

DISPOSITION AND DEVELOPMENT AGREEMENT

Article 1. Parties and Definitions

This Agreement is by and between:

- “Agency”** The Redevelopment Agency of the City of Sparks, Nevada
an agency created under the Community Redevelopment Law
431 Prater Way
Sparks, Nevada 89431
- “City”** City of Sparks, Nevada, a municipal corporation
431 Prater Way
Sparks, Nevada 89431
- “Developer”** SWD-Quarry FVS, LLC
9650 Gateway Drive, Suite 201
Reno, NV 89521

As used in this Agreement, the following words have the following meanings.

Agency Residential Parcels are the following parcels of land owned by the Agency:

- Parcel 3 (APN 032-341-24), approximately 1.875 Acres
- Parcel 13 (APN 032-341-25), approximately .765 Acres
- Parcel 21 (APN 032-135-13), approximately .241 Acres
- Parcel 22 (APN 032-135-25), approximately .38 Acres
- Parcel 23 (APN 032-135-14), approximately .246 Acres
- Parcel 24 (APN 032-135-09), approximately .12 Acres

Agency Mixed-Use Parcels are the following parcels of land owned by the Agency:

- Parcel 4 (APN 032-341-23), approximately .228 Acres
- Parcel 6 (APN 032-341-22), approximately .228 Acres

Project Property refers to the Agency Residential Parcels and the Agency Mixed-Use Parcels jointly.

The location of the Project Property is shown in Exhibit 1 (Location Map – Project Property) to this Agreement.

First Escrow means the escrow established with First American Title for closing the sale of the Agency Residential Parcels.

Second Escrow means the escrow established with First American Title for closing the sale of the Agency Mixed-Use Parcels.

Project means the Developer's proposed multi-family residential and mixed-used development, further identified as Fountainhouse at Victorian Square, that complies with the Redevelopment Plan and the Sparks Transit Oriented Development Plan.

Redevelopment Plan means the Sparks Town Center 2000 Amended Redevelopment Plan, adopted May 8, 2000 by the City of Sparks, Nevada under Ordinance 2071, as most recently amended by the Second Amendment (Victorian Square Development Plan) adopted on February 9, 2015, by Ordinance 2509.

Site Plan Review means the Developer's Site Plan Review application as approved by the City on February 17, 2015.

Sparks Transit Oriented Development Plan means the plan approved by the Sparks City Council on July 27, 2009, as it has been subsequently amended, and which re-zoned Victorian Square as Transit Oriented Development – Downtown/Victorian Square. The zoning permits a variety of medium to high density housing types and a wide range of retail, entertainment, service, civic and office uses by right subject to the standards contained in the Sparks Transit Oriented Development Design Manuals.

Tentative Map means the Developer's Tentative (Subdivision) Map application as approved by the City on May 11, 2015.

Victorian Square means the land so designated in the Redevelopment Plan generally located in downtown Sparks bounded by Fifteenth Street on the west, D Street and Victorian Plaza Circle on the north, Victorian Plaza Circle/Eleventh Street on the east and Victorian Avenue on the south.

Article 2. Recitals

2.1 Victorian Square is a part of the Town Center Redevelopment Area, and, pursuant to the Redevelopment Plan, the Agency had caused to be developed in that square a 14 screen stadium theater complex, a 700 space public parking structure, and a public plaza extending south from the Theater Parcel to Victorian Avenue and desires to continue redeveloping the remainder of Victorian Square as a mixed-use project and in accordance with the Redevelopment Plan and the Sparks Transit Oriented Development Plan.

2.2 In July of 2014, Developer approached the Redevelopment Agency to express interest in developing Victorian Square parcels owned by the Agency and City. Developer has since undertaken considerable due diligence and has prepared a mixed-use Project for the Agency Parcels. On December 8, 2014, the City and Agency entered into an Exclusive Negotiating Agreement (the “**ENA**”) with Developer for the proposed sale and development of the Agency Parcels. The ENA granted Silverwing time to continue its due diligence, submit a project proposal and negotiate a Disposition and Development Agreement with staff for future City Council and Agency board consideration.

2.3 Developer has submitted a proposal for the Project in the form of a Site Plan Review and a Tentative (Subdivision) Map. The City approved the Developer’s Site Plan Review application on February 17, 2015 and the Developer’s Tentative Map application on May 11, 2015. The approvals are contingent on the Developer satisfying the conditions of approval.

2.4 The Agency Residential Parcels appraise for \$934,000. The Agency Mixed-Use Parcels appraise for \$271,000. The Developer desires to acquire the Project Property for these amounts and therefore construction of the project is not subject the prevailing wage requirements of NRS 279.500. Developer, who has experience in developing similar projects, will obtain its own construction financing and design, build and lease and/or sell the Project at its own expense.

2.5 Agency may sell property under NRS 279.472 Agency without public bidding if a Agency holds a public hearing, notice of which must be given by publication for not less than once a week for 2 weeks in a newspaper of general circulation published in the county in which the land lies. A public hearing, preceded by the required notice, occurred on the date this Agreement was approved by the Agency board. Satisfaction of the NRS 279.472 requirements also satisfies NRS 279.630(3).

NOW THEREFORE, in exchange for the mutual covenants, burdens and benefits expressed herein, the parties agree as follows.

Article 3. Project Description

3.1 Description of Parcels; Location Map

3.1.1 Agency Residential Parcels. The following six parcels are jointly referred to as the Agency Residential Parcels.

- A. Parcel 3 (APN 032-341-25) is a parcel approximately 1.875 acres in size.

- B. Parcel 13 (APN 032-341-25) is a parcel approximately .765 acres in size.
- C. Parcel 21 (APN 032-135-13) is a parcel approximately .241 acres in size.
- D. Parcel 22 (APN 032-135-25) is a parcel approximately .38 acres in size.
- E. Parcel 23 (APN 032-135-14) is a parcel approximately .246 acres in size.

As of the date of this Agreement, Parcel 23 is owned by Wolfhound Holdings, LLC. On June 22, 2015, the City and Agency approved the Victorian Square Property Exchange Agreement with Wolfhound Holdings, LLC. The Victorian Square Property Exchange Agreement provides for the Agency to acquire, through an exchange of real property, Parcel 23 from Wolfhound Holdings, LLC.

- F. Parcel 24 (APN 032-135-09) is a parcel approximately .12 acres in size.

3.1.2 Agency Mixed-Use Parcels. The following two parcels are jointly referred to as the Agency Mixed-Uses Parcels.

- A. Parcel 4 (APN 032-341-23) is a parcel approximately .228 acres in size.
- B. Parcel 6 (APN 032-341-22) is a parcel approximately .228 acres in size.

3.1.3. Location Map. The location of the Project Property is shown on Exhibit 1.

3.2 Use of Project Property

3.2.1 Subject to all the terms and conditions of this Agreement, Developer agrees to build a Project as follows:

A. On Parcel 3, Developer shall build five (5) residential buildings containing approximately 110 residential units plus a clubhouse and pool. The size of the residential units will range from approximately 583 to 1,166 square feet. Developer shall have sole discretion as to the size and mix of the units, so long as a density of at least 40 dwelling units per acre is achieved.

B. On Parcel 13, Developer shall build two (2) residential buildings containing approximately 44 residential units. The size of the residential units will range from approximately 583 to 1,166 square feet. Developer shall have sole discretion as to the size and mix of the units, so long as a density of at least 40 dwelling units per acre is achieved.

- C. On Parcels 21, 22, 23 and 24, Developer shall build three (3) residential

buildings containing approximately 66 residential units. The size of the residential units will range from approximately 583 to 1,166 square feet. Developer shall have sole discretion as to the size and mix of the units, so long as a density of at least 40 dwelling units per acre is achieved.

D. On Parcels 4 and 6, Developer shall build one mixed-use building on each parcel with approximately 4,615 square feet of restaurant/retail space on the ground floor, plus garage parking for 10-12 vehicles. The enclosed ground floor parking stalls will be reserved for 8 residential units located on the second floor. The residential units will range in size from approximately 770 to 1,130 square feet.

E. The design of the buildings will be in substantial conformance with the Site Plan Review and Tentative Map, as may be revised by the final map approval process.

F. All parking for residents will be provided off-street.

G. On June 22, 2015, the City and Agency approved the "Victorian Square Property Exchange Agreement" with Wolfhound Holdings, LLC. The terms of the agreement enable the Agency to acquire, through an exchange of real property, Parcel 23 (APN 032-135-14) from Wolfhound Holdings, LLC. Parcel 23 is one of the Agency Residential Parcels. In accordance with Article 6.C.2 ("Agency's Covenant to Wolfhound") of the Victorian Square Property Exchange Agreement, the Agency and Developer agree that Developer is: (i) prohibited from using Parcel 23 (APN 032-135-14) for or in connection with the construction and operation of a nonrestricted gaming establishment as defined by the Nevada Gaming Control Act codified in Chapter 463 of the Nevada Revised Statutes; and, (ii) Wolfhound Holdings, LLC or its successors and assigns are specific third-party beneficiaries that may enforce by any legal or equitable remedy compliance with such use restriction.

3.3 Project Schedule

The parties shall begin and complete obligations in accordance with the following schedule. Failure to begin or complete obligations in accordance with the schedule shall be a breach hereunder, subject to the provisions of Section 7.4 regarding default, cure and remedies. Subject to Excusable Delay and force majeure (each defined in Section 7.4), if Developer fails to complete construction of the Project by the "Absolute Deadline" specified in this section, a default shall have occurred hereunder, except that the Developer may elect to not close the Second Escrow and begin construction of the mixed-use buildings by the deadlines in this section, which event will not constitute a default under this Agreement but will terminate the Developer's right to acquire and develop the Agency Mixed-Use Parcels.

#	Event	Time Frame/Deadline
1	Early Termination Date (Section 7.2.1)	April 30, 2016
2	Absolute Deadline	September 30, 2018
3	Close sale of First Escrow (for Agency Residential Parcels)	Per Section 4.3.1 of this Agreement.
4	Start of construction on multi-family residential buildings on Agency Residential Parcels	February 1, 2016
5	Completion of construction with issuance of certificates of occupancy for the 10 multi-family residential buildings on Agency Residential Parcels.	Two years after the start of construction on the first of the 10 multi-family residential buildings on the Agency Residential Parcels.
6	Close sale of Second Escrow (for Agency Mixed-Use Parcels)	Per Section 4.3.1 of this Agreement.
7	Start of construction on mixed-use buildings on Agency Mixed-Use Parcels	December 31, 2016
6	Completion of construction with issuance of certificates of occupancy for the 2 mixed-use buildings on Agency Mixed-Use Parcels.	18 months after the start of construction on the first of the 2 mixed-use buildings on the Agency Mixed-Use Parcels.

3.4 Expenses

Unless otherwise specifically provided herein, all expenses shall be paid by the party that incurred them without expectation of reimbursement or cost sharing.

3.5 Involvement in other Victorian Square Project Plans

Agency agrees to discuss plans for the development of other property within Victorian Square with Developer in order to coordinate with plans of Developer where such coordination is practicable and in the best interests of Agency.

3.6 Regional Road Impact Fees

The Project is subject to the requirements, due to the building permits to be issued for the Project, of the Washoe County Regional Transportation Commission (RTC) Regional Road

Impact Fee (the “RRIF”) program. The City agrees to provide documentation, to the extent it is reasonably available to the City, regarding previous land uses on the Project Property as necessary to calculate applicable reductions in the RRIFP impact fees the Developer will be responsible for as a result of the change in land use on the Project Property. The documentation will be provided to the RRIF Administrator so they can determine the net increase in the impact fee for the new uses as compared to previous uses on the Project Property in accordance with the RTC’s “General Administrative Manual, 5th Edition” for the RRIF system.

3.7 Sewer Connection Fees

The Project is subject to payment of sewer connection fees to the City. The City agrees to provide documentation, to the extent it is reasonably available to the City, regarding previous land uses and plumbing fixture counts on the Project Property as necessary to calculate applicable reductions in the sewer connection fees the Developer will be responsible for as a result of the Project. The documentation will be provided to the City’s Building Official so that they can determine the net increase in the sewer connection fees for the new residential and commercial uses as compared to previous uses on the Project Property.

3.8 Outdoor Dining and Encroachment Permits for Agency Mixed-Use Parcels

As described in Section 3.2.1.D, the Developer’s Project is to include one mixed-use building on each of the Agency Mixed-Use Parcels (Parcels 4 and 6) with approximately 4,615 square feet of restaurant/retail space on the ground floor. If one or both of these buildings are occupied by restaurants or cafes, City agrees to consider issuance of Outdoor Dining and Encroachment Permits for the use of public right-of-way in the area of the Victorian Square plaza directly adjacent to the restaurant(s). Outdoor Dining and Encroachment Permits for these restaurants are subject to the requirements of Sparks Municipal Code Chapter 5.77.100 and approval by the Sparks City Council but such approval will not be unreasonably withheld.

Article 4. Sale of Project Properties to Developer

4.1 Property Description

4.1.1 Agreement. Agency (as “Seller” in this Article) agrees to sell and Developer (as “Buyer” in this Article) agrees to purchase the following described property subject to the following terms and conditions.

4.1.2 Project Properties. Seller shall sell the Project Properties as they shall be described in 3.1.1 of this Agreement and Exhibit 1 (Project Map),

Together with: Seller's interest in all tenements, hereditaments and appurtenances (belonging or in any manner appertaining) including all easements, reversions, remainders, issues, franchises, leases, rents, profits, mineral rights, royalties, minerals, oil and gas rights and profits, geothermal rights (whether or not appurtenant);

But excluding: (i) water rights, applications and permits to appropriate any of the public waters, all certificates of appropriation, adjudicated or unadjudicated water rights, and applications or permits to change the place of diversion, manner of use or place of use of water appurtenant to the land, and water service agreements or credits thereunder; and (ii) infrastructure improvements including sewer lines, storm drain facilities, utility facilities, sidewalks and street improvements.

4.1.3 Personal Property. No personal property is included in the sale.

4.2 Price, Payment, Escrow and Allocation of Costs

4.2.1 Price. Seller agrees to sell and Buyer agrees to buy the Agency Residential Parcels and the Agency Mixed Use Parcels for the following purchase prices, plus Buyer's share of costs as allocated below:

A. Agency Residential Parcels. A price of Nine Hundred and Thirty Four Thousand dollars (\$934,000.00).

B. Agency Mixed-Use Parcels. A price of Two Hundred and Seventy-One Thousand dollars (\$271,000.00).

4.2.2 Escrow and Allocation of Closing Costs. The parties have established an escrow ("Escrow") with First American Title, 3080 Vista Boulevard, Suite 106, Sparks, Nevada 89436, Attention: Cheri Yarbrough ("Escrow Agent"). Closing costs shall be allocated as provided in this Agreement, Section 4.7.1.

4.2.3 Earnest Money Deposit. Buyer shall deposit into escrow \$25,000 within five (5) business days of the approval of this Agreement by all parties. The Earnest Money shall be applied to the purchase price for the Agency Residential Parcels. Upon the satisfaction, or waiver, of Developer of all of Developer's conditions precedent to closing as set forth in this Agreement, and subject to Developer's rescission rights hereunder, the Deposit shall become non-refundable to Developer, except upon a failure of Seller to consummate the transactions contemplated by this Agreement in accordance with the terms and provisions hereof.

4.2.4 Payment and Financing. Payment shall be in all cash or other immediately available funds at closing. Buyer intends to borrow or obtain equity capital for the purchase price, and shall diligently pursue financing. Buyer shall immediately inform Seller if Buyer determines or is informed that financing will not be available for Buyer to close as specified in 4.3.1.

4.2.5 Real Estate Broker. Neither party is represented by a licensed real estate broker. If a real estate broker or salesperson claims a commission under this Agreement, it shall be paid outside of escrow by the party whom the agent represents and each party shall hold harmless and indemnify the other from and against any claim for a commission alleged to be owed by virtue of any purported undertaking or agreement made or allowed to be made by the other party.

4.3 Timing, Settlement and Closing

4.3.1 Time Frames and Deadlines. The parties agree to accomplish the following actions within the following time frames and deadlines.

#	Event	Time Frame/Deadline
1	Escrow Opens	Within 5 business days after this Agreement is approved by all parties.
2	Developer shall deposit Earnest Money into escrow	When escrow is opened.
3	Property condition Due Diligence Deadline	The later of: (a) 10 calendar days after City is informed in writing by Washoe County Health District that no further remediation action is necessary for Parcel 21 or (b) August 21, 2015.
4	Title Due Diligence Deadline	10 calendar days after title report is furnished on Project Property and the ALTA Survey has been delivered to Buyer.
5	Preclosing and Settlement Deadline	5 business days after Buyer is satisfied as to the conditions precedent under Section 4.5 but not later than the Early Termination Date specified in Section 3.3.

6	Closing Deadline for First Escrow	1 business day after #5 completed.
7	Delivery of possession	Not later than 5 p.m. on day of closing.
8	Closing Deadline for Second Escrow	December 31, 2016.

4.3.2 Preclosing and Settlement. Not later than close of business of Escrow Agent on the Preclosing and Settlement Deadline:

A. Buyer and Seller shall have duly executed and delivered to each other or to escrow all the documents listed in the Escrow Instructions or otherwise required or contemplated by this Agreement.

B. Taxes and assessments shall have been prorated and settlement statements shall have been prepared and approved by the parties.

C. Seller shall have delivered all documents or agreements required by Escrow to insure title and Escrow Agent shall be irrevocably committed to issue or cause to be issued the title insurance required herein.

4.3.3 Closing. On the Closing Deadline:

A. Not later than 10:00 a.m., PST, Buyer and Seller shall have delivered into escrow in collected funds the purchase price and all funds necessary to close the sale;

B. The Escrow Agent shall have recorded the documents to be recorded as identified in the Escrow Instructions; and

C. All sums shall have been provided by wire transfer or draft of Escrow Agent.

4.3.4 Delays in Escrow. Provided that Buyer and Seller shall have accomplished all that has been required of them as indicated above, a delay in the settlement or closing caused by Escrow Agent or factors beyond the control of Escrow Agent shall not be considered as a default by Buyer or Seller.

4.4 Due Diligence, Inspections, Buyer's Right to Rescind

4.4.1 Seller's Representations and Warranties. Seller's representations and warranties

stated in Section 4.9 are hereby made and shall be reaffirmed at closing.

4.4.2 Delivery of Documents, Due Diligence, Objections or Rescission of Buyer.

A. Buyer shall promptly arrange for all inspections called for in this Agreement, and Seller shall reasonably cooperate in scheduling and conducting them.

B. Buyer has already begun due diligence and shall have until the Property Condition and Title Due Diligence Deadlines specified in 4.3.1 above to inspect all documents and the Property and complete its due diligence investigation and either rescind this Agreement or raise any objections as to the documents or condition of the Property. If Buyer fails to rescind or raise objections by the Due Diligence Deadlines, Buyer is deemed to have accepted the documents and condition of the Property.

C. Buyer agrees to promptly object to any document or condition of the Property as it learns of the defect, and to give Seller a reasonable time to correct the defect.

4.4.3 Title Report, Title Insurance

A. Seller has ordered title reports for delivery to Buyer.

B. Seller must obtain an Owner's Policy of Title Insurance in the amount of the purchase price, showing title to the Property vested in Buyer, subject only to those exceptions to title approved by Buyer.

C. Buyer shall have until the Title Due Diligence Deadline specified in 4.3.1 to review the Commitment and the Survey and raise objections. Seller shall have ten days to cure objections, and Buyer shall have 10 days to review the cure. If Buyer is not satisfied with the state of title to the Project Property, Buyer may rescind this Agreement.

4.4.4 Environmental Investigations. Buyer has completed a Phase I Environmental Site Assessment Report, and may conduct further environmental investigations.

4.4.5 Soils Conditions. The Developer's initial environmental and geotechnical reports found the presence of petroleum hydrocarbon contamination on Parcel 21. The City commissioned a Limited Phase II Environmental Site Assessment, which confirmed the presence of contaminated soils. On March 20, 2015, the City notified the Nevada Division of Environmental Protection (NDEP) of a release of contaminants total petroleum hydrocarbons and hydrocarbon constituents in excess of legally acceptable limits. NDEP has designated the Washoe County District Health Department (WCDHD) as the lead agency for overseeing the remediation of this case. The City has subsequently commissioned the preparation of a

remediation plan and intends to remediate the contaminated site and obtain a determination in writing from the WCDHD that no further remediation is necessary prior to sale of Agency Residential Parcels to Buyer.

4.4.6 Appraisals. Seller has furnished to Buyer a copy of recent appraisals of the Project Property.

4.5 Buyer's Conditions Precedent; Right to Rescind

4.5.1 Buyer's obligation to purchase the Project Property is subject to the satisfaction, or waiver by Buyer, of the following conditions precedent, in Buyer's discretion. In the event that any of the conditions fails, Buyer may rescind this Agreement.

A. Financing. Buyer shall have obtained acquisition and construction financing at rates sufficient to yield a rate of return on the Project acceptable to Buyer.

B. No Rescission. Buyer shall not have rescinded this Agreement as authorized in this Agreement.

C. Entitlements. Buyer shall be satisfied about the land use entitlements for the Project.

D. Suitability of Agency Residential Parcels and Agency Mixed-Use Parcels. Buyer is satisfied, in its sole discretion, that the Agency Residential Parcels and Agency Mixed-Use Parcels are suitable for Buyer's intended purpose, provided, however, that Buyer shall have only until the "Property Condition Due Diligence Deadline" specified in Section 4.3.1 above to exercise such discretion.

E. Remediation of Soil Contamination on Parcel 21. Buyer is satisfied, in its sole discretion, that the contamination of Parcel 21 identified in Section 4.4.5 has been satisfactorily remediated, that WCDHD has notified the Seller that no further remediation action is necessary and that Parcel 21 is suitable for Buyer's intended purpose.

F. Agency Acquisition of Parcel 23. Seller has completed its acquisition of Parcel 23 from Wolfhound Holdings, LLC.

G. Warranties and Representations; Default. Seller's representations and warranties contained in this Agreement shall be true and correct in all material respects. If a representation or warranty cannot be made, or it is subsequently determined to be breached, or if Seller is otherwise in default hereunder, Buyer may rescind this Agreement based on such Seller default at any time before the Settlement Deadline and seek to recover its damages

incurred in reliance on this Agreement if such rescission is a result of Seller's default; but otherwise must bring an action for damages alone for any such Seller default occurring after such deadline.

H. Title. Buyer shall be satisfied with the status of title to the Project Property, provided that Buyer shall have until the "Title Due Diligence Deadline" specified in Section 4.3.1 above.

I. Seller Compliance. Seller shall have complied with each and every covenant, undertaking and agreement to be kept or performed by Seller as provided in this Agreement.

4.6 Seller's Conditions Precedent; Right to Rescind.

4.6.1 Seller's obligation to sell the Agency Residential Parcels and Agency Mixed-Use Parcels is subject to the satisfaction, or waiver by Seller, of the following conditions precedent. In the event that a condition fails, Seller may rescind this Agreement.

A. Buyer Compliance. Buyer shall have complied with each and every covenant, undertaking and agreement to be kept or performed by Buyer as of the closing as provided in this Agreement; and all warranties and representations of Buyer under this Agreement shall be materially true and correct.

B. Buyer Financing. Buyer shall have provided a financing commitment sufficient to finance the construction of the Project, reasonably satisfactory to Seller.

4.7 Escrow and Closing

4.7.1 Opening Escrow. Within five (5) business days of the approval of this Agreement by all parties, an escrow shall be opened with First American Title, 3080 Vista Boulevard, Suite 106, Sparks, Nevada 89436, Attention: Cheri Yarbrough ("Escrow Agent") by the depositing by Buyer and Seller of a fully executed copy of this Agreement with Escrow Holder. Escrow Agent shall notify the parties of the date of such receipt, such date herein referred to as the date for "Opening Escrow". Buyer shall deposit an Earnest Money Deposit into Escrow when the escrow is opened.

4.7.2 Escrow Costs.

A. Proration and Credits. Real property taxes shall be prorated between Buyer and Seller as of the Close of Escrow based on the latest available tax information. The pro ration shall be based on a 30-day month and a 360 day year.

- B. Seller's Costs.
 - (i) One-half (1/2) of the escrow fee;
 - (ii) The premium for Owner's Policy of Title Insurance;
 - (iii) The cost of preparing, acknowledging and recording the Grant Deed; and
 - (iv) The cost of any of Seller's other obligations under this Agreement.

- C. Buyer's Costs.
 - (a) One-half (1/2) of escrow fee;
 - (b) The cost of documentary transfer taxes in connection with the recordation of the Grant Deed; and
 - (c) The cost of any of Buyer's other obligations of this Agreement.

4.7.3 Broker's Commissions. Seller and Buyer each represent and warrant to each other that (except as disclosed to each of the parties in writing) no broker, agent or finder, licensed or otherwise, has been engaged by it, has been engaged by it, respectively, in connection with the transaction contemplated by this Agreement and that all negotiations relative to these instructions and this transaction have been carried out by such party directly with the other party without the intervention of any person in such a manner as to give rise to any valid claim against either of the parties for a broker's commission, finder's fee or other like payment. Each of the parties shall indemnify and defend the other party and hold it harmless from any and all losses, damage, liability or expense, including costs and reasonable attorney's fees, which the other party may incur or sustain by reason of or in connection with any misrepresentation or breach of warranty by the indemnifying party with respect to the foregoing.

4.7.4 Close of Escrow. The "Close of Escrow" or "Closing Date" shall mean the date on which Buyers and Sellers obligations, as set forth below, for closing have been met.

- A. Buyer's Obligations. Before the closing date for the First Escrow and the Second Escrow, respectively, Buyer shall:
 - (i) First Escrow: deliver Nine Hundred and Thirty-Four Thousand Dollars (\$934,000) to Escrow Agent in cash or by wire transfer of funds or by a certified or bank cashier's check and made payable to Escrow Holder;
 - (ii) Second Escrow: deliver Two Hundred and Seventy-One Thousand Dollars (\$271,000) to Escrow Agent in cash or by wire transfer of funds or by a certified or bank cashier's check and made payable to Escrow Holder;
 - (ii) Deposit with Escrow Agent all other sums and documents required by Escrow Agent to pay the costs of escrow and carry out the close of each escrow.

Seller's Obligations. On or before the Closing Date, Seller shall deliver to Escrow Agent all of the following:

- (i) For the First Escrow, a fully executed and notarized grant, bargain and sale deed conveying the Agency Residential Parcels to Buyer (the "Grant Deed"), acceptable to Buyer, which complies with the Laws of the State of Nevada,
- (i) For the Second Escrow, a fully executed and notarized grant, bargain and sale deed conveying the Agency Mixed-Use Parcels to Buyer (the "Grant Deed"), acceptable to Buyer, which complies with the Laws of the State of Nevada,
- (ii) All other documents and sums required by Escrow Agent to the costs of and carry out the close of each escrow.

4.7.5 Other Conditions to Close Escrow. The Close of Escrow shall not take place unless and until Buyer's receipt of the Policy of Title Insurance.

4.7.6 Closing Procedure. Upon receipt of all funds and instrument described in this section, and upon satisfaction or waiver of all contingencies and conditions set forth in this Agreement, the Escrow Agent shall:

- A. Record the Grant Deeds in the Official Records of Washoe County;
- B. Deliver to Buyer the document evidencing Seller's exemption from tax withholding under Internal Revenue Code Section 1445, as set forth in Section 5.11; and
- C. Deliver the balance of the purchase price to Seller.

4.7.7 Escrow Instructions

This Agreement shall constitute the escrow instructions of Buyer and Seller.

4.7.8 Additional Escrow Instructions

If Escrow Agent requires further instructions respecting its duties and obligations, the parties shall execute such instructions, provided that they do not change any of the substantive terms and between such additional escrow instructions and this Agreement, the provisions of this Agreement shall prevail, unless otherwise expressly stated in such additional escrow instructions.

4.7.9 Escrow Agent's General Provision

Escrow Agent is hereby instructed to attach as Exhibit 2 to this Agreement a copy of Escrow Agent's standard printed escrow instructions, which are hereby incorporated into this Agreement in their entirety. In the event of any inconsistency between this Agreement and Exhibit 2, this Agreement shall govern the rights and obligations of Seller and Buyer.

4.8 Seller's Warranties and Representations

4.8.1 Seller hereby represents and warrants to Buyer that the following statements

are true and correct as of the date of this Agreement, and shall be true and correct as of the Close of Escrow, and the truth and accuracy of such statements shall constitute a condition to all of Buyer's obligations under this Agreement:

- A. The sale of the Project Property has been authorized by appropriate action of Seller;
- B. The person(s) who have executed this Agreement and other instruments required under this agreement on behalf of Seller have been, or will be, duly authorized to execute the same on Seller's behalf and no other persons are required to execute this Agreement on behalf of Seller;
- C. The entering into and consummation of this Agreement by Seller will not constitute or result in Seller's default under any other contract by which Seller or the Project Property are bound;
- D. To the best of Seller's knowledge, there are no other agreements, leases or contracts affecting the Project Property that cannot be canceled upon 30 day notice.
- E. Seller shall furnish a grant deed and Policy of Title Insurance showing good and marketable title in fee to the Project Property free and clear of all liens and encumbrances.
- F. No lawsuits, administrative proceedings or violations pending or threatened exist in relationship to the Project Property.
- G. The execution, delivery and performance of this Agreement does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any governmental authority or any third party. Seller knows of no reason why all the consents, approvals and authorizations necessary for the consummation of the transactions contemplated by this Agreement will not be received.
- H. Except as otherwise indicated in any Environmental Assessment reports obtained by Buyer or otherwise disclosed to Buyer below, Seller has, during the time that Seller has been in possession of the Project Property complied with all Environmental Laws and has not released any Hazardous Substances on the Project Property.

4.9 Buyer's Warranties and Representations

4.9.1 Buyer hereby represents and warrants to Seller that the following statements are true and correct as of the date of this Agreement, and shall be true and correct as of the

Close of Escrow, and the truth and accuracy of such statements shall constitute a condition to all of Seller's obligations under this Agreement;

A. The Purchase of the Project Property will be authorized by appropriate action of Buyer.

B. The person(s) who have executed this Agreement and other instruments required under this Agreement on behalf of Buyer have been, or will be, duly authorized to execute the same.

C. Buyer has formed a special purpose entity in the form of a limited liability company or a limited liability partnership under the laws of Nevada to own the Property ("Company"). Buyer shall assign its position in the escrow to said Company. Buyer warrants that it will maintain a majority of the management interest in the Company.

4.10 Environmental Indemnification.

To the fullest extent permitted by law, Seller shall indemnify, hold harmless and defend Indemnified Parties from and against all liability caused in whole or in part by the release of Hazardous Substances on the Project Property which existed on the date of closing, regardless of whether or not the release or discharge of the Hazardous Substance was caused by Seller. Indemnified parties includes Buyer, its officers, employees, agents and contractors, successors and assigns. Liability includes all fines and penalties, clean up costs, claims, actions, damages, losses, judgments, injuries, costs and expenses, including but not limited to attorney's fees and costs, including those related to bodily injury, sickness, disease or death or to injury to destruction of tangible property.

Article 5. Construction

5.1 Staging Areas to be Furnished by City/Agency.

To accommodate construction as needed by Developer, City and Agency agree to provide construction and materials storage and staging areas of sufficient size acceptable to Developer to be positioned as follows. One site shall be positioned adjacent to or directly across the street or alley from the Agency Parcels, and one site will be positioned adjacent to or directly across the street or alley from the Agency Mixed-Use Parcels.

5.2 Construction of Project Improvements by Developer

5.2.1 Construction Standards

A. All improvements shall be constructed in compliance and substantial conformance with the Redevelopment Plan, the Sparks Transit Oriented Development Design Manuals, and the approved Site Plan Review and Tentative Map.

B. All improvements will be constructed in accordance with applicable law, including City ordinances and codes, Washoe County ordinances and codes, state statutes and regulations, and federal statutes and regulations, including, but not limited to the Americans with Disabilities Act, to the extent applicable.

C. All construction shall be completed free from the release of hazardous substances as defined in NRS 40.504 and 40.505. In the event that Developer suffers or allows a release of Hazardous Materials, it shall indemnify Agency as provided in Section 6.4..

5.2.2 Prevailing Wages

Compliance Not Required. The sales price specified in Section 4.2 for the Project Property represents the fair market value for these properties, as established by appraisals commissioned by the Agency, and therefore construction of the project is not subject to the prevailing wage requirements of NRS 279.500.

5.2.3 Employment Practices

In connection with the performance of work under this agreement with respect to the Project, Developer shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

5.2.4 Safety and Coordination of Construction Activities

A. All construction activities shall be performed in a manner that is safe to construction workers and persons who are near the construction activities. Developer shall use construction barriers, signs, and devices reasonably calculated to protect people in or near the construction zone.

B. Developer shall coordinate construction activities with existing property owners to minimize, to the extent practical, the impact of construction on special events and normal business operations. City staff shall assist in coordinating construction activities.

C. As part of its site preparation, Developer shall remove all light fixtures,

bollards, and other City or Agency property in a manner that reasonably minimizes damage to and the utility of this property and will stockpile it in a location on Agency Residential Parcels or in Staging Area, or on City vehicles, as agreed to with City staff responsible for coordinating construction activities with Developer.

5.2.5 Developer shall coordinate with the City's Parks and Recreation Director (or designee) construction operations with special events along Victorian Avenue including but not limited to Rib Cook-Off, Hot August Nights, Hometown Christmas, and 39 North Market Place.

5.2.6 Progress Reports and Meetings

Developer shall meet and confer with Agency at least once each month to report on construction and sales progress and compliance with this Agreement.

5.2.7 Access to Construction Site

Developer shall allow officers and employees of Agency and City reasonable access to the construction site to perform inspections to determine compliance with this Agreement.

5.2.8 Public Works Projects

A. An efficient coordination of construction between Developer and City may require that City leaves portions of any streets, sidewalks, public plazas and utilities it is rehabilitating incomplete and for Developer to finish as it connects utilities and completes its construction of improvements to be tied into the streets adjacent to the Project Property. In such event, unless City is advised that competitive bidding for the completion of such work is required, City and Developer shall enter into a separate contract for the completion of such work; provided, however, that to the extent Developer is delayed in the prosecution of its work as a result of the time incurred to conduct such competitive bidding process, such time of delay shall be deemed an Excusable Delay.

B. All public works construction (projects which are to be dedicated to the City or Agency), shall be completed in accordance with the standards and specifications in the Orange Book. "Orange Book" means the latest edition of the "Standard Specifications Book for Public Works Construction" sponsored and distributed by the Regional Transportation Commission in conjunction with City and other governmental entities. Further, public works construction shall be completed in a diligent and workmanlike manner of good quality free from faults and defects.

Article 6. Insurance and Indemnifications

6.1 Industrial Insurance.

6.1.1 It is understood and agreed that there shall be no worker's compensation or industrial insurance coverage provided by City or Agency for Developer or any employee, contractor or subcontractor of Developer. Developer warrants, represents and agrees that all officers, employees, contractors and subcontractors who perform any duties or activities in furtherance of this agreement (including traveling to Nevada and performing any duties in Nevada) are covered by workman's compensation or industrial insurance in at least the minimum amount and coverage required by Nevada law, and Developer further agrees to hold City and Agency harmless and indemnify them against all liability in the event that an employee, contractor, and subcontractor is injured or becomes ill on the job for which insurance is unavailable.

6.1.2 If Developer is self-funded for Industrial Insurance, Developer shall so notify City in writing prior to the signing of this Agreement, and shall provide a certificate of self-insurance from the State of Nevada Insurance Division together with proof of financial strength satisfactory to City.

6.2 General Liability Insurance

6.2.1 After Developer acquires and for so long as Developer owns an interest in the Project Property, Developer agrees to obtain Commercial General Liability insurance covering the Project Property in the amount of at least \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to each project or location.

6.2.2 The insurance coverage shall be in Insurance Services Office Commercial General Liability Coverage "occurrence" form CG0001 01/96 or Insurance Service Office Comprehensive General Liability form GL0002 Ed 01/73 with the Broad Form Comprehensive General Liability Endorsement GL0404.

6.2.3 City and Agency and their officers, agents, employees, and volunteers are to be included as insureds as respects damages and defense arising from (i) activities performed by or on behalf of Developer including the insured's general supervision of Developer; (ii) premises owned, occupied, or used by Developer, or automobiles owned, leased, hired, or borrowed by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, or volunteers.

6.2.4 Developer’s insurance coverage shall be primary insurance as respects City, its officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, employees, or volunteers shall be excess of Developer’s insurance and shall not contribute with it in any way.

6.2.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officers, agents, employees, or volunteers.

6.2.6 Developer’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.3 Indemnifications

6.3.1 By Developer. To the fullest extent permitted by law, Developer shall indemnify, hold harmless and defend the indemnified parties from and against all liability to the extent caused by the negligent act or omission or willful misconduct of Developer or a related party in the performance of its obligations hereunder . “Indemnified parties” includes the other parties to this Agreement.

6.3.2 By City. To the fullest extent provided by law, and subject to the conditions, limitations and immunities contained in NRS 41.0305 through NRS 41.039, as amended from time to time, City shall indemnify, hold harmless and defend the indemnified parties from and against all liability to the extent caused by the negligent act or omission or willful misconduct of the City or a related party in the performance of its obligations hereunder. “Indemnified parties” includes Developer and its related parties. This indemnification by City does not apply to any legislative or administrative discretionary acts or decisions in connection with the exercise of police powers or regulatory powers over land use planning and public works projects.

6.3.3 By Agency. To the fullest extent provided by law, and subject to the conditions, limitations and immunities contained in NRS 41.0305 through NRS 41.039, as amended from time to time, Agency shall indemnify, hold harmless and defend the indemnified parties from and against all liability to the extent caused by the negligent act or omission or willful misconduct of the Agency or a related party. “Indemnified parties” includes Developer and its related parties. This indemnification does not apply to any legislative or administrative acts or decisions in connection with the exercise of redevelopment powers under the Redevelopment Act.

6.3.4 Definitions. “Liability” means all third party claims, actions, damages, losses, judgments, injuries, costs and expenses, including but not limited to attorneys’ fees and costs,

including those related to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (including the loss of use resulting therefrom) and other economic damages. A “related party” includes all officers, employees, agents, contractors and subcontractors of the party who are acting within the scope of their assigned and lawful duties, as well as anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

6.3.5 Limitations and Conditions. The current laws of Nevada limiting liability due to comparative or contributory negligence shall apply. The obligations of each indemnifying party hereunder shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section. The indemnification shall not be diminished or limited in any way to the total limits of insurance required in this contract or otherwise available to the indemnifying party. If the liability is asserted by an employee of an indemnifying party, the indemnification herein is not limited to damages, compensation or benefits payable by or for the indemnifying party under worker’s compensation acts, disability benefit acts or other employee benefit acts. Each indemnifying party shall be permitted to participate, if it chooses, in the defense of any action claiming liability, even if the indemnified party is indemnified hereunder. Either party may set off any of its rights under this subsection against any consideration it provides under this agreement. The obligations to indemnify and save harmless herein survive the expiration or termination of this Agreement with respect to any act or omission which occurred before expiration or early termination.

Article 7. Term, Early Termination, Default and Remedies

7.1 Scheduled Term

Unless earlier terminated as specified below, this Agreement shall terminate upon the issuance of a certificate of occupancy for the last building constructed hereunder, except for such terms and provisions which expressly survive such termination.

7.2 Early Termination.

7.2.1 Automatic Early Termination

This Agreement automatically terminates on the Early Termination Date specified in Section 3.3 unless construction has started on the Project and Developer has demonstrated the financial capacity to complete construction.

7.2.2 Rescission

A. This Agreement may be rescinded by either party only as specifically provided herein.

B. In the event of early termination by reason of rescission, the Earnest Money Deposit shall be returned to Developer, and each party shall be released and discharged from any further liabilities and obligations under this Agreement except those stated in Section 7.3.

7.2.3 Early Termination Due to Default

A. As provided in Section 7.5, this Agreement may be terminated by reason of the default of a party.

B. If this Agreement is early terminated by City or Agency because of default of the Developer, the Earnest Money shall not be returned to Developer. If this Agreement is terminated by Developer due to the default of Agency or City before escrow closes on the sale of the Project Property, the Earnest Money shall be returned to Developer. In either event, all of the obligations and remedies set forth below apply.

7.3 Default, Notice and Right to Cure.

7.3.1 Excuse Due to Force Majeure; Other Party Delay.

A. Force Majeure.

i. Except as provided elsewhere herein, if a “force majeure” makes performance of an obligation or cure of a breach or default impossible, such performance or cure is excused for the duration of the force majeure provided that the obligated party (i) within a reasonable time after the commencement of the force majeure notifies the other party of the nature of the force majeure, when it commenced, why it makes performance or cure impossible, and the expected duration (if known), and (ii) agrees to and does in fact diligently pursue remediation of the effects of the force majeure, and (iii) agrees to notify the other party immediately when it becomes possible to commence efforts to cure the default.

ii. A “force majeure” is defined as (a) without the fault of and beyond the reasonable control of the obligated party, a war; insurrection; riot; flood; earthquake; fire; casualty; act of God; act of a public enemy; quarantine restriction or other effect of epidemic or disease; freight embargo; weather-caused delay; lack of transportation attributable to any of these; (b) regional or national shortages of labor or materials which severely impair the ability of all similarly situated contractors to build projects of the type contemplated by this Agreement and cannot be remedied by purchasing at a commercially

reasonable increased price; or (c) labor strikes, boycotts or picketing (unless the labor action is taken because of an alleged violation of the prevailing wage provisions in this Agreement, if any); (d) provided, however, that if the breach or default is the failure to pay money, the force majeure must actually prevent access to or payment from a bank account or payment mechanism, such as during a banking holiday, moratorium, or sabotage of wire or automated transfer systems.

iii. A force majeure does not include general economic or market conditions, or the financial condition of a party even if they are influenced by any of the foregoing. A force majeure is deemed to cease for purposes of this Agreement and a party is deemed to be in breach of an obligation or cure when it becomes possible for the obligated party to commence to perform the obligation or cure.

B. Excusable Delay Due to Delay by Other Party

i. In all instances hereunder where the timely performance by one party (the "Relying Party") is dependent upon the act, response or performance of the other party, then the performance of the Relying Party shall be excused to the extent and duration of the delay or tardiness in the act, response or performance of the other party, and shall be deemed an "Excusable Delay." Where a party is obligated to make a judgment, decision or determination (such as an approval of an entitlement, property condition, waiver, or the like) a delay in making that decision may give rise to an Excusable Delay, but, once made, an adverse decision by that party does not give rise to an Excusable Delay.

7.3.2 Default.

Subject to Section 7.4.1, a default occurs when (i) a party, without legal or contractual excuse, repudiates, breaches or fails to perform any obligation, term or provision in this Agreement, including a failure to perform any requirement in accordance with the schedule in Section 3.3 (ii) subject to force majeure and Excusable Delay, an event required to occur does not occur by the time required; (iii) any representation of a material fact expressed herein was materially false at the time it was made, or, if a continuing representation, becomes materially false as a result of a subsequent event or occurrence; (iv) any warranty made herein is breached at the time made or, if a continuing warranty, is breached as a result of a subsequent event or occurrence; (v) Developer defaults under any deed of trust encumbering the Project Property beyond applicable cure periods or the holder of any lien on the Project Property commences foreclosure or other proceedings to enforce the lien; or (vi) any event otherwise described in this Agreement as a breach or default.

7.3.3 Notice and Right to Cure.

A. Unless otherwise specified in this Agreement, in the event of a default, the non-defaulting party shall provide written notice of such default and the specific action required to cure such default, and the defaulting party shall have thirty (30) days from the date that the notice is deemed given to cure the default; provided, however, that if the nature of such default is such that it cannot reasonably be cured within such 30-day period, then the defaulting party shall not be deemed in default if and so long as such party commences and diligently continues to pursue the cure of such default within such 30-day period, and continuously pursues such cure thereafter to completion, but in no event beyond the Absolute Deadline unless otherwise agreed.

B. Agency further agrees for the benefit of any third party lender who holds a deed of trust on the Project Property to provide written notice of default to such lender, and if Developer fails to cure the default as above provided, to give such lender another 30-day period to cure the default, PROVIDED THAT such lender requests such notice and opportunity to cure and reciprocates and agrees to notify Agency of any default under its deed of trust or lien and afford Agency a similar opportunity to cure.

7.4 Remedies.

7.4.1 Remedies Available to All Parties

If the event of a default is suffered or caused by any party and not cured within the period of time specified, the non-defaulting party may, subject to any specific provision regarding remedies herein, (i) suspend any counter-performance due hereunder until the default is cured; (ii) terminate this Agreement under Section 7.2.3; (iii) pursue any other remedy specifically provided in this Agreement, and/or (iv) bring an action for damages or equitable relief.

7.4.2 Remedies Cumulative; Waivers

All remedies stated in this Agreement are cumulative with each other and with any remedy afforded in law or equity. The election of any remedy does not constitute a waiver of any other remedy.

7.5 Waivers

Any forbearance, inaction, or failure to promptly pursue any remedy (whether intentional or negligent) shall not be deemed a waiver of any default or remedy. Waivers must be expressed in writing signed by the waiving party, and a waiver of a default is limited to the

specific default identified in the written waiver and does not constitute a course of dealing or implication that similar defaults will be waived in the future.

Article 8. General Provisions

8.1 Representations and Warranties of Agency

Agency represents and warrants:

8.1.1 That the Agency is duly created and validly existing as a corporate and body politic under the Community Redevelopment Law of Nevada (Nevada Revised Statutes Chapter 279).

8.1.2 That Agency has the power and authority under the Community Redevelopment Law to enter into and carry out the provisions of this Agreement.

8.1.3 That (i) entering into this Agreement does not violate any contract, court order, administrative order or other undertaking, or any law, ordinance, rule or regulation to which Agency is subject or bound; (ii) Agency has complete authority to enter into this Agreement without obtaining any court order or permission or agreement of another party; (iii) to Agency's actual knowledge, there are no suits, other proceedings or investigations pending or threatened against Agency that Agency reasonably believes would prevent Agency from performing its duties and obligations hereunder or would have a material adverse effect on the financial condition of the Agency or the Project Property.

8.1.4 That any information that Agency has delivered to Developer, either directly or through Agency's agents, is materially accurate and complete, and Agency has disclosed all material facts concerning the financing and development of the Project.

8.1.5 That all contracts, deeds, and documents delivered to Escrow Agent or Developer have been duly authorized, executed, and delivered by Agency; are binding obligations of Agency; and the undertakings therein would not violate any contract, court order, administrative order or other undertaking by Agency, or any law, ordinance, rule or regulation to which Agency is subject or bound.

8.2 Representations and Warranties of Developer

Developer warrants, represents and agrees:

8.2.1 That Developer is duly and validly organized and existing in good standing as a Nevada limited liability company, and has all requisite company power and authority to enter

into and perform its obligations under this Agreement; and that all necessary actions have been taken under Developer's Organizational Documents (Articles of Incorporation, By-Laws etc) to authorize entering into this Agreement.

8.2.2 That (i) entering into this Agreement does not violate any contract, court order, administrative order or other undertaking; (ii) Developer has complete authority to enter into this Agreement without obtaining any court order or permission or agreement of another party; (iii) to Developer's actual knowledge, there are no suits, other proceedings or investigations pending or threatened against Developer that Developer reasonably believes would prevent Developer from performing its duties and obligations hereunder or would have a material adverse effect on the financial condition of the Developer.

8.2.3 That a senior responsible and knowledgeable officer or employee of Developer will at all times be involved in day to day pursuit of the Project.

8.2.4 That any information that Developer has delivered to Agency or City, either directly or through Developer's agents, is materially accurate, and Developer has disclosed all material facts concerning the financing and development of the Project.

8.2.5 That all contracts, deeds, and documents delivered to Escrow Agent, Agency, and City have been duly authorized, executed, and delivered by Developer; are binding obligations of Developer; and the undertakings therein would not violate any contract, court order, administrative order or other undertaking by Developer.

8.2.6 That except as otherwise disclosed to Agency, Developer has not been convicted of or had a civil judgment entered against it of fraud, misrepresentation, embezzlement, theft, obtaining money under false pretenses, violations of disclosure requirements required by federal or state securities laws, or violation of any law designed to protect the environment. This is a continuing warranty and representation throughout the term of this Agreement.

8.3 General Covenants of Both Parties.

Each party covenants to the other as follows.

8.3.1 Ongoing Disclosures

A. To promptly notify the other party of any facts that would cause any of the representations contained in the Agreement to be materially untrue during the term of this Agreement.

B. To promptly notify the other party of any facts or circumstance that

would impair the obligated party's ability to perform its obligations hereunder.

8.3.2 Inspection of Books and Records. To allow the audit or inspection of the books and records of the party upon a reasonable request that (i) specifies the reason and purpose of the audit and how it relates to verification of performance under this Agreement, (ii) agrees to limit the scope of the audit or request to matters relevant to this Agreement, (iii) asks for a reasonable audit or inspection schedule, (iii) agrees to pay for the audit and inspection and all costs incurred by the other party in responding.

8.3.3 Compliance With Law. To comply with all applicable ordinances, statutes, regulations and other laws with respect to its general operations and the performance of all obligations and duties under this Agreement

8.4 No Conflicts of Interest

Developer represents and agrees that as of the date hereof, and continuously throughout the term of this Agreement, that except as specifically disclosed to and approved in writing by the City Council or Agency, no elected official, employee, officer, member of the Agency or City, no consultant who is providing consulting to the Agency or City with respect to the Project, and no person related (within the second degree of consanguinity) to any such person: (i) now is or will be permitted to become a member, partner, shareholder or investor of Developer; or (ii) now has or will be permitted to have any contractual relationship with Developer (except if jointly employed by Agency and Developer); (iii) now has or ever will have any direct or indirect interest in this Agreement; (iv) now has or will be permitted to own or have any interest, direct or indirect, in the Project or any property in or adjacent to the Project, other than acquisition of a personal residence; (v) has been paid or given, and will not be paid or given any money (including campaign contributions) or other consideration in connection with any expectations or activities leading to or involving this Agreement or the Project, except travel expenses incurred in visiting Developer's other projects or projects similar to the projects being contemplated in this Agreement.

8.5 Assignment and Delegation

Except as otherwise specifically provided elsewhere in this Agreement, no party may assign any right or delegate any obligation under this Agreement without the written consent of all the other parties obtained in advance of the assignment or delegation. Consent is subject to the sole and absolute discretion of the consenting party. Notwithstanding the foregoing, Developer may assign all rights and delegate all duties under this Agreement to an Affiliate. For purposes hereof, "Affiliate" shall be defined as any entity which controls, is controlled by, or which is under common control with Developer.

8.6 Binding Effect; No Third Party Beneficiary

This Agreement shall be binding on and runs to the benefit of the parties, their respective successors and any assignees or delegates if the assignment or delegation is permitted. Unless otherwise specifically identified in this Agreement, there are no third party beneficiaries intended by this Agreement and no third parties have any standing to enforce any of the provisions of this Agreement.

8.7 Standards for Approvals

8.7.1 Unless otherwise specified (such as with the words “sole discretion”) wherever this Agreement requires the approval of a party, or any of a party’s officers, agents or employees, such approval shall not be unreasonably withheld, delayed or conditioned.

8.7.2 The City Council for the City of Sparks, and the governing board of the Sparks Redevelopment Agency are public bodies whose decisions are legislative functions subject to public hearings and input, and, except as otherwise provided herein, they shall have sole and absolute discretion to approve or disapprove any matter submitted to them provided, however, that their decisions are not procured by fraud or bribery, or are arbitrary, capricious or an abuse of discretion. Whether or not a decision is arbitrary or capricious or an abuse of discretion shall be determined using the standards in Nevada for judicial review of such decisions.

8.8 Notices; When Deemed Sufficiently Given

8.8.1 Unless otherwise provided herein, formal notices, demands and communications between the parties must be in writing and must be sent to the addresses stated in Article 1 above, or to any address or number subsequently communicated to the sending party in writing.

8.8.2 Formal notices may not be sent by regular mail. Other communications sent by regular mail shall be deemed received three business days after deposited in the U.S. mail, postage prepaid and correctly addressed.

8.8.3 If notice is sent by registered or certified mail to the correct address, postage prepaid, it will be deemed sufficiently given when actually received by the addressee or three business days after it is received by the U.S. Post Office as indicated on the receipt, whichever is earlier.

8.8.4 If notice is sent by courier, or overnight delivery service (e.g., Federal Express, UPS Overnight, U.S. Postal Priority Mail), it will be deemed sufficiently given when delivered to

the address as indicated in the records of the courier or service.

8.8.5 If notice is sent by telefax to the addresses stated in Article 1, it will be deemed delivered upon confirmed transmission and receipt thereof, provided a copy of such notice is immediately delivered in the manner provided in Section 8.4.

8.8.6 Formal notices may not be sent by email. Other communications sent by email to the addresses stated in Article 1 (or other addresses provided in writing) shall be sent with a request for acknowledgement of receipt and are deemed to have been received when acknowledgement has been received.

8.9 Further Acts and Assurances; Estoppel Certificates

8.9.1 Each party agrees to do such further acts and things and to execute and deliver to the other such additional certificates, documents and instruments as the other may reasonably require or deem advisable to carry into effect the purposes of this Agreement or to better assure and confirm unto the other party its rights, powers, and remedies hereunder.

8.9.2 Upon request, each party agrees to provide estoppel certificates or other documents indicating the status of this Agreement and whether or not the other party is in default.

8.10 Attorney's Fees and Costs

If any party hereto institutes any action or proceeding (including arbitration, if authorized) against the other or others arising out of or relating to this Agreement, attorney's fees and costs may be awarded to the prevailing party, as determined by or otherwise allocated at the discretion of the Court (or arbitrator).

8.11 Timing Provisions

Time is of the essence in the performance of this Agreement. Unless otherwise specified, the term "days" means calendar days. If a deadline falls on a weekend, holiday or day when the recipient of performance is not open for business, then performance is due on the first business day of the recipient thereafter. Unless otherwise specified, performance is due by the later of 5 p.m. local time or close of business of the recipient on the day it is due.

8.12 Applicable Law; Jurisdiction and Venue.

The laws of the State of Nevada, without regard to conflicts of law principles, shall govern the interpretation and enforcement of this Agreement. The parties specifically

agree that NRS Chapter 279 applies to this Agreement. All actions brought to enforce this Agreement shall be brought in either the United States District Court for District of Northern Nevada, or the Second Judicial District Court for the State of Nevada.

8.13 Non-liability of Individual Officers or Employees of Parties

8.13.1 No official or employee of City or Agency shall be personally liable to Developer or any successor in interest, in the event of any default or breach by the City or Agency, or for any amount which may become due to Developer or its successor, or as a result of any representation (except any representation regarding the authority to execute this Agreement), warranty or obligation under the terms of this Agreement.

8.13.2 No member, official or employee of Developer shall be personally liable to the City or Agency, or any successor in interest, in the event of any default or breach by Developer, or for any amount which may become due to Agency or City or its successors, or as a result of any representation (except any representation regarding the authority to execute this Agreement), warranty or obligation under the terms of this Agreement.

8.14 Severability; No Merger With Deed

8.14.1 Each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law, taking into account permissible waivers or provisions which may be upon agreement of the parties. If any term or provision of this Agreement or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this Agreement. In any event, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

8.14.2 To prevent windfall or unintended consideration, if any term or provision of this Agreement is deemed invalid or unenforceable or enforceable only to a limited extent, the parties agree to negotiate in good faith to adjust any counter-performance, condition, or corresponding consideration.

8.14.3 This Agreement does not merge with any deed or other conveyance of any portion of the Project Property.

8.15 Construction of Agreement

8.15.1 Titles and headlines of this agreement are intended for editorial convenience and are not to be construed as a part of this agreement.

8.15.2 The word “include” or “including” is not intended as a limitation and shall be construed to include the words “but not limited to.”

8.15.3 Any reference to the masculine genders includes, where appropriate in the context, the feminine gender. Any term in the singular includes, where appropriate in the context, the plural.

8.15.4 The parties hereto were each advised by counsel in drafting and negotiating this agreement, and both parties contributed to its contents. No presumptions against or in favor of either party are appropriate based on who drafted this Agreement or any provision herein.

8.16 Modifications and Amendments

The parties contemplate that Project parameters will change as the project is designed, marketing and leasing of the residential units is initiated, financing opportunities are evaluated and pursued, and physical needs are established. Therefore, it is expected that this Agreement will be amended from time to time. However, this Agreement may be modified or amended only by in writing signed by an authorized agent of the party to be bound by the modification or amendment.

8.17 Authority to Execute and Implement

8.17.1 Each person who signs this Agreement below warrants and represents that he or she has the legal capacity to enter into this agreement and if signing in a representative capacity, has the actual authority to bind the principal for which he or she signs and that his or her signature has the effect of binding the principal.

8.17.2 The City Manager for the City and the Chief Administrative Officer for the Agency shall have the authority to negotiate and execute all escrow instructions, approvals or disapprovals of performance, all schedules and extensions, all waivers, all modifications and amendments to this Agreement, and take all remedial actions authorized by this Agreement, EXCEPT: any contract or expense not otherwise provided in this agreement that binds the City or Agency to pay more than \$50,000.

8.18 Entire Agreement; Attachments; Counterparts

8.18.1 This Agreement (together with attachments and documents incorporated by reference) 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 or any part of the subject matter hereof.

8.18.2 All attachments hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

8.18.3 This Agreement may be executed in counterparts and is deemed duly executed when original signature pages of all parties are executed and delivered.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK

IN WITNESS WHEREOF the parties have caused this Agreement to be executed on the dates indicated below.

Developer

SWD-Quarry FVS, LLC

By _____ Date _____
J Carter Witt III, President

Agency

Redevelopment Agency of the City of Sparks, Nevada

By _____ Date _____
Julia Ratti, Chair

Attest:

By _____ Date _____
Teresa M. Gardner, Agency Clerk

City

City of Sparks, Nevada

By _____ Date _____
Geno R. Martini, Mayor

Attest:

By _____ Date _____
Teresa Gardner, City Clerk

Approved as to Form and Legality

By _____
Agency Attorney

By _____
City Attorney