

A.P.N. 140-29-801-001

RECORDING REQUESTED BY:

City of Las Vegas
400 Stewart Avenue
Las Vegas, NV 89101

WHEN RECORDED MAIL TO:

Nevada Division of State Lands
Question 1 Program
901 S. Stewart St., Suite 5003
Carson City, Nevada 89701

NONREVOCABLE AGREEMENT TO RESTRICT PROPERTY

This NONREVOCABLE AGREEMENT TO RESTRICT PROPERTY (“Agreement”) is made and entered by and between City of Las Vegas, a municipal corporation of the State of Nevada (“City”), and the State of Nevada (“State”). City and State are sometimes hereinafter referred to collectively as the “Parties.”

Recitals

WHEREAS, City is the owner of that certain real property located in the vicinity of Marion Drive and Harris Avenue, Las Vegas, Nevada, APN 140-29-801-001, in Clark County, Nevada, described on “Exhibit A” attached hereto and incorporated herein by this reference.

WHEREAS, This deed restriction is given to insure that the Property is maintained and used in a manner consistent with the regulations adopted by the State for the Conservation and Resource Protection Grant Program, hereinafter referred to as “Question 1 Program.” Regulatory authority is provided by Subsection 1-35, Section 2 of Assembly Bill No. 9 of the 17th Special Session of the Nevada Legislature, Chapter 6, Statutes of Nevada 2001. The referenced regulations require the Nevada Division of State Lands, (hereinafter “State Lands,” an agency of the State), when entering into a Funding Agreement, to include permanent nonrevocable deed restrictions and appropriate reversionary clauses to ensure that at all times the land is maintained in a manner consistent with the purpose of the Question 1 Program.

WHEREAS, City has entered into a State Lands Question 1 Program Funding Agreement which provides funding to implement the project entitled the “Las Vegas Wash Fee Title Acquisition ” and which has been assigned Q1 Project ID No. CI-UP-06008.

WHEREAS, State Lands has authority to award grants of money from the sale of general obligation bonds to state agencies, counties, municipalities or private nonprofit organizations, including the City, to acquire land and water or interests in land and water for urban parks and greenbelts. Money awarded under this authority must be for the protection and preservation of the property and natural resources of the state, or for the purposes of obtaining the benefits thereof.

Declarations

NOW, THEREFORE, in consideration of the grant funds received and the covenants and agreements contained herein, the Parties hereto agree as follows:

1. Recitals. The foregoing recitals are true and correct.
2. Nonrevocable Restriction of Property. City agrees that the Property (See Exhibit "A" attached hereto) will be used only for Urban Park Purposes and Greenbelt Purposes (the "Permitted Use") and that it will not allow for the Property to be used for any purpose other than the Permitted Use. For purposes of this Agreement, the term "Urban Park Purposes" means a use that provides an opportunity for casual recreational activity and includes, without limitation, any natural area, area of scenic value, area of physical or biological importance, wildlife area, land that provides outdoor community space and land that provides a connection to another public area. For purposes of this agreement, the term "Greenbelt Purposes" means a use that provides an open area of real property that is cultivated or maintained in a natural or semi natural state and used: (i) As a buffer between land uses, (ii) To mark the edge of an urban or developed area, or a natural feature, such as a lake; or (iii) To create a linear corridor for the provision of trails or other amenities.
3. Unauthorized Permitted Uses. If at any time the Property, or any portion of it, is used for some purpose other than the Permitted Use, then Grantee shall promptly take the following action:
 - A. Offer to convey the Property, for no consideration, to the State for the Permitted Use; or, if, said offer is rejected by the State or if the State fails to respond to the offer within ninety (90) days of the date of the offer, then City shall offer to convey the Property, for no consideration, to each reasonably identifiable Nonprofit Conservation Organization active in Clark County, Nevada. For purposes of this Agreement, the term "Nonprofit Conservation Organization" means a nonprofit organization, qualified in the State, that has as one of its primary purposes the acquisition of property for the protection, preservation and/or conservation of land, water, open space and/or the natural communities, resources and wildlife located thereon.
 - B. Any offer made herein by City must be made: (a) by delivering a written offer to the party to whom the offer is being made via certified U.S. Mail or hand delivery, and (b) by providing public notice of the offer, which public notice shall include, without limitation, notice of such offer by publication no less than three (3) times at one-week intervals in a newspaper of general circulation in the County of Clark. Both the written offer and the public notice described herein shall state that in the event multiple parties are interested in accepting the offer and are otherwise qualified to accept the offer, the party to whom the Property will be conveyed will be determined promptly by the City in its sole and absolute discretion. The written offer and public notice shall also include the date by which a qualified party must accept the offer in writing, which date shall be not less than sixty (60) days nor more than ninety (90) days after the date of third publication, and shall identify the representative to whom the written acceptance must be made and the place where such written acceptance must be delivered. The City shall bear all costs for any offer required to be made by it hereunder.

- C. Should an offer described herein be accepted, the City shall, at its sole cost and expense, promptly deliver to the qualified party accepting said offer, a duly executed warranty deed capable of being recorded in order to convey clear title to the Property to said party.
4. Transfer of Property. The property may not be sold or transferred without the prior written consent of the State. In the event the City desires to sell or otherwise transfer the Property, prior to any such sale or transfer of the Property by City, City shall offer to convey the Property, for no consideration, to the entities described in subparagraph 3(B) above, subject to the same terms and conditions, and according to the same procedures, set forth therein. If, after complying with the provisions of subparagraph 3(B), neither the State nor a qualified Nonprofit Conservation Organization has accepted City's offer, City may sell the Property to any other person or entity for fair market value. Upon such sale, City shall promptly transmit to the State proceeds equivalent to the State's proportion of the Grant to the price at acquisition, plus a penalty in the amount of 10% of the price upon sale.
5. Condemnation. Any and all funds received by the City in connection with any portion of the Property taken by right of eminent domain or by condemnation shall be delivered promptly to the State as reimbursement, in whole or part, for the amount of the Grant. If only a portion of the Property is taken by right of eminent domain or by condemnation, and if the City thereafter desires to dispose of that portion of the Property not taken by right of eminent domain or condemnation, the City shall offer to convey the portion of the Property not taken by right of eminent domain or by condemnation, for no consideration, to the entities described in subparagraph 3(B) above, subject to the same terms and conditions, and according to the same procedures, set forth therein. If, after complying with the provisions of the preceding sentence, neither the State nor a qualified Nonprofit Conservation Organization has accepted the City's offer, City may sell said portion of the Property to any other person or entity for fair market value. Upon such sale, City shall promptly transmit to the State proceeds equivalent to the State's proportion of the Grant to the price at acquisition, with credit for proceeds from the eminent domain proceeding as set forth herein, plus a penalty in the amount of 10% of the price upon sale.
6. Enforcement. The rights and interests of the State may be enforced as follows:
- A. Enforcement of the provisions of this Agreement shall be at the discretion of enforcing party. Any forbearance in the enforcement of rights and interest under this Agreement in the event of a violation or infringement, or threatened violation or infringement, of any provision of this Agreement shall not be deemed or construed to be a waiver of such provision or of any subsequent violation or threatened violation of the same or any other provision of this Agreement, and any failure to act shall not be deemed a waiver or forfeiture of the right to enforce the provisions of this Agreement in the future.
- B. In the event of a violation or infringement, or threatened violation or infringement, of any provision of this Agreement, any person may institute a suit to enjoin the violation or infringement and/or to require the restoration to the condition that existed prior to the violation or infringement; in addition, the State and any Nonprofit Conservation Organization enforcing this Agreement may seek damages

to which they may be entitled. The enforcement rights under this subparagraph shall apply equally in the event of either actual or threatened violations of the provisions of this Agreement. The City agrees and acknowledges that the remedies at law for any violation of the provisions of this Agreement are inadequate and that any person enforcing this Agreement shall be entitled to the injunctive relief described in this subparagraph, both prohibitive and mandatory, in addition to such other relief, including damages, to which the enforcing person may be entitled, including specific performance of the provisions of this Agreement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies.

7. Recordation. This Agreement shall be recorded in the office of the Clark County Recorder. The covenants, conditions and restrictions contained herein shall run with the land and are binding on the parties, their successors and assigns.
8. Amendments. This Agreement shall not be amended except upon the written agreement of the parties after public notice by publication no less than three (3) times at one-week intervals in a newspaper of general circulation in Clark County.
9. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings and agreements.
10. Further Assurances; Additional Documents. The Parties agree to execute any and all further documents, deeds and other writings, and to undertake any further action necessary to consummate the transactions contemplated herein.
11. Authority. The City and the State, respectively, represent and warrant that, as of the date of this Agreement, each has the full right, power and authority to enter into this Agreement and to consummate the transaction contemplated herein, and that each has duly and properly taken all action required of it, to authorize the execution, delivery and performance by it of this Agreement.
12. Binding Effect. This Agreement is binding upon the representatives, successors, and assigns of the Parties hereto.
13. Captions. The captions and headings of the sections of this Agreement are for convenience of reference only and shall not be construed in interpreting the provisions hereof.
14. Severability. If any term or provision of this Agreement is deemed unenforceable by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect so long as the purpose and intent of this Agreement may be achieved.
15. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State.
16. Attorneys Fees. In the event of any controversy, claim, or dispute relating to this Agreement or to the violation or infringement thereof, the prevailing party shall be entitled to recover from the losing party reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the date first written above.

DATED this _____ day of _____, 2006.

"City"

CITY OF LAS VEGAS

By: _____

Name: Oscar B. Goodman

Its: Mayor

APPROVED AS TO FORM

Thomas R. Green 10/16/06
Thomas R. Green Date
Deputy City Attorney

ATTEST:

Barbara Jo Ronemus,
City Clerk

"State"

STATE OF NEVADA

By: _____

Name: _____

Its: _____

APPROVED as to Form:

GEORGE J. CHANOS
Attorney General

By: *George H. Taylor*
GEORGE H. TAYLOR
Deputy Attorney General

Date: 8/30/06

APPROVED as to Form:

By: _____

Date: _____

Deputy City Attorney

STATE OF NEVADA)
) SS.
COUNTY OF CLARK)

This instrument was acknowledged before me on the _____ day of _____,
2006, by _____.

NOTARY PUBLIC

Exhibit A

[See One (1) page exhibit attached]

EXHIBIT A

Legal Description of the Real Property

APN: 140-29-801-001

THAT PORTION OF SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 29, TOWNSHIP 20 SOUTH, RANGE 62 EAST, M.D.B. & M., CITY OF LAS VEGAS, IN THE OFFICE OF THE THE COUNTY RECORDER OF CLARK COUNTY, NEVADA DESCRIBED AS FOLLOWS:

**COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE SAID SECTION 29;
THENCE N 00 26' 55" E ALONG THE CENTER LINE OF MARION DRIVE A DISTANCE OF 1316.34 FEET; THENCE N 87 12' 24" E ALONG THE SOUTH RIGHT-OF-WAY OF HARRIS AVENUE A DISTANCE OF 46.53 FEET; THE TRUE POINT OF BEGINNING;
THENCE; N 87 12' 24" E CONTINUE ALONG THE SOUTH RIGHT-OF-WAY OF HARRIS AVENUE A DISTANCE OF 355.76 FEET
THENCE S 0 35' 41" W A DISTANCE OF 194.29 FEET
THENCE N 87 12' 13" E A DISTANCE OF 121.77 FEET
THENCE; S 0 30' 45" W A DISTANCE OF 655.52 FEET
THENCE N 29 34' 38" W ALONG THE EAST RIGHT-OF-WAY OF LAS VEGAS WASH (150' RIGHT-OF-WAY) A DISTANCE OF 950.33 FEET; TO THE TRUE POINT OF BEGINNING;
AREA 4.10 ACRES, MORE OR LESS.**

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the date first written above.

DATED this _____ day of _____, 2006.

"City"

CITY OF LAS VEGAS

By: _____

Name: Oscar B. Goodman

Its: Mayor

APPROVED AS TO FORM
Thomas R. Green 10/16/06
Thomas R. Green Date
Deputy City Attorney

ATTEST:

Barbara Jo Ronemus,
City Clerk

"State"

STATE OF NEVADA

By: _____

Name: _____

Its: _____

APPROVED as to Form:

GEORGE J. CHANOS
Attorney General

By: *George H. Taylor*
GEORGE H. TAYLOR
Deputy Attorney General

Date: 8/30/06

APPROVED as to Form:

By: _____

Date: _____

Deputy City Attorney

STATE OF NEVADA)
) SS.
COUNTY OF CLARK)

This instrument was acknowledged before me on the _____ day of _____,
2006, by _____.

NOTARY PUBLIC