

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent/Cross-Appellant.

No. 84345

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LAW OFFICES OF KERMITT L. WATERS

Kermitt L. Waters, Esq.

Nevada Bar No. 2571

kermitt@kermittwaters.com

James J. Leavitt, Esq.

Nevada Bar No. 6032

jim@kermittwaters.com

Michael A. Schneider, Esq.

Nevada Bar No. 8887

michael@kermittwaters.com

Autumn L. Waters, Esq.

Nevada Bar No. 8917

autumn@kermittwaters.com

704 South Ninth Street

Las Vegas, Nevada 89101

Telephone: (702) 733-8877

*Attorneys for 180 Land Co., LLC and
Fore Stars, Ltd.*

LAS VEGAS CITY ATTORNEY'S OFFICE

Bryan K. Scott, Esq.

Nevada Bar No. 4381

bscott@lasvegasnevada.gov

Philip R. Byrnes, Esq.

pbyrnes@lasvegasnevada.gov

Nevada Bar No. 166

Rebecca Wolfson, Esq.

rwolfson@lasvegasnevada.gov

Nevada Bar No. 14132

495 S. Main Street, 6th Floor

Las Vegas, Nevada 89101

Telephone: (702) 229-6629

Attorneys for City of Las Vegas

CLAGGETT & SYKES LAW FIRM

Micah S. Echols, Esq.

Nevada Bar No. 8437

micah@claggettlaw.com

4101 Meadows Lane, Suite 100

Las Vegas, Nevada 89107

(702) 655-2346 – Telephone

*Attorneys for 180 Land Co., LLC and
Fore Stars, Ltd.*

McDONALD CARANO LLP

George F. Ogilvie III, Esq.

Nevada Bar No. 3552

gogilvie@mcdonaldcarano.com

Amanda C. Yen, Esq.

ayen@mcdonaldcarano.com

Nevada Bar No. 9726

Christopher Molina, Esq.

cmolina@mcdonaldcarano.com

Nevada Bar No. 14092

2300 W. Sahara Ave., Ste. 1200

Las Vegas, Nevada 89102

Telephone: (702)873-4100

LEONARD LAW, PC

Debbie Leonard, Esq.

debbie@leonardlawpc.com

Nevada Bar No. 8260

955 S. Virginia Street Ste. 220

Reno, Nevada 89502

Telephone: (775) 964.4656

SHUTE, MIHALY & WEINBERGER, LLP

Andrew W. Schwartz, Esq.

schwartz@smwlaw.com

California Bar No. 87699

(admitted pro hac vice)

Lauren M. Tarpey, Esq.

ltarpey@smwlaw.com

California Bar No. 321775

(admitted pro hac vice)

396 Hayes Street

San Francisco, California 94102

Telephone: (415) 552-7272

Attorneys for City of Las Vegas

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 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. Neither the foregoing nor any other provision of this Agreement shall be construed as a waiver by the Parties of any rights afforded to them under NRS 278.0233 or any other provisions of the NRS.[SHA2]

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 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 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, 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

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)
- D. The Two Fifty Design Guidelines, Development Standards and Uses
- ~~D-E.~~ Residential Tower Locations

**DEVELOPMENT AGREEMENT
FOR
THE TWO FIFTY**

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Table of Contents

RECITALS	<u>3</u>
SECTION ONE	<u>5</u>
SECTION TWO.....	<u>12</u> 11
SECTION THREE.....	<u>13</u>
SECTION FOUR	<u>24</u>
SECTION FIVE	<u>27</u>
SECTION SIX	<u>29</u>
SECTION SEVEN	<u>32</u> 31
SECTION EIGHT	<u>38</u> 37
EXHIBITS	<u>41</u>

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. The 2016 Peccole Ranch Master Plan ("2016 Master Plan"), ~~a~~^{AA} Major Modification to the 1990 Approved Peccole Ranch Master ~~Plan has~~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 minimize uncertainty for the 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, Development Standards and Uses ("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.

O. The City Council, having determined that this Agreement is in conformance with the 2016 Peccole Ranch Master Plan and the Las Vegas 2020 Master Plan, and that all other substantive and procedural requirements for approval of this Agreement have been satisfied, and after giving notice as required by the relevant law, and after introducing this Agreement by ordinance at a public hearing on _____, June 15, 2016, and after a subsequent public hearing to consider the substance of this Agreement on _____, July 20, 2016, 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" 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" as they relate to this Agreement and the development of the Community

include the following 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; and

(b) This Agreement and all attachments hereto;

~~(c) The Design Guidelines, Development Standards and Uses; and~~

~~(d) The term "Applicable Rules" does not include any of (a), (b), or (c) below, but the Parties understand that they, and the Property, may be subject thereto;~~

~~(a)i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;~~

~~(b)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~~

~~(c)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.

"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 prepared by Master Developer entitled Design Guidelines, Development Standards and Uses, 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 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.~~

"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, 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 of roadways, ~~passes,~~ Development Parcels, ~~open space,~~ and drainage areas; and

~~(c) Identify locations and heights of potential stock piles; and~~

~~(d)~~ Prior to issuance of any rough grading permit;

(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 or commercial subdivision sites ~~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 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 conceptual 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~~ Master Land Use 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, Master Sanitary Sewer 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 private drive ^[SHA1] and/or common lots of the HOA or Similar Entity or of the Development Parcels.

"Master Utility Plan ^[SHA2]" 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.

"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.

"Owners" means the definition given in Recital B.

"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" 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^[SHA3] 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.

"Technical Drainage Study" means: a comprehensive hydrologic study prepared under the direction of and stamped by a Nevada-licensed professional engineer that must comply with the CCRFCD drainage manual.

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

"Term" means the term of this Agreement.

~~"Village Street"~~The Two Fifty Drive Extension means ~~any of these the~~ roadways identified as ~~Village Streets~~The Two Fifty Drive Extension, as may also be referred to as the Clubhouse Drive Extension, ~~whether public or private~~, which Master Developer is obligated to construct pursuant to the Master Traffic Study, 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, ~~sidewalk or trail and landscaping~~.

"UDC" means the Unified Development Code as of the Effective Date of this Agreement.

"Water Feature" means one or more items from a range of fountains, pools, ponds (including

irrigation ponds), cascades, waterfalls, and streams used for aesthetic value, wildlife and irrigation purposes from ground water and 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, 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.

(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 Building Official. ~~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 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, which only may be adjusted upwards as stated in the last sentence herein, with seven hundred twenty (720) multifamily residential units in Development Area 1, two thousand three hundred (2,300) multifamily residential units in Development Area 2 and Development Area 3 combined, and a maximum of sixty (60) estate lots units in Development Area 4. In Development Areas 2 and 3, assisted living is a permitted use. In lieu of up to two hundred fifty (250) multifamily residential units in Development Areas 2 and 3, two (2) assisted living units may be built for each one (1) multifamily residential unit.

(b) Permitted Uses and Unit Types.

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

(ii) _____ In Development Areas ~~1, 2~~ and 3, ancillary commercial uses, up to five thousand (5,000) total square feet, allowed in the Design Guidelines attached hereto as Exhibit "D", each up to five thousand (5,000) square feet in size, shall be permitted.

(iii) _____ ~~Clock towers and W~~water ~~F~~features (if supplied by privately-owned water rights and/or effluent) shall be allowed in the Community ~~for the Term of this Agreement~~, even if City enacts a future ordinance or law contrary to this Agreement.

(iv) _____ The additional uses allowed within the Community are listed in the Design Guidelines attached as **Exhibit "D"**.

(v) _____ ~~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 up to the maximum density

permitted in each Development Area. Notwithstanding the foregoing, the maximum density permitted in Development Area 1 shall be seven hundred twenty (720) ~~residential~~ multifamily residential units; Development Areas 2 and 3 combined shall be two thousand three hundred (2,300) multifamily residential units ~~(except two (2) assisted living units may be built for each one (1) multifamily residential unit for up to two hundred fifty (250) multifamily residential units);~~ and Development Area 4 shall be a maximum of sixty (60) residential ~~estate lots~~ units.

(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) **Residential Towers in Development Area 2.** Master Developer shall have the right to develop three (3) residential towers ~~at the locations~~ within the envelopes identified on **Exhibit “E”** within Development Area 2. The tower locations ~~have been~~ shall be strategically placed so as not to ~~negatively-unreasonably~~ impact the view corridors to the prominent portions of the Spring Mountain Range from the existing residences in One Queensridge Place. Each of the three (3) towers ~~shall~~ may be up to two hundred fifty (250) feet in height and shall be setback a minimum of _____ feet from any existing single family residential development as depicted on **Exhibit “E”**. The UDC residential adjacency standards shall not apply to Development Areas 2 and 3.

(f) **Phasing** [SHA4]. 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.

(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 (1,896th) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eighteen hundred and ninety-sixth (1,896th) 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 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~~The Two Fifty 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 (1,896th) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eighteen hundred and ninety-sixth (1,896th) residential unit. For clarification, the completion of The Two Fifty Drive ~~the aforementioned drainage infrastructure required in Development Area 4 is~~Extension is not a prerequisite to approval for construction, by way of building permit issuance, of the first eighteen hundred and ninety-five (1,895) residential units, ~~by way of building permit issuance~~.

(g) Open Space, Parks, Trails, and Recreation Space. Master Developer shall construct, or cause the construction of the following:

(i) Development Areas 1, 2 and 3. Aa minimum of twelve (12) 12.7 acres of public and private open space, parks, trails and recreation space throughout the seventy (70) 67.21 acres of Development Areas 1, 2 and 3. The twelve (12) 12.7 acres of public and private open space, parks, trails and recreation space will include a minimum of: 2.5 acres of privately-owned park and/or common open space open to the public; 6.2 acres of privately-owned park and open space not open to the public; 4.0 acres of privately-owned recreational amenities not open to the public, including outdoor and indoor areas; and a 1 mile walking loop, and pedestrian walkways throughout (hereinafter referred to as “The Seventy Open Space”). ~~five (5) acres of public common open space, two (2) acres of public park space, two (2) acres of public trails, two (2) acres of private outdoor recreation space, and one (1) acre of private indoor recreation space.~~ The Seventy Open Space shall be constructed incrementally in conjunction with the construction of the 3,020 multifamily units located on the 67.21 acres as generally reflected on Exhibit C’s Exhibit

L-2. The Seventy Open Space shall be maintained by Master Developer's Authorized Designee, the respective HOAs, Sub-HOA or Similar Entity. In

(ii) Development Area 4. Because development is limited to a maximum of up to sixty (60) estate lots in Development Area 4 units, there will be approximately one hundred twenty (120) acres of property preserved, by conversation easement, or a deed restriction in favor of the City, for natural areas, trees, shrubs, ponds, grasses and private access ways (hereinafter referred to as the "Preserve Open Space"). The Preserve Open Space will be maintained by Master Developer's Authorized Designee, the respective HOA, sub-HOA or Similar Entity.

(h) Construction Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 up to sixteen (16) hours per day, to allow for expedited construction with two (2) 8-hour shifts each day[SHAS].

(i) 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. Master Developer may commence construction, 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 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 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, 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.~~

_____ (ii) Accesses to Development Area 4. Accesses to Development Area 4 shall be on Hualapai Way ~~under~~ through Development Area 3 ~~unless otherwise agreed upon in writing by the Parties.~~

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) Zoning Entitlement for Property. The Parties acknowledge and agree that the Property will be rezoned for development in accordance with the 2016 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 ~~the all Code 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 (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.~~

(2) As part of this Agreement, Master Developer shall have the right to develop three (3) residential towers within the envelopes identified on Exhibit "E" within Development Area 2. The three (3) tower locations, heights and setbacks have been established as part of this Agreement, so the Site Development Plan Review shall be limited to a review of the design (elevations, landscaping, floor plans and parking) of the three (3) residential towers.

(3) The UDC residential adjacency standards shall not apply to the three (3) residential towers or any other development within Development Areas 2 and 3 as the setbacks from existing residential development are established in Exhibit "E" and/or in the Design Guidelines.

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 building inspector dedicated only to the development of the Community.

3.04 Modification of Design Guidelines. Parties agree that the only proper entity to request a modification or deviation to the Design Guidelines is the Master Developer entity. A modification or deviation to the Design Guidelines shall not be permitted by: any other purchaser of real property within the Community, the HOA, Sub-HOA or Similar Entity.

(a) Applicant. Requests for all modifications of the 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) ~~the addition of uses to the Permitted Use Table that are comparable in intensity to those included in the Design Guidelines; 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) a change to the Design Guidelines not to exceed ten percent (10%) of a particular requirement in the Design Guidelines so long as the Minor Modification will not have a material and adverse impact on the Community; and~~

~~(iii) Any other change or modification of a similar nature which the Director of Planning determines will not have a significant impact on the Community or its surroundings. changes in building materials.~~

(iv) ~~changes in landscaping materials, plant palettes, and landscaping detail elements that are determined by the Planning Director as minor.~~

(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. 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. 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:

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

ii) A request for deviation from the following particular requirements on greater than 10% of the ~~lots~~ residential units 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.~~

~~ae) 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 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.

(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).

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 FOUR ~~THREE (A)~~

MAINTENANCE OF THE COMMUNITY

43(A).01 Maintenance of Public and Common Areas.

(a) Master Community HOAs. Master Developer agrees to organize ~~a~~ 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, 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 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, 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 HOAs 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 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 ~~43A~~.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 HOAs~~ fails to maintain the Maintained Facilities in accordance with the provisions of the plan described in Section ~~43A~~.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.

~~43(A).~~02 Maintenance Plan. For park and common areas, maintained by the ~~Master HOAs or Similar Entity or Sub HOA (as applicable)~~ 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 for fire prevention provided to the City Fire Department for ~~review~~SHA61.

~~43(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.

~~43(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) 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. 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 FIVE THREE (B)

PROJECT INFRASTRUCTURE IMPROVEMENTS

~~53B.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 publically maintained that is necessary for the development of the Community as required by the Master Studies and this Agreement.

~~53B.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 ~~to or~~ transferred to ~~or completed by~~ any other party.

(b) Off-Site Sewer Capacity. The Master Developer and the City have analyzed the effect of the build out of the Community on off-site sewer pipelines. ~~The Master Developer agrees to construct the off site sewer in accordance with the phasing in the approved Master Sanitary Sewer Study.~~ 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 off-site 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.

53B.03 Traffic Improvements.

(a) Traffic Signal Improvements. 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

(b) Updates. If required by the Director of Public Works, Master Developer shall submit ~~and receive conditional approval of~~ an update of the Master Traffic Study ~~prior as a condition~~ to the approval of the following land use applications: tentative map (residential or commercial); site development plan review (multi-family or commercial); 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 changes.

(c) Construction Phasing. Master Developer shall submit ~~the a phasing plan~~Development Phasing plan attached hereto as Exhibit "F". ~~and estimated sequence for all required On-Property and Off-Property street improvements as a part of the Master Traffic Study. On-Property permits in each phase may only be issued after the traffic improvements required in the Master Traffic Study have been constructed or guaranteed.~~

53B.04 Flood Control.

(a) 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. Master Developer acknowledges and agrees that this obligation shall not be delegated to, transferred to any other party.

(b) 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.

(c) 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; 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. 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.

(d) 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.

(e) 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)(-iii).

SECTION SIX FOUR

DEFAULT

64.01 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.

(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.

64.02. 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.

64.03. 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. Neither the foregoing nor any other provision of this Agreement shall be construed as a waiver by the Parties of any rights afforded to them under NRS 278.0233 or any other provisions of the NRS.~~

64.04. 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.

64.05. 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.

64.06. 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 FIVE

GENERAL PROVISIONS

75.01. 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.

75.02. 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.

75.03. 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.

75.04 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 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 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, 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.

75.05. 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.

75.06 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.

75.07 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.

75.08 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.

75.09 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.

75.10 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.

75.11 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.

75.12 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.

75.13 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.

75.14 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.

75.15 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.

75.16 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.

75.17 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 SIX

REVIEW OF DEVELOPMENT

86.01 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~~)
- D. The Two Fifty Design Guidelines, Development Standards and Uses
- E. Residential Tower Locations
- ~~E.F. Development Phasing~~

**DEVELOPMENT AGREEMENT
FOR
THE TWO FIFTY**

002119

6319

Table of Contents

RECITALS.....	1
SECTION ONE - Definitions	3
SECTION TWO – Applicable Rules and Conflicting Laws	9
2.01 Reliance on Applicable Rules	9
2.02 Application of Subsequently Enacted Rules by the City	10
2.03 Conflicting Federal or State Rules	10
2.04 City Council Hearings	11
2.05 City Cooperation	11
SECTION THREE – Planning and Development of Community	11
3.01 Permitted Uses, and Height of Structures	11
3.02 Entitlement Requests	15
3.03 Dedicated Staff and the Processing of Applications	16
3.04 Modification of Design Guidelines.....	17
3.05 Deviation to Design Guidelines.....	18
3.06 Anti-Moratorium.....	20
3.07 Property Dedications to City	21
SECTION FOUR – Maintenance of the Community	21
4.01 Maintenance of Public and Common Areas	21
4.02 Maintenance Plan	23
4.03 Release of Master Developer	23
4.04 City Maintenance Obligation Acknowledged	23
SECTION FIVE – Project Infrastructure Improvements.....	24
5.01 Conformance to Master Studies	24
5.02 Sanitary Sewer.....	24
5.03 Traffic Improvements	24
5.04 Flood Control.....	25
SECTION SIX – Default.....	26
6.01 Opportunity Opportunity to Cure; Default.....	26
6.02 Unavoidable Delay; Extension of Time	27
6.03 Limitation on Monetary Damages	27
6.04 Venue.....	28
6.05 Waiver	28
6.06 Applicable Law; Attorneys' Fees	28

SECTION SEVEN – General Provisions	28
7.01 Duration of Agreement.....	28
7.02 Assignment	28
7.03 Sale or Other Transfer Not to Relieve the Master Developer of its Obligation	30
7.04 Indemnity; Hold Harmless.....	31
7.05 Binding Effect of Agreement	31
7.06 Relationship of Parties	31
7.07 Counterparts	31
7.08 Notices	32
7.09 Entire Agreement	32
7.10 Waivers	32
7.11 Recording Amendments	33
7.12 Headings; Exhibits; Cross References	33
7.13 Release	33
7.14 Severability of Terms	33
7.15 Exercise of Discretion Discretion	34
7.16 No Third Party Beneficiary	34
7.17 Gender Neutral.....	34
SECTION EIGHT – Review of Development	34
8.01 Frequency of Reviews	34
 RECITALS.....	3
SECTION ONE.....	5
SECTION TWO	12
SECTION THREE.....	13
SECTION FOUR	24
SECTION FIVE	27
SECTION SIX	29
SECTION SEVEN	32
SECTION EIGHT	38
EXHIBITS.....	41

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. The 2016 Peccole Ranch Master Plan ("2016 Master Plan"), 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 ~~reflect 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 ~~the planning for and securing orderly development of the~~ for and development of the Property ~~and~~ and minimize uncertainty for the 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 Design Guidelines, Development Standards and Uses ("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.

O. The City Council, having determined that this Agreement is in conformance with the 2016 Master Plan and the Las Vegas 2020 Master Plan, and that all other substantive and procedural requirements for approval of this Agreement have been satisfied, and after giving notice as required by the relevant law, and after introducing this Agreement by ordinance at a public hearing on June 15, 2016, and after a subsequent public hearing to consider the substance of this Agreement on July 20, 2016, 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" 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 a beer/wine/cooler on sale use or restaurant with service bar use as defined by the UDC.

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

(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; and

(b) This Agreement and all attachments hereto.

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

~~(ia)~~ Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than City;

~~(iib)~~ 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

~~(iiie)~~ 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.

"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-~~Property~~site Improvements, Clark County, Nevada; Uniform Standard Specifications for Public Works Construction Off-~~Property~~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~~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 provided for or constructed thereupon.

"Design Guidelines" means the document prepared by Master Developer entitled Design Guidelines, Development Standards and Uses, 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 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 Parcels" means legally subdivided parcels 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 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, 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 of roadways, Development Parcels, and drainage areas; and

(c) Prior to issuance of any rough grading permit:

(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 ~~or commercial~~ subdivision sites 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 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 conceptual 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 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, including updates required by the City.

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

"Master Traffic Study" means the comprehensive traffic 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, in

conformance with City of Las Vegas Code Title 20, within private property, private drives and/or 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 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.

"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.

~~"Owners" means the definition given in Recital B.~~

"Party," when used in the singular form, means Master Developer, an Owner (as defined in Recital B) 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" 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 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.~~

"Technical Drainage Study" means: a comprehensive hydrologic study prepared under the direction of and stamped by a Nevada-licensed professional engineer that must comply with the CCRFCD drainage manual.

The Technical Drainage Study 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 The Two Fifty Drive Extension, as may also be referred to as the Clubhouse Drive Extension, which Master Developer is obligated to construct pursuant to the Master Traffic Study, 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 "G".

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

(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 Building Official.

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 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, ~~which only may be adjusted upwards as stated in the last sentence herein, with~~ seven hundred twenty (720) multifamily residential units in Development Area 1, two thousand three hundred (2,300) multifamily residential units in Development Area 2 and Development Area 3 combined, and a maximum of sixty (60) estate lots in Development Area 4. ~~In Development Areas 2 and 3, assisted living is a permitted use. In lieu of up to two hundred fifty (250) multifamily residential units in Development Areas 2 and 3, two (2) assisted living units may be built for each one (1) multifamily residential unit.~~

(b) Permitted Uses and Unit Types.

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

(ii) In Development Areas 2 and 3, ~~ancillary commercial uses that are ancillary to, up to five thousand (5,000) total square feet, shall~~ multifamily residential uses shall be permitted. Ancillary commercial uses shall be similar to, but not limited to, general retail uses and restaurant uses (café, coffee shop, sandwich shops, etc.). 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 shall be limited to Development Areas 2 and 3, and shall be limited to a total of five thousand (5,000) square feet across Development Areas 2 and 3.

(iii) Water Features ~~(if supplied by privately owned water rights and/or effluent)~~ shall be allowed in the Community, even if City enacts a future ordinance or law contrary to this Agreement.

(iv) ~~The additional~~ Uses allowed within the Community are listed in the

Design Guidelines attached as **Exhibit "D"**. Additionally,, the permissible uses in the UDC shall apply within each respective zoning district.

(v) The Parties acknowledge that a Golf course operations may be continued or discontinued on any portion or on all of the Property for any period of time at the discretion of the Master Developer.

(vi) 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 all Alcohol Related Uses. Alcohol Related Uses shall be subject to a Special Use Permit in accordance with the requirements of this Section and Las Vegas Municipal Code Section 19.16.0110.

(c) Density. Master Developer shall have the right to determine the number of residential dwelling 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 seven hundred twenty (720) multifamily residential units; Development Areas 2 and 3 combined shall be a maximum of two thousand three hundred (2,300) multifamily residential units ~~(except two (2) assisted living units may be built for each one (1) multifamily residential unit for up to two hundred fifty (250) multifamily residential units);~~ and Development Area 4 shall be a maximum of sixty (60) residential estate lots as a result of the Master Developer's decision to keep approximately one hundred twenty (120) acres of Development Area 4 preserved for conservation purposes.

(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) Residential Towers in Development Area 2. Master Developer shall have the right to develop three (3) residential towers within the envelopes identified on **Exhibit "E and E-1"** within Development Area 2. The tower locations shall be placed so as not to unreasonably impact the view corridors to the prominent portions of the Spring Mountain Range from the existing residences in One Queensridge Place. Each of the three (3) towers may be up to two hundred fifty (250) feet in height.

measured from the finished floor elevations shown on Exhibit "E", and shall be setback from any existing single family residential development as depicted on Exhibit "E". Because of the difference in the finished floor elevations from the existing surrounding single family residential homes, and because the minimum setbacks have been established on Exhibit "E" and/or the Design Guidelines, the UDC residential adjacency standards shall not apply to Development Areas 2 and 3.

(f) Phasing.

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

(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 are not intended and should not be construed to be the alphabetical sequence or phase of development within Development Area 4.

(iv) Development Area 1 will be the first multifamily development in the Community.

(v) 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.

(vi) 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 construction of the box culverts, and the installation of the sewer and water mains.

(2) In Development Area 4 in areas outside of the FEMA Flood

Zone, Master Developer may begin construction, including but not limited to, mass grading and the installation of the sewer and water mains, as the market demands, following receipt of necessary City approvals and permits.

(3) In Development Area 4 within the FEMA Flood Zone, construction, including but not limited to, mass grading, the installation of the 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.

(vii) Master Developer and City agree that prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896th) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eighteen hundred and ninety-sixth (1,896th) 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 eighteen hundred and ninety-five (1,895) residential units. For purposes of this subsection, substantially completion of the drainage infrastructure~~ed~~ shall mean the installation of the box culverts required pursuant to the City-approved Master Drainage Study for Development Area 4.

(viii*) The Two Fifty Drive Extension, being a new roadway between Development Areas 2 and 3 that will connect Alta Drive and South Rampart Boulevard, as shown in Exhibit "C's" Exhibits L-1 and L-2 shall be completed in accordance with the approved Master Traffic Study and prior to the approval for construction of the fifteen hundredth (1,500th) residential unit, of the eighteen hundred and ninety-sixth (1,896th) 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

~~(1,499th) residential unit. encapsulate the construction of the eighteen hundred and ninety-sixth (1,896th) 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 (1,499th) first eighteen hundred and ninety-five (1,895) residential units.~~

~~(ix) The Open Space, Parks and Recreation Space phasing shall be constructed incrementally with development as outlined below in subsection (g).~~

~~(x) 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.~~

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

(g) Open Space, Parks, and Recreation Space. 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 public and private open space, parks, and recreation space shall be provided throughout the 67.21 acres of Development Areas 1, 2 and 3. The 12.7 acres of public and private open space, parks, ~~and, and~~ recreation space will include a minimum of: 2.5 acres of privately-owned park areas and/or common open space open to the public; 6.2 acres of privately-owned park and open space not open to the public; 4.0 acres of privately-owned recreational amenities not open to the public, including outdoor and indoor areas; and a 1 mile walking loop, and pedestrian walkways throughout (hereinafter referred to as "The Seventy Open Space").~~—~~ The layout(s), location(s) and size(s) of the Seventy Open Space shall be determined pursuant to Site Development Plan Review(s) and shall be constructed incrementally in conjunction with the construction of the 3,020 multifamily units located in Development Areas 1, 2 and 3 on the 67.21 acres as generally reflected on Exhibit C's Exhibit L-2. The 2.5 acres of privately-owned park area(s) open to the public shall be completed prior to the approval for construction of the fifteen hundredth (1,500th) 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 (1,499th)

residential unit. For clarification, the completion of 2.5 acres of privately-owned park area(s) open to the public is not a prerequisite to approval for construction, by way of building permit issuance, of the first of the fifteen hundredth (1,500th) 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 (1,499th) residential unit. The Seventy Open Space shall be maintained by Master Developer's Authorized Designee, the respective HOAs, Sub-HOA or Similar Entity.

(ii) Development Area 4. Because ~~development is limited to a~~ Master Developer has chosen to limit Development Area 4 to a ~~maximum of sixty (60) estate lots in Development Area 4, there will be approximately one hundred twenty (120) acres of property preserved, by conservation~~ easement, or a deed restriction in favor of the City, for natural areas, trees, shrubs, ponds, grasses and private access ways (hereinafter referred to as the "Preserve Open Space"). The Preserve Open Space, ~~although not required pursuant to the UDC, is being created to maintain a landscaped environment in Development Area 4 and not in exchange for higher density in Development Areas 1, 2 or 3. The Preserve Open Space will be maintained by Master Developer's Authorized Designee, the respective~~ a new HOA, sub-HOA or Similar Entity pursuant to Section 4 of this Agreement.

(h) Construction Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 up to sixteen (16) hours per day, to allow for expedited construction with two (2) 8-hour shifts each day.

(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, 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 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 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, 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.

(j) Accesses to Development Area 4. Accesses to Development Area 4 shall be on Hualapai Way and through Development Area 3 unless otherwise ~~agreed upon in writing by the Parties~~ specified in an approved tentative map(s).

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 2016 Master Plan 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 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 (60) residential units in Development Area 4.

(2) As part of this Agreement, specifically Section 3.01(e), Master Developer shall have the right to develop three (3) residential towers within the envelopes identified on **Exhibit “E and E-1”** within Development Area 2. The three (3) residential tower locations, heights and setbacks have been established as part of this Agreement, so with respect to the three (3) residential towers, the Site Development Plan Review shall be subject to the requirements of a Site Development Plan Review except the three (3) residential tower locations, heights and setbacks limited to a review of the design (elevations, landscaping, floor plans and parking) of the three (3) residential towers. Because Exhibit “E” is conceptual, the remainder of the development in Development Areas 1, 2 and 3 shall be subject to all of the requirements of a Site Development Plan Review.

(3) Pursuant to Section 3.01(e), ~~the~~ UDC residential adjacency standards shall not apply to the three (3) residential towers or any other development within Development Areas 2 and 3 as the setbacks from existing residential development are established in **Exhibit “E”** and/or in the Design Guidelines.

~~—(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 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 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 Modification of Design Guidelines. Parties agree that the only proper entity to request a modification or deviation to the Design Guidelines is the Master Developer entity. A modification or deviation to the Design Guidelines shall not be permitted by any other purchaser of real property within the Community, the HOA, Sub-HOA or Similar Entity.

(a) Applicant. Requests for all modifications of the 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) the addition of uses to the Permitted Use Table that are comparable in intensity to those included in the Design Guidelines; (ii) a change to the Design Guidelines not to exceed ten percent (10%) of a particular requirement in the Design Guidelines so long as the Minor Modification will not have a material and adverse impact on the Community; and~~

~~(iii) Any other change or modification of a similar nature which the Director of Planning determines will not have a significant impact on the Community or its surroundings.~~

~~(iv) changes that are determined by the Planning Director as minor.~~

~~(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.~~

~~(b)~~ **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:~~

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

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

~~a) Setback encroachments for courtyards, porches, miradors, casitas, porte-cocheres, garages and carriage units.~~

~~(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 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 for a particular Development Parcel or lot that does not qualify as a Minor Deviation 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.~~

(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.

(be) 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.

(cf) 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, 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 FOUR

MAINTENANCE OF THE COMMUNITY

4.01 Maintenance of Public and Common Areas.

(a) Community HOAs. Master Developer ~~agrees to shall organize 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, 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, 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, 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 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 ~~Master HOAs 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 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 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 ~~for~~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 including but not limited to those improvements 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 public streets 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 or 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 publically 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-PropertySite Sewer Capacity. The Master Developer and the City have analyzed the effect of the build out of the Community on Oeff-Propertysite sewer pipelines. To the extent applicable, Master Developer agrees to construct the Off-Property in accordance with the phasing in the approved Master Sanitary Sewer Study. 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 Oeff-Propertysite 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) Traffic Signal Improvements. 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

(b) Updates. If required by the Director of Public Works, Master Developer shall submit and receive conditional approval of an update of the Master Traffic Study prior to the ~~as a condition to the~~

approval of the following land use applications: tentative map ~~(residential or commercial)~~; site development plan review ~~(multi-family or commercial)~~; 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 changes.

(c) Construction-Development Phasing. ~~Master Developer shall submit the~~ See Development Phasing plan attached hereto as **Exhibit "F"**. →

5.04 Flood Control.

(a) 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. Master Developer acknowledges and agrees that this obligation shall not be delegated to, transferred to any other party.

(b) 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.

(c) 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; 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. 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.

(d) 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.

(e) 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)(iii).

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 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.

(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.

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; ~~and~~
Upon such extension, (c) 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.

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 ~~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 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 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.

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 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.

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:

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
- D. The Two Fifty Design Guidelines, Development Standards and Uses
- E. Residential Tower Locations
 - ~~E.~~ E-1. Legal Descriptions of Residential Tower Locations
- F. Development Phasing
- ~~F.~~ G. UDC as of the Effective Date

**DEVELOPMENT AGREEMENT
FOR
THE TWO FIFTY**

002162

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Table of Contents

RECITALS	1
SECTION ONE - Definitions	3
SECTION TWO – Applicable Rules and Conflicting Laws	10
2.01 Reliance on Applicable Rules	10
2.02 Application of Subsequently Enacted Rules by the City	10
2.03 Conflicting Federal or State Rules	11
2.04 City Council Hearings	11
2.05 City Cooperation	11
SECTION THREE – Planning and Development of Community	12
3.01 Permitted Uses, Density and Height of Structures	12
3.02 Entitlement Requests	18
3.03 Dedicated Staff and the Processing of Applications	19
3.04 Modification of Design Guidelines	19
3.05 Deviation to Design Guidelines	20
3.06 Anti-Moratorium	21
3.07 Property Dedications to City	21
SECTION FOUR – Maintenance of the Community	22
4.01 Maintenance of Public and Common Areas	22
4.02 Maintenance Plan	23
4.03 Release of Master Developer	23
4.04 City Maintenance Obligation Acknowledged	24
SECTION FIVE – Project Infrastructure Improvements	24
5.01 Conformance to Master Studies	24
5.02 Sanitary Sewer	24
5.03 Traffic Improvements	25
5.04 Flood Control	25
SECTION SIX – Default	26
6.01 Opportunity to Cure; Default	27
6.02 Unavoidable Delay; Extension of Time	28
6.03 Limitation on Monetary Damages	28
6.04 Venue	28
6.05 Waiver	28
6.06 Applicable Law; Attorneys' Fees	29
SECTION SEVEN – General Provisions	29

7.01 Duration of Agreement	29
7.02 Assignment	29
7.03 Sale or Other Transfer Not to Relieve the Master Developer of its Obligation	31
7.04 Indemnity; Hold Harmless	31
7.05 Binding Effect of Agreement	32
7.06 Relationship of Parties	32
7.07 Counterparts	32
7.08 Notices	32
7.09 Entire Agreement	33
7.10 Waivers	33
7.11 Recording; Amendments	33
7.12 Headings; Exhibits; Cross References	34
7.13 Release	34
7.14 Severability of Terms	34
7.15 Exercise of Discretion	34
7.16 No Third Party Beneficiary	34
7.17 Gender Neutral.....	35
SECTION EIGHT – Review of Development	35
8.01 Frequency of Reviews	35

EXHIBITS

- A. Property Legal Description
- B. Master Land Use Plan with Development Areas
- C. 2016 Major Modification
- D. The Two Fifty Design Guidelines, Development Standards and Uses
- E. Intentionally Deleted
- F. Development Phasing
- G. UDC as of the Effective Date

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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".

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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 single family lots~~ with custom homes and with luxury multifamily development.

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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. ~~The 2016 Peccole Ranch Master Plan ("2016 Master Plan")~~, ~~A~~ Major Modification to the 1990 Approved Peccole Ranch Master Plan ~~("2016 Major Modification")~~, has been submitted concurrent with this Agreement (and is attached hereto as **Exhibit "C"**) to reflect the repurposed uses on the Property.

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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.~~

~~HI. 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 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.

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 Design Guidelines, Development Standards and Uses ("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.

O. The City Council, having determined that this Agreement is in conformance with the ~~2016~~ Master Plan 2016 Major Modification and the Las Vegas 2020 Master Plan, and that all other substantive and procedural requirements for approval of this Agreement have been satisfied, and after giving notice as required by the relevant law, and after introducing this Agreement by ordinance at a public hearing on ~~June 15~~ _____, 2016, and after a subsequent public hearing to consider the substance of this Agreement on ~~July 20~~ _____, 2016, 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" ~~of any person~~ means (a) any other entityPerson directly or indirectly controlling or controlled by or under direct or indirect common control with ~~such another entityPerson~~ and (b) any other entityPerson 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 such entityPerson~~. For the purposes of this definition, "control" when used with respect to any entityPerson, means the power to direct the management and policies of such entityPerson, 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 ~~B~~beer/~~W~~wine/~~C~~ooler ~~O~~on-~~S~~sale use or ~~R~~estaurant with ~~S~~ervice ~~B~~ar use 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 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.~~

"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-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 provided for or constructed thereupon.

"Design Guidelines" means the document prepared by Master Developer entitled Design Guidelines, Development Standards and Uses, 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(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/-developedare 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~~their designee.

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

"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 of roadways, Development Parcels, and drainage areas; and

(c) Prior to issuance of any rough grading permit:

(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, 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 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 conceptual hydrologic and hydraulic study to be approved by the Director of Public Works, including updates as may be 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 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, including updates as may be required by the City.

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

"Master Traffic Study" means the comprehensive traffic 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; 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/y, private or private drives and/or 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 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.

~~"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.~~

~~"Owner" has the meaning as defined in Recital B.~~

"Party," when used in the singular form, means Master Developer, an Owner (as defined in Recital B) 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" means any instrument under NRS and the UDC which legally subdivides property or gives the right to legally subdivide property.

"Technical Drainage Study(s)" ~~means:~~ ~~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. ~~The~~ 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 The Two Fifty Drive Extension, as may also be referred to as the Clubhouse Drive Extension, which Master Developer is obligated to construct pursuant to the Master Traffic Study, 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 "G"**.

"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 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, 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 through e 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.

(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 Building Official.

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, ~~the density of uses and the permitted uses of the land~~ for each 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) multifamily residential units in Development Area 1, two thousand three hundred (2,300) multifamily residential units in Development Area 2 and Development Area 3 combined, and a maximum of sixty (60) ~~estates~~ single family lots in Development Area 4.

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(b) Permitted Uses and Unit Types.

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

(ii) In Development Areas 2 and 3, 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 (café, coffee shop, sandwich shops, etc.). 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 shall be limited to Development Areas 2 and 3, and shall be limited to a total of five thousand (5,000) square feet across Development Areas 2 and 3.

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

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

(v) The Parties acknowledge that golf course operations 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.

(vi) 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 all Alcohol Related Uses. Alcohol Related Uses shall be subject to a Special Use Permit in accordance with the requirements of this Section and Las Vegas Municipal Code Section 19.16.0110. The Parties agree that Alcohol Related Uses may be adjacent to a private park open for public access.

(c) Density. Master Developer shall have the right to determine the number of residential dwelling 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 seven hundred twenty (720) multifamily residential units; Development Areas 2 and 3 combined shall be a maximum of two thousand three hundred (2,300) multifamily residential units; and Development Area 4 shall be a maximum of sixty (60) residential estate single family lots as a result of the Master Developer's decision to keep approximately one hundred twenty (120) acres of Development Area 4 preserved for conservation purposes.

(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) Residential Towers in Development Area 2. Master Developer shall have the right to develop three (3) residential towers within the envelopes identified on Exhibit "E and E-1" within Development Area 2. The tower locations shall be placed so as to minimize the not to unreasonably impact on the view corridors to the prominent portions of the Spring Mountain Range from the existing residences in One Queensridge Place. To the extent allowed under the Design Guidelines attached as Exhibit "D", Each of the three (3) towers may be up to two hundred fifty (250) feet in height, similar to the approved One Queensridge Place Tower 3, measured from the finished floor elevations shown on Exhibit "E", and shall be setback from any existing single family residential development as depicted on

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~~Exhibit "E". Because of the difference in the finished floor elevations from the existing surrounding single family residential homes, and because the minimum setbacks have been established on Exhibit "E" and/or the Design Guidelines, the UDC residential adjacency standards shall not apply to Development Areas 2 and 3.~~

(f) Phasing.

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

(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 are not intended and should not be construed to be the alphabetical sequence or phase of development within Development Area 4.~~

~~(iv) Development Area 1 will be the first multifamily development in the Community.~~

(iv) ~~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.~~

(vi) 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 construction-installation of the box culverts, and the installation of the sewer and water mains. Notwithstanding, Master Developer may begin the aforementioned construction prior to receipt of the CLOMR in areas outside of the FEMA Flood Zone, following receipt of the necessary

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permits and approvals from City.

(2) In Development Area 4 in areas outside of the FEMA Flood Zone, Master Developer may begin construction, including but not limited to, mass grading and the installation of the sewer and water mains, as the market demands, 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, the installation of the box culverts drainage improvements, 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 ~~and permits.~~

~~(vii) Master Developer and City agree that prior to the approval for construction of the eighteen hundred and ninety-sixth (1,896th) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the eighteen hundred and ninety-sixth (1,896th) 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 eighteen hundred and ninety-five (1,895) residential units. For purposes of this subsection, substantially completion of the drainage infrastructure shall mean the installation of the box culverts required pursuant to the City approved Master Drainage Study for Development Area 4.~~

(viii) 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 (1,500th) residential unit, by way of a building permit issuance or group of building permit issuance that would encapsulate the

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construction of the fourteen hundred and ninety-ninth (1,499th) 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 (1,499th) residential units.

(viii*) The Open Space, Parks and Recreation Space phasing 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.

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

(g) Open Space, Parks, and Recreation Space. 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 public and private open space, parks, and recreation space shall be provided throughout the 67.21 acres of Development Areas 1, 2 and 3. The 12.7 acres of public and private open space, parks, and recreation space will include a minimum of: 2.5 acres of privately-owned park areas open to the public; 6.2 acres of privately-owned park and open space not open to the public; 4.0 acres of privately-owned recreational amenities not open to the public, including outdoor and indoor areas; and a 1 mile walking loop, and pedestrian walkways throughout (hereinafter referred to as "The Seventy Open Space"). The layout(s), location(s) and size(s) of the Seventy Open Space shall be determined pursuant to Site Development Plan Review(s) and shall be constructed incrementally in conjunction with the construction of the 3,020 multifamily units located in Development Areas 1, 2 and 3. The 2.5 acres of privately-owned park area(s) open to the public shall be completed prior to the approval for construction of the fifteen hundredth (1,500th) 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 (1,499th) residential unit. For clarification, the completion of 2.5 acres of privately-owned park area(s) open to the public is not a prerequisite to approval for construction, by way of building permit issuance, of the first fourteen hundred

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and ninety-nine (1,499) of the fifteen hundredth (1,500th) 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 (1,499th) ~~residential~~ residential unit. The Seventy Open Space shall be maintained by Master Developer's Authorized Designee, the respective HOAs, Sub-HOA or Similar Entity.

(ii) Development Area 4. Because Master

Developer has chosen to limit Developer Area 4 to a maximum of sixty (60) ~~single family~~ estate lots in Development Area 4, there will be approximately one hundred twenty (120) acres of property preserved, by conservation easement, or a deed restriction in favor of the City, for natural areas, trees, shrubs, ponds, grasses and private access ways (hereinafter referred to as the "Preserve Open Space"). The Preserve Open Space, although not required pursuant to the UDC, is being created to maintain a landscaped environment in Development Area 4 and not in exchange for higher density in Development Areas 1, 2 or 3. The Preserve Open Space will be maintained by a new HOA, sub-HOA or Similar Entity pursuant to Section 4 of this Agreement.

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(h) Construction Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 up to sixteen (16) hours per day, to allow for expedited construction with two (2) 8-hour shifts each day.

(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, 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 ~~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 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 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, 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.

(j) Accesses to Development Area 4. Accesses to Development Area 4 shall be on Hualapai Way and through Development Area 3 unless otherwise specified in an approved tentative map(s).

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~~ the Property will be rezoned for development in accordance with the ~~2016 Master Plan~~ 2016 Major Modification 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 the requirements of Las Vegas Municipal Code Section 19.16.100 for the filing of an application for a Site Development Plan Review, except:

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(1) No Site Development Plan Review will be required for any of the up to sixty (60) residential units in Development Area 4.

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(2) As part of this Agreement, specifically Section 3.01(e), Master Developer shall have the right to develop three (3) residential towers ~~within the envelopes identified on Exhibit "E and E-1"~~ within Development Area 2. The three (3) residential towers' ~~maximum locations,~~ heights and setbacks have been established as part of ~~this the Design Guidelines attached as Exhibit "D" to this Agreement,~~ so with respect to the three (3) residential towers, the Site Development Plan Review shall be subject to the requirements of a Site Development Plan Review except the three (3) residential towers' ~~maximum locations,~~ heights and setbacks. Because **Exhibit "E"** is conceptual, the remainder of the development in Development Areas 1, 2 and 3 shall be subject to all of the requirements of a Site Development Plan Review.

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~~(3) Pursuant to Section 3.01(e), the UDC residential adjacency standards shall not apply to the three (3) residential towers or any other development within Development Areas 2 and 3 as the setbacks from existing residential development are established in Exhibit "E" and/or in the Design Guidelines.~~

(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.

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3.03. Dedicated Staff and the Processing of Applications.

(a) Processing Fees, Generally. All Entitlement Requests, ~~Minor or 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 Modification of Design Guidelines. Parties agree that the only proper entity to request a

modification or deviation to the Design Guidelines is the Master Developer entity. A modification or deviation to the Design Guidelines shall not be permitted by any other purchaser of real property within the Community, the HOA, Sub-HOA or Similar Entity.

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

(b) Major Modifications.

(i) Any application for a modification to the Design Guidelines 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.

(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) Major Deviation. Any application for a modification to the Design Guidelines for a particular Development Parcel or lot is a Major Deviation. A Major Deviation must not have a material and adverse impact on the overall development of the Community.

(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.

(b) 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.

(c) 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 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~~the Property was delivered to Master Developer, from the United States of America).

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 ~~City-dedicated~~ 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, 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. 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.

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 including but not limited to those improvements 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, sidewalks. City-owned traffic control devices, signage, and streetlights upon City-dedicated ~~public-streets~~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.

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Master Developer ~~or~~ 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.

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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 publically 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.

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(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. To the extent applicable, Master Developer agrees to construct the Off-Property sewer pipelines in accordance with the phasing in the approved Master Sanitary Sewer Study. 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.

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5.03 Traffic Improvements

(a) Traffic Signal Improvements. 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 reconstruct any traffic signal that is identified in the Master Traffic Study as the Master Developer's responsibility.

(b) 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~~If required by the Director of Public Works, Master Developer shall submit and receive conditional approval of an update of the Master Traffic Study prior to the 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 changes.

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

5.04 Flood Control

(a) 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. Master Developer acknowledges and agrees that this obligation shall not be delegated to or; transferred to any other party.

(b) 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.

(c) 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 -or- commercial;~~ 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. 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.

(d) 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.

(e) 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)(iii).

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 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.

(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.

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.

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 Peccole Ranch Master Plan (Major Modification to the 2016 Major Modification to the 1990 Peccole Ranch Master Plan)~~ attached ~~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.

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 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.

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:

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
- D. The Two Fifty Design Guidelines, Development Standards and Uses
- E. Residential Tower Locations
 - E-1. Legal Descriptions of Residential Tower Locations
- F. Development Phasing
- G. UDC as of the Effective Date

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**DEVELOPMENT AGREEMENT
FOR
THE TWO FIFTY**

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Table of Contents

RECITALS.....	1
SECTION ONE - Definitions	3
SECTION TWO – Applicable Rules and Conflicting Laws	10
2.01 Reliance on Applicable Rules	10
2.02 Application of Subsequently Enacted Rules by the City	10
2.03 Conflicting Federal or State Rules	11
2.04 City Council Hearings	11
2.05 City Cooperation	11
SECTION THREE – Planning and Development of Community	12
3.01 Permitted Uses, Density and Height of Structures	12
3.02 Entitlement Requests	18
3.03 Dedicated Staff and the Processing of Applications	19
3.04 Modification of Design Guidelines.....	19
3.05 Deviation to Design Guidelines.....	20
3.06 Anti-Moratorium.....	21
3.07 Property Dedications to City	21
SECTION FOUR – Maintenance of the Community	22
4.01 Maintenance of Public and Common Areas	22
4.02 Maintenance Plan	23
4.03 Release of Master Developer	23
4.04 City Maintenance Obligation Acknowledged	24
SECTION FIVE – Project Infrastructure Improvements.....	24
5.01 Conformance to Master Studies	24
5.02 Sanitary Sewer.....	24
5.03 Traffic Improvements	25
5.04 Flood Control.....	25
SECTION SIX – Default.....	26
6.01 Opportunity to Cure; Default	27
6.02 Unavoidable Delay; Extension of Time.....	28
6.03 Limitation on Monetary Damages	28
6.04 Venue.....	28
6.05 Waiver	28
6.06 Applicable Law; Attorneys' Fees	29
SECTION SEVEN – General Provisions	29

7.01 Duration of Agreement.....	29
7.02 Assignment	29
7.03 Sale or Other Transfer Not to Relieve the Master Developer of its Obligation	31
7.04 Indemnity; Hold Harmless	31
7.05 Binding Effect of Agreement	32
7.06 Relationship of Parties	32
7.07 Counterparts	32
7.08 Notices	32
7.09 Entire Agreement	33
7.10 Waivers	33
7.11 Recording; Amendments	33
7.12 Headings; Exhibits; Cross References	34
7.13 Release	34
7.14 Severability of Terms	34
7.15 Exercise of Discretion	34
7.16 No Third Party Beneficiary	34
7.17 Gender Neutral.....	35
SECTION EIGHT – Review of Development.....	35
8.01 Frequency of Reviews	35

EXHIBITS

- A. Property Legal Description
- B. Master Land Use Plan with Development Areas
- C. 2016 Major Modification
- D. The Two Fifty Design Guidelines, Development Standards and Uses
- E. Intentionally Deleted
- F. Development Phasing
- G. UDC as of the Effective Date

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. 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.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").

~~D.C.~~ The Property is the land on which the golf course, known as the Badlands, is currently operated.

~~E. The Parties acknowledge, each through their separate and independent research, that the golf course industry is struggling with increased golf course closures across the country.~~

~~F. The golf course located on the Property 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.~~

~~G.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.

~~H.E. The 2016 Peccole Ranch Master Plan ("2016 Master Plan"), Aa Major Modification to the~~

1990 ~~Approved Conceptual~~ Peccole Ranch Master Plan (~~"2016 Major Modification"~~); has been submitted concurrent with this Agreement (and is attached hereto as **Exhibit "C"**) to reflect the repurposed uses on the Property.

IF. 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.

JG. 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.~~

KI. ~~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.

LJ. 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.

MK. 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 "D"**.

NL. 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.

OM. 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.

PN. 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.

QQ. The City Council, having determined that this Agreement is in conformance with the ~~2016 Master Plan-2016 Major Modification~~ and the Las Vegas 2020 Master Plan, and that all other substantive and procedural requirements for approval of this Agreement have been satisfied, and after giving notice as required by the relevant law, and after introducing this Agreement by ordinance at a public hearing on ~~June 15~~_____, 2016, and after a subsequent public hearing to consider the substance of this Agreement on ~~July 20~~_____, 2016, 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" ~~of any person~~ means (a) any other ~~entity~~Person directly or indirectly controlling or controlled by or under direct or indirect common control with ~~such another entity~~Person and (b) any other ~~entity~~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 ~~another such entity~~Person. For the purposes of this definition, "control" when used with respect to any ~~entity~~Person, means the power to direct the

management and policies of such ~~entity~~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 a ~~B~~beer/~~W~~wine/~~C~~ooler ~~O~~en-~~S~~ale use or ~~R~~estaurant with ~~S~~ervice ~~B~~ar use 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 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.~~

"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-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 provided for or constructed thereupon.

"Design Guidelines" means the document prepared by Master Developer entitled Design Guidelines, Development Standards and Uses, 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(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/ developed~~ 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~~ their designee.

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

"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 of roadways, Development Parcels, and drainage areas; and
- (c) Prior to issuance of any rough grading permit:
 - (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, 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 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 conceptual hydrologic and hydraulic study to be approved by the Director of Public Works, including updates as may be 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 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, including updates as may be required by the City.

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

Drainage Study.

"Master Traffic Study" means the comprehensive traffic 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, 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 and/or 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 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.

~~"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.~~

~~"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 B) 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" means any instrument under NRS and the UDC which legally subdivides property or gives the right to legally subdivide property.

"Technical Drainage Study(s)" ~~means:~~ 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. ~~The~~ 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 The Two Fifty Drive Extension, as may also be referred to as the Clubhouse Drive Extension, which Master Developer is obligated to construct pursuant to the Master Traffic Study, 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 “G”**

“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 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, 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 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. 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.

(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 Building Official.

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, ~~the density of uses and the permitted uses of the land~~ for each Development Area within the Community.

(a) Maximum Units Permitted. The maximum number of residential dwelling units allowed within the Community, as shown on **Exhibit B**, is ~~three thousand eighty (3,080)~~ two thousand four hundred seventy-five (2,475) units, with seven hundred twenty (720) multifamily residential units in Development Area 1, ~~two thousand three hundred (2,300)~~ one thousand six hundred eighty (1,680) multifamily residential units in Development Area 2 and Development Area 3 combined, and a maximum of ~~sixty (60)~~ seventy-five (75) estate lots in Development Area 4. An assisted living facility may be developed within Development Area 2 or Development Area 3 with up to two hundred (200) assisted living units allowed in addition to the maximum residential dwelling units permitted herein. Should the assisted living units not be constructed, the two hundred (200) assisted living units may not be built as residential dwelling units.

(b) Permitted Uses and Unit Types.

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

(ii) In Development Areas 2 and 3, 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 (café, coffee shop, sandwich shops, etc.). 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 shall be limited to Development Areas 2 and 3, and shall be limited to a total of seven thousand five thousand-hundred (75,500) square feet across Development Areas 2 and 3 with no single use greater than two thousand five hundred (2,500) square feet.

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

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

(v) The Parties acknowledge that golf course operations 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 may water and rough mow the Property or clear and grub the Property in accordance with all City and Clark County Health District dust control regulations and requirements.

(vi) 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 all Alcohol Related Uses. Alcohol Related Uses shall be subject to a Special Use Permit in accordance with the requirements of this Section and Las Vegas Municipal Code Section 19.16.0110. The Parties agree that Master Developer may apply for Alcohol Related Uses and that Alcohol Related Uses, as defined herein, may be adjacent to a private park open for public access.

(c) Density. Master Developer shall have the right to determine the number of residential dwelling 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 seven hundred twenty (720) multifamily residential units;

Development Areas 2 and 3 combined shall be a maximum of one thousand six hundred eighty (1,680) ~~two thousand three hundred (2,300)~~ multifamily residential units plus up to two hundred (200) assisted living units; and Development Area 4 shall be a maximum of sixty (60)seventy-five (75) residential estate lots as a result of the Master Developer's decision to keep ~~approximately one hundred twenty (120)~~ acres ~~much~~ of Development Area 4 preserved for ~~conservation-enhanced landscaped areas~~ purposes.

(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) Residential Towers in Development Area 2. Master Developer shall have the right to develop ~~three (3)~~two (2) residential towers ~~within the envelopes identified on Exhibit "E and E-1"~~ within Development Area 2. The tower locations shall be placed so as to minimize the ~~not to unreasonably impact on~~ the view corridors to the prominent portions of the Spring Mountain Range from the existing residences in One Queensridge Place. To the extent allowed under the Design Guidelines attached as Exhibit "D", ~~Each of the three (3)~~two (2) towers may be up to ~~two hundred fifty (250)~~one hundred fifty (150) feet in height, ~~measured from the finished floor elevations shown on Exhibit "E", and shall be setback from any existing single family residential development as depicted on Exhibit "E". Because of the difference in the finished floor elevations from the existing surrounding single family residential homes, and because the minimum setbacks have been established on Exhibit "E" and/or the Design Guidelines, the UDC residential adjacency standards shall not apply to Development Areas 2 and 3.~~

(f) Phasing.

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

(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 are not intended and should not be construed to be the alphabetical sequence or phase of development within Development Area 4.

~~(iv) Development Area 1 will be the first multifamily development in the Community.~~

(iv) 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.

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

(1) Following receipt from ~~FEMA of~~ 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 ~~construction drainage improvements, including but not limited to the installation of the open drainage channels and/or box culverts, and the installation of the sewer and water mains~~ 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, ~~including but not limited~~ to, mass grading and the installation of the sewer and water mains, as the market demands, 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 ~~the installation of the box culverts,~~ and the sewer and water ~~mains may~~ mains may

commence only
after receipt of ~~the CLOMR~~the CLOMR related to these areas and
receipt of
necessary City approvals ~~and permits~~and permits.

(vii) Master Developer and City agree that prior to the approval for construction of the ~~eighteen hundred and ninety-sixth (1,896th)~~seventeen hundredth (1,700) 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) ~~eighteen hundred and ninety-sixth (1,896th)~~ 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) ~~eighteen hundred and ninety-five (1,895)~~ residential units. For purposes of this subsection, substantially 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.

(viii) 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 (1,500th) 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 (1,499th) 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 (1,499th) residential units.

~~(viii)~~ (viii) The Open Space, Parks and Recreation Space phasing shall be constructed incrementally with development as outlined below in subsection (g).

(x) 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.

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

(g) Open Space, Parks, and Recreation Space. The Property consists of two hundred fifty and ninety-two hundredths (250.92) acres. Master Developer shall amenitize and/or landscape (or cause the same to occur) over fifty percent (50%) of the Property ("Total Open Space"). 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 public and private open space, parks, and recreation space shall be provided throughout the 67.21 acres of Development Areas 1, 2 and 3. The 12.7 acres of public and private open space, parks, and recreation space will include a minimum of: 2.5 acres of privately-owned park areas open to the public; 6.2 acres of privately-owned park and open space not open to the public; 4.0 acres of privately-owned recreational amenities not open to the public, including outdoor and indoor areas; and a 1 mile walking loop, and pedestrian walkways throughout (hereinafter referred to as "The Seventy Open Space"). The layout(s), location(s) and size(s) of the Seventy Open Space shall be determined pursuant to Site Development Plan Review(s) and shall be constructed incrementally in conjunction with the construction of the ~~3,020~~ multifamily units located in Development Areas 1, 2 and 3. The 2.5 acres of privately-owned park area(s) open to the public shall be completed prior to the approval for construction of the fifteen hundredth (1,500th) 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 (1,499th) residential unit. For clarification, the completion of 2.5 acres of privately-owned park area(s) open to the public is not a prerequisite to approval for construction, by way of building permit issuance, of the first fourteen hundred and ninety-nine (1,499) of the fifteen hundredth (1,500th) 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 (1,499th) ~~residential~~ residential unit. The Seventy Open Space shall be maintained by Master Developer's Authorized Designee, the respective HOAs, Sub-HOA or Similar Entity.

(ii) Development Area 4. Because Master

Developer has chosen to limit Development Area 4 to a maximum of ~~sixty (60)~~seventy-five (75) estate lots in Development Area 4, most of the Total Open Space shall ~~there will be located approximately one hundred twenty (120) acres of property~~within Development Area 4 and shall be preserved, by conservation easement, or a deed restriction in favor of the City, for natural areas, trees, shrubs, ponds, grasses and private access ways (hereinafter referred to as the "Preserve Open Space"). The Preserve Open Space, although not required pursuant to the UDC, is being created to maintain a landscaped environment in Development Area 4 and not in exchange for higher density in Development Areas 1, 2 or 3. The Preserve Open Space will be maintained by individual estate lot owners, a new HOA, sub-HOA or Similar Entity, or a combination thereof, pursuant to Section 4 of this Agreement.

(h) Development Area 3 No-Building Structures Zone and Transition Zone. There will be a one hundred (100) foot "No-Building Structures Zone" along the western boundary of Development Area 3 within one hundred (100) feet of existing homes as of the Effective Date, as shown on Exhibit "B", to help buffer Development Area 3's development from the existing homes. The No-Building Structures Zone will contain landscaping, an emergency vehicle access way that will also act as a pathway, and access roadways for passage to Development Area 4 through Development Area 3. An additional one hundred (100) foot "Transition Zone" will be to the east of (and adjacent to) the No-Building Structures Zone, as shown on Exhibit "B", wherein buildings are permitted but the height of the buildings cannot exceed the height of the tallest existing residences (as of the Effective Date) on the adjacent Queensridge property defined as thirty-five (35) feet above the finished floor of such adjacent existing residences. 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.

(i) Construction Operations. Master Developer may construct within Development Area 1, Development Area 2 and Development Area 3 up to sixteen (16) hours per day, to allow for expedited construction with two (2) 8-hour shifts each day.

(ii) 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 ~~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 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 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, 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.

(k) Accesses to Development Area 4. Accesses to Development Area 4 shall be on Hualapai Way and through Development Area 3 unless otherwise specified in an approved tentative map(s).

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 ~~the Property~~ will be rezoned for development in accordance with the ~~2016 Master Plan~~ 2016

Major Modification 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 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 (60)~~seventy-five (75) residential units in Development Area 4. Master Developer shall be responsible for the approval of the residential units in Development Area 4.

(2) As part of this Agreement, specifically Section 3.01(e), Master Developer shall have the right to develop ~~three (3)~~two (2) residential towers ~~within the envelopes identified on Exhibit "E and E-1"~~ within Development Area 2. The ~~three (3)~~two (2) residential towers' maximum locations, heights and setbacks have been established as part of this the Design Guidelines attached as Exhibit "D" to this Agreement, so with respect to the three (3) residential towers, the Site Development Plan Review shall be subject to the requirements of a Site Development Plan Review except the ~~three (3)~~two (2) residential towers' maximum locations, heights and setbacks. Because **Exhibit "E"** is conceptual, the remainder of the development in Development Areas 1, 2 and 3 shall be subject to all of the requirements of a Site Development Plan Review.

~~(3) Pursuant to Section 3.01(e), the UDC residential adjacency standards shall not apply to the three (3) residential towers or any other development within Development Areas 2 and 3 as the setbacks from existing residential development are established in Exhibit "E" and/or in the Design Guidelines.~~

(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 Entitlement Requests, ~~Minor or 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 Modification of Design Guidelines. Parties agree that the only proper entity to request a modification or deviation to the Design Guidelines is the Master Developer entity. A modification or deviation to the Design Guidelines shall not be permitted by any other purchaser of real property within the Community, the HOA, Sub-HOA or Similar Entity.

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

(b) Major Modifications.

(i) Any application for a modification to the Design Guidelines 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.

(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) Major Deviation. Any application for a modification to the Design Guidelines for a particular Development Parcel or lot is a Major Deviation. A Major Deviation must not have a material and adverse impact on the overall development of the Community.

(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.

(b) 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.

(c) 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 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~~ the Property was delivered to Master Developer, from the United States of America).

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 ~~City-dedicated~~ 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, open drainage channels, 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. 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 including but not limited to those improvements identified in the Master Drainage Study or applicable Technical Drainage Studies except open drainage channels shall be maintained by an HOA as common lots or via easement rights and (ii) all City dedicated public streets (excluding any landscape within the right-of-way), associated curbs, gutters, sidewalks, City-owned traffic control devices, signage, and streetlights upon City-dedicated ~~public streets~~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~~er~~ 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 publically 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. ~~To the extent applicable, Master Developer agrees to construct the Off-Property in accordance with the phasing in the approved Master Sanitary Sewer Study~~ indicates that sufficient offsite capacity in the offsite sewer pipelines exists fro 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.

~~(a)~~ (b) Additional Right Turn Lane Rampart Boulevard Northbound at Summerlin Parkway. At such time as City commences construction of a second right turn lane on Rampart Boulevard northbound and the related Summerlin Parkway eastbound on-ramp, Master Developer will contribute its pro-rata share based on the Property's percentage traffic impact thereon. In no case shall Master Developer have to fund its contribution prior to approval for construction of the seventeen hundredth (1,700th) residential unit by way of a building permit issuance or group of building permit issuance that would encapsulate the construction of the seventeen hundredth (1,700th) residential unit. For clarification, the contribution is not a prerequisite to approval for construction, by way of building permit issuance, of the first sixteen hundred and ninety-ninth (1,699th) residential units.

(c) Dedication of Additional Lane on Rampart Boulevard.

(i) Prior to issuance of the 1st building permit for a residential unit in Development Areas 1, 2 or 3, Master Developer shall dedicate right-of-way for an additional lane on Rampart Boulevard along the Property's Rampart Boulevard frontage which extends from Alta Drive south through to the first Rampart Boulevard entry to the Property.

(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.

(iii) In the remainder of the right-of-way, being the right-of-way from the north end of the aforementioned two hundred fifty (250) feet to Alta Drive (the "Remainder"), at such time as the right-of-way for an additional lane north of Alta Drive on the west side of Rampart Boulevard is dedicated, along the Suncoast property's Rampart Boulevard frontage, and the construction occurs on this additional right-of-way, Master Developer will contribute to the City the proportionate share of the construction cost of the roadway on the Remainder that fronts the Property, based on traffic generated on this roadway section of Rampart Boulevard from the Property.

(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.

(ii) _____ A new traffic signal is proposed in the Traffic Study at the entry/exit to/from the Property at Rampart to the south of Alta Drive. The City Traffic Department is not approving this signal at this time, but rather agrees to evaluate its installation upon having monitored traffic flows following the Property's occupancy.

(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: ~~If required by the Director of Public Works, Master Developer shall submit and receive conditional approval of an update of the Master Traffic Study prior to the 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 changes.

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

5.04 Flood Control.

(a) 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.

(b) 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.

(c) 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 -or commercial;~~ 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. 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.

(d) 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.

(e) 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)(~~iii~~).

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 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.

(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.

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.

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 Peccole Ranch Master Plan (Major Modification to the 2016 Major Modification 1990 Peccole Ranch Master Plan)~~ attached 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 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.

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:

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~~
- D. ~~The Two Fifty Design Guidelines, Development Standards and Uses~~
- E. ~~Residential Tower Locations~~
 - E-1. ~~Legal Descriptions of Residential Tower Locations~~
- F. ~~Development Phasing~~
- G. ~~UDC as of the Effective Date~~