

**SETTLEMENT AGREEMENT FOR EARTHWORK QUANTITY RELATED ISSUES
ON THE
DESERT NATURE PRESERVE PROJECT**

This Settlement Agreement ("Agreement") is made and entered into this 7TH day of July, 2010 by and between the City of Las Vegas, a municipal corporation in the State of Nevada (the "City") and Hill Clark and Associates, LLC, a Nevada limited liability company ("Hill Clark"). City and Hill Clark are individually or collectively referred to herein as the "Settling Party" or "Settling Parties."

RECITAL

WHEREAS, On January 16, 2007, City's City Council approved a contract with Hill Clark ("Design Contract") providing for design of Desert Nature Preserve Project, which included 4,000 linear feet of 12-foot wide concrete trail with five feet of landscaping on Hualapai Way north of Alta Drive (the "Project"); and

WHEREAS, City and Hill Clark, through their respective authorized representatives, have participated in arms length negotiations related to earthwork quantity issues on the Project; and

WHEREAS, without any admission of liability, the Settling Parties now desire to settle the earthwork quantity issues on the Project, and to release each other from certain claims subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing facts and terms, conditions and covenants set forth below, the Settling Parties hereto agree as follows:

**ARTICLE I
SETTLEMENT AMOUNT**

The Settling Parties hereby agree that Hill Clark will pay City Two Thousand Five Hundred Dollars (\$2,500.00) (the "Settlement Amount") in consideration of execution of this Agreement, subject to the terms and conditions contained herein, by City.

Hill Clark shall pay the Settlement Amount within thirty (30) days after approval of this Agreement by City's City Council.

**ARTICLE II
RELEASE**

In consideration for Hill Clark paying the Settlement Amount, City hereby releases Hill Clark, its officers, employees and agents from any and all current or future claims, known and unknown, related to the earthwork quantity issues on the Project.

Specifically excluded from release are any rights City has under the Design Contract, exclusive of release provide for herein related to the earthwork quantity issues on the Project.

Hill Clark hereby represents that its counsel of record or other representative has explained the effect of the execution of this Agreement and based upon that explanation, Hill Clark understands and acknowledges the legal significance and the consequences of the claims being released by this Agreement. Hill Clark further represents that it understands and acknowledges the legal significance and consequence of the release of unknown current or future claims related to design of the Project and/or for any claims or issues against City arising from the earthwork quantity issues on the Project.

ARTICLE III REPRESENTATION AND WARRANTY

The Settling Parties hereby represent and warrant they have not heretofore assigned or transferred, or purported to assign or transfer, to any person not a party hereto, claims or rights as to any of the matters released and referenced herein, or any part or portion thereof. The Settling Parties further agree to indemnify and hold each other, their officers, employers, agents, representatives, and consultants harmless from and against any claim, demand, damage, liability, accounting, reckoning, obligations, costs, expense, lien, action or cause of action (including the payment of attorneys' fees and costs actually incurred, whether or not litigation has been commenced), arising out of any such assignment or transfer in violation of this representation and warranty. Hill Clark further agrees to defend, indemnify and hold City or its officers harmless from any claims or causes of action, known or unknown, from Hill Clark's subconsultant(s) related to the claim in this Agreement. City agrees to notify Hill Clark immediately of any claims or causes of action, which are served or received by it. Hill Clark's obligation to defend City commences once notified by City or once it is notified by the claimant or litigant. Nothing contained herein is intended to release or indemnify for any claims except the claims contained in this Agreement.

ARTICLE IV NO ADMISSION OF LIABILITY

It is further understood that this Agreement is a compromise of disputed claims existing between the Settling Parties and the execution of this Agreement is not to be construed as an admission of liability on the part of Settling Parties and the Settling Parties deny liability therefore and that this Agreement intends merely to avoid the cost of further litigation and buy its peace.

ARTICLE V COVENANT NOT TO SUE

The Parties covenant and agree they will forever refrain from instituting, prosecuting, maintaining, proceeding on or advising a lawsuit or arbitration action be commenced against the other which arises out of, or is or may be, in whole or in part, based upon, related to, or connected with the claim in this Agreement.

ARTICLE VI MISCELLANEOUS REPRESENTATIONS AND WARRANTIES

1. Each Settling Party has received independent legal advice from its attorney with respect to the advisability of making the settlement provided for herein and the execution of this Agreement.
2. Neither Settling Party, nor any officer, agent, council member, partner, employee, representative, trustee or attorney of or for any Settling Party, has made any statement or representation to the other Settling Party regarding any fact relied upon entering into this Agreement and each Settling

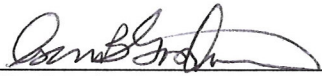
Party is not relying upon any statement, representation or promise of the other Settling Party, and officer, agent, council member, partner, employee, representative, trustee or attorney of the Settling party in executing this Agreement, or in making the settlement provided for herein, except as expressly stated in this Agreement.

3. Each Settling Party to this Agreement has made such investigations of the facts pertaining to this Agreement and the settlement set forth herein, and all of the matters pertaining thereto, as it deems necessary.
4. Each Settling Party, or responsible representative thereof, has read this Agreement and understands the contents thereof. The person(s) executing this Agreement on behalf of the Settling Party is empowered to do so and thereby bind the Settling Party.
5. In entering into this Agreement and the settlement provided for herein, each Settling Party assumes the risk of any misrepresentation or mistake. This Agreement is intended to be, and hereby is, final and binding upon the Settling Parties, regardless of any claims of misrepresentations, promise made without intent to perform, concealment of act, mistake of fact or law, or of any other circumstance whatsoever.
6. Each Settling Party warrants and represents that (i) this Agreement in its reduction to final written form is a result of extensive good faith arms length negotiations between the Settling Parties through their respective representatives; (ii) said representatives have carefully reviewed and examined this Agreement for execution by the Settling Parties, or any of them; and (iii) any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement.
7. The Settling parties acknowledge that this Agreement represents a good faith settlement between Hill Clark and City, and is intended to bar all future claims by the Parties that are related to the claims in this Agreement in the past and in the future.
8. The prevailing party in any action brought to enforce the terms of this Agreement shall be entitled to its reasonable attorneys' fees and costs incurred in enforcing this Agreement.
9. This Agreement shall be deemed to have been executed and delivered within the State of Nevada, and the rights and obligations of the Settling Parties hereto shall be construed and enforced in accordance with and governed by the laws of the State of Nevada. Claims to enforce this Agreement are subject to arbitration in accordance with the rules of the American Arbitration Association.
10. This Agreement is the entire agreement between the Settling Parties with respect to the Project, and supersedes all prior and contemporaneous oral and written agreements and discussions.
11. This Agreement is binding upon and shall inure to the benefit of the Settling Parties hereto and each of their present and former respective heirs, successors in interest, agents, employees, servants, principals, council members, assigns, assignors, executors, guarantors, attorney's associates, affiliates and/or any other person or entity otherwise related or connected to the parties to this Agreement.

12. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall, nevertheless, continue in full force and effect, without being impaired in any manner whatsoever.
13. Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, all such counterparts will constitute the same Agreement and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.
14. The Settling Parties hereby certify that each has read all of the Agreement and fully understand the same.

IN WITNESS WHEREOF, the Settling Parties have executed this Agreement as of the day and year first written above.

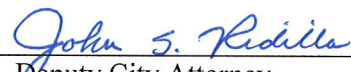
CITY OF LAS VEGAS

By: 
Oscar B. Goodman, Mayor

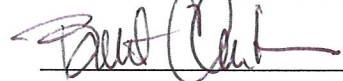
ATTEST:

By:  7/9/10
Beverly K. Bridges, ~~CMC~~ MMC, City Clerk Date

APPROVED AS TO FORM:

By:  6/1/10
Deputy City Attorney Date

HILL CLARK AND ASSOCIATES, LLC

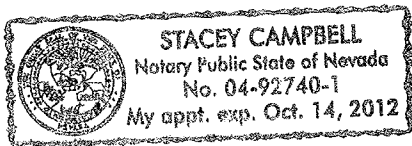
By: 

Name: BRENT CLARK

Title: COO

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

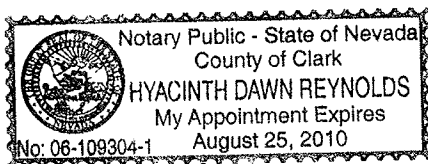
On this 9th day of July, 2010, before me, the undersigned Notary Public in and for said County and State, appeared Oscar B. Goodman, as Mayor of the City of Las Vegas, known to me to be the person who executed the above and foregoing instrument, and who acknowledged to me that he did so freely and voluntarily and for the purposes mentioned therein.



Stacey L Campbell
Notary Public

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

On this 28th day of May, 2010, before me, the undersigned Notary Public in and for said County and State, appeared BRENT B CLARK, of Hill Clark and Associates, LLC, known to me to be the person who executed the above and foregoing instrument, and who acknowledged to me that he did so freely and voluntarily and for the purposes mentioned therein.



Hyacinth Dawn Reynolds
Notary Public