer and remains uncorrected, City may amend or terminate this Agreement pursuant to NRS 278. Termination shall not in any manner rescind, modify, or terminate any vested right in favor of Master Developer, as determined under the Applicable Rules, existing or received as of the date of the termination. Master Developer shall have twenty-five (25) days after receipt of written notice of termination to institute legal action pursuant to this Section to determine whether a default existed and whether City was entitled to terminate this Agreement.

(c) Termination by Master Developer. In the event City substantially defaults under this Agreement, Master Developer shall have the right to terminate this Agreement after the hearing set forth in this Section. Master Developer shall have the option, in its discretion, to maintain this Agreement in effect, and seek to enforce all of City's obligations by pursuing an action pursuant to this Section 6.01(ca).

6.02. Unavoidable Delay; Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, national disasters, terrorist attacks, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, third-party lawsuits, or acts of God. If written notice of any such delay is given to one Party or the other within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by the party in receipt of the notice within thirty (30) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances

or as may be subsequently agreed to between City and Master Developer.

6.03. Limitation on Monetary Damages. City and the Master Developer agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, City and Master Developer (or its permitted assigns) may pursue any course of action at law or in equity available for breach of contract, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement.

6.04. Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada. The parties agree to mediate any and all disputes prior to filing of an action in the Eighth Judicial District Court unless seeking specific performance or injunctive relief.

6.05. Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

6.06. Applicable Laws; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Each party shall bear its own attorneys' fees and court costs in connection with any legal proceeding hereunder.

## **SECTION SEVEN**

### **GENERAL PROVISIONS**

7.01. Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the thirtieth (30) anniversary of the Effective Date, unless terminated earlier pursuant to the terms hereof. City agrees that the Master Developer shall have the right to request extension of the Term of this Agreement for an additional five (5) years upon the following conditions:



(a) Master Developer provides written notice of such extension to City at least one hundred-eighty (180) days prior to the expiration of the original Term of this Agreement; and

(b) Master Developer is not then in default of this Agreement;

Upon such extension, Master Developer and City shall enter into an amendment to this Agreement memorializing the extension of the Term.

7.02. Assignment. The Parties acknowledge that the intent of this Agreement is that there is a Master Developer responsible for all of the obligations in this Agreement throughout the Term of this Agreement.

(a) At any time during the Term, Master Developer and its successors-in-interest shall have the right to sell, assign or transfer all of its rights, title and interests to this Agreement (a "Transfer") to any person or entity (a "Transferee"). Except in regard to Transfers to Pre-Approved Transferees (which does not require any consent by the City as provided in Section 5.02(b) below), prior to consummating any Transfer, Master Developer shall obtain from the City written consent to the Transfer as provided for in this Agreement, which consent shall not be unreasonably withheld, delayed or conditioned. Master Developer's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City to consider and respond to Master Developer's request. Master Developer shall provide information to the City that Transferee, its employees, consultants and agents (collectively "Transferee Team") has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Master Developer's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and the full execution of an Assignment and Assumption Agreement by City, Master Developer and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

(b) Pre-Approved Transferees. Notwithstanding anything in this Agreement to the contrary, the following Transferees constitute "Pre-Approved Transferees," for which no City consent shall be required provided that such Pre-Approved Transferees shall assume in writing all obligations of the Master Developer hereunder by way of an Assignment and Assumption Agreement. The Assignment and Assumption Agreement shall be approved by the City Manager, whose approval shall not be unreasonably withheld, delayed or conditioned. The Assignment and Assumption Agreement shall be executed by the Master Developer and Pre-Approved Transferee and acknowledged by the City Manager. The Pre-Approved Transferee shall thenceforth be deemed to be the Master Developer and be responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

- 1) An entity owned or controlled by Master Developer or its Affiliates;
- 2) Any Investment Firm that does not plan to develop the Property. If Investment Firm desires to: (i) develop the Property, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, the Investment Firm shall obtain from the City written consent to: (i) commence development, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, which consent shall not be unreasonably withheld, delayed or conditioned. Investment Firm's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City Council to consider. Investment Firm shall provide information to the City that Investment Firm or Transferee and their employees, consultants and agents (collectively "Investment Firm Team" and "Transferee Team", respectively) that intends to develop the Property has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Investment Firm's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and full execution of an Assignment and Assumption Agreement by City, Investment Firm and Transferee, the Transferee shall

thenceforth be deemed to be the Master Developer and responsible for the all of the obligations in this Agreement.

(c) In Connection with Financing Transactions. Master Developer has full and sole discretion and authority to encumber the Property or portions thereof, or any improvements thereon, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement. Should such transaction require parcel mapping, City shall expeditiously process such maps.

7.03. Sale or Other Transfer Not to Relieve the Master Developer of its Obligation. Except as expressly provided herein in this Agreement, no sale or other transfer of the Property or any subdivided development parcel shall relieve Master Developer of its obligations hereunder, and such assignment or transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such purchaser shall be deemed to be the Master Developer hereunder. This Section shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.

7.04 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, the Master Developer shall hold City, its officers, agents, employees, and representatives harmless from liability for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect development operations or activities of Master Developer, or those of its contractors, subcontractors, agents, employees, or other persons acting on Master Developer's behalf. Master Developer agrees to and shall defend City and its officers, agents, employees, and representatives from actions for damages caused by reason of Master Developer's activities in connection with the development of the Community other than any challenges to the validity of this Agreement or City's approval of related entitlements or City's issuance of permits on the Property. The provisions of this Section shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agent, employees, or representatives. This section shall survive any termination of this Agreement.

7.05. Binding Effect of Agreement. Subject to this Agreement, the burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.

7.06 Relationship of Parties. It is understood that the contractual relationship between City and Master Developer is such that Master Developer is not an agent of City for any purpose and City is not an agent of Master Developer for any capacity.

7.07 Counterparts. This Agreement may be executed at different times and in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect to 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. Delivery of a counterpart by facsimile or portable document format (pdf) through electronic mail transmission shall be as binding an execution and delivery of this Agreement by such Party as if the Party had delivered an actual physical original of this Agreement with an ink signature from such Party. Any Party delivering by facsimile or electronic mail transmission shall promptly thereafter deliver an executed counterpart original hereof to the other Party.

7.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing. Delivery may be accomplished in person, by certified mail (postage prepaid return receipt requested), or via electronic mail transmission. Mail notices shall be addressed as follows:

To City:

City of Las Vegas  
495 South Main Street  
Las Vegas, Nevada 89101  
Attention: City Manager  
Attention: Director of the Department of Planning

To Master Developer:

180 LAND COMPANY LLC  
1215 Fort Apache Road, Suite 120  
Las Vegas, NV 89117

Copy to:

Chris Kaempfer  
Kaempfer Crowell  
1980 Festival Plaza Drive, Suite 650  
Las Vegas, Nevada 89135

Either Party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the date delivery of mail is first attempted.

7.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

7.10 Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate officers of Master Developer or approved by the City Council, as the case may be.

7.11 Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and Master Developer in a form suitable for recordation in the Official Records of Clark County, Nevada. ~~No amendment of this Agreement shall in and of itself amend the 2016 Major Modification attached hereto as Exhibit "C" unless that is the expressed intention of the Parties to do so as it relates to the Property.~~ Upon completion of the performance of this Agreement, a statement evidencing said completion, shall be signed by the appropriate officers of the City and Master Developer and shall be recorded in the Official Records of Clark County, Nevada. A revocation or termination shall be signed by the appropriate officers of the City and/or Master Developer and shall be recorded in the Official Records of Clark County, Nevada.

7.12 Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

7.13 Release. Each ~~residential~~ lot shown on a recorded Subdivision Map within the

Community shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of a building permit for the construction of a residence thereon.

7.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the Parties.

7.15 Exercise of Discretion. Wherever a Party to this Agreement has discretion to make a decision, it shall be required that such discretion be exercised reasonably unless otherwise explicitly provided in the particular instance that such decision may be made in the Party's "sole" or "absolute" discretion or where otherwise allowed by applicable law.

7.16 No Third Party Beneficiary. This Agreement is intended to be for the exclusive benefit of the Parties hereto and their permitted assignees. No third party beneficiary to this Agreement is contemplated and none shall be construed or inferred from the terms hereof. In particular, no person purchasing or acquiring title to land within the Community, residing in the Community, or residing or doing business outside the Community shall, as a result of such purchase, acquisition, business operation or residence, have any right to enforce any obligation of Master Developer or City nor any right or cause of action for any alleged breach of any obligation hereunder by either party hereto.

7.17 Gender Neutral. In this Agreement (unless the context requires otherwise), the masculine, feminine and neutral genders and the singular and the plural include one another.

## **SECTION EIGHT**

### **REVIEW OF DEVELOPMENT**

8.01 Frequency of Reviews. As provided by NRS Chapter 278, Master Developer shall appear before the City Council to review the development of the Community. The Parties agree that the

first review occur no later than twenty-four (24) months after the Effective Date of this Agreement, and again every twenty-four (24) months on the anniversary date of that first review thereafter or as otherwise requested by City upon fourteen (14) days written notice to Master Developer. For any such review, Master Developer shall provide, and City shall review, a report submitted by Master Developer documenting the extent of Master Developer's and City's material compliance with the terms of this Agreement during the preceding period.

**[Signatures on following pages]**



In Witness Whereof, this Agreement has been executed by the Parties on the day and year first  
above written.

CITY:

CITY COUNCIL, CITY OF LAS VEGAS

By:

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
City Attorney

Attest:

City Clerk

By:

\_\_\_\_\_  
LuAnn Holmes, City Clerk

**MASTER DEVELOPER**

**180 LAND COMPANY LLC,**

a Nevada limited liability company

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

on this \_\_\_\_ day of \_\_\_\_\_,

2015.

\_\_\_\_\_  
Notary Public in and for said County and State

**DEVELOPMENT AGREEMENT  
FOR  
THE TWO FIFTY**

**001827**

**RA 01632**

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## EXHIBITS

- A. Property Legal Description
- B. Master Land Use Plan with Development Areas
- C. The Two Fifty Design Guidelines, Development Standards and Uses
- D. Development Phasing
- E. UDC as of the Effective Date

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between the **CITY OF LAS VEGAS**, a municipal corporation of the State of Nevada ("City") and **180 LAND CO LLC**, a Nevada limited liability company ("Master Developer"). The City and Master Developer are sometimes individually referred to as a "Party" and collectively as the "Parties".

## **RECITALS**

A. City has authority, pursuant to NRS Chapter 278 and Title 19 of the Code, to enter into development agreements such as this Agreement, with persons having a legal or equitable interest in real property to establish long-range plans for the development of such property.

B. The City has taken no actions to cause, nor has ever intended to cause NRS 278A to apply to the Property as defined herein. As such, this Agreement is not subject to NRS 278A.

C. Seventy Acres LLC, a Nevada limited liability company ("Seventy Acres"), Fore Stars, LTD., a Nevada limited liability company ("Fore Stars") and 180 Land Co LLC, a Nevada limited liability company ("180 Land") are the owners (Seventy Acres, Fore Stars and 180 Land each individually an "Owner" and collectively the "Owners") of the Property described on **Exhibit "A"** attached hereto (collectively the "Property").

D. The Property is the land on which the golf course, known as the Badlands, was previously operated.

E. The Parties have concluded, each through their separate and independent research, that the golf course industry is struggling resulting in significant numbers of golf course closures across the country.

F. The golf course located on the Property has closed and the land will be repurposed in a manner that is complementary and compatible to the adjacent uses with a combination of residential lots and luxury multifamily development, including the option for assisted living units, a non-gaming boutique hotel, and, ancillary commercial uses.

G. The Property ~~is divided into~~contains four (4) development areas, totaling two hundred fifty and ninety-two hundredths (250.92) acres (hereinafter referred to as "The Two Fifty"), as shown on

**Exhibit "B"** attached hereto.

H. A General Plan Amendment (GPA-62387), Zone Change (ZON-62392) and Site Development Plan Review (SDR-62393) were approved for Development Area 1 (covering 17.49 acres of the Property) for four hundred thirty-five (435) for sale, luxury multifamily units. Because Development Area 1 has already been entitled, neither its acreage, nor its units, are included in the density calculations for the balance of the Property provided for herein. However, the total units approved on the Property will be factored into the respective portions of the Master Studies.

I. The Parties acknowledge and agree that the Property is zoned R-PD7 which allows for the development of the densities provided for herein.

J. The Parties desire to enter into a Development Agreement for the development of the Property in phases and in conformance with the requirements of NRS Chapter 278, and as otherwise permitted by law.

K. Seventy Acres and Fore Stars irrevocably appoint Master Developer to act for and on behalf of Seventy Acres and Fore Stars, as their agent, to do all things necessary to fulfill Seventy Acres, Fore Stars and Master Developer's obligations under this Agreement.

L. The Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

M. The Parties acknowledge that this Agreement will (i) promote the health, safety and general welfare of City and its inhabitants, (ii) minimize uncertainty in the planning for and development of the Property and minimize uncertainty for the surrounding area, (iii) ensure attainment of the maximum efficient utilization of resources within City at the least economic cost to its citizens, and (iv) otherwise achieve the goals and purposes for which the laws governing development agreements were enacted.

N. The Parties further acknowledge that this Agreement will provide the owners of adjacent properties with the assurance that the development of the Property will be compatible and complimentary to the existing adjacent developments in accordance with the Design Guidelines, Development Standards and Uses ("Design Guidelines") attached hereto as **Exhibit "C"**.

O. As a result of the development of the Property, City will receive needed jobs, sales and other tax revenues and significant increases to its real property tax base. City will additionally receive a



greater degree of certainty with respect to the phasing, timing and orderly development of the Property by a developer with significant experience in the development process.

P. Master Developer desires to obtain reasonable assurances that it may develop the Community in accordance with the terms, conditions and intent of this Agreement. Master Developer's decision to enter into this Agreement and commence development of the Community is based on expectations of proceeding, and the right to proceed, with the Community in accordance with this Agreement and the Applicable Rules.

Q. Master Developer further acknowledges that this Agreement was made a part of the record at the time of its approval by the City Council and that Master Developer agrees without protest to the requirements, limitations, and conditions imposed by this Agreement.

R. The City Council, having determined that this Agreement is in conformance with all substantive and procedural requirements for approval of this Agreement, and after giving notice as required by the relevant law, and after introducing this Agreement by ordinance at a public hearing on \_\_\_\_\_, 2017, and after a subsequent public hearing to consider the substance of this Agreement on \_\_\_\_\_, 2017, the City Council found this Agreement to be in the public interest and lawful in all respects, and approved the execution of this Agreement by the Mayor of the City of Las Vegas.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## **SECTION ONE**

### **DEFINITIONS**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

"Affiliate" means (a) any other entity directly or indirectly controlling or controlled by or under direct or indirect common control with another entity and (b) any other entity that beneficially owns at least fifty percent (50%) of the voting common stock or partnership interest or limited liability company interest,

as applicable, of another entity. For the purposes of this definition, "control" when used with respect to any entity, means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, partnership interests, by contract or otherwise; and the terms "controlling" or "controlled" have meanings correlative to the foregoing.

"Agreement" means this development agreement and at any given time includes all addenda and exhibits incorporated by reference and all amendments which hereafter are duly entered into in accordance with the terms of this Agreement.

"Alcohol Related Uses" means a Beer/Wine/Cooler On-Sale use, Restaurant with Service Bar use, Restaurant with Alcohol use and Lounge Bar as defined by the UDC.

"Applicable Rules" as they relate to this Agreement and the development of the Community include the following:

- (a) The provision of the Code and all other uniformly-applied City rules, policies, regulations, ordinances, laws, general or specific, which were in effect on the Effective Date; and
- (b) This Agreement and all attachments hereto.

The term "Applicable Rules" does not include any of (i), (ii), or (iii) below, but the Parties understand that they, and the Property, may be subject thereto:

- (i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;
- (ii) Any fee or monetary payment prescribed by City ordinance which is uniformly applied to all development and construction subject to the City's jurisdiction; or
- (iii) Any applicable state or federal law or regulation.

"Authorized Designee" means any person or entity authorized in writing by Master Developer to make an application to the City on the Property.

"Building Codes" means ~~the development of the Community shall be subject to~~ the Building Codes and fire codes, to which the Community is subject to, in effect at the time of issuance of the permit for the particular development activity with respect to the development of the Community.

"CCRFCD" means the Clark County Regional Flood Control District.

"City" means the City of Las Vegas, together with its successors and assigns.

"City Council" means the [City of Las Vegas City Council](#).

"City Infrastructure Improvement Standards" means in their most recent editions and with the most recent amendments adopted by the City, the Standard Drawings for Public Works Construction Off-Property Improvements, Clark County, Nevada; Uniform Standard Specifications for Public Works Construction Off-Property Improvements, Clark County, Nevada; Uniform Regulations for the Control of Drainage and Hydrologic Criteria and Drainage Design Manual, Clark County Regional Flood Control District; Design and Construction Standards for Wastewater Collection Systems of Southern Nevada; and any other engineering, development or design standards and specifications adopted by the City Council. The term includes standards for public improvements and standards for private improvements required under the UDC.

"City Manager" means the person holding the position of City Manager at any time or its designee.

"Code" means the Las Vegas Municipal Code, including all ordinances, rules, regulations, standards, criteria, manuals and other references adopted therein.

"Community" means the Property and any and all improvements constructed thereupon.

"Design Guidelines" means the document prepared by Master Developer entitled Design Guidelines, Development Standards and Uses, attached hereto as **Exhibit "C"**, and reviewed and approved by City.

"Designated Builder" means any legal entity other than Owner(s) that owns any parcel of real property within the Community, whether prior to or after the Effective Date, provided that such entity is designated as such by Master Developer to City Manager in writing. For purposes of the Applicable Rules, the term "Designated Builder" is intended to differentiate between the Master Developer, Owner(s) and their Affiliates in their capacity as developer and land owner and any other entity that engages in the development of a structure or other improvements on a Development Parcel(s) within the Community. A Designated Builder is not a Party to this Agreement and may not enforce any provisions herein, but upon execution and recordation of this Agreement, a Designated Builder may rely on and be subject to the land use entitlements provided for herein. Designated Builder will work closely with Master Developer to

ensure the Community and/or the Development Parcel(s) owned by Designated Builder is/are developed in accordance with this Agreement.

"Development Area(s)" means the four (4) separate development areas of the Property as shown on the Master Land Use Plan attached hereto as **Exhibit "B"**.

"Development Parcel(s)" means legally subdivided parcel(s) of land within the Community that are intended to be developed or further subdivided.

"Director of Planning" means the Director of the City's Department of Planning or its designee.

"Director of Public Works" means the Director of the City's Department of Public Works or its designee.

"Effective Date" means the date, on or after the adoption by City of an ordinance approving the execution of this Agreement, and the subsequent execution of this Agreement by the Parties, on which this Agreement is recorded in the Office of the County Recorder of Clark County. Each party agrees to cooperate as requested by the other party to cause the recordation of this Agreement without delay.

"Grading Plan, Master Rough" means a plan or plans prepared by a Nevada-licensed professional engineer, also referred to as a Mass Grading Plan, to:

(a) Specify areas where the Master Developer intends to perform rough grading operations;

(b) Identify approximate future elevations and ~~slopes~~grades of roadways, Development Parcels, and drainage areas; and

(c) Prior to issuance of a permit for a Mass Grading Plan:

(i) the Director of Public Works may require an update to the Master Drainage Study to address the impacts of phasing or diverted flows if the Master Drainage Study does not contain sufficient detail for that permit; and,

(ii) Master Developer shall submit the location(s) and height(s) of stockpiles in conjunction with its respective grading permit submittal(s)/application(s).

(d) The Master Rough Grading Plan shall be reviewed by the Director of Public

Works for conformance to the grading and drainage aspects of the approved Master Drainage Study.

"Grading Plan", which accompanies the Technical Drainage Study, means a detailed grading plan for a development site within the Community, created pursuant to the UDC, to further define the grading within ~~residential subdivision sites~~Development Parcels, as identified in the Master Drainage Study, to a level of detail sufficient to support construction drawings, in accordance with the CCRFCD Hydrologic Criteria and Drainage Design Manual.

"HOA or Similar Entity" means any unit owners' association organized pursuant to NRS 116.3101, that is comprised of owners of residential dwelling units, lots or parcels in the Community, or portions thereof, created and governed by a declaration (as defined by NRS 116.037), formed for the purpose of managing, maintaining and repairing all common areas transferred to it or managed by it for such purposes.

"Investment Firm" means an entity whose main business is holding securities of other companies, financial instruments or property purely for investment purposes, and includes by way of example, and not limitation, Venture Capital Firms, Hedge Funds, and Real Estate Investment Trusts.

"LVVWD" means the Las Vegas Valley Water District.

"Master Developer" means 180 Land Co LLC, a Nevada limited liability company, and its successors and assigns as permitted by the terms of this Agreement.

"Master Drainage Study" means the comprehensive hydrologic and hydraulic study, including required updates only if deemed necessary by the City, to be approved by the Director of Public Works prior to the issuance of any permits, excepting grub and clear permits outside of FEMA designated flood areas and/or demolition permits for the Property, or the recordation of any map.

"Master Land Use Plan" means the Master Land Use Plan for the Community, which is **Exhibit "B"**.

"Master Sanitary Sewer Study" means the comprehensive sanitary sewer study to be approved by the Director of Public Works prior to the issuance of any permits, excepting grub and clear permits outside of FEMA designated flood areas and/or demolition permits for the Property, or the recordation of any map, including updates only if deemed necessary by the City where changes from those reflected in the approved Master Sanitary Sewer Study's approved densities or layout of the development are

proposed that would impact downstream pipeline capacities and that may result in additional required Off-Property sewer improvements.

"Master Studies" means the Master Traffic Study, Master Sanitary Sewer Study and the Master Drainage Study.

"Master Traffic Study" means the comprehensive traffic study, including updates only if deemed necessary by the City, with respect to this Property to be approved by the Director of Public Works prior to the issuance of any permits, excepting grub and clear permits outside of FEMA designated flood areas and/or demolition permits, or the recordation of any map.

"Master Utility Improvements" means those water, sanitary sewer, storm water drainage, power, street light and natural gas improvements within and directly adjacent to the Property necessary to serve the proposed development of the Community other than those utility improvements to be located within individual Development Parcels. All public sewer, streetlights, traffic signals, associated infrastructures and public drainage located outside of public right-of-way must be within public easements in conformance with City of Las Vegas Code Title 20, or pursuant to an approved variance application if necessary to allow public easements within private property and/or private drives of the HOA or Similar Entity or of the Development Parcels.

"Master Utility Plan" means a conceptual depiction of all existing and proposed utility alignments, easements or otherwise, within and directly adjacent to the Property necessary to serve the proposed development of the Community, other than those utility improvements to be located within individual Development Parcels. The Master Developer shall align all proposed utilities within proposed public rights-of-way and/or within public utility easements when reasonable and, if applicable, will dedicate such rights-of-way to the City before granting utility easements to specific utility companies, and Master Developer shall separately require any Authorized Designee to disclose the existence of such facilities located on (or in the vicinity of) any affected residential lots, and easements necessary for existing and future LVVWD water transmission mains.

"NRS" means the Nevada Revised Statutes, as amended from time to time.

"Off-Property" means outside of the physical boundaries of the Property.

"Off-Property Improvements," as this definition relates to the Master Studies, means infrastructure

improvements located outside the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"On-Property" means within the physical boundaries of the Property.

"On-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located within the Property boundaries required by the Master Studies or other governmental entities, to be completed by the Master Developer due to the development of the Community.

"Owner" has the meaning as defined in Recital C.

"Party," when used in the singular form, means Master Developer, an Owner (as defined in Recital CB) or City and in the plural form of "Parties" means Master Developer, Owners and City.

"Planning Commission" means the City of Las Vegas Planning Commission.

"Planning Department" means the Department of Planning of the City of Las Vegas.

"Property" means that certain two hundred fifty and ninety-two hundredths (250.92) gross acres of real property which is the subject of this Agreement. The legal description of the Property is set forth in **Exhibit "A"**.

"Technical Drainage Study(s)" means comprehensive hydrologic study(s) prepared under the direction of and stamped by a Nevada-licensed professional engineer that must comply with the CCRFCD drainage manual. Technical Drainage Study(s) shall be approved by the Director of Public Works.

"Term" means the term of this Agreement.

~~"The "Two Fifty Drive" Extension"~~ means the roadway identified as ~~t~~The Two Fifty Drive ~~e~~Extension, as may also be referred to as the Clubhouse Drive Extension, and as which Master Developer is obligated to construct pursuant to the Master Traffic Study is further addressed in Section 3.01(f)(vii) herein, together with associated curb, gutter, sidewalk, landscaping, underground utility improvements including fiber optic interconnect, streetlights, traffic control signs and signals other than those for which a fee was paid pursuant to Ordinance 5644.

"UDC" means the Unified Development Code as of the Effective Date of this Agreement attached hereto as **Exhibit "E"**.

"Water Feature" means one or more items from a range of fountains, ponds (including irrigation ponds), cascades, waterfalls, and streams used for aesthetic value, wildlife and irrigation purposes from effluent and/or privately owned ground water ~~or effluent~~.

## SECTION TWO

### APPLICABLE RULES AND CONFLICTING LAWS

2.01 Reliance on the Applicable Rules. City and Master Developer agree that Master Developer will be permitted to carry out and complete the development of the Community in accordance with the terms of this Agreement and the Applicable Rules. The terms of this Agreement shall supersede any conflicting provision of the City Code except as provided in Section 2.02 below.

2.02. Application of Subsequently Enacted Rules by the City. The City shall not amend, alter or change any Applicable Rule as applied to the development of the Community, or apply a new fee, rule regulation, resolution, policy or ordinance to the development of the Community, except as follows:

(a) The development of the Community shall be subject to the Building Codes and fire codes in effect at the time of issuance of the permit for the particular development activity.

(b) The application of a new uniformly-applied rule, regulation, resolution, policy or ordinance to the development of the Community is permitted, provided that such action is necessary to protect the health, safety and welfare of City residents.

(c) Nothing in this Agreement shall preclude the application to the Community of new or changed rules, regulations, policies, resolutions or ordinances specifically mandated and required by changes in state or federal laws or regulations. In such event, the provisions of Section 2.03 through 2.05 of this Agreement are applicable.

(d) Should the City adopt or amend rules, regulations, policies, resolutions or ordinances and apply such rules to the development of the Community, other than pursuant to one of the above Sections 2.02(a), 2.02(b) or 2.02(c), the Master Developer shall have the option, in its sole discretion, of accepting such new or amended rules by giving written notice of such acceptance to City. City and the Master Developer shall subsequently execute an amendment to this Agreement evidencing



the Master Developer's acceptance of the new or amended ordinance, rule, regulation or policy within a reasonable time.

2.03 Conflicting Federal or State Rules. In the event that any federal or state laws or regulations prevent or preclude compliance by City or Master Developer with one or more provisions of this Agreement or require changes to any approval given by City, this Agreement shall remain in full force and effect as to those provisions not affected, and:

(a) Notice of Conflict. Either Party, upon learning of any such matter, will provide the other Party with written notice thereof and provide a copy of any such law, rule, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The Parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law, rule, regulation or policy.

2.04 City Council Hearings. In the event either Party believes that an amendment to this Agreement is necessary due to the effect of any federal or state law, rule, regulation or policy, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. Master Developer shall have the right to offer oral and written testimony at the hearing. Any amendment ordered by the City Council pursuant to a hearing contemplated by this Section, if appealed, is subject to judicial review. The Parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

2.05 City Cooperation.

(a) City shall cooperate with Master Developer in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated under Section 2.04.

(b) As required by the Applicable Rules, Master Developer shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations.

(c) Permits issued to Master Developer shall not expire so long as work progresses as determined by the City's Director of Building and Safety.

## SECTION THREE

### PLANNING AND DEVELOPMENT OF THE COMMUNITY

3.01 Permitted Uses, Density, and Height of Structures. Pursuant to NRS Chapter 278, this Agreement sets forth the permitted uses, density and maximum height of structures to be constructed in the Community for each Development Area within the Community.

(a) Maximum Residential Units Permitted. The maximum number of residential dwelling units allowed within the Community, as shown on **Exhibit B**, is two thousand one hundred eighty-four (2,184) units, with four hundred thirty-five (435) for sale, multifamily residential units in Development Area 1, one thousand six hundred eighty-four (1,684) multifamily residential units, including the option for assisted living units, in Development Area 2 and Development Area 3 combined, and a maximum of sixty-five (65) residential lots in Development Area 4.

(b) Permitted Uses and Types.

(i) The Community is planned for a mix of single family residential homes and multi-family residential homes including mid-rise tower residential homes.

(ii) Assisted living facility(ies), as defined by Code, may be developed within Development Area 2 or Development Area 3.

(iii) A non-gaming boutique hotel with up to one hundred thirty (130) rooms, with supporting facilities and associated ancillary uses, shall be allowed in Development Area 2 or Development Area 3. Prior to vertical construction, a Site Development Plan Review shall be submitted and approved.

(iv) To promote a pedestrian friendly environment, in Development Areas 2 and 3, additional commercial uses that are ancillary to multifamily residential uses shall be permitted. Ancillary commercial uses shall be similar to, but not limited to, general retail uses and restaurant uses. The number and size of ancillary commercial uses shall be evaluated at the time of submittal for a Site Development Plan Review. Ancillary commercial uses, associated with the multifamily uses, shall be

limited to Development Areas 2 and 3, and shall be limited to a total of fifteen thousand (15,000) square feet across Development Areas 2 and 3 with no single use greater than four thousand (4,000) square feet. It is the intent that the ancillary commercial will largely cater to the residences of Development Areas 1, 2 and 3 to be consistent with an environment that helps promote a walkable community. Any reference to ancillary commercial does not include the leasing, sales, management, and maintenance offices and facilities related to the multifamily.

(v) Water Features shall be allowed in the Community, even if City enacts a future ordinance or law contrary to this Agreement.

(vi) Uses allowed within the Community are listed in the Design Guidelines attached as **Exhibit "C"** ~~is Exhibit I~~. ~~Additionally, the permissible uses in the UDC shall apply within each respective zoning district.~~

(vii) The Parties acknowledge that watering the Property may be continued or discontinued, on any portion or on all of the Property, at and for any period of time, or permanently, at the discretion of the Master Developer. If discontinued, Master Developer shall comply with all City Code requirements relating to the maintenance of the Property and comply with Clark County Health District regulations and requirements relating to the maintenance of the Property, which may necessitate Master Developer's watering and rough mowing the Property, or at Master Developer's election to apply for and acquire a clear and grub permit and/or demolition permits for the Property outside of FEMA designated flood areas (and within FEMA designated flood areas if approved by FEMA), subject to all City laws and regulations. Notwithstanding, Master Developer will use best efforts to continue to water the Property until such time as construction activity is commenced in a given area.

(viii) Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the Community are best promoted and protected by requiring that a Special Use Permit be obtained for certain Alcohol Related Uses as outlined in the Design Guidelines attached as Exhibit "C". ~~If a Alcohol Related Uses shall be subject to a~~ Special Use Permit is required, it shall be in accordance with the requirements of this Section and Las Vegas Municipal Code Section 19.16.0140. The Parties agree that Master Developer may apply for Alcohol Related Uses and that Alcohol Related Uses, as defined herein, must meet the

minimum distance separation requirements in the UDC, except that Alcohol Related Uses may be permitted adjacent to a private park ~~open for public access~~.

(c) Density. Master Developer shall have the right to determine the number of residential units to be developed on any Development Parcel up to the maximum density permitted in each Development Area. Notwithstanding the foregoing, the maximum density permitted in Development Area 1 shall be a maximum of four hundred thirty-five (435) for sale, multifamily residential units; Development Areas 2 and 3 combined shall be a maximum of one thousand six hundred eighty-four (1,684) multifamily residential units, including the option for assisted living units; and Development Area 4 shall be a maximum of sixty-five (65) residential lots. In Development Area 4, residential lots will be a minimum one-half (1/2) gross acres in Section A shown on **Exhibit B**. All other lots within Development Area 4 will be a minimum of two (2) gross acres.

(d) Maximum Height and Setbacks. The maximum height and setbacks shall be governed by the Code except as otherwise provided for in the Design Guidelines attached as **Exhibit "C's-Exhibit I"**.

(e) Residential Mid-Rise Towers in Development Area 2. Master Developer shall have the right to develop two (2) residential mid-rise towers within Development Area 2. The mid-rise tower locations shall be placed so as to help minimize the impact on the view corridors to the prominent portions of the Spring Mountain Range from the existing residences in One Queensridge Place. As provided in the Design Guidelines attached as **Exhibit "C"**, each of the two (2) mid-rise towers may be up to one hundred fifty (150) feet in height.

(f) Phasing.

(i) The Community shall be developed as outlined in the Development Phasing **Exhibit "D"**.

(ii) The Development Areas' numerical designations are not intended and should not be construed to be the numerical sequence or phase of development within the Community.

(iii) Development Area 4's Sections A-G, as shown on **Exhibit B**, are not intended and should not be construed to be the alphabetical sequence or phase of development within Development Area 4.

(iv) The Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

(v) Portions of the Property are located within the Federal Emergency Management Agency ("FEMA") Flood Zone.

(1) Following receipt from FEMA of a Conditional Letter of Map Revision ("CLOMR") and receipt of necessary City approvals and permits, Master Developer may begin construction in Development Areas 1, 2 and 3, including but not limited to, the mass grading, the drainage improvements, including but not limited to the installation of the open drainage channels and/or box culverts, and the installation of utilities. Notwithstanding, Master Developer may begin and complete any construction prior to receipt of the CLOMR in areas outside of the FEMA Flood Zone, following receipt of the necessary permits and approvals from City.

(2) In Development Area 4 in areas outside of the FEMA Flood Zone, Master Developer may begin and complete any construction, as the market demands, and at the sole discretion of the Master Developer, following receipt of necessary City approvals and permits.

(3) In Development Area 4 in areas within the FEMA Flood Zone, construction, including but not limited to, mass grading, drainage improvements, including but not limited to the installation of the open drainage channels and/or box culverts, and the sewer and water mains may commence only after receipt of the CLOMR related to these areas and receipt of necessary City approvals and permits.

(vi) Master Developer and City agree that prior to the approval for construction of the seventeen hundredth (1,700<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the seventeen hundredth

(1,700<sup>th</sup>) residential unit, Master Developer shall have substantially completed the drainage infrastructure required in Development Area 4. For clarification, the completion of the aforementioned drainage infrastructure required in Development Area 4 is not a prerequisite to approval for construction, by way of building permit issuance, of the first sixteen hundred ninety-nine (1,699) residential units. For purposes of this subsection, substantial completion of the drainage infrastructure shall mean the installation of the open drainage channels and/or box culverts required pursuant to the City-approved Master Drainage Study or Technical Drainage Study for Development Area 4.

(vii) The Two Fifty Drive ~~e~~Extension, being a new roadway between Development Areas 2 and 3 that will connect Alta Drive and South Rampart Boulevard, shall be completed in accordance with the approved Master Traffic Study and prior to the approval for construction of the fifteen hundredth (1,500<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential unit. For clarification, the completion of ~~t~~The Two Fifty Drive ~~e~~Extension is not a prerequisite to approval for construction, by way of building permit issuance, of the first fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential units.

(viii) The Landscape, Parks and Recreation Areas shall be constructed incrementally with development as outlined below in subsection (g).

(ix) In Development Areas 1-3, prior to the commencement of grading and/or commencement of a new phase of building construction, Master Developer shall provide ten (10) days' written notice to adjacent HOAs.

(x) In Development Area 4, prior to the commencement of grading, Master Developer shall provide ten (10) days' written notice to adjacent HOAs.

(g) Landscape, Parks, and Recreation Areas. The Property consists of two hundred fifty and ninety-two hundredths (250.92) acres. Master Developer shall landscape and/or amenitize (or cause the same to occur) approximately forty percent (40%) or one hundred (100) acres of the Property. (approximately one hundred (100) acres) which includes associated parking and adjacent access ways, which is far in excess of the Code requirements. Master Developer shall construct, or cause the construction of the following:

(i) Development Areas 1, 2 and 3. A minimum of 12.7 acres of landscape, parks, and recreation areas shall be provided throughout the 67.21 acres of Development Areas 1, 2 and 3. The 12.7 acres of landscape, parks, and recreation area will include a minimum of: 2.5 acres of privately-owned park areas open to residents of the Property, Queensridge and One Queensridge Place, and occasionally opened to the public from time to time at Master Developer's sole discretion; 6.2 acres of privately-owned park and landscape areas not open to the public; 4.0 acres of privately-owned recreational amenities not open to the public, including outdoor and indoor areas (hereinafter referred to as "The Seventy Open Space"). A 1 mile walking loop and pedestrian walkways throughout will be included as part of the 12.7 acres. The layout(s), location(s) and size(s) of the Seventy Open Space shall be determined pursuant to reflective in the respective Site Development Plan Review(s) and shall be constructed incrementally in conjunction with the construction of the multifamily units located in Development Areas 1, 2 and 3. The 2.5 acres of privately-owned park area(s) shall be completed prior to the approval for construction of the fifteen hundredth (1,500<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential unit. For clarification, the completion of 2.5 acres of privately-owned park area(s) is not a prerequisite to approval for construction, by way of building permit issuance, of the first fourteen hundred and ninety-nine (1,499) residential units, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential unit. The Seventy Open Space shall be maintained and managed by Master Developer's Authorized Designee, the respective HOAs, Sub-HOA or Similar Entity.

(ii) Development Area 4. Because Development Area 4 will have a maximum of only sixty-five (65) residential lots, approximately eighty-seven (87) of its acres will be landscape area. The landscape area, although not required pursuant to the UDC, is being created to maintain a landscape environment in Development Area 4 and not in exchange for higher density in Development Areas 1, 2 or 3. The ~~landscape—area~~landscape area will be maintained by individual residential lot owners, an HOA, sub-HOA or Similar Entity, or a combination thereof, pursuant to Section 4 of this Agreement. Upon completion of Development Area 4, there shall be a minimum of seven

thousand five hundred (7,500) trees in Development Area 4.

(h) Development Area 3 No Building Structures Zone and Transition Zone. In Development Area 3, there will be a wall, up to ten (10) feet in height, to serve to separate Development Areas 1, 2 and 3 from Development Area 4. The wall will provide gated access points to Development Area 4. Additionally, there will be a seventy-five (75) foot "No Building Structures Zone" ~~easterly from along the western boundary of~~ Development Area 3's western boundary within seventy-five (75) feet of the property line of existing homes adjacent to the Property as of the Effective Date, as shown on **Exhibit "B"**, to help buffer Development Area 3's development from these existing homes immediately adjacent to the particular part of the Property. The No Building Structures Zone will contain landscaping, an emergency vehicle access way that will also act as a pathway, and access drive lanes for passage to/from Development Area 4 through Development Area 3. An additional seventy-five (75) foot "Transition Zone" will be adjacent to the No Building Structures Zone, as shown on **Exhibit B**, wherein buildings of various heights are permitted but the heights of the buildings in the Transition Zone cannot exceed thirty-five (35) feet above the average finished floor of the adjacent existing residences' finished floor outside of the Property as of the Effective Date, in no instance in excess of the parameters of the Design Guidelines. For example, if the average finished floor of an adjacent existing residence~~s~~, as of the Effective Date, is 2,800 feet in elevation, the maximum building height allowed in the adjacent Transition Zone would be 2,835 feet. Along the western edge of the Transition Zone, architectural design will pay particular attention to the building exterior elevations to take into consideration architectural massing reliefs, both vertical and horizontal, building articulation, building colors, building materials and landscaping. A Site Development Plan Review(s) is required prior to development in Development Areas ~~1,~~ 2 and 3.

(i) Grading and Earth Movement.

(i) Master Developer understands that it must obtain Federal Emergency Management Agency's ("FEMA") CLOMR approval prior to any mass grading on the FEMA designated areas of the Property. Master Developer may commence construction, and proceed through completion, subject to receipt of the appropriate grading and/or building permits, on the portions of the Property located outside the FEMA designated areas prior to obtaining FEMA CLOMR approval.



(ii) Master Developer's intention is that the Property's mass grading cut and fill earth work will balance, thereby mitigating the need for the import and export of fill material. However, there will be a need to import dirt for landscape fill.

(iii) In order to minimize earth movement to and from the Property, Master Developer shall be authorized to process the cut materials on site to create the needed fill materials, therefore eliminating or significantly reducing the need to take cut and fill materials from and to the Property. After approval of the Master Rough Grading Plan, other than the necessary Clark County Department of Air Quality Management approvals needed, Master Developer shall not be required to obtain further approval for rock crushing, earth processing and stockpiling on the Property; provided, however, that no product produced as a result of such rock crushing, earth processing and/or stockpiling on the Property may be sold off-site. The rock crushing shall be located no less than five hundred (500) feet from existing residential homes and, except as otherwise outlined herein, shall be subject to Las Vegas Municipal Code Section 9.16.

(iv) In conjunction with its grading permit submittal(s)/application(s), Master Developer shall submit the location(s) and height(s) of stockpiles.

(v) There shall be no blasting on the Property during the Term of the Agreement.

(j) Gated Accesses to Development Area 4. Gated accesses to/from Development Area 4 shall be on Hualapai Way and through Development Area 3 unless otherwise specified in an approved tentative map(s) or a separate written agreement.

3.02. Processing.

(a) Generally. City agrees to reasonably cooperate with Master Developer to:

(i) Expeditiously process all applications, including General Plan Amendments, in connection with the Property that are in compliance with the Applicable Rules and Master Studies and this Development Agreement; and

(ii) Promptly consider the approval of applications, subject to reasonable conditions not otherwise in conflict with the Applicable Rules, Master Studies and this Development Agreement.

(b) Zoning Entitlement for Property. The Parties acknowledge and agree that the Property is zoned R-PD7 which allows for the development of the densities provided for herein and that no subsequent zone change is needed.

(c) Other Applications. Except as provided herein, all other applications shall be processed by City according to the Applicable Rules. The Parties acknowledge that the procedures for processing such applications are governed by this Agreement, and if not covered by this Agreement, then by the Code. In addition, any additional application requirements delineated herein shall be supplemental and in addition to such Code requirements.

(i) Site Development Plan Review. Master Developer shall satisfy the requirements of Las Vegas Municipal Code Section 19.16.100 for the filing of an application for a Site Development Plan Review, except:

(1) No Site Development Plan Review will be required for any of the up to sixty-five (65) residential units in Development Area 4 because: a) the residential units are custom homes; and, b) the Design Guidelines attached as **Exhibit "C"**, together with the required Master Studies and the future tentative map(s) for the residential units in Development Area 4, satisfy the requirements of a Site Development Plan under the R-PD zoning district. Furthermore, Master Developer shall provide its written approval for each residential unit in Development Area 4, which written approval shall accompany each residence's submittal of plans for building permits. The conditions, covenants and restrictions for Development Area 4 shall be submitted to the City prior to the issuance of building permits, except grub and clear, demolition and grading permits, in Development Area 4.

(2) A Site Development Plan has already been approved in Development Area 1 pursuant to SDR-62393 for four ~~h~~Hundred thirty-five (435) luxury multifamily units, which shall be amended administratively to lower a portion of the building adjacent to the One Queensridge Place swimming pool area from four (4) stories to three (3) stories in height.

(3) For Development Areas 2 and 3, all Site Development Plan Reviews shall acknowledge that: a) as stated in Recital N, the development of the Property is compatible with and ~~complimentary~~complementary to the existing adjacent developments; b) the Property is subject to the Design Guidelines attached as **Exhibit "C"**; c) the Master Studies have been submitted and/or

approved, subject to updates, to allow the Property to be developed as proposed herein; d) this Agreement meets the City's objective to promote the health, safety and general welfare of the City and its inhabitants; and, e) the Site Development Review requirements for the following have been met with the approval of this Development Agreement and its accompanying Design Guidelines:

- i) density,
- ii) building heights,
- iii) setbacks,
- iv) residential adjacency,
- v) approximate building locations,
- vi) approximate pad areas,
- vii) approximate pad finished floor elevations, including those for the two mid-rise towers,
- viii) street sections, and,
- ix) access and circulation.

The following elements shall be reviewed as part of Site Development Review(s) for Development Areas 2 and 3:

- x) landscaping,
- xi) elevations,
- xii) design characteristics, and,
- xiii) architectural and aesthetic features.

The above referenced elements have already been approved in Development Area 1. To the extent these elements are generally continued in Development Areas 2 and 3, they are hereby deemed compatible as part of any Site Development Plan Review in Development Areas 2 and 3.

(4) A Site Development Plan Review is not required for grading permit(s) and permits for construction of drainage facilities.

(ii) Special Use Permits. Master Developer and/or Designated Builders shall satisfy all Code requirements for the filing of an application for a special use permit.

3.03. Dedicated Staff and the Processing of Applications.

- (a) Processing Fees, Generally. All applications, Major Modification Requests and

Major Deviation Requests and all other requests related to the development of the Community shall pay the fees as provided by the UDC.

(b) Inspection Fees. Construction documents and plans that are prepared on behalf of Master Developer for water facilities that are reviewed by City for approval shall not require payment of inspection fees to City unless the water service provider will not provide those inspection services.

(c) Dedicated Inspection Staff. Upon written request from Master Developer to City, City shall provide within thirty (30) days from written notice, if staff is available, and Master Developer shall pay for a full-time building inspector dedicated only to the development of the Community.

3.04. Modifications of Design Guidelines. Modifications are changes to the Design Guidelines that apply permanently to all development in the Community. The Parties agree that modifications of the Design Guidelines are generally not in the best interests of the effective and consistent development of the Community, as the Parties spent a considerable amount of time and effort negotiating at arms-length to provide for the Community as provided by the Design Guidelines. However, the Parties do acknowledge that there are special circumstances which may necessitate the modification of certain provisions of the Design Guidelines to accommodate unique situations which are presented to the Master Developer upon the actual development of the Community. Further, the Parties agree that modifications of the Design Guidelines can change the look, feel and construction of the Community in such a way that the original intent of the Parties is not demonstrated by the developed product. Notwithstanding, the Parties recognize that modifications and deviations are a reality as a result of changes in trends, technology, building materials and techniques. To that end, the Parties also agree that the only proper entity to request a modification or deviation of the Design Guidelines is the Master Developer entity itself. A request for a modification or deviation to the Design Guidelines shall not be permitted from: any other purchaser of real property within the Community, the Master HOA or a similar entity.

(a) Applicant. Requests for all modifications of the Design Guidelines may be made only by Master Developer.

(b) Minor Modifications. Minor Modifications are changes to the Design Guidelines that include:

(i) changes in architectural styles, color palettes and detail elements.

(ii) the addition of similar and complementary architectural styles, color palettes and detail elements to residential or commercial uses.

(iii) changes in building materials.

(iv) changes in landscaping materials, plant palettes, and landscaping detail elements.

(c) Submittal, Review, Decision, and Appeal.

(i) An application for Minor Modification of the Design Guidelines may be made to the Director of the Department of Planning for its consideration. The Planning Department shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Planning Department may, in their discretion, approve a Minor Modification or impose any reasonable condition upon such approval. The Planning Department shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (iii) below. Applications for which no written decision is issued within thirty (30) business days shall be deemed approved. If the Planning Department rejects a request for a Minor Modification, the request shall automatically be deemed a Major Modification, and at the option of the Master Developer, the decision of the Planning Department may be appealed to the Planning Commission.

(iii) Master Developer may appeal any decision of the Planning Department to the Planning Commission by providing a written request for an appeal within 10 business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(iv) Master Developer may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

(d) Major Modifications.

(i) Any application for a modification to the Design Guidelines that does not qualify as a Minor Modification is a Major Modification. All applications for Major Modifications shall be

scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application or its receipt of the appeal provided for in Section (c) above, whichever is applicable.

(ii) All actions by the Planning Commission on Major Modifications shall be scheduled for a hearing at the next available City Council meeting.

3.05 Deviation to Design Guidelines. A deviation is an adjustment to a particular requirement of the Design Guidelines for a particular Development Parcel or lot.

(a) Minor Deviation. A Minor Deviation must not have a material and adverse impact on the overall development of the Community and may not exceed ten percent (10%) of a particular requirement delineated by the Design Guidelines. An application for a Minor Deviation may only be made under the following circumstances:

1) A request for deviation from any particular requirement delineated by the Design Guidelines on ten percent (10%) or less of the lots in a Development Parcel; or

2) A request for deviation from the following particular requirements on greater than 10% of the lots in a Development Parcel or the entire Community:

a) Changes in architectural styles, color palettes and detail elements.

b) The addition of similar and complementary architectural styles, color palettes and detail elements.

c) Changes in building materials.

d) Changes in landscaping materials, plant palettes, and landscaping detail elements.

e) Setback encroachments for courtyards, porches, miradors, casitas, architectural projections as defined by the Design Guidelines, garages and carriage units.

f) Height of ~~courtyard-property line~~ walls.

(i) Administrative Review Permitted. An application for a Minor Deviation may be filed by the Master Developer or an authorized designee as provided herein. Any application by an authorized designee of Master Developer must include a written statement from the Master Developer that it either approves or has no objection to the request.

(ii) Submittal, Review and Appeal

(1) An application for a Minor Deviation from the Design Guidelines may be made to the Planning Department for their consideration. The Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(2) The Department of Planning may, in their discretion, approve a Minor Deviation or impose any reasonable condition upon such approval. The Department of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (3) below. Applications for which no written decision is issued within thirty (30) days shall be deemed approved.

(3) Master Developer or an authorized designee may appeal any decision of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(4) Master Developer or an authorized designee may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

(b) Major Deviation. A Major Deviation must not have a material and adverse impact on the overall development of the Community and may exceed ten percent (10%) of any particular requirement delineated by the Design Guidelines.

(i) City Council Approval Required. An application for a Major Deviation may be filed by the Master Developer or an authorized designee as provided herein. Any application by an authorized designee must include a written statement from the Master Developer that it either approves or has no objection to the request. Major Deviations shall be submitted to the Planning Commission for recommendation to the City Council, wherein the City Council shall have final action on all Major Deviations.

(ii) Submittal, Review and Approval.

(1) All applications for Major Deviations shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application.

(2) All actions by the Planning Commission on Major Deviations shall be scheduled for a hearing by the City Council within thirty (30) days of such action.

(c) If Master Developer or an authorized designee requests a deviation from adopted City Infrastructure Improvement Standards, an application for said deviation shall be submitted to the Land Development Section of the Department of Building and Safety and related fees paid for consideration by the City Engineer pursuant to the Applicable Rules.

(d) Any request for deviation other than those specifically provided shall be processed pursuant to Section 3.04 (Modifications of Design Guidelines).

3.06 Anti-Moratorium. The Parties agree that no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the construction, rate, timing or sequencing of the development of property including those that affect parcel or subdivision maps, building permits, occupancy permits or other entitlements to use land, that are issued or granted by City, shall apply to the development of the Community or portion thereof. Notwithstanding the foregoing, City may adopt ordinances, resolutions or rules or regulations that are necessary to:

(a) comply with any state or federal laws or regulations as provided by Section 2.04, above;

(b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Property, except for construction-related operations contemplated herein, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or

(c) maintain City's compliance with non-City and state sewerage, water system and utility regulations. However, the City as the provider of wastewater collection and treatment for this development shall make all reasonable best efforts to insure that the wastewater facilities are adequately sized and of the proper technology so as to avoid any sewage caused moratorium.

In the event of any such moratorium, future ordinance, resolution, rule or regulation, unless taken pursuant to the three exceptions contained above, Master Developer shall continue to be entitled to apply for and receive consideration of applications contemplated in Section 3 in accordance with the Applicable Rules.



3.07. Property Dedications to City. Except as provided ~~in~~ herein, any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances (except for any encumbrances that existed on the patent, at the time the Property was delivered to Master Developer, from the United States of America).

3.08 Additional Improvements.

(a) Development Areas 1, 2 and 3. Should Master Developer enter into a separate written agreement with the Las Vegas Valley Water District to a) utilize the Paved Golf Course Maintenance Access Roadway (described in recorded document 199602090000567), and, b) enhance it for purposes of extending Clubhouse Drive for additional ingress and egress to Development Areas 1, 2 and 3 as contemplated on the Conceptual Site Plan in **Exhibit "C"**, then Master Developer shall provide the following additional improvements related to One Queensridge Place:

(i) Master Developer shall construct a controlled access point to public walkways that lead to those portions of The Seventy Open Space, which ~~may~~ includes a dog park. The controlled access point will be maintained by the One Queensridge Place HOA.

(ii) Master Developer shall construct thirty-five (35) parking spaces along the property line of Development Area 1 and One Queensridge Place. The parking spaces will be maintained by the One Queensridge Place HOA.

(iii) Master Developer will work with the One Queensridge Place HOA to design and construct an enhancement to the existing One Queensridge Place south side property line wall to enhance security on the southerly boundary of One Queensridge Place. The ~~enhancement~~ ~~wall~~ will be maintained by the One Queensridge Place HOA.

(iv) The multifamily project, approved under SDR-62393, with four hundred thirty-five (435) luxury multifamily units, shall be amended administratively to lower a portion of the building adjacent to the One Queensridge Place swimming pool area from four (4) stories to three (3) stories in height.

(b) Development Area 4. Should Master Developer 1) enter into a separate written agreement with Queensridge HOA with respect to Development Area 4 taking access to both the Queensridge North and Queensridge South gates, and utilizing the existing Queensridge roads, and 2)

enter into a separate written agreement with the Las Vegas Valley Water District to a) utilize the Paved Golf Course Maintenance Access Roadway (described in recorded document 199602090000567), and, b) enhance it for purposes of extending Clubhouse Drive for additional ingress and egress to Development Areas 1, 2 and 3 as contemplated on the Conceptual Site Plan in **Exhibit "C"**, then Master Developer shall provide the following additional improvements.

(i) Master Developer shall construct the following in Queensridge South to be maintained by the Queensridge HOA:

- (a) a new entry access way;
- (b) new entry gates;
- (c) a new entry gate house; and,
- (d) an approximate four (4) acre park with a vineyard component located near the Queensridge South entrance.

(ii) Master Developer shall construct the following for Queensridge North to be maintained by the Queensridge HOA:

- (a) an approximate one and one-half (1.5) acre park located near the ~~Queensridge~~Queensridge North entrance; and,
- (b) new entry gates.

(c) Notwithstanding the foregoing, neither the One Queensridge Place HOA nor the Queensridge HOA shall be deemed to be third party beneficiaries of this Agreement. This Agreement does not confer any rights or remedies upon either the One Queensridge Place HOA or the Queensridge HOA. Specifically, but without limiting the generality of the foregoing, neither shall have any right of enforcement of any provision of this Agreement against the Master Developer (inclusive of its successors and assigns in interest) or City, nor any right or cause of action for any alleged breach of any obligation hereunder under any legal theory of any kind.

## **SECTION FOUR**

### **MAINTENANCE OF THE COMMUNITY**

#### 4.01 Maintenance of Public and Common Areas.

(a) Community HOAs. Master Developer shall establish Master HOAs, Sub-HOAs or Similar Entities to manage and maintain sidewalk, common landscape areas, any landscaping within the street rights-of-way including median islands, private sewer facilities, private drainage facilities located within common elements, including but not limited to, grassed and/or rip-rap lined channels and natural arroyos as determined by the Master Drainage Study or applicable Technical Drainage Studies, but excluding public streets, curbs, gutters, and streetlights upon City-dedicated public streets, City owned traffic control devices and traffic control signage and permanent flood control facilities.

(b) Maintenance Obligations of the Master HOAs and Sub-HOAs. The Master HOAs or Similar Entities and the Sub-HOAs (which hereinafter may be referred to collectively as the "HOAs") shall be responsible to maintain in good condition and repair all common areas that are transferred to them for repair and maintenance (the "Maintained Facilities"), including, but not limited to sidewalks, walkways, private streets, private alleys, private drives, landscape areas, signage and water features, parks and park facilities, trails, amenity zones, flood control facilities not meeting the criteria for public maintained facilities as defined in Title 20 of the Code, and any landscaping in, on and around medians and public rights-of-way. Maintenance of the drainage facilities, which do not meet the criteria for public maintained facilities as defined in Title 20 of the Code, shall be the responsibility of an HOA or Similar Entity that encompasses a sufficient number of properties subject to this Agreement to financially support such maintenance, which may include such HOAs or Similar Entities posting a maintenance bond in an amount to be mutually agreed upon by the Director of Public Works and Master Developer prior to the City's issuance of any grading or building permits within Development Area 4, excluding any grub and clear permits outside of FEMA designated flood areas and/or demolition permits.

Master Developer acknowledges and agrees that the HOAs are common-interest communities created and governed by declarations ("Declarations") as such term is defined in NRS 116.037. The Declarations will be recorded by Master Developer or Designated Builders as an encumbrance against the property to be governed by the appropriate HOA. In each case, the HOA shall have the power to assess the encumbered property to pay the cost of such maintenance and repair and to create and enforce liens in the event of the nonpayment of such assessments. ~~Master Developer further agrees that~~

~~such Declarations will contain a covenant running to the benefit of City, and enforceable by City, that such facilities will be maintained in good condition and repair.~~ Such HOAs will be Nevada not-for-profit corporations with a board of directors elected by the subject owners, provided, however, that Master Developer may control the board of directors of such HOA for as long as permitted by applicable law.

(c) The Declaration for the HOAs, when it has been fully executed and recorded with the office of the Clark County Recorder, shall contain (or effectively contain) the following provisions:

(i) that the governing board of the HOAs must have the power to maintain the Maintained Facilities;

(ii) that the plan described in Section 4.02 can only be materially amended by the HOAs;

(iii) that the powers under the Declaration cannot be exercised in a manner that would defeat or materially and adversely affect the implementation of the Maintenance Plan defined below; and

(iv) that in the event the HOAs fail to maintain the Maintained Facilities in accordance with the provisions of the plan described in Section 4.02, City may exercise its rights under the Declaration, including the right of City to levy assessments on the property owners for costs incurred by City in maintaining the Maintained Facilities, which assessments shall constitute liens against the land and the individual lots within the subdivision which may be executed upon. Upon request, City shall have the right to review the Declaration for the sole purpose of determining compliance with the provisions of this Section.

~~(d) — City's right to enforce any HOA maintenance provisions are at the sole discretion of the City.~~

4.02 Maintenance Plan. For Maintained Facilities maintained by the HOAs, the corresponding Declaration pursuant to this Section shall provide for a plan of maintenance. In Development Area 4, there will be a landscape maintenance plan with reasonable sensitivities for fire prevention provided to the City Fire Department for review.

4.03 Release of Master Developer. Following Master Developer's creation of HOAs to maintain the Maintained Facilities, and approval of the maintenance plan with respect to each HOA, City

~~will hold~~ each HOA shall be responsible for the maintenance of the Maintained Facilities in each particular development covered by each Declaration and Master Developer shall have no further liability in connection with the maintenance and operation of such particular Maintained Facilities. Notwithstanding the preceding sentence, Master Developer shall be responsible for the plants, trees, grass, irrigation systems, and any other botanicals or mechanical appurtenances related in any way to the Maintained Facilities pursuant to any and all express or implied warranties provided by Master Developer to the HOA under NRS Chapter 116.

4.04 City Maintenance Obligation Acknowledged. City acknowledges and agrees that all of the following will be maintained by City in good condition and repair at the City's sole cost and expense: (i) permanent flood control facilities meeting the criteria for public maintenance defined in Title 20 of the Code as identified in the Master Drainage Study or applicable Technical Drainage Studies and (ii) all City dedicated public streets (excluding any landscape within the right-of-way), associated curbs, gutters, City-owned traffic control devices, signage, and streetlights upon City-dedicated right-of-ways within the Community and accepted by the City. City reserves the rights to modify existing sidewalks and the installation of sidewalk ramps and install or modify traffic control devices on common lots abutting public streets at the discretion of the Director of Public Works.

Master Developer will maintain all temporary detention basins or interim facilities identified in the Master Drainage Study or applicable Technical Drainage Studies. The City agrees to cooperate with the Master Developer and will diligently work with Master Developer to obtain acceptance of all permanent drainage facilities.

## **SECTION FIVE**

### **PROJECT INFRASTRUCTURE IMPROVEMENTS**

5.01. Conformance to Master Studies. Master Developer agrees to construct and dedicate to City or other governmental or quasi-governmental entity or appropriate utility company, all infrastructure to be publicly maintained that is necessary for the development of the Community as required by the Master Studies and this Agreement.

5.02 Sanitary Sewer.

(a) Design and Construction of Sanitary Sewer Facilities Shall Conform to the Master Sanitary Sewer Study. Master Developer shall design, using City's sewer planning criteria, and construct all sanitary sewer main facilities that are identified as Master Developer's responsibility in the Master Sanitary Sewer Study. Master Developer acknowledges and agrees that this obligation shall not be delegated or transferred to any other party.

(b) Off-Property Sewer Capacity. The Master Developer and the City will analyze the effect of the build out of the Community on Off-Property sewer pipelines. Master Developer and the City agree that the analysis may need to be revised as exact development patterns in the Community become known. All future offsite sewer analysis for the Community will consider a pipe to be at full capacity if it reaches a d/D ratio of 0.90 or greater. The sizing of new On-Property and Off-Property sewer pipe will be based on peak dry-weather flow d/D ratio of 0.50 for pipes between eight (8) and twelve (12) inches in diameter, and 0.60 for pipes larger than fifteen (15) inches in diameter.

(c) Updates. The Director of Public Works may require an update to the Master Sanitary Sewer Study as a condition of approval of the following land use applications: tentative map; Site Development Plan Review; or special use permit, but only if the applications propose land use, density, or entrances that substantially deviate from the approved Master Study or the development differs substantially in the opinion of the City from the assumptions of the approved Master Study.

#### 5.03 Traffic Improvements.

(a) Legal Access. As a condition of approval to the Master Traffic Study and any updates thereto, Master Developer shall establish legal access to all public and private rights-of-way within the Community.

(b) Additional Right Turn Lane on Rampart Boulevard Northbound at Summerlin Parkway. At such time as City awards a bid for the construction of a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp, Master Developer will contribute twenty eight and three-tenths percent (28.3%) of the awarded bid amount, unless this percentage is amended in a future update to the Master Traffic Study ("Right Turn Lane Contribution"). The Right Turn Land Contribution is calculated based on a numerator of the number of AM peak trips from the Property, making a second right turn lane on Rampart Boulevard northbound and the related

Summerlin Parkway eastbound on-ramp necessary, divided by a denominator of the total number of AM peak trips that changes the traffic count from a D level of service to an E level of service necessitating a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp. If the building permits for less than eight hundred (800) residential units have been issued, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eight hundredth (800<sup>th</sup>) residential unit, on the Property at the time the City awards a bid for this second right turn lane, the Right Turn Lane Contribution may be deferred until the issuance of the building permit for the eight hundredth (800<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eight hundredth (800<sup>th</sup>) residential unit, or a date mutually agreed upon by the Parties. If the City has not awarded a bid for the construction of the second right turn lane by the issuance of the building permit for the sixteen hundred and ninety ninth (1699<sup>th</sup>) residential unit, a dollar amount based on the approved percentage in the updated Master Traffic Study shall be paid prior to the issuance of the seventeen hundredth (1,700<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the seventeen hundredth (1,700<sup>th</sup>) residential unit, based on the preliminary cost estimate. At the time the work is bid, if the bid amount is less than the preliminary cost estimate, Master Developer shall be refunded proportionately. At the time the work is bid, if the bid amount is more than the preliminary cost estimate, Master Developer shall contribute up to a maximum of ten percent (10%) more than the cost estimate already paid to the City.

(c) Dedication of Additional Lane on Rampart Boulevard.

(i) Prior to the issuance of the 1<sup>st</sup> building permit for a residential unit in Development Areas 1, 2 or 3, Master Developer shall dedicate a maximum of 16 feet of a right-of-way for an auxiliary lane with right-of-way in accordance with Standard Drawing #201.1 on Rampart Boulevard along the Property's Rampart Boulevard frontage which extends from Alta Drive south to the Property's southern boundary on Rampart Boulevard. City shall pursue funding for construction of this additional lane as part of a larger traffic capacity public improvement project, however no guarantee can be made as to when and if such a project occurs.

(ii) On the aforementioned dedicated right-of-way, from the Property's first

Rampart Boulevard entry north two hundred fifty (250) feet, Master Developer will construct a right hand turn lane into the Property in conjunction with Development Area 1's site improvements.

(d) Traffic Signal Improvements.

(i) Master Developer shall comply with Ordinance 5644 (Bill 2003-94), as amended from time to time by the City. The Master Developer shall construct or re-construct any traffic signal that is identified in the Master Traffic Study as the Master Developer's responsibility and shall provide appropriate easements and/or additional rights-of-way, as necessary.

(ii) The Master Traffic Study proposes the installation of a new traffic signal located on Rampart Boulevard at the first driveway located south of Alta Drive to Development Area 1. The Master Traffic Study indicates that this proposed signalized driveway on Rampart Boulevard operates at an acceptable level of service without a signal at this time. The installation of this proposed traffic signal is ~~dependent on additional traffic improvements as described in Sections 5.03 (b) and (c), and therefore, is~~ not approved by the City at this time. The City agrees to accept in the future an update to the Master Traffic Study to re-evaluate the proposed traffic signal. Any such updated Master Traffic Study shall be submitted six (6) months after the issuance of the last building permit for Development Area 1 and/or at such earlier or subsequent times as mutually agreed to by the City and Master Developer. If construction of a traffic signal is approved at Rampart Boulevard at this first driveway to Development Area 1, the Master Developer shall, concurrently with such traffic signal, construct that portion of the additional lane dedicated pursuant to Section 5.03(c)(i) to the extent determined by the updated Master Traffic Study, unless such construction has already been performed as part of a public improvement project.

(e) Updates. The Director of Public Works may require an update to the Master Traffic Study as a condition of approval of the following land use applications: tentative map; site development plan review; or special use permit, but only if the applications propose land use, density, or entrances that substantially deviate from the approved Master Study or the development differs substantially in the opinion of the City Traffic Engineer from the assumptions of the approved Master Traffic Study. Additional public right-of-way may be required to accommodate any changes.

(f) Development Phasing. See Development Phasing plan attached hereto as



**Exhibit "D".**

5.04 Flood Control.

(a) Prior to the issuance of any permits in portions of the Property which do not overlie the regional drainage facilities on the Property, Master Developer shall maintain the existing \$125,000 flood maintenance bond for the existing public drainage ways on the Property at \$125,000. Prior to the issuance of any permits in portions of the Property which overlie the regional drainage facilities on the Property, Master Developer shall increase this bond amount to \$250,000.

(b) Obligation to Construct Flood Control Facilities solely on Master Developer. Master Developer shall design and construct flood control facilities that are identified as Master Developer's responsibility in the Master Drainage Study or applicable Technical Drainage Studies. Except as provided for herein, Master Developer acknowledges and agrees that this obligation shall not be delegated to or transferred to any other party.

(c) Other Governmental Approvals. The Clark County Regional Flood Control and any other state or federal agencies, as required, shall approve the Master Drainage Study prior to final approval from City.

(d) Updates. The Director of Public Works may require an update to the Master Drainage Study or Master Technical Study as a condition of approval of the following land use applications if deemed necessary: tentative map (residential or commercial); or site development plan review (multifamily or commercial); or parcel map if those applications are not in substantial conformance with the approved Master Land Use Plan or Master Drainage Study. The update must be approved prior to the approval of any construction drawings and the issuance of any final grading permits, excluding any grub and clear permits outside of FEMA designated flood areas and/or demolition permits. An update to the exhibit in the approved Master Drainage Study depicting proposed development phasing in accordance with the Development Agreement shall be submitted for approval by the Flood Control Section.

(e) Regional Flood Control Facility Construction by Master Developer. The Master Developer agrees to design and substantially complete the respective portions of the Clark County Regional Flood Control District facilities, as defined in the Master Drainage Study pursuant to an

amendment to the Regional Flood Control District 2008 Master Plan Update, prior to the issuance of any permits for units located on those land areas that currently are within the flood zone, on which permits are requested. Notwithstanding the above, building permit issuance is governed by section 3.01(f).

(f) Construction Phasing. Master Developer shall submit a phasing and sequencing plan for all drainage improvements within the Community as a part of the Master Drainage Study. The phasing plan and schedule must clearly identify drainage facilities (interim or permanent) necessary prior to permitting any downstream units for construction. Notwithstanding the above, building permit issuance is governed by section 3.01(f).

## SECTION SIX

### DEFAULT

6.01 Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a ten (10) day notice of default and opportunity to cure. The time of notice shall be measured from the date of receipt of the certified mailing. The notice of noncompliance shall specify the nature of the alleged noncompliance and the manner in which it may be satisfactorily corrected, during which ten (10) day period the party alleged to be in noncompliance shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the noncompliance cannot reasonably be cured within the ten (10) day cure period, the non-compliant Party may timely cure the noncompliance for purposes of this Section 6 if it commences the appropriate remedial action with the ten (10) day cure period and thereafter diligently prosecutes such action to completion within a period of time acceptable to the non-breaching Party. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than ninety (90) days from the date the ten (10) day notice of noncompliance and opportunity to cure was mailed to the non-compliant Party.

If the noncompliance is corrected, then no default shall exist and the noticing Party shall take no further action. If the noncompliance is not corrected within the relevant cure period, the non-complaint

Party is in default, and the Party alleging non-compliance may declare the breaching Party in default and elect any one or more of the following courses.

(a) Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged noncompliance, the Party alleging the default may give notice of intent to amend or terminate this Agreement as authorized by NRS Chapter 278. Following any such notice of intent to amend or terminate, the matter shall be scheduled and noticed as required by law for consideration and review solely by the City Council.

(b) Amendment or Termination by City. Following consideration of the evidence presented before the City Council and a finding that a substantial default has occurred by Master Developer and remains uncorrected, City may amend or terminate this Agreement pursuant to NRS 278. Termination shall not in any manner rescind, modify, or terminate any vested right in favor of Master Developer, as determined under the Applicable Rules, existing or received as of the date of the termination. Master Developer shall have twenty-five (25) days after receipt of written notice of termination to institute legal action pursuant to this Section to determine whether a default existed and whether City was entitled to terminate this Agreement.

(c) Termination by Master Developer. In the event City substantially defaults under this Agreement, Master Developer shall have the right to terminate this Agreement after the hearing set forth in this Section. Master Developer shall have the option, in its discretion, to maintain this Agreement in effect, and seek to enforce all of City's obligations by pursuing an action pursuant to this Section 6.01(c).

6.02. Unavoidable Delay; Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, national disasters, terrorist attacks, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, third-party lawsuits, or acts of God. If written notice of any such delay is given to one Party or the other within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by the party in receipt of the notice within thirty (30) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between City and Master Developer.

6.03. Limitation on Monetary Damages. City and the Master Developer agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, City and Master Developer (or its permitted assigns) may pursue any course of action at law or in equity available for breach of contract, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement.

6.04. Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada. The parties agree to mediate any and all disputes prior to filing of an action in the Eighth Judicial District Court unless seeking specific performance or injunctive relief.

6.05. Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

6.06. Applicable Laws; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Each party shall bear its own attorneys' fees and court costs in connection with any legal proceeding hereunder.

## **SECTION SEVEN**

### **GENERAL PROVISIONS**

7.01. Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the thirtieth (30) anniversary of the Effective Date, unless terminated earlier pursuant to the terms hereof. City agrees that the Master Developer shall have the right to request extension of the Term of this Agreement for an additional five (5) years upon the following conditions:

- (a) Master Developer provides written notice of such extension to City at least one

hundred-eighty (180) days prior to the expiration of the original Term of this Agreement; and

(b) Master Developer is not then in default of this Agreement;

Upon such extension, Master Developer and City shall enter into an amendment to this Agreement memorializing the extension of the Term.

7.02. Assignment. The Parties acknowledge that the intent of this Agreement is that there is a Master Developer responsible for all of the obligations in this Agreement throughout the Term of this Agreement.

(a) At any time during the Term, Master Developer and its successors-in-interest shall have the right to sell, assign or transfer all of its rights, title and interests to this Agreement (a "Transfer") to any person or entity (a "Transferee"). Except in regard to Transfers to Pre-Approved Transferees (which does not require any consent by the City as provided in Section 5.02(b) below), prior to consummating any Transfer, Master Developer shall obtain from the City written consent to the Transfer as provided for in this Agreement, which consent shall not be unreasonably withheld, delayed or conditioned. Master Developer's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City to consider and respond to Master Developer's request. Master Developer shall provide information to the City that Transferee, its employees, consultants and agents (collectively "Transferee Team") has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Master Developer's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and the full execution of an Assignment and Assumption Agreement by City, Master Developer and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

(b) Pre-Approved Transferees. Notwithstanding anything in this Agreement to the contrary, the following Transferees constitute "Pre-Approved Transferees," for which no City consent shall

be required provided that such Pre-Approved Transferees shall assume in writing all obligations of the Master Developer hereunder by way of an Assignment and Assumption Agreement. The Assignment and Assumption Agreement shall be approved by the City Manager, whose approval shall not be unreasonably withheld, delayed or conditioned. The Assignment and Assumption Agreement shall be executed by the Master Developer and Pre-Approved Transferee and acknowledged by the City Manager. The Pre-Approved Transferee shall thenceforth be deemed to be the Master Developer and be responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

1) An entity owned or controlled by Master Developer or its Affiliates;

2) Any Investment Firm that does not plan to develop the Property. If Investment Firm desires to: (i) develop the Property, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, the Investment Firm shall obtain from the City written consent to: (i) commence development, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, which consent shall not be unreasonably withheld, delayed or conditioned. Investment Firm's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City Council to consider. Investment Firm shall provide information to the City that Investment Firm or Transferee and their employees, consultants and agents (collectively "Investment Firm Team" and "Transferee Team", respectively) that intends to develop the Property has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Investment Firm's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and full execution of an Assignment and Assumption Agreement by City, Investment Firm and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for the all of the obligations in this Agreement.

(c) In Connection with Financing Transactions. Master Developer has full and sole

discretion and authority to encumber the Property or portions thereof, or any improvements thereon, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement. Should such transaction require parcel mapping, City shall process such maps.

7.03. Sale or Other Transfer Not to Relieve the Master Developer of its Obligation. Except as expressly provided herein in this Agreement, no sale or other transfer of the Property or any subdivided development parcel shall relieve Master Developer of its obligations hereunder, and such assignment or transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such purchaser shall be deemed to be the Master Developer hereunder. This Section shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.

7.04 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, the Master Developer shall hold City, its officers, agents, employees, and representatives harmless from liability for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect development operations or activities of Master Developer, or those of its contractors, subcontractors, agents, employees, or other persons acting on Master Developer's behalf. Master Developer agrees to and shall defend City and its officers, agents, employees, and representatives from actions for damages caused by reason of Master Developer's activities in connection with the development of the Community other than any challenges to the validity of this Agreement or City's approval of related entitlements or City's issuance of permits on the Property. The provisions of this Section shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agent, employees, or representatives. This section shall survive any termination of this Agreement.

7.05. Binding Effect of Agreement. Subject to this Agreement, the burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.

7.06 Relationship of Parties. It is understood that the contractual relationship between City and Master Developer is such that Master Developer is not an agent of City for any purpose and City is not an agent of Master Developer for any capacity.

7.07 Counterparts. This Agreement may be executed at different times and in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect to 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. Delivery of a counterpart by facsimile or portable document format (pdf) through electronic mail transmission shall be as binding an execution and delivery of this Agreement by such Party as if the Party had delivered an actual physical original of this Agreement with an ink signature from such Party. Any Party delivering by facsimile or electronic mail transmission shall promptly thereafter deliver an executed counterpart original hereof to the other Party.

7.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing. Delivery may be accomplished in person, by certified mail (postage prepaid return receipt requested), or via electronic mail transmission. Mail notices shall be addressed as follows:

To City:	City of Las Vegas 495 South Main Street Las Vegas, Nevada 89101 Attention: City Manager Attention: Director of the Department of Planning
To Master Developer:	180 LAND CO LLC 1215 Fort Apache Road, Suite 120 Las Vegas, NV 89117
Copy to:	Chris Kaempfer Kaempfer Crowell 1980 Festival Plaza Drive, Suite 650 Las Vegas, Nevada 89135

Either Party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices



given in the manner described shall be deemed delivered on the day of personal delivery or the date delivery of mail is first attempted.

7.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

7.10 Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate officers of Master Developer or approved by the City Council, as the case may be.

7.11 Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and Master Developer in a form suitable for recordation in the Official Records of Clark County, Nevada. Upon completion of the performance of this Agreement, a statement evidencing said completion, shall be signed by the appropriate officers of the City and Master Developer and shall be recorded in the Official Records of Clark County, Nevada. A revocation or termination shall be signed by the appropriate officers of the City and/or Master Developer and shall be recorded in the Official Records of Clark County, Nevada.

7.12 Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

7.13 Release. Each residential lot or condominium lot shown on a recorded subdivision map within the Community shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of a building permit for the construction of a residence thereon.

7.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and

provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the Parties.

7.15 Exercise of Discretion. Wherever a Party to this Agreement has discretion to make a decision, it shall be required that such discretion be exercised reasonably unless otherwise explicitly provided in the particular instance that such decision may be made in the Party's "sole" or "absolute" discretion or where otherwise allowed by applicable law.

7.16 No Third Party Beneficiary. This Agreement is intended to be for the exclusive benefit of the Parties hereto and their permitted assignees. No third party beneficiary to this Agreement is contemplated and none shall be construed or inferred from the terms hereof. In particular, no person purchasing or acquiring title to land within the Community, residing in the Community, or residing, doing business or owning adjacent land outside the Community shall, as a result of such purchase, acquisition, business operation, ownership in adjacent land or residence, have any right to enforce any obligation of Master Developer or City nor any right or cause of action for any alleged breach of any obligation hereunder by either party hereto.

7.17 Gender Neutral. In this Agreement (unless the context requires otherwise), the masculine, feminine and neutral genders and the singular and the plural include one another.

## **SECTION EIGHT**

### **REVIEW OF DEVELOPMENT**

8.01 Frequency of Reviews. As provided by NRS Chapter 278, Master Developer shall appear before the City Council to review the development of the Community. The Parties agree that the first review occur no later than twenty-four (24) months after the Effective Date of this Agreement, and again every twenty-four (24) months on the anniversary date of that first review thereafter or as otherwise requested by City upon fourteen (14) days written notice to Master Developer. For any such review, Master Developer shall provide, and City shall review, a report submitted by Master Developer

documenting the extent of Master Developer's and City's material compliance with the terms of this Agreement during the preceding period.

**[Signatures on following pages]**

**In Witness Whereof, this Agreement has been executed by the Parties on the day and year first  
above written.**

**CITY:**

**CITY COUNCIL, CITY OF LAS VEGAS**

By:

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
City Attorney

Attest:

City Clerk

By:

\_\_\_\_\_  
LuAnn Holmes, City Clerk

**MASTER DEVELOPER**

**180 LAND CO LLC,**

a Nevada limited liability company

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

on this \_\_\_\_ day of \_\_\_\_\_,

2017.

\_\_\_\_\_  
Notary Public in and for said County and State

**DEVELOPMENT AGREEMENT  
FOR  
THE TWO FIFTY**

**001877**

**RA 01682**

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#### EXHIBITS

- A. Property Legal Description
- B. Master Land Use Plan with Development Areas
- C. The Two Fifty Design Guidelines, Development Standards and Permitted Uses
- D. Development Phasing
- E. UDC as of the Effective Date
- F. Tudor Park Exhibit
- E. —



**THIS DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between the **CITY OF LAS VEGAS**, a municipal corporation of the State of Nevada ("City") and **180 LAND CO LLC**, a Nevada limited liability company ("Master Developer"). The City and Master Developer are sometimes individually referred to as a "Party" and collectively as the "Parties".

### RECITALS

A. City has authority, pursuant to NRS Chapter 278 and Title 19 of the Code, to enter into development agreements such as this Agreement, with persons having a legal or equitable interest in real property to establish long-range plans for the development of such property.

B. ~~The City has taken no actions to cause, nor has ever intended to cause~~The Parties acknowledge that Owners (as defined below) have not submitted an application under NRS 278A for the purpose of establishing the Property as a 'planned unit development' as such term is defined in NRS 278A.065, nor 'planned unit residential development' as such term is defined in NRS 278A.070, and that neither the City, nor Owners, intends this Agreement to be construed as an ordinance adopting the provisions of NRS 278A with respect to the Property. NRS 278A to apply to the Property as defined herein. As such, this Agreement is not subject to NRS 278A.

C. Seventy Acres LLC, a Nevada limited liability company ("Seventy Acres"), Fore Stars, LTD., a Nevada limited liability company ("Fore Stars") and 180 Land Co LLC, a Nevada limited liability company ("180 Land") are the owners (Seventy Acres, Fore Stars and 180 Land each individually an "Owner" and collectively the "Owners") of the Property described on **Exhibit "A"** attached hereto (collectively the "Property").

D. ~~The Property is the land on which the golf course, known as the Badlands, was previously operated~~Owners have concluded that the operation of a golf course on the Property is not the highest and best use of the Property.

E. ~~The Parties have concluded, each through their separate and independent research, that the golf course industry is struggling resulting in significant numbers of golf course closures across the country.~~

EF. The golf course located on the Property has closed and the land will be repurposed in a manner that is complementary and compatible to the adjacent uses with a combination of residential lots and luxuryupscale multifamily development, including the option for assisted living unitsapartments, a non-gaming boutique hotel, and, ancillary commercial uses.

EG. The Property contains four (4) development areas, totaling two hundred fifty and ninety-two hundredths (250.92) acres (hereinafter referred to as "The Two Fifty"), as shown on **Exhibit "B"** attached hereto.

GH. A General Plan Amendment (GPA-62387), Zone Change (ZON-62392) and Site Development Plan Review (SDR-62393) were approved for Development Area 1 (covering 17.49 acres of the Property) for four hundred thirty-five (435) for sale, luxuryupscale multifamily units. Because Development Area 1 has already been entitled and may be developed separate from this Agreement, neither its acreage, nor its units, are included in the density calculations for the balance of the Property provided for herein. However, the total units approved on the Property will be factored into the respective portions of the Master Studies.

HI. The Parties acknowledge and agree that the Property is zoned R-PD7 which allows for the development of the densities provided for herein.

IJ. The Parties desire to enter into a Development Agreement for the development of the Property in phases and in conformance with the requirements of NRS Chapter 278, and as otherwise permitted by law.

JK. By execution of this Agreement, Seventy Acres and Fore Stars irrevocably appoint Master Developer to act for and on behalf of Seventy Acres and Fore Stars, as their agent, to do all things necessary to fulfill Seventy Acres, Fore Stars and Master Developer's obligations under this Agreement.

KL. Similar to other Development Agreements within the City of Las Vegas, tThe Property shall be developed as the market demands, — in accordance with this Agreement, and at the sole discretion of Master Developer.

LM. The Parties acknowledge that this Agreement will (i) promote the health, safety and general welfare of City and its inhabitants, (ii) minimize uncertainty in the planning for and development of the Property and minimize uncertainty for the surrounding area, (iii) ensure attainment of the maximum

efficient utilization of resources within City at the least economic cost to its citizens, and (iv) otherwise achieve the goals and purposes for which the laws governing development agreements were enacted.

MN. The Parties further acknowledge that this Agreement ~~will provide the owners of adjacent properties with the assurance that the development of the Property will be compatible and complimentary to the existing adjacent developments in accordance with the establishes~~ Design Guidelines, Development Standards and Permitted Uses ("Design Guidelines") attached hereto as **Exhibit "C"** ~~which are compatible and complimentary to the existing adjacent developments.-~~

NO. As a result of the development of the Property, City will receive needed jobs, sales and other tax revenues and significant increases to its real property tax base. City will additionally receive a greater degree of certainty with respect to the phasing, timing and orderly development of the Property by a developer with significant experience in the development process.

OP. Master Developer desires to obtain reasonable assurances that it may develop the Community in accordance with the terms, conditions and intent of this Agreement. Master Developer's decision to enter into this Agreement and commence development of the Community is based on expectations of proceeding, and the right to proceed, with the Community in accordance with this Agreement and the Applicable Rules.

PQ. Master Developer further acknowledges that this Agreement was made a part of the record at the time of its approval by the City Council and that Master Developer agrees without protest to the requirements, limitations, and conditions imposed by this Agreement.

QR. The City Council, having determined that this Agreement is in conformance with all substantive and procedural requirements for approval of this Agreement, and after giving notice as required by the relevant law, and after introducing this Agreement by ordinance at a public hearing on \_\_\_\_\_, 2017, and after a subsequent public hearing to consider the substance of this Agreement on \_\_\_\_\_, 2017, the City Council found this Agreement to be in the public interest and lawful in all respects, and approved the execution of this Agreement by the Mayor of the City of Las Vegas.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## SECTION ONE

### DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

"Affiliate" means (a) any other entity directly or indirectly controlling or controlled by or under direct or indirect common control with another entity and (b) any other entity that beneficially owns at least fifty percent (50%) of the voting common stock or partnership interest or limited liability company interest, as applicable, of another entity. For the purposes of this definition, "control" when used with respect to any entity, means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, partnership interests, by contract or otherwise; and the terms "controlling" or "controlled" have meanings correlative to the foregoing.

"Agreement" means this development agreement and at any given time includes all addenda and exhibits incorporated by reference and all amendments which hereafter are duly entered into in accordance with the terms of this Agreement.

"Alcohol Related Uses" means a Beer/Wine/Cooler On-Sale use, Restaurant with Service Bar use, Restaurant with Alcohol use and Lounge Bar as defined by the UDC.

"Applicable Rules" as they relate to this Agreement and the development of the Community include the following:

- (a) The provision of the Code and all other uniformly-applied City rules, policies, regulations, ordinances, laws, general or specific, which were in effect on the Effective Date; and
- (b) This Agreement and all attachments hereto.

The term "Applicable Rules" does not include any of (i), (ii), or (iii) below, but the Parties understand that they, and the Property, may be subject thereto:

- (i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;
- (ii) Any fee or monetary payment prescribed by City ordinance which is

uniformly applied to all development and construction subject to the City's jurisdiction; or

(iii) Any applicable state or federal law or regulation.

"Authorized Designee" means any person or entity authorized in writing by Master Developer to make an application to the City on the Property.

"Building Codes" means the Building Codes and fire codes, to which the Community is subject to, in effect at the time of issuance of the permit for the particular development activity with respect to the development of the Community.

"CCRFGD" means the Clark County Regional Flood Control District.

"City" means the City of Las Vegas, together with its successors and assigns.

"City Council" means the City of Las Vegas City Council.

"City Infrastructure Improvement Standards" means in their most recent editions and with the most recent amendments adopted by the City, the Standard Drawings for Public Works Construction Off-Property Improvements, Clark County, Nevada; Uniform Standard Specifications for Public Works Construction Off-Property Improvements, Clark County, Nevada; Uniform Regulations for the Control of Drainage and Hydrologic Criteria and Drainage Design Manual, Clark County Regional Flood Control District; Design and Construction Standards for Wastewater Collection Systems of Southern Nevada; and any other engineering, development or design standards and specifications adopted by the City Council. The term includes standards for public improvements and standards for private improvements required under the UDC.

"City Manager" means the person holding the position of City Manager at any time or its designee.

"Code" means the Las Vegas Municipal Code, including all ordinances, rules, regulations, standards, criteria, manuals and other references adopted therein.

"Community" means the Property and any and all improvements constructed thereupon.

"Design Guidelines" means the document prepared by Master Developer entitled Design Guidelines, Development Standards and Permitted Uses, attached hereto as **Exhibit "C"**, ~~and reviewed~~ and hereby approved by City as compatible and complimentary to the existing adjacent developments.

"Designated Builder" means any legal entity other than Owner(s) that owns any parcel of real property within the Community, whether prior to or after the Effective Date, provided that such entity is designated as such by Master Developer to City Manager in writing. For purposes of the Applicable Rules, the term "Designated Builder" is intended to differentiate between the Master Developer, Owner(s) and their Affiliates in their capacity as developer and land owner and any other entity that engages in the development of a structure or other improvements on a Development Parcel(s) within the Community. A Designated Builder is not a Party to this Agreement and may not enforce any provisions herein, but upon execution and recordation of this Agreement, a Designated Builder may rely on and be subject to the land use entitlements provided for herein. Designated Builder will work closely with Master Developer to ensure the Community and/or the Development Parcel(s) owned by Designated Builder is/are developed in accordance with this Agreement.

"Development Area(s)" means the four (4) separate development areas of the Property as shown on the Master Land Use Plan attached hereto as **Exhibit "B"**.

"Development Parcel(s)" means legally subdivided parcel(s) of land within the Community that are intended to be developed or further subdivided.

"Director of Planning" means the Director of the City's Department of Planning or its designee.

"Director of Public Works" means the Director of the City's Department of Public Works or its designee.

"Effective Date" means the date, on or after the adoption by City of an ordinance approving the execution of this Agreement, and the subsequent execution of this Agreement by the Parties, on which this Agreement is recorded in the Office of the County Recorder of Clark County. Each party agrees to cooperate as requested by the other party to cause the recordation of this Agreement without delay.

"Grading Plan, Master Rough" means a plan or plans prepared by a Nevada-licensed professional engineer, also referred to as a Mass Grading Plan, to:

- (a) Specify areas where the Master Developer intends to perform rough grading operations;
- (b) Identify approximate future elevations and grades of roadways, Development Parcels, and drainage areas; and

(c) Prior to issuance of a permit for a Mass Grading Plan:

(i) the Director of Public Works may require an update to the Master Drainage Study to address the impacts of phasing or diverted flows if the Master Drainage Study does not contain sufficient detail for that permit; and,

(ii) Master Developer shall submit the location(s) and height(s) of stockpiles in conjunction with its respective grading permit submittal(s)/application(s).

(d) The Master Rough Grading Plan shall be reviewed by the Director of Public Works for conformance to the grading and drainage aspects of the approved Master Drainage Study.

"Grading Plan", which accompanies the Technical Drainage Study, means a detailed grading plan for a development site within the Community, created pursuant to the UDC, to further define the grading within Development Parcels, as identified in the Master Drainage Study, to a level of detail sufficient to support construction drawings, in accordance with the CCRFCD Hydrologic Criteria and Drainage Design Manual.

"HOA or Similar Entity" means any unit owners' association organized pursuant to NRS 116.3101, that is comprised of owners of residential dwelling units, lots or parcels in the Community, or portions thereof, created and governed by a declaration (as defined by NRS 116.037), formed for the purpose of managing, maintaining and repairing all common areas transferred to it or managed by it for such purposes.

"Investment Firm" means an entity whose main business is holding securities of other companies, financial instruments or property purely for investment purposes, and includes by way of example, and not limitation, Venture Capital Firms, Hedge Funds, and Real Estate Investment Trusts.

"LVVWD" means the Las Vegas Valley Water District.

"Master Developer" means 180 Land Co LLC, a Nevada limited liability company, and its successors and assigns as permitted by the terms of this Agreement.

"Master Drainage Study" means the comprehensive hydrologic and hydraulic study, including required updates only if deemed necessary by the City, to be approved by the Director of Public Works

prior to the issuance of any permits, excepting grub and clear permits outside of FEMA designated flood areas and/or demolition permits for the Property, or the recordation of any map.

"Master Land Use Plan" means the Master Land Use Plan for the Community, which is **Exhibit "B"**.

"Master Sanitary Sewer Study" means the comprehensive sanitary sewer study to be approved by the Director of Public Works prior to the issuance of any permits, excepting grub and clear permits outside of FEMA designated flood areas and/or demolition permits for the Property, or the recordation of any map, including updates only if deemed necessary by the City where changes from those reflected in the approved Master Sanitary Sewer Study's approved densities or layout of the development are proposed that would impact downstream pipeline capacities and that may result in additional required Off-Property sewer improvements.

"Master Studies" means the Master Traffic Study, Master Sanitary Sewer Study and the Master Drainage Study.

"Master Traffic Study" means the comprehensive traffic study, including updates only if deemed necessary by the City, with respect to this Property to be approved by the Director of Public Works prior to the issuance of any permits, excepting grub and clear permits outside of FEMA designated flood areas and/or demolition permits, or the recordation of any map.

"Master Utility Improvements" means those water, sanitary sewer, storm water drainage, power, street light and natural gas improvements within and directly adjacent to the Property necessary to serve the proposed development of the Community other than those utility improvements to be located within individual Development Parcels. All public sewer, streetlights, traffic signals, associated infrastructures and public drainage located outside of public right-of-way must be within public easements in conformance with City of Las Vegas Code Title 20, or pursuant to an approved variance application if necessary to allow public easements within private property and/or private drives of the HOA or Similar Entity or of the Development Parcels.

"Master Utility Plan" means a conceptual depiction of all existing and proposed utility alignments, easements or otherwise, within and directly adjacent to the Property necessary to serve the proposed development of the Community, other than those utility improvements to be located within individual



Development Parcels. The Master Developer shall align all proposed utilities within proposed public rights-of-way and/or within public utility easements when reasonable and, if applicable, will dedicate such rights-of-way to the City before granting utility easements to specific utility companies, and Master Developer shall separately require any Authorized Designee to disclose to the City the existence of such facilities located on (or in the vicinity of) any affected residential lots, and easements necessary for existing and future LVVWD water transmission mains.

"NRS" means the Nevada Revised Statutes, as amended from time to time.

"Off-Property" means outside of the physical boundaries of the Property.

"Off-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located outside the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"On-Property" means within the physical boundaries of the Property.

"On-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located within the Property boundaries required by the Master Studies or other governmental entities, to be completed by the Master Developer due to the development of the Community.

"Owner" has the meaning as defined in Recital C.

"Party," when used in the singular form, means Master Developer, an Owner (as defined in Recital C) or City and in the plural form of "Parties" means Master Developer, Owners and City.

"Planning Commission" means the City of Las Vegas Planning Commission.

"Planning Department" means the Department of Planning of the City of Las Vegas.

"Property" means that certain two hundred fifty and ninety-two hundredths (250.92) gross acres of real property which is the subject of this Agreement. The legal description of the Property is set forth in **Exhibit "A"**.

"Technical Drainage Study(s)" means comprehensive hydrologic study(s) prepared under the direction of and stamped by a Nevada-licensed professional engineer that must comply with the CCRFCD drainage manual. Technical Drainage Study(s) shall be approved by the Director of Public Works.

"Term" means the term of this Agreement.

The "Two Fifty Drive" means the roadway identified as the Two Fifty Drive extension, as may also be referred to as the Clubhouse Drive Extension, and as is further addressed in Section 3.01(f)(vii) herein, together with associated curb, gutter, sidewalk, landscaping, underground utility improvements including fiber optic interconnect, streetlights, traffic control signs and signals other than those for which a fee was paid pursuant to Ordinance 5644.

"UDC" means the Unified Development Code as of the Effective Date of this Agreement attached hereto as **Exhibit "E"**.

"Water Feature" means one or more items from a range of fountains, ponds (including irrigation ponds), cascades, waterfalls, and streams used for aesthetic value, wildlife and irrigation purposes from effluent and/or privately owned ground water.

## **SECTION TWO**

### **APPLICABLE RULES AND CONFLICTING LAWS**

2.01. Reliance on the Applicable Rules. City and Master Developer agree that Master Developer will be permitted to carry out and complete the development of the Community in accordance with the terms of this Agreement and the Applicable Rules. The terms of this Agreement shall supersede any conflicting provision of the City Code except as provided in Section 2.02 below.

2.02. Application of Subsequently Enacted Rules by the City. The City shall not amend, alter or change any Applicable Rule as applied to the development of the Community, or apply a new fee, rule regulation, resolution, policy or ordinance to the development of the Community, except as follows:

- (a) The development of the Community shall be subject to the Building Codes and fire codes in effect at the time of issuance of the permit for the particular development activity.
- (b) The application of a new uniformly-applied rule, regulation, resolution, policy or ordinance to the development of the Community is permitted, provided that such action is necessary to protect the health, safety and welfare of City residents.
- (c) Nothing in this Agreement shall preclude the application to the Community of

new or changed rules, regulations, policies, resolutions or ordinances specifically mandated and required by changes in state or federal laws or regulations. In such event, the provisions of Section 2.03 through 2.05 of this Agreement are applicable.

(d) Should the City adopt or amend rules, regulations, policies, resolutions or ordinances and apply such rules to the development of the Community, other than pursuant to one of the above Sections 2.02(a), 2.02(b) or 2.02(c), the Master Developer shall have the option, in its sole discretion, of accepting such new or amended rules by giving written notice of such acceptance to City. City and the Master Developer shall subsequently execute an amendment to this Agreement evidencing the Master Developer's acceptance of the new or amended ordinance, rule, regulation or policy within a reasonable time.

2.03. Conflicting Federal or State Rules. In the event that any federal or state laws or regulations prevent or preclude compliance by City or Master Developer with one or more provisions of this Agreement or require changes to any approval given by City, this Agreement shall remain in full force and effect as to those provisions not affected, and:

(a) Notice of Conflict. Either Party, upon learning of any such matter, will provide the other Party with written notice thereof and provide a copy of any such law, rule, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The Parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law, rule, regulation or policy.

2.04. City Council Hearings. In the event either Party believes that an amendment to this Agreement is necessary due to the effect of any federal or state law, rule, regulation or policy, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. Master Developer shall have the right to offer oral and written testimony at the hearing. Any amendment ordered by the City Council pursuant to a hearing contemplated by this Section, if appealed, is subject to judicial review. The Parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

2.05. City Cooperation.

(a) City shall cooperate with Master Developer in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated under Section 2.04.

(b) As required by the Applicable Rules, Master Developer shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations.

(c) Permits issued to Master Developer shall not expire so long as Master Developer diligently pursues the permitted improvement work, progresses as reasonably determined by the City's Director of Building and Safety.

### SECTION THREE

#### PLANNING AND DEVELOPMENT OF THE COMMUNITY

3.01. Permitted Uses, Density, and Height of Structures. Pursuant to NRS Chapter 278, this Agreement sets forth the permitted uses, density and maximum height of structures to be constructed in the Community for each Development Area within the Community.

(a) Maximum Residential Units Permitted. The maximum number of residential dwelling units allowed within the Community, as shown on **Exhibit B**, is two thousand one hundred sixty-nine (2,169) units, with four hundred thirty-five (435) for sale, multifamily residential units in Development Area 1, one thousand six hundred sixty-nine (1,669) multifamily residential units, including the option for assisted living unitsapartments, in Development Area 2 and Development Area 3 combined, and a maximum of sixty-five (65) residential lots in Development Area 4. Master Developer may give, sell or allow the use of portions of the Property to existing adjacent Queensridge residential lots in Development Area 4, for the purpose of extending those lots, which shall not count as part of the allowed Maximum Residential Units Permitted. Any portions of the Property transferred to existing adjacent Queensridge residential lots in Development Area 4 shall no longer be a part of The Two Fifty and, upon transfer, shall be automatically released from the encumbrances of this Agreement without the necessity of executing or recording any instrument of release.

(b) Permitted Uses and Types.

(i) The Community is planned for a mix of single family residential homes and multi-family residential homes including mid-rise tower residential homes.

(ii) Assisted living ~~facility(ies); apartments~~ as defined by Code, may be developed within Development Area 2 or Development Area 3.

(iii) A non-gaming boutique hotel with up to one hundred thirty (130) rooms, with supporting facilities and associated ancillary uses, shall be allowed in Development Area 2 or Development Area 3. Prior to construction, a Site Development Plan Review shall be submitted and approved.

(iv) To promote a pedestrian friendly environment, in Development Areas 2 and 3, additional commercial uses that are ancillary to multifamily residential uses shall be permitted. Ancillary commercial uses shall be similar to, but not limited to, general retail uses and restaurant uses. The number and size of ancillary commercial uses shall be evaluated at the time of submittal for a Site Development Plan Review. Ancillary commercial uses, associated with the multifamily uses, shall be limited to Development Areas 2 and 3, and shall be limited to a total of fifteen thousand (15,000) square feet across Development Areas 2 and 3 with no single use greater than four thousand (4,000) square feet. It is the intent that the ancillary commercial will largely cater to the residences of Development Areas 1, 2 and 3 to be consistent with an environment that helps promote a walkable community. Any reference to ancillary commercial does not include the leasing, sales, management, and maintenance offices and facilities related to the multifamily.

(v) Water Features shall be allowed in the Community, even if City enacts a future ordinance or law contrary to this Agreement.

(vi) Uses allowed within the Community are listed in the Design Guidelines attached as **Exhibit "C"**.

(vii) ~~The Parties acknowledge that watering the Property may be continued or discontinued, on any portion or on all of the Property, at and for any period of time, or permanently, at the discretion of the Master Developer. If discontinued,~~ Master Developer shall comply with all City Code

requirements relating to the maintenance of the Property and comply with Clark County Health District regulations and requirements relating to the maintenance of the Property, which may necessitate Master Developer's watering and rough mowing the Property, or at Master Developer's may election to apply for and acquire a clear and grub permit and/or demolition permits for the Property outside of FEMA designated flood areas (and within FEMA designated flood areas if approved by FEMA), subject to all City laws and regulations. Notwithstanding, Master Developer will use best efforts to continue to water the Property until such time as construction activity is commenced in a given area.

(viii) Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the Community are best promoted and protected by requiring that a Special Use Permit be obtained for certain Alcohol Related Uses as outlined in the Design Guidelines attached as **Exhibit "C"**. If a Special Use Permit is required, it shall be in accordance with the requirements of this Section and Las Vegas Municipal Code Section 19.16.110. The Parties agree that Master Developer may apply for Alcohol Related Uses and Alcohol Related Uses shall have no specified spacing requirements between similar and protected uses.

(c) Density. Master Developer shall have the right to determine the number of residential units to be developed on any Development Parcel up to the maximum density permitted in each Development Area. Notwithstanding the foregoing, the maximum density permitted in Development Area 1 shall be a maximum of four hundred thirty-five (435) for sale, multifamily residential units; Development Areas 2 and 3 combined shall be a maximum of one thousand six hundred sixty-nine (1,669) multifamily residential units, including the option for assisted living units/apartments; and Development Area 4 shall be a maximum of sixty-five (65) residential lots. In Development Area 4, residential lots will be a minimum one-half (1/2) gross acres in Section A shown on **Exhibit B**. All other lots within Development Area 4 will be a minimum of two (2) gross acres.

(d) Maximum Height and Setbacks. The maximum height and setbacks shall be governed by the Code except as otherwise provided for in the Design Guidelines attached as **Exhibit "C"**.

(e) Residential Mid-Rise Towers in Development Area 2. Master Developer shall have the right to develop two (2) residential mid-rise towers within Development Area 2. The mid-rise

tower locations shall be placed so as to help minimize the impact on the view corridors to the prominent portions of the Spring Mountain Range from the existing residences in One Queensridge Place. As provided in the Design Guidelines attached as **Exhibit "C"**, each of the two (2) mid-rise towers may be up to one hundred fifty (150) feet in height.

(f) Phasing.

(i) The Community shall be developed as outlined in the Development Phasing **Exhibit "D"**.

(ii) The Development Areas' numerical designations are not intended and should not be construed to be the numerical sequence or phase of development within the Community.

(iii) Development Area 4's Sections A-G, as shown on **Exhibit B**, are not intended and should not be construed to be the alphabetical sequence or phase of development within Development Area 4.

(iv) The Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

(v) Portions of the Property are located within the Federal Emergency Management Agency ("FEMA") Flood Zone.

(1) Following receipt from FEMA of a Conditional Letter of Map Revision ("CLOMR") and receipt of necessary City approvals and permits, Master Developer may begin construction in Development Areas 1, 2 and 3, including but not limited to, the mass grading, the drainage improvements, including but not limited to the installation of the open drainage channels and/or box culverts, and the installation of utilities. Notwithstanding, Master Developer may begin and complete any construction prior to receipt of the CLOMR in areas outside of the FEMA Flood Zone, following receipt of the necessary permits and approvals from City.

(2) In Development Area 4 in areas outside of the FEMA Flood Zone, Master Developer may begin and complete any construction, as

the market demands, and at the sole discretion of the Master Developer, following receipt of necessary City approvals and permits.

(3) In Development Area 4 in areas within the FEMA Flood Zone, construction, including but not limited to, mass grading, drainage improvements, including but not limited to the installation of the open drainage channels and/or box culverts, and the sewer and water mains may commence only after receipt of the CLOMR related to these areas and receipt of necessary City approvals and permits.

(vi) Master Developer and City agree that prior to the approval for construction of the seventeen hundredth (1,700<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the seventeen hundredth (1,700<sup>th</sup>) residential unit, Master Developer shall have substantially completed the drainage infrastructure required in Development Area 4. For clarification, the completion of the aforementioned drainage infrastructure required in Development Area 4 is not a prerequisite to approval for construction, by way of building permit issuance, of the first sixteen hundred ninety-nine (1,699) residential units. For purposes of this subsection, substantial completion of the drainage infrastructure shall mean the installation of the open drainage channels and/or box culverts required pursuant to the City-approved Master Drainage Study or Technical Drainage Study for Development Area 4.

(vii) The Two Fifty Drive extension, being a new roadway between Development Areas 2 and 3 that will connect Alta Drive and South Rampart Boulevard, shall be completed in accordance with the approved Master Traffic Study and prior to the approval for construction of the fifteen hundredth (1,500<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential unit. For clarification, the completion of the Two Fifty Drive extension is not a prerequisite to approval for construction, by way of building permit issuance, of the first fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential units. The final construction requirements of The Two Drive extension may be modified pursuant to an approved update to the Master Traffic Study.

(viii) The Landscape, Parks and Recreation Areas shall be constructed



incrementally with development as outlined below in subsection (g).

(ix) In Development Areas 1-3, prior to the commencement of grading and/or commencement of a new phase of building construction, Master Developer shall provide ten (10) days' written notice to adjacent HOAs.

(x) In Development Area 4, prior to the commencement of grading, Master Developer shall provide ten (10) days' written notice to adjacent HOAs.

(g) Landscape, Park, and Recreation Areas. The Property consists of two hundred fifty and ninety-two hundredths (250.92) acres. Master Developer shall landscape and/or amenitize (or cause the same to occur) approximately forty percent (40%) or one hundred (100) acres of the Property, which includes associated parking and adjacent access ways, ~~far in excess of~~ in compliance with the Code requirements. Master Developer shall construct, or cause the construction of the following:

(i) Development Areas 1, 2 and 3. A minimum of 12.7 acres of landscape, parks, and recreation areas shall be provided throughout the 67.21 acres of Development Areas 1, 2 and 3. The 12.7 acres of landscape, parks, and recreation area will include a minimum of: 2.5 acres of privately-owned park areas open to residents of the Property, Queensridge and One Queensridge Place, and occasionally opened to the public from time to time at Master Developer's sole discretion; 6.2 acres of privately-owned park and landscape areas not open to the public; 4.0 acres of privately-owned recreational amenities not open to the public, including outdoor and indoor areas (hereinafter referred to as "The Seventy Open Space"). A 1 mile walking loop and pedestrian walkways throughout will be included as part of the 12.7 acres. The layout(s), location(s) and size(s) of the Seventy Open Space shall be reflective in the respective Site Development Plan Review(s) and shall be constructed incrementally in conjunction with the construction of the multifamily units located in Development Areas 1, 2 and 3. The 2.5 acres of privately-owned park area(s) shall be completed prior to the approval for construction of the fifteen hundredth (1,500<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential unit. For clarification, the completion of 2.5 acres of privately-owned park area(s) is not a prerequisite to approval for construction, by way of building permit issuance, of the first fourteen hundred and ninety-nine (1,499) residential units, by way of a building permit issuance or group of building permit

issuance that would encapsulate the construction of the fourteen hundred and ninety-ninth (1,499<sup>th</sup>) residential unit. The Seventy Open Space shall be maintained and managed by Master Developer's Authorized Designee, the respective HOAs, Sub-HOA or Similar Entity.

(ii) Development Area 4. Because Development Area 4 will have a maximum of only sixty-five (65) residential lots, approximately eighty-seven (87) of its acres will be landscape area. The landscape area, although not required pursuant to the UDC, is being created to maintain a landscape environment in Development Area 4 ~~and not in exchange for higher density in Development Areas 1, 2 or 3.~~ The landscape area will be maintained by individual residential lot owners, an HOA, sub-HOA or Similar Entity, or a combination thereof, pursuant to Section 4 of this Agreement. Upon completion of Development Area 4, there shall be a minimum of seven thousand five hundred (7,500) trees in Development Area 4.

(iii) Master Developer may, at a future date, make application under City of Las Vegas Code Section 4.24.140.

(h) Development Area 3 No Building Structures Zone and Transition Zone. In Development Area 3, there will be a wall, with a minimum height of six (6) feet but up to ten (10) feet in height, to serve to separate Development Areas 1, 2 and 3 from Development Area 4. The wall will provide gated access points to Development Area 4. Additionally, except as otherwise provided for herein, there will be a seventy-five (75) foot "No Building Structures Zone" easterly from Development Area 3's western boundary within seventy-five (75) feet of the property line of existing homes adjacent to the Property as of the Effective Date, as shown on **Exhibit "B"**, to help buffer Development Area 3's development from these existing homes immediately adjacent to the particular part of the Property. The No Building Structures Zone will contain landscaping, an emergency vehicle access way that will also act as a pathway, and access drive lanes for passage to/from Development Area 4 through Development Area 3. An additional seventy-five (75) foot "Transition Zone" will be adjacent to the No Building Structures Zone, as shown on **Exhibit B**, wherein buildings of various heights are permitted but the heights of the buildings in the Transition Zone cannot exceed thirty-five (35) feet above the average finished floor of the adjacent existing residences' finished floor outside of the Property as of the Effective Date, in no instance in excess of the parameters of the Design Guidelines. For example, if the average

finished floor ~~of an adjacent existing residence~~ of an adjacent existing residence, as of the Effective Date, is 2,800 feet in elevation, the maximum building height allowed in the adjacent Transition Zone would be 2,835 feet. Along the western edge of the Transition Zone, architectural design will pay particular attention to the building exterior elevations to take into consideration architectural massing reliefs, both vertical and horizontal, building articulation, building colors, building materials and landscaping. A Site Development Plan Review(s) is required prior to development in Development Areas 1, 2 and 3, albeit a Site Development Review (SDR-62393) has already been approved for Development Area 1.

Notwithstanding the foregoing, a minimum of two (2) gross acre lot will be located the Development Area 3's No Building Structure Zone immediately adjacent to the northeastern property line of the five (5) Ravelle Court homeowners within Queensridge that abut Development Area 3. shall be extended to one hundred and five (105) feet from the rear property line of the Ravelle Court existing homes as of the Effective Date of this Agreement as shown on the attached exhibit that will be a new Exhibit F to the Development Agreement. The minimum two (2) gross acre lot shall be in lieu of the "No Building Structures Zone" and "Transition Zone" referenced herein. Furthermore, those homeowners shall be given fifteen (15) feet of property adjacent to their existing residential lots, which upon transfer, shall no longer be a part of The Two Fifty and shall be automatically released from the encumbrances of this Agreement without the necessity of executing or recording any instrument of release.

The Development Area's No Building Structure Zone immediately adjacent to Tudor Park within Queensridge shall be ~~extended to~~ eighty-five (85) feet from the property line of the Tudor Park existing homes that back up to Development Area 3 as of the Effective Date of this Agreement as shown on Exhibit F entitled Tudor Park Exhibit. Furthermore, those applicable homeowners shall be given ~~fifteen (15)~~ twenty (20) feet of property adjacent to their existing residential lots, which upon transfer, shall no longer be a part of The Two Fifty and shall be automatically released from the encumbrances of this Agreement without the necessity of executing or recording any instrument of release. Prior to transfer of the aforementioned twenty (20) feet of property, Master Developer shall elevate the twenty (20) feet of property to approximately the same elevation as the applicable homeowner's rear yard elevation and densely landscape the five (5) feet, within the aforementioned twenty (20) feet, nearest to Development

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Area 3 to obstruct the view of Development Area 3. For purposes herein, densely landscaped shall mean a minimum of thirty-six (36) inch boxed trees located twelve (12) feet on center.

(i) Grading and Earth Movement.

(i) Master Developer understands that it must obtain Federal Emergency Management Agency's ("FEMA") CLOMR approval prior to any mass grading on the FEMA designated areas of the Property. Master Developer may commence construction, and proceed through completion, subject to receipt of the appropriate grading and/or building permits, on the portions of the Property located outside the FEMA designated areas prior to obtaining FEMA CLOMR approval.

(ii) Master Developer's intention is that the Property's mass grading cut and fill earth work will balance, thereby mitigating the need for the import and export of fill material. However, there will be a need to import dirt for landscape fill.

(iii) In order to minimize earth movement to and from the Property, Master Developer shall be authorized to process the cut materials on site to create the needed fill materials, therefore eliminating or significantly reducing the need to take cut and fill materials from and to the Property. After approval of the Master Rough Grading Plan, other than the necessary Clark County Department of Air Quality Management approvals needed, Master Developer shall not be required to obtain further approval for rock crushing, earth processing and stockpiling on the Property; provided, however, that ~~no product produced as a result of such~~the rock crushing, earth processing and/or stockpiling on the Property ~~may be sold off site~~shall not be done as a for-profit enterprise. The rock crushing shall be located no less than five hundred (500) feet from existing residential homes and, except as otherwise outlined herein, shall be subject to Las Vegas Municipal Code Section 9.16.

(iv) In conjunction with its grading permit submittal(s)/application(s), Master Developer shall submit the location(s) and height(s) of stockpiles.

(v) There shall be no blasting on the Property during the Term of the Agreement.

(j) Gated Accesses to Development Area 4. Gated accesses to/from Development Area 4 shall be on Hualapai Way and through Development Area 3 unless otherwise specified in an approved tentative map(s) or a separate written agreement. Future ingress and egress shall have

twenty-four (24) hours per day live or passive security equal to or greater than the existing Queensridge security."

(k) Landscape Easements. The development of the Property will be done in a manner which does not affect the use of the portions of the Property upon which certain landscape easements have been granted in favor of adjacent property owners for the purposes specified within each respective landscape easement.

3.02. Processing.

(a) Generally. City agrees to reasonably cooperate with Master Developer to:

(i) Expeditiously process all applications, including General Plan Amendments, in connection with the Property that are in compliance with the Applicable Rules, ~~and~~ Master Studies, and this Development Agreement; and

(ii) Promptly consider the approval of applications, subject to reasonable conditions not otherwise in conflict with the Applicable Rules, Master Studies and this Development Agreement.

(b) Zoning Entitlement for Property. The Parties acknowledge and agree that the Property is zoned R-PD7 (except for the 17.49 acres which was rezoned R-3 under ZON-62392 and Assessor's Parcel Number 138-32-202-001 which is zoned PD) which allows for the development of the densities provided for herein and that no subsequent zone change is needed.

(c) Other Applications. Except as provided herein, all other applications shall be processed by City according to the Applicable Rules. The Parties acknowledge that the procedures for processing such applications are governed by this Agreement, and if not covered by this Agreement, then by the Code. In addition, any additional application requirements delineated herein shall be supplemental and in addition to such Code requirements.

(i) Site Development Plan Review. Master Developer shall satisfy the requirements of Las Vegas Municipal Code Section 19.16.100 for the filing of an application for a Site Development Plan Review, except:

(1) No Site Development Plan Review will be required for any of the

up to sixty-five (65) residential units in Development Area 4 because: a) the residential units are custom homes; and, b) the Design Guidelines attached as **Exhibit "C"**, together with the required Master Studies and the future tentative map(s) for the residential units in Development Area 4, satisfy the requirements of a Site Development Plan under the R-PD zoning district. Furthermore, Master Developer shall provide its written approval for each residential unit in Development Area 4, which written approval shall accompany each residence's submittal of plans for building permits. The conditions, covenants and restrictions for Development Area 4 shall be submitted to the City prior to the issuance of building permits, except grub and clear, demolition and grading permits, in Development Area 4.

(2) A Site Development Plan has already been approved in Development Area 1 pursuant to SDR-62393 for four hundred thirty-five (435) ~~luxury~~-multifamily units, which shall be amended administratively to lower a portion of the building adjacent to the One Queensridge Place swimming pool area from four (4) stories to three (3) stories in height.

(3) For Development Areas 2 and 3, all Site Development Plan Reviews shall ~~acknowledge that:~~ a) ~~as stated in Recital N, ensure that~~ the development of the Property is compatible with and complementary to the existing adjacent developments; ~~b) the Property is subject to~~ ~~by complying with~~ the Design Guidelines ~~attached as Exhibit "C";~~ ~~be)~~ ~~ensure that~~ the Master Studies have been submitted and/or approved, subject to updates, to allow the Property to be developed as proposed herein; ~~cd)~~ ~~acknowledge that this Agreement meets~~ the City's objective to promote the health, safety and general welfare of the City and its inhabitants ~~has been satisfied~~; and, ~~de)~~ ~~acknowledge that~~ the Site Development Review requirements for the following have been met with the approval of this Development Agreement and its accompanying Design Guidelines:

- i) density,
- ii) building heights,
- iii) setbacks,
- iv) residential adjacency,
- v) approximate building locations,
- vi) approximate pad areas,
- vii) approximate pad finished floor elevations, including those for the two mid-rise towers,

- viii) street sections, and,
- ix) access and circulation.

The following elements shall be reviewed as part of Site Development Review(s) for Development Areas 2 and 3:

- x) landscaping,
- xi) elevations,
- xii) design characteristics, and,
- xiii) architectural and aesthetic features.

The above referenced elements have already been approved in Development Area 1. To the extent these elements are generally continued in Development Areas 2 and 3, they are hereby deemed compatible as part of any Site Development Plan Review in Development Areas 2 and 3.

(ii) Special Use Permits. Master Developer and/or Designated Builders shall satisfy all Code requirements for the filing of an application for a special use permit.

3.03. Dedicated Staff and the Processing of Applications.

(a) Processing Fees, Generally. All applications, Major Modification Requests and Major Deviation Requests and all other requests related to the development of the Community shall pay the fees as provided by the UDC.

(b) Inspection Fees. Construction documents and plans that are prepared on behalf of Master Developer for water facilities that are reviewed by City for approval shall not require payment of inspection fees to City unless the water service provider will not provide those inspection services.

(c) Dedicated Inspection Staff. Upon written request from Master Developer to City, City shall provide within thirty (30) days from written notice, if staff is available, and Master Developer shall pay for a full-time building inspector dedicated only to the development of the Community.

3.04. Modifications of Design Guidelines. Modifications are changes to the Design Guidelines that apply permanently to all development in the Community. The Parties agree that modifications of the Design Guidelines are generally not in the best interests of the effective and consistent development of the Community, as the Parties spent a considerable amount of time and effort negotiating at arms-length to provide for the Community as provided by the Design Guidelines. However, the Parties do

acknowledge that there are special circumstances which may necessitate the modification of certain provisions of the Design Guidelines to accommodate unique situations which are presented to the Master Developer upon the actual development of the Community. Further, the Parties agree that modifications of the Design Guidelines can change the look, feel and construction of the Community in such a way that the original intent of the Parties is not demonstrated by the developed product. Notwithstanding, the Parties recognize that modifications and deviations are a reality as a result of changes in trends, technology, building materials and techniques. To that end, the Parties also agree that the only proper entity to request a modification or deviation of the Design Guidelines is the Master Developer entity itself. A request for a modification or deviation to the Design Guidelines shall not be permitted from: any other purchaser of real property within the Community, the Master HOA or a similar entity.

(a) Applicant. Requests for all modifications of the Design Guidelines may be made only by Master Developer.

(b) Minor Modifications. Minor Modifications are changes to the Design Guidelines that include:

- (i) changes in architectural styles, color palettes and detail elements.
- (ii) the addition of similar and complementary architectural styles, color palettes and detail elements to residential or commercial uses.
- (iii) changes in building materials.
- (iv) changes in landscaping materials, plant palettes, and landscaping detail elements.

(c) Submittal, Review, Decision, and Appeal.

(i) An application for Minor Modification of the Design Guidelines may be made to the Director of the Department of Planning for its consideration. The Planning Department shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Planning Department may, in their discretion, approve a Minor Modification or impose any reasonable condition upon such approval. The Planning Department shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is



appealed by the Master Developer pursuant to Section (iii) below. Applications for which no written decision is issued within thirty (30) business days shall be deemed approved. If the Planning Department rejects a request for a Minor Modification, the request shall automatically be deemed a Major Modification, and at the option of the Master Developer, the decision of the Planning Department may be appealed to the Planning Commission.

(iii) Master Developer may appeal any decision of the Planning Department to the Planning Commission by providing a written request for an appeal within 10 business days of receiving notice of the decision. Such appeal shall be scheduled for a [public](#) hearing at the next available Planning Commission meeting.

(iv) Master Developer may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a [public](#) hearing at the next available City Council meeting.

(d) Major Modifications.

(i) Any application for a modification to the Design Guidelines that does not qualify as a Minor Modification is a Major Modification. All applications for Major Modifications shall be scheduled for a [public](#) hearing at the next available Planning Commission meeting after the City's receipt of the application or its receipt of the appeal provided for in Section (c) above, whichever is applicable.

(ii) All actions by the Planning Commission on Major Modifications shall be scheduled for a [public](#) hearing at the next available City Council meeting.

3.05. Deviation to Design Guidelines. A deviation is an adjustment to a particular requirement of the Design Guidelines for a particular Development Parcel or lot.

(a) Minor Deviation. A Minor Deviation must not have a material and adverse impact on the overall development of the Community and may not exceed ten percent (10%) of a particular requirement delineated by the Design Guidelines. An application for a Minor Deviation may only be made under the following circumstances:

- 1) A request for deviation from any particular requirement delineated by the Design Guidelines on ten percent (10%) or less of the lots in a Development Parcel; or
- 2) A request for deviation from the following particular requirements on greater than 10%

of the lots in a Development Parcel or the entire Community:

- a) Changes in architectural styles, color palettes and detail elements.
- b) The addition of similar and complementary architectural styles, color palettes and detail elements.
- c) Changes in building materials.
- d) Changes in landscaping materials, plant palettes, and landscaping detail elements.
- e) Setback encroachments for courtyards, porches, miradors, casitas, ~~architectural~~and architectural projections as defined by the Design Guidelines, garages and carriage units.
- f) Height of courtyard walls.

(i) Administrative Review Permitted. An application for a Minor Deviation may be filed by the Master Developer or an authorized designee as provided herein. Any application by an authorized designee of Master Developer must include a written statement from the Master Developer that it either approves or has no objection to the request.

(ii) Submittal, Review and Appeal

(1) An application for a Minor Deviation from the Design Guidelines may be made to the Planning Department for their consideration. The Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(2) The Department of Planning may, in their discretion, approve ~~or deny~~ a Minor Deviation or impose any reasonable condition upon such approval. The Department of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (3) below. Applications for which no written decision is issued within thirty (30) days shall be deemed approved.

(3) Master Developer or an authorized designee may appeal any decision of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a ~~public~~ hearing at the next available Planning Commission meeting.

(4) Master Developer or an authorized designee may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a public hearing at the next available City Council meeting.

(b) Major Deviation. A Major Deviation must not have a material and adverse impact on the overall development of the Community and may exceed ten percent (10%) of any particular requirement delineated by the Design Guidelines.

(i) City Council Approval Required. An application for a Major Deviation may be filed by the Master Developer or an authorized designee as provided herein. Any application by an authorized designee must include a written statement from the Master Developer that it either approves or has no objection to the request. Major Deviations shall be submitted to the Planning Commission for recommendation to the City Council, wherein the City Council shall have final action on all Major Deviations.

(ii) Submittal, Review and Approval.

(1) All applications for Major Deviations shall be scheduled for a public hearing at the next available Planning Commission meeting after the City's receipt of the application.

(2) All actions by the Planning Commission on Major Deviations shall be scheduled for a public hearing by the City Council within thirty (30) days of such action.

(c) If Master Developer or an authorized designee requests a deviation from adopted City Infrastructure Improvement Standards, an application for said deviation shall be submitted to the Land Development Section of the Department of Building and Safety and related fees paid for consideration by the City Engineer pursuant to the Applicable Rules.

(d) Any request for deviation other than those specifically provided shall be processed pursuant to Section 3.04 (Modifications of Design Guidelines).

3.06. Anti-Moratorium. The Parties agree that no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the construction, rate, timing or sequencing of the development of property including those that affect parcel or subdivision maps, building permits, occupancy permits or other entitlements to use land, that are issued or granted by City, shall apply to the

development of the Community or portion thereof. Notwithstanding the foregoing, City may adopt ordinances, resolutions or rules or regulations that are necessary to:

(a) comply with any state or federal laws or regulations as provided by Section 2.04, above;

(b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Property, except for construction-related operations contemplated herein, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or

(c) maintain City's compliance with non-City and state sewerage, water system and utility regulations. However, the City as the provider of wastewater collection and treatment for this development shall make all reasonable best efforts to insure that the wastewater facilities are adequately sized and of the proper technology so as to avoid any sewage caused moratorium.

In the event of any such moratorium, future ordinance, resolution, rule or regulation, unless taken pursuant to the three exceptions contained above, Master Developer shall continue to be entitled to apply for and receive consideration of applications contemplated in Section 3 in accordance with the Applicable Rules.

3.07. Property Dedications to City. Except as provided herein, any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances which would otherwise impair the purpose and intent of the dedication (except for any encumbrances that existed on the patent, at the time the Property was delivered to Master Developer, from the United States of America).

3.08. Additional Improvements.

(a) Development Areas 1, 2 and 3. Should Master Developer enter into a separate written agreement with the Las Vegas Valley Water District to a) utilize the Paved Golf Course Maintenance Access Roadway (described in recorded document 199602090000567), and, b) enhance it for purposes of extending Clubhouse Drive for additional ingress and egress to Development Areas 1, 2 and 3 as contemplated on the Conceptual Site Plan in **Exhibit "C"**, then Master Developer shall provide the following, including but not limited to, additional improvements related to One Queensridge Place:

(i) Master Developer shall construct a controlled access point to public walkways that lead to those portions of The Seventy Open Space, which may include a dog park. The controlled access point will be maintained by the One Queensridge Place HOA.

(ii) Master Developer shall construct thirty-five (35) parking spaces along the property line of Development Area 1 and One Queensridge Place. The parking spaces will be maintained by the One Queensridge Place HOA.

(iii) Master Developer will work with the One Queensridge Place HOA to design and construct an enhancement to the existing One Queensridge Place south side property line wall to enhance security on the southerly boundary of One Queensridge Place. The enhancement will be maintained by the One Queensridge Place HOA.

(iv) The multifamily project, approved under SDR-62393, with four hundred thirty-five (435) **luxuryupscale** multifamily units, shall be amended administratively to lower a portion of the building adjacent to the One Queensridge Place swimming pool area from four (4) stories to three (3) stories in height.

(b) Development Area 4. Should Master Developer: 1) enter into a separate written agreement with Queensridge HOA with respect to Development Area 4 taking access to both the Queensridge North and Queensridge South gates, and utilizing the existing Queensridge roads, and 2) enter into a separate written agreement with the Las Vegas Valley Water District to a) utilize the Paved Golf Course Maintenance Access Roadway (described in recorded document 199602090000567), and, b) enhance it for purposes of extending Clubhouse Drive for additional ingress and egress to Development Areas 1, 2 and 3 as contemplated on the Conceptual Site Plan in **Exhibit "C"**, then Master Developer shall provide the following, **including but not limited to,** additional improvements.

(i) Master Developer shall construct the following in Queensridge South to be maintained by the Queensridge HOA:

- (a) a new entry access way;
- (b) new entry gates;
- (c) a new entry gate house; and,
- (d) an approximate four (4) acre park with a vineyard component

located near the Queensridge South entrance.

(ii) Master Developer shall construct the following for Queensridge North to be maintained by the Queensridge HOA:

(a) an approximate one and one-half (1.5) acre park located near the Queensridge North entrance; and,

(b) new entry gates.

(c) Notwithstanding the foregoing, neither the One Queensridge Place HOA nor the Queensridge HOA shall be deemed to be third party beneficiaries of this Agreement. This Agreement does not confer any rights or remedies upon either the One Queensridge Place HOA or the Queensridge HOA. Specifically, but without limiting the generality of the foregoing, neither shall have any right of enforcement of any provision of this Agreement against the Master Developer (inclusive of its successors and assigns in interest) or City, nor any right or cause of action for any alleged breach of any obligation hereunder under any legal theory of any kind.

## SECTION FOUR

### MAINTENANCE OF THE COMMUNITY

#### 4.01. Maintenance of Public and Common Areas.

(a) Community HOAs. Master Developer shall establish Master HOAs, Sub-HOAs or Similar Entities to manage and maintain sidewalk, common landscape areas, any landscaping within the street rights-of-way including median islands, private sewer facilities, private drainage facilities located within common elements, including but not limited to, grassed and/or rip-rap lined channels and natural arroyos as determined by the Master Drainage Study or applicable Technical Drainage Studies, but excluding public streets, curbs, gutters, and streetlights upon City-dedicated public streets, City owned traffic control devices and traffic control signage and permanent flood control facilities.

(b) Maintenance Obligations of the Master HOAs and Sub-HOAs. The Master HOAs or Similar Entities and the Sub-HOAs (which hereinafter may be referred to collectively as the "HOAs") shall be responsible to maintain in good condition and repair all common areas that are transferred to

them for repair and maintenance (the "Maintained Facilities"), including, but not limited to sidewalks, walkways, private streets, private alleys, private drives, landscape areas, signage and water features, parks and park facilities, trails, amenity zones, flood control facilities not meeting the criteria for public maintained facilities as defined in Title 20 of the Code, and any landscaping in, on and around medians and public rights-of-way.

Master Developer acknowledges and agrees that the HOAs are common-interest communities created and governed by declarations ("Declarations") as such term is defined in NRS 116.037. The Declarations will be recorded by Master Developer or Designated Builders as an encumbrance against the property to be governed by the appropriate HOA. In each case, the HOA shall have the power to assess the encumbered property to pay the cost of such maintenance and repair and to create and enforce liens in the event of the nonpayment of such assessments. Such HOAs will be Nevada not-for-profit corporations with a board of directors elected by the subject owners, provided, however, that Master Developer may control the board of directors of such HOA for as long as permitted by applicable law.

(c) The Declaration for the HOAs, when it has been fully executed and recorded with the office of the Clark County Recorder, shall contain (or effectively contain) the following provisions:

(i) that the governing board of the HOAs must have the power to maintain the Maintained Facilities;

(ii) that the plan described in Section 4.02 can only be materially amended by the HOAs; and

(iii) that the powers under the Declaration cannot be exercised in a manner that would defeat or materially and adversely affect the implementation of the Maintenance Plan defined below; and

~~(iv) —that in the event the HOAs fail to maintain the Maintained Facilities in accordance with the provisions of the plan described in Section 4.02, City may exercise its rights under the Declaration, including the right of City to levy assessments on the property owners for costs incurred by City in maintaining the Maintained Facilities, which assessments shall constitute liens against the land and the individual lots within the subdivision which may be executed upon. Upon request, City shall have the right to review the Declaration for the sole purpose of determining compliance with the provisions of~~

~~this Section.~~

4.02. Maintenance Plan. For Maintained Facilities maintained by the HOAs, the corresponding Declaration pursuant to this Section shall provide for a plan of maintenance and the Maintenance Plan for drainage facilities shall be approved by the Director of Public Works. In Development Area 4, there will be a landscape maintenance plan with reasonable sensitivities for fire prevention provided to the City Fire Department for review. In instances where Master HOAs, Sub-HOAs or similar Entities are responsible for the private maintenance of public facilities, a private maintenance covenant shall be filed upon the respective property allowing enforcement rights in favor of the City (where such rights do not exist under applicable code), including the right of City to levy assessments on the property owners for costs incurred by City in maintaining the respective facilities, which assessments shall constitute liens against the land and the individual lots within the subdivision which may be executed upon. The City shall have the right to review the declarations for the purpose of determining compliance with the provisions of this Section.

4.03. Release of Master Developer. Following Master Developer's creation of HOAs to maintain the Maintained Facilities, and approval of the maintenance plan with respect to each HOA, each HOA shall be responsible for the maintenance of the Maintained Facilities in each particular development covered by each Declaration and Master Developer shall have no further liability in connection with the maintenance and operation of such particular Maintained Facilities. Notwithstanding the preceding sentence, Master Developer shall be responsible for the plants, trees, grass, irrigation systems, and any other botanicals or mechanical appurtenances related in any way to the Maintained Facilities pursuant to any and all express or implied warranties provided by Master Developer to the HOA under NRS Chapter 116.

4.04. City Maintenance Obligation Acknowledged. City acknowledges and agrees that all of the following will be maintained by City in good condition and repair at the City's sole cost and expense: (i) permanent flood control facilities meeting the criteria for public maintenance defined in Title 20 of the Code as identified in the Master Drainage Study or applicable Technical Drainage Studies and (ii) all City dedicated public streets (excluding any landscape within the right-of-way), associated curbs, gutters, City-owned traffic control devices, signage, and streetlights upon City-dedicated right-of-ways within the Community and accepted by the City. City reserves the rights to modify existing sidewalks and the



installation of sidewalk ramps and install or modify traffic control devices on common lots abutting public streets at the discretion of the Director of Public Works.

Master Developer will maintain all temporary detention basins or interim facilities identified in the Master Drainage Study or applicable Technical Drainage Studies. The City agrees to cooperate with the Master Developer and will diligently work with Master Developer to obtain acceptance of all permanent drainage facilities.

## SECTION FIVE

### PROJECT INFRASTRUCTURE IMPROVEMENTS

5.01. Conformance to Master Studies. Master Developer agrees to construct and dedicate to City or other governmental or quasi-governmental entity or appropriate utility company, all infrastructure to be publicly maintained that is necessary for the development of the Community as required by the Master Studies and this Agreement.

5.02 Sanitary Sewer.

(a) Design and Construction of Sanitary Sewer Facilities Shall Conform to the Master Sanitary Sewer Study. Master Developer shall design, using City's sewer planning criteria, and construct all sanitary sewer main facilities that are identified as Master Developer's responsibility in the Master Sanitary Sewer Study. Master Developer acknowledges and agrees that this obligation shall not be delegated or transferred to any other party.

(b) Off-Property Sewer Capacity. The Master Developer and the City will analyze the effect of the build out of the Community on Off-Property sewer pipelines. Master Developer and the City agree that the analysis may need to be revised as exact development patterns in the Community become known. All future offsite sewer analysis for the Community will consider a pipe to be at full capacity if it reaches a d/D ratio of 0.90 or greater. The sizing of new On-Property and Off-Property sewer pipe will be based on peak dry-weather flow d/D ratio of 0.50 for pipes between eight (8) and twelve (12) inches in diameter, and 0.60 for pipes larger than fifteen (15) inches in diameter.

(c) Updates. The Director of Public Works may require an update to the Master Sanitary Sewer Study as a condition of approval of the following land use applications: tentative map; Site

Development Plan Review; or special use permit, but only if the applications propose land use or density, ~~or entrances~~ that substantially deviate from the approved Master Study or the development differs substantially in the opinion of the City from the assumptions of the approved Master Study.

5.03. Traffic Improvements.

(a) Legal Access. As a condition of approval to the Master Traffic Study and any updates thereto, Master Developer shall establish legal access to all public and private rights-of-way within the Community.

(b) Additional Right Turn Lane on Rampart Boulevard Northbound at Summerlin Parkway. At such time as City awards a bid for the construction of a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp, Master Developer will contribute twenty eight and three-tenths percent (28.3%) of the awarded bid amount, unless this percentage is amended in a future update to the Master Traffic Study ("Right Turn Lane Contribution"). The Right Turn Land Contribution is calculated based on a numerator of the number of AM peak trips from the Property, making a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp necessary, divided by a denominator of the total number of AM peak trips that changes the traffic count from a D level of service to an E level of service necessitating a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp. If the building permits for less than eight hundred (800) residential units have been issued, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eight hundredth (800<sup>th</sup>) residential unit, on the Property at the time the City awards a bid for this second right turn lane, the Right Turn Lane Contribution may be deferred until the issuance of the building permit for the eight hundredth (800<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eight hundredth (800<sup>th</sup>) residential unit, or a date mutually agreed upon by the Parties. If the City has not awarded a bid for the construction of the second right turn lane by the issuance of the building permit for the sixteen hundred and ninety ninth (1699<sup>th</sup>) residential unit, a dollar amount based on the approved percentage in the updated Master Traffic Study shall be paid prior to the issuance of the seventeen hundredth (1,700<sup>th</sup>) residential unit, by way of a building permit issuance or group of building permit issuance that would

encapsulate the construction of the seventeen hundredth (1,700<sup>th</sup>) residential unit, based on the preliminary cost estimate. At the time the work is bid, if the bid amount is less than the preliminary cost estimate, Master Developer shall be refunded proportionately. At the time the work is bid, if the bid amount is more than the preliminary cost estimate, Master Developer shall contribute up to a maximum of ten percent (10%) more than the cost estimate already paid to the City.

(c) Dedication of Additional Lane on Rampart Boulevard.

(i) Prior to the issuance of the 1<sup>st</sup> building permit for a residential unit in Development Areas 1, 2 or 3, Master Developer shall dedicate a maximum of 16 feet of a right-of-way for an auxiliary lane with right-of-way in accordance with Standard Drawing #201.1 on Rampart Boulevard along the Property's Rampart Boulevard frontage which extends from Alta Drive south to the Property's southern boundary on Rampart Boulevard. City shall pursue funding for construction of this additional lane as part of a larger traffic capacity public improvement project, however no guarantee can be made as to when and if such a project occurs.

(ii) On the aforementioned dedicated right-of-way, from the Property's first Rampart Boulevard entry north two hundred fifty (250) feet, Master Developer will construct a right hand turn lane into the Property in conjunction with Development Area 1's site improvements.

(d) Traffic Signal Improvements.

(i) Master Developer shall comply with Ordinance 5644 (Bill 2003-94), as amended from time to time by the City. The Master Developer shall construct or re-construct any traffic signal that is identified in the Master Traffic Study as the Master Developer's responsibility and shall provide appropriate easements and/or additional rights-of-way, as necessary.

(ii) The Master Traffic Study proposes the installation of a new traffic signal located on Rampart Boulevard at the first driveway located south of Alta Drive to Development Area 1.

~~The Master Traffic Study indicates that this proposed signalized driveway on Rampart Boulevard operates at an acceptable level of service without a signal at this time. The installation of this proposed traffic signal is not approved by the City at this time. The Master Traffic Study proposes the installation of a new traffic signal located at Rampart Boulevard at the first driveway located south of Alta Drive to Development Area 1. A condition of the approved Traffic Study is that t~~The traffic signal on Rampart

Boulevard at the first driveway located south of Alta Drive to Development Area 1 shall be installed as part of the initial Developer-constructed improvements for the first phase in Development Area 1. ~~An update letter to the approved Master Traffic Study shall be submitted and approved prior to construction activities in Development Area 1 to address concerns identified by the property owner on the northwest corner of Alta Drive and Rampart Boulevard and formally reflect that the proposed signalization will mitigate those concerns.~~ The Master Developer shall, concurrently with such traffic signal, construct that portion of the additional land dedicated pursuant to Section 5.03(c)(i) to the extent determined by the updated Master Traffic Study, unless such construction has already been performed as part of a public improvement project. ~~If construction of a traffic signal is approved at Rampart Boulevard at this first driveway to Development Area 1, the Master Developer shall, concurrently with such traffic signal, construct that portion of the additional lane dedicated pursuant to Section 5.03(c)(i) to the extent determined by the updated Master Traffic Study, unless such construction has already been performed as part of a public improvement project.~~

(e) Intersection of Alta and Clubhouse Drive. Upon approval by the City of the 1500<sup>th</sup> permitted dwelling unit within the Community, Master Developer shall prepare a traffic impact analysis to reexamine the intersection of Alta and Clubhouse Drive and include recommendations for any necessary mitigation measures, which may include providing three northbound travel lanes for Clubhouse Drive approaching Alta. Boyd Gaming Corporation, as owner of the Suncoast Hotel & Casino on the north side of Alta at Clubhouse Drive, as well as the City shall be provided copies of the analysis for their review. If either Boyd Gaming or the City does not agree with the recommendations, the traffic impact analysis shall be reviewed and approved by the City Council at a public hearing. Any mitigation measures will be implemented by the Master Developer at its sole expense.

(f) Updates. The Director of Public Works may require an update to the Master Traffic Study as a condition of approval of the following land use applications: tentative map; site development plan review; or special use permit, but only if the applications propose land use, density, or entrances that substantially deviate from the approved Master Study or the development differs substantially in the opinion of the City Traffic Engineer from the assumptions of the approved Master Traffic Study. Additional public right-of-way may be required to accommodate any changes.

(gf) Development Phasing. See Development Phasing plan attached hereto as Exhibit "D".

5.04. Flood Control.

(a) Prior to the issuance of any permits in portions of the Property which do not overlie the regional drainage facilities on the Property, Master Developer shall maintain the existing \$125,000 flood maintenance bond for the existing public drainage ways on the Property at \$125,000. Prior to the issuance of any permits in portions of the Property which overlie the regional drainage facilities on the Property, Master Developer shall increase this bond amount to \$250,000.

(b) Obligation to Construct Flood Control Facilities solely on Master Developer. Master Developer shall design and construct flood control facilities that are identified as Master Developer's responsibility in the Master Drainage Study or applicable Technical Drainage Studies. Except as provided for herein, Master Developer acknowledges and agrees that this obligation shall not be delegated to or transferred to any other party.

(c) Other Governmental Approvals. The Clark County Regional Flood Control and any other state or federal agencies, as required, shall approve the Master Drainage Study prior to final approval from City.

(d) Updates. The Director of Public Works may require an update to the Master Drainage Study or Master Technical Study as a condition of approval of the following land use applications if deemed necessary: tentative map (residential or commercial); or site development plan review (multifamily or commercial); or parcel map if those applications are not in substantial conformance with the approved Master Land Use Plan or Master Drainage Study. The update must be approved prior to the approval of any construction drawings and the issuance of any final grading permits, excluding any grub and clear permits outside of FEMA designated flood areas and/or demolition permits. An update to the exhibit in the approved Master Drainage Study depicting proposed development phasing in accordance with the Development Agreement shall be submitted for approval by the Flood Control Section.

(e) Regional Flood Control Facility Construction by Master Developer. The Master Developer agrees to design and substantially complete the respective portions of the Clark County

Regional Flood Control District facilities, as defined in the Master Drainage Study pursuant to an amendment to the Regional Flood Control District 2008 Master Plan Update, prior to the issuance of any permits for units located on those land areas that currently are within the flood zone, on which permits are requested. Notwithstanding the above, building permit issuance is governed by section 3.01(f).

(f) Construction Phasing. Master Developer shall submit a phasing and sequencing plan for all drainage improvements within the Community as a part of the Master Drainage Study. The phasing plan and schedule must clearly identify drainage facilities (interim or permanent) necessary prior to permitting any downstream units for construction. Notwithstanding the above, building permit issuance is governed by section 3.01(f).

## **SECTION SIX**

### **DEFAULT**

6.01. Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a ten (10) day notice of default and opportunity to cure. The time of notice shall be measured from the date of receipt of the certified mailing. The notice of noncompliance shall specify the nature of the alleged noncompliance and the manner in which it may be satisfactorily corrected, during which ten (10) day period the party alleged to be in noncompliance shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the noncompliance cannot reasonably be cured within the ten (10) day cure period, the non-compliant Party may timely cure the noncompliance for purposes of this Section 6 if it commences the appropriate remedial action with the ten (10) day cure period and thereafter diligently prosecutes such action to completion within a period of time acceptable to the non-breaching Party. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than ninety (90) days from the date the ten (10) day notice of noncompliance and opportunity to cure was mailed to the non-compliant Party.

If the noncompliance is corrected, then no default shall exist and the noticing Party shall take no

further action. If the noncompliance is not corrected within the relevant cure period, the non-complaint Party is in default, and the Party alleging non-compliance may declare the breaching Party in default and elect any one or more of the following courses.

(a) Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged noncompliance, the Party alleging the default may give notice of intent to amend or terminate this Agreement as authorized by NRS Chapter 278. Following any such notice of intent to amend or terminate, the matter shall be scheduled and noticed as required by law for consideration and review solely by the City Council.

(b) Amendment or Termination by City. Following consideration of the evidence presented before the City Council and a finding that a substantial default has occurred by Master Developer and remains uncorrected, City may amend or terminate this Agreement pursuant to NRS 278. Termination shall not in any manner rescind, modify, or terminate any vested right in favor of Master Developer, as determined under the Applicable Rules, existing or received as of the date of the termination. Master Developer shall have twenty-five (25) days after receipt of written notice of termination to institute legal action pursuant to this Section to determine whether a default existed and whether City was entitled to terminate this Agreement.

(c) Termination by Master Developer. In the event City substantially defaults under this Agreement, Master Developer shall have the right to terminate this Agreement after the public hearing set forth in this Section. Master Developer shall have the option, in its discretion, to maintain this Agreement in effect, and seek to enforce all of City's obligations by pursuing an action pursuant to this Section 6.01(c).

6.02. Unavoidable Delay; Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, national disasters, terrorist attacks, insurrection, strikes, walkouts, riots, floods, (except to the extent caused by Master Developer's activities), earthquakes, fires, casualties, third-party lawsuits, or acts of God. If written notice of any such delay is given to one Party or the other within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by the party in receipt of the notice within thirty (30) days of such written notice, shall be granted coextensive with the

period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between City and Master Developer.

6.03. Limitation on Monetary Damages. City and the Master Developer agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, City and Master Developer (or its permitted assigns) may pursue any course of action at law or in equity available for breach of contract, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement.

6.04. Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada. The parties agree to mediate in good faith any and all disputes prior to filing of an action in the Eighth Judicial District Court unless seeking specific performance or injunctive relief.

6.05. Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

6.06. Applicable Laws; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Each party shall bear its own attorneys' fees and court costs in connection with any legal proceeding hereunder.

## **SECTION SEVEN**

### **GENERAL PROVISIONS**

7.01. Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the ~~thirtieth (30<sup>th</sup>)~~<sup>twentieth (20<sup>th</sup>)</sup> anniversary of the Effective Date, unless terminated earlier pursuant to the terms hereof. City agrees that the Master Developer shall have the

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right to request extension of the Term of this Agreement for an additional five (5) years upon the following conditions:

(a) Master Developer provides written notice of such extension to City at least one hundred-eighty (180) days prior to the expiration of the original Term of this Agreement; and

(b) Master Developer is not then in default of this Agreement;

Upon such extension, Master Developer and City shall enter into an amendment to this Agreement memorializing the extension of the Term.

7.02. Assignment. The Parties acknowledge that the intent of this Agreement is that there is a Master Developer responsible for all of the obligations in this Agreement throughout the Term of this Agreement.

(a) At any time during the Term, Master Developer and its successors-in-interest shall have the right to sell, assign or transfer all of its rights, title and interests to this Agreement (a "Transfer") to any person or entity (a "Transferee"). Except in regard to Transfers to Pre-Approved Transferees (which does not require any consent by the City as provided in Section 5.02(b) below), prior to consummating any Transfer, Master Developer shall obtain from the City written consent to the Transfer as provided for in this Agreement, which consent shall not be unreasonably withheld, delayed or conditioned. Master Developer's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City to consider and respond to Master Developer's request. Master Developer shall provide information to the City that Transferee, its employees, consultants and agents (collectively "Transferee Team") has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, and or (ii) experience and expertise in developing projects similar in scope to the Community. The Master Developer's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and the full execution of an Assignment and Assumption Agreement by City, Master Developer and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible

for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

(b) Pre-Approved Transferees. Notwithstanding anything in this Agreement to the contrary, the following Transferees constitute "Pre-Approved Transferees," for which no City consent shall be required provided that such Pre-Approved Transferees shall assume in writing all obligations of the Master Developer hereunder by way of an Assignment and Assumption Agreement. The Assignment and Assumption Agreement shall be approved by the City Manager, whose approval shall not be unreasonably withheld, delayed or conditioned. The Assignment and Assumption Agreement shall be executed by the Master Developer and Pre-Approved Transferee and acknowledged by the City Manager. The Pre-Approved Transferee shall thenceforth be deemed to be the Master Developer and be responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

1) An entity owned or controlled by Master Developer or its Affiliates;

2) Any Investment Firm that does not plan to develop the Property. If Investment Firm desires to: (i) develop the Property, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, the Investment Firm shall obtain from the City written consent to: (i) commence development, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, which consent shall not be unreasonably withheld, delayed or conditioned. Investment Firm's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City Council to consider. Investment Firm shall provide information to the City that Investment Firm or Transferee and their employees, consultants and agents (collectively "Investment Firm Team" and "Transferee Team", respectively) that intends to develop the Property has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Investment Firm's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and full execution of an

Assignment and Assumption Agreement by City, Investment Firm and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for the all of the obligations in this Agreement.

(c) In Connection with Financing Transactions. Master Developer has full and sole discretion and authority to encumber the Property or portions thereof, or any improvements thereon, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement. Should such transaction require parcel mapping, City shall process such maps.

7.03. Sale or Other Transfer Not to Relieve the Master Developer of its Obligation. Except as expressly provided herein in this Agreement, no sale or other transfer of the Property or any subdivided development parcel shall relieve Master Developer of its obligations hereunder, and such assignment or transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such purchaser shall be deemed to be the Master Developer hereunder. This Section shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.

7.04. Indemnity; Hold Harmless. Except as expressly provided in this Agreement, the Master Developer shall hold City, its officers, agents, employees, and representatives harmless from liability for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect development operations or activities of Master Developer, or those of its contractors, subcontractors, agents, employees, or other persons acting on Master Developer's behalf. Master Developer agrees to and shall defend City and its officers, agents, employees, and representatives from actions for damages caused by reason of Master Developer's activities in connection with the development of the Community other than any challenges to the validity of this Agreement or City's approval of related entitlements or City's issuance of permits on the Property. The provisions of this Section shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agent, employees, or representatives. This section shall

survive any termination of this Agreement.

7.05. Binding Effect of Agreement. Subject to this Agreement, the burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.

7.06. Relationship of Parties. It is understood that the contractual relationship between City and Master Developer is such that Master Developer is not an agent of City for any purpose and City is not an agent of Master Developer for any capacity.

7.07. Counterparts. This Agreement may be executed at different times and in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect to 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. Delivery of a counterpart by facsimile or portable document format (pdf) through electronic mail transmission shall be as binding an execution and delivery of this Agreement by such Party as if the Party had delivered an actual physical original of this Agreement with an ink signature from such Party. Any Party delivering by facsimile or electronic mail transmission shall promptly thereafter deliver an executed counterpart original hereof to the other Party.

7.08. Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing. Delivery may be accomplished in person, by certified mail (postage prepaid return receipt requested), or via electronic mail transmission. Mail notices shall be addressed as follows:

To City:	City of Las Vegas 495 South Main Street Las Vegas, Nevada 89101 Attention: City Manager Attention: Director of the Department of Planning
To Master Developer:	180 LAND CO LLC 1215 Fort Apache Road, Suite 120 Las Vegas, NV 89117
Copy to:	Chris Kaempfer Kaempfer Crowell 1980 Festival Plaza Drive, Suite 650

Las Vegas, Nevada 89135

Either Party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the date delivery of mail is first attempted.

7.09. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

7.10. Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate officers of Master Developer or approved by the City Council, as the case may be.

7.11. Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and Master Developer in a form suitable for recordation in the Official Records of Clark County, Nevada. Upon completion of the performance of this Agreement, a statement evidencing said completion, shall be signed by the appropriate officers of the City and Master Developer and shall be recorded in the Official Records of Clark County, Nevada. A revocation or termination shall be signed by the appropriate officers of the City and/or Master Developer and shall be recorded in the Official Records of Clark County, Nevada.

7.12. Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

7.13. Release. Each residential lot or condominium lot shown on a recorded subdivision map within the Community shall be automatically released from the encumbrance of this Agreement without

the necessity of executing or recording any instrument of release upon the issuance of a building permit for the construction of a residence thereon.

7.14. Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the Parties.

7.15. Exercise of Discretion. Wherever a Party to this Agreement has discretion to make a decision, it shall be required that such discretion be exercised reasonably unless otherwise explicitly provided in the particular instance that such decision may be made in the Party's "sole" or "absolute" discretion or where otherwise allowed by applicable law.

7.16. No Third Party Beneficiary. This Agreement is intended to be for the exclusive benefit of the Parties hereto and their permitted assignees. No third party beneficiary to this Agreement is contemplated and none shall be construed or inferred from the terms hereof. In particular, no person purchasing or acquiring title to land within the Community, residing in the Community, or residing, doing business or owning adjacent land outside the Community shall, as a result of such purchase, acquisition, business operation, ownership in adjacent land or residence, have any right to enforce any obligation of Master Developer or City nor any right or cause of action for any alleged breach of any obligation hereunder by either party hereto.

7.17. Gender Neutral. In this Agreement (unless the context requires otherwise), the masculine, feminine and neutral genders and the singular and the plural include one another.

## **SECTION EIGHT**

### **REVIEW OF DEVELOPMENT**

8.01. Frequency of Reviews. As provided by NRS Chapter 278, Master Developer shall appear before the City Council to review the development of the Community. The Parties agree that the

first review occur no later than twenty-four (24) months after the Effective Date of this Agreement, and again every twenty-four (24) months on the anniversary date of that first review thereafter or as otherwise requested by City upon fourteen (14) days written notice to Master Developer. For any such review, Master Developer shall provide, and City shall review, a report submitted by Master Developer documenting the extent of Master Developer's and City's material compliance with the terms of this Agreement during the preceding period.

The report shall contain information regarding the progress of development within the Community, including, without limitation:

(a) data showing the total number of residential units built and approved on the date of the report;

(b) specific densities within the Community as a whole; and

(c) the status of development within the Community and the anticipated phases of development for the next calendar year.

In the event Master Developer fails to submit such a report within thirty (30) days following written notice from City that the deadline for such a report has passed, Master Developer shall be in default of this provision and City shall prepare such a report and conduct the required review in such form and manner as City may determine in its sole discretion. City shall charge Master Developer for its reasonable expenses, fees and costs incurred in conducting such review and preparing such report. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either party may be continued to afford reasonable time for response.

**[Signatures on following pages]**

In Witness Whereof, this Agreement has been executed by the Parties on the day and year first  
above written.

CITY:

CITY COUNCIL, CITY OF LAS VEGAS

By: \_\_\_\_\_  
Mayor

Approved as to Form:  
  
\_\_\_\_\_  
City Attorney

Attest:

City Clerk

By: \_\_\_\_\_  
LuAnn Holmes, City Clerk



MASTER DEVELOPER

& OWNER

180 LAND CO LLC,  
a Nevada limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me  
on this \_\_\_\_ day of \_\_\_\_\_,  
2017.

\_\_\_\_\_  
Notary Public in and for said County and State

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**OWNER**

**Seventy Acres LLC,**

a Nevada limited liability company

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

on this            day of            ,

2017.

\_\_\_\_\_  
Notary Public in and for said County and State

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OWNER

Fore Stars, LTD.,

a Nevada limited liability company

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

on this            day of            ,

2017.

\_\_\_\_\_  
Notary Public in and for said County and State

**DEVELOPMENT AGREEMENT  
FOR  
TWO FIFTY**

**001931**

**RA 01736**

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the **CITY OF LAS VEGAS**, a municipal corporation of the State of Nevada ("City") and **180 LAND COMPANY LLC**, a Nevada limited liability company ("Master Developer"). The City and Master Developer are sometimes individually referred to as a "Party" and collectively as the "Parties".

#### **RECITALS**

A. City has authority, pursuant to NRS Chapter 278 and Title 19 of the Code, to enter into development agreements such as this Agreement, with persons having a legal or equitable interest in real property to establish long-range plans for the development of such property.

B. Seventy Acres LLC, a Nevada limited liability company ("Seventy Acres"), Fore Stars, LTD., a Nevada limited liability company ("Fore Stars") and 180 Land Co LLC, a Nevada limited liability company ("180 Land") are the owners (Seventy Acres, Fore Stars and 180 Land each individually an "Owner" and collectively the "Owners") of the Property described on **Exhibit "A"** attached hereto (collectively the "Property").

C. The Property is the land on which the golf course, known as the Badlands, is currently operated. The golf course will be closed and the land repurposed in a manner that is complementary to the adjacent uses with very large estate lots with custom homes and with luxury multifamily development.

DE. The Property is divided into four (4) development areas, totaling two hundred fifty and ninety-two hundredths (250.92) acres, as shown on **Exhibit "B"** attached hereto.

ED. A Major Modification to the 1990 Approved Peccole Ranch Master Plan has been submitted concurrent with this Agreement (and is attached hereto as Exhibit "C") to allow for the repurposed uses on the Property.

F. The Parties desire to enter into a Development Agreement for the development of the Property in phases and in conformance with the requirements of NRS Chapter 278, and as otherwise permitted by law.

GE. Seventy Acres and Fore Stars irrevocably appoint Master Developer to act for and on behalf of Seventy Acres and Fore Stars, as their agent, to do all things necessary to fulfill Seventy Acres, Fore Stars and Master Developer's obligations under this Agreement.

HF. The first phase ~~shall include the development of thea~~ multifamily ~~project development~~ shall be on seventeen and forty-nine hundredths (17.49) acres of land at the southwest corner of Alta Drive and Rampart Boulevard ("Development Area 1") as shown on **Exhibit "B"** attached hereto.

IG. The remainder of the Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

JH. The Parties acknowledge that this Agreement will (i) promote the health, safety and general welfare of City and its inhabitants, (ii) minimize uncertainty in planning for and securing orderly development of the Property and surrounding areas, (iii) ensure attainment of the maximum efficient utilization of resources within City at the least economic cost to its citizens, and (iv) otherwise achieve the goals and purposes for which the laws governing development agreements were enacted.

K. The Parties further acknowledge that this Agreement will provide the owners of adjacent properties with the assurance that the development of the Property will be compatible and complimentary to the existing adjacent developments.

LI. As a result of the development of the Property, City will receive needed jobs, sales and other tax revenues and significant increases to its real property tax base. City will additionally receive a greater degree of certainty with respect to the phasing, timing and orderly development of the Property by a developer with significant experience in the development process.

MJ. Master Developer desires to obtain reasonable assurances that it may develop the Community in accordance with the terms, conditions and intent of this Agreement. Master Developer's decision to enter into this Agreement and commence development of the Community is based on expectations of proceeding and the right to proceed with the Community in accordance with this Agreement and the Applicable Rules.

NK. Master Developer further acknowledges that this Agreement was made a part of the record at the time of its approval by the City Council and that Master Developer agrees without protest to the requirements, limitations, and conditions imposed by this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## SECTION ONE

### DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

"Affiliate" of any person means (a) any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person and (b) any other Person that beneficially owns at least fifty percent (50%) of the voting common stock or partnership interest or limited liability company interest, as applicable, of such Person. For the purposes of this definition, "control" when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, partnership interests, by contract or otherwise; and the terms "controlling" or "controlled" have meanings correlative to the foregoing.

"Agreement" means this development agreement and at any given time includes all addenda and exhibits incorporated by reference and all amendments which hereafter are duly entered into in accordance with the terms of this Agreement.

~~"Alcohol Related Uses" means any alcohol uses as defined in the UDC.~~

"Applicable Rules" means and refers to:

- (a) The provisions of the Code and all other uniformly-applied City rules, policies, regulations, ordinances, laws, general or specific, which were in effect on the Effective Date;
- (b) This Agreement;
- (c) The Design Guidelines;
- (d) Residential Development Standards; and
- (e) The term "Applicable Rules" does not include:
  - (i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;
  - (ii) Any fee or monetary payment prescribed by City ordinance which is uniformly applied to all development and construction subject to the City's jurisdiction; or
  - (iii) Any applicable state or federal law or regulation.

~~"Authorized Designee" means any person or entity authorized in writing by Master Developer to~~

[make an application to the City for an Entitlement Request on the Property.](#)

"Building Codes" means the development of the Community shall be subject to the Building Codes and Fire Codes in effect at the time of issuance of the permit for the particular development activity.

"CCRFCD" means the Clark County Regional Flood Control District.

"CCSD" means the Clark County School District.

"Certificate of Occupancy or C of O" means that certificate issued by the Building Official pursuant to the *City of Las Vegas Administrative Code*, often after issuance of a TCO, authorizing the final occupancy of buildings and structures or portions thereof after the Building Official has inspected the building or structure and has found no violations of the provisions of that code or other laws which are enforced by the enforcement agency.

"City" means the City of Las Vegas, together with its successors and assigns.

"City Council" means the Las Vegas City Council.

"City Infrastructure Improvement Standards" means in their most recent editions and with the most recent amendments adopted by the City, the Standard Drawings for Public Works Construction Off-site Improvements, Clark County, Nevada; Uniform Standard Specifications for Public Works Construction Off-site Improvements, Clark County, Nevada; Uniform Regulations for the Control of Drainage and Hydrologic Criteria and Drainage Design Manual, Clark County Regional Flood Control District; Design and Construction Standards for Wastewater Collection Systems of Southern Nevada; and any other engineering, development or design standards and specifications adopted by the City Council. The term includes standards for public improvements and standards for private improvements required under the UDC.

"City Manager" means the person holding the position of City Manager at any time or their designee.

"Code" means the Las Vegas Municipal Code, including all ordinances, rules, regulations, standards, criteria, manuals and other references adopted therein.

"Community" means the Property and any and all improvements provided for or constructed thereupon.



"Design Guidelines" means the document to be prepared by Master Developer and reviewed and approved by City ~~as a Minor Modification~~.

"Designated Builder" means any legal entity other than Owner(s) that owns any parcel of real property within the Community, whether prior to or after the Effective Date, provided that such entity is designated as such by Master Developer to City Manager in writing. For purposes of the Applicable Rules, the term "Designated Builder" is intended to differentiate between the Master Developer, Owner(s) and their Affiliates in their capacity as developer and land owner and any other entity that engages in the development of a structure or other improvements on a Development Parcel within the Community. A Designated Builder is not a Party to this Agreement and may not enforce any provisions herein, but upon execution and recordation of this Agreement, a Designated Builder may rely on and be subject to the land use entitlements provided for herein. Designated Builder will work closely with Master Developer to ensure the Community is developed in accordance with this Agreement.

"Development Parcels" means legally subdivided parcels of land within the Community that are intended to be developed or further subdivided.

"Development Area" means the four (4) separate development areas of the Property as shown on **Exhibit "B"** hereto.

"Development Phase Map, Final" means any final map recorded on the Property after the recordation of this Agreement. The Phase Development Final Maps shall be in conformance to the Development Phase exhibit.

"Director of Planning" means the Director of the City's Department of Planning or their designee.

"Director of Public Works" means the Director of the City's Department of Public Works or their designee.

"DWR" means the State of Nevada Division of Water Resources.

"Effective Date" means the date, on or after the adoption by City of an ordinance approving the execution of this Agreement, and the subsequent execution of this Agreement by the Parties, on which this Agreement is recorded in the Office of the County Recorder of Clark County. Each party agrees to cooperate as requested by the other party to cause the recordation of this Agreement without delay.

"Entitlement Request" means ~~a Site Development Plan Review, or~~ a request by Master

Developer or its ~~authorized designee~~Authorized Designee for any land use approval including, without limitation, a tentative or final subdivision map and/or a Site Development Plan Review.

~~"Final Inspection" means date of approved final inspection for a residential home to be occupied.~~

"Grading Plan, Master Rough" means a plan or plans prepared by a Nevada-licensed professional engineer, to:

- (a) Specify areas where the Master Developer intends to perform rough grading operations;
- (b) Identify existing elevations and features that are to be preserved within the Community and do so at a drawing scale not to exceed one hundred feet (100') per inch;
- (c) Identify approximate future elevations and slopes of roadways, paseos, Development Parcels, open space, and drainage areas;
- (d) Identify rough design elevations on a two hundred foot (200') grid, and at street intersections, at parcel boundaries, or more frequently;
- (e) Identify locations and heights of potential stock piles; and
- (f) Prior to issuance of any rough grading permit, the Director of Public Works may require an update to the Master Drainage Study to address the impacts of phasing or diverted flows if the Master Drainage Study does not contain sufficient detail for that permit.

The Master Rough Grading Plan shall be reviewed by the Director of Public Works for conformance to the grading and drainage aspects of the approved Master Drainage Study and the Director of Planning shall consider the plan for the aesthetic aspects of the plan.

~~"UDC~~ Grading Plan", which accompanies the Technical Drainage Study, means a detailed grading plan for a development site within the Community, created pursuant to the UDC, to further define the grading within residential or commercial subdivision sites as identified in the Master Rough Grading Plan to a level of detail sufficient to support construction drawings, in accordance with the CCRFCD Hydrologic Criteria and Drainage Design Manual.

"HOA or Similar Entity" means any unit-owners' association organized pursuant to NRS 116.3101, that is comprised of owners of residential dwelling units in the Community, or portions thereof, created and governed by a declaration (as defined by NRS 116.037), formed for the purpose of

managing, maintaining and repairing all common areas transferred to it for such purposes.

"Investment Firm" means an entity whose main business is holding securities of other companies, financial instruments or property purely for investment purposes, and includes by way of example, and not limitation, Venture Capital Firms, Hedge Funds, and Real Estate Investment Trusts.

"LVVWD" means the Las Vegas Valley Water District.

"Master Developer" means 180 Land Company LLC, a Nevada limited liability company, and its successors and assigns as permitted by the terms of this Agreement.

"Master Drainage Study" means the comprehensive hydrologic and hydraulic study to be approved by the Director of Public Works prior to the recordation of the first Development Phase Final Map, including updates required by the City when changes to the conditionally approved study are proposed that must also be approved by the Director of Public Works.

"Master Land Use Plan" means the approved site plan for the Community, which is **Exhibit "B"**.

"Master Sanitary Sewer Study" means the comprehensive study to be approved by the Director of Public Works prior to the recordation of the first Development Phase Final Map, including updates required by the City where changes to the conditionally approved densities or layout of the development are proposed that would impact on-property and/or off-property pipeline capacities and may result in additional required off-property sewer improvements.

"Master Studies" means the Master Traffic Study and the Master Drainage Study.

"Master Traffic Study" means the comprehensive study [with respect to this Property](#) to be approved by the Director of Public Works prior to the recordation of the first Development Phase Final Map.

"Master Utility Improvements" means those water, sanitary sewer, storm water drainage, power, street light and natural gas improvements within and directly adjacent to the Property necessary to serve the proposed development of the Community other than those utility improvements to be located within individual Development Parcels. All public sewer, streetlights, traffic signals, associated infrastructures and public drainage located outside of public right-of-way must be within public easements within common lots of the HOA or Similar Entity or of the Development Parcels.

"Master Utility Plan" means a conceptual depiction of all existing and proposed utility alignments,

easements or otherwise, within and directly adjacent to the Property necessary to serve the proposed development of the Community, other than those utility improvements to be located within individual Development Parcels. The Master Developer shall align all proposed utilities within proposed public rights-of-way when reasonable and will dedicate such rights-of-way to the City before granting utility easements to specific utility companies, and Master Developer shall separately require any ~~authorized designee~~Authorized Designee to disclose the existence of such facilities located on (or in the vicinity of) any affected residential lots, and easements necessary for existing and future LVVWD water transmission mains.

"Metro" means the Las Vegas Metropolitan Police Department.

"NRS" means the Nevada Revised Statutes, as amended from time to time.

"Off-Property" means outside of the physical boundaries of the Property.

"Off-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located outside the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"On-Property" means within the physical boundaries of the Property.

"On-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located within the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"Off-Site Improvements" means any and all improvements necessary for a discrete parcel of property as required by the Applicable Rules.

"Party," when used in the singular form, means either Master Developer, an Owner or City and in the plural form of "Parties" means Master Developer, Owners and City.

"Planning Commission" means the City of Las Vegas Planning Commission.

"Planning Department" means the Department of Planning of the City of Las Vegas.

"Property" means that certain 250.92 gross acres of real property which is the subject of this Agreement. The legal description of the Property is set forth at **Exhibit "A"**.

"Residential Development Standards" means the document prepared by Master Developer and reviewed and approved by City as part of the 2016 Peccole Ranch Master Plan – Major Modification of 1990 Peccole Ranch Master Plan attached hereto as **Exhibit "C"**.

"RTC" means the Regional Transportation Commission of Southern Nevada.

"SNHD" means the Southern Nevada Health District.

"Subdivision Map" means any instrument under NRS and the UDC which legally subdivides property or gives the right to legally subdivide property.

"Technical Drainage Study" means: a comprehensive hydrologic study prepared under the direction of and stamped by a Nevada-licensed professional engineer, to:

(a) Estimate the impact of storm water run-off affecting a Development Parcel from on-property and off-property sources;

(b) Estimate the impact of any storm water run-off that will affect down-stream off-property real property;

(c) Identify the impacts of any storm water run-off that will affect the Development Parcel; the on-property proposed drainage facilities and patterns and any off-property drainage facilities and patterns; and

(d) Identify the means and methods necessary to mitigate such impact, including a commitment to implement, or pay for such mitigating improvements within a specified time frame.

The Technical Drainage Study shall be approved by the Director of Public Works.

"Temporary Certificate of Occupancy or TCO" means that temporary certificate issued by the Building Official pursuant to the *City of Las Vegas Administrative Code* authorizing the temporary use and occupancy of buildings and structures or portions thereof after the Building Official has inspected the building or structure and has found no violations of the provisions of that code or other laws which are enforced by the enforcement agency. For loft units, completed bathrooms and kitchens shall not be required for issuance of TCO.

"Term" means the term of this Agreement.

"UDC" means the Unified Development Code.

"Village Street" means any of those roadways identified as Village Streets which Master

Developer is obligated to construct pursuant to the Master Traffic Study, together with associated curb, gutter, underground utility improvements including fiber optic interconnect, streetlights, traffic control signs and signals other than those for which a fee was paid pursuant to Ordinance 5644, sidewalk or trail and landscaping as indicated on the appropriate cross section in the Design Guidelines.

## **SECTION TWO**

### **APPLICABLE RULES AND CONFLICTING LAWS**

2.01 Reliance on the Applicable Rules. City and Master Developer agree that Master Developer will be permitted to carry out and complete the development of the Community in accordance with the terms of this Agreement and the Applicable Rules. The terms of this Agreement shall supersede any conflicting provision of the City Code except as provided in Section 2.02 below.

2.02. Application of Subsequently Enacted Rules by the City. The City shall not amend, alter or change any Applicable Rule as applied to the development of the Community, or apply a new fee, rule regulation, resolution, policy or ordinance to the development of the Community, except as follows:

(a) The development of the Community shall be subject to the Building Codes and Fire Codes in effect at the time of issuance of the permit for the particular development activity.

(b) The application of a new uniformly-applied rule, regulation, resolution, policy or ordinance to the development of the Community is permitted, provided that such action is necessary to protect the health, safety and welfare of City residents, and provided that City gives Master Developer written notice thirty (30) days prior to implementing a new policy.

(c) Nothing in this Agreement shall preclude the application to the Community of new or changed rules, regulations, policies, resolutions or ordinances specifically mandated and required by changes in state or federal laws or regulations. In such event, the provisions of Section 2.03 to 2.05 of this Agreement are applicable.

(d) Should the City adopt or amend rules, regulations, policies, resolutions or ordinances and apply such rules to the development of the Community, other than pursuant to one of the above Sections 2.02(a), 2.02(b) or 2.02(c), the Master Developer shall have the option, in its sole discretion, of accepting such new or amended rules by giving written notice of such acceptance. City and the Master Developer shall subsequently execute an amendment to this Agreement evidencing the

Master Developer's acceptance of the new or amended ordinance, rule, regulation or policy within a reasonable time.

2.03 Conflicting Federal or State Rules. In the event that any federal or state laws or regulations prevent or preclude compliance by City or Master Developer with one or more provisions of this Agreement or require changes to any approval given by City, this Agreement shall remain in full force and effect as to those provisions not affected, and:

(a) Notice of Conflict. Either Party, upon learning of any such matter, will provide the other Party with written notice thereof and provide a copy of any such law, rule, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The Parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law, rule, regulation or policy.

2.04 City Council Hearings. In the event either Party believes that an amendment to this Agreement is necessary due to the effect of any federal or state law, rule, regulation or policy, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. Master Developer shall have the right to offer oral and written testimony at the hearing. Any amendment ordered by the City Council pursuant to a hearing contemplated by this Section is subject to judicial review. The Parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

2.05 City Cooperation. City shall cooperate with Master Developer in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated under Section 2.04. As required by the Applicable Rules, Master Developer shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations. Permits issued to Master Developer shall not expire until the work covered under the permit is complete.

### **SECTION THREE**

#### **PLANNING AND DEVELOPMENT OF THE COMMUNITY**

3.01 Permitted Uses, Density, Height and Size of Structures. Pursuant to NRS Chapter 278, this Agreement ~~shall sets~~ forth the maximum height and size of structures to be constructed in the Community, the density of uses and the permitted uses of the land for each parcel within the Community.

(a) Maximum Units Permitted. The number of residential dwelling units allowed within the Community, as shown on **Exhibit B**, is three thousand eighty (3,080) units with seven hundred twenty (720) units in Development Area 1, twelve hundred fifty (1,250) units in Development Area 2, one thousand fifty (1,050) units in Development Area 3 and sixty (60) units in Development Area 4.

(b) Permitted Uses and Unit Types. The uses allowed within the Community are listed in the Residential Development Standards included as Exhibit "U" to the attached ~~as Exhibit "C".~~  
The types of buildings and dwelling units shall be permitted in accordance with the Applicable Rules.

(c) Density. Master Developer shall have the right to determine the number of residential dwelling units to be developed on any Development Parcel. Notwithstanding the foregoing, the maximum density permitted in Development Area 1 shall be seven hundred twenty (720) residential units; Development Area 2 shall be twelve hundred fifty (1,250) residential units; Development Area 3 shall be one thousand fifty (1,050) residential units; and Development Area 4 shall be sixty (60) residential units.

(d) Maximum Height and Size of Structures. The maximum height and size of structures shall be governed by the Code except as otherwise provided for ~~herein and in the Residential Development Standards included as Exhibit "U" to the attached~~ **Exhibit "C"** ~~attached hereto.~~

(e) Phasing.  
(i) Development Area 1 will be the first multifamily development in the  
Community.

(ii) The remainder of the Property shall be developed as the market  
demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

(iii) Master Developer and City agree that prior to the issuance of the  
approval for construction of the eighteen hundred and ninety-sixth (1,896<sup>th</sup>) residential ~~permit unit, by way~~  
of a building permit issuance, Master Developer shall have substantially completed the drainage  
infrastructure required in Development Area 4. For purposes of this subsection, substantially completed



shall mean the installation of the box culverts required pursuant to the City-approved Master Drainage Study.

(iv) Clubhouse Drive extension as shown in Exhibit "C's" Exhibits L-1 and L-2 shall be completed prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896<sup>th</sup>) residential unit, by way of a building permit issuance.

(f) Construction ~~Timing~~ Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 twenty-four (24) hours per day, subject to Las Vegas Municipal Code Section 9.16, to allow for expedited construction.

(g) Grading and Earth Movement.

(i) Master Developer understands that it must obtain Federal Emergency Management Agency's ("FEMA") CLOMAR approval prior to any mass grading on the FEMA designated areas of the Property.

(ii) Master Developer's intention is that the Property's mass grading and cut and fill earth work will balance, thereby mitigating the need for the import and export of fill material.

(iii) In order to minimize earth movement to and ~~the~~from the Property, Master Developer shall be authorized to do all things necessary to process the cut materials on site to create the needed fill materials therefore eliminating or significantly reducing the need to take cut and fill materials to and from the Property. Other than the necessary Clark County Department of Air Quality Management approvals needed, Master Developer shall not be required to obtain further approval for rock crushing, earth processing and stockpiling on the Property. The rock crushing shall be located no less than five hundred (500) feet from existing residential homes.

### 3.02. Entitlement Requests.

(a) Generally. City agrees to reasonably cooperate with Master Developer to:

(i) Expediently process all Entitlement Requests in connection with the Property that are in compliance with the Applicable Rules and Master Studies; and

(ii) Promptly consider the approval of Entitlement Requests, subject to reasonable conditions not otherwise in conflict with the Applicable Rules or the Master Studies.

(b) ~~Required~~ Zoning Entitlement for Property. The Parties acknowledge and agree

that the ~~proper means to legally entitle the~~ Property ~~for eventual~~ will be rezoned for development ~~is by rezoning the Property in accordance with the Peccole Ranch Master Plan, as amended,~~ to allow for the development of the densities provided for herein.

(c) Other Entitlement Requests. Except as provided herein, all other Entitlement Request applications shall be processed by City according to the Applicable Rules. The Parties acknowledge that the procedures for processing such Entitlement Request applications are governed by the Code. In addition, any additional application requirements delineated herein shall be supplemental and in addition to such Code requirements.

(i) Site Development Plan Review. Master Developer shall satisfy all Code requirements for the filing of an application for a Site Development Plan Review, except no Site Development Plan Review will be required for any of the up to sixty (60) residential units in Development Area 4. The open space requirements for each development within the Community shall be addressed with each Site Development Plan Review. With respect to any proposed and approved tower residential, only after issuance of a TCO on the building will the unit C of Os be requested on an individual unit by unit basis. The Parties further agree that:

(1) City staff shall consider and make a decision with respect to any application for a Site Development Plan Review within thirty (30) days of receipt of the application.

(2) Any appeal of an adverse decision on a Site Development Plan Review shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application for appeal.

(ii) Special Use Permits. Except as provided for herein, Master Developer shall satisfy all Code requirements for the filing of an application for a special use permit. The Parties further agree that:

(1) Except as otherwise provided in this Agreement and the Design Guidelines, special use permit applications shall be processed in accordance with the UDC.

(2) City shall not accept any special use permit application without written verification that the Master Developer either approves of the application or has no objection thereto.

~~(3) — Earth processing and related activity will be necessary within the Community to minimize earth movement and shall not require a Special Use Permit. Such operations shall be located no less than five hundred (500) feet from existing residential property.~~

3.03. Dedicated Staff and the Processing of Applications.

(a) Processing Fees, Generally. All Entitlement Requests, Minor or Major Modification Requests and all other requests related to the development of the Community shall pay the fees as provided by the UDC.

(b) Inspection Fees. Construction documents and plans that are prepared on behalf of Master Developer for water facilities such as water pumping stations, water reservoirs, water transmission mains, and water distribution mains, that are reviewed by City for approval, shall not require payment of inspection fees to City unless the water service provider will not provide those inspection services.

(c) Dedicated Staff. Upon written request from Master Developer to City, City shall provide within thirty (30) days from written notice, if staff is available, and Master Developer shall pay for a full-time inspector dedicated only to the development of the Community. If City staff is not available, City agrees to outsource to a third-party inspection company and Master Developer agrees to pay for such outsourcing.

3.04 Modification of Residential Development Standards and Design Guidelines. Parties agree that the only proper entity to request a modification or deviation to the Residential Development Standards and Design Guidelines is the Master Developer entity. A modification or deviation to the Residential Development Standards and Design Guidelines shall not be permitted by: any other purchaser of real property within the Community, the HOA or Similar Entity.

(a) Applicant. Requests for all modifications of the Residential Development Standards and Design Guidelines may be made only by Master Developer.

(b) Minor Modifications. Except as otherwise provided for herein, Minor Modifications are changes to the Design Guidelines that include:

- (i) changes in architectural styles, color palettes and detail elements.
- (ii) the addition of similar and complementary architectural styles, color

palettes and detail elements to residential and commercial uses.

(iii) changes in building materials.

(iv) changes in landscaping materials, plant palettes, and landscaping detail elements.

(c) Submittal, Review, Decision, and Appeal.

(i) An application for Minor Modification of the Design Guidelines may be made to the Director of Planning for his consideration. The Director of the Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Director of the Department of Planning may, in his discretion, approve a Minor Modification or impose any reasonable condition upon such approval. The Director of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (iii) below. Applications for which no written decision is issued within thirty (30) business days shall be deemed approved. If the Director of the Department of Planning rejects a request for a Minor Modification, the request shall automatically be deemed a Major Modification, and at the option of the Master Developer, the decision of the Director of the Department of Planning may be appealed to the Planning Commission.

(iii) Master Developer may appeal any decision of the Director of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(iv) Master Developer may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

(d) Major Modifications.

(i) Any application for a modification to the [Residential Development Standards and](#) Design Guidelines that does not qualify as a Minor Modification is a Major Modification. All applications for Major Modifications shall be scheduled for a hearing at the next available Planning

Commission meeting after the City's receipt of the application or its receipt of the appeal provided for in Section (c) above, whichever is applicable.

(ii) Without limiting the foregoing, a Major Modification that increases density in the Community may only be done so by formally amending this Agreement pursuant to Section 4 below, to reflect such increase in density. The Master Developer shall meet and confer with the Director of Public Works or his designee as to whether an update to the Master Studies is required. If the Director of Public Works or his designee requires an update to one or more of the Master Studies, such update shall be prepared by Master Developer and submitted to the Department of Public Works no later than fifteen (15) business days prior to the date upon which the Planning Commission is to consider any such amendment.

(iii) All actions by the Planning Commission on Major Modifications shall be scheduled for a hearing at the next available City Council meeting.

3.05 Deviation to Residential Development Standards and Design Guidelines. A deviation is an adjustment to a particular requirement of the Residential Development Standards and Design Guidelines for a particular Development Parcel or lot.

(a) Minor Deviation. A Minor Deviation must not have a material and adverse impact on the overall development of the Community and may not exceed ten percent (10%) of a particular requirement delineated by the Design Guidelines. An application for a Minor Deviation may only be made under the following circumstances:

i4) A request for deviation from any particular requirement delineated by the Design Guidelines on ten percent (10%) or less of the lots in a Development Parcel; or

ii2) A request for deviation from the following particular requirements on greater than 10% of the lots in a Development Parcel or the entire Community:

a) Changes in architectural styles, color palettes and detail elements.

b) The addition of similar and complementary architectural styles, color palates and detail elements to residential and commercial uses.

c) Changes in building materials.

d) Changes in landscaping materials, plant palettes, and landscaping detail elements.

e) Setback encroachments for courtyards, porches, miradors, casitas, architectural projections as defined by the Design Guidelines, garages and carriage units.

f) Height of courtyard walls.

~~(i)~~ (b) Administrative Review Permitted. An application for a Minor Deviation may be filed by the Master Developer or an ~~authorized designee~~Authorized Designee as provided herein. Any application by a an ~~authorized designee~~Authorized Designee of Master Developer must include a written statement from the Master Developer that it either approves or has no objection to the request.

~~(c)~~ (ii) Submittal, Review and Appeal

~~(i4)~~ An application for a Minor Deviation from the Design Guidelines may be made to the Director of the Department of Planning for their consideration. The Director of the Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

~~(ii2)~~ The Director of the Department of Planning may, in their discretion, approve or deny a Minor Deviation or impose any reasonable condition upon such approval. The Director of the Department of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (3) below. Applications for which no written decision is issued within thirty (30) days shall be deemed approved.

~~(iii3)~~ Master Developer or an ~~authorized designee~~Authorized Designee may appeal any decision of the Director of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

~~(iv4)~~ Master Developer or an ~~authorized designee~~Authorized Designee may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a

hearing at the next available City Council meeting.

(d) Major Deviation. Any application for a modification to the Residential Development Standards and Design Guidelines that does not qualify as a Minor Modification is a Major Modification. A Major Deviation must not have a material and adverse impact on the overall development of the Community and may exceed ten percent (10%) of any particular requirement delineated by the Design Guidelines.

(i) City Council Approval Required. An application for a Major Deviation may be filed by the Master Developer or an ~~authorized designee~~Authorized Designee as provided herein. Any application by an ~~authorized designee~~Authorized Designee must include a written statement from the Master Developer that it either approves or has no objection to the request. Major Deviations shall be submitted to the Planning Commission for recommendation to the City Council, wherein the City Council shall have final action on all Major Deviations.

(ii) Submittal, Review and Approval.

(1) All applications for Major Deviations shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application.

(2) All actions by the Planning Commission on Major Deviations shall be scheduled for a hearing by the City Council within thirty (30) days of such action.

~~(e)~~ e) If Master Developer or an ~~authorized designee~~Authorized Designee requests a deviation from adopted City Infrastructure Improvement Standards, an application for said deviation shall be submitted to the Land Development Section of the Department of Building and Safety and related fees paid for consideration by the City Engineer pursuant to the Applicable Rules.

~~(f)~~ Any request for deviation other than those specifically provided shall be processed pursuant to Section 3.04 (Modifications of Residential Development Standards and Design Guidelines).

3.06 Anti-Moratorium. The Parties agree that no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the construction, rate, timing or sequencing of the development of property including those that affect parcel or subdivision maps, building permits, occupancy permits or other entitlements to use land that are issued or granted by City shall apply to the

development of the Community or portion thereof. Notwithstanding the foregoing, City may adopt ordinances, resolutions or rules or regulations that are necessary to:

(a) comply with any state or federal laws or regulations as provided by Section 2.04, above;

(b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Property, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or

(c) maintain City's compliance with non-City and state sewerage, water system and utility regulations. However, the City as the provider of wastewater collection and treatment for this development shall make all reasonable best efforts to insure that the wastewater facilities are adequately sized and of the proper technology so as to avoid any sewage caused moratorium.

In the event of any such moratorium, future ordinance, resolution, rule or regulation, unless taken pursuant to the three exceptions contained above, Master Developer shall continue to be entitled to apply for and receive consideration of Entitlement Requests and other applications contemplated in Section 3 in accordance with the Applicable Rules.

3.07. Property Dedications to City. Except as provided in herein, any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances (except for any encumbrances that existed on the patent at the time it was delivered to Master Developer from the United States of America).

3.08 Annexation of Additional Property. City acknowledges that the Master Developer may during the term of this Agreement, annex additional property ("Additional Parcels") into the Community. ~~An amendment to this Agreement shall not be required~~ provided that:

(a) Each Additional Parcel is contiguous to some portion of the Property of the Community or immediately across the street;

(b) Development of each Additional Parcel must conform to this Agreement; and

(c) Master Developer obtains the necessary zoning and land use approvals and approval of all necessary technical studies for each Additional Parcel.



Additional Parcels shall be annexed by recording, and shall be considered annexed upon recordation of, a notice of annexation, in a form to be reasonably agreed upon, which notice shall require the written consent, on the notice, of the City Manager, which consent shall not be unreasonably withheld.

## **SECTION FOUR**

### **DEFAULT**

4.01 Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a ten (10) day notice of default and opportunity to cure. The time of notice shall be measured from the date of receipt of the certified mailing. The notice of noncompliance shall specify the nature of the alleged noncompliance and the manner in which it may be satisfactorily corrected, during which ten (10) day period the party alleged to be in noncompliance shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the noncompliance cannot reasonably be cured within the ten (10) day cure period, the non-compliant Party may timely cure the noncompliance for purposes of this Section 4 if it commences the appropriate remedial action with the ten (10) day cure period and thereafter diligently prosecutes such action to completion within a period of time acceptable to the non-breaching Party. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than ninety (90) days from the date the ten (10) day notice of noncompliance and opportunity to cure was mailed to the non-compliant Party.

If the noncompliance is corrected, then no default shall exist and the noticing Party shall take no further action. If the noncompliance is not corrected within the relevant cure period, the non-complaint Party is in default, and the Party alleging non-compliance may declare the breaching Party in default and elect any one or more of the following courses.

(a) Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged noncompliance, the Party alleging the default may give notice of intent to amend or terminate this Agreement as authorized by NRS Chapter 278. Following any such notice of intent to amend or terminate, the matter shall be scheduled and noticed as required by law for consideration and review solely by the City Council.

(b) Amendment or Termination by City. Following consideration of the evidence presented before the City Council and a finding that a substantial default has occurred by Master Developer and remains uncorrected, City may amend or terminate this Agreement. Termination shall not in any manner rescind, modify, or terminate any vested right in favor of Master Developer, as determined under the Applicable Rules, existing or received as of the date of the termination. Master Developer shall have twenty-five (25) days after receipt of written notice of termination to institute legal action pursuant to this Section to determine whether a default existed and whether City was entitled to terminate this Agreement. Should City terminate this Agreement, City agrees that, at the request of the Master Developer, the zoning on the Property shall revert back to the zoning on the Effective Date of this Agreement.

(c) Termination by Master Developer. In the event City substantially defaults under this Agreement, Master Developer shall have the right to terminate this Agreement after the hearing set forth in this Section. Master Developer shall have the option, in its discretion, to maintain this Agreement in effect, and seek to enforce all of City's obligations by pursuing an action pursuant to this Section 4.

4.02. Unavoidable Delay; Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, national disasters, terrorist attacks, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, third-party lawsuits, or acts of God. If written notice of any such delay is given to one Party or the other within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by the party in receipt of the notice within thirty (30) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between City and Master Developer.

4.03. Limitation on Monetary Damages. City and the Master Developer agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, City and Master Developer (or its permitted assigns) may pursue any course of action at law or in equity available for breach of contract, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement or any

other allegation or cause of action based upon or with respect to this Agreement.

4.04. Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada. The parties agree to mediate any and all disputes prior to filing of an action in the Eighth Judicial District Court unless seeking injunctive relief.

4.05. Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

4.06. Applicable Laws; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Each party shall bear its own attorneys' fees and court costs in connection with any legal proceeding hereunder.

## **SECTION FIVE**

### **GENERAL PROVISIONS**

5.01. Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the thirtieth (30) anniversary of the Effective Date, unless terminated earlier pursuant to the terms hereof. City agrees that the Master Developer shall have the right to request extension of the Term of this Agreement for an additional five (5) years upon the following conditions:

- (a) Master Developer provides written notice of such extension to City at least one hundred-eighty (180) days prior to the expiration of the original Term of this Agreement;
- (b) Master Developer is not in default of this Agreement; and
- (c) Master Developer and City enter into an amendment to this Agreement memorializing the extension of the Term.

5.02. Assignment.

The Parties acknowledge that the intent of this Agreement is that there is a Master Developer responsible for all of the obligations in this Agreement throughout the Term of this Agreement.

(a) At any time during the Term, Master Developer and its successors-in-interest shall have the right to sell, assign or transfer all of its rights, title and interests to this Agreement (a "Transfer") to any person or entity (a "Transferee"). Except in regard to Transfers to Pre-Approved Transferees (which does not require any consent by the City as provided in Section 5.02(b) below), prior to consummating any Transfer, Master Developer shall obtain from the City written consent to the Transfer as provided for in this Agreement, which consent shall not be unreasonably withheld, delayed or conditioned. Master Developer's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City to consider and respond to Master Developer's request. Master Developer shall provide information to the City that Transferee, its employees, consultants and agents (collectively "Transferee Team") has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Master Developer's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and the full execution of an Assignment and Assumption Agreement by City, Master Developer and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

(b) Pre-Approved Transferees. Notwithstanding anything in this Agreement to the contrary, the following Transferees constitute "Pre-Approved Transferees," for which no City consent shall be required provided that such Pre-Approved Transferees shall assume in writing all obligations of the Master Developer hereunder by way of an Assignment and Assumption Agreement. The Assignment and Assumption Agreement shall be approved by the City Manager, whose approval shall not be unreasonably withheld, delayed or conditioned. The Assignment and Assumption Agreement shall be executed by the Master Developer and Pre-Approved Transferee and acknowledged by the City Manager. The Pre-Approved Transferee shall thenceforth be deemed to be the Master Developer and be responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

1) An entity owned or controlled by Master Developer or its Affiliates;

2) Any Investment Firm that does not plan to develop the Property. If Investment Firm desires to: (i) develop the Property, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, the Investment Firm shall obtain from the City written consent to: (i) commence development, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, which consent shall not be unreasonably withheld, delayed or conditioned. Investment Firm's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City Council to consider. Investment Firm shall provide information to the City that Investment Firm or Transferee and their employees, consultants and agents (collectively "Investment Firm Team" and "Transferee Team", respectively) that intends to develop the Property has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Investment Firm's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and full execution of an Assignment and Assumption Agreement by City, Investment Firm and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for the all of the obligations in this Agreement.

(c) In Connection with Financing Transactions. Master Developer has full and sole discretion and authority to encumber the Property or portions thereof, or any improvements thereon, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement.

5.03. Sale or Other Transfer Not to Relieve the Master Developer of its Obligation. Except as expressly provided herein in this Agreement, no sale or other transfer of the Property or any subdivided development parcel shall relieve Master Developer of its obligations hereunder, and such assignment or

transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such purchaser shall be deemed to be the Master Developer hereunder. This Section shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.

5.04 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, the Master Developer shall hold City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of Master Developer or those of its contractors, subcontractors, agents, employees, or other persons acting on Master Developer's behalf which relate to the development of the Community. Master Developer agrees to and shall defend City and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of Master Developer's activities in connection with the development of the Community other than any challenges to the validity of this Agreement or City's approval of related entitlements. Master Developer and City agree to equally pay all costs and attorneys fees for a defense in any legal action filed in a court of competent jurisdiction by a third party alleging any such claims or challenging the validity of this Agreement. The provisions of this Section shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agent, employees, or representatives. This section shall survive any termination of this Agreement.

5.05. Binding Effect of Agreement. Subject to this Agreement, the burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.

5.06 Relationship of Parties. It is understood that the contractual relationship between City and Master Developer is such that Master Developer is not an agent of City for any purpose and City is not an agent of Master Developer for any capacity.

5.07 Counterparts. This Agreement may be executed at different times and in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect to 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. Delivery of a counterpart by facsimile or portable document format (pdf) through electronic mail transmission shall be as binding an execution and delivery of this Agreement by such Party as if the Party had delivered an actual physical original of this Agreement with an ink signature from such Party. Any Party delivering by facsimile or electronic mail transmission shall promptly thereafter deliver an executed counterpart original hereof to the other Party.

5.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing. Delivery may be accomplished in person, by certified mail (postage prepaid return receipt requested), or via electronic mail transmission. Mail notices shall be addressed as follows:

To City:	City of Las Vegas 495 South Main Street Las Vegas, Nevada 89101 Attention: City Manager Attention: Director of the Department of Planning
To Master Developer:	180 LAND COMPANY LLC 1215 Fort Apache Road, Suite 120 Las Vegas, NV 89117
Copy to:	Chris Kaempfer Kaempfer Crowell 1980 Festival Plaza Drive, Suite 650 Las Vegas, Nevada 89135

Either Party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the date delivery of mail is first attempted.

5.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

5.10 Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by

the appropriate officers of Master Developer or approved by the City Council, as the case may be.

5.11 Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and Master Developer in a form suitable for recordation in the Official Records of Clark County, Nevada. No amendment of this Agreement shall in and of itself amend the Peccole Ranch Master Plan attached hereto as Exhibit "C" unless that is the expressed intention of the Parties to do so as it relates to the Property. Upon completion of the performance of this Agreement, a statement evidencing said completion, shall be signed by the appropriate officers of the City and Master Developer and shall be recorded in the Official Records of Clark County, Nevada. A revocation or termination shall be signed by the appropriate officers of the City or Master Developer and shall be recorded in the Official Records of Clark County, Nevada.

5.12 Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

5.13 Release. Each residential lot shown on a recorded Subdivision Map within the Community shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of a building permit for the construction of a residence thereon.

5.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the Parties.



5.15 Exercise of Discretion. Wherever a Party to this Agreement has discretion to make a decision, it shall be required that such discretion be exercised reasonably unless otherwise explicitly provided in the particular instance that such decision may be made in the Party's "sole" or "absolute" discretion or where otherwise allowed by applicable law.

5.16 No Third Party Beneficiary. This Agreement is intended to be for the exclusive benefit of the Parties hereto and their permitted assignees. No third party beneficiary to this Agreement is contemplated and none shall be construed or inferred from the terms hereof. In particular, no person purchasing or acquiring title to land within the Community, residing in the Community, or residing outside the Community shall, as a result of such purchase, acquisition or residence, have any right to enforce any obligation of Master Developer or City nor any right or cause of action for any alleged breach of any obligation hereunder by either party hereto.

5.17 Gender Neutral. In this Agreement (unless the context requires otherwise), the masculine, feminine and neutral genders and the singular and the plural include one another.

**[Signatures on following pages]**

**In Witness Whereof, this Agreement has been executed by the Parties on the day and year first  
above written.**

**CITY:**

**CITY COUNCIL, CITY OF LAS VEGAS**

By:

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

Attest:

City Clerk

By:

\_\_\_\_\_  
LuAnn Holmes, City Clerk

**MASTER DEVELOPER**

**180 LAND COMPANY LLC,**

a Nevada limited liability company

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

on this \_\_\_\_ day of \_\_\_\_\_,

2015.

\_\_\_\_\_  
Notary Public in and for said County and State

## EXHIBITS

- A. Property Legal Description
- B. Master Land Use Plan
- C. Major Modification to the 19902016 Peccole Ranch Master Plan (Major Modification to the 1990 Peccole Ranch Master Plan)

DEVELOPMENT AGREEMENT

FOR

THE TWO FIFTY

001964

RA 01769

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the **CITY OF LAS VEGAS**, a municipal corporation of the State of Nevada ("City") and **180 LAND COMPANY LLC**, a Nevada limited liability company ("Master Developer"). The City and Master Developer are sometimes individually referred to as a "Party" and collectively as the "Parties".

#### **RECITALS**

A. City has authority, pursuant to NRS Chapter 278 and Title 19 of the Code, to enter into development agreements such as this Agreement, with persons having a legal or equitable interest in real property to establish long-range plans for the development of such property.

B. Seventy Acres LLC, a Nevada limited liability company ("Seventy Acres"), Fore Stars, LTD., a Nevada limited liability company ("Fore Stars") and 180 Land Co LLC, a Nevada limited liability company ("180 Land") are the owners (Seventy Acres, Fore Stars and 180 Land each individually an "Owner" and collectively the "Owners") of the Property described on **Exhibit "A"** attached hereto (collectively the "Property").

C. The Property is the land on which the golf course, known as the Badlands, is currently operated. The golf course will be closed and the land repurposed in a manner that is complementary to the adjacent uses with very large estate lots with custom homes and with luxury multifamily development.

D. The Property is divided into four (4) development areas, totaling two hundred fifty and ninety-two hundredths (250.92) acres (hereinafter referred to as "The Two Fifty"), as shown on **Exhibit "B"** attached hereto.

E. A Major Modification to the 1990 Approved Peccole Ranch Master Plan has been submitted concurrent with this Agreement (and is attached hereto as **Exhibit "C"**) to allow for the repurposed uses on the Property.

F. The Parties desire to enter into a Development Agreement for the development of the Property in phases and in conformance with the requirements of NRS Chapter 278, and as otherwise permitted by law.

G. Seventy Acres and Fore Stars irrevocably appoint Master Developer to act for and on behalf of Seventy Acres and Fore Stars, as their agent, to do all things necessary to fulfill Seventy Acres,

Fore Stars and Master Developer's obligations under this Agreement.

H. The first phase of the multifamily development shall be on seventeen and forty-nine hundredths (17.49) acres of land at the southwest corner of Alta Drive and Rampart Boulevard ("Development Area 1") as shown on **Exhibit "B"** attached hereto.

I. The remainder of the Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

J. The Parties acknowledge that this Agreement will (i) promote the health, safety and general welfare of City and its inhabitants, (ii) minimize uncertainty in planning for and securing orderly development of the Property and surrounding areas, (iii) ensure attainment of the maximum efficient utilization of resources within City at the least economic cost to its citizens, and (iv) otherwise achieve the goals and purposes for which the laws governing development agreements were enacted.

K. The Parties further acknowledge that this Agreement will provide the owners of adjacent properties with the assurance that the development of the Property will be compatible and complimentary to the existing adjacent developments in accordance with the Two Fifty Design Guidelines ("Design Guidelines") attached hereto as Exhibit "D".

L. As a result of the development of the Property, City will receive needed jobs, sales and other tax revenues and significant increases to its real property tax base. City will additionally receive a greater degree of certainty with respect to the phasing, timing and orderly development of the Property by a developer with significant experience in the development process.

M. Master Developer desires to obtain reasonable assurances that it may develop the Community in accordance with the terms, conditions and intent of this Agreement. Master Developer's decision to enter into this Agreement and commence development of the Community is based on expectations of proceeding and the right to proceed with the Community in accordance with this Agreement and the Applicable Rules.

N. Master Developer further acknowledges that this Agreement was made a part of the record at the time of its approval by the City Council and that Master Developer agrees without protest to the requirements, limitations, and conditions imposed by this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants

contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## SECTION ONE

### DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

"Affiliate" of any person means (a) any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person and (b) any other Person that beneficially owns at least fifty percent (50%) of the voting common stock or partnership interest or limited liability company interest, as applicable, of such Person. For the purposes of this definition, "control" when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, partnership interests, by contract or otherwise; and the terms "controlling" or "controlled" have meanings correlative to the foregoing.

"Agreement" means this development agreement and at any given time includes all addenda and exhibits incorporated by reference and all amendments which hereafter are duly entered into in accordance with the terms of this Agreement.

"Applicable Rules" means and refers to:

(a) The provisions of the Code and all other uniformly-applied City rules, policies, regulations, ordinances, laws, general or specific, which were in effect on the Effective Date;

(b) This Agreement;

(c) The Design Guidelines; and

~~\_(d) — Residential Development Standards; and~~

(de) The term "Applicable Rules" does not include:

(i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;

(ii) Any fee or monetary payment prescribed by City ordinance which is uniformly applied to all development and construction subject to the City's jurisdiction; or

(iii) Any applicable state or federal law or regulation.



"Authorized Designee" means any person or entity authorized in writing by Master Developer to make an application to the City for an Entitlement Request on the Property.

"Building Codes" means the development of the Community shall be subject to the Building Codes and Fire Codes in effect at the time of issuance of the permit for the particular development activity.

"CCRFCD" means the Clark County Regional Flood Control District.

"CCSD" means the Clark County School District.

"Certificate of Occupancy or C of O" means that certificate issued by the Building Official pursuant to the *City of Las Vegas Administrative Code*, often after issuance of a TCO, authorizing the final occupancy of buildings and structures or portions thereof after the Building Official has inspected the building or structure and has found no violations of the provisions of that code or other laws which are enforced by the enforcement agency.

"City" means the City of Las Vegas, together with its successors and assigns.

"City Council" means the Las Vegas City Council.

"City Infrastructure Improvement Standards" means in their most recent editions and with the most recent amendments adopted by the City, the Standard Drawings for Public Works Construction Off-site Improvements, Clark County, Nevada; Uniform Standard Specifications for Public Works Construction Off-site Improvements, Clark County, Nevada; Uniform Regulations for the Control of Drainage and Hydrologic Criteria and Drainage Design Manual, Clark County Regional Flood Control District; Design and Construction Standards for Wastewater Collection Systems of Southern Nevada; and any other engineering, development or design standards and specifications adopted by the City Council. The term includes standards for public improvements and standards for private improvements required under the UDC.

"City Manager" means the person holding the position of City Manager at any time or their designee.

["City Referral Group" means a group comprised of representatives of the Department of Planning & Development, the Department of Public Works, the Department of Building and Safety, the Department of Fire Services, the Department of Parks and Leisure Activities and any other city department or agency.](#)

as determined by the City Manager. The City Referral Group reviews and makes decisions on Site Development Plan Reviews within the Community.

"Code" means the Las Vegas Municipal Code, including all ordinances, rules, regulations, standards, criteria, manuals and other references adopted therein.

"Community" means the Property and any and all improvements provided for or constructed thereupon.

"Design Guidelines" means the document ~~to be~~ prepared by Master Developer, attached hereto as Exhibit "D", and reviewed and approved by City.

"Designated Builder" means any legal entity other than Owner(s) that owns any parcel of real property within the Community, whether prior to or after the Effective Date, provided that such entity is designated as such by Master Developer to City Manager in writing. For purposes of the Applicable Rules, the term "Designated Builder" is intended to differentiate between the Master Developer, Owner(s) and their Affiliates in their capacity as developer and land owner and any other entity that engages in the development of a structure or other improvements on a Development Parcel within the Community. A Designated Builder is not a Party to this Agreement and may not enforce any provisions herein, but upon execution and recordation of this Agreement, a Designated Builder may rely on and be subject to the land use entitlements provided for herein. Designated Builder will work closely with Master Developer to ensure the Community is developed in accordance with this Agreement.

"Development Parcels" means legally subdivided parcels of land within the Community that are intended to be developed or further subdivided.

"Development Area" means the four (4) separate development areas of the Property as shown on the Master Land Use Plan attached hereto as Exhibit "B" ~~hereto~~.

"Development Phase Map, Final" means any final map recorded on the Property after the recordation of this Agreement. The Phase Development Final Maps shall be in conformance to the Development Phase exhibit.

"Director of Planning" means the Director of the City's Department of Planning or their designee.

"Director of Public Works" means the Director of the City's Department of Public Works or their designee.

"DWR" means the State of Nevada Division of Water Resources.

"Effective Date" means the date, on or after the adoption by City of an ordinance approving the execution of this Agreement, and the subsequent execution of this Agreement by the Parties, on which this Agreement is recorded in the Office of the County Recorder of Clark County. Each party agrees to cooperate as requested by the other party to cause the recordation of this Agreement without delay.

"Entitlement Request" means a request by Master Developer or its Authorized Designee for any land use approval including, without limitation, a tentative or final subdivision map and/or a Site Development Plan Review.

"Grading Plan, Master Rough" means a plan or plans prepared by a Nevada-licensed professional engineer, to:

- (a) Specify areas where the Master Developer intends to perform rough grading operations;
- (b) Identify existing elevations and features that are to be preserved within the Community and do so at a drawing scale not to exceed one hundred feet (100') per inch;
- (c) Identify approximate future elevations and slopes of roadways, paseos, Development Parcels, open space, and drainage areas;
- (d) Identify rough design elevations on a two hundred foot (200') grid, and at street intersections, at parcel boundaries, or more frequently;
- (e) Identify locations and heights of potential stock piles; and
- (f) Prior to issuance of any rough grading permit, the Director of Public Works may require an update to the Master Drainage Study to address the impacts of phasing or diverted flows if the Master Drainage Study does not contain sufficient detail for that permit.

The Master Rough Grading Plan shall be reviewed by the Director of Public Works for conformance to the grading and drainage aspects of the approved Master Drainage Study and the Director of Planning shall consider the plan for the aesthetic aspects of the plan.

"Grading Plan", which accompanies the Technical Drainage Study, means a detailed grading plan for a development site within the Community, created pursuant to the UDC, to further define the grading within residential or commercial subdivision sites as identified in the Master Rough Grading Plan

to a level of detail sufficient to support construction drawings, in accordance with the CCRFCD Hydrologic Criteria and Drainage Design Manual.

"HOA or Similar Entity" means any unit-owners' association organized pursuant to NRS 116.3101, that is comprised of owners of residential dwelling units in the Community, or portions thereof, created and governed by a declaration (as defined by NRS 116.037), formed for the purpose of managing, maintaining and repairing all common areas transferred to it for such purposes.

"Investment Firm" means an entity whose main business is holding securities of other companies, financial instruments or property purely for investment purposes, and includes by way of example, and not limitation, Venture Capital Firms, Hedge Funds, and Real Estate Investment Trusts.

"LVVWD" means the Las Vegas Valley Water District.

"Master Developer" means 180 Land Company LLC, a Nevada limited liability company, and its successors and assigns as permitted by the terms of this Agreement.

"Master Drainage Study" means the comprehensive hydrologic and hydraulic study to be approved by the Director of Public Works ~~prior to the recordation of the first Development Phase Final Map~~, including updates required by the City when changes to the conditionally approved study are proposed that must also be approved by the Director of Public Works.

"Master Land Use Plan" means the approved site plan for the Community, which is **Exhibit "B"**.

"Master Sanitary Sewer Study" means the comprehensive study to be approved by the Director of Public Works ~~prior to the recordation of the first Development Phase Final Map~~, including updates required by the City where changes to the conditionally approved densities or layout of the development are proposed that would impact on-property and/or off-property pipeline capacities and may result in additional required off-property sewer improvements.

"Master Studies" means the Master Traffic Study and the Master Drainage Study.

"Master Traffic Study" means the comprehensive study with respect to this Property to be approved by the Director of Public Works ~~prior to the recordation of the first Development Phase Final Map~~.

"Master Utility Improvements" means those water, sanitary sewer, storm water drainage, power, street light and natural gas improvements within and directly adjacent to the Property necessary to serve

the proposed development of the Community other than those utility improvements to be located within individual Development Parcels. All public sewer, streetlights, traffic signals, associated infrastructures and public drainage located outside of public right-of-way must be within public easements within common lots of the HOA or Similar Entity or of the Development Parcels.

"Master Utility Plan" means a conceptual depiction of all existing and proposed utility alignments, easements or otherwise, within and directly adjacent to the Property necessary to serve the proposed development of the Community, other than those utility improvements to be located within individual Development Parcels. The Master Developer shall align all proposed utilities within proposed public rights-of-way when reasonable and will dedicate such rights-of-way to the City before granting utility easements to specific utility companies, and Master Developer shall separately require any Authorized Designee to disclose the existence of such facilities located on (or in the vicinity of) any affected residential lots, and easements necessary for existing and future LVVWD water transmission mains.

"Metro" means the Las Vegas Metropolitan Police Department.

"NRS" means the Nevada Revised Statutes, as amended from time to time.

"Off-Property" means outside of the physical boundaries of the Property.

"Off-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located outside the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"On-Property" means within the physical boundaries of the Property.

"On-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located within the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"Off-Site Improvements" means any and all improvements necessary for a discrete parcel of property as required by the Applicable Rules.

"Party," when used in the singular form, means either Master Developer, an Owner or City and in the plural form of "Parties" means Master Developer, Owners and City.

"Planning Commission" means the City of Las Vegas Planning Commission.

"Planning Department" means the Department of Planning of the City of Las Vegas.

"Property" means that certain 250.92 gross acres of real property which is the subject of this Agreement. The legal description of the Property is set forth at **Exhibit "A"**.

~~"Residential Development Standards" means the document prepared by Master Developer and reviewed and approved by City as part of the 2016 Peccole Ranch Master Plan — Major Modification of 1990 Peccole Ranch Master Plan attached hereto as **Exhibit "C"**.~~

"RTC" means the Regional Transportation Commission of Southern Nevada.

"SNHD" means the Southern Nevada Health District.

"Subdivision Map" means any instrument under NRS and the UDC which legally subdivides property or gives the right to legally subdivide property.

"Technical Drainage Study" means: a comprehensive hydrologic study prepared under the direction of and stamped by a Nevada-licensed professional engineer, to:

- (a) Estimate the impact of storm water run-off affecting a Development Parcel from on-property and off-property sources;
- (b) Estimate the impact of any storm water run-off that will affect down-stream off-property real property;
- (c) Identify the impacts of any storm water run-off that will affect the Development Parcel; the on-property proposed drainage facilities and patterns and any off-property drainage facilities and patterns; and
- (d) Identify the means and methods necessary to mitigate such impact, including a commitment to implement, or pay for such mitigating improvements within a specified time frame.

The Technical Drainage Study shall be approved by the Director of Public Works.

"Temporary Certificate of Occupancy or TCO" means that temporary certificate issued by the Building Official pursuant to the *City of Las Vegas Administrative Code* authorizing the temporary use and occupancy of buildings and structures or portions thereof after the Building Official has inspected the building or structure and has found no violations of the provisions of that code or other laws which are enforced by the enforcement agency. For loft units, completed bathrooms and kitchens shall not be

required for issuance of TCO.

"Term" means the term of this Agreement.

"UDC" means the Unified Development Code.

"Village Street" means any of those roadways identified as Village Streets, [whether public or private](#), which Master Developer is obligated to construct pursuant to the Master Traffic Study, together with associated curb, gutter, underground utility improvements including fiber optic interconnect, streetlights, traffic control signs and signals other than those for which a fee was paid pursuant to Ordinance 5644, sidewalk or trail and landscaping as indicated on the appropriate cross section in the Design Guidelines.

## **SECTION TWO**

### **APPLICABLE RULES AND CONFLICTING LAWS**

2.01 Reliance on the Applicable Rules. City and Master Developer agree that Master Developer will be permitted to carry out and complete the development of the Community in accordance with the terms of this Agreement and the Applicable Rules. The terms of this Agreement shall supersede any conflicting provision of the City Code except as provided in Section 2.02 below.

2.02. Application of Subsequently Enacted Rules by the City. The City shall not amend, alter or change any Applicable Rule as applied to the development of the Community, or apply a new fee, rule regulation, resolution, policy or ordinance to the development of the Community, except as follows:

(a) The development of the Community shall be subject to the Building Codes and Fire Codes in effect at the time of issuance of the permit for the particular development activity.

(b) The application of a new uniformly-applied rule, regulation, resolution, policy or ordinance to the development of the Community is permitted, provided that such action is necessary to protect the health, safety and welfare of City residents, and provided that City gives Master Developer written notice thirty (30) days prior to implementing a new policy.

(c) Nothing in this Agreement shall preclude the application to the Community of new or changed rules, regulations, policies, resolutions or ordinances specifically mandated and required by changes in state or federal laws or regulations. In such event, the provisions of Section 2.03 to 2.05 of this Agreement are applicable.

(d) Should the City adopt or amend rules, regulations, policies, resolutions or ordinances and apply such rules to the development of the Community, other than pursuant to one of the above Sections 2.02(a), 2.02(b) or 2.02(c), the Master Developer shall have the option, in its sole discretion, of accepting such new or amended rules by giving written notice of such acceptance. City and the Master Developer shall subsequently execute an amendment to this Agreement evidencing the Master Developer's acceptance of the new or amended ordinance, rule, regulation or policy within a reasonable time.

2.03 Conflicting Federal or State Rules. In the event that any federal or state laws or regulations prevent or preclude compliance by City or Master Developer with one or more provisions of this Agreement or require changes to any approval given by City, this Agreement shall remain in full force and effect as to those provisions not affected, and:

(a) Notice of Conflict. Either Party, upon learning of any such matter, will provide the other Party with written notice thereof and provide a copy of any such law, rule, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The Parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law, rule, regulation or policy.

2.04 City Council Hearings. In the event either Party believes that an amendment to this Agreement is necessary due to the effect of any federal or state law, rule, regulation or policy, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. Master Developer shall have the right to offer oral and written testimony at the hearing. Any amendment ordered by the City Council pursuant to a hearing contemplated by this Section is subject to judicial review. The Parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

2.05 City Cooperation. City shall cooperate with Master Developer in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated under Section 2.04. As required by the Applicable Rules, Master Developer shall be



responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations. Permits issued to Master Developer shall not expire until the work covered under the permit is complete.

### SECTION THREE

#### PLANNING AND DEVELOPMENT OF THE COMMUNITY

3.01 Permitted Uses, Density, ~~and~~ Height ~~and Size~~ of Structures. Pursuant to NRS Chapter 278, this Agreement sets forth the maximum height ~~and size~~ of structures to be constructed in the Community, the density of uses and the permitted uses of the land for each parcel within the Community.

(a) Maximum Units Permitted. The number of residential dwelling units allowed within the Community, as shown on **Exhibit B**, is three thousand eighty (3,080) units with seven hundred twenty (720) units in Development Area 1, twelve hundred fifty (1,250) units in Development Area 2, one thousand fifty (1,050) units in Development Area 3 and sixty (60) units in Development Area 4.

(b) Permitted Uses and Unit Types. The Community is planned for a mix of single family residential homes and multi-family residential homes including tower residential homes. In Development Areas 1, 2 and 3, ancillary commercial uses, each up to five thousand (5,000) square feet in size, shall be permitted. Clock towers and water features (if supplied by privately-owned water rights) shall be allowed in the Community. The additional uses allowed within the Community are listed in the Residential Development Standards included as Exhibit "U" to the Design Guidelines attached as Exhibit "DC". The types of buildings and dwelling units shall be permitted in accordance with the Applicable Rules.

(c) Density. Master Developer shall have the right to determine the number of residential dwelling units to be developed on any Development Parcel. Notwithstanding the foregoing, the maximum density permitted in Development Area 1 shall be seven hundred twenty (720) residential units; Development Area 2 shall be twelve hundred fifty (1,250) residential units; Development Area 3 shall be one thousand fifty (1,050) residential units; and Development Area 4 shall be sixty (60) residential units. With respect to any proposed and approved tower residential, only after issuance of a TCO on the building will the unit C of Os be requested on an individual unit by unit basis.

(d) Maximum Height ~~and Size~~ of Structures. The maximum height ~~and size~~ of

~~structures shall be governed by the Code except as otherwise provided for in the [Design Guidelines attached as Exhibit "D"](#) ~~Residential Development Standards included as Exhibit "U" to the attached Exhibit "C".~~~~

(e) Phasing.

(i) Development Area 1 will be the first multifamily development in the Community.

(ii) The remainder of the Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

(iii) Master Developer and City agree that prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896<sup>th</sup>) residential unit, by way of a building permit issuance, Master Developer shall have substantially completed the drainage infrastructure required in Development Area 4. For purposes of this subsection, substantially completed shall mean the installation of the box culverts required pursuant to the City-approved Master Drainage Study.

(iv) Clubhouse Drive extension as shown in **Exhibit "C's"** Exhibits L-1 and L-2 shall be completed prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896<sup>th</sup>) residential unit, by way of a building permit issuance,

(f) Construction Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 twenty-four (24) hours per day, subject to Las Vegas Municipal Code Section 9.16, to allow for expedited construction.

(g) Grading and Earth Movement.

(i) Master Developer understands that it must obtain Federal Emergency Management Agency's ("FEMA") CLOMAR approval prior to any mass grading on the FEMA designated areas of the Property.

(ii) Master Developer's intention is that the Property's mass grading and cut and fill earth work will balance, thereby mitigating the need for the import and export of fill material. [However, there will be a need to import and/or export dirt for landscape fill.](#)

(iii) In order to minimize earth movement to and from the Property, Master Developer shall be authorized to do all things necessary to process the cut materials on site to

create the needed fill materials, therefore eliminating or significantly reducing the need to take cut and fill materials to and from the Property. After approval of the Master Rough Grading Plan, Other than the necessary Clark County Department of Air Quality Management approvals needed, Master Developer shall not be required to obtain further approval for rock crushing, earth processing and stockpiling on the Property. The rock crushing shall be located no less than five hundred (500) feet from existing residential homes and shall be subject to Las Vegas Municipal Code Section 9.16.

3.02. Entitlement Requests.

(a) Generally. City agrees to reasonably cooperate with Master Developer to:

(i) Expeditiously process all Entitlement Requests in connection with the Property that are in compliance with the Applicable Rules and Master Studies; and

(ii) Promptly consider the approval of Entitlement Requests, subject to reasonable conditions not otherwise in conflict with the Applicable Rules or the Master Studies.

(b) Zoning Entitlement for Property. The Parties acknowledge and agree that the Property will be rezoned for development in accordance with the Peccole Ranch Master Plan, as amended, to allow for the development of the densities provided for herein.

(c) Other Entitlement Requests. Except as provided herein, all other Entitlement Request applications shall be processed by City according to the Applicable Rules. The Parties acknowledge that the procedures for processing such Entitlement Request applications are governed by this Agreement, and if not covered by this Agreement, then by the Code. In addition, any additional application requirements delineated herein shall be supplemental and in addition to such Code requirements.

(i) Site Development Plan Review. Unless otherwise provided for herein, Master Developer shall satisfy all Code requirements for the filing of an application for a Site Development Plan Review, except no Site Development Plan Review will be required for any of the up to sixty (60) residential units in Development Area 4. The open space requirements for each development within the Community shall be addressed with each Site Development Plan Review. ~~With respect to any proposed and approved tower residential, only after issuance of a TCO on the building will the unit C of Os be requested on an individual unit by unit basis.~~

The Parties ~~further~~ agree that the City Referral Group shall review all Site Development Plan Reviews within the Community. All rulings, decisions and recommendations by the City Referral Group shall be by majority vote of the quorum in attendance. The Chairman of the City Referral Group shall be the Director of Planning. The City Referral Group shall hear and consider the facts presented and determine whether to approve or deny the site plan. Any approval may include any conditions, stipulations, requirements or limitations that may be necessary to fulfil the intent of this Agreement. The Parties agree that:

(1) ~~Within City staff shall consider and make a decision with respect to any application for a Site Development Plan Review within~~ thirty (30) days of a submission being deemed completed, the Director of Planning shall notify the applicant, in writing, of the action and decision of the City Referral Group. The notification shall include any conditions that may be required to complete the Site Plan Review~~receipt of the application.~~

(2) An applicant may appeal the decision of the City Referral Group to the Planning Commission by submitting a written appeal to the Director of Planning within ten (10) days of receipt of the City Referral Group's action, stating whether there is a disagreement. A final appeal can be referred to the City Council by either the applicant or the Director of Planning for a final decision.

~~Any appeal of an adverse decision on a Site Development Plan Review shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application for appeal.~~

(ii) Special Use Permits. Except as provided for herein, Master Developer shall satisfy all Code requirements for the filing of an application for a special use permit. The Parties further agree that:

(1) Except as otherwise provided in this Agreement and the Design Guidelines, special use permit applications shall be processed in accordance with the UDC.

(2) City shall not accept any special use permit application without written verification that the Master Developer either approves of the application or has no objection thereto.

### 3.03. Dedicated Staff and the Processing of Applications.

(a) Processing Fees, Generally. All Entitlement Requests, Minor or Major Modification Requests and all other requests related to the development of the Community shall pay the fees as provided by the UDC.

(b) Inspection Fees. Construction documents and plans that are prepared on behalf of Master Developer for water facilities such as water pumping stations, water reservoirs, water transmission mains, and water distribution mains, that are reviewed by City for approval, shall not require payment of inspection fees to City unless the water service provider will not provide those inspection services.

(c) Dedicated Staff. Upon written request from Master Developer to City, City shall provide within thirty (30) days from written notice, if staff is available, and Master Developer shall pay for a full-time inspector dedicated only to the development of the Community. If City staff is not available, City agrees to outsource to a third-party inspection company and Master Developer agrees to pay for such outsourcing.

3.04 Modification of ~~Residential Development Standards and~~ Design Guidelines. Parties agree that the only proper entity to request a modification or deviation to the ~~Residential Development Standards and~~ Design Guidelines is the Master Developer entity. A modification or deviation to the ~~Residential Development Standards and~~ Design Guidelines shall not be permitted by: any other purchaser of real property within the Community, the HOA or Similar Entity.

(a) Applicant. Requests for all modifications of the ~~Residential Development Standards and~~ Design Guidelines may be made only by Master Developer.

(b) Minor Modifications. Except as otherwise provided for herein, Minor Modifications are changes to the Design Guidelines that include:

- (i) changes in architectural styles, color palettes and detail elements.
- (ii) the addition of similar and complementary architectural styles, color palettes and detail elements to residential and commercial uses.
- (iii) changes in building materials.
- (iv) changes in landscaping materials, plant palettes, and landscaping detail elements.

(c) Submittal, Review, Decision, and Appeal.

(i) An application for Minor Modification of the Design Guidelines may be made to the Director of Planning for his consideration. The Director of the Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Director of the Department of Planning may, in his discretion, approve a Minor Modification or impose any reasonable condition upon such approval. The Director of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (iii) below. Applications for which no written decision is issued within thirty (30) business days shall be deemed approved. If the Director of the Department of Planning rejects a request for a Minor Modification, the request shall automatically be deemed a Major Modification, and at the option of the Master Developer, the decision of the Director of the Department of Planning may be appealed to the Planning Commission.

(iii) Master Developer may appeal any decision of the Director of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(iv) Master Developer may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

(d) Major Modifications.

(i) Any application for a modification to the ~~Residential Development Standards and~~ Design Guidelines that does not qualify as a Minor Modification is a Major Modification. All applications for Major Modifications shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application or its receipt of the appeal provided for in Section (c) above, whichever is applicable.

(ii) Without limiting the foregoing, a Major Modification that increases density in the Community may only be done so by formally amending this Agreement pursuant to Section 4

below, to reflect such increase in density. The Master Developer shall meet and confer with the Director of Public Works or his designee as to whether an update to the Master Studies is required. If the Director of Public Works or his designee requires an update to one or more of the Master Studies, such update shall be prepared by Master Developer and submitted to the Department of Public Works no later than fifteen (15) business days prior to the date upon which the Planning Commission is to consider any such amendment.

(iii) All actions by the Planning Commission on Major Modifications shall be scheduled for a hearing at the next available City Council meeting.

3.05 Deviation to ~~Residential Development Standards and~~ Design Guidelines. A deviation is an adjustment to a particular requirement of the ~~Residential Development Standards and~~ Design Guidelines for a particular Development Parcel or lot.

(a) Minor Deviation. A Minor Deviation must not have a material and adverse impact on the overall development of the Community and may not exceed ten percent (10%) of a particular requirement delineated by the Design Guidelines. An application for a Minor Deviation may only be made under the following circumstances:

i) A request for deviation from any particular requirement delineated by the Design Guidelines on ten percent (10%) or less of the lots in a Development Parcel; or

ii) A request for deviation from the following particular requirements on greater than 10% of the lots in a Development Parcel or the entire Community:

a) Changes in architectural styles, color palettes and detail elements.

b) The addition of similar and complementary architectural styles, color palates and detail elements to residential and commercial uses.

c) Changes in building materials.

d) Changes in landscaping materials, plant palettes, and landscaping detail elements.

e) Setback encroachments for courtyards, porches, miradors, casitas, architectural projections as defined by the Design Guidelines, garages and carriage units.

f) Height of courtyard walls.

(b) Administrative Review Permitted. An application for a Minor Deviation may be filed by the Master Developer or an Authorized Designee as provided herein. Any application by a an Authorized Designee of Master Developer must include a written statement from the Master Developer that it either approves or has no objection to the request.

(c) Submittal, Review and Appeal

(i) An application for a Minor Deviation from the Design Guidelines may be made to the Director of the Department of Planning for their consideration. The Director of the Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Director of the Department of Planning may, in their discretion, approve or deny a Minor Deviation or impose any reasonable condition upon such approval. The Director of the Department of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (3) below. Applications for which no written decision is issued within thirty (30) days shall be deemed approved.

(iii) Master Developer or an Authorized Designee may appeal any decision of the Director of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(iv) Master Developer or an Authorized Designee may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

(d) Major Deviation. Any application for a modification to the ~~Residential Development Standards and~~ Design Guidelines that does not qualify as a Minor ~~Modification~~ Deviation is a Major ~~Deviation~~ Modification. A Major Deviation must not have a material and



adverse impact on the overall development of the Community and may exceed ten percent (10%) of any particular requirement delineated by the Design Guidelines.

(i) City Council Approval Required. An application for a Major Deviation may be filed by the Master Developer or an Authorized Designee as provided herein. Any application by an Authorized Designee must include a written statement from the Master Developer that it either approves or has no objection to the request. Major Deviations shall be submitted to the Planning Commission for recommendation to the City Council, wherein the City Council shall have final action on all Major Deviations.

(ii) Submittal, Review and Approval.

(1) All applications for Major Deviations shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application.

(2) All actions by the Planning Commission on Major Deviations shall be scheduled for a hearing by the City Council within thirty (30) days of such action.

(e) If Master Developer or an Authorized Designee requests a deviation from adopted City Infrastructure Improvement Standards, an application for said deviation shall be submitted to the Land Development Section of the Department of Building and Safety and related fees paid for consideration by the City Engineer pursuant to the Applicable Rules.

(f) Any request for deviation other than those specifically provided shall be processed pursuant to Section 3.04 (Modifications ~~of of Residential Development Standards and~~ Design Guidelines).

3.06 Anti-Moratorium. The Parties agree that no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the construction, rate, timing or sequencing of the development of property including those that affect parcel or subdivision maps, building permits, occupancy permits or other entitlements to use land that are issued or granted by City shall apply to the development of the Community or portion thereof. Notwithstanding the foregoing, City may adopt ordinances, resolutions or rules or regulations that are necessary to:

(a) comply with any state or federal laws or regulations as provided by Section 2.04, above;

(b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Property, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or

(c) maintain City's compliance with non-City and state sewerage, water system and utility regulations. However, the City as the provider of wastewater collection and treatment for this development shall make all reasonable best efforts to insure that the wastewater facilities are adequately sized and of the proper technology so as to avoid any sewage caused moratorium.

In the event of any such moratorium, future ordinance, resolution, rule or regulation, unless taken pursuant to the three exceptions contained above, Master Developer shall continue to be entitled to apply for and receive consideration of Entitlement Requests and other applications contemplated in Section 3 in accordance with the Applicable Rules.

3.07. Property Dedications to City. Except as provided in herein, any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances (except for any encumbrances that existed on the patent at the time it was delivered to Master Developer from the United States of America).

~~3.08 Annexation of Additional Property. City acknowledges that the Master Developer may during the term of this Agreement, annex additional property ("Additional Parcels") into the Community provided that:~~

~~(a) Each Additional Parcel is contiguous to some portion of the Property of the Community or immediately across the street;~~

~~(b) Development of each Additional Parcel must conform to this Agreement; and~~

~~(c) Master Developer obtains the necessary zoning and land use approvals and approval of all necessary technical studies for each Additional Parcel.~~

~~Additional Parcels shall be annexed by recording, and shall be considered annexed upon recordation of, a notice of annexation, in a form to be reasonably agreed upon, which notice shall require the written consent, on the notice, of the City Manager, which consent shall not be unreasonably withheld.~~ SECTION

### THREE (A)

### MAINTENANCE OF THE COMMUNITY

3(A).01 Maintenance of Public and Common Areas.

(a) Master Community HOA. Master Developer agrees to organize a Master HOA or Similar Entity to manage and maintain sidewalk, common landscape areas, any landscaping within the street rights-of-way including median islands, private drainage facilities located within common elements, including but not limited to, rip-rap lined channels and natural arroyos as determined by the Master Drainage Study or applicable Technical Drainage Studies, but excluding City dedicated public streets, curbs, gutters, streetlights upon City-dedicated public streets, City owned traffic control devices and traffic control signage and permanent flood control facilities.

(b) Maintenance Obligations of the Master HOA and Sub-HOAs. The Master HOA or Similar Entity and the Sub-HOAs (which hereinafter may be referred to collectively as the "HOAs") shall be responsible to maintain in good condition and repair all common areas that are transferred to them for repair and maintenance (the "Maintained Facilities"), including, but not limited to developed and undeveloped sidewalks, private streets, private alleys, private drives, landscaped areas, parks and park facilities, trails, amenity zones, and any landscaping in, on and around medians and public rights-of-way.

Master Developer acknowledges and agrees that the Master HOA or Similar Entity and Sub-HOA (as applicable) are common-interest communities created and governed by declarations ("Declarations") as such term is defined in NRS 116.037. The Declarations will be recorded by Master Developer or Designated Builders as an encumbrance against the property to be governed by the appropriate HOA. In each case, the HOA shall have the power to assess the encumbered property to pay the cost of such maintenance and repair and to create and enforce liens in the event of the nonpayment of such assessments. Master Developer further agrees that such Declarations will contain a covenant running to the benefit of City, and enforceable by City, that such facilities will be maintained in good condition and repair. Such HOAs will be Nevada not-for-profit corporations with a board of directors elected by the subject owners, provided, however, that Master Developer may control the board of directors of such HOA for as long as permitted by applicable law.

(c) The Declaration for the Master HOA, when it has been fully executed and recorded with the office of the Clark County Recorder, shall contain (or effectively contain) the following provisions:

(i) that the governing board of the HOA must have the power to maintain the

Maintained Facilities;

(ii) that the plan described in Section 3A.02 can only be materially amended by the Master HOA or Similar Entity board;

(iii) that the powers under the Declaration cannot be exercised in a manner that would defeat or materially and adversely affect the implementation of the Maintenance Plan defined below; and

(iv) that in the event the Master HOA fails to maintain the Maintained Facilities in accordance with the provisions of the plan described in Section 3A.02, City may exercise its rights under the Declaration, including the right of City to levy assessments on the property owners for costs incurred by City in maintaining the Maintained Facilities, which assessments shall constitute liens against the land and the individual lots within the subdivision which may be executed upon. Upon request, City shall have the right to review the Declaration for the sole purpose of determining compliance with the provisions of this Section.

3(A).02 Maintenance Plan. For park and common areas, maintained by the Master HOA or Similar Entity or Sub-HOA (as applicable) the corresponding Declaration pursuant to this Section shall provide for a plan of maintenance.

3(A).03 Release of Master Developer. Following Master Developer's creation of HOAs to maintain the Maintained Facilities, and approval of the maintenance plan with respect to each HOA, City will hold each HOA responsible for the maintenance of the Maintained Facilities in each particular development covered by each Declaration and Master Developer shall have no further liability in connection with the maintenance and operation of such particular Maintained Facilities. Notwithstanding the preceding sentence, Master Developer shall be responsible for the plants, trees, grass, irrigation systems, and any other botanicals or mechanical appurtenances related in any way to the Maintained Facilities pursuant to any and all express or implied warranties provided by Master Developer to the HOA under NRS Chapter 116.

3(A).04 City Maintenance Obligation Acknowledged. City acknowledges and agrees that all permanent flood control facilities including but not limited to those improvements identified in the Master[SHAI] Drainage Study or applicable Technical Drainage Studies for public maintenance and all City

dedicated public streets (excluding any landscape within the right-of-way), associated curbs, gutters, City-owned traffic control devices, signage, and streetlights upon City-dedicated public streets within the Community and accepted by the City will be maintained by City in good condition and repair at the City's sole cost and expense. City reserves the rights to modify existing sidewalks and the installation of sidewalk ramps and install or modify traffic control devices on common lots abutting public streets at the discretion of the Director of Public Works. Master Developer or Master HOA or Similar Entity will maintain all temporary detention basins or interim facilities identified in the Master Drainage Study or applicable Technical Drainage Studies. The City agrees to cooperate with the Master Developer and will diligently work with Master Developer to obtain acceptance of all permanent drainage facilities.

## **SECTION FOUR**

### **DEFAULT**

4.01 Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a ten (10) day notice of default and opportunity to cure. The time of notice shall be measured from the date of receipt of the certified mailing. The notice of noncompliance shall specify the nature of the alleged noncompliance and the manner in which it may be satisfactorily corrected, during which ten (10) day period the party alleged to be in noncompliance shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the noncompliance cannot reasonably be cured within the ten (10) day cure period, the non-compliant Party may timely cure the noncompliance for purposes of this Section 4 if it commences the appropriate remedial action with the ten (10) day cure period and thereafter diligently prosecutes such action to completion within a period of time acceptable to the non-breaching Party. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than ninety (90) days from the date the ten (10) day notice of noncompliance and opportunity to cure was mailed to the non-compliant Party.

If the noncompliance is corrected, then no default shall exist and the noticing Party shall take no further action. If the noncompliance is not corrected within the relevant cure period, the non-complaint

Party is in default, and the Party alleging non-compliance may declare the breaching Party in default and elect any one or more of the following courses.

(a) Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged noncompliance, the Party alleging the default may give notice of intent to amend or terminate this Agreement as authorized by NRS Chapter 278. Following any such notice of intent to amend or terminate, the matter shall be scheduled and noticed as required by law for consideration and review solely by the City Council.

(b) Amendment or Termination by City. Following consideration of the evidence presented before the City Council and a finding that a substantial default has occurred by Master Developer and remains uncorrected, City may amend or terminate this Agreement [pursuant to NRS 278](#). Termination shall not in any manner rescind, modify, or terminate any vested right in favor of Master Developer, as determined under the Applicable Rules, existing or received as of the date of the termination. Master Developer shall have twenty-five (25) days after receipt of written notice of termination to institute legal action pursuant to this Section to determine whether a default existed and whether City was entitled to terminate this Agreement. Should City terminate this Agreement, City agrees that, at the request of the Master Developer, the zoning on the Property shall revert back to the zoning on the Effective Date of this Agreement.

(c) Termination by Master Developer. In the event City substantially defaults under this Agreement, Master Developer shall have the right to terminate this Agreement after the hearing set forth in this Section. Master Developer shall have the option, in its discretion, to maintain this Agreement in effect, and seek to enforce all of City's obligations by pursuing an action pursuant to this Section 4.

4.02. Unavoidable Delay; Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, national disasters, terrorist attacks, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, third-party lawsuits, or acts of God. If written notice of any such delay is given to one Party or the other within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by the party in receipt of the notice within thirty (30) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances

or as may be subsequently agreed to between City and Master Developer.

4.03. Limitation on Monetary Damages. City and the Master Developer agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, City and Master Developer (or its permitted assigns) may pursue any course of action at law or in equity available for breach of contract, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Notwithstanding the foregoing, the Parties are not waiving any rights afforded to them under NRS 278.0233 or any other provisions of NRS 278.

4.04. Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada. The parties agree to mediate any and all disputes prior to filing of an action in the Eighth Judicial District Court unless seeking injunctive relief.

4.05. Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

4.06. Applicable Laws; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Each party shall bear its own attorneys' fees and court costs in connection with any legal proceeding hereunder.

## **SECTION FIVE**

### **GENERAL PROVISIONS**

5.01. Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the thirtieth (30) anniversary of the Effective Date, unless terminated earlier pursuant to the terms hereof. City agrees that the Master Developer shall have the right to request

extension of the Term of this Agreement for an additional five (5) years upon the following conditions:

- (a) Master Developer provides written notice of such extension to City at least one hundred-eighty (180) days prior to the expiration of the original Term of this Agreement;
- (b) Master Developer is not in default of this Agreement; and
- (c) Master Developer and City enter into an amendment to this Agreement memorializing the extension of the Term.

5.02. Assignment.

The Parties acknowledge that the intent of this Agreement is that there is a Master Developer responsible for all of the obligations in this Agreement throughout the Term of this Agreement.

- (a) At any time during the Term, Master Developer and its successors-in-interest shall have the right to sell, assign or transfer all of its rights, title and interests to this Agreement (a "Transfer") to any person or entity (a "Transferee"). Except in regard to Transfers to Pre-Approved Transferees (which does not require any consent by the City as provided in Section 5.02(b) below), prior to consummating any Transfer, Master Developer shall obtain from the City written consent to the Transfer as provided for in this Agreement, which consent shall not be unreasonably withheld, delayed or conditioned. Master Developer's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City to consider and respond to Master Developer's request. Master Developer shall provide information to the City that Transferee, its employees, consultants and agents (collectively "Transferee Team") has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Master Developer's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and the full execution of an Assignment and Assumption Agreement by City, Master Developer and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.



(b) Pre-Approved Transferees. Notwithstanding anything in this Agreement to the contrary, the following Transferees constitute "Pre-Approved Transferees," for which no City consent shall be required provided that such Pre-Approved Transferees shall assume in writing all obligations of the Master Developer hereunder by way of an Assignment and Assumption Agreement. The Assignment and Assumption Agreement shall be approved by the City Manager, whose approval shall not be unreasonably withheld, delayed or conditioned. The Assignment and Assumption Agreement shall be executed by the Master Developer and Pre-Approved Transferee and acknowledged by the City Manager. The Pre-Approved Transferee shall thenceforth be deemed to be the Master Developer and be responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

1) An entity owned or controlled by Master Developer or its Affiliates;

2) Any Investment Firm that does not plan to develop the Property. If Investment Firm desires to: (i) develop the Property, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, the Investment Firm shall obtain from the City written consent to: (i) commence development, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, which consent shall not be unreasonably withheld, delayed or conditioned. Investment Firm's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City Council to consider. Investment Firm shall provide information to the City that Investment Firm or Transferee and their employees, consultants and agents (collectively "Investment Firm Team" and "Transferee Team", respectively) that intends to develop the Property has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Investment Firm's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and full execution of an Assignment and Assumption Agreement by City, Investment Firm and Transferee, the Transferee shall

thenceforth be deemed to be the Master Developer and responsible for the all of the obligations in this Agreement.

(c) In Connection with Financing Transactions. Master Developer has full and sole discretion and authority to encumber the Property or portions thereof, or any improvements thereon, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement.

5.03. Sale or Other Transfer Not to Relieve the Master Developer of its Obligation. Except as expressly provided herein in this Agreement, no sale or other transfer of the Property or any subdivided development parcel shall relieve Master Developer of its obligations hereunder, and such assignment or transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such purchaser shall be deemed to be the Master Developer hereunder. This Section shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.

5.04 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, the Master Developer shall hold City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of Master Developer or those of its contractors, subcontractors, agents, employees, or other persons acting on Master Developer's behalf which relate to the development of the Community. Master Developer agrees to and shall defend City and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of Master Developer's activities in connection with the development of the Community other than any challenges to the validity of this Agreement or City's approval of related entitlements. Master Developer and City agree to equally pay all costs and attorneys fees for a defense in any legal action filed in a court of competent jurisdiction by a third party alleging any such claims or challenging the validity of this Agreement. The provisions of this Section shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agent,

employees, or representatives. This section shall survive any termination of this Agreement.

5.05. Binding Effect of Agreement. Subject to this Agreement, the burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.

5.06 Relationship of Parties. It is understood that the contractual relationship between City and Master Developer is such that Master Developer is not an agent of City for any purpose and City is not an agent of Master Developer for any capacity.

5.07 Counterparts. This Agreement may be executed at different times and in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect to 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. Delivery of a counterpart by facsimile or portable document format (pdf) through electronic mail transmission shall be as binding an execution and delivery of this Agreement by such Party as if the Party had delivered an actual physical original of this Agreement with an ink signature from such Party. Any Party delivering by facsimile or electronic mail transmission shall promptly thereafter deliver an executed counterpart original hereof to the other Party.

5.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing. Delivery may be accomplished in person, by certified mail (postage prepaid return receipt requested), or via electronic mail transmission. Mail notices shall be addressed as follows:

To City:	City of Las Vegas 495 South Main Street Las Vegas, Nevada 89101 Attention: City Manager Attention: Director of the Department of Planning
To Master Developer:	180 LAND COMPANY LLC 1215 Fort Apache Road, Suite 120 Las Vegas, NV 89117
Copy to:	Chris Kaempfer Kaempfer Crowell 1980 Festival Plaza Drive, Suite 650

Either Party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the date delivery of mail is first attempted.

5.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

5.10 Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate officers of Master Developer or approved by the City Council, as the case may be.

5.11 Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and Master Developer in a form suitable for recordation in the Official Records of Clark County, Nevada. No amendment of this Agreement shall in and of itself amend the [Major Modification to the 1990](#) Peccole Ranch Master Plan attached hereto as **Exhibit "C"** unless that is the expressed intention of the Parties to do so as it relates to the Property. Upon completion of the performance of this Agreement, a statement evidencing said completion, shall be signed by the appropriate officers of the City and Master Developer and shall be recorded in the Official Records of Clark County, Nevada. A revocation or termination shall be signed by the appropriate officers of the City or Master Developer and shall be recorded in the Official Records of Clark County, Nevada.

5.12 Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

5.13 Release. Each residential lot shown on a recorded Subdivision Map within the Community shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of a building permit for the construction of a residence thereon.

5.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the Parties.

5.15 Exercise of Discretion. Wherever a Party to this Agreement has discretion to make a decision, it shall be required that such discretion be exercised reasonably unless otherwise explicitly provided in the particular instance that such decision may be made in the Party's "sole" or "absolute" discretion or where otherwise allowed by applicable law.

5.16 No Third Party Beneficiary. This Agreement is intended to be for the exclusive benefit of the Parties hereto and their permitted assignees. No third party beneficiary to this Agreement is contemplated and none shall be construed or inferred from the terms hereof. In particular, no person purchasing or acquiring title to land within the Community, residing in the Community, or residing outside the Community shall, as a result of such purchase, acquisition or residence, have any right to enforce any obligation of Master Developer or City nor any right or cause of action for any alleged breach of any obligation hereunder by either party hereto.

5.17 Gender Neutral. In this Agreement (unless the context requires otherwise), the masculine, feminine and neutral genders and the singular and the plural include one another.

## **SECTION SIX**

### **REVIEW OF DEVELOPMENT**

6.01 Frequency of Reviews. As provided by NRS Chapter 278, Master Developer shall appear before the City Council to review the development of the Community. The Parties agree that the first

review occur no later than twenty-four (24) months after the Effective Date of this Agreement, and again every twenty-four (24) months on the anniversary date of that first review thereafter or as otherwise requested by City upon fourteen (14) days written notice to Master Developer. For any such review, Master Developer shall provide, and City shall review, a report submitted by Master Developer documenting the extent of Master Developer's and City's material compliance with the terms of this Agreement during the preceding period.

**[Signatures on following pages]**

**In Witness Whereof, this Agreement has been executed by the Parties on the day and year first  
above written.**

**CITY:**

**CITY COUNCIL, CITY OF LAS VEGAS**

By:

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

Attest:

City Clerk

By:

\_\_\_\_\_  
LuAnn Holmes, City Clerk

**MASTER DEVELOPER**

**180 LAND COMPANY LLC,**

a Nevada limited liability company

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me

on this \_\_\_\_ day of \_\_\_\_\_,

2015.

\_\_\_\_\_  
Notary Public in and for said County and State



## EXHIBITS

- A. Property Legal Description
- B. Master Land Use Plan [with Development Areas](#)
- C. 2016 Peccole Ranch Master Plan (Major Modification to the 1990 Peccole Ranch Master Plan)
- ~~C.D.~~ [The Two Fifty Design Guidelines](#)

**DEVELOPMENT AGREEMENT  
FOR  
THE TWO FIFTY**

**002001**

**RA 01806**

**THIS DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the **CITY OF LAS VEGAS**, a municipal corporation of the State of Nevada ("City") and **180 LAND COMPANY LLC**, a Nevada limited liability company ("Master Developer"). The City and Master Developer are sometimes individually referred to as a "Party" and collectively as the "Parties".

#### **RECITALS**

A. City has authority, pursuant to NRS Chapter 278 and Title 19 of the Code, to enter into development agreements such as this Agreement, with persons having a legal or equitable interest in real property to establish long-range plans for the development of such property.

B. Seventy Acres LLC, a Nevada limited liability company ("Seventy Acres"), Fore Stars, LTD., a Nevada limited liability company ("Fore Stars") and 180 Land Co LLC, a Nevada limited liability company ("180 Land") are the owners (Seventy Acres, Fore Stars and 180 Land each individually an "Owner" and collectively the "Owners") of the Property described on **Exhibit "A"** attached hereto (collectively the "Property").

C. The Property is the land on which the golf course, known as the Badlands, is currently operated. The golf course will be closed and the land repurposed in a manner that is complementary to the adjacent uses with very large estate lots with custom homes and with luxury multifamily development.

D. The Property is divided into four (4) development areas, totaling two hundred fifty and ninety-two hundredths (250.92) acres (hereinafter referred to as "The Two Fifty"), as shown on **Exhibit "B"** attached hereto.

E. A Major Modification to the 1990 Approved Peccole Ranch Master Plan has been submitted concurrent with this Agreement (and is attached hereto as **Exhibit "C"**) to allow for the repurposed uses on the Property.

F. The Parties desire to enter into a Development Agreement for the development of the Property in phases and in conformance with the requirements of NRS Chapter 278, and as otherwise permitted by law.

G. Seventy Acres and Fore Stars irrevocably appoint Master Developer to act for and on behalf of Seventy Acres and Fore Stars, as their agent, to do all things necessary to fulfill Seventy Acres,

Fore Stars and Master Developer's obligations under this Agreement.

H. The first phase of the multifamily development shall be on seventeen and forty-nine hundredths (17.49) acres of land at the southwest corner of Alta Drive and Rampart Boulevard ("Development Area 1") as shown on **Exhibit "B"** attached hereto.

I. The remainder of the Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

J. The Parties acknowledge that this Agreement will (i) promote the health, safety and general welfare of City and its inhabitants, (ii) minimize uncertainty in planning for and securing orderly development of the Property and surrounding areas, (iii) ensure attainment of the maximum efficient utilization of resources within City at the least economic cost to its citizens, and (iv) otherwise achieve the goals and purposes for which the laws governing development agreements were enacted.

K. The Parties further acknowledge that this Agreement will provide the owners of adjacent properties with the assurance that the development of the Property will be compatible and complimentary to the existing adjacent developments in accordance with the The Two Fifty Design Guidelines ("Design Guidelines") attached hereto as Exhibit "D" and Development Standards attached hereto as Exhibit "C's" Exhibit U.

L. As a result of the development of the Property, City will receive needed jobs, sales and other tax revenues and significant increases to its real property tax base. City will additionally receive a greater degree of certainty with respect to the phasing, timing and orderly development of the Property by a developer with significant experience in the development process.

M. Master Developer desires to obtain reasonable assurances that it may develop the Community in accordance with the terms, conditions and intent of this Agreement. Master Developer's decision to enter into this Agreement and commence development of the Community is based on expectations of proceeding and the right to proceed with the Community in accordance with this Agreement and the Applicable Rules.

N. Master Developer further acknowledges that this Agreement was made a part of the record at the time of its approval by the City Council and that Master Developer agrees without protest to the requirements, limitations, and conditions imposed by this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## SECTION ONE

### DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

"Affiliate" of any person means (a) any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person and (b) any other Person that beneficially owns at least fifty percent (50%) of the voting common stock or partnership interest or limited liability company interest, as applicable, of such Person. For the purposes of this definition, "control" when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, partnership interests, by contract or otherwise; and the terms "controlling" or "controlled" have meanings correlative to the foregoing.

"Agreement" means this development agreement and at any given time includes all addenda and exhibits incorporated by reference and all amendments which hereafter are duly entered into in accordance with the terms of this Agreement.

"Applicable Rules" means and refers to:

(a) The provisions of the Code and all other uniformly-applied City rules, policies, regulations, ordinances, laws, general or specific, which were in effect on the Effective Date;

(b) This Agreement;

(c) The Design Guidelines;

(d) The Development Standards; and

(d) The term "Applicable Rules" does not include:

(i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;

(ii) Any fee or monetary payment prescribed by City ordinance which is uniformly applied to all development and construction subject to the City's jurisdiction; or

(iii) Any applicable state or federal law or regulation.

"Authorized Designee" means any person or entity authorized in writing by Master Developer to make an application to the City for an Entitlement Request on the Property.

"Building Codes" means the development of the Community shall be subject to the Building Codes and Fire Codes in effect at the time of issuance of the permit for the particular development activity.

"CCRFCD" means the Clark County Regional Flood Control District.

"CCSD" means the Clark County School District.

~~"Certificate of Occupancy or C of O" means that certificate issued by the Building Official pursuant to the City of Las Vegas Administrative Code, often after issuance of a TCO, authorizing the final occupancy of buildings and structures or portions thereof after the Building Official has inspected the building or structure and has found no violations of the provisions of that code or other laws which are enforced by the enforcement agency.~~

"City" means the City of Las Vegas, together with its successors and assigns.

"City Council" means the Las Vegas City Council.

"City Infrastructure Improvement Standards" means in their most recent editions and with the most recent amendments adopted by the City, the Standard Drawings for Public Works Construction Off-site Improvements, ~~Clark County, Nevada~~; Uniform Standard Specifications for Public Works Construction Off-site Improvements, ~~Clark County, Nevada~~; Uniform Regulations for the Control of Drainage and Hydrologic Criteria and Drainage Design Manual, Clark County Regional Flood Control District; Design and Construction Standards for Wastewater Collection Systems of Southern Nevada; and any other engineering, development or design standards and specifications adopted by the City Council. The term includes standards for public improvements and standards for private improvements required under the UDC.

"City Manager" means the person holding the position of City Manager at any time or their designee.

"City Referral Group" means a group comprised of representatives of the Department of Planning & Development, the Department of Public Works, the Department of Building and Safety, the Department

of Fire Services, the Department of Parks and Leisure Activities and any other city department or agency, as determined by the City Manager. The City Referral Group reviews and makes final decisions, unless otherwise appealed, on Site Development Plan Reviews within the Community.

"Code" means the Las Vegas Municipal Code, including all ordinances, rules, regulations, standards, criteria, manuals and other references adopted therein.

"Community" means the Property and any and all improvements provided for or constructed thereupon.

"Design Guidelines" means the document prepared by Master Developer, attached hereto as **Exhibit "D"**, and reviewed and approved by City.

"Designated Builder" means any legal entity other than Owner(s) that owns any parcel of real property within the Community, whether prior to or after the Effective Date, provided that such entity is designated as such by Master Developer to City Manager in writing. For purposes of the Applicable Rules, the term "Designated Builder" is intended to differentiate between the Master Developer, Owner(s) and their Affiliates in their capacity as developer and land owner and any other entity that engages in the development of a structure or other improvements on a Development Parcel within the Community. A Designated Builder is not a Party to this Agreement and may not enforce any provisions herein, but upon execution and recordation of this Agreement, a Designated Builder may rely on and be subject to the land use entitlements provided for herein. Designated Builder will work closely with Master Developer to ensure the Community is developed in accordance with this Agreement.

~~"Development Parcels" means legally subdivided parcels of land within the Community that are intended to be developed or further subdivided.~~

"Development Area" means the four (4) separate development areas of the Property as shown on the Master Land Use Plan attached hereto as **Exhibit "B"**.

"Development Parcels" means legally subdivided parcels of land within the Community that are intended to be developed or further subdivided.

"Development Phase Map, Final" means any final map recorded on the Property after the recordation of this Agreement. The Phase Development Final Maps shall be in conformance to the Development Phase exhibit.

"Development Standards" means the document prepared by Master Developer and reviewed and approved by City as part of the 2016 Peccole Ranch Master Plan (Major Modification of 1990 Peccole Ranch Master Plan) attached hereto as Exhibit "C".

"Director of Planning" means the Director of the City's Department of Planning or their designee.

"Director of Public Works" means the Director of the City's Department of Public Works or their designee.

"DWR" means the State of Nevada Division of Water Resources.

"Effective Date" means the date, on or after the adoption by City of an ordinance approving the execution of this Agreement, and the subsequent execution of this Agreement by the Parties, on which this Agreement is recorded in the Office of the County Recorder of Clark County. Each party agrees to cooperate as requested by the other party to cause the recordation of this Agreement without delay.

"Entitlement Request" means a request by Master Developer or its Authorized Designee for any land use approval including, without limitation, a parcel map, tentative or final subdivision map and/or a Site Development Plan Review.

"Grading Plan, Master Rough" means a plan or plans prepared by a Nevada-licensed professional engineer, to:

(a) Specify areas where the Master Developer intends to perform rough grading operations;

(b) Identify existing elevations and features that are to be preserved within the Community and do so at a drawing scale not to exceed one hundred feet (100') per inch;

(c) Identify approximate future elevations and slopes of roadways, paseos, Development Parcels, open space, and drainage areas;

(d) Identify rough design elevations on a two hundred foot (200') grid, and at street intersections, at parcel boundaries, or more frequently;

(e) Identify locations and heights of potential stock piles; and

(f) Prior to issuance of any rough grading permit, the Director of Public Works may require an update to the Master Drainage Study to address the impacts of phasing or diverted flows if the Master Drainage Study does not contain sufficient detail for that permit.



The Master Rough Grading Plan shall be reviewed by the Director of Public Works for conformance to the grading and drainage aspects of the approved Master Drainage Study and the Director of Planning shall consider the plan for the aesthetic aspects of the plan.

"Grading Plan", which accompanies the Technical Drainage Study, means a detailed grading plan for a development site within the Community, created pursuant to the UDC, to further define the grading within residential or commercial subdivision sites as identified in the Master Rough Grading Plan to a level of detail sufficient to support construction drawings, in accordance with the CCRFCD Hydrologic Criteria and Drainage Design Manual.

"HOA or Similar Entity" means any unit-owners' association organized pursuant to NRS 116.3101, that is comprised of owners of residential dwelling units in the Community, or portions thereof, created and governed by a declaration (as defined by NRS 116.037), formed for the purpose of managing, maintaining and repairing all common areas transferred to it for such purposes.

"Investment Firm" means an entity whose main business is holding securities of other companies, financial instruments or property purely for investment purposes, and includes by way of example, and not limitation, Venture Capital Firms, Hedge Funds, and Real Estate Investment Trusts.

"LVVWD" means the Las Vegas Valley Water District.

"Master Developer" means 180 Land Company LLC, a Nevada limited liability company, and its successors and assigns as permitted by the terms of this Agreement.

"Master Drainage Study" means the comprehensive hydrologic and hydraulic study to be approved by the Director of Public Works, including updates required by the City when changes to the conditionally approved study are proposed that must also be approved by the Director of Public Works.

"Master Land Use Plan" means the approved site plan for the Community, which is **Exhibit "B"**.

"Master Sanitary Sewer Study" means the comprehensive study to be approved by the Director of Public Works, including updates required by the City where changes to the conditionally approved densities or layout of the development are proposed that would impact on-property and/or off-property pipeline capacities and may result in additional required off-property sewer improvements.

"Master Studies" means the Master Traffic Study and the Master Drainage Study.

"Master Traffic Study" means the comprehensive study with respect to this Property to be

approved by the Director of Public Works.

"Master Utility Improvements" means those water, sanitary sewer, storm water drainage, power, street light and natural gas improvements within and directly adjacent to the Property necessary to serve the proposed development of the Community other than those utility improvements to be located within individual Development Parcels. All public sewer, streetlights, traffic signals, associated infrastructures and public drainage located outside of public right-of-way must be within public easements within common lots of the HOA or Similar Entity or of the Development Parcels.

"Master Utility Plan" means a conceptual depiction of all existing and proposed utility alignments, easements or otherwise, within and directly adjacent to the Property necessary to serve the proposed development of the Community, other than those utility improvements to be located within individual Development Parcels. The Master Developer shall align all proposed utilities within proposed public rights-of-way when reasonable and, if applicable, will dedicate such rights-of-way to the City before granting utility easements to specific utility companies, and Master Developer shall separately require any Authorized Designee to disclose the existence of such facilities located on (or in the vicinity of) any affected residential lots, and easements necessary for existing and future LVVWD water transmission mains.

"Metro" means the Las Vegas Metropolitan Police Department.

"NRS" means the Nevada Revised Statutes, as amended from time to time.

"Off-Property" means outside of the physical boundaries of the Property.

"Off-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located outside the Property boundaries required by the Master Studies or other governmental entities to be completed by the Master Developer due to the development of the Community.

"On-Property" means within the physical boundaries of the Property.

"On-Property Improvements," as this definition relates to the Master Studies, means infrastructure improvements located within the Property boundaries required by the Master Studies or other governmental entities, to be completed by the Master Developer due to the development of the Community.

"Off-Site Improvements" means any and all improvements necessary for a discrete parcel of property as required by the Applicable Rules.

"Party," when used in the singular form, means either Master Developer, an Owner or City and in the plural form of "Parties" means Master Developer, Owners and City.

"Planning Commission" means the City of Las Vegas Planning Commission.

"Planning Department" means the Department of Planning of the City of Las Vegas.

"Property" means that certain 250.92 gross acres of real property which is the subject of this Agreement. The legal description of the Property is set forth at **Exhibit "A"**.

"RTC" means the Regional Transportation Commission of Southern Nevada.

"SNHD" means the Southern Nevada Health District.

~~"Subdivision Map"~~ "Subdivision Map" means any instrument under NRS and the UDC which legally subdivides property or gives the right to legally subdivide property, including, without limitation, parcel maps, division of land into large parcels, tentative and development phase final maps, tentative commercial subdivision maps, final commercial subdivision maps, reversionary maps, condominium subdivision maps, or tentative or final residential subdivision maps, for all or a portion of the Community.

~~means any instrument under NRS and the UDC which legally subdivides property or gives the right to legally subdivide property.~~

"Technical Drainage Study" means: a comprehensive hydrologic study prepared under the direction of and stamped by a Nevada-licensed professional engineer, to:

- (a) Estimate the impact of storm water run-off affecting a Development Parcel from on-property and off-property sources;
- (b) Estimate the impact of any storm water run-off that will affect down-stream off-property real property;
- (c) Identify the impacts of any storm water run-off that will affect the Development Parcel; the on-property proposed drainage facilities and patterns and any off-property drainage facilities and patterns; and
- (d) Identify the means and methods necessary to mitigate such impact, including a commitment to implement, or pay for such mitigating improvements within a specified time frame.

The Technical Drainage Study shall be approved by the Director of Public Works.

~~"Temporary Certificate of Occupancy or TCO" means that temporary certificate issued by the Building Official pursuant to the City of Las Vegas Administrative Code authorizing the temporary use and occupancy of buildings and structures or portions thereof after the Building Official has inspected the building or structure and has found no violations of the provisions of that code or other laws which are enforced by the enforcement agency. For loft units, completed bathrooms and kitchens shall not be required for issuance of TCO.~~

"Term" means the term of this Agreement.

"UDC" means the Unified Development Code.

"Village Street" means any of those roadways identified as Village Streets, whether public or private, which Master Developer is obligated to construct pursuant to the Master Traffic Study, together with associated curb, gutter, underground utility improvements including fiber optic interconnect, streetlights, traffic control signs and signals other than those for which a fee was paid pursuant to Ordinance 5644, sidewalk or trail and landscaping ~~as indicated on the appropriate cross section in the Design Guidelines.~~

## SECTION TWO

### APPLICABLE RULES AND CONFLICTING LAWS

2.01 Reliance on the Applicable Rules. City and Master Developer agree that Master Developer will be permitted to carry out and complete the development of the Community in accordance with the terms of this Agreement and the Applicable Rules. The terms of this Agreement shall supersede any conflicting provision of the City Code except as provided in Section 2.02 below.

2.02. Application of Subsequently Enacted Rules by the City. The City shall not amend, alter or change any Applicable Rule as applied to the development of the Community, or apply a new fee, rule regulation, resolution, policy or ordinance to the development of the Community, except as follows:

(a) The development of the Community shall be subject to the Building Codes and Fire Codes in effect at the time of issuance of the permit for the particular development activity.

(b) The application of a new uniformly-applied rule, regulation, resolution, policy or ordinance to the development of the Community is permitted, provided that such action is necessary to

protect the health, safety and welfare of City residents, and provided that City gives Master Developer written notice thirty (30) days prior to implementing a new policy.

(c) Nothing in this Agreement shall preclude the application to the Community of new or changed rules, regulations, policies, resolutions or ordinances specifically mandated and required by changes in state or federal laws or regulations. In such event, the provisions of Section 2.03 to 2.05 of this Agreement are applicable.

(d) Should the City adopt or amend rules, regulations, policies, resolutions or ordinances and apply such rules to the development of the Community, other than pursuant to one of the above Sections 2.02(a), 2.02(b) or 2.02(c), the Master Developer shall have the option, in its sole discretion, of accepting such new or amended rules by giving written notice of such acceptance. City and the Master Developer shall subsequently execute an amendment to this Agreement evidencing the Master Developer's acceptance of the new or amended ordinance, rule, regulation or policy within a reasonable time.

2.03 Conflicting Federal or State Rules. In the event that any federal or state laws or regulations prevent or preclude compliance by City or Master Developer with one or more provisions of this Agreement or require changes to any approval given by City, this Agreement shall remain in full force and effect as to those provisions not affected, and:

(a) Notice of Conflict. Either Party, upon learning of any such matter, will provide the other Party with written notice thereof and provide a copy of any such law, rule, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(b) Modification Conferences. The Parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law, rule, regulation or policy.

2.04 City Council Hearings. In the event either Party believes that an amendment to this Agreement is necessary due to the effect of any federal or state law, rule, regulation or policy, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. Master Developer shall have the right to offer oral and written testimony at the hearing. Any amendment

ordered by the City Council pursuant to a hearing contemplated by this Section is subject to judicial review. The Parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.

2.05 City Cooperation. City shall cooperate with Master Developer in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated under Section 2.04. As required by the Applicable Rules, Master Developer shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations. Permits issued to Master Developer shall not expire until the work covered under the permit is complete.

### SECTION THREE

#### PLANNING AND DEVELOPMENT OF THE COMMUNITY

3.01 Permitted Uses, Density, and Height of Structures. Pursuant to NRS Chapter 278, this Agreement sets forth the maximum height of structures to be constructed in the Community, the density of uses and the permitted uses of the land for each ~~parcel~~Development Area within the Community.

(a) Maximum Units Permitted. The number of residential dwelling units allowed within the Community, as shown on **Exhibit B**, is three thousand eighty (3,080) units with seven hundred twenty (720) units in Development Area 1, twelve hundred fifty (1,250) units in Development Area 2, one thousand fifty (1,050) units in Development Area 3 and sixty (60) units in Development Area 4.

(b) Permitted Uses and Unit Types. The Community is planned for a mix of single family residential homes and multi-family residential homes including tower residential homes. In Development Areas 1, 2 and 3, ancillary commercial uses, each up to five thousand (5,000) square feet in size, shall be permitted. Clock towers and water features (if supplied by privately-owned water rights) shall be allowed in the Community. Las Vegas Municipal Code Sections 14.08, 14.10 and 14.11, relating to water regulations, manmade lakes and water features, and the drought plan, shall be frozen as of the Effective Date of this Agreement as part of the Applicable Rules. The additional uses allowed within the Community are listed in the Design Guidelines attached as **Exhibit "D"** and within the Development Standards attached hereto as Exhibit "C's" Exhibit U. The types of buildings and dwelling units shall be permitted in accordance with the Applicable Rules. Golf course operations may continue on any portion

of the Property for any period of time at the discretion of the Master Developer.

(c) Density. Master Developer shall have the right to determine the number of residential dwelling units to be developed on any Development Parcel. Notwithstanding the foregoing, the maximum density permitted in Development Area 1 shall be seven hundred twenty (720) residential units; Development Area 2 shall be twelve hundred fifty (1,250) residential units; Development Area 3 shall be one thousand fifty (1,050) residential units; and Development Area 4 shall be sixty (60) residential units. With respect to any proposed and approved tower residential, only after issuance of a TCO on the building will the unit C of Os be requested on an individual unit by unit basis.

(d) Maximum Height. The maximum height shall be governed by the Code except as otherwise provided for in the Design Guidelines attached as **Exhibit “D”**.

(e) Phasing.

(i) Development Area 1 will be the first multifamily development in the Community.

(ii) The remainder of the Property shall be developed as the market demands, in accordance with this Agreement, and at the sole discretion of Master Developer.

(iii) Master Developer and City agree that prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896<sup>th</sup>) residential unit, by way of a building permit issuance, Master Developer shall have substantially completed the drainage infrastructure required in Development Area 4. For clarification, the completion of the aforementioned drainage infrastructure required in Development Area 4 is not a prerequisite to approval for construction of the first eighteen hundred and ninety-five (1,895) residential units, by way of building permit issuance. For purposes of this subsection, substantially completed shall mean the installation of the box culverts required pursuant to the City-approved Master Drainage Study.

(iv) Clubhouse Drive extension as shown in **Exhibit “C’s”** Exhibits L-1 and L-2 shall be completed prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896<sup>th</sup>) residential unit, by way of a building permit issuance. For clarification, the completion of the aforementioned drainage infrastructure required in Development Area 4 is not a prerequisite to approval for construction of the first eighteen hundred and ninety-five (1,895) residential units, by way of building

permit issuance.

(f) Construction Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 twenty-four (24) hours per day, subject to Las Vegas Municipal Code Section 9.16, to allow for expedited construction.

(g) Grading and Earth Movement.

(i) Master Developer understands that it must obtain Federal Emergency Management Agency's ("FEMA") CLOMAR approval prior to any mass grading on the FEMA designated areas of the Property.

(ii) Master Developer's intention is that the Property's mass grading and cut and fill earth work will balance, thereby mitigating the need for the import and export of fill material. However, there will be a need to import and/or export dirt for landscape fill.

(iii) In order to minimize earth movement to and from the Property, Master Developer shall be authorized to do all things necessary to process the cut materials on site to create the needed fill materials, therefore eliminating or significantly reducing the need to take cut and fill materials to and from the Property. After approval of the Master Rough Grading Plan, other than the necessary Clark County Department of Air Quality Management approvals needed, Master Developer shall not be required to obtain further approval for rock crushing, earth processing and stockpiling on the Property. The rock crushing shall be located no less than five hundred (500) feet from existing residential homes and shall be subject to Las Vegas Municipal Code Section 9.16.

(h) Access to Development Area 4. Access to Development Area 4 shall be on Hualapai Way or through Development Area 3.

3.02. Entitlement Requests.

(a) Generally. City agrees to reasonably cooperate with Master Developer to:

(i) Expeditiously process all Entitlement Requests in connection with the Property that are in compliance with the Applicable Rules and Master Studies; and

(ii) Promptly consider the approval of Entitlement Requests, subject to reasonable conditions not otherwise in conflict with the Applicable Rules or the Master Studies.

(b) Zoning Entitlement for Property. The Parties acknowledge and agree that the



Property will be rezoned for development in accordance with the Peccole Ranch Master Plan, as amended, to allow for the development of the densities provided for herein.

(c) Other Entitlement Requests. Except as provided herein, all other Entitlement Request applications shall be processed by City according to the Applicable Rules. The Parties acknowledge that the procedures for processing such Entitlement Request applications are governed by this Agreement, and if not covered by this Agreement, then by the Code. In addition, any additional application requirements delineated herein shall be supplemental and in addition to such Code requirements.

(i) Site Development Plan Review. Unless otherwise provided for herein, Master Developer shall satisfy all Code requirements for the filing of an application for a Site Development Plan Review, except no Site Development Plan Review will be required for any of the up to sixty (60) residential units in Development Area 4. The open space requirements for each development within the Community shall be addressed with each Site Development Plan Review.

The Parties agree that the City Referral Group shall review and approve all Site Development Plan Reviews within the Community, unless otherwise appealed. All rulings, decisions and recommendations by the City Referral Group shall be by majority vote of the quorum in attendance. The Chairman of the City Referral Group shall be the Director of Planning. The City Referral Group shall hear and consider the facts presented and determine whether to approve or deny the site plan. Any approval may include any conditions, stipulations, requirements or limitations that may be necessary to fulfil the intent of this Agreement. The Parties agree that:

(1) Within thirty (30) days of a submission being deemed completed, the Director of Planning shall notify the applicant, in writing, of the action and decision of the City Referral Group. The notification shall include any conditions that may be required to complete the Site Plan Review.

(2) An applicant may appeal the decision of the City Referral Group to the Planning Commission by submitting a written appeal to the Director of Planning within ten (10) days of receipt of the City Referral Group's action, stating whether there is a disagreement. A final appeal can be referred to the City Council by either the applicant or the Director of Planning for a final decision.

(ii) Special Use Permits. Except as provided for herein, Master Developer shall satisfy all Code requirements for the filing of an application for a special use permit. The Parties further agree that:

(1) Except as otherwise provided in this Agreement and the Design Guidelines, special use permit applications shall be processed in accordance with the UDC.

(2) City shall not accept any special use permit application without written verification that the Master Developer either approves of the application or has no objection thereto.

3.03. Dedicated Staff and the Processing of Applications.

(a) Processing Fees, Generally. All Entitlement Requests, Minor or Major Modification Requests and all other requests related to the development of the Community shall pay the fees as provided by the UDC.

(b) Inspection Fees. Construction documents and plans that are prepared on behalf of Master Developer for water facilities such as water pumping stations, water reservoirs, water transmission mains, and water distribution mains, that are reviewed by City for approval, shall not require payment of inspection fees to City unless the water service provider will not provide those inspection services.

(c) Dedicated Inspection Staff. Upon written request from Master Developer to City, City shall provide within thirty (30) days from written notice, if staff is available, and Master Developer shall pay for a full-time inspector dedicated only to the development of the Community. ~~If City staff is not available, City agrees to outsource to a third-party inspection company and Master Developer agrees to pay for such outsourcing.~~

3.04 Modification of Design Guidelines and Development Standards. Parties agree that the only proper entity to request a modification or deviation to the Design Guidelines and Development Standards is the Master Developer entity. A modification or deviation to the Design Guidelines and Development Standards shall not be permitted by: any other purchaser of real property within the Community, the HOA or Similar Entity.

(a) Applicant. Requests for all modifications of the Design Guidelines and

Development Standards may be made only by Master Developer.

(b) Minor Modifications. Except as otherwise provided for herein, Minor Modifications are changes to the Design Guidelines that include:

- (i) changes in architectural styles, color palettes and detail elements.
- (ii) the addition of similar and complementary architectural styles, color palettes and detail elements to residential and commercial uses.
- (iii) changes in building materials.
- (iv) changes in landscaping materials, plant palettes, and landscaping detail elements.

(c) Submittal, Review, Decision, and Appeal.

(i) An application for Minor Modification of the Design Guidelines may be made to the Director of Planning for his consideration. The Director of the Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Director of the Department of Planning may, in his discretion, approve a Minor Modification or impose any reasonable condition upon such approval. The Director of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (iii) below. Applications for which no written decision is issued within thirty (30) business days shall be deemed approved. If the Director of the Department of Planning rejects a request for a Minor Modification, the request shall automatically be deemed a Major Modification, and at the option of the Master Developer, the decision of the Director of the Department of Planning may be appealed to the Planning Commission.

(iii) Master Developer may appeal any decision of the Director of the Department of Planning to the Planning Commission by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(iv) Master Developer may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission

action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

(d) Major Modifications.

(i) Any application for a modification to the Design Guidelines that does not qualify as a Minor Modification is a Major Modification and any modification to the Development Standards is a Major Modification. All applications for Major Modifications shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application or its receipt of the appeal provided for in Section (c) above, whichever is applicable.

(ii) Without limiting the foregoing, a Major Modification that increases density in the Community may only be done so by formally amending this Agreement pursuant to Section 4 below, to reflect such increase in density. The Master Developer shall meet and confer with the Director of Public Works or his designee as to whether an update to the Master Studies is required. If the Director of Public Works or his designee requires an update to one or more of the Master Studies, such update shall be prepared by Master Developer and submitted to the Department of Public Works no later than fifteen (15) business days prior to the date upon which the Planning Commission is to consider any such amendment.

(iii) All actions by the Planning Commission on Major Modifications shall be scheduled for a hearing at the next available City Council meeting.

3.05 Deviation to Design Guidelines and Development Standards. A deviation is an adjustment to a particular requirement of the Design Guidelines and Development Standards for a particular Development Parcel or lot.

(a) Minor Deviation. A Minor Deviation must not have a material and adverse impact on the overall development of the Community and may not exceed ten percent (10%) of a particular requirement delineated by the Design Guidelines. An application for a Minor Deviation may only be made under the following circumstances:

i) A request for deviation from any particular requirement delineated by the Design Guidelines on ten percent (10%) or less of the lots in a Development Parcel; or

ii) A request for deviation from the following particular requirements on greater than 10% of the lots in a Development Parcel or the entire Community:

a) Changes in architectural styles, color palettes and detail elements.

b) The addition of similar and complementary architectural styles, color palates and detail elements to residential and commercial uses.

c) Changes in building materials.

d) Changes in landscaping materials, plant palettes, and landscaping detail elements.

e) Setback encroachments for courtyards, porches, miradors, casitas, porte cocheres, architectural projections as defined by the Design Guidelines, garages and carriage units.

f) Height of courtyard walls.

       (b) Administrative Review Permitted. An application for a Minor Deviation may be filed by the Master Developer or an Authorized Designee as provided herein. Any application by a an Authorized Designee of Master Developer must include a written statement from the Master Developer that it either approves or has no objection to the request.

(c) Submittal, Review and Appeal

(i) An application for a Minor Deviation from the Design Guidelines may be made to the Director of the Department of Planning for their consideration. The Director of the Department of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application.

(ii) The Director of the Department of Planning may, in their discretion, approve or deny a Minor Deviation or impose any reasonable condition upon such approval. The Director of the Department of Planning shall issue a written decision within thirty (30) business days of receipt of the application. The decision is final unless it is appealed by the Master Developer pursuant to Section (~~iii~~) below. Applications for which no written decision is issued within thirty (30) days shall be deemed approved.

(iii) Master Developer or an Authorized Designee may appeal any decision of the Director of the Department of Planning to the Planning Commission by providing a written

request for an appeal within ten (10) business days of receiving notice of the decision. Such appeal shall be scheduled for a hearing at the next available Planning Commission meeting.

(iv) Master Developer or an Authorized Designee may appeal any action of the Planning Commission by providing a written request for an appeal within ten (10) business days of the Planning Commission action. Such appeal shall be scheduled for a hearing at the next available City Council meeting.

\_\_\_\_\_ (d) Major Deviation. Any application for a modification to the Design Guidelines that does not qualify as a Minor Deviation or a modification to the Development Standards is a Major Deviation. A Major Deviation must not have a material and adverse impact on the overall development of the Community and may exceed ten percent (10%) of any particular requirement delineated by the Design Guidelines or Development Standards.

(i) City Council Approval Required. An application for a Major Deviation may be filed by the Master Developer or an Authorized Designee as provided herein. Any application by an Authorized Designee must include a written statement from the Master Developer that it either approves or has no objection to the request. Major Deviations shall be submitted to the Planning Commission for recommendation to the City Council, wherein the City Council shall have final action on all Major Deviations.

(ii) Submittal, Review and Approval.

(1) All applications for Major Deviations shall be scheduled for a hearing at the next available Planning Commission meeting after the City's receipt of the application.

(2) All actions by the Planning Commission on Major Deviations shall be scheduled for a hearing by the City Council within thirty (30) days of such action.

(e) \_\_\_\_\_ If Master Developer or an Authorized Designee requests a deviation from adopted City Infrastructure Improvement Standards, an application for said deviation shall be submitted to the Land Development Section of the Department of Building and Safety and related fees paid for consideration by the City Engineer pursuant to the Applicable Rules.

(f) Any request for deviation other than those specifically provided shall be processed pursuant to Section 3.04 (Modifications of Design Guidelines and Development Standards).

3.06 Anti-Moratorium. The Parties agree that no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the construction, rate, timing or sequencing of the development of property including those that affect parcel or subdivision maps, building permits, occupancy permits or other entitlements to use land that are issued or granted by City shall apply to the development of the Community or portion thereof. Notwithstanding the foregoing, City may adopt ordinances, resolutions or rules or regulations that are necessary to:

(a) comply with any state or federal laws or regulations as provided by Section 2.04, above;

(b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Property, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or

(c) maintain City's compliance with non-City and state sewerage, water system and utility regulations. However, the City as the provider of wastewater collection and treatment for this development shall make all reasonable best efforts to insure that the wastewater facilities are adequately sized and of the proper technology so as to avoid any sewage caused moratorium.

In the event of any such moratorium, future ordinance, resolution, rule or regulation, unless taken pursuant to the three exceptions contained above, Master Developer shall continue to be entitled to apply for and receive consideration of Entitlement Requests and other applications contemplated in Section 3 in accordance with the Applicable Rules.

3.07. Property Dedications to City. Except as provided in herein, any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances (except for any encumbrances that existed on the patent at the time it was delivered to Master Developer from the United States of America).

### **SECTION THREE (A)**

#### **MAINTENANCE OF THE COMMUNITY**

##### **3(A).01 Maintenance of Public and Common Areas.**

(a) Master Community HOA. Master Developer agrees to organize a Master HOA or Similar Entity to manage and maintain sidewalk, common landscape areas, any landscaping within the street

rights-of-way including median islands, private sewer facilities, private drainage facilities located within common elements, including but not limited to, rip-rap lined channels and natural arroyos as determined by the Master Drainage Study or applicable Technical Drainage Studies, but excluding City dedicated public streets, curbs, gutters, streetlights upon City-dedicated public streets, City owned traffic control devices and traffic control signage and permanent flood control facilities.

(b) Maintenance Obligations of the Master HOA and Sub-HOAs. The Master HOA or Similar Entity and the Sub-HOAs (which hereinafter may be referred to collectively as the “HOAs”) shall be responsible to maintain in good condition and repair all common areas that are transferred to them for repair and maintenance (the “Maintained Facilities”), including, but not limited to ~~developed and undeveloped~~ sidewalks, walkways, private streets, private alleys, private drives, landscaped areas, parks and park facilities, trails, amenity zones, and any landscaping in, on and around medians and public rights-of-way.

Master Developer acknowledges and agrees that the Master HOA or Similar Entity and Sub-HOA (as applicable) are common-interest communities created and governed by declarations (“Declarations”) as such term is defined in NRS 116.037. The Declarations will be recorded by Master Developer or Designated Builders as an encumbrance against the property to be governed by the appropriate HOA. In each case, the HOA shall have the power to assess the encumbered property to pay the cost of such maintenance and repair and to create and enforce liens in the event of the nonpayment of such assessments. Master Developer further agrees that such Declarations will contain a covenant running to the benefit of City, and enforceable by City, that such facilities will be maintained in good condition and repair. Such HOAs will be Nevada not-for-profit corporations with a board of directors elected by the subject owners, provided, however, that Master Developer may control the board of directors of such HOA for as long as permitted by applicable law.

(c) The Declaration for the Master HOA, when it has been fully executed and recorded with the office of the Clark County Recorder, shall contain (or effectively contain) the following provisions:

- (i) that the governing board of the HOA must have the power to maintain the Maintained Facilities;
- (ii) that the plan described in Section 3A.02 can only be materially amended by the



Master HOA or Similar Entity board;

(iii) that the powers under the Declaration cannot be exercised in a manner that would defeat or materially and adversely affect the implementation of the Maintenance Plan defined below; and

(iv) that in the event the Master HOA fails to maintain the Maintained Facilities in accordance with the provisions of the plan described in Section 3A.02, City may exercise its rights under the Declaration, including the right of City to levy assessments on the property owners for costs incurred by City in maintaining the Maintained Facilities, which assessments shall constitute liens against the land and the individual lots within the subdivision which may be executed upon. Upon request, City shall have the right to review the Declaration for the sole purpose of determining compliance with the provisions of this Section.

3(A).02 Maintenance Plan. For park and common areas, maintained by the Master HOA or Similar Entity or Sub-HOA (as applicable) the corresponding Declaration pursuant to this Section shall provide for a plan of maintenance.

3(A).03 Release of Master Developer. Following Master Developer's creation of HOAs to maintain the Maintained Facilities, and approval of the maintenance plan with respect to each HOA, City will hold each HOA responsible for the maintenance of the Maintained Facilities in each particular development covered by each Declaration and Master Developer shall have no further liability in connection with the maintenance and operation of such particular Maintained Facilities. Notwithstanding the preceding sentence, Master Developer shall be responsible for the plants, trees, grass, irrigation systems, and any other botanicals or mechanical appurtenances related in any way to the Maintained Facilities pursuant to any and all express or implied warranties provided by Master Developer to the HOA under NRS Chapter 116.

3(A).04 City Maintenance Obligation Acknowledged. City acknowledges and agrees that all of the following will be maintained by City in good condition and repair at the City's sole cost and expense : (i) permanent flood control facilities including but not limited to those improvements identified in the Master Drainage Study or applicable Technical Drainage Studies and (ii) for public maintenance and all City dedicated public streets (excluding any landscape within the right-of-way), associated curbs, gutters, City-

owned traffic control devices, signage, and streetlights upon City-dedicated public streets within the Community and accepted by the City. ~~will be maintained by City in good condition and repair at the City's sole cost and expense.~~ City reserves the rights to modify existing sidewalks and the installation of sidewalk ramps and install or modify traffic control devices on common lots abutting public streets at the discretion of the Director of Public Works.

Master Developer or Master HOA or Similar Entity will maintain all temporary detention basins or interim facilities identified in the Master Drainage Study or applicable Technical Drainage Studies. The City agrees to cooperate with the Master Developer and will diligently work with Master Developer to obtain acceptance of all permanent drainage facilities.

## **SECTION FOUR**

### **DEFAULT**

4.01 Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a ten (10) day notice of default and opportunity to cure. The time of notice shall be measured from the date of receipt of the certified mailing. The notice of noncompliance shall specify the nature of the alleged noncompliance and the manner in which it may be satisfactorily corrected, during which ten (10) day period the party alleged to be in noncompliance shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the noncompliance cannot reasonably be cured within the ten (10) day cure period, the non-compliant Party may timely cure the noncompliance for purposes of this Section 4 if it commences the appropriate remedial action with the ten (10) day cure period and thereafter diligently prosecutes such action to completion within a period of time acceptable to the non-breaching Party. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than ninety (90) days from the date the ten (10) day notice of noncompliance and opportunity to cure was mailed to the non-compliant Party.

If the noncompliance is corrected, then no default shall exist and the noticing Party shall take no further action. If the noncompliance is not corrected within the relevant cure period, the non-complaint

Party is in default, and the Party alleging non-compliance may declare the breaching Party in default and elect any one or more of the following courses.

(a) Option to Terminate. After proper notice and the expiration of the above-referenced period for correcting the alleged noncompliance, the Party alleging the default may give notice of intent to amend or terminate this Agreement as authorized by NRS Chapter 278. Following any such notice of intent to amend or terminate, the matter shall be scheduled and noticed as required by law for consideration and review solely by the City Council.

(b) Amendment or Termination by City. Following consideration of the evidence presented before the City Council and a finding that a substantial default has occurred by Master Developer and remains uncorrected, City may amend or terminate this Agreement pursuant to NRS 278. Termination shall not in any manner rescind, modify, or terminate any vested right in favor of Master Developer, as determined under the Applicable Rules, existing or received as of the date of the termination. Master Developer shall have twenty-five (25) days after receipt of written notice of termination to institute legal action pursuant to this Section to determine whether a default existed and whether City was entitled to terminate this Agreement. ~~Should City terminate this Agreement, City agrees that, at the request of the Master Developer, the zoning on the Property shall revert back to the zoning on the Effective Date of this Agreement.~~

(c) Termination by Master Developer. In the event City substantially defaults under this Agreement, Master Developer shall have the right to terminate this Agreement after the hearing set forth in this Section. Master Developer shall have the option, in its discretion, to maintain this Agreement in effect, and seek to enforce all of City's obligations by pursuing an action pursuant to this Section 4.

4.02. Unavoidable Delay; Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, national disasters, terrorist attacks, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, third-party lawsuits, or acts of God. If written notice of any such delay is given to one Party or the other within thirty (30) days after the commencement thereof, an automatic extension of time, unless otherwise objected to by the party in receipt of the notice within thirty (30) days of such written notice, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances

or as may be subsequently agreed to between City and Master Developer.

4.03. Limitation on Monetary Damages. City and the Master Developer agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, City and Master Developer (or its permitted assigns) may pursue any course of action at law or in equity available for breach of contract, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Notwithstanding Neither the foregoing nor any other provision of this Agreement shall be construed as a waiver by, the Parties are not waiving of any rights afforded to them under NRS 278.0233 or any other provisions of the NRS-278.<sup>[SHA1]</sup>

4.04. Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada. The parties agree to mediate any and all disputes prior to filing of an action in the Eighth Judicial District Court unless seeking injunctive relief.

4.05. Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

4.06. Applicable Laws; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Each party shall bear its own attorneys' fees and court costs in connection with any legal proceeding hereunder.

## **SECTION FIVE**

### **GENERAL PROVISIONS**

5.01. Duration of Agreement. The Term of this Agreement shall commence upon the Effective Date and shall expire on the thirtieth (30) anniversary of the Effective Date, unless terminated earlier

pursuant to the terms hereof. City agrees that the Master Developer shall have the right to request extension of the Term of this Agreement for an additional five (5) years upon the following conditions:

- (a) Master Developer provides written notice of such extension to City at least one hundred-eighty (180) days prior to the expiration of the original Term of this Agreement;
- (b) Master Developer is not in default of this Agreement; and
- (c) Master Developer and City enter into an amendment to this Agreement memorializing the extension of the Term.

5.02. Assignment.

The Parties acknowledge that the intent of this Agreement is that there is a Master Developer responsible for all of the obligations in this Agreement throughout the Term of this Agreement.

- (a) At any time during the Term, Master Developer and its successors-in-interest shall have the right to sell, assign or transfer all of its rights, title and interests to this Agreement (a "Transfer") to any person or entity (a "Transferee"). Except in regard to Transfers to Pre-Approved Transferees (which does not require any consent by the City as provided in Section 5.02(b) below), prior to consummating any Transfer, Master Developer shall obtain from the City written consent to the Transfer as provided for in this Agreement, which consent shall not be unreasonably withheld, delayed or conditioned. Master Developer's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City to consider and respond to Master Developer's request. Master Developer shall provide information to the City that Transferee, its employees, consultants and agents (collectively "Transferee Team") has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Master Developer's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and the full execution of an Assignment and Assumption Agreement by City, Master Developer and Transferee, the Transferee shall thenceforth be deemed to be the Master Developer and responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

(b) Pre-Approved Transferees. Notwithstanding anything in this Agreement to the contrary, the following Transferees constitute "Pre-Approved Transferees," for which no City consent shall be required provided that such Pre-Approved Transferees shall assume in writing all obligations of the Master Developer hereunder by way of an Assignment and Assumption Agreement. The Assignment and Assumption Agreement shall be approved by the City Manager, whose approval shall not be unreasonably withheld, delayed or conditioned. The Assignment and Assumption Agreement shall be executed by the Master Developer and Pre-Approved Transferee and acknowledged by the City Manager. The Pre-Approved Transferee shall thenceforth be deemed to be the Master Developer and be responsible for all of the obligations in this Agreement and Master Developer shall be fully released from the obligations in this Agreement.

1) An entity owned or controlled by Master Developer or its Affiliates;

2) Any Investment Firm that does not plan to develop the Property. If Investment Firm desires to: (i) develop the Property, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, the Investment Firm shall obtain from the City written consent to: (i) commence development, or (ii) Transfer the Property to a subsequent Transferee that intends to develop the Property, which consent shall not be unreasonably withheld, delayed or conditioned. Investment Firm's written request shall provide reasonably sufficient detail and any non-confidential, non-proprietary supporting evidence necessary for the City Council to consider. Investment Firm shall provide information to the City that Investment Firm or Transferee and their employees, consultants and agents (collectively "Investment Firm Team" and "Transferee Team", respectively) that intends to develop the Property has: (i) the financial resources necessary to develop the Community, in accordance with the terms and conditions of this Agreement, or (ii) experience and expertise in developing projects similar in scope to the Community. The Investment Firm's request, including approval of the Assignment and Assumption Agreement reasonably acceptable to the City, shall be promptly considered by the City Council for their approval or denial within forty-five (45) days from the date the City receives Master Developer's written request. Upon City's approval and full execution of an Assignment and Assumption Agreement by City, Investment Firm and Transferee, the Transferee shall

thenceforth be deemed to be the Master Developer and responsible for the all of the obligations in this Agreement.

(c) In Connection with Financing Transactions. Master Developer has full and sole discretion and authority to encumber the Property or portions thereof, or any improvements thereon, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement.

5.03. Sale or Other Transfer Not to Relieve the Master Developer of its Obligation. Except as expressly provided herein in this Agreement, no sale or other transfer of the Property or any subdivided development parcel shall relieve Master Developer of its obligations hereunder, and such assignment or transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such purchaser shall be deemed to be the Master Developer hereunder. This Section shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.

5.04 Indemnity; Hold Harmless. Except as expressly provided in this Agreement, the Master Developer shall hold City, its officers, agents, employees, and representatives harmless from liability for damage ~~or claims for damage~~ for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of Master Developer or those of its contractors, subcontractors, agents, employees, or other persons acting on Master Developer's behalf which relate to the development of the Community. Master Developer agrees to and shall defend City and its officers, agents, employees, and representatives from actions for damages caused ~~or alleged to have been caused~~ by reason of Master Developer's activities in connection with the development of the Community other than any challenges to the validity of this Agreement or City's approval of related entitlements or City's issuance of permits on the Property. Master Developer and City agree to equally pay all costs and attorneys fees for a defense in any legal action filed in a court of competent jurisdiction by a third party alleging any such claims ~~or~~ challenging the validity of this Agreement or City's approval of related entitlements or City's issuance of permits on the Property. The provisions of this Section shall not apply

to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agent, employees, or representatives. This section shall survive any termination of this Agreement.

5.05. Binding Effect of Agreement. Subject to this Agreement, the burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.

5.06 Relationship of Parties. It is understood that the contractual relationship between City and Master Developer is such that Master Developer is not an agent of City for any purpose and City is not an agent of Master Developer for any capacity.

5.07 Counterparts. This Agreement may be executed at different times and in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect to 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. Delivery of a counterpart by facsimile or portable document format (pdf) through electronic mail transmission shall be as binding an execution and delivery of this Agreement by such Party as if the Party had delivered an actual physical original of this Agreement with an ink signature from such Party. Any Party delivering by facsimile or electronic mail transmission shall promptly thereafter deliver an executed counterpart original hereof to the other Party.

5.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing. Delivery may be accomplished in person, by certified mail (postage prepaid return receipt requested), or via electronic mail transmission. Mail notices shall be addressed as follows:

To City:	City of Las Vegas 495 South Main Street Las Vegas, Nevada 89101 Attention: City Manager Attention: Director of the Department of Planning
To Master Developer:	180 LAND COMPANY LLC 1215 Fort Apache Road, Suite 120 Las Vegas, NV 89117



Copy to:

Chris Kaempfer  
Kaempfer Crowell  
1980 Festival Plaza Drive, Suite 650  
Las Vegas, Nevada 89135

Either Party may change its address by giving notice in writing to the other and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address. Notices given in the manner described shall be deemed delivered on the day of personal delivery or the date delivery of mail is first attempted.

5.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

5.10 Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate officers of Master Developer or approved by the City Council, as the case may be.

5.11 Recording; Amendments. Promptly after execution hereof, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and Master Developer in a form suitable for recordation in the Official Records of Clark County, Nevada. No amendment of this Agreement shall in and of itself amend the [2016 Peccole Ranch Master Plan](#) (Major Modification to the 1990 Peccole Ranch Master Plan) attached hereto as **Exhibit "C"** unless that is the expressed intention of the Parties to do so as it relates to the Property. Upon completion of the performance of this Agreement, a statement evidencing said completion, shall be signed by the appropriate officers of the City and Master Developer and shall be recorded in the Official Records of Clark County, Nevada. A revocation or termination shall be signed by the appropriate officers of the City [and/or](#) Master Developer and shall be recorded in the Official Records of Clark County, Nevada.

5.12 Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated

herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

5.13 Release. Each residential lot shown on a recorded Subdivision Map within the Community shall be automatically released from the encumbrance of this Agreement without the necessity of executing or recording any instrument of release upon the issuance of a building permit for the construction of a residence thereon.

5.14 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the invalidity, illegality or unenforceability of such terms does not materially impair the Parties' ability to consummate the transactions contemplated hereby. If any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall, if possible, amend this Agreement so as to affect the original intention of the Parties.

5.15 Exercise of Discretion. Wherever a Party to this Agreement has discretion to make a decision, it shall be required that such discretion be exercised reasonably unless otherwise explicitly provided in the particular instance that such decision may be made in the Party's "sole" or "absolute" discretion or where otherwise allowed by applicable law.

5.16 No Third Party Beneficiary. This Agreement is intended to be for the exclusive benefit of the Parties hereto and their permitted assignees. No third party beneficiary to this Agreement is contemplated and none shall be construed or inferred from the terms hereof. In particular, no person purchasing or acquiring title to land within the Community, residing in the Community, or residing outside the Community shall, as a result of such purchase, acquisition or residence, have any right to enforce any obligation of Master Developer or City nor any right or cause of action for any alleged breach of any obligation hereunder by either party hereto.

5.17 Gender Neutral. In this Agreement (unless the context requires otherwise), the masculine, feminine and neutral genders and the singular and the plural include one another.

## **SECTION SIX**

### **REVIEW OF DEVELOPMENT**

6.01 Frequency of Reviews. As provided by NRS Chapter 278, Master Developer shall appear before the City Council to review the development of the Community. The Parties agree that the first review occur no later than twenty-four (24) months after the Effective Date of this Agreement, and again every twenty-four (24) months on the anniversary date of that first review thereafter or as otherwise requested by City upon fourteen (14) days written notice to Master Developer. For any such review, Master Developer shall provide, and City shall review, a report submitted by Master Developer documenting the extent of Master Developer's and City's material compliance with the terms of this Agreement during the preceding period.

**[Signatures on following pages]**

**In Witness Whereof, this Agreement has been executed by the Parties on the day and year first  
above written.**

**CITY:**

**CITY COUNCIL, CITY OF LAS VEGAS**

By:

\_\_\_\_\_  
Mayor

Approved as to Form:

\_\_\_\_\_  
Deputy City Attorney

Attest:

City Clerk

By:

\_\_\_\_\_  
LuAnn Holmes, City Clerk