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Debbie Conway  
Clark County Recorder

**DEVELOPMENT AGREEMENT**

**BETWEEN**

**THE CITY OF LAS VEGAS**

**AND**

**THE BOARD OF REGENTS  
OF THE NEVADA SYSTEM OF HIGHER EDUCATION  
ON BEHALF OF  
THE COLLEGE OF SOUTHERN NEVADA**

Adopted by City of Las Vegas City Council  
February 20, 2008

WHEN RECORDED PLEASE MAIL TO:  
CITY OF LAS VEGAS  
Planning and Development Department  
731 South Fourth Street  
Las Vegas, NV 89101

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THIS DEVELOPMENT AGREEMENT is made and entered into effective this 20<sup>th</sup> day of February, 2008 by and between the CITY OF LAS VEGAS (the "City") and The Board of Regents of the Nevada System of Higher Education ("NSHE") on behalf of the College of Southern Nevada (the "College"), an institution within NSHE, an entity of the State of Nevada (together with the City, the "Parties").

### RECITALS

- A. The City and the College entered into a Memorandum of Understanding ("MOU") on April 5, 2006 so that the College could acquire the City's interest in and develop certain real property described in Exhibit "A" attached hereto and incorporated herein (hereinafter the "Property") as the College's Northwest Campus. The MOU expired on October 5, 2007; and
- B. The Parties have been working together pursuant to the MOU and are in the final stages of reaching full accord on the terms of the acquisition and development of the Property; and
- C. The Parties entered into an Exclusive Negotiating Agreement ("ENA") on October 3, 2007 in order to continue such negotiations beyond the expiration of the MOU, and to enter into a formal development agreement pursuant to NRS 278.0201, which will encompass the Parties' final understanding of the development of the Property; and
- D. The Property is located within the boundaries of the City and is leased to the City by the Bureau of Land Management ("BLM") in Lease number N-61839 ("Lease") under the Recreation And Public Purposes Act ("R&PP Act"); and
- E. The College also submitted a request to lease the Property from the BLM under the R&PP Act; and
- F. The City entered into a Cooperative Agreement with the Regional Transportation Commission of Southern Nevada ("RTC") on October 3, 2007 to allow the RTC to utilize approximately fifteen (15) acres of the Property for a Park 'n Ride facility and other related uses. A description of the RTC area is attached hereto as Exhibit "B"; and
- G. The United States Postal Service ("USPS") is exploring the need for approximately 5 acres of the Site for a postal facility in the Northwest area and the Parties desire to facilitate such need and incorporate a postal facility in the development of the Site; and

- H. The College intends to coordinate with the RTC and USPS as adjacent neighbors to maximize the benefits and efficiencies under this Agreement and the Cooperative Agreement; and
- I. The City intends, pursuant to the terms of this Agreement, to relinquish Lease number N-61839 in favor of the College receiving the patent from the United States on the Property less: 1) the acreage governed by the aforementioned Cooperative Agreement with the RTC, and 2) the area needed for the postal facility if the City grants that use prior to the grant of the federal land patent to the College; and
- J. With the exclusion of the RTC area, the Property will hereinafter be referred to as the "Site" for development by the College as the Northwest Campus and possibly the postal facility area. A description of the Site is attached hereto as Exhibit "C"; and
- K. The City of Las Vegas zoned the Property T-C Town Center District under section 19.06.110 of Title 19 of the Las Vegas Municipal Code; and
- L. The City has authority, pursuant to NRS 278.0201 through 278.0207 and 19.18.090 of the Las Vegas Municipal Code, to enter into development agreements with entities having a legal or equitable interest in real property to establish long-range plans for the development of such property; and
- M. The Board of Regents of NSHE is a Nevada constitutional body and has authority to enter into this Agreement to provide for the higher educational needs of the citizens of the State of Nevada; and
- N. The City desires to enter into this Agreement in conformance with the requirements of NRS 278.0201 through NRS 278.0207 and LVMC 19 and 18.090 and as otherwise permitted by law and this Agreement, to provide for public services, public uses and urban infrastructure, to further the goals and values of the City's Centennial Hills Sector Plan and the Las Vegas 2020 Master Plan, to promote the health, safety and general welfare of the City and its inhabitants, to minimize uncertainty in planning for and securing the orderly development of the College's Northwest Campus, to insure attainment of the maximum efficient utilization of resources within the City at the least economic cost to its citizens and otherwise achieve the goals and purposes for which the State statute and City ordinance authorizing development agreements were enacted. As a result of the development of the Property as proposed by the College subject to the Cooperative Agreement between City and RTC, the City will receive needed educational facilities and opportunities, jobs, sales and other tax

revenues, and substantial improvements to the public infrastructure. The City will additionally receive a greater degree of certainty with respect to the phasing, timing and orderly development of the City infrastructure by agreeing to the use and development of the Site by the College; and

- O. In exchange for these and other benefits to the City, and in accordance with the legislative intent evidenced by the State statutes authorizing development agreements and the intent of the City in adopting an ordinance allowing development agreements, the College will receive reasonable assurances that it may develop the Northwest Campus in accordance with this Agreement. Because of the nature of the Northwest Campus and the many constituents that it will serve while also balancing its development with the other needs of NSHE and the College, the development of the Northwest Campus will take a long period of time to fully complete. The College's decision to commence development of the Northwest Campus is based on expectations of proceeding with the Northwest Campus to completion; and
  
- P. In the absence of this Agreement, because NSHE does not own the Property and the Property is currently leased to the City; the College believes it would have no assurance that it could complete the Northwest Campus and would therefore be exposed to significant economic risk. For any number of currently foreseeable and unforeseeable reasons, including, without limitation, regional traffic and related impacts (for example, impacts on air quality) resulting from development outside the jurisdiction of the City and issues relating to water use and availability, pressures on the City could be created to (i) halt the Northwest Campus at a point short of total build out, (ii) reduce the scope of the Northwest Campus, (iii) defer or delay completion of the Northwest Campus, or (iv) apply new rules or requirements in such a manner as to significantly increase the cost of the Northwest Campus or to otherwise burden its development. The burden of interest carrying costs, the difficulty of obtaining financing or funding, the risk of losing existing financing commitments and the potential loss of anticipated revenues associated with these development risks and uncertainties would, in the absence of this Agreement, deter and discourage the College from making a long-term commitment to the development of the Northwest Campus. In addition, the cost of certain improvements to be constructed by the College will be substantial and may not match the timing of the revenue or appropriations associated with the Northwest Campus which is a necessary element of the overall provision of educational opportunities. Accordingly, the College cannot prudently commence the development of the Northwest Campus without reasonable assurance from the City that it will be able to complete the Northwest

Campus; and

- Q. NSHE has given notice as required by the relevant law, and brought this Agreement for approval at a public meeting of the Board of Regents. The Board of Regents found this Agreement to be in the public interest and lawful in all respects, and approved the execution of this Agreement by the Chancellor of NSHE and the President of the College.

## **SECTION ONE** **DEFINITIONS**

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

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

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

**"Applicable Rules"** means and refers to:

- a. This Agreement;
- b. The Northwest Campus Design Standards attached to and by this reference included in this Agreement as Exhibit "E"; and
- c. The Code in effect on the Effective Date, but only to the extent necessary to provide direction or requirements that under federal or state law or this Agreement are appropriately within the jurisdiction of the City; and
- d. The term does not include:
  - (i) Any ordinances, laws, policies, regulations or procedures adopted by a governmental entity other than the City;

- (ii) Any fee or monetary payment prescribed by City ordinance which is uniformly applied to all development and construction subject to the City's jurisdiction; or
- (iii) Any applicable state or federal law or regulation

**"Building Codes"** means the following codes: 2006 International Residential Code; 2006 International Building Code; 1997 Uniform Administrative Code; 2006 Pool Code; 2006 Uniform Plumbing Code; 2005 National Electric Code; 2006 Uniform Mechanical Code; 2006 International Energy Conservation Code; and National Fire Protection Agency 1, or other codes, to the extent adopted by the State Public Works Board of Nevada ("SPWB") and subject to any modifications that are adopted by the SPWB.

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

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

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

**"Effective Date"** means the date this Agreement is approved by the City Council following approval and execution thereof by the College. Following approval by the City Council, the Agreement shall be executed by the Mayor of the City but the date of such execution shall not affect the Effective Date, and the City Clerk shall enter the Effective Date in the first paragraph above. The Effective Date shall be the date the Agreement is fully binding and effective upon the parties. The City shall also take the necessary steps to approve the Agreement by ordinance and record the Agreement pursuant to NRS 278.0203, but such actions shall not affect the Effective Date as between the Parties.

**"Entitlement Request"** means a submission by the College of a site plan for each building(s) or parking structure or a special use permit for review at a public hearing before the City Council to demonstrate compliance with the Northwest Campus Design Standards.

**"Geotechnical Report"** means a comprehensive geotechnical report for the Property prepared under the direction of and stamped by a Nevada-based professional geotechnical engineer. The substance of the Geotechnical Report shall be determined, reviewed and approved by the Director of Public Works.

**"Grading Plan, Specific"** means a detailed grading plan for a development site within the Site to further define to a level of detail sufficient to support construction drawings, in

accordance with the CCRFCD Hydrologic Criteria and Drainage Design Manual.

"LVMPD" means the Las Vegas Metropolitan Police Department.

"**Major Roadways**" means the streets which the College is obligated to construct as determined by the Master Traffic Study. Major Roadways include the street, gutter, curb, sidewalk, streetlights, traffic control devices, landscaping and/or amenity zones, storm drains, sewer facilities, trails, and all necessary appurtenances as required by the Northwest Campus Design Standards and this Agreement.

"**Master Drainage Study**" means a comprehensive hydrologic and hydraulic study prepared under the direction of and stamped by a Nevada-based professional engineer. The Master Drainage Study shall be prepared in accordance with the Clark County Regional Flood Control District (CCRFCD) Hydraulic Criteria and Drainage Design Manual. The engineer preparing such study and the assumptions and techniques for modeling storm water run-off and its impacts shall be approved by the City's Director of Public Works.

"**Master Studies**" means the Master Traffic Study, the Master Drainage Study, and the Geotechnical Report.

"**Master Traffic Study**" means a comprehensive transportation study prepared under the direction of and stamped by a Nevada-based professional traffic engineer. The Master Traffic Study shall comply with the Traffic Impact Analysis Guidelines contained in the RTC Policies and Procedures document, as well as the requirements of the City Traffic Engineer. The Master Traffic Study must also address pedestrian circulation and roadway crossings, and on-site traffic circulation as it impacts the Public ROW. The engineer preparing such study and the assumptions and techniques for modeling traffic and its impacts shall be approved by the City's Director of Public Works.

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

"**Off-Premise Sign**" means any sign which advertises products or services which are not sold on the premises upon which the sign is constructed. Such sign is considered a specific land use, rather than an incidental use to another existing land use. Owners of Off-Premise Signs generally receive consideration for the use of such sign, as compared to an on-premise signs which in itself do not produce consideration for the owner, but is incidental to another land use. Off-Premise Signs are commonly and generally referred to as "billboards."

"**Off-Site Improvements**" as this definition relates to the Master Studies, means infrastructure improvements located outside of the Site boundaries required by the Master

Studies or other governmental entities to be completed by the College due to the development of the Site.

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

**"Planning Department"** means the Planning and Development Department.

**"Planning Director"** means the Director of the City's Planning and Development Department.

**"Property"** means that certain 62± gross acres of unimproved real property, the legal description of which is set forth as Exhibit "A".

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

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

**"Site"** means that portion of the Property remaining after excluding the RTC area from the Property. The legal description of the RTC area is set forth as Exhibit "B" and the legal description of the Site is set forth as Exhibit "C".

**"Term"** means the term of this Agreement.

## **SECTION TWO** **APPLICABLE RULES AND CONFLICTING LAWS**

- 2.01. Reliance on the Applicable Rules. The City and the College agree that the College will be permitted to and shall carry out and complete development of the Site in accordance with the uses, densities and provisions as set forth by the Applicable Rules.
- 2.02. Application of Subsequently Enacted Rules by the City. The City shall not amend, alter or change any Applicable Rule as applied to the development of the Site, or apply a new rule, regulation, resolution, policy or ordinance to the development of the Site, and:
- (a) The development of the Site shall be subject to the Building Codes in effect at the time of issuance of the permit by the State Public Works

Board of Nevada to construct any building or structure.

- (b) The application of a new rule, regulation, resolution, policy or ordinance to the development of the Site is permitted, provided that such action is necessary to protect the health, safety and welfare of City residents.
- (c) Nothing in this Agreement shall preclude the application to the Site of new or changed rules, regulations, policies resolutions or ordinances specifically mandated and required by changes in state or federal laws or regulations. In such event, the provisions of Section 2.04 to 2.06 of this Agreement are applicable.
- (d) Should the City adopt or amend rules, regulations, policies, resolutions or ordinances and apply such rules to the development of the Site, other than pursuant to one of the above subparagraphs 2.02(b) or 2.02(c), the College shall have the option, in its sole discretion, of accepting such new or amended rules by the giving of written notice of such acceptance. City and the College shall subsequently execute an amendment to this Agreement evidencing the College's acceptance of the new or amended ordinance, rule, regulation or policy within a reasonable time.

2.03. Application of New Fees. To the extent any such fees are applicable, notwithstanding subparagraph 2.02, above, the City may increase cost-based processing fees, Entitlement Request processing fees, inspection fees, plan review fees, facility fees, sewer connection fees, or traffic signal impact fees that are typical or uniformly apply to all development in the City.

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

- (a) Notice of Conflict. Either Party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, rule, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and
- (b) Modification Conferences. The Parties shall, within thirty (30) calendar days of the notice referred to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law, rule, regulation or policy.

- 2.05. City Council Hearings. In the event the City believes that an amendment to this Agreement is necessary due to the effect of any federal or state law, rule, regulation or policy, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. The College shall have the right to offer oral and written testimony at the hearing. Any amendment ordered by the City Council pursuant to a hearing contemplated by this Section 2.05 is subject to judicial review, but such review shall be filed within twenty-five (25) days from the date of the hearing. The Parties agree that any matter submitted for judicial review shall be subject to expedited review in accordance with Rule 2.15 of the Eighth Judicial District Court of the State of Nevada.
- 2.06. City Cooperation. The City shall cooperate with the College in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated under Section 2.05. As required by the Applicable Rules, the College shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations.
- 2.07. Relinquishment of R&PP Act Lease. The College is pursuing legislation in Congress that would grant a federal land patent for the Site to the College, subject to the requirements of this Agreement. In order that the College is able to finance the development of its Northwest Campus in the manner currently envisioned and on a time table which would justify the City to relinquish its Lease on the entire Site, the patent cannot be restricted so as to prevent private entities from leasing portions of the Site or leasing space within buildings for profitable ventures. The Parties agree that this Agreement shall be effective for its Term notwithstanding the grant of the federal land patent for the Site to the College. The College will notify the City in the event the College determines that it is unlikely to obtain the land patent. College shall have 18 months from the Effective Date of this Agreement to secure such patent, or this Agreement shall be null and void and the parties shall have no further liability or obligation to each other, except for the obligation to attempt to negotiate a new development agreement as set forth below. Such 18-month period may be extended for an additional period of 6 months upon the written approval of the City Council and College.

The College may not commence work on the Site until it obtains such a land patent and is in compliance with the terms of this Agreement.

The City will when and where requested indicate its willingness to relinquish its R&PP lease as to the Site, subject to the terms of this Agreement, as a final condition to the grant of patent to the College so long as the patent will allow the

development of the Northwest Campus as envisioned by this Agreement. Thereafter, the City will file when appropriate a relinquishment of its R&PP lease with the BLM for the Site in order for the College to receive the land patent.

In the event the College is unable to secure a patent of the Site that is unrestricted as referenced above: 1) the parties shall attempt to enter into a new development agreement to accomplish the goals of the parties set forth herein, and 2) the City shall not be under any obligation to relinquish its Lease of the Site unless and until a mutually acceptable agreement is executed.

### **SECTION THREE** **PLANNING AND DEVELOPMENT OF THE SITE**

- 3.01 Planned Site. One of the primary objectives of the Parties is that development of the Site be undertaken in an organized fashion so as to ensure a well-integrated campus that is based on the design concepts of sustainable development with a mix of educational, office, commercial and possible residential uses.
- 3.02 Time for Construction and Completion of the Site. The Parties acknowledge and agree that it is in their respective best interests that development of the Site be accomplished to best support the College's objectives and purpose, but on a reasonable time table within the abilities of the College that justifies the City's relinquishment of the Site. In light of this mutual objective, and subject to the terms of the Applicable Rules, the College shall have the discretion as to the time of commencement, construction and completion of the Site, with the exception of the construction of Grand Montecito Parkway.
- 3.03 Permitted Uses, Density and Height. Pursuant to NRS Chapter 278, this Agreement must set forth the maximum height and size of structures to be constructed on the Site, the density of residential uses and the permitted uses of the land within the Site.
- (a) Maximum Residential Units Permitted. The College will be permitted to construct up to 500 residential units on the Site. Any residential units will be designed to primarily accommodate students, faculty, or staff of the College.
- (b) Maximum Height of Structures. The maximum height of structures within the Site shall conform to Northwest Campus Design Standards Map 2. The College further agrees to comply with the 3:1 residential adjacency height setback ratio for buildings or other structures constructed on the western

edge of the Site immediately adjacent to the existing residential area.

- (c) Maximum Square Footage of Commercial Space. The maximum square footage of commercial space on the Site shall be up to 475,000 square feet.
- (d) Square Footage for Educational Uses. There shall be no maximum square footage for educational uses. The Parties agree and acknowledge that the primary purpose of the Site is to provide educational opportunities including all ancillary uses such as faculty and administrative offices to achieve the educational purposes.
- (e) Land Uses. The Parties agree that the land uses within the Site are defined by this Agreement and more particularly described in Exhibit "D" which specifically delineates permitted uses, conditional uses and special uses within the Site.

3.04 Concept for the Site. The concept of the Northwest campus is to combine education with real world experience in an academic urban village. The Site will provide a learning environment that creates a mixed used learning, working, leisure, and living environment that attracts students, faculty, community and business partners and that incorporates other opportunities beyond the traditional classroom including but not limited to business entities that will furnish teaching/learning experiences, internships, externships, employment, on-site training, necessary services and supportive retail ventures. Commercial, for-profit activities will be carried out along with non-profit public services. A substantial percentage of the College's students study health sciences, applied sciences and technology, and other areas leading directly in a relatively short period of time to the workplace. Once the Site is fully developed, it will be an activity center where students can both learn and gain work experience while also creating certain destination opportunities in the region for the surrounding community. One of the objectives of this concept is to provide student services in a highly accessible one-stop storefront environment to achieve a self-sustaining Campus for education, culture and associated services for the benefit of the citizens of Las Vegas. The College recognizes the significant planning and development that many entities including the City have undertaken to develop the northwest area of the City, of which the Campus will be a significant contributing part. It is not possible to identify at the time of the execution of this Agreement all of the details on uses, location and timing for development.

- (a) Non-Use of the Site. The Parties agree that the College will be permitted

to and shall develop the Northwest Campus in its entirety and in accordance with this Agreement. The College will not convey its interest in the Site to another party, nor allow the Site to remain undeveloped.

(b) Third-Party Ground Leases. Portions of the Site may be the subject of a ground lease for development consistent with this Agreement.

3.05 State Public Works Board of Nevada. Any building or structure that is constructed on the Site will only be subject to this Agreement and to the laws, rules and requirements involving the SPWB pertaining to construction of any building on State of Nevada property or for which the money is appropriated by the Nevada Legislature. Nothing in this Agreement shall be interpreted to extend the City's jurisdiction over construction of any building constructed on State property beyond what is specifically provided for in this Agreement. Following acquisition of the federal patent for the Site, the SPWB is required by statute to be the building official, to review all plans and specifications, to issue building permits, to perform all inspections, and to issue the building occupancy report for buildings or structures constructed on the Site, so long as the Site remains the property of the State. In the event any portion of the Site is deeded to an entity other than the State following acquisition of such patent, the construction of any building on such portion shall be under the jurisdiction of the City which shall perform all of the above functions, and not the SPWB.

3.06 Modifications. The Parties agree that modifications of the Northwest Campus Design Standards are generally not in the best interests of the effective and consistent development of the Site.

However, the Parties do acknowledge that there are special circumstances which may necessitate the modification of certain provisions of the Northwest Campus Design Standards to accommodate unique situations which are presented to the College upon the actual development of the Site.

Further, the Parties agree that modifications of the Northwest Campus Design Standards can change the look, feel and construction of the Site in such a way that the original intent of the Parties is not demonstrated by the developed product. To that end, the Parties also agree that the only proper entity to request a modification of the Northwest Campus Design Standards is the College entity itself and not a lessee or any other party.

(a) Applicant. Requests for all modifications of the Northwest Campus Design Standards may be made only by the College.

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

- (i.) Changes in architectural styles, color palettes and detail elements.
- (ii.) The addition of similar and complementary residential or commercial uses and architectural styles, color palettes and detail elements.
- (iii.) Changes in building materials.
- (iv.) Changes in landscaping materials, plant palettes and landscaping detail elements.
- (v.) A change in an on-site private roadway (not major public roadway) that does not adversely impact traffic circulation or create a material impact and is approved by the Director of Planning and the Director of Public Works.

(c) Submittal, Review, Decision and Appeal.

- (i.) An application for Minor Modification may be made to the Director of Planning for consideration. The Director of Planning shall coordinate the City's review of the application and shall perform all administrative actions related to the application;
- (ii.) The Director of Planning may, in his/her discretion, approve a Minor Modification or impose any reasonable condition upon such approval. The Director of Planning shall issue a written decision within thirty (30) business days of receipt of the application, which decision is final unless it is appealed by the College pursuant to Section (iii) below. Applications for which no written decision is issued within thirty (30) days shall be deemed approved. If the Director of Planning rejects a request for a Minor Modification, the request shall automatically be deemed a Major Modification, and at the option of the College, the decision of the Director of Planning may be appealed directly to the City Council.
- (iii.) The College may appeal any decision of the Director of Planning to the City Council by providing a written request for an appeal within ten (10) business days of receiving notice of the decision. The City Council shall hear such appeal within thirty (30) days.

(d) Major Modifications.

- (i.) Any application for a modification to the Northwest Campus Design Standards that does not qualify as a Minor Modification is a Major Modification. All applications for Major Modifications shall be heard by the City Council within forty-five (45) days of either the City's receipt of the application or its receipt of the appeal provided for in Section (c) above, whichever is applicable;
- (ii.) Prior to City Council consideration of a Major Modification that increases density on the Site, the Master Developer shall meet and confer with the Director of Public Works or designee as to whether an update to the Master Studies is required. If the Director of Public Works or designee requires an update to one of more of the Master Studies, such update shall be prepared by the College and submitted to the Department of Public Works no later than fifteen (15) business days prior to the City Council hearing.

3.07 Entitlement Requests.

- (a) Generally. The City agrees to cooperate reasonably with the College to:
  - (i) Expeditiously process all Entitlement Requests in connection with the Site that are in compliance with the Applicable Rules and Master Studies; and
  - (ii) Expeditiously process and consider all land use applications that require a public hearing and which may include special use permits or revisions to the site plan that increase height, density or commercial square footage beyond what is contemplated in this Agreement. These applications shall proceed directly to the City Council without consideration by the Planning Commission.
- (b) Required Zoning and Master Plan Entitlement for Site. The Parties acknowledge and agree that the Site is currently master-planned and zoned as PF-TC (Public Facility - Town Center). The Parties further acknowledge that the unique circumstance of developing the Site as a college campus means that other uses not traditionally allowed on PF property will be permitted on the Site in accordance with Exhibit "D" and this Agreement.
- (c) Subsequent Entitlement Requests. All subsequent Entitlement Request applications shall be processed by the City according to the Applicable Rules.

- (d) Build-out Phases. College will generally develop the Campus over time as various relevant factors dictate from the east edge moving to the west, and will provide improvements to the east part first and thereafter continue to progress in its construction of improvements to the west part until the Site is wholly developed. The College shall solely determine the timing, order and phasing of the improvements on the Campus.

Notwithstanding on-site phasing, as set forth in Section 7.02, the extension of Grand Montecito Parkway will be constructed with the first phase, and other public transportation improvements will be phased as determined in the Master Traffic Study.

### 3.08 Dedicated Staff and the Processing of Applications.

- (a) Dedicated Staff. City will endeavor but not be required to have at least one person in the various City departments that are reasonably knowledgeable for processing matters related to the Site. Such person will be at least generally familiar with the Site, including without limitation, the Applicable Rules. This sub-section applies to the following departments:
  - (i) Department of Planning and Development;
  - (ii) Building and Safety Department;
  - (iii) Public Works Department;
  - (iv) Right-of-way Section of the Department of Public Works;
  - (v) Traffic Division of the Department of Public Works;
  - (vi) Flood Control Section of the Department of Public Works;
  - (vii) Collection System Planning Section of the Department of Public Works;
  - (viii) Such other City Departments, divisions or agencies as may be necessary to process applications related to the Planned Site; and
  - (ix) Surveying Section of the Department of Public Works
- (b) Processing. The Parties agree that the City will use its reasonable efforts to utilize such dedicated staff members for the processing of all Entitlement Requests, applications for Minor and Major Modifications and all other

requests related to the development of the Site in an expedient fashion according to the provisions of the Code.

- 3.09 Off-Premise Signs (Billboards) Prohibited. Off-Premise Signs are prohibited within the Site. No person or entity shall apply for the use of an Off- Premise Sign anywhere within the boundaries of the Site, and the City shall not approve or issue any permit for an Off-Premise Sign within the Site.
- 3.10 Blasting. The College agrees to comply with all Code and City policies as related to blasting. Notwithstanding the provisions of Section Two, such Code provisions and City policies may be amended at the City's discretion.
- 3.11 Property Dedications to City. Any real property (and fixtures thereupon) transferred or dedicated to City or any other public entity shall be free and clear of any mortgages, deeds of trust, liens or encumbrances (except for any encumbrances that existed on the patent at the time it was delivered to the College from the United States of America).
- 3.12 Anti-Moratorium. The Parties agree that no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the construction, rate, timing or sequencing of the development of the Site including those that affect parcel or subdivision maps, building permits, occupancy permits or other entitlements to use land that are issued or granted by the City shall apply to the development of the Site or portion thereof. Notwithstanding the foregoing, the City may adopt ordinances, resolutions or rules or regulations that are necessary to:
- (a) comply with any state or federal laws or regulations as provided by Section 2.4, above;
  - (b) alleviate or otherwise contain a legitimate, bona fide harmful and/or noxious use of the Site, in which event the ordinance shall contain the most minimal and least intrusive alternative possible, and shall not, in any event, be imposed arbitrarily; or
  - (c) maintain the City's compliance with non-City and state sewerage, water system and utility regulations.

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

- 3.13 Additional Property Not Included Within Development Agreement. The College shall not develop additional property as a part of the Site pursuant to the terms of the Applicable Rules that is not a part of the Property, without the amendment of this Agreement and City consideration of additional impacts to the City based upon the inclusion of such additional real property.
- 3.14 Cooperation in Financing. City will execute and deliver within thirty (30) days of a written request from the College, such documents as may be reasonably necessary to acknowledge that:
- (a) the City has no lien on the Site as a direct result of this Agreement, or disclosure of any City liens that exist; and
  - (b) the City is not aware of a default of this Agreement by the College or if it is in default of this Agreement, the specific ground(s) of default. Nothing herein shall be deemed to relieve the College of its obligations under this Agreement or its liability for failure to perform its obligations under this Agreement.
- 3.15 Franchise Agreements. The City warrants that it has entered into franchise agreements with all of the public utility companies that provide utility services within City of Las Vegas, specifically, Nevada Power Company, Embarq Corporation, Southwest Gas Corporation, and Cox Communication (the "Franchise Agreements").

#### **SECTION FOUR** **MAINTENANCE OF THE SITE**

- 4.01 Maintenance of Landscape Areas. The College will maintain all landscaped areas within the Site and within the right-of-way abutting the Site that are installed by the College in good condition and repair to include maintaining clear Sight Visibility Restriction Zones (SVRZs) to the satisfaction of the Director of Public Works. The College shall submit encroachment agreements for landscaping within the Right-of-Way pursuant to the Applicable Rules. In addition, the College shall maintain in good condition and repair all sidewalks, private streets, drives and alleys, trails, amenity zones, drainage facilities and any landscaping in, on and around medians and public rights-of-way.
- 4.02 City Maintenance Obligation Acknowledged. City acknowledges and agrees that all of the City-dedicated public street(s) (excluding any landscaping within the right-of-way), associated curbs, gutters, City-owned traffic control devices and signage, and streetlights upon City-dedicated public streets which are within the

Site and accepted by the City will be maintained by the City in good condition and repair at the City's sole cost and expense.

## **SECTION FIVE** **PUBLIC FACILITIES**

5.01 Post Office. The College acknowledges that the City committed a portion of the Site to the USPS to be used as a post office. The USPS has requested five (5) acres of land within the Site. Although the final location of the post office has not been determined, the College will provide such land to the USPS in a current "as is" condition and in a location that is mutually agreeable to the City, the College and the USPS. If USPS needs to acquire such location prior to College obtaining the patent for the Site, the City shall cooperate with USPS and BLM in relinquishing such location in favor of USPS. Neither the City nor the College will be responsible for any on-site grading, paving, utilities or construction of the post office. Nothing herein limits the College's ability to negotiate with the USPS for contribution for road improvements or any other costs or fees incurred by the College under this Agreement. If the post office has not pulled a building permit for its facility within six (6) years from the Effective Date, this section 5.01 shall cease to be effective and the five acres committed to the USPS can be developed by the College. In the event the USPS determines that it does not need a post office on the Site as evidenced in writing, the College is relieved of its obligation to provide land for a post office within the Site.

### 5.02 Regional Transportation Center

- (a) Design of the Regional Transportation Center. The Parties acknowledge that the RTC plans to construct a park-n-ride facility adjacent to the Site. It is currently anticipated that the park and ride facility may be developed to include one or more of the following:
- (i) A transit center where passengers interchange from one route or mass transit vehicle to another that has significant infrastructure such as a waiting room, benches, restrooms, sales outlet, ticket or pass vending machines, and/or other services;
  - (ii) A parking garage and/or lot used for parking passengers' automobiles, either free or for a fee, while they use transit agency facilities. Park-and-ride facilities are generally established as collector sites for rail or bus service. Park-and-ride facilities may also serve as collector sites for vanpools and carpools, and as transit centers.

- (iii) A kiss and ride facility where commuters who are passengers in non-transit vehicles are dropped off to board a mass transit vehicle.
  - (b) The College is not responsible for any infrastructure costs such as streets, lighting, grading, pavement or other costs associated with the construction of the RTC facility, other than as required by the Applicable Rules.
- 5.03 Other Public Facilities. City agrees that College shall have no obligation, other than those identified in this Agreement, to participate in, pay, contribute or otherwise provide for any land, facilities, equipment or physical improvements for public or civic buildings, inside or outside of the Site or otherwise provide or pay any further exaction, including, special assessment district assessments, other assessments or development fees, as a substitute therefore, including, without limitation, sites and related improvements and equipment for fire stations, police stations, schools and libraries. The College agrees that the City shall have no obligation, other than those identified in this Agreement and its normal and customary duties as a municipal corporation providing services to its constituents, to participate in, pay, contribute or otherwise provide for any land, facilities, equipment or physical improvements for the development of the Site.
- 5.04 Police and Fire Services. The City agrees that it shall provide, at its sole cost and expense, fire service to the Site and that no development within the Site will be denied or conditioned as a result of lack of police and fire services. City acknowledges that College maintains its own police department and other security services. The College police services are controlled by the LVMPD.

## **SECTION SIX** **OPEN SPACE and PARKS**

- 6.01 Parks and Open Space. The City agrees that the College shall not be required to provide any land for parks, public recreational uses, or other public uses other than as the College determines is appropriate to achieve its educational purposes.

## **SECTION SEVEN** **TRANSPORTATION**

- 7.01 Mitigation of Off-Site Traffic Impacts.
  - (a) The College's obligation to construct or provide traffic improvements shall be limited to 1) its appropriate share and obligations related to the extension of Grand Montecito Parkway on the Site as set forth in Section 7.02 of this Agreement, 2) the expansion of Elkhorn Road to two westbound travel lanes

immediately west of Durango Drive, 3) improvements identified in the Master Traffic Study, and 4) bus turnouts, traffic chord easements, and similar features at various locations as identified on Exhibit "F". The College shall have no other obligation to participate in, pay, contribute or otherwise provide any further exaction, including special assessment district assessments, other assessments or Development Fees, to provide land, facilities or improvements for road and motor vehicular traffic system or for any facilities, equipment or physical improvements that are a substitute therefore. The College agrees that except for public streets, all parking and paved traffic areas on the Site will be its responsibility.

- (b) The College agrees that it shall pay the traffic signal impact fees provided for in City Ordinance 5644. In the event that the College is not required to obtain building permits from the City, the College agrees to pay traffic signal impact fees at the time the building permit is issued by the SPWB.

#### 7.02 Grand Montecito Parkway.

- (a) Grand Montecito Parkway is that road designed to go north and then west across the Site to Durango Drive from its current termination point at the intersection of Elkhorn Road. In general, the extension of Grand Montecito Parkway has been approved by the City.
- (b) Grand Montecito Parkway ultimately may include, without limitation, curb, gutter, drainage and sewer facilities, sidewalk, street lights, pavement, striping, medians, landscaping, trails, amenity zones, and traffic control devices, including conduits and foundations and signage. The cost of the Grand Montecito Parkway will be allocated as follows:

The College shall be responsible for and pay for half of the costs of the extension of Grand Montecito Parkway on the Site for any part of that extension where Grand Montecito Parkway is adjacent to land patented to and occupied by the College and where the RTC does not hold the right of occupancy on both sides of the proposed Grand Montecito Parkway. As long as the College has received the land patent for the Site, the College:

- (i) shall fulfill its obligations of this sub-section when the College or the RTC is prepared to commence the construction of the extension of Grand Montecito Parkway, whichever may occur first.
- (ii) RTC shall be responsible for and pay for half of the costs of the extension of Grand Montecito Parkway except that RTC shall pay for all of the costs of the extension adjacent to the land where RTC holds

the right of occupancy on both sides of the proposed Grand Montecito Parkway.

- (iii) The City shall cause a supplement to the Cooperative Agreement to be executed with and by the RTC which memorializes the cost responsibilities for the extension of the Grand Montecito Parkway as set forth in (i) and (ii) above.
- (c) After road dedication to the City, the College shall submit to the City encroachment agreements for maintenance of the landscaping within the public right-of-way.
- (d) In the event the RTC commences construction of the extension of Grand Montecito Parkway prior to the time the College has obtained the land patent for the Site, the City will be responsible for the costs of the extension which are not the obligation of RTC, and the College will reimburse the City those costs which the City has expended pursuant to this provision within sixty days of obtaining the land patent for the Site, or the City will defer the improvements to be completed by the College until the land patent is issued, and the College will commence these improvements within 60 days of obtaining the land patent for the Site.

7.03 Land Dedication. Notwithstanding anything to the contrary in this Agreement, the College and the City agree that the College will only dedicate rights-of-way required for the extension of Grand Montecito Parkway, the expansion of Elkhorn Road, and as set out on Exhibit "F".

7.04 Conformance to Master Studies. The Master Studies will be required after final consideration and approval of this Agreement by the City Council and after College receives the federal land patent for the Site.

The College agrees to construct and dedicate to the City all infrastructure necessary for the development of the Site as identified by the Master Studies and this Agreement. Such infrastructure improvements will be constructed in conformance with, in the manner of, and within timeframes delineated by the Master Studies and this Agreement. If there is a conflict between this Agreement and the Master Studies as to the timing of the construction and/or dedication of infrastructure improvements, the Master Studies shall control.

7.05 Acquisition of Rights-of-Way and Easements. The City acknowledges that certain rights-of-way and easements outside the boundaries of the Site may be necessary for the construction of the necessary infrastructure improvements. The City shall assist the College in obtaining the necessary rights-of-way, easements or other

interests not owned by the College necessary to construct the necessary infrastructure improvements.

With regard to any necessary roadways and/or necessary drainage and sewer corridors that are proposed to abut or cross BLM lands, the College shall submit all required documentation and applicable fees to the City to enable the City to acquire the necessary property or land patents from the BLM.

## **SECTION EIGHT** **FLOOD CONTROL**

- 8.01 Flood Control Facilities and Technical Drainage Studies. The College shall submit a Master Drainage Study addressing the overall drainage impacts to the Site and adjacent roadways. The phased development of the Site will require that a Technical Drainage Study be required for each phase of development. The Master Drainage Study and the Technical Drainage Studies for each phase of development shall be prepared in accordance with the Clark County Regional Flood Control District (CCRFCD) Hydraulic Criteria and Drainage Design Manual. The College agrees to implement the drainage study requirements and follow the recommendations of approval from the City of Las Vegas, with concurrence by the Clark County Regional Flood Control District and the Nevada Department of Transportation (NDOT). Drainage study updates may be required based upon the development phasing.

The drainage studies shall identify the necessary storm drain system and/or other mitigation measures needed to protect the Site development from the existing condition flows and the ultimate condition flows for both the 10-year and 100-year storms. The facilities identified in the drainage studies must be designed and constructed by the College with each phase of development and may include both on-site and adjacent off-site facilities. The College agrees that Grand Montecito Parkway may include storm drain facilities as determined by the drainage study for the Site. The College shall be responsible for paying the costs of constructing any facilities necessary, whether interim or ultimate, and shall comply with Section 7.05 of this Agreement regarding Acquisitions of Rights of Way and Easements to accommodate such facilities. All interim and on-site storm drain facilities must be maintained by the College. The College will not be responsible for the technical drainage studies for the USPS or RTC sites.

## **SECTION NINE** **SANITATION**

- 9.01 Sewer Capacity. The Parties agree that the City will provide sanitary sewer

service. The sanitary sewer point of connections will be the existing 8-inch sanitary sewer main located at the intersection of Elkhorn Road and Grand Montecito Parkway, an existing 24-inch sewer main located within the Durango Drive right-of-way and a 12-inch sewer main located in Elkhorn Road west of Durango Drive. The College is responsible for design and construction of any sewer main extensions of adequate capacity to serve the Site and for sewer connection fees in accordance with the City's Municipal Code, Title 14. The College shall grant easements to the City for public sewer purposes to perpetuate the continuation of sewer lines prior to the installation of any sewer lines. Except as otherwise stated herein, the College shall have no obligation to participate in, pay, contribute or otherwise provide any further exaction, including special improvement district assessments, other assessments or Development Fees, to provide for facilities or improvements or for any facilities, equipment or physical improvements relating to sanitary sewer service off-site to the College. All off-site sewer design and construction shall conform to the latest edition of the "Design and Construction Standards for Wastewater Collection Systems for Offsite Sewers". All on-site sewer design and construction shall conform to the latest adopted edition of the "Uniform Plumbing Code".

## **SECTION TEN** **WATER**

10.01 Water Supply. The Parties acknowledge that the City currently has no role in the allocation of water to customers of the Las Vegas Valley Water District ("LVVWD"). If, however, the City assumes any role in water allocation during the term of this Agreement, the City agrees it will endeavor to allocate or cause to be allocated to the College water in order that the development of the Site will continue uninterrupted. The City and the College will cooperate with the LVVWD in granting over their respective properties reasonable easements or rights-of-way either on or off site necessary for the installation of water facilities to serve the Site. NSHE or the College agrees to execute all Affidavits of Waiver and Consent forms required in order for water laterals and mains to be constructed.

## **SECTION ELEVEN** **REVIEW OF DEVELOPMENT**

11.01 Frequency of Reviews. As required by NRS 278.0205 and the Development Agreement Ordinance, at least once every twenty-four (24) months during the Term, the College shall provide and the City shall review in good faith a report submitted by the College documenting the extent of the Parties' material compliance with the terms of this Agreement during the preceding twenty-four

(24) months. If at the time of review an issue not previously identified in writing is required to be addressed, the review, at the request of either party, shall be continued to afford sufficient time for response. The Parties shall be permitted an opportunity to be heard before the City Council regarding their performance under this Agreement in the manner set forth in the Development Agreement Ordinance.

- 11.02 Opportunity to be heard. The report required by this Section shall be considered solely by the City Council. The College shall be permitted an opportunity to be heard orally and in writing before the City Council regarding performance of the Parties under this Agreement. The Planning Director may, in his/her discretion, provide copies of the report to members of the City's Planning Commission for their information and use. Prior to submitting the report, the College may meet with the Planning Director to discuss the status of development of the Site.
- 11.03 Action by City Council. At the conclusion of the public hearing on the review, the City Council may take any action permitted by NRS 278.0205 and/or this Agreement.

## **SECTION TWELVE** **DEFAULT**

- 12.01 Opportunity to Cure; Default. In the event of any noncompliance with any provision of this Agreement, the Party alleging such noncompliance shall deliver to the other by certified mail a thirty (30) day notice of default and opportunity to cure. The time of notice shall be measured from the date of certified mailing. The notice of default shall specify the nature of the alleged default and the manner in which it may be satisfactorily corrected, during which thirty (30) day period the party alleged to be in default shall not be considered in default for the purposes of termination or institution of legal proceedings.

If the default cannot be reasonably cured within the thirty (30) day cure period, the non-compliant Party may timely cure the default for purposes of this Section Twelve if it commences the appropriate remedial action within the thirty (30) cure period and thereafter prosecutes such action to completion within a reasonable period of time. If no agreement between the Parties is reached regarding the appropriate timeframe for remedial action, the cure period shall not be longer than sixty (60) days from the date the sixty (60) day notice of default and opportunity to cure was mailed to the non-compliant party.

If the default is corrected, then no default shall exist and the noticing party shall take no further action. If the alleged default is not corrected within the relevant

cure period, the party alleging non-compliance may elect any one or more of the following courses:

- (a) City Manager/ President Resolution. The City Manager and the President of the College shall meet to discuss the alleged default and seek to resolve the matter in a mutually agreeable time frame.
- (b) Mediation. The Parties shall submit the issues to mediation to attempt resolution.
- (c) Arbitration. The Parties shall request the Chief Judge of the Eighth Judicial District Court to select an Arbitrator with experience in City planning and design standards to conduct arbitration and issue a decision which will be binding. No appeal of the arbitration decision can be filed by either party.

12.02 Unavoidable Delay, Extension of Time. Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, or acts of God. If written notice of any such delay is given to the other party within thirty (30) days after the commencement thereof, an automatic extension of time, shall be granted coextensive with the period of the enforced delay, or longer as may be required by circumstances or as may be subsequently agreed to between the City and the College. Any such extensions of time shall have no effect upon the timing of and the conclusions reached in the reviews to be conducted pursuant to Section Eleven above.

12.03 Limitation on Monetary Damages. City and the College agree that they would not have entered into this Agreement if either were to be liable for monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement. Accordingly, the City and the College may pursue any course of action or equity available for breach, except that neither Party shall be liable to the other or to any other person for any monetary damages based upon a breach of this Agreement or any other allegation or cause of action based upon or with respect to this Agreement.

12.04 Venue. Jurisdiction for judicial review under this Agreement shall rest exclusively with the Eighth Judicial District Court, County of Clark, State of Nevada or the United States District Court, District of Nevada.

12.05 Waiver. Failure or delay in giving notice of default shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any

failure or delay by any party in asserting any of its rights or remedies in respect of any default shall not operate as a waiver of any default or any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any of its rights or remedies.

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

12.07 Default by City. In the event the City substantially defaults under this Agreement, the College shall have the right to terminate this Agreement as set forth in Section 12.01. Notwithstanding the forgoing, the College shall have the option, in its sole discretion, to maintain this Agreement in effect, and seek to enforce all of the City's obligations herein under the provisions set forth in Sections 12.01 and 12.03.

### **SECTION THIRTEEN** **GENERAL PROVISIONS**

13.01 Term. The term of this Agreement shall commence upon the Effective Date and shall expire on the thirtieth (30th) anniversary of the Effective Date, unless extended by written agreement executed by the City and the College or unless terminated earlier pursuant to the terms hereof. City agrees that the College shall have the right to request extension of the term of this Agreement for an additional fifteen (15) years upon the following conditions:

- (a) the College provides written notice of such extension to the City at least one hundred-eighty (180) days prior to the expiration of the original thirty (30) year term of this Agreement;
- (b) the College is not in default of this Agreement; and
- (c) the College and the City enter into an amendment to this Agreement memorializing the extension of the term.

13.02 Financing. The College has previously provided financing commitments and options to the City in compliance with the MOU. The College shall have the sole discretion as to the form, amount and conditions of financing throughout the term of this Agreement. No obligation or requirement for financing is placed on the City.

- 13.03 Assignment to a Third Party. Assignment or a transfer of rights or obligations under this Agreement to a third person other than as provided herein is not a contemplated transaction under this Agreement. The College shall not sell or transfer any or all of its rights or obligations under this Agreement to a third person other than as provided herein without the approval of the City Council and any such unapproved transfer is void and is an immediate default of this Agreement notwithstanding the cure provisions of Section Twelve.
- (a) To an Affiliate of College. Except as otherwise provided by Section 13.02(e), below, the rights of the College under this Agreement may be freely transferred or assigned to an Affiliate of the College provided that such entity shall assume in writing all obligations of the College hereunder in a form acceptable to the City, to be accepted by the City Manager.
  - (b) Transfer Not to Relieve the College of its Obligation. Except as expressly provided herein, no assignment or transfer of any portion of the Site shall relieve the College of its obligations hereunder as to the portion of the Site so assigned or transferred, and such assignment or transfer shall be subject to all of the terms and conditions of this Agreement, provided, however, that no such transferee shall be deemed to be the College hereunder. This subsection shall have no effect upon the validity of obligations recorded as covenants, conditions, restrictions or liens against parcels of real property.
  - (c) In Connection with Financing Transactions. Following its receipt of a patent for the Site, the College shall have full discretion and authority to encumber the Site or portions thereof, in connection with financing transactions, without limitation to the size or nature of any such transaction, the amount of land involved or the use of the proceeds there from, and may enter into such transactions at any time and from time to time without permission of or notice to City. All such financing transactions shall be subject to the terms and conditions of this Agreement.
- 13.04 Amendment or Cancellation of Agreement. Except as otherwise permitted by NRS Chapter 278 and this Agreement, this Agreement may only be amended or canceled upon the mutual consent of the College and the City Council. Any proposed amendments shall be considered solely by the City Council.
- 13.05 Indemnity; Hold Harmless. To the extent limited in accordance with NRS 41.0305 to NRS 42.039, the College shall hold City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury, including death and claims for property damage which may arise from the direct or indirect operations of College or those of its

contractors, subcontractors, agents, employees, or other persons acting on College's behalf which relate to the development of the Site. The provisions of this Section shall not apply to the extent such damage, liability, or claim is proximately caused by the intentional or negligent act of City, its officers, agents, employees, or representatives.

- 13.06 Binding Effect of Agreement. The burdens of this Agreement bind, and the benefits of this Agreement inure to, the Parties' respective assigns and successors-in-interest and the property which is the subject of this Agreement.
- 13.07 Relationship of Parties. It is understood that the contractual relationship between City and the College is such that the College is not an agent of City for any purpose and City is not an agent of the College for any capacity.
- 13.08 Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or mailed by certified mail postage prepaid, return receipt requested. Notices shall be addressed as follows:

To City: CITY of LAS VEGAS  
400 Stewart Avenue  
Las Vegas, Nevada 89101  
Phone: 702-229-6501  
Fax: 702-388-1807  
Attention: City Manager

To College: College of Southern Nevada  
6375 West Charleston Blvd.  
Las Vegas, Nevada 89146  
Phone: 702-651-5600  
Fax: 702-651-5001  
Attention: President

With a copy to: CITY of LAS VEGAS  
400 Stewart Avenue  
Las Vegas, Nevada 89101  
Phone: 702-229-6629  
Fax: 702-386-1749  
Attention: City Attorney

With a copy to: College of Southern Nevada  
6375 West Charleston Blvd.  
Las Vegas, Nevada 89146  
Phone: 702-651-7488  
Fax: 702-651-7464  
Attention: General Counsel

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

- 13.09 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and

conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all of any part of the subject matter hereof.

- 13.10 Waivers. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate officers of the College or approved by the City Council, as the case may be.
- 13.11 Recording; Amendments. In addition to the City Council approving this Agreement as set forth herein, the City shall also take all necessary steps to approve this Agreement by ordinance pursuant to NRS 278.0203 and subsequently thereto, an executed original of this Agreement shall be recorded in the Official Records of Clark County, Nevada. All amendments hereto must be in writing signed by the appropriate officers of City and the College in a form suitable for recordation in the Official Records of Clark County, Nevada. Upon completion of the performance of this Agreement, or its earlier revocation or termination, a statement evidencing said completion, revocation or termination shall be signed by the appropriate officers of the City and the College and shall be recorded in the Official Records of Clark County, Nevada.
- 13.12 Headings; Exhibits; Cross References. The recitals, headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement. All exhibits attached to this Agreement are incorporated herein by the references contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits to this Agreement, unless otherwise specified.

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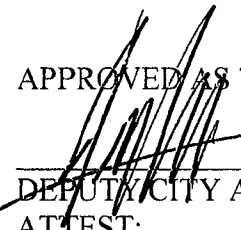
13.13 Severability of Terms. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, provided that the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

IN WITNESS WHEREOF, this Agreement has been executed by the parties effective on the day and year first above written.

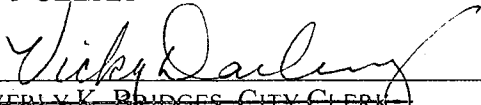

CITY:  
CITY COUNCIL, CITY OF LAS VEGAS

By:   
OSCAR B. GOODMAN, MAYOR

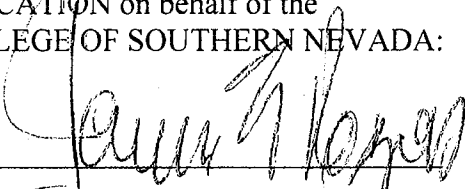
APPROVED AS TO FORM:

  
JAMES B. LEWIS  
DEPUTY CITY ATTORNEY  
ATTEST:

CITY CLERK

By:   
~~BEVERLY K. BRIDGES, CITY CLERK~~  
By:   
Chief Deputy City Clerk

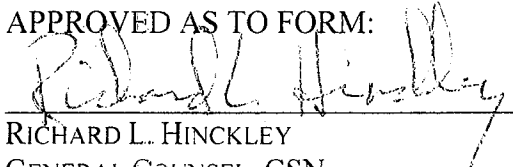
BOARD OF REGENTS of the  
NEVADA SYSTEM OF HIGHER  
EDUCATION on behalf of the  
COLLEGE OF SOUTHERN NEVADA:

By:   
Name: JAMES E. ROGERS  
Title: CHANCELLOR

RECOMMENDED:

  
DR. MICHAEL RICHARDS  
CSN INTERIM PRESIDENT

APPROVED AS TO FORM:

  
RICHARD L. HINCKLEY  
GENERAL COUNSEL, CSN

