

**REAL PROPERTY TRANSFER AGREEMENT AND AGREEMENT FOR
PAYMENT OF PARK REPAIRS BETWEEN THE CITY OF LAS VEGAS AND
SUMMERLIN COUNCIL**

THIS AGREEMENT is entered into as of the 17th day of June, 2009, by and between the CITY OF LAS VEGAS, a municipal corporation of the State of Nevada (the "City") and THE SUMMERLIN COUNCIL ("Summerlin"). The City and Summerlin are referred to collectively herein as the "Parties," and may be referred to individually herein as a "Party."

RECITALS

1. Summerlin is a Nevada non-profit corporation, and its primary purpose is to serve the residents of the Summerlin Master-Planned Community, by owning, operating, programming, and maintaining various Summerlin parks and regional open space. Summerlin currently owns over 350 acres of open space parks within the Summerlin Community, including parks and pool amenities previously conveyed to it by the City.
2. In early 2008, Summerlin approached the City with an offer to accept conveyance of, and accept sole responsibility for maintenance of, that certain real property owned and maintained by the City, commonly referred to as Hills Park (Hills Park may hereinafter be referred to as the "Site"), on the condition that the City pay for certain necessary repairs to the Site in the amount of \$370,900.00 contemporaneous with the conveyance of the Site to Summerlin. A depiction of Hills Park is attached hereto as Exhibit "A" and a legal description is attached hereto as Exhibit "B."
3. Because of the uncertain economic times, and the fact that the primary users of Hills Park are residents of the Summerlin master-planned community, the City agreed to review Summerlin's proposal for conveyance of Hills Park. The City's Department of Field Operations ("Field Operations") found that the City's maintenance and equipment costs for the park are approximately \$100,000.00 on an annual basis and utility costs are approximately \$50,000.00 on an annual basis.
4. City staff also undertook a review of the cost to the City for acquisition and construction of Hills Park, and found that Hills Park was fully constructed by The Howard Hughes Corporation and dedicated at no cost to the City pursuant to that certain development agreement by and between the City and The Howard Hughes Corporation.
5. Based upon NRS 268.008, the governing body of a city may sell, convey and dispose of real property for the common benefit.
6. In this case, the City of Las Vegas desires to convey Hills Park to Summerlin and pay for certain necessary repairs to the Site upon conveyance. In exchange, Summerlin must continue to utilize Hills Park as a park for the general public in perpetuity, and maintain the Site at a minimum standard as delineated by this Agreement. As this

conveyance will save the City in excess of \$150,000.00 every year in perpetuity, the City believes this Agreement to be for the common benefit.

NOW, THEREFORE, in consideration of the mutual terms, conditions, and covenants hereinafter set forth, the Parties agree as follows:

1. CONVEYANCE OF TITLE AND DELIVERY OF POSSESSION

Provided that the Parties are not in default under this Agreement and all conditions precedent to such conveyance have occurred, and subject to any mutually agreed upon extensions of time, conveyance to Summerlin of title to the Site shall be completed as provided herein. The City and Summerlin agree to perform all acts necessary to conveyance of title, to the extent required hereunder, in sufficient time for title to be conveyed in accordance with the foregoing provisions.

A. Conveyance of Title. In accordance with, and subject to the terms, covenants and conditions of this Agreement, the City agrees to convey the Site and Summerlin agrees to accept the Site.

B. Form of Deed. The Site shall be conveyed by grant, bargain and sale deed, and shall include, among other language that is normal and customary, the reverter language described herein at paragraph 9.

C. Escrow. The City agrees to open an escrow with an escrow company within ten (10) days of the approval of this Agreement by the City Council. The Agreement constitutes the joint escrow instructions of the Parties, and a copy of the Agreement executed by both Parties shall be delivered to the escrow agent upon the opening of escrow. The Parties shall provide additional escrow instructions as necessary and consistent with the terms of this Agreement.

The escrow agent shall prepare a grant, bargain and sale deed for approval by the Parties consistent with the terms of this Agreement, and the Parties shall deposit such deed with the escrow agent.

Upon close of escrow the City agrees to pay Summerlin \$370,900 for repairs to the Site.

D. Fees and Costs. The Parties shall each pay one-half of any fees or costs, recording or otherwise, associated with the escrow account and disbursement of the monies to Summerlin as indicated above.

E. The City shall convey to Summerlin fee simple title to the Site. The escrow agent shall, upon execution of this agreement by the Parties and delivery of this Agreement to the escrow agent, prepare and deliver a preliminary title report of all documents therein covering or relating to the Site to Summerlin. Summerlin shall then approve or disapprove of the exceptions listed by giving the

escrow agent written notice thereof. Failure to give written notice of approval or disapproval of the exceptions by the date of closing shall be deemed an approval of all exceptions. If Summerlin disapproves any exceptions, the City shall have thirty (30) calendar days from the date of the written notice of disapproval to agree to remove the exception. If the City does not agree to remove the exception, or does not respond to the objection within 30 calendar days from the date of the written notice of disapproval, this Agreement may be terminated by Summerlin. Summerlin may waive the objection by notifying the escrow agent in writing of its waiver and close escrow.

F. Title Insurance. Summerlin shall pay for its title insurance policy.

G. Taxes and Assessments. All taxes and assessments accrued subsequent to the closing shall be borne by Summerlin.

H. Closing. The escrow agent shall record the deed to the Site upon such time as the City and Summerlin have performed pursuant to the terms, covenants and conditions of this Agreement. The date of transfer shall be June 30, 2009.

I. Condition of the Site

1. "AS IS" CONDITION. Summerlin acknowledges that it has had the opportunity to investigate the Site including, but not limited to, the physical condition of the Site and that Summerlin is obtaining the Site "AS IS" and the City makes no warranty of any kind or nature, express, implied or otherwise, or any representations or covenants of any kind or nature in connection with the condition of the Site or any part thereof, and the City shall not be liable for any latent or patent defects therein or be obligated in any way whatsoever to correct or repair any such latent or patent defects. Summerlin acknowledges and agrees that neither the City nor any employees or representatives of the City have made any representations or warranties concerning the Site including, without limitation, the land, improvements, conditions and restrictions, water, topography, utilities, soil, subsoil, drainage, environmental or building laws, rules or regulations or any other representations or warranties of any nature whatsoever.

2. Hazardous Materials. To the best of the City's knowledge, as of the effective date of this Agreement, there are no toxic or hazardous substances, material, or waste (including without limitation, asbestos, polychlorinated biphenyls(PCBs), formaldehyde or other substances defined in 42 USC § 9601 et seq. and 42 USC § 6901 et seq.) existing on, about or at the Site, and that the Site is in full compliance with all federal, state and local laws, ordinances, regulations, rules and orders relating to health, safety, and environmental protection and storage, discharge or disposal of harmful, toxic or hazardous waste and water and air quality.

2. TERMS OF TRANSFER

A. Use of Site

1. Use of Site by Summerlin Restricted. Summerlin shall use the site solely as a public park. Summerlin shall not construct or permit any permanent use of the Site for commercial purposes, however, Summerlin may permit temporary special events provided that Summerlin obtain any necessary approval(s) and permit(s) from the City of Las Vegas pursuant to the Las Vegas Municipal Code. The park shall remain open to any and all of the residents of Las Vegas, and Summerlin shall not unreasonably restrict the public's access to the Site or in a manner which is inconsistent with Summerlin's standards at its other parks.

2. Site shall be Continuously Utilized as a Public Park in Perpetuity. Summerlin shall never discontinue use of the Site as a public park, and the Site shall be maintained, at a minimum, to the maintenance schedule attached hereto at Exhibit C. In addition, Summerlin shall comply with all governmental rules, regulations, ordinances, statutes and laws, and all covenants, conditions and restrictions pertaining to privately owned open space.

3. Failure to comply with these provisions may result in the reversion of the Site to the City pursuant to paragraph 9, herein.

B. Repairs Required. The City and Summerlin have both reviewed the Schedule of Repairs attached hereto as Exhibit D and have mutually agreed that the estimated costs are reasonable, both individually and in total. Summerlin understands and acknowledges that the monies paid to Summerlin pursuant to this Agreement for repairs to the Site may be less than the amount necessary to accomplish such repairs, and Summerlin agrees that it will not request from the City any further monies for such repairs. Conversely, the City understands and acknowledges that it will not request any return of monies should the repairs be completed for less cost than originally estimated.

1. Such repairs shall commence as soon as practical after the transfer of the Site to Summerlin.

2. Repair Completion Notification. It is anticipated that completion of repairs will be accomplished within nine (9) months of date of transfer, subject to force majeure events or other unforeseen circumstances. Summerlin shall notify the City in writing regarding the completion of repairs.

C. Amphitheatre Equipment

The City shall have the right to remove, no later than August 1, 2009, the amphitheatre equipment on the site that is owned by the City, specifically two (2) one ton chain hoists, and one (1) Knnack tool chest with tools and dollies.

D. Programming

City of Las Vegas Department of Leisure Services will be allowed to schedule and conduct Becker Community School's after school programs; teen scene, which occurs from 2:15 to 6:00 p.m. Monday through Friday on normal school days. Any and all other potential City of Las Vegas programming at Hills Park is to be proposed in advance to Summerlin and such programming will be approved or disapproved at the sole discretion of Summerlin.

3. **ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS**

This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original. This Agreement comprises pages 1 through 11, inclusive, and Exhibits A, B & C, D & E attached hereto and incorporated herein by reference, all of which constitute 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, representations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City and Summerlin, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and Summerlin.

4. **PARTIES TO THIS AGREEMENT**

A. The City

The City is a municipal corporation of the State of Nevada. The office of the City is located at 400 Stewart Avenue, Las Vegas, Nevada 89101. Copies of all notices sent to the City shall also be delivered to the following:

City Of Las Vegas
Real Estate and Utilities
400 Stewart Avenue, 4th Floor
Las Vegas, NV 89101

Las Vegas City Attorney
400 Stewart Avenue, 9th Floor
Las Vegas, NV 89101

B. Summerlin

Summerlin is a Non-Profit Corporation. The principal office of SUMMERLIN is located at:

1910 Spring Gate Lane
Las Vegas, Nevada 89134
Attention: Randy Ecklund

Wherever the term "Summerlin" is used herein, such term shall include any permitted nominee, assignee or successor in interest of Summerlin. No transfer or assignment of either Party's interest in this Agreement or of the Site shall be made prior to the transfer of property as set forth herein without the written consent of the other Party.

5. **REPRESENTATIONS AND WARRANTIES**

A. Representations and Warranties by City

The City represents and warrants to Summerlin that as of the date hereof and the date of property transfer:

1. The City is a municipal corporation of the State of Nevada.
2. The City has all requisite power and authority to enter into and perform its obligations under this Agreement.
3. By proper action of the City, the City's signatories have been duly authorized to execute and deliver this Agreement.
4. To the City's actual knowledge, no condemnation, eminent domain or similar proceedings have been instituted or threatened against the Hills Park.
5. To the City's actual knowledge, there are no legal actions, suits or proceedings pending or threatened before any judicial body or any

governmental or quasi-governmental authority against the Hills Park or against the City which would inhibit the City's ability to perform its obligations under this Agreement.

6. To the City's actual knowledge, the execution, delivery and performance of this Agreement by the City will not (i) conflict with or be in contravention of any provision of law, order, rule or regulation applicable to the City or the Hills Park, or (ii) result in any lien, charge or encumbrance of any nature on the Hills Park other than as permitted by this Agreement.
7. The execution of this Agreement by the City does not violate any provision of any other agreement to which the City is a party.
8. Except as may be specifically set forth herein, no approvals or consents not heretofore obtained by the City are necessary in connection with the execution of this Agreement by the City or with the performance by the City of its obligations hereunder.
9. As used in this Agreement, the term "the City's actual knowledge" means the actual knowledge of the members of the City Council, the City Manager's Office, the City Attorney's Office, or of the Managers of any of the Departments within the City, without a duty to investigate City files.

B. Representations and Warranties of Summerlin

Summerlin represents and warrants to the City that as of the date hereof and the date of property transfer:

1. Summerlin is a non-profit corporation duly organized and existing under the laws of the State of Nevada.
2. Summerlin has all requisite power and authority to carry out its business as now and whenever conducted and to enter into and perform its obligations under this Agreement.
3. By proper action of Summerlin, Summerlin's signatories have been duly authorized to execute and deliver this Agreement.
4. The execution of this Agreement by Summerlin does not violate any provision of any other agreement or other document to which Summerlin is a party or otherwise.

5. Except as may be specifically set forth in this Agreement, no approvals or consents not heretofore obtained by Summerlin are necessary in connection with the execution of this Agreement by Summerlin or with the performance by Summerlin of its obligations hereunder.
6. Neither Summerlin nor any of its principals is currently a debtor in a case under the Bankruptcy Code (Title 11 U.S.C.), is the subject of an involuntary petition under the Bankruptcy Code, has made an assignment for the benefit of creditors or is insolvent and unable to pay its debts as they become due.

7. NRS 268.059, 268.061 AND 268.062 ARE NOT APPLICABLE TO THIS TRANSACTION.

The conveyance of the Site to Summerlin pursuant to this Agreement is accomplished without consideration, and as such, the conveyance is neither a "sale or lease" of real property by the City and as such, NRS 268.059, NRS 268.061, or NRS 268.062 do not apply to this transaction.

8. GENERAL DEFAULT.

A. Notice; Opportunity to Cure. In the event of any noncompliance with any provision of this Agreement, the Party alleging noncompliance shall deliver to the other by certified mail a ten (10) calendar 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 ten (10) calendar day period the Party alleged to be in default shall not be considered in default for the purposes of the remedies for default as provided herein.

If the default cannot be reasonably cured within the ten (10) day cure period, the non-compliant Party may request a reasonable extension of time from the other Party to cure the default. Approval of such extension of time by the Party alleging the non-compliance shall not be unreasonably withheld. If the default is corrected, then no default shall exist and the Party alleging the non-compliance party shall take no further action.

B. General Default; Remedies. If an alleged default is not corrected within the relevant cure period, above, the non-complaint party is in default, the party alleging non-compliance may declare the breaching party in default and elect any one or both of the following non-exclusive remedies:

1. Termination of Agreement. The non-defaulting Party may terminate this Agreement upon written notice to the Party in default; or

2. Adjudication of Dispute. Upon a declaration of default, either Party may institute legal proceedings in a court of competent jurisdiction consistent with the terms of this Agreement.

9. SPECIFIC DEFAULT--CITY RE-ENTRY AND REPOSSESSION.

A. Generally. The conveyance of the Site to Summerlin is predicated upon the promise by Summerlin to use the Site as provided by paragraph 2. If Summerlin fails to comply with paragraph 2, Summerlin may be declared in non-compliance with the terms of this Agreement, and after appropriate notice and an opportunity to cure as provided in paragraph 9 (B) below, the City may terminate this Agreement, and at the City's sole discretion, the City may re-enter and repossess the Site conveyed, together with any improvements thereon as provided below.

B. Notice, Opportunity to Cure. In the event that either party breaches this Agreement, the non-breaching Party shall deliver to the non-compliant Party by certified mail a ten (10) calendar 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 ten (10) calendar day period that the non-compliant Party is alleged to be in default, the non-compliant Party shall not be considered in default for the purposes of the remedies for default as provided herein.

If the default cannot be reasonably cured within the ten (10) day cure period, the non-compliant Party may request a reasonable extension of time from the other Party to cure the default. Approval of such extension of time by the Party alleging the non-compliance shall not be unreasonably withheld. If the default is corrected, then no default shall exist and the Party alleging the non-compliance party shall take no further action.

C. Specific Default; Remedies. If the alleged default is not corrected within the relevant cure period, above, the non-complaint party is in default, the party alleging non-compliance may declare the breaching party in default and elect any one or both of the following non-exclusive remedies:

1. Termination of Agreement. The non-defaulting Party may terminate this Agreement upon written notice to the Party in default; and/or

2. Re-entry and Repossession. In the event of an uncured specific default pursuant to this paragraph "C" and termination of this Agreement, the City shall have the right at its option to re-enter and repossess the Site transferred, together with any improvements thereon, and Summerlin acknowledges and agrees to return the Site heretofore conveyed to the City within ten (10) calendar days after the date of termination; provided,

however, that the such ten (10) days period shall be stayed while Summerlin pursues any legal or equitable remedies available to it.

Failure to return the Site to the City shall entitle the City to sue Summerlin for return of the Site. Such right to re-enter and repossess shall be subordinate and subject to, and be limited by and shall not defeat, render invalid, or limit any deed of trust, mortgage or other security instrument.

The grant, bargain and sale deed shall contain appropriate reference to give effect to the City's right, as set forth in this paragraph "C" to terminate and re-vest in the City the Site. The right of re-entry and repossession shall be set forth in the Grant, Bargain and Sale deed and shall run with the land.

10. UNAVOIDABLE DELAY.

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 other acts of God.

11. VENUE.

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

12. 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.

13. 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.

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14. **APPROVAL OF AGREEMENT BY CITY.**

This Agreement, when executed by Summerlin and delivered to the City, must be authorized, executed and delivered by the City to be effective. The effective date of this Agreement shall be the date when this Agreement has been signed by both parties, the later date of execution being the effective date.

June 17, 2009
Date of execution

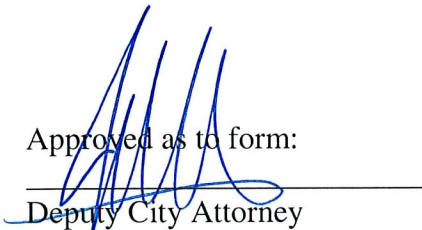
CITY OF LAS VEGAS

By: 
Oscar B. Goodman, Mayor

ATTEST:


Beverly K. Bridges, City Clerk

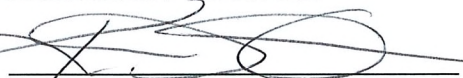
Approved as to form:


Deputy City Attorney

“City”

_____, 2009
Date of execution

THE SUMMERLIN COUNCIL

By: 

Authorized Signatory

“Summerlin”

EXHIBIT "A"



Hills Park



EXHIBIT "B"

LEGAL DESCRIPTION OF HILLS

All that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

ALL OF LOT 2, AS SHOWN BY MAP THEREOF ON FILE IN FILE 74, PAGE 73 OF PARCEL MAPS IN THE CLARK COUNTY RECORDRE' OFFICE, CLARK COUNTY, NEVADA, LYING WITHIN THE NORTHWEST QUARTER (NW1/4) OF SECTION 20, TOWNSHIP 20 SOUTH, RANGE 60 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA.

CONTAINING 7.29 ACRES, MORE OR LESS

EXHIBIT "C"

HILLS PARK MAINTENANCE PROGRAM

SCHEDULE

Personnel shall be available for landscaping and facility maintenance Monday through Friday during normal business hours. In addition, landscape and facility cleanup personnel and irrigation personnel shall visit the site on Saturdays and Sundays to insure reasonable cleanliness in landscape areas, restrooms, and activity areas and proper operation of irrigation systems. A 24-hour on call service is required for emergencies.

SITE VISITS

At regular intervals a supervisor shall walk the property with maintenance personnel to insure the maintenance crews are properly attending to the maintenance needs of the property and also to provide appropriate direction for any general repairs and replanting needs.

GENERAL PRACTICES

In accordance with good maintenance standards and practices, including all applicable codes, laws and regulations, do any and all work necessary to promote and maintain the healthy growth and attractive appearance of all landscape areas. Additionally, clean and repair all site amenities in a safe and timely manner. General scope of work consists of furnishing all labor, materials and equipment necessary to provide complete and continuous maintenance of the following:

- Park facilities; restrooms, playgrounds, shade structures, activity areas, site furniture, sidewalks, tennis courts and amphitheater.
- Plant materials.
- Irrigation systems, including everything downstream from the water meters.
- Area trash removal.
- Site lighting, parking areas, area signage.

Routine maintenance services should include:

- Restroom janitorial services a minimum of five days a week.
- Monthly inspection and repair of all site lighting and signage.
- Weekly mowing of turn areas March through October; semi-monthly mowing November through February.
- Bimonthly/quarterly fertilization of turf.
- Proper fertilization/pest control program for shrubs and trees to preserve and enhance health.
- Routine and proper pruning of all plant materials to promote proper growth and plant health.
- Semiannual plant replacement of damaged or dead materials.
- Routine inspection and timely cleaning/repair of site amenities; walking paths, shade structures, play equipment, play courts, benches, barbecue grills, etc.
- Routine removal of pet refuse.

EXHIBIT "D"

HILLS PARK SUMMARY OF PROPOSED REPAIRS

Paint/Concrete Surface Repairs:

Large Pavilion	\$2,800
Wrought Iron	1,900
Small Shade Structures (6)	4,500
Wooden Shade Structure	1,800
Handrails	320
Small pillar lights	400
Large light poles	600
Restrooms	950
Pony Walls	4,800
Playground Area & Equipment	3,200
BBQ's	360
Benches	2,385
Tennis Court Lights	450
Tennis Court Walls	1,600
Tennis Court Fencing	800
Stained Concrete (13,000 sf)	26,000
	<u>\$52,865</u>

Repair of Play Courts:

Resurface Tennis Courts (2)	\$23,000
Resurface Basketball Court (1/2)	6,282
Replace Tennis Fencings/Windscreen	24,965
<u>Repair Retaining Wall/Drainage</u>	<u>46,500</u>
	\$100,933

Park Furniture/Equipment:

Tables/Trash Receptacles (15 each)	\$33,033
Basketball Pole/Backboard (allowance)	5,000
	<u>\$38,033</u>

Miscellaneous:

Landscape/Irrigation Repairs	\$55,691
Amphitheatre -- Bandshell (allowance)	50,000
Drainage Channel (allowance)	25,000
	<u>\$130,691</u>

Total Projected Repair Expenses: **\$370,900**

EXHIBIT "E"

DISCLOSURE OF PRINCIPALS

In compliance with City of Las Vegas Resolution R-105-99, the undersigned certifies that Summerlin is a Nevada non-profit corporation, required to provide ownership disclosure under federal law, and that a current copy of such federal disclosure is submitted herewith.

THE SUMMERLIN COUNCIL :

By: 

Authorized Signatory

Subscribed and sworn to before me this
1st Day of June, 2009.


Notary Public

