

AMENDED CONTRACT OF EMPLOYMENT OF SPARKS CITY MANAGER

THIS AGREEMENT is made and entered into this July 1, 2017 by and between the **CITY OF SPARKS** (“CITY”), a municipal corporation formed under the laws of the State of Nevada, and Stephen W. Driscoll (“MANAGER”) who agree as follows:

WITNESSETH:

WHEREAS, CITY desires to retain the services of Stephen W. Driscoll as City Manager for the City of Sparks, as provided in Section 1.080 of the Sparks City Charter; and

WHEREAS, it is the desire of the Sparks City Council to provide certain benefits, establish certain conditions of employment and set working conditions of the MANAGER; and

WHEREAS, MANAGER desires to be employed as the City Manager of the CITY; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

CITY agrees to employ MANAGER as the City Manager to perform the functions and duties as follows:

- a. Those duties and function in Section 3.020 of the Sparks City Charter;
- b. Those contained in the Job Description for the position of City Manager Exhibit A attached hereto and incorporated herein; and
- c. Duties and functions of the Chief Administrative Officer of Redevelopment Agency 1 and 2; and
- d. Perform other duties and functions as the City Council may from time to time assign.

Section 2. Salary and Longevity Pay

CITY agrees to pay MANAGER for his services an annual base salary of ~~\$197,600~~ 209,270.00 per year beginning July 10, 2017 ~~with the first full pay period following the approval of this contract~~. City Council may make such adjustment to this salary as agreed to with the MANAGER from time to time and as provided in Section 4 of this Agreement.

- A. CITY agrees to pay MANAGER longevity pay in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) (net) no later than the Wednesday before Thanksgiving of each year this contract is in effect.

- B. CITY will match One Hundred Percent (100%) of MANAGER's contribution to a deferred compensation program or up to the maximum contribution as limited by federal law in the current amount of ELEVEN THOUSAND FIVE HUNDRED DOLLARS (\$11,500.00);
- C. CITY will pay 100% of the MANAGER's contribution to the Public Employment Retirement System for the State of Nevada.
- D. MANAGER will have the retirement rights of employees as provided by the Statutes of the State of Nevada; and
- E. ~~At the MANAGER's discretion he may use a CITY vehicle instead of using the auto allowance. If MANAGER elects to receive an auto allowance from the CITY, MANAGER is not entitled to use a CITY vehicle. The rate of auto allowance will be reviewed and adjusted by the I.R.S. published increase or decrease in allowable expense, effective the first day of the first full pay period of July each year. Manager shall not have use of City Vehicle~~
- E. ~~At MANAGER's request, MANAGER may receive a reimbursement of \$75.00 per month paid for use of personal cellular phone. If MANAGER has a CITY issued cellular phone, the reimbursement for cellular phone will not apply.~~

Section 3. Benefits

MANAGER shall receive the following benefits:

A. GROUP HEALTH, DENTAL, LIFE, AND LONG-TERM DISABILITY INSURANCE

1. ~~Eligibility~~ELIGIBILITY: MANAGER who is eligible for group health and long-term disability insurance may, after initial employment and following a thirty (30) day waiting period from the first day of the month following CITY employment, enroll in the CITY's group health insurance plan, which includes dental, vision, life insurance, and long-term disability insurance plan, provided such MANAGER is not excluded from enrollment by conditions of the insurance contract.
2. GROUP HEALTH PREMIUM:
 - a. CITY shall pay the entire premium for group health, dental, vision, and life insurance for MANGER and for the MANAGER's eligible dependents.
 - b. The CITY shall pay one hundred percent (100%) of the total premium for the basic long-term disability plan offered by CITY. Additional premium for any "buy-up" to the plan is the MANAGER's responsibility:
 1. Status While on Leave of Absence: MANAGER on Leave of Absence from the CITY may continue to carry the CITY Group Insurance Policy and long-term disability policy by making full premium payment in accordance with applicable federal regulations.
 2. Long-Term Disability Insurance Upon Separation from CITY Service:

MANAGER who separates from CITY service may be eligible to convert the long-term disability coverage through the insurance company. The individual is responsible for one hundred percent (100%) of the premium cost and shall pay the premium directly to the insurance company.

B. PHYSICAL EXAMINATION

1. MANAGER may be required to have a complete medical examination conducted each calendar year. The medical examination shall be accomplished by a duly licensed medical doctor who shall be required to report to the MAYOR the MANAGER's fitness for duty.
2. MANAGER may choose the physician who is to perform the physical examination or, at the MANAGER's option, the MANAGER may choose the Executive Physical Program offered ARC Health and Wellness.
3. The physical examination shall consist of all those essential elements to determine the physical fitness of the individual.
4. The cost of such medical examinations shall be paid by the CITY up to the cost of the Executive Physical Program at ARC Health and Wellness. MANAGER selecting the option of a private physician to perform the medical examination shall be responsible for any costs above the amount paid by CITY under the Executive Physical Program.

C. HOLIDAYS

The MANAGER will receive the following paid legal holidays as follows:

New Year's Day	January 1
M. L. King Jr.'s Birthday	3 rd Monday in January
Washington's Birthday	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 st Monday in September
Nevada Day	Last Friday in October
Veteran's Day	November 11
Thanksgiving Day	Thanksgiving Day
Day after Thanksgiving	Friday after Thanksgiving Day
Christmas Day	December 25

And any other day that may be declared a holiday by the Mayor of the City of Sparks, the Governor of the State of Nevada or a national holiday by the President of the United States. Special Holidays granted by the President of the United States for Federal Employees under Executive Order 11582 are not CITY Holidays.

Holidays shall be observed as follows:

- a. If a legal holiday falls on the first day of MANAGER'S scheduled day off, the day preceding shall be observed as a holiday.

- b. If a legal holiday falls on the second or succeeding day of consecutive scheduled days off, the next succeeding work day shall be observed as a holiday.

D. ANNUAL LEAVE

1. Eligibility: For the purpose of determining eligibility for Annual Leave allowance, the term "continuous service" shall be that service commencing with employment with the CITY continuing until MANAGER's resignation or discharge. For the purpose of determining Annual Leave earned, the term "actual service" shall mean the number of days actually worked on the job; provided, however, that absence from work due to Sick Leave with pay, Annual Leave with pay, Voluntary Unpaid Leave as specified herein, or injury or illness incurred in the CITY service shall be deemed actual service.

2. Accrual of Annual Leave:

40 hour Workweek Annual Leave Accrual Rate per:

<u>Years of Continuous CITY Service</u>	<u>Bi-Weekly Pay Period</u>
Less than 10 years	6.5 hours
10 years or more	7.1 hours
15 years or more	7.9 hours
20 years or more	8.4 hours
Maximum accumulated	No maximum is established, however MANAGER is expected to take a least three (3) weeks of annual leave per fiscal year.

3. Minimum Annual Leave To be Taken: The minimum Annual Leave time which may be taken at any one time by MANAGER shall be one day (8 hours).

4. Annual Leave On A Holiday: MANAGER on Annual Leave on a Holiday shall not be charged Annual Leave for that holiday.

E. SICK LEAVE

1. Eligibility: For the purposes of determining eligibility for Sick Leave allowance, the term "continuous service" shall be that service commencing with employment with the CITY and continuing until resignation or discharge.

For the purpose of determining Sick Leave earned, the term "actual service" shall mean the number of days actually worked on the job; provided, however, that absence from work due to Sick Leave with pay, Annual Leave with pay, Voluntary Unpaid Leave as specified herein, injury or illness incurred in the CITY service, unpaid furlough day, and absence on temporary military duty shall be deemed actual service.

2. Accrual of Sick Leave:

MANAGER shall earn Sick Leave credits at the rate of five (5) hours per bi-weekly period or major fraction thereof, computed on the basis of calendar days of actual service.

- a. Unrestricted Maximum: Unused Sick Leave may accrue to a MANAGER's credit without restriction to a maximum amount.
- b. Accrual of Sick Leave shall cease after any period of continuous Sick Leave exceeding in duration of six (6) calendar months.

3. Authorized Use of Sick Leave: Sick Leave, with pay, may be used in the case of a bona fide illness of a MANAGER or a member of the MANAGER's family within the third degree of consanguinity. Sick Leave may also be used for bereavement leave in the event of death of a relative to the third degree of consanguinity and affinity or domestic partner. Sick Leave used for bereavement leave shall be limited to forty (40) hours per incident or as otherwise approved by the Mayor.

4. Certificate of Illness: Evidence in the form of a physician's certificate or certificate of illness executed by MANAGER and upon the form approved by CITY shall be furnished as proof of adequacy of the reason for the MANAGER's absence during the time when sick leave was requested if requested by the Mayor.

Certificates may be required by the Mayor when there is: (a) absence in excess of three (3) days or (b) whenever there is reason to believe that the Sick Leave privilege is being abused.

5. Forfeiture of Sick Leave: MANAGER shall not be entitled to Sick Leave while absent from duty on account of any of the following:

- a. Disability arising from any sickness or injury purposely self-inflicted or caused by any of the MANAGER's willful misconduct.
- b. Disability arising from any conduct which is in violation of federal, state or local statute, written CITY or departmental policy.
- c. Sickness or disability sustained while on Leave Without Pay.

6. Advancing Sick Leave: Upon application to the Mayor, MANAGER, may be advanced Sick Leave. Advanced Sick Leave will not exceed sixty (60) days and will be subject to the following:

- a. Request for advancement of Sick Leave will be supported by a medical certificate.
- b. All available accumulated Sick Leave will be exhausted before advancement.
- c. All available accumulated Annual Leave will be exhausted before advancement.
- d. All available Personal Leave Days will be exhausted before advancement.

- e. There is reasonable assurance that MANAGER will return to duty to earn and repay the advance credits.
- f. If MANAGER terminates prior to restoring advance sick leave any amounts owing will be deducted from the MANAGER's final paycheck.

The Mayor will be the final approving authority on such request.

- 7. Recovery for Damages: If MANAGER recovers damages for time lost, the MANAGER shall not receive Sick Leave pay under this Article for the same time; or having received sick leave prior to the recovery of damages, MANAGER shall repay the CITY for any amount paid therefore under this Article.
- 8. Minimum Sick Leave To Be Taken: The minimum Sick Leave time which may be taken at any one time shall be one day (8 hours).
- 9. Return to Work: MANAGER certified by a physician to be absent from work for a specified period of time due to illness or injury must present a physician's release if MANAGER wishes to return prior to the date originally specified by the physician.

F. SERVICE CONNECTED DISABILITY LEAVE

- 1. If MANAGER is absent due to a service connected injury, MANAGER shall receive current, full, regular pay of sixty (60) days in a twelve (12) month period, without being charged any Sick and/or Annual Leave. After sixty (60) days, MANAGER shall, by notifying Human Resources in writing, elect one of the following options:

OPTION 1. The MANAGER shall accept as full compensation the amount received from Workers' Compensation.

OPTION 2. The MANAGER shall accept current, full, regular pay and benefits from CITY. The MANAGER shall be charged sick leave until the MANAGER's sick leave balance is zero hours, then MANAGER shall be charged annual leave until the MANAGER's annual leave balance is zero hours. Upon depletion of the sick leave and annual leave hours to a zero balance, MANAGER shall be compensated by OPTION 1.

The MANAGER cannot change from the MANAGER's original elected OPTION for service connected disability leave.

- 2. The following procedures shall be adhered to when MANAGER is compensated by the CITY, within the maximum of sixty (60) days in a twelve(12)-month period and/or MANAGER is compensated under OPTION 2.
 - a. All Workers' Compensation payments will be credited to the CITY.
 - b. The MANAGER shall be credited for first annual leave, then sick leave hours charged during this disability. The hours charged to and compensated for by Workers' Compensation are multiplied by two thirds (2/3) and credited to the MANAGER.

- c. In no event shall MANAGER be allowed to receive the MANAGER's Workers' Compensation payment as well as compensation from the CITY.

G. COURT LEAVE

- 1. MANAGER appearing in any court or before the Grand Jury as a party to an action arising out of CITY employment or as a witness to either a civil or criminal case for the purpose of giving testimony as to facts or knowledge received in the course of CITY employment, shall receive full compensation as though actually on the job during such time. MANAGER shall claim any jury, witness or other fee to which MANAGER may be entitled by reason of such appearance and forthwith pay the same over to the Director of Finance to be deposited in the General Fund of the CITY. In all cases, however, MANAGER shall retain mileage allowance. If MANAGER is on duty and witnesses an event not related to the performance of their duty, but as a bystander witness, they will not be compensated for the court appearance. Additionally, MANAGER will not be paid court pay for any court appearance as a witness against the CITY.
- 2. Reporting on Time Card: Notation will be made on the time card for the hours of court leave granted to the MANAGER while absent from the MANAGER's regularly scheduled duties.

H. MILITARY LEAVE

- 1. Military leave shall be in compliance with the Uniformed Services Employment & Re-employment Rights Acts of 1994. In the event that a MANAGER is absent due to being called into one of the military services of the United States or the State of Nevada for "Summer Camp" duty, the MANAGER may continue to receive a salary and other benefits from the CITY for a period not to exceed (15) fifteen working days. 2. Method of Payment: Any MANAGER who is authorized military leave is obligated to furnish a statement of gross base military pay for the number of regular work days for which the MANAGER took military leave. Such statement shall be furnished upon the MANAGER's return from military leave to the Director of Finance.

I. LEAVE OF ABSENCE

MANAGER who is absent for a full day is entitled to compensation for Sick Leave, Annual Leave, or other paid leave. MANAGER who is absent for a full day due to illness or annual leave is only entitled to compensation in relation to the amount of accumulated Sick Leave, Annual Leave, or other paid leave.

J. PERSONAL LEAVE

MANAGER shall be entitled to five (5) days of Personal Leave each fiscal year. Any leave balance remaining as of June 30 shall be forfeited.

K. CARRY OVER OF LEAVE

Accrued but unused Annual Leave and Sick Leave will be carried over year to year. Upon MANAGER's resignation or termination of employment, MANAGER will be entitled to full

compensation for the accrued, unused Annual Leave and Personal Leave. If qualified, MANAGER may convert unused Sick Leave upon resignation or termination of employment as set forth below:

1. Sick Leave Conversion

OPTION 1

Conversion of Accumulated Sick Leave: MANAGER separating from the CITY may elect to convert the percentage set forth below in the table of MANAGER's accumulated unused sick leave to an unfunded CITY account for the purpose of paying for future medical coverage under the CITY's then existing group medical insurance plan or the medical plan offered through the Public Employees Benefit Plan (PEBP), on a monthly basis in accordance with the following table:

<u>Years</u>	<u>Percentage Converted</u>
10	50%
11	60%
12	70%
13	80%
14	90%
15	100%

The account will be assigned a present value as of the date of separation equal to the number of hours of accumulated sick leave times the MANAGER's base hourly rate at the time of separation. Upon MANAGER's retirement in the PERS system and if otherwise qualified CITY will pay the retiree's medical coverage so long as there is a balance of accumulated sick leave adequate to cover the monthly premium. CITY will account for MANAGER's accumulated sick leave and debit said account on a dollar for dollar basis.

Upon retirement, if retired MANAGER does not continue medical coverage under the City of Sparks group health policy, retired MANAGER and spouse will not be eligible for the benefits outlined herein. Pursuant to Nevada Revised Statute 287.0205 retired MANAGER or spouse may reinstate coverage in January of any even numbered year as long as the City of Sparks was Employee's last Nevada public employer. Upon reinstatement retired MANAGER or spouse will pay in full the current health plan premium.

When retired MANAGER becomes eligible for Medicare coverage or other federal programs, the retired MANAGER will receive Medicare supplemental coverage so long as there is a balance of accumulated sick leave adequate to cover the monthly premium.

A surviving spouse will continue to receive medical coverage under this benefit so long as there is a balance of accumulated sick leave adequate to cover the monthly premium.

This benefit is nontransferable and does not survive the retiree except as to a surviving spouse as described above.

The fund to which the accumulated sick leave is credited does not accrue interest and does not have cash value. CITY pays for the retired MANAGER's medical coverage by debiting the monthly cost of such coverage from the retiree's accumulated sick leave balance and paying the actual cost of such coverage out of the appropriate CITY fund. The retiree may request an annual summary of the sick leave balance.

Eligibility: MANAGER who elects Option 2 set forth below to have sick leave payoff in cash at termination accordance with Option 2 is not entitled to Option 1, conversion of accumulated sick leave to an insurance benefit. MANAGER electing sick leave conversion to an insurance benefit is not entitled to sick leave payoff in cash.

SICK LEAVE CONVERSION OPTION 2

At MANAGER's option, CITY shall pay to MANAGER a payment equal to fifty (50%) of unused accumulated Sick Leave up to a maximum of two thousand five hundred hours (2,500) earned with the CITY upon termination of MANAGER's employment or MANAGER's death to be paid at MANAGER's then hourly rate.

- L. CITY shall pay the professional dues and subscriptions of MANAGER necessary for his continuation and participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement and for the good of CITY.
- M. CITY agrees to pay the travel and subsistence expenses of MANAGER for professional and official business travel and meetings adequate to continue professional development of MANAGER and to adequately pursue necessary official functions and matters of interest to CITY.
- N. CITY agrees to provide MANAGER with a CITY procurement card for expenses which are non-personal and are job-related for MANAGER in the normal course of his duties.
- O. CITY will pay all costs of any fidelity or other bonds required of MANAGER by virtue of his employment with CITY.

Section 5. Contract Term

This Amended Agreement shall commence on July 1, 2017 and shall continue until June 30, 2018, unless otherwise concluded or terminated pursuant to the terms and conditions of this Agreement. Nothing in this Agreement is intended to restrict the parties' rights and abilities to enter into subsequent amendments to this Agreement.

Section 6. Performance Evaluation and Salary Review

The Mayor and City Council shall review and evaluate the MANAGER's performance on an annual basis. Concurrently, City Council shall hold an annual salary review of MANAGER yearly with both

evaluations to be completed no later than May 15th of each calendar year. The City Council may make such adjustment to MANAGER's salary as agreed with the MANAGER.

Each year set as a Council Agenda item on or before May 15th, City Council shall evaluate MANAGER's job performance. At the performance evaluation City Council may decide to renew or not renew MANAGER's contract. If City Council takes action to not renew MANAGER's contract, MANAGER shall be entitled to the severance terms set forth below for contract nonrenewal. If at the performance review Council approves renewal of MANAGER's contract for another one (1) year term, such renewal is an amendment to this Agreement extending its term for one (1) year and the amendment may provide for other matters approved by City Council. Any such amendment shall be upon terms and conditions agreed to by both parties.

If City Council takes no action on MANAGER's contract by July 1 in any year, this contract will automatically renew for a one (1) year term under the same terms and conditions set forth herein.

During this annual review, Council may take action to establish specific performance criteria to assist with the next annual review of MANAGER. Any specific performance criteria established by Council shall be applied prospectively only and shall not be applied retroactively to evaluate the performance of the MANAGER.

Section 7. Termination

For purposes of interpreting this Agreement, whenever the general term "terminate" or any of its derivative forms is used, such term shall generally mean separation from employment, whether or not cause is established. The use of the term "termination" is not intended to, and does not create any legal requirement that termination be premised on a determination of cause or breach of this Agreement. The services of Stephen W. Driscoll as MANAGER may be terminated by any of the following methods:

- A. Mutual Agreement. Termination of employment in accordance with a written mutual agreement which is executed by both parties.
- B. Termination by Death. MANAGER'S employment shall terminate automatically on his death. CITY shall pay to MANGER's beneficiaries or estate, as appropriate and as permitted by applicable laws, any compensation then due and owing; however, there shall be no entitlement to severance package benefits. Nothing in this section shall affect any entitlements of MANAGER's heirs to the benefits of any live insurance plan or other applicable benefits.
- C. Termination Without Cause. At any time, CITY, by appropriate City Council action or MANAGER, individually, may terminate MANAGER's employment as City Manager without cause, by providing ninety (90) days advance written notice (may be referred to as "Termination Without Cause"). During such ninety (90) day period, the City Council, in their sole discretion, may determine if MANAGER is to maintain regular business hours for CITY or if he should be placed on leave with pay.

- D. Termination For Cause. Notwithstanding any other terms and condition of this Agreement, at any time and without prior notice, CITY, acting through City Council, may terminate MANAGER's employment as City Manager for cause, as is defined hereafter. A "Termination for Cause" shall mean termination of employment because of any of the following: "Cause" includes, but is not limited to: (i) breach of any provision in this agreement, (ii) violation of any City of Sparks resolution, ordinance, (iii) violation of any county, state or federal constitution, charter, ordinance, statute or regulation (except minor traffic or parking violations), (iv) commission of any act of dishonesty (including but not limited to misrepresentation, fraud, false statements made under oath, false statements made on any official report, false statements made during any administrative or governmental proceeding, false or misleading statements made on any employment application or during interviews leading to employment, any act of misappropriation or failure to account for public funds, or commission of any act of moral turpitude or any act which would tend to derogate public confidence in the government of the City of Sparks should MANAGER remain in the Position, (v) neglect of duties (including but not limited to excessive absences, failure to exercise the care, skill and diligence of a reasonably prudent executive responsible for administering public programs and safeguarding public funds).

Section 8. Termination Obligations

Upon termination, for any reason, MANAGER shall be obligated to perform all of the following:

- A. Duties of Employee. MANAGER agrees to (i) leave the premises of CITY if requested, (ii) immediately turn over all records, books, papers, computers (including all computer devices), computer disks or other storage devices, keys, phones, uniforms, tools, credit cards, identification cards or badges, and all other property owned by the CITY or used by MANAGER in connection with MANAGER's duties, (iii) discuss with anyone designated by the CITY all work in progress and to reveal all information that may be needed by a person who will perform the duties of the Position, (iv) participate in a termination interview with representatives of the CITY, if requested, and (v) to reimburse or indemnify the CITY.
- B. Cooperate in Pending Work and Litigation. Following any termination of MANAGER's employment, he shall fully cooperate with the CITY in all matters relating to winding down of or transfer of pending work and duties to the successor City Manager. MANAGER shall also cooperate in defense of any litigation or administrative action brought against the CITY that relates in any way to MANAGER's acts or omissions while employed as the City Manager. If after termination MANAGER's cooperation in defense of any such litigation or administrative action requires more than five (5) hours of time, MANAGER shall be paid at an hourly rate not to exceed One Hundred Fifty Dollars (\$150.00) for his time and all reasonable associated expenses.

Section 9. Severance Payment for Termination Without Cause

If CITY terminates MANAGER's employment without cause, CITY shall pay to MANAGER within two (2) weeks following of the end of the 90 day notice period the following severance package. MANAGER is not entitled to any other remedies, contractual or otherwise, for Termination without Cause:

- A. Six (6) month's base salary;
- B. All salary and benefits, as benefits are defined by this contract, due and owing associated with the position of MANAGER due at the time of separation;
- C. Payment for all unused accrued annual leave, personal leave; and
- D. One-time payment equivalent to the cost of six (6) months of CITY paid health, dental, vision, file and long term disability insurance.

Section 10. If at the annual performance review City Council does not renew MANAGER's contract, MANAGER shall receive the following Non-Renewal Package:

- A. Six (6) month's base salary;
- B. All salary and benefits, as benefits are defined by this agreement, due and owing associated with the position of MANAGER due at the time of separation;
- C. Payment for all unused accrued annual leave, personal leave; and
- D. One-time payment equivalent to the cost of six (6) months of CITY paid health, dental, vision, file and long term disability insurance.

Section 11. If MANAGER terminates this Agreement for any reason, no severance package will be due and owing to MANAGER. MANAGER shall receive payment for unused annual and personal leave and shall have sick leave options outlined in Section 3(K).

Section 12. Other

- A. CITY agrees that annually the Mayor and City Council will schedule and participate in the following:
 - 1. A team-building workshop for CITY.
 - 2. A Goal-setting session to develop objectives and priorities of CITY.
 - 3. A session to develop specific criteria to serve as MANAGER's mutually agreed-upon goals.
- B. This Agreement is made in, and shall be governed by and construed in accordance with the laws of the State of Nevada and of CITY.
- C. This Agreement contains a completed statement of all arrangements between parties with respect to the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Agreement which are not fully expressed in this Agreement.
- D. This Agreement may not be waived, changed, modified or discharged orally, but only by a written amendment to this contract signed by CITY and MANAGER against whom any waiver, change modification or discharge is sought.
- A. If any provision of this Agreement is held to be invalid or unenforceable by any judgment or decision of an administrative, arbitral, or judicial tribunal, court or other body of a competent jurisdiction, the remainder of this Agreement shall not be affected by such judgment or

decision, and the Agreement shall be carried out as nearly as possible according to its other provisions and intent.

- F. Failure to declare a breach of the actual waiver or any particular breach of the Agreement or its material or nonmaterial terms by the other party shall not operate as a waiver by such party of any other of its right or remedies as to any other breach.
- G. This Agreement shall not be interpreted for or against either party by virtue of who drafted its terms and conditions. Headings utilized in this Agreement are for reference purposes only and shall not be used to interpret the terms and conditions of this Agreement.
- H. This Agreement and rights and obligations of the parties shall be governed by and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of a court of competent jurisdiction in the County of Washoe, State of Nevada for any claims relating to this Agreement.
- I. All notices under this Agreement shall be in writing and shall be sent to the City Clerk of CITY and the address of MANAGER.
- J. The parties acknowledge that they have consulted with or have had the opportunity to consult with an independent attorney of their own choice concerning this Agreement and that they have read and understood the Agreement, are fully aware of its legal effect, and have entered into it freely based upon their own judgment and not on any representations or promises other than those contained in this Agreement.

IN WITNESS WHEREOF, CITY has caused this Agreement to be signed and executed on behalf of CITY by its Mayor and duly attested by the City Clerk and MANAGER has signed and executed this Agreement, all on the day and year first above written.

MANAGER

CITY OF SPARKS

Stephen W. Driscoll, City Manager

Geno Martini, Mayor

APPROVED AS TO FORM

ATTEST

City Attorney

Teresa Gardner, City Clerk