DOWNTOWN LAS VEGAS

City of Las Vegas Redevelopment Agency
Council Chambers • 400 Stewart Avenue
Phone - 229-6011 [Voice] 386-9108 [TDD]

MINUTES

Meeting of
NOVEMBER 7, 2001
9:00 A.M.

(Following the morning session of the City Council Meeting)

Called To Order: 1:07 P.M.
Adjourned: 2:03 P.M.

REDEVELOPMENT AGENCY	PRESENT	ABSENT	EXCUSED
CHAIRMAN OSCAR B. GOODMAN	☒	☐	☐
MEMBER GARY REESE - VICE-CHAIRMAN	☒	☐	☐
MEMBER MICHAEL J. McDONALD	☒	☐	☐
MEMBER LARRY BROWN	☒	☐	☐
MEMBER LYNETTE BOGGS McDONALD	☒	☐	☐
MEMBER LAWRENCE WEEKLY	☒	☐	☐
MEMBER MICHAEL MACK	☒	☐	☐
VIRGINIA VALENTINE, EXECUTIVE DIRECTOR	☒	☐	☐
BRADFORD R. JERBIC. CITY ATTORNEY	☒	☐	☐
BARBARA JO RONEMUS, SECRETARY	☒	☐	☐

APPROVED BY REFERENCE: DECEMBER 19, 2001

ATTEST:

SECRETARY

CHAIRMAN

City of Las Vegas

REDEVELOPMENT AGENCY MEETING
CITY HALL, 400 STEWART AVENUE
COUNCIL CHAMBERS
CITY OF LAS VEGAS INTERNET ADDRESS: http://www.ci.las-vegas.nv.us
WEDNESDAY, NOVEMBER 7, 2001
9:00 A.M.
(Following Morning Session of the City Council Meeting)

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR ACTION UNLESS SPECIFICALLY NOTED OTHERWISE

THESE PROCEEDINGS ARE BEING PRESENTED LIVE ON KCLV, CABLE CHANNEL 2 THE PROCEEDINGS WILL BE REBROADCAST ON KCLV CHANNEL 2 THE WEDNESDAY OF THE MEETING AT 8 00 PM AND ARE ALSO REBROADCAST ON FRIDAY AT 4 00 AM, SATURDAY AT 7 00 PM, SUNDAY AT 7 00 AM AND THE FOLLOWING MONDAY AT 10 00 AM

I CALL TO ORDER

II ANNOUNCEMENT RE COMPLIANCE WITH THE OPEN MEETING LAW

III APPROVAL OF THE MINUTES BY REFERENCE FOR THE MEETING OF OCTOBER 17, 2001

IV NEW BUSINESS

A ABEYANCE ITEM - DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER FOR PROPERTY BOUNDED BY I-15, GRAND CENTRAL PARKWAY, ALTA DRIVE AND F STREET (APN #139-335-110-02, 139-336-100-01) (TAX INCREMENT REVENUES) - WARD 5 (WEEKLY)

B DISCUSSION AND POSSIBLE ACTION REGARDING THE TERMINATION OF THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND CLARK STREET ASSOCIATES REGARDING THE PARCEL LOCATED AT 4TH AND CLARK STREETS (APN 139-34-311-126, 127, & 128) - WARD 3 (REESE)

C DISCUSSION AND POSSIBLE ACTION REGARDING REIMBURSEMENT FOR IMPROVEMENTS MADE TO AGENCY OWNED PARCEL LOCATED AT 4TH AND CLARK STREETS (APN 139-34-311-126, 127, & 128) (REDEVELOPMENT PROJECT FUNDS - $75,000) - WARD 3 (REESE)

D RA-5-2001 - PUBLIC HEARING, DISCUSSION AND POSSIBLE ACTION REGARDING A RESOLUTION FINDING THE PROJECT PROPOSED BY THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND PIONEER ENDEAVORS, LLC TO BE IN COMPLIANCE WITH AND IN FURTHERANCE OF THE GOALS AND OBJECTIVES OF THE AGENCY'S REDEVELOPMENT PLAN AND AUTHORIZE THE EXECUTION BY THE AGENCY (APN 139-34-311-126,127 & 128) (TAX INCREMENT FUNDS - $300,000) - WARD 3 (REESE) [NOTE THIS ITEM RELATED TO CITY COUNCIL ITEM #95]

E DISCUSSION AND POSSIBLE ACTION REGARDING THE ASSIGNMENT OF THE DISPOSITION AND DEVELOPMENT AGREEMENT AWARDED TO WLVD, LLC FOR THE DEVELOPMENT OF THE 11 ACRE SITE LOCATED AT THE CORNER OF H STREET AND OWENS AVENUE (SITE PARCEL B) TO NUCLEUS INVESTMENTS, INC - WARD 5 (WEEKLY)

V CITIZEN PARTICIPATION ITEMS RAISED UNDER THIS PORTION OF THE AGENDA CANNOT BE DELIBERATED OR ACTED UPON UNTIL THE NOTICE PROVISION OF THE OPEN MEETING LAW HAVE BEEN MET IF YOU WISH TO SPEAK ON A REDEVELOPMENT AGENCY MATTER NOT LISTED ON THE AGENDA, PLEASE STEP UP TO THE PODIUM AND CLEARLY STATE YOUR NAME AND ADDRESS PLEASE LIMIT YOUR REMARKS TO THOSE MATTERS UNDER THE EXPRESS JURISDICTION OF THE REDEVELOPMENT AGENCY IN CONSIDERATION OF OTHERS, AVOID REPETITION, AND LIMIT YOUR COMMENTS TO NO MORE THAN THREE (3) MINUTES TO ENSURE ALL PERSONS EQUAL OPPORTUNITY TO SPEAK, EACH SUBJECT MATTER WILL BE LIMITED TO TEN (10) MINUTES

Facilities are provided throughout City Hall for the convenience of disabled persons Special equipment for the hearing impaired is available for use at meetings If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting The City's TDD number is 386-9108

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS
Downtown Transportation Center, City Clerk's Board, Senior Citizen Center, 450 East Bonanza Road, Clark County Government Center, 500 So Grand Central Parkway, Court Clerk's Office Bulletin Board, City Hall Plaza, City Hall Plaza, Special Outside Posting Bulletin Board

AFFIDAVIT OF MAILING

(Mailing required under the provisions of NRS Chapter 241)

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

Doreen Araujo, an employee of the City of Las Vegas, Nevada being first duly sworn, deposes and says that on the 1st day of **November, 2001**, a copy of NOTICE, the attached of which is a true and correct copy of the Public Hearing – re: **Redevelopment Agency Meeting** to be held on the 7th day of **November, 2001** was deposited in the United States Mail, Postage prepaid, First Class Certified Mail, to each person and/or organization whose name appears on the list maintained in the Office of the City Clerk.

Doreen Araujo

SIGNATURE

City Clerk
DEPARTMENT

Subscribed and sworn to before me this

1st day of November, 2001

Beverly K Bridges
NOTARY PUBLIC in and for said County and State

Notary Public-State Of Nevada
COUNTY OF CLARK
BEVERLY K. BRIDGES
My Appointment Expires
July 10, 2005
No. 93-4081-1

AFFIDAVIT OF POSTING
(Posting required under the provisions of NRS Chapter 241)

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

Doreen Araujo, an employee of the City of Las Vegas, Nevada being first duly sworn, depose and say that on the **2nd** day of **November, 2001**, at the hour of **8:30 a.m.** there were posted copies of a NOTICE, the attached of which is a true and correct copy of a **Redevelopment Agency Meeting** to be held on the **7th** day of **November, 2001** at **9:00 a.m.**, Las Vegas, Nevada; to be posted on Public Bulletin Boards at the following locations:

D 1. On the City Clerk's Bulletin Board at the Downtown Transportation Center;

D 2. In the Senior Citizens Center, 450 E. Bonanza Road;(Faxed)

D 3. Clark County Government Center, 500 S. Grand Central Parkway; (Faxed)

D 4. On the Public Bulletin Board at the Plaza Level of City Hall, 400 Stewart Avenue (near the entrance to the Court Clerk's Office);

D 5. On the Special Bulletin Board at the Plaza Level of City Hall, 400 Stewart Avenue (in the walkway area between Metro and Municipal Court); and

Doreen Araujo

Signature

City Clerk
DEPARTMENT

Subscribed and sworn to before me

this 2nd day of November, 2001

Beverly K Bridges

NOTARY PUBLIC in and for said County and State

Notary Public-State Of Nevada
COUNTY OF CLARK
BEVERLY K. BRIDGES
My Appointment Expires
July 10, 2005
No. 93-4081-1

City of Las Vegas

REDEVELOPMENT AGENCY AGENDA
MEETING OF: NOVEMBER 7, 2001

THESE PROCEEDINGS ARE BEING PRESENTED LIVE ON KCLV, CABLE CHANNEL 2. THE PROCEEDINGS WILL BE REBROADCAST ON KCLV CHANNEL 2 THE WEDNESDAY OF THE MEETING AT 8:00 PM AND ARE ALSO REBROADCAST ON FRIDAY AT 4:00 AM, SATURDAY AT 7:00 PM, SUNDAY AT 7:00 AM AND THE FOLLOWING MONDAY AT 10:00 AM.

I CALL TO ORDER

II ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW

MINUTES:
CALLED TO ORDER BY CHAIRMAN GOODMAN AT 1:07 P.M

PRESENT: CHAIRMAN GOODMAN and MEMBERS REESE, M. McDONALD, BROWN, L.B. McDONALD, WEEKLY, and MACK

ALSO PRESENT: VIRGINIA VALENTINE, Executive Director, BRAD JERBIC, City Attorney, and BARBARA JO RONEMUS, Secretary

ANNOUNCEMENT MADE: Posted as follows:

Downtown Transportation Center, City Clerk's Board
Senior Citizens Center, 450 E. Bonanza Road
Clark County Government Center, 500 S. Grand Central Pkwy.
Court Clerk's Bulletin Board, City Hall
City Hall Plaza, Posting Board

(1:07)
3-2249

City of Las Vegas

Agenda Item No. III

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7, 2001

DEPARTMENT: OFFICE OF BUSINESS DEVELOPMENT
DIRECTOR: LESA CODER

SUBJECT:

APPROVAL OF THE MINUTES BY REFERENCE FOR THE MEETING OF OCTOBER 17, 2001

MOTION:

REESE - APPROVED by Reference – UNANIMOUS

MINUTES:

There was no discussion.

(1:07 – 1:08)

3-2259

City of Las Vegas

Agenda Item No.: **IV-A**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7,2001

DEPARTMENT: BUSINESS DEVELOPMENT
DIRECTOR: LESA CODER

SUBJECT:

ABEYANCE ITEM - DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER FOR PROPERTY BOUNDED BY I-15, GRAND CENTRAL PARKWAY, ALTA DRIVE AND F STREET (APN #139-335-110-02, 139-336-100-01) (TAX INCREMENT REVENUES) - WARD 5 (WEEKLY)

Fiscal Impact

X	**No Impact**	**Amount:**
	Budget Funds Available	**Dept./Division:**
	Augmentation Required	**Funding Source:**

PURPOSE/BACKGROUND:

World Market Center has submitted a Memorandum of Understanding (MOU) regarding the development of property bounded by I-15, Alta, Grand Central Parkway, and F Street. The MOU requests long-term assistance from the Redevelopment Agency through a rebate from the related tax increment.

RECOMMENDATION:

None

BACKUP DOCUMENTATION:

1. Agenda Memo
2. Memorandum of Understanding including exhibits consisting of "A" The Property and "B" Disclosure of Principals
3. Locator Map

Submitted at the meeting: tax distribution document and summary of expected benefits from World Market Center
Video presented but not submitted

MOTION:

WEEKLY - APPROVED as recommended to move forward with the MOU and to negotiate street improvements on Discovery Drive through Martin Luther King; that the business operate for at least five days out of the week; that all phases subsequent to Phase I be scheduled before the Agency for a public hearing to ensure continuity with the development plan for the total 61 acres; that all development plans be reviewed with the master developer of the 61-acres and with the City as far as permits and approvals; and directing staff to negotiate for a limit on the retail activity as part of the DDA – UNANIMOUS

City of Las Vegas

Agenda Item No.: **IV-A**

REDEVELOPMENT AGENCY MEETING OF NOVEMBER 7, 2001
Business Development
Item IV-A – Memorandum of Understanding between the City of Las Vegas Redevelopment Agency and World Market Center

MOTION - Continued:
NOTE: COUNCILMAN BROWN disclosed that even though he has a working relationship with Mandalay Sports Entertainment, which is in partnership with Southwest Sports, he would be able to vote objectively on this application

MINUTES:
NOTE: A Verbatim Transcript is made a part of the Final Minutes.

APPEARANCES:
STEVE HOUCHENS, Deputy City Manager
MARK FIORENTINO, Attorney, Kummer, Kaempfer, Bonner, and Renshaw, 3800 Howard Hughes Parkway, representing World Market Center
RICHARD JOST, representing the World Market Center
DARYL ALTERWITZ, Walker Furniture, 301 S. Martin Luther King Blvd.
VIRGINIA VALENTINE, Executive Director of the Redevelopment Agency
LESA CODER, Director, Office of Business Development
JORGE CERVANTES, Public Works

(1:08 – 1:48)
3-2273/4-1

City of Las Vegas

AGENDA MEMO

REDEVELOPMENT AGENCY MEETING DATE: NOVEMBER 7, 2001
DEPARTMENT: OFFICE OF BUSINESS DEVELOPMENT
ITEM DESCRIPTION: DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER

The World Market Center (WMC) has expressed an intent to develop 57 acres bounded by Alta, I-15, F Street, and Grand Central Parkway. WMC has represented that the development will include 7.5 million square feet of comprehensive home and office furnishing show room and other ancillary facilities. Their estimated cost of the total project is over $950 Million. Phase one of construction would begin in 2002 with the final phase being completed in 2007.

WMC has approached the City Council and the Redevelopment Agency with a request for a form of tax abatement through the return of 50% of the tax increment that will be directly generated by this project over the next 20 years.

Procedurally, this process involves the Agency entering into a Memorandum of Understanding with WMC which provides that the parties will negotiate and execute a final agreement ("WMC Agreement") no later than July 1, 2002 for the creation of one or more promissory notes, referred to as Tax Increment Revenue Developer Notes (Notes). The Notes are created as a vehicle to pay for the costs of certain defined improvements over a subsequent term not-to-exceed 20 years. The Notes will be issued as improvements are made to the property and the amount of incremental taxes identified. The face value of the notes will be determined by the present value of future incremental taxes paid to the Redevelopment Agency as a direct result of tangible improvements to the development. The Notes may not be issued after 10 years from the date of the WMC Agreement.

The terms of the MOU that is submitted by WMC fixes the maximum annual payment for the notes, both principal and interest, at an amount no greater than 50 percent of the incremental property taxes generated from this parcel by this development. The MOU is essentially an agreement to rebate incremental property taxes through the use of a subordinate debt instrument. Significant conditions include:

- WMC requests reimbursement from the Agency through the use of promissory notes. They estimate this amount to be as high as $44 million over 20 years.
- The project will comply with NRS 279 which defines the requirements of all Redevelopment activities including prevailing wages, public bidding, and findings of the legislative body (City Council).
- Payments would be due on an annual basis.
- The term of the notes would be congruent with the remaining life of the Agency up to 20 years.

- The notes would be governed by three limitations: 1) the total amount would not exceed 10% of the total project cost; 2) the annual debt service would not exceed 50% of the annual tax increment generated by this particular project; and 3) the eligible uses of the funds are limited to primarily infrastructure improvements and governmental fees.
- The notes would accrue interest at a rate to be determined at a later date.
- Notes will be issued only upon (1) the City has approved the plans for each phase of the project; (2) WMC has verified the transfer of land to a developer for a phase of the development; (3) WMC has provided evidence of financing; and (4) WMC has signed pre-leases for at least 70% of the space for each phase.
- The notes will be subordinate to any existing and future debt of the Agency with the exception of debt owed to the City of Las Vegas.
- The notes cannot be assigned without the written consent of the Agency.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("**MOU**") is made as of the 3rd day of May, 2001, by and between WORLD MARKET CENTER, LLC, a Nevada limited liability company ("**WMC**"), and the City of Las Vegas Redevelopment Agency, a public body duly existing in the State of Nevada (the "**Agency**"). WMC and the Agency are sometimes referred to herein collectively as the "**Parties**."

RECITALS

A. WMC's affiliate, Furniture Mart Enterprises, LLC ("Furniture Mart") has entered into an agreement with the Union Pacific Railroad Company ("Union Pacific") to purchase approximately fifty-seven (57) acres of undeveloped real property in Las Vegas, County of Clark, Nevada, as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "**Property**" provided that the term Property shall not include any of such land that is not purchased from Union Pacific by a Developer as defined herein or Furniture Mart).

B. WMC directly, or through its affiliates, subsidiaries, their respective Property buyers and/or tenants (each a "Developer" and collectively the "Developers") would like to construct on the Property in multiple phases a 7.5 million square foot comprehensive home and office furnishings complex, and ancillary facilities and improvements, collectively to be known as the World Market Center (the "**Project**").

C. WMC has determined that in order to properly develop the Project on the Property the Developers need to construct certain public infrastructure and amenities which is lacking based on the current state of public infrastructure and amenities in the City of Las Vegas Redevelopment Area encompassing the Property. Consequently, WMC has further determined that Developers need to incur substantially greater costs than the cost to develop such a Project on a property that has such public infrastructure and amenities readily available.

D. WMC has been advised by potential sources of debt and equity for the Project that in assessing the financial feasibility of the Project, they have included an expectation that the public entities that will benefit from the construction of said public infrastructure and amenities will participate in the cost of such public infrastructure.

E. Pursuant to Furniture Mart's agreement with Union Pacific, Furniture Mart must purchase twenty (20) acres of the Property, for a purchase price of Thirteen Million Sixty-Eight Thousand Dollars ($13,068,000), prior to October 16, 2001.

F. As an incentive for WMC to cause (i) the purchase of the Property by Furniture Mart, and (ii) the construction of the Project by the Developers, in order to assist the Agency with their revitalization of the downtown area, WMC has requested, and the Agency has agreed, to reimburse to WMC through developer promissory notes, a portion (as provided herein) of the incremental increase in property taxes generated by the Property and the Project in connection with certain improvement costs that the Developers will incur in the construction and development of the Project.

G. The Parties desire to enter into this MOU to set forth the terms and conditions upon which the Agency would be willing to reimburse WMC a portion of the incremental increase in property taxes generated by the Property and the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WMC and the Agency agree as follows:

ARTICLE 1: DEVELOPER NOTES

1.1 **Cooperation**.

a) The Parties agree to cooperate in good faith and proceed expeditiously to negotiate and prepare an agreement whereby the Agency agrees to reimburse WMC, through the issuance of developer promissory notes, for hard and soft costs incurred by the Developers to construct and develop Qualified Improvements (as defined in Section 1.4 below) for the Project (the "**WMC Agreement**") to induce WMC to cause Furniture Mart to acquire the Property for the Project and the Developers to construct and develop the Qualified Improvements for the Project.

b) The Parties understand that the determinations required by NRS 279.486 must be made by the Agency and the City Council of the City of Las Vegas prior to the adoption of the WMC Agreement. As a requirement for such determinations, the Agency and the City of Las Vegas shall determine whether (i) the Project, including the Qualified Improvements described in Section 1.4 below, will be of benefit to the City of Las Vegas Redevelopment Area, and (ii), as a precondition to such determinations, the Developers will be required to demonstrate the information described in recitals C and D above.

c) The WMC Agreement will be an agreement with a developer that will result in the Agency providing financial incentives to WMC in excess of $100,000, and, therefore, in accordance with NRS 279.500, the WMC Agreement will provide that the Project will be subject to the provisions of NRS 338.010 to 338.090, inclusive. The WMC Agreement will also contain the agreement of WMC to comply with any other provisions of the Nevada Revised Statutes applicable to the Project because of the issuance the developer promissory notes described herein.

1.2 **Developer Notes**.

a) Subject to the satisfaction of the conditions contained in Section 1.3 below, the Agency agrees to issue to WMC one or more developer promissory notes (collectively, the "**Special Limited Obligation Tax Increment Revenue Developer Notes**") to reimburse hard and soft costs incurred by the Developers to construct and develop Qualified

Improvements for the Project. The total amount of the Special Limited Obligation Tax Increment Revenue Developer Notes issued shall not exceed ten percent (10%) of the Total Development Costs (as defined below). WMC shall cause the Developers to periodically file with the Agency a written certification of the hard and soft costs expended by each of them to construct and develop Qualified Improvements for the Project, as of the date of the Certificate.

b) Each Special Limited Obligation Tax Increment Revenue Developer Note shall accrue interest from the time it is issued at a rate per annum determined in accordance with the provisions of the WMC Agreement. The Agency agrees to consider taking reasonable steps requested by the Developers, in appropriate cases, to issue the Special Limited Obligation Tax Increment Revenue Developer Notes on a tax-exempt basis.

c) Each Special Limited Obligation Tax Increment Revenue Developer Note shall mature on March 5, 2016; provided, however, that in the event the termination date of the Agency's Redevelopment Plan has been extended to a date later than March 5, 2016, then each Special Limited Obligation Tax Increment Revenue Developer Note will have a maturity date of (i) such extended termination date if such date is no more than twenty years from the date on which such Special Limited Obligation Tax Increment Revenue Developer Note was issued, or (ii) twenty years from the date the Special Limited Obligation Tax Increment Revenue Developer Note was issued if the extended termination date is later than such date.

d) Each Special Limited Obligation Tax Increment Revenue Developer Note shall require equal annual installments of principal, and all interest accrued thereon, during the term thereof. The initial installment payment under each Special Limited Obligation Tax Increment Revenue Developer Note shall be due on the anniversary date of the issuance of the Special Limited Obligation Tax Increment Revenue Developer Note which falls immediately after the taxing authorities have collected Available Accrued Taxes (as defined below).

e) For the purposes hereof, Available Accrued Taxes shall be defined and calculated by subtracting the percentage amount required for providing low income housing pursuant to NRS 279.685 from the incremental increases in property taxes by any and all portions of (i) the Site owned by Furniture Mart or a Developer, and (ii) the Project improvements on such portions of the Site and dividing the remaining incremental increases in property taxes by fifty percent (50%). The remaining fifty percent (50%) of the incremental increases in the property taxes will be available to the Agency for any other purposes of the Agency.

f) Payment of the Special Limited Obligation Tax Increment Revenue Developer Notes will be payable only from Available Accrued Taxes. On the final maturity date all unpaid principal and accrued interest shall be abated to the extent that on such date there are not sufficient Available Accrued Taxes to pay such sums, and the Agency shall be discharged of its obligation to pay the same. In the event by any installment payment date the Agency has not accrued sufficient Available Accrued Taxes to pay the full principal and interest installment payment due under any Special Limited Obligation Tax Increment Revenue Developer Note, then the Agency shall make a partial payment equal to then Available Accrued Taxes to the

Developers, and any deficit shall be accrued and payable together with interest and the next installment payment at the next anniversary.

g) Any principal or interest due and payable under the Special Limited Obligation Tax Increment Revenue Developer Notes (i) does not constitute an indebtedness of the Agency other than from the Available Accrued Taxes, (ii) is not payable from, nor is it a charge upon, any funds of the Agency other than the Available Accrued Taxes, (iii) is not backed by the full faith and credit of the Agency, and (iv) is not secured by a pledge of the taxing power of the Agency for the payment of the Special Limited Obligation Tax Increment Revenue Developer Notes other than to the extent of Available Accrued Taxes.

1.3 **Conditions Precedent to Issuance of Special Limited Obligation Tax Increment Revenue Developer Notes**.

a) Special Limited Obligation Tax Increment Revenue Developer Notes shall be issued in each phase of the Project (a "**Phase**") upon the satisfaction of the following conditions: (i) the City has approved the improvement plans for such Phase; (ii) WMC has submitted to the Agency written verification that Furniture Mart has purchased and transferred to a Developer fee title to that portion of the Property upon which such Phase is to be built (the "Phase Land"); (iii) WMC has provided to the Agency written commitments from lenders, equity investors, and/or Developers in an amount sufficient to fund the total sum of (x) the Phase Land, plus (y) hard and soft costs of construction and development of such Phase including Qualified Improvements relating thereto (preceding sub-clauses (x) and (y) collectively referred to herein as the "Total Development Costs"); and (iv) WMC has provided to the Agency signed pre-leases for at least seventy percent (70%) of the leaseable space in such Phase.

b) Notwithstanding anything to the contrary herein, (i) the aggregate amount of Special Limited Obligation Tax Increment Revenue Developer Notes issued for each Phase shall not exceed the Agency's reasonable estimate of the present value (using the rate and term of such notes) of Projected Available Accrued Taxes (as defined below) for such Phase and (ii) payments of principal and interest on the Special Limited Obligation Tax Increment Revenue Developer Notes shall be scheduled to be made at such times as the Agency estimates Available Accrued Taxes will have been received in a sufficient amount to make such payments. Projected Available Accrued Taxes for each Phase shall be the Available Accrued Taxes projected to be derived from the Total Development Costs of such Phase over the term of the Special Limited Obligation Tax Increment Revenue Developer Notes issued for such Phase. In calculating Projected Available Accrued Taxes for each Phase, reasonable assumptions shall be used by the Agency as to future increases and decreases to (i) the applicable tax rates, and (ii) the assessed value of Total Development Costs for each Phase.

c) Special Limited Obligation Tax Increment Revenue Developer Notes will not be issued with a maturity of less than one year, nor, without the prior written consent of the Agency, on or after a date that is ten years after the date of the WMC Agreement.

1.4 **Qualified Improvements**.

a) As used herein, "Qualified Improvements" shall include streets, curbs, gutters, water lines, sanitary sewer lines, storm drainage facilities, ramps, roads, bridges, traffic signals, paving, driveways, sidewalks, culverts, manholes, retaining walls, tunnels, approaches, under and overpasses, artificial lighting, off street parking improvements and structures, fencing, landscaping, site work, grading, walkways, signage, flood control improvements, and improvements for the supply, storage and distribution of water. In addition, if included in the definition of Qualified Improvements by the WMC Agreement, the following types of improvements may be included: electricity and telecommunications services, utility, any other infrastructure costs, permit and plan check fees or any other governmental agency fees incurred by Furniture Mart or the Developers in connection with or relating to the development of Project, and fees and expenses incurred by or charged to the Developers or Furniture Mart in connection with the issuance of the Special Limited Obligation Tax Increment Revenue Developer Notes (including, but not limited to, legal fees).

1.5. **Notes Subordinate**.

a) Payment of any Special Limited Obligation Tax Increment Revenue Developer Note from Available Accrued Taxes will be subordinate to the repayment of the Agency's pre-existing debt ("Agency's Pre-Existing Debt") which is outstanding at the time such Special Limited Obligation Tax Increment Revenue Developer Note is issued, other than Agency debt to the City of Las Vegas, including any debt issued after such date for the purpose of refunding the then outstanding principal balance of such Agency's Pre-Existing Debt.

b) Payment of any Special Limited Obligation Tax Increment Revenue Developer Note from Available Accrued Taxes will also be subordinate to the repayment of the Agency's debt ("Agency's Future Debt", which term does not include any Agency debt owed to the City of Las Vegas") which is issued hereafter as parity or subordinate Additional Parity Obligations or Subordinate Obligations as defined in and issued in accordance with the Indenture of Trust dated June 1, 1995 pursuant to which the Agency's Series 1995B Bonds were issued if, and only if, the chief financial officer of the Agency files a certificate prior to any issuance of such Agency's Future Debt establishing that the reasonably projected aggregate amount of the incremental increase in property taxes to be generated by all property within the City of Las Vegas Redevelopment Area over the remaining term of the then outstanding Special Limited Obligation Tax Increment Revenue Developer Notes, minus the aggregate amount of such incremental taxes to be set aside for low-income housing pursuant to NRS 279.685 and minus the aggregate remaining debt service on all then outstanding Special Limited Obligation Tax Increment Revenue Developer Notes, equals at least 115% of the reasonably projected debt service on all then outstanding Agency's Pre-Existing Debt and on all then outstanding as well as the proposed to be issued Agency's Future Debt in each year in which a Special Limited Obligation Tax Increment Revenue Developer Note is to be outstanding.

1.6 **Assignment.**

a) Special Limited Obligation Tax Increment Revenue Developer Notes may not be assigned by WMC to anyone other than a Developer without the Agency's written consent, which the Agency may in its sole discretion, determine to grant.

ARTICLE 2: General Conditions

2.1 **Limitation of Binding Nature of Memorandum**:

a) The purpose of this memorandum is to set forth the terms of a proposed agreement and the obligations of the parties thereto. The obligations of WMC and the Agency as contemplated by this MOU are to negotiate in good faith to arrive at the terms of the WMC Agreement, but if the parties, after good faith negotiation, are unable to arrive at a final form of Agreement by July 1, 2002, this Agreement will expire without further obligation of either party. Upon the execution and delivery of the formal WMC Agreement, the terms of such agreement will supercede the obligations contained herein.

2.2 **Execution in Counterparts**.

a) This MOU may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this MOU, the parties may execute and exchange by telephone facsimile counterparts of the signature pages.

2.3 **Disclosure of Principals**.

a) Pursuant to Resolution RA-4-99 adopted by the Governing Board of the Agency effective October 1, 1999, WMC warrants that it has disclosed, on the form attached hereto as Exhibit "B", all principals, including partners of WMC, as well as all persons and entities holding more than 1% interest in WMC or any principal of WMC. Throughout the term hereof, WMC shall notify the Agency in writing of any material change in the above disclosure within 15 days of any such change.

. . .
. . .
. . .

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the day and year first above written.

WMC:

World Market Center, LLC, a Nevada limited liability company

By:______________________________
Name: SHAWN SAMSON JACK KASHANI
Title: CO-MANAGER CO-MANAGER

AGENCY:

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY
a Nevada public body

By:______________________________
Name:OSCAR B. GOODMAN, Chairperson

ATTEST:

By:______________________________
Name: BARBARA JO RONEUMUS, Secretary

APPROVED AS TO FORM:

______________________________ 4/30/02
Date

EXHIBIT "A"
LEGAL DESCRIPTION

PROPOSED LEGAL:

A PORTION OF LOT 2 OF "PARKWAY CENTER" AS SHOWN BY MAP THEREOF ON FILE IN BOOK 53, PAGE 61 OF PLATS, IN THE CLARK COUNTY RECORDER'S OFFICE, CLARK COUNTY, NEVADA, LYING WITHIN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 33, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF GRAND CENTRAL PARKWAY (100.00 FEET WIDE) AND BONNEVILLE AVENUE (VARYING WIDTH) AS SHOWN ON SAID SUBDIVISION PLAT; THENCE ALONG THE CENTERLINE OF SAID BONNEVILLE AVENUE, SOUTH 81°09'57" WEST, 96.21 FEET; THENCE NORTH 08°50'03" WEST, 50.00 FEET TO THE POINT OF BEGINNING ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID BONNEVILLE AVENUE, ALSO BEING THE SOUTHERLY LINE OF THE AFOREMENTIONED LOT 2; THENCE ALONG SAID SOUTHERLY LINE OF THE FOLLOWING THREE (3) COURSES: SOUTH 81°09'57" WEST, 876.16 FEET; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 450.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, THROUGH A CENTRAL ANGLE OF 08°57'40", AN ARC LENGTH OF 70.38 FEET; THENCE SOUTH 84°35'52" WEST, 111.90 FEET TO THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED BY "FINAL ORDER OF CONDEMNATION" RECORDED NOVEMBER 3, 1999 IN BOOK 991103 OF OFFICIAL RECORDS AS INSTRUMENT NO. 00619; THENCE ALONG THE EASTERLY LINE OF SAID CERTAIN PARCEL OF LAND THE FOLLOWING THREE (3) COURSES: NORTH 14°10'19" EAST, 619.67 FEET; THENCE NORTH 25°08'37" EAST, 359.51 FEET; THENCE NORTH 29°36'29" EAST, 188.69 FEET; THENCE SOUTH 70°20'46" EAST, 895.38 FEET TO A POINT ON THE EASTERLY LINE OF THE AFOREMENTIONED LOT 2, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF THE AFOREMENTIONED GRAND CENTRAL PARKWAY; THENCE ALONG SAID EASTERLY LINE OF LOT 2 THE FOLLOWING FOUR (4) COURSES: SOUTH 27°55'16" WEST, 196.42 FEET; THENCE CURVING TO THE LEFT ALONG THE ARC OF A 550.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 31°45'19", AN ARC LENGTH OF 304.83 FEET; THENCE SOUTH 03°50'03" EAST, 113.09 FEET; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 55.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, THROUGH A CENTRAL ANGLE OF 85°00'00", AN ARC LENGTH OF 81.59 FEET TO THE POINT OF BEGINNING.

Exhibit "B"

Disclosure of Principals

The principals and partners of World Market Center, LLC and all persons and entities holding more than 1% interest in World Market Center, LLC or any principal of World Market Center, LLC are the following:

FULL NAME	BUSINESS ADDRESS	BUSINESS PHONE
1. Shawn Samson	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
2. Jack Kashani	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
3. Nigel Alliance	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
4. Moussa Alliance	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
5. David Neman	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
6. Daniel Cohen	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000

7. Emanuel Cohen	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
8. Ilan Cohen	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
9. Sammy Kahen	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
10. Kahen Family Trust	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
11. Ramin Roofian	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
12. Ramin Neman	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
13. Jacob Ebrani	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
14. AG Development Trust	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000

15. Alliance Network, LLC	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
16. Prime Associates Group, LLC		
	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
17. SB Holdings I, LLC	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
18. Millennium Ventures I, LLC		
	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
19. J.C Investment & Development Company, LLC		
	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
20. Crescent Nevada Associates LLC		
	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000

21. Evan Realty Group, LLC	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
22. Nama Holdings, LLC	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000
23. Eden Associates, LLC	c/o Dave Barksdale, Esq. Kummer Kaempfer Bonner & Renshaw 3800 Howard Hughes Parkway, # 7th Floor Las Vegas, NV 89109	702-792-7000

We hereby certify under penalty of perjury, that the foregoing list is full and complete.

WORLD MARKET CENTER, LLC

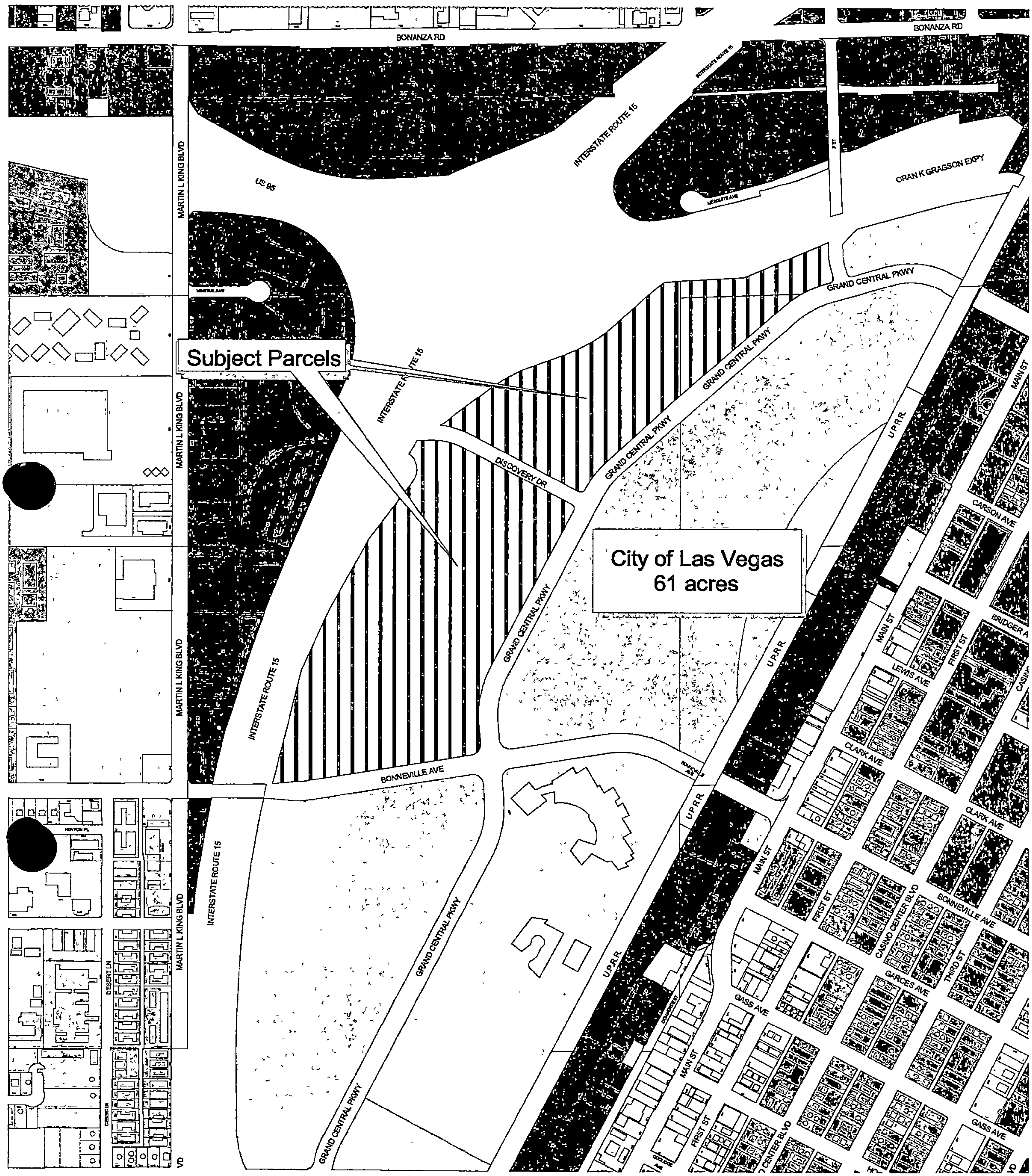
By: [signature]
Jack Kashani
Its: Co-Manager

By: [signature]
Shawn Samson
Its: Co-Manager

Subscribed and sworn to before me this
21st day of September, 2001.

[signature]
Notary Public

RHENEE S. FOSTER
Commission # 1257389
Notary Public - California
Los Angeles County
My Comm. Expires Mar 19, 2004

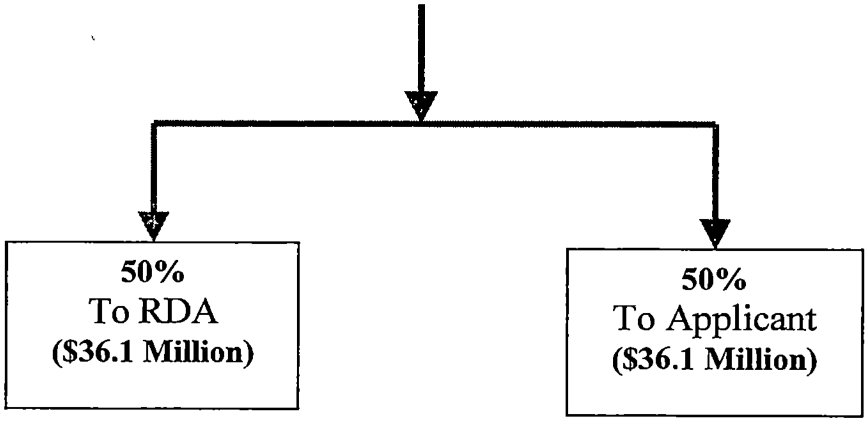


BONANZA RD
BONANZA RD
US 95
INTERSTATE ROUTE 15
ORAN K GRAGSON EXPY
MARTIN L KING BLVD
GRAND CENTRAL PKWY
Subject Parcels
DISCOVERY DR
City of Las Vegas
61 acres
BONNEVILLE AVE
U P R R
MAIN ST
FIRST ST
CARSON AVE
BRIDGER AVE
LEWIS AVE
CLARK AVE
CASINO CENTER BLVD
BONNEVILLE AVE
GARCES AVE
THIRD ST
GASS AVE
DESERT LN

Site Map

PERCENT
DISTRIBUTION OF TAX INCREMENT
WORLD MARKET

100% ($88 Million) Tax Increment
<u>-18% ($15.8 Million) Affordable Housing</u>
82% = $72.2 Million



(Amended 11/06/01 3:00 PM)

Submitted at ~~City Council~~ Redev Agency

Date 11/7/01 Item IV-A

PERCENT
DISTRIBUTION OF TAX INCREMENT
WORLD MARKET

100%
$88 Million

50%
To CLV
($44 Million)

50%
To Applicant
($44 Million)

[RDA - $36.08 Mil;
Afford. Hsg. $7.92 Mil]

Summary of Expected Benefits
from Proposed
World Market Center
Las Vegas, NV

- Approximately $1 billion investment in downtown
- Promotes economic diversification by bringing a new industry to downtown
- Will annually attract over 1 million new visitors from around the world
- Will create approximately 35,000 new jobs
- Will annually generate over $1 million in new non-property tax revenues
- Will generate approximately $52 million in tax-increment revenue

Redev Agency
Submitted at City ~~Council~~
Date 11/7/01 Item IV-A

VERBATIM TRANSCRIPT: ITEM IV-A – DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER FOR PROPERTY BOUNDED BY I-15, GRAND CENTRAL PARKWAY, ALTA DRIVE AND F STREET

CHAIRMAN GOODMAN

Item IV-A, discussion and possible action regarding a Memorandum of Understanding between the City of Las Vegas Redevelopment Agency and the World Market Center for property bounded by I-15, Grand Central Parkway and Alta Drive and F Street, APN #139-335-110-02, 139-336-100-01, tax increment revenues. This is in Ward 5. Is Ms. Coder here on behalf of the City?

DEPUTY CITY MANAGER HOUCHENS

Yes, she is. Yes, she is, Your Honor. Before Ms. Coder comes up, I'd like to just give a brief description of the agreement that is before you today. World Market Center has approached the City and its Redevelopment Agency with a request for a form of tax incentive through the return of a portion of the new property taxes that will be generated by this development

This is a form, an accepted form of tax increment financing. Procedurally, the process involves the Redevelopment Agency entering into a promissory note or a series of promissory notes with WMC to reimburse WMC for the costs of certain defined improvements to the property. The promissory notes are referred to as tax increment revenue developer notes. The face value of these notes will be determined by the present value of future incremental taxes paid by WMC to the Redevelopment Agency that are created, excuse me, that are created as a direct result of tangible improvements to the development. If no taxes are generated, no obligation exists.

The Memorandum of Understanding before you establishes a maximum repayment limit for these notes. The maximum annual repayment as defined in the MOU may not exceed 50% of the net annual incremental taxes generated by this development. Our estimates are cumulatively over 20 years. That will be about $40 million.

The MOU is essentially a proposal to refund or rebate property taxes for a limited period of time through the use of the developer notes. These notes are subordinate to any existing and future debt of the Redevelopment Agency. They are not marketable instruments, nor are they assignable. The notes are only repaid to the extent that property taxes are paid on the property and then only to the agreed to percentage. With that, I'd like to turn it over to the developer.

CHAIRMAN GOODMAN

All right. Mr. Fiorentino.

VERBATIM TRANSCRIPT: ITEM IV-A – DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER FOR PROPERTY BOUNDED BY I-15, GRAND CENTRAL PARKWAY, ALTA DRIVE AND F STREET

ATTORNEY MARK FIORENTINO — Good afternoon Sorry. Good afternoon, Your Honor, members of the Council. Mark Fiorentino, Richard Jost representing the World Market Center on this item. First of all, we want to thank you and the other Council members for your patience and the opportunity to work through some of the issues on this subject. I know you've been very brief and Mr. Houchens' introduction, I think, is a very good overview of the project.

I would like to reserve what normally'd be my time for comments and use it instead for a very brief video we would like to show you. It's very brief. Councilman Weekly said that he thought it was acceptable to show it to you. It, the reason why I show it to you is because we think it's extremely important to kind of give you the flavor of what we're proposing and some of the members of the audience who may not be familiar with what we're talking about. This is a video of the World, or the Market Center in Dallas, Texas. It's very applicable because it's very similar in size and scale to what we have proposed before you here in Downtown. It shows the evolution of that market. How it started as one thing and grew into others, and how it – generated a great deal of investment in the Dallas downtown area.

So, we'd like to show it to you. It's about five minutes or so long and then we'll conclude our comments and be prepared to answer any questions that you have.

CHAIRMAN GOODMAN — Very good.

VIDEO PRESENTATION -- DISCUSSION RESUMED

CHAIRMAN GOODMAN — Now, do I blame that on Councilman Weekly or on you?

ATTORNEY MARK FIORENTINO — On me. You never blame anything on Councilman Weekly. It went a little longer than we had anticipated, Your Honor, but it, it's –

CHAIRMAN GOODMAN — I was going to vote for it until I saw it.

ATTORNEY MARK FIORENTINO — You can blame that on my client, who insisted that I show it. The only other thing that we distributed to you is, and throughout this process over the – last few months, we had put together a complete package of a market study that we had done, letters of approval or support, I should say, from the Nevada Development Authority and the Convention Authority. We took that and condensed it down into a one-page summary of the benefits that we expect to bring to the

	City of Las Vegas, which we don't need to go over, but you have them in front of you unless you have questions.
CHAIRMAN GOODMAN	I – think it's pretty impressive. I'd say this is much more impressive than what you've just showed us.
ATTORNEY MARK FIORENTINO	So you want me to read them or because they're impressive, you should probably read them?
CHAIRMAN GOODMAN	Well, I don't want to represent it. It's your representation as to what you're findings show, but I think it's pretty impressive.
ATTORNEY MARK FIORENTINO	The, just to highlight a few of the, what we think are the key points, this represents over its entire life, which we expect to be a seven-year built out project, approximately a $1 billion investment in downtown.
CHAIRMAN GOODMAN	That's a B.
ATTORNEY MARK FIORENTINO	That's a b, which is, obviously far exceeds anything that you so far – have been presented to you. We also think that it promotes the economic diversification that you've been seeking and some of our other state officials have been seeking, because it's bring this wholesale market trade, is a new industry. It brings new tourists to downtown. And we expect at full build out, throughout, when we're finally done with this project, that that, our expert estimated that we would be bringing approximately one million new people a year downtown. Now that's significant because it's not like an office building where you have other office space that would compete with. Those are brand new people that are currently not coming to downtown Las Vegas. We also expect to generate a total of 35,000 new jobs when we're done with this project. Both direct jobs related to this project and indirect jobs that will be created because of the dynamics of this project. We'll also, will annually generate, we expect, this is a conservative number, of a million dollars a year in non-property tax revenues, things like sales tax and gaming tax and additional room tax, because of those visitors coming downtown. And finally, we expect to generate approximately 52 million in tax increment revenue. That number is, would be the City's share. That's after you rebated it to us, if our share, if you approve this agreement. We think those are all very significant numbers. We have been and continue to be very

VERBATIM TRANSCRIPT: ITEM IV-A – DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER FOR PROPERTY BOUNDED BY I-15, GRAND CENTRAL PARKWAY, ALTA DRIVE AND F STREET

excited about bringing this project. We hope to break ground next year on it with your help and I believe the Memorandum of Understanding, with the clarifications that Mr. Houchens has read into the record, is – appropriate for your approval. But we're happy to answer any questions or address any additional concerns.

CHAIRMAN GOODMAN — Thank you. Any questions? Yes, Councilwoman.

MEMBER L.B. McDONALD — Just some comments, Your Honor. I took the opportunity two weeks ago to fly back to High Point, North Carolina, because it, I thought it was very important to me to see first-hand exactly what the concept was all about and I have to tell you, as I, you know, sat in previous Council meetings, I really didn't grasp what it was all about. And when someone said World Market, you know, I'd have concepts of some of the trips I've taken to the Middle East and people were trading goats for sheep and chickens. You know, I had no clue exactly what they were proposing and when I had an opportunity to see it up close and personal, I saw, I was very impressed.

And I have to tell you when I walked through, people just assumed I was just another buyer. There was nothing on my identification that said Las Vegas City Councilwoman. In fact, when people asked me where I was from, I said I was from Secaucus, New Jersey. So I, but I asked them would you come to Las Vegas or what do you think about the Las Vegas concept. And unsolicited, just about every buyer I talked to and these were from major retailers, from Ethan Allans to the Targets to major hotel chains that were there buying goods and services for their corporations, without exception, everyone wanted to be in Las Vegas.

And why? Well, first, Las Vegas is much more accessible to them than High Point, North Carolina. Many of them stated that they're, the high volume of sales that their corporations had on the west coast and that quite possibly many of them may entertain the idea of creating manufacturing opportunities on, in Las Vegas, because we have no corporate taxes, because we don't have inventory taxes. These were again unsolicited things that people were telling me about.

High Point had literally one hotel. In fact, of the people that were there from 130 countries, I was just amazed at the fact that the natives in High Point, a town of 80,000, literally leave town and they rent out their homes to the people coming to attend the conventions because there is not enough hotel rooms to accommodate the trade. And so I think that this investment and this partnership will trigger even additional spin-off activity.

And also a final point was that those buyers, they said that since there was nothing to do in High Point, there was no reason to bring their families along on these business trips. That if we were in Las Vegas, Nevada, I would bring my spouse, I would bring my children, I would extend my stay beyond just the time I was conducting business. So this was the type of feedback I was receiving unsolicited as I walked through these showrooms. There were showrooms of textile makers, lighting makers, furniture of every kind under the sun, accessories. So, and another thing I was very impressed with was that many manufacturers had created their own independent, separate and apart showrooms of 100,000 square feet and these were architecturally striking facilities that these manufacturers created to show off their wares to the retail industry.

So I think that there's just a lot of great potential that can come out of this. Again, I think the rebate is, again, very clearly directly correlated to their investment. They invest, we benefit, we rebate back. So, again, the, I'm in, having seen it up close and personal, I think that we have very minimal risk and this is a win-win for downtown.

CHAIRMAN GOODMAN: Thank you very much. Any other comments at this time? Or questions? All right. I, I'd like to – Did you want to be heard, Councilman?

MEMBER WEEKLY: Well, I guess, Your Honor, you will have public comment on that, because we have Daryl Alterwitz who'd like to come up and, if you don't mind at, is that okay?

CHAIRMAN GOODMAN: That's fine with me.

MEMBER WEEKLY: Okay. I, Daryl will come up, because one of the concerns in speaking with Mark Fiorentino, who represents World Market Center, my concern was truly dealing with many of the business owners on Martin Luther King. Daryl represents Walker Furniture and Walker Furniture has been a – long-time business in our community. And one of the things is as we look at a project of this magnitude, it is my hope and – of course it is my intent to make sure that we look out for the best interests of those who have been here, that we don't run our existing businesses out of business.

That we make sure that we pay close attention to their needs on Martin Luther King as we are experiencing at this particular time. And Daryl could probably elaborate on this

	better than I can, but Lawrence's Furniture at this particular time is having a going out of business sale –
DARYL ALTERWITZ	A moving, moving sale.
COUNCILMAN WEEKLY	Moving sale, well, they're leaving the community. We also have the Sears Furniture Warehouse Store, they're closing shop on Martin Luther King. And then, of course, with a brand new Costco that has opened up in Ward 2, we're not experiencing the traffic impact that we previously had on MLK. So, you know, I just want to make sure that we look out for the integrity of businesses like Walker Furniture, that your million dollar investment that you all have made to upgrade your store and to add a more aesthetic pleasing look to your business, that we, as a City, make sure that we protect your best interests as well. So, with that, Daryl, you can maybe put your comments on the record also.
DARYL ALTERWITZ	Thank you, Your Honor and members of the Council. I met Mr. –
CHAIRMAN GOODMAN	Excuse me. Please – identify yourself.
DARYL ALTERWITZ	Daryl Alterwitz, 304 Martin Luther King.
CHAIRMAN GOODMAN	Thank you.
DARYL ALTERWITZ	I – met Jack Cussani with the new market project out in the – outside. He seems like a nice man and I certainly wish them well. And I – think this will be a good project for downtown. What I'm concerned about is what I call the law of unintended consequences. We hope that their success doesn't come at the expense of an established retail corridor, which is, quite frankly struggling. Our concern is that the competition stays on a level playing field. If the City chooses to subsidize our potential competitors, I think it's incumbent on the City to incorporate, not isolate, the existing retail corridor. And the way to do that is to provide adequate access so we're not on the other side of the freeway and out of the way. I think it's clear, from your observations and from their video, it is a retail concept, a mixed wholesale/retail concept and Dallas is a good example. Dallas started out as a wholesale

market, but now it is primarily a retail market. We don't shop at Dallas anymore, very few wholesalers, to the best of my knowledge, shop at Dallas. It is retail. And so it would be a retail concept you would be subsidizing.

As Councilman Weekly pointed out, Sears is out and I think Cimas. I'm not quite sure. There's other people in the Levitz Plaza that are out. Lawrence's is moving. We know Prime Cable will be moving. Costco traffic is dramatically down. Levitz is, I'm not sure if they're out of bankruptcy yet, but they have their own set of problems. And that leaves us and Carl's Donuts on the other side of the freeway. And that, that's a concern for us.

It's that law of unintended consequences. We're in the middle of a $4 million remodeling project. That's an M, not a B. And, however modest that might be, we've been doing this for 45 years and really been the engine of redevelopment. And we've never asked anyone for anything. We do all of our improvements ourselves. We do it the old fashioned way, we just pay for it. And I'm not here just to protect our investment. I just want to urge protection for the entire corridor, which is struggling.

You have to understand the freeway is an impenetrable barrier. If you go around to Alta, if – you chose to, then maybe you'll be able to see what else is available. But I'm urging the City Council to push forth an extension of Discovery Drive. I'd always assumed that Discovery Drive would be extended to MLK as a condition of development. I worked with the redesign of the Spaghetti Bowl and in fact there is on the, I think Phase 3 or Phase 4, I'm pretty sure it's one of the final phase of the Spaghetti Bowl, the – proposal to have an off-ramp at Rancho that goes to MLK, which access was going to provide direct access from your Northwest part of town to the Downtown Redevelopment.

I'm strongly urging that there, whether it be a condition of their development or a condition of granting tax rebate incentives that Discovery Drive be pushed all the way through to Martin Luther King. Without adequate access, we'll be on the other side of the tracks or on the other side of the freeway and there'll be no real reason people will get there, they'll drive down Alta, they won't stop on Martin Luther King. They won't want to go near Bonanza and Martin Luther King. They know, you know, the farther north you get, the tougher the neighbor is. They'll just move right on by and that's our concern. We're hopeful that the City Council will put that on their radar screen now and make it part and parcel of this Memorandum of Understanding, that

	you address the access issues on Martin Luther King. Thank you.
CHAIRMAN GOODMAN	Thank you, Mr. Alterwitz. Could I ask Jorge Cervantes, is he here?
MEMBER WEEKLY	I just had him called down, Mayor, so I think he should be on his way down the elevator now.
CHAIRMAN GOODMAN	All right.
MEMBER MACK	Your Honor?
CHAIRMAN GOODMAN	Yes.
MEMBER MACK	While we had Mr. Alterwitz up, I think one of my major concerns as a retailer, and I've expressed it with Councilman Weekly and the Mayor, is it the intent, I know originally the intent of the applicant was to have a wholesale and retail component. And I just wanted to have some type of protection in place, because Mr. Alterwitz has been here for many years and his business, if – the component becomes wholesale and then maybe two days a week, they become a retail – outlet. And then the other factor is, is there some type of measures to, and I know it's a tough task to ask for it. I've talked to you about it, Mark, as well, a – person who's a designer, can go in and take Mrs. Brown in and she can buy new furniture for her house and that directly competes with Mr. Alterwitz' business. So hopefully we can have some measures in place that would protect not only Walker Furniture or Levitz Furniture, but all the retailers that have been in place in Southern Nevada.
CHAIRMAN GOODMAN	Okay. In lieu of, thank you, Councilman, in lieu of Mr. Cervantes answering the question, Ms. Valentine, can you give us a little briefing on Discovery Drive?
EXECUTIVE DIRECTOR VALENTINE	Discovery Drive is on the – master plan for the site and we do intend to put it through. I do not believe it is funded at this time. That's what we were just discussing here. But certainly we do envision and we do intend and we do hope it will go through. It's very good for the circulation of the site.
CHAIRMAN GOODMAN	Thank you.
ATTORNEY MARK FIORENTINO	Your Honor?

CHAIRMAN GOODMAN	It's more than on the record screen, then.
LESA CODER, DIRECTOR OF OFFICE OF BUSINESS DEVELOPMENT	I believe that it is and if it's your desire that we take a closer look at that between now and the time we come back with the development agreement, we'd be happy to meet with Mr. Alterwitz, the applicant and Public Works.
CHAIRMAN GOODMAN	All right. Thank you. Mr. Fiorentino?
ATTORNEY MARK FIORENTINO	Thank you, Your Honor. I wonder if I could address that and answer Councilman Mack's question very briefly.
CHAIRMAN GOODMAN	Certainly.
ATTORNEY MARK FIORENTINO	It is clearly not our intent, and wouldn't be good for us or for the City to create a project that put long-standing, existing businesses out of – business. That's not what we're trying to create. We actually think these projects can work very well together. And I would submit to you that this is exactly what the City needs to help those people who are currently struggling, is a substantial investment in the area, a substantial tax increment revenue that you can use to help them, if you so choose. And creating an energy and a synergy that – they can be a part of. I will say this, that we agree with Mr. Alterwitz that if you're going to accomplish that, we have to provide him some access. And we've told him that and we've told you that and we'll say it again publicly. The condition of our zoning approval actually require us to put in our portion of new Discovery Drive and we're committed to doing that. And we're committed to continue working with everybody to make sure that it – gets punched through in a manner that is – acceptable to everybody. We understand that concern and we intend to help you address it.
CHAIRMAN GOODMAN	Thank you very much. All right. Any other questions at this time? Is that okay, Councilman?
COUNCILMAN WEEKLY	Jorge is here if you need him.
CHAIRMAN GOODMAN	I know. Did you hear the representations of Ms. Valentine?
JORGE CERVANTES, PUBLIC WORKS	No, Sir. I just walked in right now.
CHAIRMAN GOODMAN	She – indicated that the plan, the master plan encompasses Discovery Drive being cut through over to MLK.

JORGE CERVANTES, PUBLIC WORKS	That's correct.
CHAIRMAN GOODMAN	If you'd like to expand on that.
JORGE CERVANTES, PUBLIC WORKS	Yeah, that's some thing that was changed to the Master Plan Streets and Highways, I believe, about three or four months ago, we brought that before Council to extend it through there to show what the alignment would be. The right-of-way dedication's already there between Grand Central Parkway and I-15. We're trying to designate an alignment so that any future development that occurs on the section between I-15 and Martin Luther King would be aware of where the alignment would be for that proposed road. At this time, the funding isn't set aside yet to do the portion from I-15 to MLK. It's something that we're working with the RTC to identify funding so that when the demand is they're, based on all this adjacent area development, we'd have the road put through there to handle that extra traffic capacity.
CHAIRMAN GOODMAN	Thank you, Mr. Cervantes. Very good. Any other comments or questions? All right. Well, I have a couple comments and a couple of observations. And I'm going to ask Mr. Fiorentino to follow me fairly closely, so he will agree to these. I – wasn't that keen on the project, initially. To me, it was a little foreign. I felt that it wasn't going to give us the kind of energy that we are looking for to establishing on the Union Pacific site, next to the 61 acres that the City had acquired. However, I – learned a tremendous lesson as a result of the events of September the 11th. Our economy, when it's a one business type economy, tourism and gaming, is very brittle. And even though we have rebounded and we've shown a great resiliency, it taught me a lesson that that which I have been preaching is actually in fact true. And that is for Las Vegas to be the city that we want it to be, we have to have a diversified economy. And I heard about the Councilwoman's experience down in North Carolina. I spoke to Thalia Dondero's son who is associated with the furniture business in North Carolina. And he explained to me what the furniture mart meant to High Point and what it would mean to Las Vegas. And even indicated to me that he has signed a lease in advance pending the approval of this project to bring the business here to Las Vegas.

I'm – advised we could have as many as 500 new businesses in that location. A whole different kind of business than that which we've been exposed to. A whole different industry in effect. And as the Councilwoman points out, there could be a reverberation from that, into manufacturing, into distribution. I mean, things that we never dreamed of in the downtown area. So I – began to really try to get educated, as far as what this concept of tax increment was all about.

Initially I said, well, I don't think I should give you, at least from my perspective, more than 10% and we began a discussion. And I began a learning process. And I was told, as far as redevelopment is concerned, there are two ways you can do it or, I guess, a combination of the two ways.

One, a city who's looking to redevelop, who wants to diversify its economy, can actually take money and give it to a developer and participate, in effect, as a partner in building the project. And we don't have the money. So that wasn't even within our contemplation.

The second way, I'm advised, and correct me if I'm wrong, Ms. Valentine, is that you get it from the tax increment. So in other words, and the public has to understand this, because once again the media, they – play games and they try to twist what's taking place here. We, as a city, don't get, don't give you one cent, not one penny, until you give us money from which that penny will come; is that correct?

EXECUTIVE DIRECTOR VALENTINE

That's correct.

CHAIRMAN GOODMAN

Okay. So therefore, let's assume for the sake of argument that we have an $88 million tax increment here. The first thing we do, and this is our understanding, Mr. Fiorentino, is we take off 18% of that, because under State law, 18% of that goes to affordable housing; right so far?

EXECUTIVE DIRECTOR VALENTINE

Yes.

CHAIRMAN GOODMAN

Okay. That then leaves a balance, at least using the $88 million figure of 72% or $72 million, which is 82%. And if we're going to give you back the tax increment, you have to give us that money before we give you $36.2 million. In other words, you have to give the City $72.2 million before you get your $36.2 million; is that correct?

VERBATIM TRANSCRIPT: ITEM IV-A – DISCUSSION AND POSSIBLE ACTION REGARDING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND WORLD MARKET CENTER FOR PROPERTY BOUNDED BY I-15, GRAND CENTRAL PARKWAY, ALTA DRIVE AND F STREET

EXECUTIVE DIRECTOR VALENTINE	That's correct. That happens over a 20-year period, Your Honor.
CHAIRMAN GOODMAN	Over a 20 year period. So therefore, the City isn't out any money and what we do is we have a new industry in a downtown area that needs it desperately, especially under the conditions that presently exist. And that is what redevelopment is all about; is it not?
EXECUTIVE DIRECTOR VALENTINE	It is.
CHAIRMAN GOODMAN	It is textbook; is it not?
EXECUTIVE DIRECTOR VALENTINE	It is.
CHAIRMAN GOODMAN	And anybody who doesn't – understand it is a dummy. Because it could not have been made more clear; could it have been?
MEMBER L.B. McDONALD	And, Your Honor, –
EXECUTIVE DIRECTOR VALENTINE	Perfectly clear, Your Honor.
CHAIRMAN GOODMAN	Yeah.
MEMBER L.B. McDONALD	And if I could just add another point to your presentation is that this tax increment is, relates to their site. So there may be spin-off development. So if our downtown hotels expand their rooms and they add additional tax increment, this doesn't, they don't get a cut of that.
CHAIRMAN GOODMAN	Right.
MEMBER L.B. McDONALD	They only get a rebate on their parcel alone.
CHAIRMAN GOODMAN	That's right. So the way I see it, under the circumstances, as long as some, certain other things don't take place, it's a win-win for the City, both economically as well as industrially. But I, we have to make sure that Mr. Alterwitz, and those around there issues are addressed. And we have come to an accord, have we not? It is not your purpose to put anybody out of business?
ATTORNEY MARK FIORENTINO	No, it would be –

CHAIRMAN GOODMAN	As a matter of fact, there is some kind of a, under philosophy, I guess, with business, that when you have a McDonald's, McDonald's does better when a Wendy's comes next to it and the Wendy's does better when a Bob's Big Boy is next to it; right?
ATTORNEY MARK FIORENTINO	I won't comment on the Wendy's/McDonald's example, but it certainly is, been true on the furniture example in the other cities that have had these projects.
CHAIRMAN GOODMAN	Okay. Well, I've been told on the other, on restaurants and the fast food, the more you have, the better everybody does. So that, that's important. But I'm going to direct staff that during the negotiations, for the DDA, that there definitely be things put in place which assure that there will be a limitation on the retail activity as far as the furniture mart is concerned, if it in fact is going to affect other retailers in the area. That's – number one. And Mr. Fiorentino and myself agreed in principal that that would be part of the discussion.
ATTORNEY MARK FIORENTINO	That definitely needs to be part of the discussion.
CHAIRMAN GOODMAN	Okay. Number two, it's important to me at least, and I'm not – speaking for the Council, I'm just speaking for myself. It's important that this not be a three-day a year proposition where you have a convention, people come in and then they leave. I want to see vitality down there. I want to see this being a place where there's an awful lot of community interest, that you'll be able to circulate people there and the people will enjoy hopefully the Chelsea properties, which will be right down the street from it and the people will enjoy, hopefully, the amenities that are going to be put on the 61 acres, like a cultural arts center and the like. And this will be part of an entire community. So, I would want staff to require that we have at least five days of this operation open. And, but I mean not just a door open, but that business will be flourishing during at least five days of the week. Is that understood?
ATTORNEY MARK FIORENTINO	Easy.
CHAIRMAN GOODMAN	All right. Then you have no problem as I understand it, if God forbid, you weren't as a successful as we know you will be, that if in fact we enact an ordinance to the effect that a penny will be put in a pot, so to speak, to take care of big boxes that aren't successful so that we will be able to modify

	them and convert them, that you have no problem in paying a penny a square foot?
ATTORNEY MARK FIORENTINO	We will participate in whatever you adopt, as long as it's not discriminatory and – we're prepared to do that, yes.
CHAIRMAN GOODMAN	Okay. That's very fair. And then, there'll be no incentives given to your tenants, which would, no incremental, tax incremented incentives given to your tenants so, as Mr. Alterwitz said, everybody will be on a level playing field.
MEMBER WEEKLY	Your Honor, is that the governmental subsidy that we're addressing?
CHAIRMAN GOODMAN	Yes.
MEMBER WEEKLY	Okay.
CHAIRMAN GOODMAN	Yes. So that everyone's on a level playing field. Okay?
ATTORNEY MARK FIORENTINO	Understood.
CHAIRMAN GOODMAN	Okay. And then the last one, for my – proposition, I spoke with the Southwest Sports folks who are vying for the position of master developer of the 61 acres. And they were concerned that, they – think the project's a great project. They think that the first phase is terrific and will create the kind of synergy that they're looking forward to have that whole area exhibit. But they were concerned about future developments. And we have agreed, I believe, according to Ms. Coder, that in order for the City to approve the tax increment financing on the entire acreage, that the development agreement is going to approve Phase 1, as previously was approved by the City Council, and all subsequent development plans have to be compatible with what we're going to be developing in the 61 acres; correct?
ATTORNEY MARK FIORENTINO	Yeah, that is – correct, Your Honor. Maybe I could clarify that a little bit so everybody understands what we're talking about.
CHAIRMAN GOODMAN	All right.
ATTORNEY MARK FIORENTINO	You, the City Council, have already approved a – conceptual site plan for the entire site. You've also approved the architectural design of the first phase. And – we're going to go ahead with the first phase. All of the other buildings and phases, we're committed to hold public hearings on.

	We'll tell you the same thing we told Southwest Sports yesterday when we met with them, we will work very closely with them. It's as important to us that we do something that works together as it is to them. So you have that commitment from us.
CHAIRMAN GOODMAN	Right. Because they appear to be very dedicated to the proposition that they want this entire Union Pacific piece, including the 61 acres, to flow with, that they want the component parts to be really compatible with the whole.
ATTORNEY MARK FIORENTINO	As are we.
CHAIRMAN GOODMAN	Very good. There'll be discussion by City staff to have taller buildings on less acreage; okay?
EXECUTIVE DIRECTOR VALENTINE	Right.
CHAIRMAN GOODMAN	More open space and outdoor public places; that's very important to the Council that's interested in parks and that kind of lifestyle for our citizens. The architecture is going to have an urban character to it. It's not going to be just the suburbia in the downtown area. And that, if in fact we get to the point of a large convention center being built, that the – view from I-15 and from the 61 acres, looking at the convention center, they're going to have to see something that's beautiful.
ATTORNEY MARK FIORENTINO	We understand that those are issues we're going to have to address as we go forward in the future phases, absolutely.
CHAIRMAN GOODMAN	Okay. And you also agree – to review all development plans with the master developer of the 61-acre and with the City as far as permits and approvals.
ATTORNEY MARK FIORENTINO	You didn't need to tell us that and we hope they will do the same with us.
CHAIRMAN GOODMAN	Okay. And I think that that basically is the bottom line.
LESA CODER, DIRECTOR OF OFFICE OF BUSINESS DEVELOPMENT	And – if I may add just a couple of other things, Mr. Mayor, and Mr. Fiorentino and I have discussed, and that would be to tie a specific development concept to the approval of the MOU and that we provide that when we come back to you with the DDA and with the developer notes. And that most likely will look very similar to what Mr. Fiorentino is showing you on the overhead.

	And then finally, in order to effectively change the language of the MOU, netting the 18% to affordable housing before the 50/50 or the net 41% goes to either World Market or the City, that we amend Section 1.2E to meet that intent. So as we come back to you, we would make those – amendments.
	And as I understand it, it would be your intent that we work with Mr. Alterwit, Alterwitz and Public Works and the applicant to give you more information about how to connect Discovery Drive to MLK.
MEMBER M. McDONALD	(inaudible)
MEMBER REESE	The City. You bet, you could ask.
MEMBER WEEKLY	Correct.
CHAIRMAN GOODMAN	Councilman McDonald has a question, which is of interest.
MEMBER M. McDONALD	What is –
CHAIRMAN GOODMAN	Is – the affordable housing money that could be applied to affordable housing throughout the entire City; is that correct?
LESA CODER, DIRECTOR OF OFFICE OF BUSINESS DEVELOPMENT	I believe that that's correct. Essentially set aside from any tax increment that comes to the City; 18% goes to affordable housing, the balance of that goes to the Redevelopment Agency.
CHAIRMAN GOODMAN	But if – for instance, if we agreed as a Council that the affordable housing would go to senior housing – yes?
DEPUTY CITY MANAGER HOUCHENS	Your Honor, I – think that's generally true. But it has to be with, within or adjacent to the redevelopment area. It has to have some proximity to the redevelopment area.
CHAIRMAN GOODMAN	Well, that's, that, it, that covers a wide, wide area. Because that redevelopment area's big.
MEMBER M McDONALD	That –
CHAIRMAN GOODMAN	Okay. Very good. Okay Anything else, Ms Coder.
LESA CODER, DIRECTOR OF OFFICE OF BUSINESS DEVELOPMENT	No, Sir. I believe that's it.

CHAIRMAN GOODMAN — All right. Councilman Brown.

MEMBER BROWN — Your Honor, just to be consistent, I going to disclose the fact that I have a relationship with Mandalay Sports Entertainment, which is in partnership with Southwest Sports. With that disclosure, I still feel that I am able to vote objectively on this application.

CHAIRMAN GOODMAN — Very good. I appreciate that. And, at this time, it'd be Councilman Weekly's motion?

MEMBER WEEKLY — Yes, Your Honor. I'd just first like to just thank the Council and yourself very much. This is a real tough issue that I think we've had lots of conversations about and have gone back and forth with the applicant in trying to come up with an understanding as to whether we wanted this project to move forward or whether we were going to just do away with it. But I think that we've been able to come to some form of an agreement. And I do appreciate, Mark, the meeting we had in the Mayor's office yesterday to discuss many of the conditions that he just addressed with you. And we thank your – applicants for, you know, agreeing to those. Because we think that by us all partnering and working together to appease, not just your – clients, but also two other businesses in the adjacent area, it'll be a win-win for everyone.

And so, Your Honor, with that, I'd like to **move forward and direct staff to move forward with the Memorandum of Understanding with the World Market Center, and with all the added conditions and language that have been included this afternoon.**

CHAIRMAN GOODMAN — Thank you, Councilman. All right, vote on the motion, please. Post, please. Motion carries and I think –

ATTORNEY MARK FIORENTINO — Thank you very much.

CHAIRMAN GOODMAN — – the World Trade Center, pardon me, that's a World Market Center, that was a terrible Freudian slip, you now can feel embraced; okay? **(Motion carried unanimously.)**

ATTORNEY MARK FIORENTINO — Thank you.

CHAIRMAN GOODMAN — All right.

(END OF DISCUSSION)

/vwd;ac

City of Las Vegas Agenda Item No.: IV-B

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7, 2001

DEPARTMENT: BUSINESS DEVELOPMENT
DIRECTOR: LESA CODER

SUBJECT:
DISCUSSION AND POSSIBLE ACTION REGARDING THE TERMINATION OF THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND CLARK STREET ASSOCIATES REGARDING THE PARCEL LOCATED AT 4TH AND CLARK STREETS (APN 139-34-311-126, 127, & 128) - WARD 3 (REESE)

Fiscal Impact

[X]	**No Impact**	**Amount:**
[ ]	**Budget Funds Available**	**Dept./Division:**
[ ]	**Augmentation Required**	**Funding Source:**

PURPOSE/BACKGROUND:
In February of 1997, the Agency entered into an agreement with Clark Street Associates, LLC for the development of the parcel located at 4th and Clark. Staff and the developer have agreed on the reconciliation of the DDA. Since there was no breach of good faith, it is also recommended that the letter of credit representing the good faith deposit be returned.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1 Disposition and Development Agreement
2. Locator Map
3. Disclosure of Principals

MOTION:
REESE – APPROVED as recommended – UNANIMOUS with WEEKLY and L.B. McDONALD not voting

MINUTES:
LESA CODER, Director, Office of Business Development, advised that the applicants are in concurrence with the termination of the prior Disposition and Development Agreement.

See Item IV-C for related discussion.

(1:48 – 1:49)

DISPOSITION AND DEVELOPMENT AGREEMENT

BETWEEN THE

CITY OF LAS VEGAS REDEVELOPMENT AGENCY

AND

CLARK STREET ASSOCIATES

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THIS AGREEMENT is entered into as of the _____ day of _____________. 1997, by and between the CITY OF LAS VEGAS REDEVELOPMENT AGENCY (the "Agency") and CLARK STREET ASSOCIATES, a Nevada limited liability company (the "Developer")

I. [§100] SUBJECT OF AGREEMENT

A. [§101] <u>Purpose of this Agreement</u>

The purpose of this Agreement is to effectuate the Redevelopment Plan (The "Redevelopment Plan") for the Downtown Las Vegas Redevelopment Area (the "Redevelopment Area") by providing for the development of certain real property (the "Site") included within the boundaries of the Redevelopment Area.

The development of the Site pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City of Las Vegas, Nevada (the "City"), and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

B. [§102] <u>The Redevelopment Plan</u>

This Agreement is subject to the provisions of the Redevelopment Plan which was approved and adopted on March 5, 1986, by the City Council of the City of Las Vegas by Ordinance No. 3218 The Redevelopment Plan, as it now exists and as it may be subsequently amended pursuant to Section 601, is incorporated herein by reference and made a part hereof as though fully set forth herein.

C. [§103] <u>The Redevelopment Area</u>

The Redevelopment Area is located in the City of Las Vegas, Nevada, and the exact boundaries thereof are specifically described in the Redevelopment Plan and in a document recorded March 11, 1986, as Instrument No 00777, Book 860311, and amended in the document recorded February 11, 1988, Instrument No. 00382, Book 880211, and further amended in the document recorded November 22, 1996, as Instrument No. 00847, Book 961122, in the Office of County Recorder of Clark County, which documents are incorporated herein by reference and made a part hereof as though fully set forth herein

D. [§104] <u>The Site</u>

The Site is that portion of the Redevelopment Area located on Las Vegas Boulevard on the block bounded by Clark and Bonneville Avenues, Fourth Street and Las Vegas Boulevard, as shown on the Map of the Site (Attachment A), and is more particularly described in the Legal Description of the Site (Attachment D)

E. [§105] **Parties to or Interrelated to this Agreement**

1. [§106] **The Agency**

The Agency is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of Nevada (NRS 279.382 et seq.). The office of the Agency is located at 400 Las Vegas Boulevard South, Las Vegas, Nevada 89101. "Agency", as used in this Agreement means the City of Las Vegas Redevelopment Agency and any assignee of, or successor to, its rights, powers and responsibilities.

2. [§107] **The Developer**

The Developer is Clark Street Associates, a Nevada limited liability company Peter Kaufman and Richard Scoby are the managing members in Clark Street Associates. Developer's principal address is 1130 Mark Avenue, Carpinteria, California 93013 Developer agrees throughout the term of this Agreement to notify the Agency of the names of its members Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided

The qualifications and identity of the Developer and of its members are of particular concern to the City and the Agency, and it is because of such qualifications and identity that the Agency has entered into this Agreement with the Developer. During the existence of this Agreement, the members of Developer agree not to sell, convey, assign or transfer their interests, or any portion thereof, without prior written consent or approval of the Agency. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein. This Agreement may be terminated by the Agency pursuant to Section 411 hereof if there is any significant change (voluntary or involuntary) in the membership or management of the Developer without the approval of the Agency prior to the completion of the development of the Site as evidenced by the issuance of a Certificate of Completion therefor. If there is any significant change (voluntary or involuntary) in the Developer which is not approved by the Agency subsequent to the completion of the development of the Site as evidenced by the issuance of a Certificate of Completion therefor, Agency shall be entitled to the remedy set forth in Section 409 et seq. as if such significant change were a transfer of ownership of the Site.

Except as specifically set forth herein, the Developer shall not assign all or any part of this Agreement without the prior written approval of the Agency, which approval shall not be unreasonably withheld. It shall not be unreasonable for the Agency to withhold its approval of a proposed assignee if such assignee· (1) does not have experience in developing projects of similar size and character at least equivalent to that of the Developer, or (2) does not have the financial strength and resources sufficient to undertake and complete the proposed project at least the equivalent of the Developer, or (3) does not have a reputation on the community for integrity and reliability.

3 [§108] **Bonneville Square Associates**

Bonneville Square Associates ("BSA") is a California limited partnership qualified to do business in the State of Nevada. The general managing partners are Peter Kaufman, Richard Scoby and Drake DeLanoy.

BSA and the Agency have entered into a Disposition and Development Agreement of even date herewith (the "BSA Agreement"), for the construction of certain improvements on the property subject to the BSA Agreement (the "BSA Property"), within the block where the Site is located. Although BSA is not a party to this Agreement, certain of the obligations of Developer under this Agreement can be satisfied by performing the obligations of BSA under the BSA Agreement, specifically, but not limited to, Section 108 of the BSA Agreement: and certain obligations of BSA under the BSA Agreement can be satisfied by Developer performing its obligations under this Agreement. Therefore reference will or might be made to the BSA Agreement and to the obligations of BSA under the BSA Agreement in this Agreement, and certain obligations of Developer under this Agreement will be referenced in the BSA Agreement. To the extent that relevant portions of the BSA Agreement are necessary in regard to Developer performing obligations under this Agreement, then those relevant portions of the BSA Agreement are incorporated into this Agreement

F [§109] **The Development**

Subject to all the provisions of this Agreement. the improvements to be constructed on the Site and the obligations of Developer as to the Site (the "Development" or "Project") are as follows:

(a) The construction of a parking garage containing approximately 380 vehicle parking spaces; and

(b) A 50.000 square foot office complex to be constructed on top of the parking garage, and

(c) Either (i) 8,000 square feet of retail space on the ground floor of the parking garage or (ii) a drive-through banking facility intended for the use of First Security Bank.

The construction of the improvements are indicated on the "Scope of Development," "Attachment C" attached hereto, and are hereinafter referred to as the "Development" or the "Project."

G. [§110] **Good Faith Deposit**

Concurrently with the execution of this Agreement by the Developer, the Developer shall deliver to the Agency a deposit in the form of either cash, a cashier's check or an irrevocable Letter of Credit in the amount of Twenty-Five Thousand and No/100ths Dollars ($25,000). Such amount shall be retained by the Agency as the Developer's deposit under this Agreement (the "Good Faith Deposit") and shall serve as security for the performance of the obligations of the Developer under this Agreement prior to the return of the Good Faith Deposit to the Developer.

The Good Faith Deposit, if made by cash or cashier's check, shall accrue interest, and interest earned shall become part of the Good Faith Deposit. Interest will accrue at the rate applicable for 90 day Certificates of Deposit at a federally insured institution in Las Vegas, Nevada, as determined by the Agency, which rate shall be adjusted at the beginning of each calendar quarter

If the Good Faith Deposit is made by Letter of Credit, the Letter of Credit shall be in the form attached hereto as Attachment "F" or otherwise in a form acceptable to the Agency in its sole discretion. Payment upon the Letter of Credit shall be made upon presentation of a written statement signed by the Executive Director of the Agency to the provider of the Letter of Credit demanding payment consistent with the terms of this Agreement. The Letter of Credit shall be renewed or replaced at least thirty (30) days prior to its expiration or the Agency shall be authorized to draw down the entire amount

Following the execution of this Agreement by the Developer and prior to the execution by the Agency, any attempted revocation of Developer's offer to enter into this Agreement or any attempted material modification of the terms hereof without the consent of the Agency shall entitle the Agency to retain the Good Faith Deposit.

Upon termination of this Agreement by the Agency as provided in Section 411 hereof, or termination by posting a bond or the issuance of the Certificate of Completion for the Development pursuant to Section 222, the Good Faith Deposit (including all interest earned thereon) shall be returned to the Developer or retained by the Agency as a set off against damages to which the Agency is entitled under this Agreement.

Upon termination of this Agreement by the Developer as provided in Section 408 hereof, the Good Faith Deposit (including all interest earned thereon) shall be returned within 30 days to the Developer by the Agency as provided therein.

If the Developer is in default with respect to any material provision of this Agreement, the Agency may, except as set forth in Section 412 as below, but shall have no obligation to, use the Good Faith Deposit or any portion of the Good Faith Deposit to cure such default or to compensate the Agency for any expense or damage sustained by the Agency and resulting from such default. If this Agreement has not been terminated as a result of such default, the Developer, on demand from the Agency, shall promptly restore such Good Faith Deposit to the full amount required by this Section 110 Prior to Agency's seeking recourse against the Good Faith Deposit, the Agency shall provide the Developer with thirty day written notice and an opportunity to cure same as provided by Section 401 of this Agreement.

H. [§111] **Developer Obligations**

1 [§112] **Construction of Development**

No later than the date as set forth in the Schedule of Performance, Attachment "B", the Developer shall commence construction in accordance with the Scope of Development. Developer agrees to complete the construction for the Development no later than the deadline set forth in the Schedule of Performance, Attachment "B".

2 [§113] Parking Spaces

a. Developer agrees to dedicate and reserve to the Agency the right to use a number of parking spaced designated by Developer within the parking garage upon completion of construction of the parking garage ("Agency Parking Spaces"). The number of Agency Parking Spaces shall be a percentage of the total parking spaces available in the parking garage upon completion of construction and shall be determined by a formula, the numerator of which is the Agency's contribution to the Project as set forth in Section 129 hereof, and the denominator of which is the total construction costs of the parking garage, as that term is defined in Section 129 hereof. The Agency shall have exclusive use of the Agency Parking Spaces, and the Agency shall be entitled to generate revenue from such Agency Parking Spaces. The Developer and Agency agree to execute a lease and management agreement for the Agency Parking Spaces prior to completion of the parking garage which shall contain, among other things, the terms set forth in this Section 113 and Section 114.

b From and after the completion of construction of the parking garage, Agency shall be responsible to pay its proportionate share of the operation and maintenance expenses for the parking garage. Such proportionate share shall be that portion of the total operation and maintenance expenses for the parking garage multiplied by the formula set forth in Section 113a above. Agency shall pay its proportionate share to Developer on a quarterly basis.

3. [§114] **Developer Right to Acquire Agency Parking Spaces**

Developer shall have the right to acquire the Agency Parking Spaces from Agency upon the occurrence of any of the following events, provided the occurrence of the following events is accomplished no later than thirty-six (36) months after the last issuance of a Certificate of Completion for the BSA Project and this Project:

(a) Developer's reimbursement of the Agency for the Agency Contribution as described in Section 129 of this Agreement. Such reimbursement shall be only in the amount of the Agency Contribution. and there shall be no obligation on Developer to pay Agency any interest or return on the Agency Contribution. nor any obligation on Developer to reimburse Agency for any expenses Agency incurred in regard to the operation and maintenance of the parking garage during the time that the Agency controlled the Agency Parking Spaces, or

(b) Construction by Developer of 30.000 square feet of development within the block where the Site is located. Developer's obligations under this Agreement, and the obligations of BSA under the BSA Agreement. shall not be included in computing the 30,000 square feet required by this subsection: or

(c) Have a combination of Paragraph 3 a and 3.b of this section approved by the Agency.

(d) Developer shall be entitled to reacquire a portion of the Agency Parking Spaces by Developer performing a portion of. but less than all of. the requirements of Subsections 3 a. 3.b or 3.c above The proportionate amount of Agency Parking Spaces that Developer shall be entitled to reacquire shall be that portion of the total Agency Parking Spaces determined by a fraction, the numerator of which is the performance by Developer under 3.a, 3 b or 3c above. and the denominator of which is the performance required of Developer under 3a, 3b or 3c above.

4. [§115] **Site Preparation and Demolition**

In accordance with the deadlines set forth in the Schedule of Performance. the

Developer shall prepare the Site for construction and shall demolish and remove all foundations and slabs deemed necessary for commencing construction of the Development.

5. [§116] **Miscellaneous Developer Obligations**

a. In accordance with Attachments "B" and "C", the Developer shall be responsible for all on-site and off-site improvements to the Site as required by the City of Las Vegas in connection with the development of the Site.

b. Developer shall furnish to the Agency, not later than fifteen (15) calendar days prior to the commencement of construction, a copy of the performance bond that is written by a corporate surety that is licensed to do business in the State of Nevada, in an amount that is acceptable to the Lender providing the construction funds for the Project, pursuant to Section 121, said performance bond to be conditioned upon Developer's completion of the construction of the Project within the time specified in the Schedule of Performance and in accordance with the final plans and specifications, as the same are approved by the Agency.

c It shall be the sole responsibility and obligation of the Developer, at the Developer's sole expense, to investigate and determine the soil and geologic conditions of the Site (including the presence of asbestos and hazardous wastes) and the suitability of the Site for the development proposed to be constructed. For purposes of investigating the soil and geologic conditions of the Site, representatives of Developer shall have a reasonable right of access to the Site during normal business hours. The Developer shall indemnify the Agency and hold it harmless from any damage, cause or liability arising out of this right of access.

d. Developer shall have ninety (90) calendar days from execution of this Agreement by Agency during which Developer shall determine, in its discretion, whether to proceed with the Development or terminate this Agreement pursuant to Section 408 hereof. Failure of Developer to terminate this Agreement within the time period set forth shall constitute acceptance by Developer of the Site in the condition as it then is in, save and except from any obligations, representations and/or warranties of Agency as set forth in this Agreement in regard to the Site not then completely fulfilled

e. Financial statements of the Developer's assets and liabilities shall be submitted to the Agency in accordance with the deadline set forth in Attachment "B"

f. In accordance with the Agency's employment plan policy for Developer with respect to this phase, Developer shall:

1. Provide the Agency with a list and amount of all contracts to be let for

construction of the project.

2. Contact the City of Las Vegas to identify the vendors in its minority vendors directory Developer shall notify these vendors of all construction contracts to be let for the Project. A copy of this notification shall be submitted to the Agency.

3. Prepare an employment plan, as required by NRS 279.572(2), no later than sixty (60) days from execution of this Agreement by the Agency, which shall then be attached to this Agreement as Attachment "I".

I. [§117] **Agency Obligations**

1. [§118] **Site Conveyance**

a. [§119] **Escrow**

The Agency agrees to open an escrow with Fidelity National Title Agency of Nevada, or any other title company approved by the Agency and the Developer, as escrow agent (the "Escrow Agent"), in Las Vegas, Nevada, within the time established in the Schedule of Performance, Attachment "B" This Agreement constitutes the joint escrow instructions of the Agency and the Developer, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of escrow The Agency and the Developer shall provide such additional escrow instructions as shall be necessary and consistent with this Agreement. The Escrow Agent hereby is empowered to act under this Agreement and, upon indicating its acceptance of the provisions of this section in writing, delivered to the Agency and to the Developer within five (5) days after the opening of the escrow, shall carry out its duties as Escrow Agent hereunder.

The Developer shall deposit with the Escrow Agent the purchase price of Ten and No/100ths Dollars ($10 00) ("Purchase Price") for the Site in accordance with the provisions of Section 124 of this Agreement

The Developer shall also pay in escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Developer of the amount of such fees, charges and costs, but not earlier than ten (10) days prior to the scheduled date for the close of escrow:

1 One-half of the escrow fee; and

2 The portion of the premium for the title insurance policy

or special endorsements to be paid by the Developer as set forth in Section 125 of this Agreement.

The Agency shall timely and properly execute, acknowledge and deliver a Deed conveying to the Developer, title to the Site in accordance with the requirements of Section 122 of this Agreement, together with an estoppel certificate certifying that the Developer has completed all acts (except deposit of the Purchase Price) necessary to entitle the Developer to such conveyance, if such be the fact, and an assignment of any policy or policies of title insurance obtained by it on any part of the Site.

The Agency shall pay in escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Agency of the amount of such fees, charges and costs, but not earlier than ten (10) days prior to the scheduled date for the close of escrow:

1. Costs necessary to place the title to the Site in the condition for conveyance required by the provisions of this Agreement;

2. One-half of the escrow fee;

3. Costs of drawing the Deed;

4. Recording fees,

5. Notary fees;

6. The premium for a A.L.T.A. standard title insurance policy to be paid by the Agency as set forth in Section 125 of this Agreement;

7. Ad valorem taxes, if any, upon the Site for any time prior to conveyance of title, and

8. Any state, county or city documentary transfer tax.

Upon delivery of the Deed to the Escrow Agent by the Agency pursuant to Section 123 of this Agreement, the Escrow Agent shall record such Deed pursuant to Section 124 when title can be vested in the Developer in accordance with the terms and provisions of this Agreement The Escrow Agent shall buy, affix and cancel any transfer stamps required by law and pay any transfer tax required by law. Any insurance policies governing the Site are not to be transferred.

The Escrow Agent is authorized to:

1. Pay and charge the Agency and the Developer. respectively. for any fees. charges and costs payable under this Section 118 of this Agreement. Before such payments are made, the Escrow Agent shall notify the Agency and the Developer of the fees. charges and costs necessary to clear title and close the escrow;

2. Disburse funds and deliver the Deed and other documents to the parties entitled thereto when the conditions of this escrow have been fulfilled by the Agency and the Developer; and

3. Record any instruments delivered through this escrow. if necessary or proper. to vest title in the Developer in accordance with the terms and provisions of this Agreement.

All funds received in this escrow shall be deposited by the Escrow Agent in an interest-bearing account in any state or national bank doing business in the State of Nevada. All disbursements shall be made by check of the Escrow Agent. All adjustments shall be made on the basis of a 30-day month.

If this escrow is not in condition to close before the time for conveyance established in Section 120. either party who then shall have fully performed the acts to be performed before the conveyance of title may, in a writing delivered to the Escrow Agent, terminate this Agreement and demand the return of its money. papers or documents. Thereupon all obligations and liabilities of the parties under this Agreement shall cease and terminate If neither the Agency nor the Developer shall have fully performed the acts to be performed before the time for conveyance established in Section 120, no termination or demand for return shall be recognized until ten (10) days after the Escrow Agent shall have mailed copies of such demand to the other party or parties at the address of its or their principal place or places of business If any objections to the termination or demand for return are raised in a writing delivered to the Escrow Agent and the other parties within the ten-(10) day period, the Escrow Agent is authorized to hold all money, papers and documents with respect to the Site until instructed in a writing signed by both the Agency and the Developer or by an order of a court of competent jurisdiction.

If no demands for termination are made. the escrow shall be closed as set forth in this Section 119 of this Agreement. Nothing in this section shall be construed to impair or affect the rights or obligations of the parties to this Agreement to specific performance, if any.

Any amendment to these escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment, the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

All communications from the Escrow Agent to the Agency or the Developer shall be directed to the addresses and in the manner established in Section 601 of this Agreement for notices, demands and communications between the Agency and the Developer.

The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Sections 118 to 126, inclusive, of this Agreement.

Neither the Agency nor the Developer shall be liable for any real estate commissions or brokerage fees which may arise herefrom. The Agency and the Developer each represent and warrant that neither has engaged any broker, agent or finder in connection with this transaction and will indemnify each the other from any such claims.

b [§120] **Conveyance of Title and Delivery of Possession**

Provided that the Developer is not in default under this Agreement and all conditions precedent to such conveyance have occurred, including the Agency's approval of firm and binding commitment to finance the Development, as set forth in Section 131 of this Agreement, and subject to the payment of the Purchase Price and recordation of the Deed pursuant to Section 120 and any mutually agreed upon extensions of time, conveyance to the Developer of title to the Site shall be completed on or prior to fifteen (15) days after the Agency's approval of Developer's Firm and Binding Evidence of financing

Possession shall be delivered to the Developer concurrently with the conveyance of title, except that access may be permitted before conveyance of title as permitted in Sections 116c. and 127 of this Agreement.

c. [§121] **Form of Deed**

The Agency shall convey to the Developer title to the Site in the condition provided in Section 122 of this Agreement by grant, bargain and sale deed in substantially the form set forth in Attachment "H".

d. [§122] **Condition of Title**

The Agency shall convey to the Developer fee simple merchantable title to the Site free and clear of all recorded liens, encumbrances, assessments, easements, leases and taxes, except those which are set forth in this Agreement and included in the Deed and those which are otherwise consistent with this Agreement and which are acceptable to Developer; provided, however, that no covenants, conditions, restrictions or equitable servitudes shall prohibit or limit the Development permitted by the Scope of Development, Attachment "C".

e. [§123] **Time and Place of Delivery of Deed**

Subject to any mutually agreed upon extensions of time, the Agency shall deposit the Deed with the Escrow Agent on or before the date established for the conveyance of the Site in Section 119 of this Agreement

f. [§124] **Payment of the Purchase Price and Recordation of Deed**

The Developer shall deposit the Purchase Price for the Site required hereunder with the Escrow Agent prior to the date for conveyance thereof, provided that the Escrow Agent shall have notified the Developer in writing that the Deed, properly executed and acknowledged by the Agency, has been delivered to the Escrow Agent and that title is in condition to be conveyed in conformity with the provisions of Section 122 of this Agreement. Upon the close of escrow, the Escrow Agent shall file the Deed for recordation among the land records in the Office of the County Recorder of Clark County, Nevada, which Deed shall be recorded simultaneously with the deed of trust in favor of the lender for the Development Loan as described in Section 131. Escrow Agent shall deliver the Purchase Price and other required sums to the Agency and shall deliver to the Developer a title insurance policy insuring title in conformity with Section 125 of this Agreement.

g. [§125] **Title Insurance**

Concurrently with recordation of the Deed, Fidelity National Title Agency of Nevada or some other title insurance company satisfactory to the Agency and the Developer having equal or greater financial capability ("Title Company"), shall provide and deliver to the Developer a title insurance policy, in a form acceptable to the Developer, issued by the Title Company insuring that the title is vested in the Developer in the condition required by Section 122 of this Agreement. The Title Company shall provide the Agency with a copy of the title insurance policy and the title insurance policy shall be in the amount of the value of the land as measured by the cost of the Site as paid by the Agency

The cost of the A.L T.A. title insurance premium shall be paid by the Agency

Concurrently with the recording of the Deed conveying title to the Site. the Title Company shall, if requested by the Developer, provide the Developer with an endorsement to insure the Developer's estimated development costs of the Project to be constructed upon the Site in the amount of Seven Hundred Thousand and No/100ths Dollars ($700.000.00). The Developer shall pay the entire premium for any such increase in coverage requested by it.

h. [§126] **Taxes and Assessments**

Ad valorem taxes and assessments, if any, on the Site, and taxes upon this Agreement or any rights hereunder, levied, assessed or imposed for any period commencing prior to conveyance of title shall be borne by the Agency. All ad valorem taxes and assessments levied or imposed on the Site for any period commencing after close of escrow shall be paid by the Developer.

i. [§127] **Preliminary Work by the Developer**

Prior to the conveyance of title from the Agency, representatives of the Developer shall have the right of access to the Site to complete the Site Preparation provided for in Section 116 of this Agreement. upon reasonable notice to the Agency or its designee. In addition. representatives of the Developer shall have the right of access to the Site at all reasonable times for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement. The Developer shall hold the Agency harmless for any injury or damages arising out of any activity of the Developer pursuant to this section The Developer shall have access to all data and information on the Site available to the Agency

j [§128] **Condition of Site**

As to all portions of the Site, the Site and any portion thereof shall be conveyed in an "as is" condition. with no warranty. express or implied by Agency as to the condition of the soil. its geology. or the presence of known or unknown faults, including but not limited to, hazardous substances. It shall be the sole responsibility of Developer, at Developer's expense, to investigate and determine the soil conditions of the Site and the suitability of the Site for the Development to be constructed by Developer. If the soil conditions of the Site, or any part thereof, are not in all respects entirely suitable for the use or uses to which the Site will be put, then it is the sole responsibility and obligation of Developer to take such action as may be necessary to place the Site and the soil conditions thereof in all respects in a condition entirely suitable for the development of the Site.

2. [§129] **Agency Contribution to Construction**

Concurrently with the construction financing lender's deposit of the construction loan funds, the Agency shall deposit with a construction control company acceptable to Developer and the construction financing lender for the construction of the Development the sum of One Million and No/100ths Dollars ($1,000,000.00) ("Agency Contribution") to be held for the benefit of Developer Developer shall have the right to draw against the deposit immediately for reimbursement of the Total Construction Costs of the parking garage. Total Construction Costs includes both hard and soft costs required for the development of the parking garage and excludes any construction costs for the office building. Upon verification of reimbursement to the Developer and completion of the work, the construction control company shall be directed to make progress payments to the Developer, and the Agency's pro-rata share of each progress payment shall be in direct proportion of the amount of the Agency Contribution to the amount of the construction loan from the construction financing lender

3 [§130] **Miscellaneous Agency Obligations**

a. In accordance with the Schedule of Performance in Attachment "B", the Agency will utilize its best efforts to assist the Developer in obtaining all necessary permits and in meeting all regulatory requirements associated with the development of the Site.

b The Agency represents and warrants that there are no other agreements with any other developers with respect to the Site

c. Whenever approval is required under this Agreement by the Agency, that approval shall not be unreasonably withheld.

J [§131] **Financing for Development of the Site**

The Developer shall submit to the Agency evidence of firm and binding commitment to finance the Development within the time set forth in the Schedule of Performance, Attachment "B" The Agency shall have the sole reasonable discretion to approve financing from a source acceptable to the Agency for development of the Site (the "Commitment") in accordance with the Plans and Drawings (as hereinafter described). The Commitment may be in the form of a customary mortgage loan, sale leaseback, participating convertible mortgage loan, unsecured loan, or any other means which make available to the Developer the funds necessary to finance the Development

In evaluating the sufficiency of the Commitment, the Agency shall consider whether the Commitment is in a customary form used by reputable institutional lenders, agencies, underwriters or others for comparable projects, and the financial strength and experience of the entity providing the funds (the "Lender"). As used herein the loan described in the Commitment shall be referred to as the "Development Loan". As a condition to its approval of the Commitment, the Agency may require the Commitment to provide:

1. A complete description of all real and personal property securing the Development Loan, together with any required collateral assignments, guarantees and other forms of security.

2. The rate of interest or return payable with respect to the Development Loan, and any fees payable to the Lender during the loan term

3. The repayment schedule including any extensions.

4. The exact amount of funds to be made available to the Developer for acquisition or development of the Development after deduction of the Lender's closing or other fees payable or deducted at closing, closing costs, commissions and the like.

5. A description of the approved budget (the "Construction Budget") against which funds will be disbursed and the conditions and timing for disbursement.

6 A description of all required property, liability and title insurance, and payment and performance bonds.

7. Copies of proposed material loan documents.

8 Other related information or documents which Agency may reasonably request.

The Commitment shall be submitted to the Agency by the date set forth in

Attachment "B". If the evidence of firm and binding commitment is not submitted within the established time or the commitment is not approved by the Agency, this Agreement shall terminate, and no party shall have any further rights against or liability to any other party under this Agreement.

K. [§132] **Acknowledgment of Bond Covenants**

The Developer and the Agency acknowledge and agree that the Agency has issued its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Revenue Bonds (City of Las Vegas Redevelopment Project), Series 1986A," in the aggregate original principal amount of $50,000,000 (the "Series 1986A Bonds"); its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Subordinate Lien Revenue Bonds (Fremont Street Project), Series 1994A," in the aggregate original principal amount of $18,800,000 (the "Series 1994A Bonds"); its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Subordinate Lien Revenue Bonds (Housing Project), Series 1994B," in the aggregate original principal amount of $3,375,000 (the "Series 1994B Bonds"), its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Insured Refunding Parity Lien Revenue Bonds, Series 1995A, in the aggregate principal amount of $16,525,000 (the "Series 1995A Bonds") and its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Subordinate Lien Refunding Revenue Bonds, Series 1995B in the aggregate principal amount of $565,000 (the "Series 1995B Bonds"). The Series 1986A Bonds, Series 1994A Bonds, Series 1994B Bonds, Series 1995A Bonds and Series 1995B Bonds are collectively referred to herein as the "Bonds". The Series 1986A Bonds were issued pursuant to that certain Amended and Restated Indenture of Trust, dated as of December 1, 1989 (the "1986 Indenture"), between the Agency and Bank of American Nevada, formerly known as Valley Bank of Nevada (the "Trustee"). The Series 1994A Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of January 15, 1994 (the "1994A Indenture") between the Agency and the Trustee The Series 1994B Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of January 15, 1994 (the "1994B Indenture") between the Agency and the Trustee. The Series 1994B Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of June 1, 1995 (the "1995A Indenture") between the Agency and the Trustee. The Series 1995B Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of June 1, 1995 (the "1995B Indenture") between the Agency and the Trustee The 1986 Indenture, the 1994A Indenture, the 1994B Indenture, the 1995A Indenture, and the 1995B Indenture are collectively referred to as the "Indentures " The Bonds were issued for the purpose of financing certain undertakings by the Agency in connection with the Redevelopment Project. Under the Indentures, the rights, but not the obligation, of the Agency under this Agreement have been pledged by the Agency to the owners of the Bonds as security for the Bonds. The Developer understands and acknowledges that, under the Indentures, the trustees, on behalf of the Registered Owners, shall be entitled to enforce the provisions of this Agreement against the occurrence of any Event of

Default as set forth therein.

L. [§133] **General Representations**

The Agency and Developer each represent and warrant for itself that:

1. This Agreement and all agreements, instruments and documents herein provided to be executed as duly executed and binding on the party making the representation

2. The execution, consent or acknowledgment of no other party is necessary to effect the obligations of the Agency or the Developer. whichever is making the representation, provided in this Agreement;

3. This Agreement does not now or shall not hereafter breach, invalidate. cancel. make inoperative or interfere with any contract, agreement. instrument. mortgage, deed of trust, promissory note, lease, bank loan or credit agreement to which the Agency or the Developer, whichever is making the representation. is subject.

II. [§200] DEVELOPMENT OF THE SITE

A. [§201] **Development of the Site by the Developer**

1 [§202] **Scope of Development**

The Site shall be developed as provided in the Scope of Development in Attachment "C", the Basic Concept Drawings and the Construction Plans. Drawings and Related Documents as set forth in Sections 203 and 204

2 [§203] **Basic Concept Drawings**

The Site shall be developed as generally established in the Basic Concept Drawings which will be submitted to and approved by the Agency except for changes subsequently agreed upon between the Developer and the Agency

3. [§204] **Construction Plans, Drawings, and Related Documents**

The Developer shall prepare and submit to the Agency, and the Agency shall review and approve. the following plans, drawings, related documents, and any subsequent revisions thereto, to wit:

a. Final Architectural Plans

b. Final Plot Grading Utility Plans
c. Final Structural Plans
d. Final Mechanical and Electrical Plans
e. Final Landscaping Plans

Said plans, drawings and related documents are hereinafter referred to as the "Plans and Drawings" and by this reference are incorporated herein as a part of this Agreement

The Developer agrees to construct the improvements on the Site in accordance with the approved Plans and Drawings

4 [§205] **Agency Approval of Changes in the Construction Plans and Drawings**

If the Developer desires to make any material change to the exterior of the building on the Site, in the Plans and Drawings after their approval by the Agency, the Developer shall submit the proposed change to the Agency for its approval. If the proposed change is approved, the Agency shall notify the Developer in writing within fifteen (15) calendar days after receipt to the Agency. Such change in the Plans and Drawings shall, in any event, be deemed approved by the Agency unless rejected, in whole or in part, by written notice thereof by the Agency to the Developer setting forth in detail the reasons therefor, and such rejection shall be made within the said 15-day period

5. [§206] **Cost of Construction**

The cost of developing the Site and constructing all improvements thereon shall be borne by the Developer, except for the contribution by the Agency in accordance with Sections 118 and 129 and those obligations described in Attachment "C" as "public improvements and/or improvements for the benefit of the public and provision of the Agency parcel as described in the Scope of Development".

6 [§207] **Construction Schedule**

The Developer shall begin and complete all construction and development within the times specified in Attachment "B" or such reasonable extension of said dates as may be granted by the Agency or as provided in Section 604 of this Agreement. Attachment "B" is subject to revision from time-to-time as mutually agreed upon in writing between the Developer and the Agency

7 [§208] **Insurance and Indemnification**

a The Developer shall obtain and maintain during the existence of this

Agreement, general comprehensive liability insurance for bodily injury and property damage in the minimum amount of One Million and No/100ths Dollars ($1,000,000.00) combined single limit. If such policy is on a "claims made" basis, then such coverage shall be maintained in effect for one (1) year after the issuance of the final Certificate of Completion

b. Prior to the Close of Escrow, commencement of any demolition or construction of the Site, the Developer shall furnish or cause to be furnished to the Agency certificates of insurance or endorsements evidencing the coverage required herein.

c. The Developer will provide renewal certificates for insurance coverage required herein that expires during the existence of this Agreement within sixty (60) calendar days following the expiration date of said insurance.

d. The Agency, its officers, employees and agents must be expressly covered as insured parties under the insurance coverages required herein.

e. The insurance coverage required herein must provide for a 30-day written notice to the Agency before any amendments, modifications, suspension, cancellations, reductions or non-renewal of coverage This notice requirement does not waive the insurance requirements contained herein.

f. In the event the Developer fails to obtain, or maintain the insurance required herein, the Agency shall have the right, in addition to the remedies available under Sections 407, 411 and 412, to pay the premium from the Good Faith Deposit to reinstate the insurance coverage which the Developer has failed to maintain, or to procure substitute insurance coverage, which in either case the Agency shall be entitled to collect the cost thereof from the Developer or deduct the same from any sums due the Developer under this Agreement.

g In addition to the insurance requirements of this Section, the Developer shall assume and be responsible for, and shall protect, indemnify, defend and hold harmless the Agency and the City of Las Vegas, and their respective officers, members, consultants, agents and employees, from and against any and all claims, demands, liabilities, losses or costs, including reasonable attorneys' fees and court costs, for injuries to or the death of any person or persons or damages to property, including property of the Agency or the City, which may arise out of or in any manner be connected with the performance of the obligations under this Agreement excluding any claims, demands, liabilities, losses or costs resulting from the acts or omissions of the City, Agency, and any of their respective officers, members, consultants, agents and employees

h. The Developer shall also furnish or cause to be furnished evidence satisfactory to the Agency that any contractor with whom it has contracted for performance of the work on the site carries worker's compensation insurance required by law.

8 [§209] **City, Agency, and Other Governmental Permits**

Before commencement of construction or development of any buildings, structures or other work of improvement upon the Site, the Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City of Las Vegas or any other governmental agency affected by such construction, development or work. The Agency shall provide all assistance deemed appropriate by the Agency to the Developer in securing these permits.

9. [§210] **Rights of Access**

For the purposes of assuring compliance with this Agreement, representatives of the Agency and the City shall have the right of reasonable access to the Site without charges or fees and at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Executive Director of the Agency. The Agency and City shall indemnify the Developer and hold it harmless from any damage caused or liability arising out of this right to access.

10 [§211] **Compliance with Public Bidding Requirements and Other Local, State and Federal Laws**

The Developer shall carry out the construction of the improvements in conformity with all applicable laws, including all applicable federal, state and local standards.

The Developer shall ascertain the general prevailing rate of per diem wages in the locality in which the improvements are to be constructed for each craft or type of workman needed to construct the improvement and shall so specify such information in the bid specification. The Developer agrees not to pay less than the specified prevailing rate of wages to the contractor and its employees selected to construct the improvements.

The Developer shall require that the selected contractor keep accurate records showing the name, occupation and actual per diem wages paid to each employee used in connection with construction of the improvement. Such records shall be open to inspection and reproduction by the Agency during normal business hours

11 [§212] **Anti-discrimination During Construction**

The Developer, for itself and its successors and assigns, agrees that in the construction of the Development provided for in this Agreement, the Developer will not discriminate for or against any employee or applicant for employment because of race, color, creed, religion, sex, age, ancestry, or national origin.

B [§213] **Agency Approval of Operating Covenants, and Reciprocal Easement Agreements**

Upon written request, delivered by the Agency to the Developer, the Agency reserves the right of approval, which shall not be unreasonably withheld, of operating covenants and reciprocal easement agreements that the Developer may enter into during construction of the Development. Such operating covenants and reciprocal easement agreements shall be deemed approved by the Agency unless rejected, in whole or in part, by written notice thereof by the Agency to the Developer setting forth in detail the reasons therefor, within fifteen (15) calendar days after the submission to the Agency

C. [§214] **Taxes, Assessments, Encumbrances, and Liens**

Prior to the issuance of a Certificate of Completion, the Developer shall not place or allow to be placed on the Site any mortgage, trust deed, encumbrance, or lien unauthorized by this Agreement. The Developer shall remove or have removed any levy or attachment made on the Site (or any portion thereof), or shall assure the satisfaction thereof, within a reasonable time.

Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, or to limit the remedies available to the Developer in respect thereto, as long as such contest does not impair the title to the Site.

D. [§215] **Prohibition Against Transfer of Site, the Buildings or Structures Thereon, and Assignment of Agreement**

The Developer shall not, except as expressly permitted by this Agreement, sell, transfer, convey or assign the whole or any part of the Site or the buildings or improvements thereon without the prior written approval of the Agency This prohibition shall not apply subsequent to the issuance of the Certificate of Completion with respect to the Site. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Site

In the absence of specific written agreement by the Agency, no such transfer, assignment or approval by the Agency shall be deemed to relieve the Developer or any other party from any obligations under this Agreement until completion of development as evidenced by the issuance of a Certificate of Completion therefor.

E. [§216] <u>Security Financing; Rights of Holders</u>

1 [§217] <u>No Encumbrances Except Mortgages, Deeds of Trust, Sales and Lease-Backs, or Other Financing for Development</u>

Notwithstanding Sections 214 and 215 of this Agreement, mortgages, deeds of trust, sales and leases-back or any other form of conveyance required for any reasonable method of financing are permitted before issuance of a Certificate of Completion but only for the purpose of securing loans of funds to be used for acquisition of the Site or for construction of improvements on the Site or any other expenditures necessary and appropriate to develop the Site under this Agreement. The Developer shall notify the Agency in advance of any mortgage, deed of trust, sale and lease-back or other form of conveyance for financing if the Developer proposes to enter into the same before issuance of a Certificate of Completion.

The Developer shall not enter into any such conveyance for financing without the prior written approval of the Agency, which approval the Agency agrees to give if any such conveyance is given to a responsible financial or lending institution or other reasonable acceptable person or entity. Such lender shall be deemed approved unless rejected in writing by the Agency within ten (10) days after notice thereof to the Agency by the Developer In any event, the Developer shall promptly notify the Agency of any conveyance, encumbrance or lien that has been created or attached thereto prior to completion of the construction of the improvements on the Site whether by voluntary act of the Developer or otherwise. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

2. [§218] <u>Holder Not Obligated to Construct Improvements</u>

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement may, but shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

3. [§219] **Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure**

Whenever the Agency shall deliver any notice or demand to the Developer with respect to any breach or default by the Agency shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage. deed of trust or previously made a written request to the Agency therefor Each such holder shall (insofar as the rights of the Agency are concerned) have the right. at its option, within ninety (90) days after the receipt of the notice. to cure or remedy or commence to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien on its security interest. In the event there is more than one such holder. the right to cure or shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves. Nothing contained in this Agreement shall be deemed to permit or authorize such holder or its nominees or assignees as permitted by this Agreement or approved by the Agency to undertake or continue the construction or approved by the Agency to undertake or continue the construction or completion of the improvements (beyond the extent already made) without first having expressly assumed the Developer's obligations by the Agency by written agreement satisfactory to the Agency. The holder or its nominees or assignees as permitted by this Agreement or approved by the Agency in that event must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder relates and submits evidence satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations.

Any such holder properly completing such improvements shall be entitled. upon written request made to the Agency. to a Certificate of Completion from the Agency

4. [§220] **Failure of Holder to Complete Improvements**

In any case where, ninety days (90 days) after receipt of said notice of default by the Developer in completion of construction of improvements under this Agreement. the holder of any mortgage. deed of trust or other security interest creating a lien or encumbrance upon the Site has not exercised the option to construct, or if it has exercised the option and has not proceeded diligently with construction, the Agency may purchase the mortgage. deed of trust or other security interest by payment to the holder of the amount of the unpaid debt. plus any accrued and unpaid interest. If the ownership of the Site has vested in the holder. the Agency, if it so desires, shall be entitled to a conveyance of the Site from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

a. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

b. All expenses with respect to foreclosure;

c The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site;

d. The costs of any authorized improvements made by such holder; and

e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

5. [§221] **Right of Agency to Cure Mortgage, Deed of Trust or Other Security Interest Default**

In the event of a default or breach by the Developer of a mortgage, deed of trust or other security interest with respect to the Site prior to the completion of the Development, and the holder has not exercised its option to complete the Development, the Agency may cure the default prior to completion of any foreclosure within ninety (90) days of the holder's notification that it will not complete the Development. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Site to the extent of such costs and disbursements

Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to acquire or develop the Site as authorized herein

F [§222] **Certificate of Completion**

A Certificate of Completion shall be issued promptly after receipt of a request therefor after completion of all construction. The Certificate of Completion for the Development shall be in the form attached hereto as Attachment "E" and shall also include an agreement in the form of Attachment "G" both of which shall be recorded in the Office of the County Recorder of Clark County A Certificate of

Completion for less than the entire improvement of the Development shall not be recorded.

The Certificate of Completion for the Development shall be. and shall so state therein that it is, a conclusive determination of the satisfactory completion of the construction required by this Agreement upon the Site or such portion thereof and of full compliance with the terms hereof After issuance of the Certificate of Completion for the Development, any party then owning or thereafter purchasing. leasing or otherwise acquiring any interest in the Site or such portion thereof covered by said Certificate of Completion shall not (because of such ownership. purchase lease or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by any covenants contained in the Agreement appended hereto as Attachment "G". Except as otherwise provided herein, after the issuance of the Certificate of Completion for the Development or such portion thereof, neither the Agency, the City nor any other person shall have any rights. remedies or controls with respect to the Site or such portion thereof that it would otherwise have or be entitled to exercise under this Agreement as a result of a default in or breach of any provision of this Agreement. and the respective rights and obligations of the parties with reference to the Site or such portion thereof shall be as set forth in Sections 301 to 304, inclusive, of this Agreement.

The Agency shall not unreasonably withhold the Certificate of Completion. If the Agency refuses or fails to furnish the Certificate of Completion for the Development after written request from the Developer. the Agency shall, within ten (10) days of such written request. provide the Developer with a written statement of the reasons the Agency refused or failed to furnish the Certificate of Completion. The statement shall also contain the Agency's opinion of the action the Developer must take to obtain a Certificate of Completion. If the Agency shall have failed to provide such written statement within said 10-day period. the Developer shall be deemed entitled to the Certificate of Completion.

The Certificate of Completion for the Development shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the improvements or any part thereof.

III. [§300] USE OF THE SITE

A. [§301] Uses

The Developer covenants and agrees for itself, its successors. assigns and every successor in interest that during construction and thereafter. the Site shall be devoted only to the uses specified in this Agreement. and the Redevelopment Plan. for the periods of the Agency without regard to whether the Agency has been, remains or is an owner of any land or interest therein in the Site, any parcel or subparcel, or in the Redevelopment Area. the Agency shall have the right, if this Agreement or the covenants are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and the covenants may be entitled.

IV [§400] DEFAULTS, REMEDIES AND TERMINATION

A. [§401] Event of Default by the Developer

If during the existence of this Agreement, the Developer:

1. Transfers or assigns, or attempts to transfer or assign the rights, benefits or duties under this Agreement, or in the Site or any improvements thereon, contrary to the provisions of Section 107.

2. Fails to deposit or maintain the amount of the Good Faith Deposit as required pursuant to the provisions of Section 110,

3 Fails to proceed with, abandons or substantially suspends the construction of the Project required by this Agreement.

4. Fails to meet the deadlines set forth in Attachment "B" or proceed in a timely manner with the Development,

5. Fails to perform any other material obligation imposed under the provisions of this Agreement.

then. the occurrence of any of the foregoing events (a "Developer Event of Default") shall constitute a breach in the performance of the obligations imposed upon the Developer and shall entitle the Agency to the remedies, and only the remedies hereinafter set forth. if. after receiving thirty (30) calendar days written notice of default from the Agency, the Developer has failed to cure, or to commence a cure and diligently pursue it to completion (which in no event is to exceed sixty (60) calendar days).

B. [§402] Events of Default by the Agency

If during the existence of this Agreement, the Agency fails to perform any material obligation imposed under the provisions of this Agreement. then. the occurrence of any of the foregoing events (an "Agency Event of Default") shall constitute a breach in the of time specified in Section 304 The foregoing covenants shall run with the land.

B [§302] **Maintenance**

The Developer hereby covenants and agrees for itself, its successors, assigns and every successor in interest to maintain the improvements on the Site and keep the Site free from any accumulation of debris or waste materials and to maintain the landscaping required to be planted in accordance with the Plans and Drawings in a healthy condition. If at any time the Developer, or its successors in interest, shall fail to keep the Site free of debris or waste materials or to maintain said landscaping in a healthy condition, and said condition is not corrected within ten (10) days after written notice from the Agency, either the Agency or the City may perform the necessary cleanup or landscape maintenance, and the Developer, or its successors in interest, shall pay such costs as are reasonably incurred for such cleanup or landscape maintenance. The foregoing covenants shall run with the land

C. [§303] **Obligation to Refrain from Discrimination**

The Developer covenants by and for itself, its successors, assigns and every successor in interest to the Site or any part thereof, that there shall be no discrimination against or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer itself of any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land

D [§304] **Effect and Duration of Covenants**

Except as otherwise provided, the covenants contained in this Agreement shall remain in effect until March 5, 2026 (the termination date of the Redevelopment Plan). The covenants against discrimination shall remain in effect in perpetuity The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, the City and any successor in interest to the Site or any part thereof.

The Agency is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. This Agreement and the covenants shall run in favor performance of the obligations imposed upon the Agency and shall entitle the Developer to the remedies, and only the remedies, hereinafter set forth. if, after receiving thirty (30) calendar days written notice from the Developer. the Agency has failed to cure. or to commence a cure and diligently pursue it to the completion.

1. [§403] **Institution of Legal Actions**

Any legal action to enforce the rights and remedies provided herein must be instituted in the District Court of the County of Clark. State of Nevada. or. alternatively, in the Federal District Court in the State of Nevada. if jurisdiction therein is appropriate.

2. [§404] **Applicable Law**

The laws of the State of Nevada shall govern the interpretation and enforcement of this Agreement.

3 [§405] **Service of Process**

In the event that any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the Secretary of the Agency or in such other manner as may be provided by law

C. [§406] **Remedies of the Parties**

1 [§407] **Mutual Remedy of Specific Performance**

Upon occurrence of an Event of Default by either the Developer or the Agency during the existence of this Agreement, the non-defaulting party. at its option, may institute an action for specific performance of the terms and obligations (including the payment of any monetary obligation) of this Agreement

2 [§408] **Remedy of the Developer–Termination**

In the event that (i) the zoning for the Site will not permit development. (ii) the soil or geologic conditions of the Site are such as to make the Development economically unfeasible and the Developer disapproves of such conditions in accordance with the provisions of Section 116, or (iii) upon the occurrence of an Agency Event of Default, the Developer shall have the right during the existence of this Agreement to terminate, and this Agreement shall so terminate, ten (10) calendar days after written notice of termination is received by the Agency. Upon such termination. the Good Faith Deposit shall be returned to the Developer. and the parties hereto shall have no further recourse against. or liability to. each other

3. [§409] **Remedies of the Agency**

a. [§410] **In General**

1. [§411] **Termination**

During the existence of this Agreement and upon the occurrence of a Developer Event of Default. the Agency shall have the right to terminate. and this Agreement shall so terminate. the date that the written notice of termination is received by the Developer or such other date as may be specified in the written notice.

2. [§412] **Liquidated Damages**

In the event of termination under Section 411, the Good Faith Deposit may be retained by the Agency as liquidated damages and as its property without any deduction, offset or recoupment whatsoever If the Developer should default upon its obligations making it necessary for the Agency to terminate this Agreement and to procure another party or parties to redevelop the Site in substantially the manner and within the period that such Site would be redeveloped under the terms of this Agreement. then the damages suffered by the Agency by reason thereof would be uncertain. Such damages would involve such variable factors as postponement of tax revenues therefrom to the community and the failure of the Agency to effect its purposes and objectives within a reasonable time, resulting in additional immeasurable damage and loss to the Agency and the community. It is impracticable and extremely difficult to fix the amount of such damages to the Agency. but the parties are of the opinion. upon the basis of all information available to them. that such damages would approximately equal the amount of the Good Faith Deposit held by the Agency at the time of the default of the Developer. and the amount of such deposit shall be retained to the Agency upon any such occurrence as the total of all damages for any and all such defaults and not as a penalty In the event that this paragraph should be held to be void for any reason. the Agency shall be entitled to the full extent of damages otherwise provided by law.

3 [§413] **Return of Agency Funds**

In the event of termination of this Agreement by the Agency. the Developer agrees to return any and all funds heretofore paid to the Developer pursuant to the provisions of this Agreement within ten (10) calendar days after the termination date Failure to return any and all funds paid to the Developer shall entitle the Agency to sue the Developer for specific performance as provided in Section 407 and to pursue the Agency's remedies, legal and equitable, for such damages as permitted by law Agency shall also be authorized to retain the Good Faith Deposit pursuant to Section 412 as reimbursement of the Agency funds.

b. [§414] **Option to Repurchase, Reenter or Repossess**

The Agency shall have the additional right at its option to repurchase, reenter and take possession of the Site with all improvements thereon, if after conveyance of title to the Site and prior to the issuance of the Certificate of Completion therefor, the Developer shall:

1. Fail to commence construction of the Building by the date set forth in the Schedule of Performance, Attachment "B", for a period of three (3) months, and Developer has received a written notice of default from the Agency pursuant to Section 401 and Developer fails to cure the default; or

2. Abandon or substantially suspend construction of the Building for a period of three (3) months after written notice of such abandonment or suspension from the Agency unless such suspension or abandonment was excused under Section 604, or

3. Transfer or suffer any involuntary transfer of the site in violation of this Agreement.

Such right to repurchase, reenter and repossess, to the extent provided in this Agreement, shall be subordinate and in subjection to and be limited by and shall not defeat, render invalid or limit:

1 Any mortgage, deed of trust or other security instrument permitted by this Agreement, or

2 Any rights or interests provided in this Agreement for the protection of the holder of such mortgages, deeds of trust or other security instruments.

To exercise its right to repurchase, reenter and take possession with respect to the Site, the Agency shall pay to the Developer in cash an amount equal to:

1. The Purchase Price paid to the Agency for the Site: plus

2. The reasonable costs incurred by the Developer and its members for the construction of the improvements existing on the Site at the time of the repurchase, reentry and repossession; provided, however, that in no event

shall the Agency be obligated to pay or reimburse the Developer under this Section 414 for any cost relating to the construction of any improvements on the Site at the time of the repurchase. reentry and repossession if such improvements are not deemed by the Agency, in its sole discretion. to be beneficial and material to the successful completion of the Project as contemplated by this Agreement or beneficial and material to the successful completion of any alternative use or project proposed by the Agency for the Site in the event the Developer's actions or inactions create a right in favor of the Agency to act under this Section 414 Any costs incurred by the Agency for the demolition and removal of any such improvements shall be deducted from any amounts due the Developer by the Agency pursuant to this Section 414.

To the extent that the rights established in this Section involve a forfeiture, it must be strictly interpreted against the Agency. the party for whose benefit it is created. The rights established in this Section are to be interpreted in light of the fact that the Agency will convey the Site to the Developer for development and not for speculation in undeveloped land.

V. [§500] RETURN ON CONTRIBUTION TO AGENCY ON SALE

[§501] In the event that following the issuance of a Certificate of Completion. the Developer sells the Development to an unrelated entity not controlled by the Developer or any member or members of the Developer ("Unrelated Party") earlier than five (5) years from the date of issuance of the Certificate of Completion. Developer shall pay the Agency from the Net Proceeds of the Sale. the Agency's contribution as outlined in Section 128. Net Proceeds of the Sale is defined to mean the total amount paid by the purchaser less the costs of the sale. including any reasonable commission. less the amount of any mortgage loan on the Development not to exceed the principal amount of the initial mortgage, including any amounts due to any lender

VI [§600] GENERAL PROVISIONS

A [§601] Notices. Demands and Communications Between the Parties

Formal notices. demands and communications between the Agency and the Developer shall be sufficiently given if dispatched by registered or certified mail. postage prepaid, return receipt requested, to the principal offices of the Agency and the Developer as set forth in Sections 106 and 107 hereof Such written notices. demands and communications may be sent in the same manner to such other addresses as either party may from time-to-time designate by mail.

B. [§602] **Conflicts of Interest**

No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested

The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement

C. [§603] **Non-liability of Agency Officials and Employees**

No member, official or employee of the Agency shall be personally liable to the Developer in the event of any default or breach by the Agency or for any amount which may become due to the Developer or on any obligations under the terms of this Agreement.

D. [§604] **Enforced Delay: Extension of Times of Performance**

In addition to the specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection, strikes; lock-outs; riots; floods; earthquakes; fires, casualties: acts of God. acts of the public enemy: epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, including delays beyond the reasonable control of the Agency; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier, acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the Agency shall not excuse performance by the Agency) of any other causes beyond the control or without the fault of the party claiming an extension of time to perform An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause If, however, notice by the party claiming such extension is sent to the other parties more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the Agency and the Developer

E. [§605] **Inspection of Books and Records**

The Agency has the right, upon not less than seventy-two (72) hours notice, at all reasonable times, to inspect the books and records of the Developer pertaining to the Site as pertinent to the purposes of this Agreement

The Developer also has the right, upon not less than seventy-two (72) hours notice, at all reasonable times, to inspect the books and records of the Agency pertaining to the Site as pertinent to the purposes of this Agreement.

F [§606] **Plans and Data**

Where the Developer does not proceed with the development of the Site, and when this Agreement is terminated pursuant to Section 410 hereof for any reason, the Developer shall deliver to the Agency any and all plans and data concerning the property, and the Agency or any other person or entity designated by the Agency shall be free to use such plans and data, including plans and data previously delivered to the Agency, for any reason whatsoever without cost or liability therefor to the Developer or any other person.

VII [§700] SPECIAL PROVISIONS

A [§701] **Amendment of Redevelopment Plan**

Pursuant to provisions of the Redevelopment Plan for modification or amendment thereof, the Agency agrees that no amendment which changes the uses or development permitted on the Site or changes the restrictions or controls that apply to the Site or otherwise affect the Site shall be made or become effective without the prior written consent of the Developer. Amendments to the Redevelopment Plan applying to other property in the Redevelopment Area shall not require the consent of the Developer.

B [§702] **Submission of Documents to the Agency for Approval**

Whenever this Agreement requires the Developer to submit plans, drawings or other documents to the Agency for approval, which shall be deemed approved if not acted on by the Agency within a specified time, said plans, drawings or other documents shall be accompanied by a letter stating that they are being submitted and will be deemed approved unless rejected by the Agency within the stated time If there is no time specified herein for such Agency action, the Developer may submit a letter requiring Agency approval or rejection of documents within thirty (30) days after submission to the Agency or such documents shall be deemed approved It is understood and agreed by parties hereto that approval by the Executive Director of the Agency shall be deemed approval by the Agency for purposes of this section

C. [§703] **Amendments to this Agreement**

The Developer and the Agency agree to mutually consider reasonable requests for amendments to this Agreement which may be made by any of the parties hereto, lending institutions, or bond counsel or financial consultants to the Agency, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

VIII. [§800] ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original This Agreement comprises pages 1 through 35, inclusive, and Attachments "A" through "H", 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 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 Agency and the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the Agency and the Developer.

IX [§900] TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

This Agreement, when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency 30 days from the date of signature by the Developer or this Agreement shall be void, except to the extent that the Developer shall consent in writing to further extensions of time for the authorization, execution and delivery of this Agreement.

By executing this Agreement and submitting it to the Agency, Developer is making an irrevocable offer to enter into this Agreement, which offer shall continue for the period of time specified above. The effective date of this Agreement shall be the date when this Agreement has been signed by the Agency.

CITY OF LAS VEGAS REDEVELOPMENT AGENCY

By: ______________________________
JAN LAVERTY JONES, Chairperson

"Agency"

ATTEST:

____
BARBARA JO RONEMUS, City Clerk

APPROVED AS TO FORM:

______________________________ 2/24/97
Date

CLARK STREET ASSOCIATES

By: ______________________________
PETER KAUFMAN

Its: ______________________________

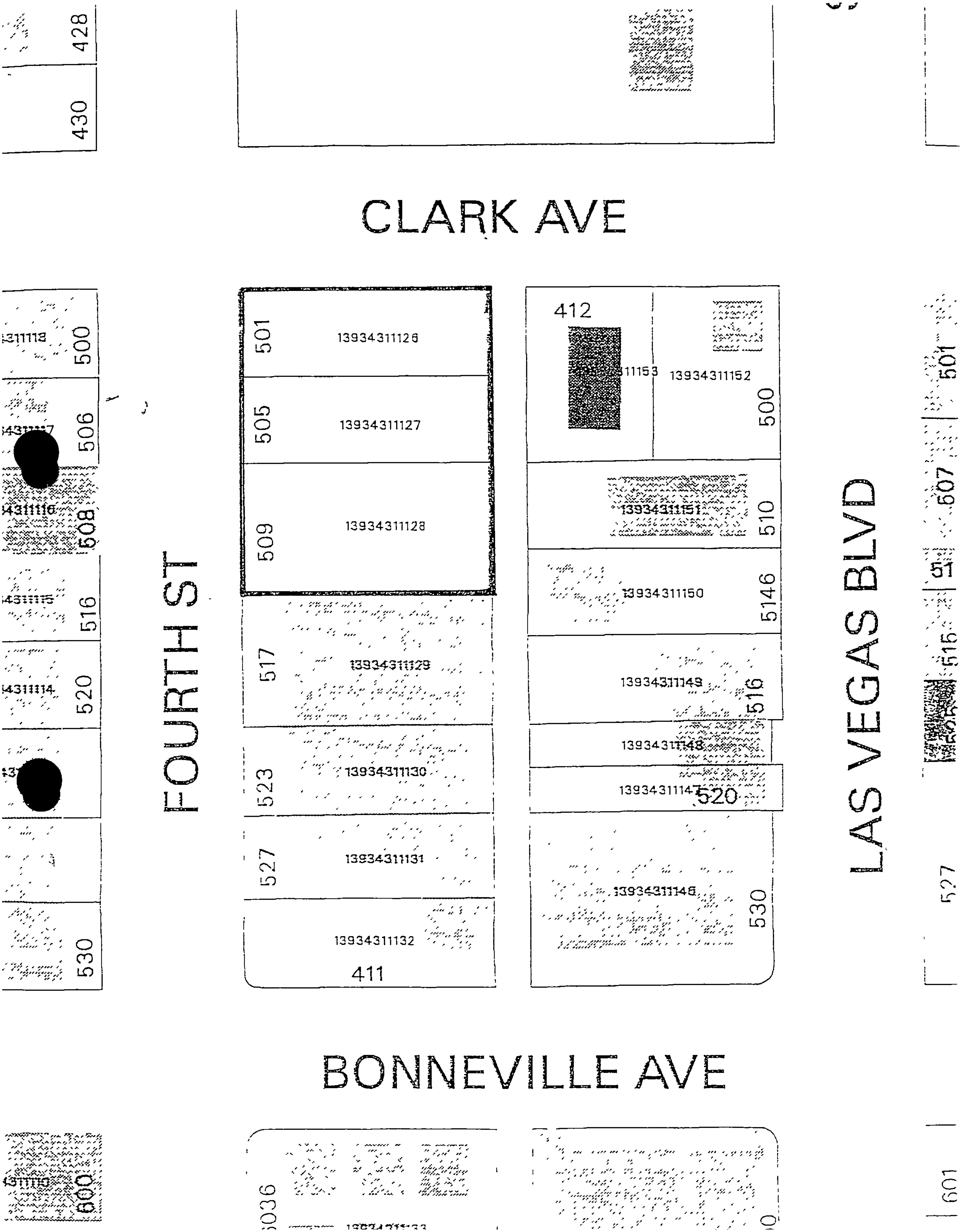
"Developer"

CLARK STREET ASSOCIATES

TABLE OF ATTACHMENTS

ATTACHMENT "A"

Site Map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BONNEVILLE AVE
FOURTH ST
LAS VEGAS BLVD
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ATTACHMENT "B"

Schedule of Performance

Action	Date
1. Execution and Delivery of Agreement. Clark Street Associates shall execute and deliver the Agreement to the Agency	Not later than February 21, 1997
2. Submission—Developer's Good Faith. The Developer shall deliver to the Agency a Good Faith Deposit.	Concurrent with the execution of this Agreement by the Developer and delivery to the Agency.
3 Execution of Agreement by Agency The Agency shall hold a public hearing to authorize execution of this Agreement and, if so authorized, shall execute and deliver this Agreement to the Developer.	Within thirty (30) calendar days after the execution of this Agreement by the Developer and delivery to the Agency.
4. Submission of Developer's Firm and Binding Evidence of Financing (the "Commitment"). The Developer shall submit to the Agency for review and approval Firm and Binding Evidence of Financing from a lending institution of its choice pursuant to Section 131.	Within eighty (80) calendar days prior to commencement of construction.
5. Agency Open Escrow. Agency to open escrow with Escrow Agent pursuant to Section 119.	Upon Developer's submission of firm and binding evidence of financing to Agency
6. Approval of Commitment. The Agency shall approve or disapprove the Commitment.	Fifteen (15) calendar days after submission by the Developer to the Agency

Action	Date
7. <u>Site Conveyance and Acquisition Closing Date</u> Agency shall deliver the grant deed conveying the Site to Escrow Agent to record simultaneously with the Lender's Deed of Trust for the Construction Loan.	Within fifteen (15) days after approval of the Commitment by the Agency
8. <u>Agency Contribution</u>. The Agency shall submit its financial contribution to the Project to the Developer.	Upon funding of the construction loan by the Lender.
9. <u>City and Other Governmental Permits</u>. The Agency shall assist the Developer in obtaining all necessary permits and in meeting all regulatory requirements associated with development of the Site.	Prior to the commencement of construction.
10. <u>Submission—Certificates of Insurance</u>. The Developer shall furnish to the Agency duplicate originals or appropriate certificates of bodily injury and property damage insurance and such other insurance as required in Section 208 herein for the Department.	Prior to the close of escrow
11 <u>Application for Building Permit</u> Developer shall submit application for building permit for the construction of the Project.	Within twenty-four (24) months after execution of this Agreement by the Agency
12. <u>Commencement of Construction</u> The Developer shall begin construction.	Within thirty (30) days of issuance of the building permit.
13. <u>The Developer to Complete Constuction</u> The Developer shall complete construction of the Project.	No later than eighteen (18) months from commencement of construction of the Project

Action	Date
14. Final Certificate of Completion. The Agency shall furnish the Developer with a Certificate of Completion for the Development Project.	Promptly after completion of all construction required to be completed by the Developer on the Development and upon written request therefor by the Developer
15. Return of Developer's Good Faith Deposit. Upon the recordation of the Certificate of Completion for Phase II, the Agency shall return the Developer's Good Faith Deposit pursuant to Section 109.	Within thirty (30) calendar days after the recordation of the final Certificate of Completion.

ATTACHMENT "C"

Scope of Development

I. GENERAL

The Development consists of the Developer's improvements set forth in Section III and the conveyance of the Site as set forth in Section 118.

The Development will be constructed in accordance with the provisions of the Disposition and Development Agreement to which this instrument is attached (the "Agreement"). the Downtown Las Vegas Redevelopment Plan, the approved Basic Concept Drawings and the approved Plans and Drawings for this Development.

The Developer, with its supervising architects, engineers, contractors and consultants. shall work with Agency staff to coordinate the overall design of the improvements on the Site and to ensure the continuity and coordination vitally necessary for the proper and timely completion of the Development.

The Site shall be designed and developed in such a manner that the building will have individual identity and architectural excellence. The spaces between and around the buildings shall also be designed, landscaped and developed to the same excellence

The construction of the improvements as described herein shall be commenced and completed within the times established in Attachment "B"

II. DEVELOPER'S IMPROVEMENTS

The Developer shall design, construct or cause to be designed and constructed upon the Site, an approximate 380 car parking garage. 50.000 square feet of office space and either 8.000 square feet of retail space or a drive-through banking facility or approximately 4.000 square feet

The buildings shall be of high quality in design and construction. Landscaping shall be provided so as to make the buildings aesthetically attractive

III. PUBLIC IMPROVEMENTS AND/OR IMPROVEMENTS FOR THE BENEFIT OF THE PUBLIC

In General. With the contributions of the Agency, the Developer shall undertake the design and construction of certain public improvements and/or improvements for the benefit of the public: to wit. construction of a parking garage.

The Developer shall be responsible for replatting. resubdividing or rezoning of the Site. if necessary. for purposes of the Development.

ATTACHMENT "D"

Legal Description of the Site

Lots 1, 2, 3, 4, 5, 6 & 7 in Block 39 of CLARK'S LAS VEGAS TOWNSITE on file in Book 1 of Plats, Page 37 of Clark County, Nevada Records;

A.P.N. 139-34-311-126, 127 & 128

(501, 505 & 509 S. 4th Street)

HOME J\L DI\ AGREE TL? DD\ CL ARK\ATTACH D

ATTACHMENT "E"

Form of Certificate of Completion

Recording Required by:

City of Las Vegas Redevelopment Agency

After Recording, Mail to:

Executive Director
City of Las Vegas Redevelopment Agency
400 Las Vegas Boulevard South
Las Vegas, Nevada 89101

CERTIFICATE OF COMPLETION OF CONSTRUCTION AND DEVELOPMENT

WHEREAS, this Disposition and Development Agreement (DDA) dated _______________, 19__, and recorded ____________________, 19__, in Office of the Recorder of the County of Clark, Nevada, the City of Las Vegas Redevelopment Agency, a public body, corporate and politic, hereinafter referred to as the "Agency," provided assistance to Clark Street Associates hereinafter referred to as the "Developer," for construction and development of a certain redevelopment project situated in the City of Las Vegas, Nevada, described on Exhibit "A", attached hereto and made a part hereof (the "Site"); and

WHEREAS, as referenced in said DDA, the Agency shall furnish the Developer with a Certificate of Completion upon completion of all construction and development upon the Site, which Certificate shall be in such form as to permit it to be recorded in the Recorder's Office of Clark County; and

WHEREAS, such certificate shall be conclusive determination of satisfactory completion of the construction and development on the Site required by the DDA; and

WHEREAS, the Agency has conclusively determined that the construction and development on the Site has been satisfactorily completed;

Now, therefore, the Agency agrees and does hereby certify that the construction and

. . .

.

. .

development on the Site have been fully and satisfactorily performed and completed.

IN WITNESS WHEREOF, the Agency has executed this Certificate this _____ day of _________________, 19__.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ________________________________
JAN LAVERTY JONES, Chairperson

ATTEST.

____
BARBARA JO RONEMUS, Secretary

CLARK STREET ASSOCIATES

By: ________________________________

Its: ________________________________

ACKNOWLEDGMENTS

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me, a notary public, on this ___ day of __________, 1997, by JAN LAVERTY JONES, Chairperson of the City of Las Vegas Redevelopment Agency.

____
NOTARY PUBLIC, in and for said County and State

STATE OF ______________)
) ss.
COUNTY OF ____________)

This instrument was acknowledged before me, a notary public, on this ___ day of __________, 1997, by ________________________, as ______________________ of CLARK STREET ASSOCIATES.

____
NOTARY PUBLIC, in and for said County and State

ATTACHMENT "F"

Form of Letter of Credit

OUR NUMBER ________________
IRREVOCABLE DOCUMENTARY CREDIT

PLACE AND DATE OF ISSUE.

DATE AND PLACE OF EXPIRY

APPLICANT·

Clark Street Associates
____
____

BENEFICIARY:
THE CITY OF LAS VEGAS
REDEVELOPMENT AGENCY
400 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA 89101

ADVERTISING BANK.

AMOUNT· $50,000

CREDIT AVAILABLE WITH: ________
____

BY PAYMENT AGAINST PRESENTATION OF THE DOCUMENTS DETAILED HEREIN AND OF YOUR DRAFTS AT SIGHT DRAWN ON:

(1) YOUR SIGNED AND DATED STATEMENT READING AS FOLLOWS "THE AMOUNT DRAWN UNDER ____ LETTER OF CREDIT NO. ____ IS REQUIRED BY REASON OF APPLICANT'S DEFAULT (OTHER ACTION). AS DESCRIBED IN SECTION ____ OF THAT CERTAIN DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN CLARK STREET ASSOCIATES AND THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY DATED ____________________, 1997 "

(2) THE ORIGINAL OF THIS LETTER OF CREDIT

(3) THIS LETTER OF CREDIT EXPIRES AT OUR ABOVE OFFICE ON _____________. 199___. BUT SHALL BE AUTOMATICALLY EXTENDED. WITHOUT WRITTEN AMENDMENT, TO ___________________ IN EACH SUCCEEDING CALENDAR YEAR UP TO, BUT NOT BEYOND, ______________, 199__, UNLESS WE HAVE SENT WRITTEN NOTICE TO YOU AT YOUR ADDRESS ABOVE BY REGISTERED MAIL THAT WE ELECT NOT TO RENEW THIS LETTER OF CREDIT BEYOND THE DATE SPECIFIED IN SUCH NOTICE. WHICH DATE WILL BE __________________, 199___, OR ANY SUBSEQUENT __________________ OCCURRING BEFORE _______________. 199___, AND BE AT LEAST THIRTY (30) CALENDAR DAYS AFTER THE DATE WE SEND YOU SUCH NOTICE

WE HEREBY ISSUE THIS DOCUMENTARY CREDIT IN YOUR FAVOR. IT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1994 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PARIS, FRANCE PUBLICATION NO. 500) AND ENGAGES US IN ACCORDANCE WITH THE TERMS THEREOF. THE NUMBER AND DATE OF THE CREDIT AND NAME OF OUR BANK MUST BE QUOTED ON ALL DRAFTS REQUIRED. IF THE CREDIT IS AVAILABLE BY NEGOTIATION, EACH PRESENTATION MUST BE QUOTED ON THE REVERSE OF THIS ADVICE BY THE BANK WHERE THE CREDIT IS AVAILABLE.

Authorized Signature

Authorized Signature

ATTACHMENT "G"

Form of Agreement to be Recorded Affecting Real Property

Recording Requested by.

City of Las Vegas
Redevelopment Agency

After Recordation. Mail to

Executive Director
City of Las Vegas Redevelopment Agency
400 Las Vegas Boulevard South
Las Vegas, Nevada 89101

AGREEMENT TO BE RECORDED AFFECTING REAL PROPERTY

THIS AGREEMENT is entered into this ____ day of __________________, 19__. by and between the CITY OF LAS VEGAS REDEVELOPMENT AGENCY, a public body, corporate and politic (hereinafter referred to as the "Agency") and ____________________, (hereinafter referred to as the "Developer") with reference to the following

A. The Developer is the present owner of certain real property (the "Site") located in the City of Las Vegas, County of Clark, State of Nevada. legally described in the attached Exhibit "A".

B The Site is within the Downtown Las Vegas Redevelopment Area (the "Redevelopment Area") and is subject to the provisions of the Redevelopment Plan for the Redevelopment Area which was approved and adopted on March 5, 1986, by the City Council of the City of Las Vegas by Ordinance No. 3218 The Redevelopment Plan, as it now exists and as it may be subsequently amended. is incorporated herein by reference and made a part hereof as though fully set forth herein

C. Recordation of this Agreement at the Agency's request is conclusive evidence that the Developer has rehabilitated and/or constructed the improvements on the Site and has otherwise developed the Site in accordance with the Redevelopment Plan and pursuant to the terms and provisions of that certain Disposition and Development Agreement entered into between the Agency and the Developer on February 24, 1997 (the "DDA").

NOW, THEREFORE. THE AGENCY AND THE DEVELOPER HEREBY AGREE AS FOLLOWS:

1 By its recordation of this Agreement. the Agency acknowledges that the

Developer has constructed the improvements on the Site and has otherwise developed the Site in accordance with the Redevelopment Plan and pursuant to the terms and provisions of the DDA, that the terms and provisions of the DDA have been fully and satisfactorily performed by the Developer and that the DDA shall be of no further force or effect.

2 The Developer, on behalf of itself and its successors, assigns and each successor in interest to the Site, or any part thereof, hereby covenants and agrees

a To use, devote and maintain the Site, and each part thereof, for the uses specified in the Redevelopment Plan.

b. To maintain the improvements on the Site, keep the Site free from any accumulation of debris or waste material and maintain the landscaping planted on the Site in a healthy condition. All such maintenance shall be at the sole expense of the Developer; provided, however, that if the Developer shall fail to so maintain the Site, the Agency may perform such maintenance for the Developer and in such event shall be entitled to be reimbursed by the Developer for the actual cost thereof.

c. That there shall be no unlawful discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, or ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site

3. The Developer further covenants and agrees that prior to the date set forth in Section 501 of the Agreement, the Developer shall not sell, transfer, convey, assign or lease the whole or any part of the Site or the buildings or improvements thereon without the prior written approval of the Agency, which approval shall not be unreasonably withheld.

4. The covenants and agreements established in this Agreement shall, without regard to technical classification and designation, be binding on the Developer and any successor in interest to the Site, or any part thereof, for the benefit and in favor of the Agency, its successors and assigns, and the City of Las Vegas The covenants contained in Sections 2 a and 2 b. of this Agreement shall remain in effect until March 5, 2026 (the termination date of the Redevelopment Plan) The covenants against discrimination (contained in Section 2 c) shall remain in effect in perpetuity The covenants contained in Section 3 shall remain in effect until the date set forth in Section 501 of the Agreement. The Agency shall have the right, if this Agreement or the covenants are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other

beneficiaries of this Agreement and the covenants may be entitled.

IN WITNESS WHEREOF, the Agency and the Developer have executed this Agreement as of the date first above written

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By ___________________________________
LARRY K. BARTON, Executive Director

"Agency"

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM:

____
Date

____

By: ___________________________________

"Developer"

ATTACHMENT "H"

Form of Grant, Bargain and Sale Deed

Recording Requested by:

City of Las Vegas
Redevelopment Agency

After Recording, Mail to

Executive Director
City of Las Vegas Redevelopment Agency
400 Las Vegas Boulevard South
Las Vegas, Nevada 89101

GRANT, BARGAIN AND SALE DEED

For valuable consideration, the receipt of which is hereby acknowledged.

THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY, a public body, corporate and politic, of the State of Nevada (herein called "Grantor"), acting to carry out the Redevelopment Plan (herein called "Redevelopment Plan") for the Las Vegas Downtown Redevelopment Area, under the Community Redevelopment Law of the State of Nevada, hereby grants, bargains and sells to Clark Street Associates, a Nevada limited liability company (herein called "Grantee"), pursuant to this Grant, Bargain and Sale Deed (herein called the "Deed") the real property (herein called the "Property") legally described in the document attached hereto, labeled Exhibit "A", and incorporated herein by this reference.

1. The Property is conveyed subject to the Redevelopment Plan and pursuant to a Disposition and Development Agreement entered into between the Grantor and the Grantee and dated February 24, 1997. The Property is also conveyed subject to all easement(s) of record. All terms capitalized herein which are not otherwise defined herein shall have the meaning given to them in the Disposition and Development Agreement.

2 The Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest, that during construction and thereafter, the Grantee, its successors and assignees, shall not use the Property for other than the uses specified in the Redevelopment Plan

3 The Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest thereafter that it will maintain the improvements on the Property and keep the Property free from any accumulation of debris or waste materials and will maintain the landscaping required to be planted under the Disposition and Development Agreement in a healthy condition. If at any time the Grantee, its successors or assignees or every successor in interest thereafter, shall fail to keep the Property free of debris or waste materials or to maintain said

landscaping in a healthy condition, and said condition is not corrected within ten (10) days after written notice from the Grantor, either the Grantor or the City of Las Vegas may perform the necessary cleanup or landscape maintenance, and the Grantee, its successors or assignees or every successor thereafter, shall pay such costs as are reasonably incurred for such cleanup or landscape maintenance.

4 Except as provided in the Disposition and Development Agreement, the Grantee shall not sell, transfer, convey, assign or lease the whole or any part of the Property or the buildings or improvements thereon without the prior approval of the Grantor. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property or to prohibit or restrict the leasing of any part or parts of a building or structure in accordance with the Disposition and Development Agreement.

5. Subsequent to the execution of this Deed and prior to the issuance of the Certificate of Completion, the Grantor shall have the right at its option to reenter and repossess the Property hereby conveyed, or any portion thereof, together with all improvements thereon, upon the occurrence of a Developer Event of Default as set forth in the Disposition and Development Agreement

Such right to repurchase, reenter and repossess, to the extent provided in this Deed, shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit:

a. Any mortgage, deed of trust or other security instrument permitted by the Disposition and Development Agreement, or

b Any rights or interest provided in the Disposition and Development Agreement for the protection of the holder of such mortgage, deed of trust or other security instruments.

6. The Grantee covenants by and for itself, its successor, its assigns and every successor in interest thereafter that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Grantee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendors in the Property

7 No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Deed shall defeat or render invalid or in any way impair the mortgage, deed of trust or other security instrument permitted by the Disposition and Development Agreement, provided, however, that any successor of Grantee to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise

8. Except as otherwise provided, the covenants contained in paragraphs 2 and 3 of this Deed shall remain in effect until March 5, 2026 (the termination date of the Redevelopment Plan). The covenants against discrimination contained in paragraph 6 and the provisions of paragraph 7 of this Deed shall remain in perpetuity. The covenants in paragraph 4 shall remain in effect until the date set forth in Section 501 of the Agreement. The covenants contained in paragraph 5 shall remain in effect until issuance of Certificate of Completion pursuant to Section 222 of the Disposition and Development Agreement.

9 The covenants contained in paragraphs 2, 3, 4, 5, 6 and 7 of this Deed shall be binding for the benefit of the Grantor, its successors and assigns, the City of Las Vegas and any successor in interest thereafter to the Property or any part thereof, and such covenants shall run in favor of the Grantor and such aforementioned parties for the entire period during which such covenants shall be in force and effect without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The Grantor and such aforementioned parties, in the event of any breach of any covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in this Deed shall be for the benefit of and shall be enforceable only by the Grantor and such aforementioned parties.

10 In the event of any express conflict between this Deed or the Disposition and Development Agreement, the provisions of this Deed shall control

11. Any amendments to the Redevelopment Plan which change the uses or development permitted on the Property or change the restrictions or controls that apply to the

. .

. . .

. . .

Property or otherwise affect the Property shall require the written consent of the Grantee. Amendments to the Redevelopment Plan applying to other property in the Redevelopment Area shall not require the consent of the Grantee.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers there unto duly authorized, this _____ day of _____________, 199__

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ________________________________
JAN LAVERTY JONES, Chairperson

"Grantor"

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM:

____
Date

CLARK STREET ASSOCIATES

By. ________________________________

Its ________________________________

"Grantee"

ACKNOWLEDGMENT

STATE OF NEVADA }
} ss.
COUNTY OF CLARK }

On ______________________________ personally appeared before me, a notary public (or judge or other authorized person, as the case may be), ______________________________, who acknowledged that _________ executed the above instrument.

____
GRANTOR

____
NOTARY PUBLIC, in and for said County and State

STATE OF NEVADA }
} ss.
COUNTY OF CLARK }

On ______________________________ personally appeared before me, a notary public (or judge or other authorized person, as the case may be), ______________________________, who acknowledged that _________ executed the above instrument.

____
GRANTEE

____
NOTARY PUBLIC, in and for said County and State

EXHIBIT "A"

Legal Description

ATTACHMENT "I"

<u>Employment Plan</u>

**FIRST AMENDMENT TO
DISPOSITION AND DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY
AND CLARK STREET ASSOCIATES**

THIS FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into this 22nd of February, 1999, by and between the CITY OF LAS VEGAS REDEVELOPMENT AGENCY, a public agency corporate and politic in the State of Nevada ("Agency"), and CLARK STREET ASSOCIATES, a Nevada limited liability company ("Developer").

RECITALS:

WHEREAS, the Agency and Developer entered into a Disposition and Development Agreement ("DDA") dated February 24, 1997, for the development of an office building and parking garage to be located in the Redevelopment Area of downtown Las Vegas ("Project"); and

WHEREAS, the Developer requests an extension of a certain deadline in the DDA to obtain the applicable building permits for the Project; and

WHEREAS, the Agency agrees that such extension shall be in accordance with the terms of this First Amendment.

NOW, THEREFORE, for and in consideration of the mutual agreement contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Agency and Developer agree that the DDA shall be amended as follows:

1. **Schedule of Performance**. Section 11 of the Schedule of Performance, Attachment "B" to the DDA, is hereby amended to read as follows:

11	Application for Building Permit. Developer shall submit, at minimum, the following documents for approval by the City of Las Vegas for the construction of the Project: a. Civil engineering drawings; b. Site plan; c. Landscape plan; d. Architectural elevations; and e. Architectural floor plan.	No later than August 22, 1999.

2. **No Other Amendments**. Except as expressly set forth in this First Amendment, all provisions of the DDA shall remain in full force and effect.

IN WITNESS WHEREOF, the Agency and Developer have caused this First Amendment to be executed by their respective representatives thereunto duly authorized as of the date first written above.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ______________________
JAN LAVERTY JONES, Chairperson

"Agency"

ATTEST:

____
BARBARA JO RONEMUS, City Clerk

APPROVED AS TO FORM:

______________________ 2/18/99
Date

CLARK STREET ASSOCIATES

By: ______________________

Its: ______________________

"Developer"

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Santa Barbara } ss.

On March 3, 1999, before me, Suzie Ramirez,
Date — Name and Title of Officer (e g , "Jane Doe, Notary Public")

personally appeared Peter Kaufman,
Name(s) of Signer(s)

☐ personally known to me
☑ proved to me on the basis of satisfactory evidence

to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument

SUZIE RAMIREZ
Commission # 1196387
Notary Public - California
Santa Barbara County
My Comm. Expires Sep 14, 2002

Place Notary Seal Above

WITNESS my hand and official seal

Suzie Ramirez
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document ______

Document Date ______ Number of Pages ______

Signer(s) Other Than Named Above ______

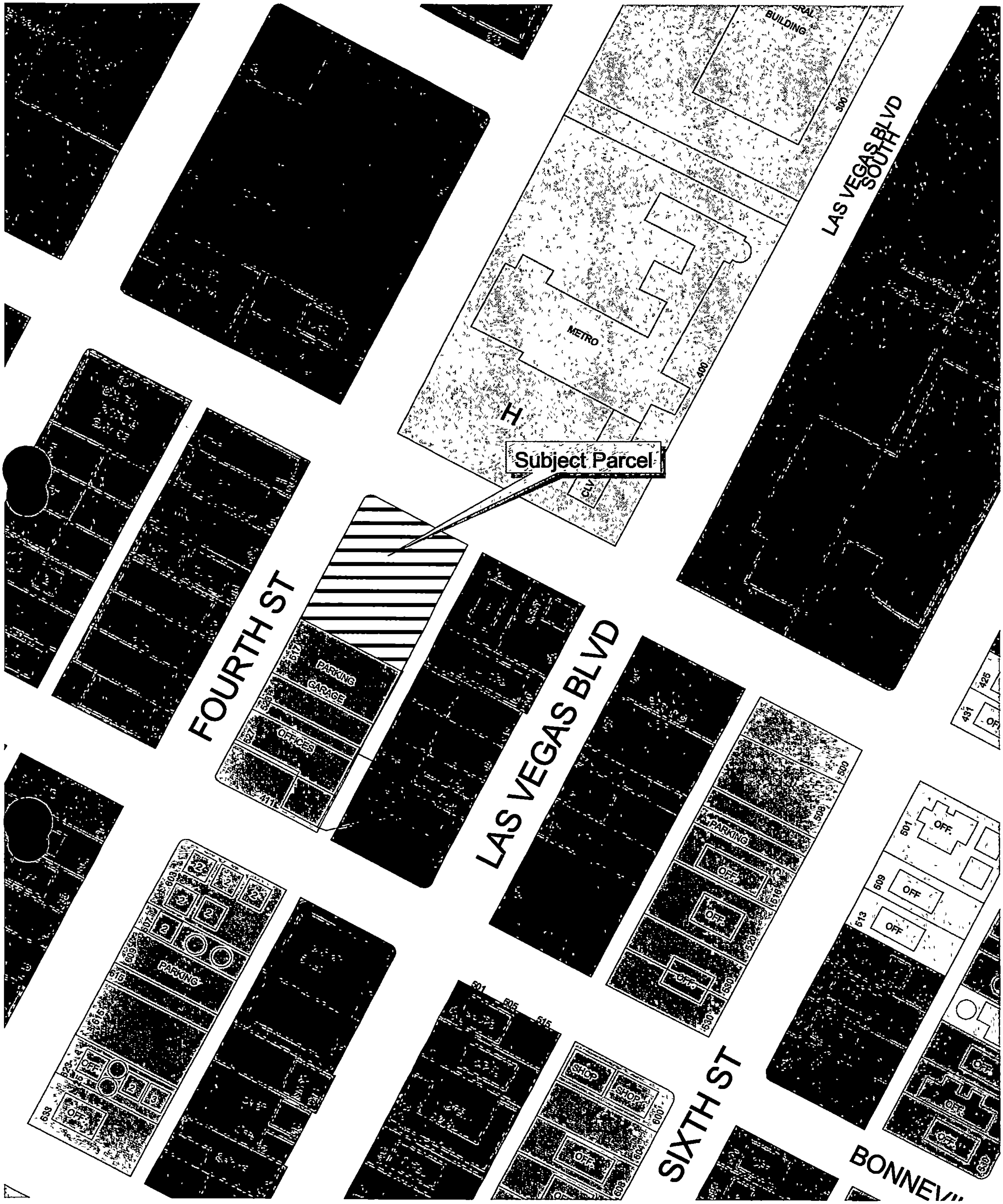
Capacity(ies) Claimed by Signer

Signer's Name ______

- ☐ Individual
- ☐ Corporate Officer — Title(s) ______
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here



Clark Street Associates, LLC

Exhibit "___"

Disclosure of Principals

The principals and partners of Clark Street Assoc LLC and all persons and entities holding more than 1% interest in Clark Street Assoc or any principal of Clark Street Assoc are the following:

FULL NAME	BUSINESS ADDRESS	BUSINESS PHONE
1. Peter Kaufman	1130 Mark Avenue, Carpinteria, CA	805-684-7601
2. Richard Scoby	1130 Mark Avenue, Carpinteria, CA	805-684-7601
3. Lawrence Epstein	213 Luxaire Ct, Las Vegas, NV	702-385-3373
4. Stewart Frisch	2509 Fulano Way, Las Vegas, NV	702-871-5492
5. J. Mitchell Cobeaga	228 S. Fourth Street, Las Vegas, NV	702-240-2499
6.		
7.		
8.		
9.		
10.		

I hereby certify under penalty of perjury, that the foregoing list is full and complete.

By: [signature]
Its: Partner

Subscribed and sworn to before me this 25 day of October, 2001.

Carmen C. Spitzmesser
Notary Public

CARMEN C SPITZMESSER
Notary Public - Nevada
No 99-51978-1
My appt exp. Nov. 8, 2002

City of Las Vegas

Agenda Item No.: **IV-C**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7, 2001

DEPARTMENT: BUSINESS DEVELOPMENT
DIRECTOR: LESA CODER

SUBJECT:
DISCUSSION AND POSSIBLE ACTION REGARDING REIMBURSEMENT FOR IMPROVEMENTS MADE TO AGENCY OWNED PARCEL LOCATED AT 4TH AND CLARK STREETS (APN 139-34-311-126, 127, & 128) (REDEVELOPMENT PROJECT FUNDS - $75,000) - WARD 3 (REESE)

Fiscal Impact

[ ]	**No Impact**	**Amount:** $75,000
[X]	**Budget Funds Available**	**Dept./Division:** OBD / Redevelopment
[ ]	**Augmentation Required**	**Funding Source:** Redevelopment project funds

PURPOSE/BACKGROUND:
In conjunction with the reconciliation of the DDA with Clark Street Associates, the developer has effectuated certain improvements that have enhanced the value of the Agency property. This amount will compensate for those improvements.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. Locator Map
2. Disclosure of Principals

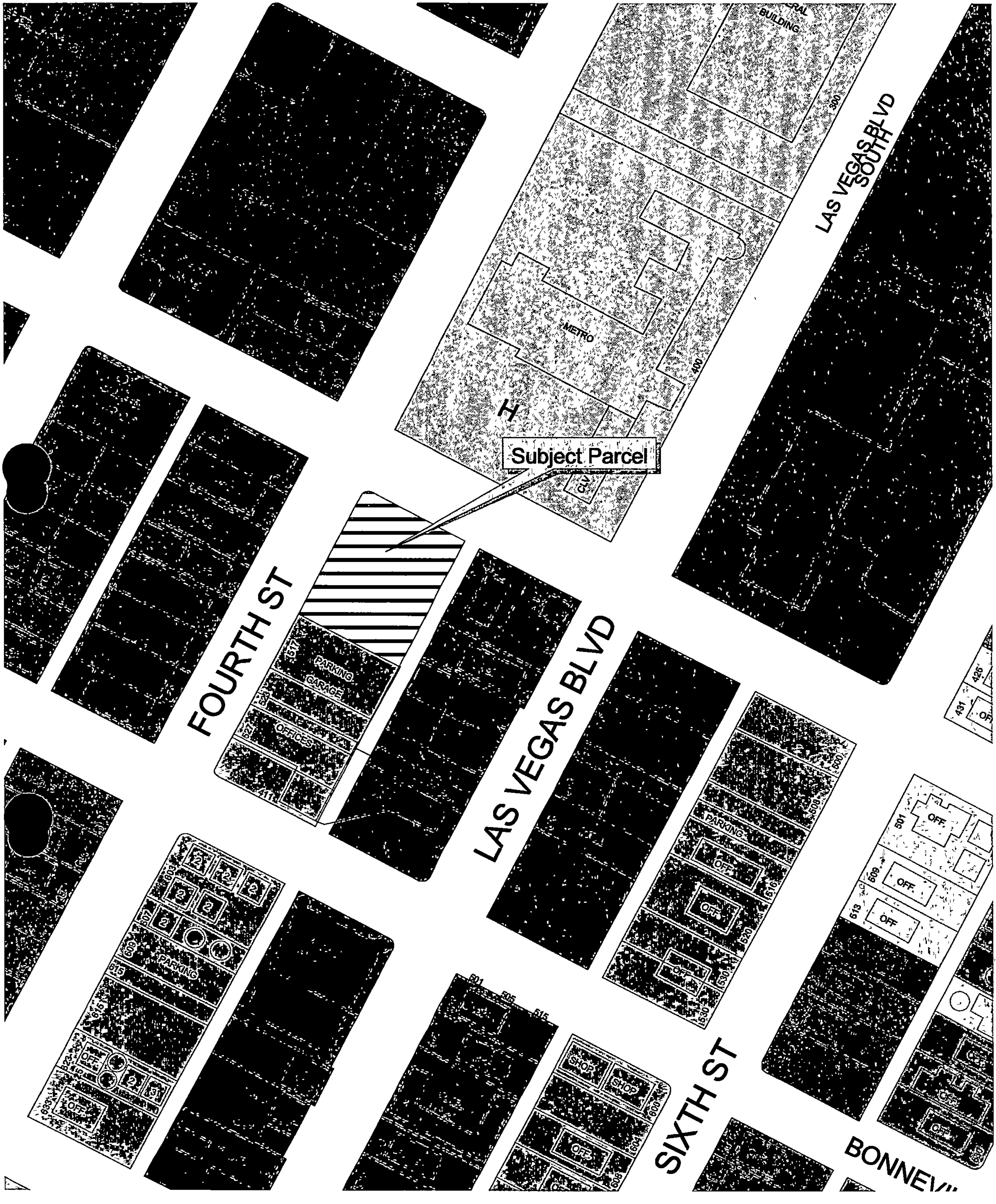
MOTION:
REESE – APPROVED as recommended – UNANIMOUS with L.B. McDONALD not voting

MINUTES:
LESA CODER, Director, Office of Business Development, was present.

CITY ATTORNEY JERBIC advised that a letter was received from the principals acknowledging the termination of the Disposition and Development Agreement. The original will be filed with the City Clerk when it is received.

See Item IV-B for related discussion.

(1:49 – 1:50)



Clark Street Associates, LLC

Exhibit "___"

Disclosure of Principals

The principals and partners of Clark Street Assoc LLC and all persons and entities holding more than 1% interest in Clark Street Assoc or any principal of Clark Street Assoc are the following:

FULL NAME	BUSINESS ADDRESS	BUSINESS PHONE
1. Peter Kaufman	1130 Mark Avenue, Carpinteria, CA	805-684-7601
2. Richard Scoby	1130 Mark Avenue, Carpinteria, CA	805-684-7601
3. Lawrence Epstein	213 Luxaire Ct, Las Vegas, NV	702-385-3373
4. Stewart Frisch	2509 Fulano Way, Las Vegas, NV	702-871-5492
5. J. Mitchell Cobeaga	228 S. Fourth Street, Las Vegas, NV	702-240-2499
6.		
7.		
8.		
9.		
10.		

I hereby certify under penalty of perjury, that the foregoing list is full and complete.

By: [signature]
Its: Partner

Subscribed and sworn to before me this
25 day of October, 2001.

[signature]
Notary Public

CARMEN C SPITZMESSER
Notary Public Nevada
No 99-51978-1
My appt exp. Nov. 8, 2002

City of Las Vegas

Agenda Item No.: **IV-D**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7, 2001

DEPARTMENT: BUSINESS DEVELOPMENT
DIRECTOR: LESA CODER

SUBJECT:
RESOLUTIONS:

RA-5-2001 - PUBLIC HEARING, DISCUSSION AND POSSIBLE ACTION REGARDING A RESOLUTION FINDING THE PROJECT PROPOSED BY THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND PIONEER ENDEAVORS, LLC TO BE IN COMPLIANCE WITH AND IN FURTHERANCE OF THE GOALS AND OBJECTIVES OF THE AGENCY'S REDEVELOPMENT PLAN AND AUTHORIZE THE EXECUTION BY THE AGENCY (APN 139-34-311-126,127 & 128) (TAX INCREMENT FUNDS - $300,000) - WARD 3 (REESE) [NOTE: THIS ITEM RELATED TO CITY COUNCIL ITEM #95]

Fiscal Impact

[ ]	**No Impact**	**Amount:** $300,000
[X]	**Budget Funds Available**	**Dept./Division:** OBD / Redevelopment
[ ]	**Augmentation Required**	**Funding Source:** Tax increment Revenues

PURPOSE/BACKGROUND:
Staff has negotiated a Disposition and Development Agreement (DDA) with Pioneer Endeavors, LLC for the development of the Agency owned parcel located at 4th and Clark as being in compliance with the goals and objectives of the redevelopment plan for the downtown Las Vegas area and approving the execution. The proposed development will be a four story office building (approximately 78,000 square feet) which will house three different law firms and a court reporting service.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. Agenda Memo
2. Resolution No. RA-5-2001
3. Disposition and Development Agreement including exhibits consisting of a map of the Property, Legal Description and Disclosure of Principals

MOTION:
REESE – APPROVED as recommended – UNANIMOUS

City of Las Vegas

Agenda Item No.: **IV-D**

REDEVELOPMENT AGENCY MEETING OF NOVEMBER 7, 2001
Business Development
Item IV-D – RA-5-2001

MINUTES – Continued:
MAYOR GOODMAN declared the Public Hearing open.

LESA CODER, Director, Office of Business Development, stated that the matter is in order, with the same amendments put on the record for related Item No. 95 of the 11/7/2001 Council Agenda.

JAMES CHRISMAN, Pioneer Endeavors, Inc., 300 South Fourth Street, stated that the process has taken a long time due to unforeseen issues. He thanked the Council, especially COUNCILMAN REESE, and CITY ATTORNEY JERBIC and MS. CODER for all their assistance on this matter.

MAYOR GOODMAN noted that downtown redevelopment is crucial and he thanked MR. CHRISMAN for staying in the downtown area and building in accordance with the vision of the Council.

TOM McGOWAN, Las Vegas resident, stated that the building is a very important addition to the downtown area.

MAYOR GOODMAN declared the Public Hearing closed.

There was no further discussion.

(1:50 – 1:53)
4-473

City of Las Vegas

AGENDA MEMO

REDEVELOPMENT AGENCY MEETING DATE: NOVEMBER 7, 2001
DEPARTMENT: BUSINESS DEVELOPMENT
ITEM DESCRIPTION: RESOLUTION REGARDING THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND PIONEER ENDEAVORS, LLC

Salient points of the agreement are as follows:

1) Total project size is approximately 78,000 square feet. This includes 55,500 square feet of office space, 2,500 square feet of retail space, and 20,000 square feet of parking and open space.
2) Total project cost is estimated to be $11 million.
3) The estimated time to begin construction is early 2002, with a construction period of 12 to 18 months.
4) The Agency will contribute $300,000 for certain public improvements to the project.
5) The Agency will exchange property located at the Southeast corner of Clark and 4th (approximate value $800K) for property located at 3rd and Hoover (approximate value $500K) which is presently owned by the developer.
6) The Agency will use its best effort to secure between 165 and 220 offsite parking spaces for the developer at market rates. The initial rate per space will be $37.50 per space per month for 8 years. The rate will be adjusted to reflect the market rate pursuant to an independent study agreed to by the developer and Agency.
7) Estimated tax increment to the Agency is $80,000 per year.

On June 6, 2001, the Agency Board approved an Exclusive Negotiating Agreement (ENA) with Pioneer Endeavors LLC. The agreement was not executed due to mitigating circumstances. This DDA supersedes the ENA and therefore, the terms and conditions of the ENA have become moot. The recommendation from staff includes the rescission of the ENA that was approved on June 6, 2001.

RESOLUTION NO. RA-5-2001

RESOLUTION FINDING THE PROJECT PROPOSED BY THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND PIONEER ENDEAVORS, LLC TO BE IN COMPLIANCE WITH AND IN FURTHERANCE OF THE GOALS AND OBJECTIVES OF THE AGENCY'S REDEVELOPMENT PLAN AND AUTHORIZE THE EXECUTION BY THE AGENCY

WHEREAS, the City of Las Vegas Redevelopment Agency (the "Agency") adopted on March 5, 1986, that plan of redevelopment entitled, to-wit: the Redevelopment Plan for the Downtown Las Vegas Redevelopment Area pursuant to Ordinance 3218, which Redevelopment Plan has been subsequently amended on February 3, 1988, by Ordinance 3339; April 11, 1992, by Ordinance 3637 and on November 4, 1996, by Ordinance 4036 (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Plan identifies and designates an area within the corporate boundaries of the City of Las Vegas (the "Redevelopment Area") as in need of redevelopment in order to eliminate the environmental deficiencies and blight existing therein; and

WHEREAS, the Agency is be the owner of vacant parcels of land located at the southeast corner of Clark Avenue and Fourth Street, and which parcels are commonly known as APN 139-34-311-126, APN 139-34-311-127 and APN 139-34-311-128 (the "Site"); and

WHEREAS, the Governing Body of the Agency has determined that the Disposition and Development Agreement (the "Agreement"), which provides for the conveyance of the Site and contribution of funds to Pioneer Endeavors, LLC for the development of an office building, all as more fully set forth in the Agreement, is in compliance with and in furtherance of the goals and objectives of the Redevelopment Plan; and

WHEREAS, prior to the adoption and approval of the Agreement, and after proper publication of notice thereof, the Agency conducted a public hearing pursuant to the requirements of NRS 279.472;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Governing Board of the Agency that the Agreement is hereby approved and determined to be in compliance with and in furtherance of the goals and objectives of the Redevelopment Plan, and the Chairperson of the Governing Board of the Agency is hereby authorized and directed to execute the Agreement for and on behalf of the Agency, and to execute any and all additional documents (including any Attachments to the Agreement) and to perform any additional acts necessary to carry out the intent and purpose of the Agreement.

THE FOREGOING RESOLUTION was passed, adopted and approved this 7th day of November, 2001.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ______________________
OSCAR B. GOODMAN, Chairperson

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM

______________________ 10/29/01
Date

DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY

AND

PIONEER ENDEAVORS, LLC

THIS AGREEMENT is entered into as of the 7th day of November, 2001, by and between the CITY OF LAS VEGAS REDEVELOPMENT AGENCY (the "Agency") and PIONEER ENDEAVORS, LLC, a Nevada limited-liability company (the "Developer").

I. [§100] SUBJECT OF AGREEMENT

A. [§101] Purpose of this Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan (The "Redevelopment Plan") for the Downtown Las Vegas Redevelopment Area (the "Redevelopment Area") by providing for the development of certain real property included within the boundaries of the Redevelopment Area.

The development of the Agency's Site, as defined hereafter pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City of Las Vegas, Nevada (the "City"), and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

B. [§102] The Redevelopment Plan

This Agreement is subject to the provisions of the Redevelopment Plan which was approved and adopted on March 5, 1986, by the City Council of the City of Las Vegas by Ordinance No. 3218. The Redevelopment Plan, as it now exists and as it may be subsequently amended pursuant to Section 701, is incorporated herein by reference and made a part hereof as though fully set forth herein.

C. [§103] The Redevelopment Area

The Redevelopment Area is located in the City of Las Vegas, Nevada, and the exact boundaries thereof are specifically described in the Redevelopment Plan and in a document recorded March 11, 1986, as Instrument No. 00777, Book 860311, and amended in the document recorded February 11, 1988, Instrument No. 00382, Book 880211, and further amended in the document recorded November 22, 1996, as Instrument No. 00847, Book 961122, in the Office of County Recorder of Clark County, which documents are incorporated herein by reference and made a part hereof as though fully set forth herein.

D. [§104] The Agency's Site

The Agency's Site is that portion of the Redevelopment Area located on the block bounded by Clark and Bonneville Avenues, Fourth Street and Las Vegas Boulevard, as shown on the Map of the Agency's Site (Attachment "A") and is more particularly described in the Legal Description of the Agency's Site (Attachment "A-1").

E. [§105] **The Developer's Site**

The Developer's Site is that portion of the Redevelopment Area located on the southeast corner of Third Street and Hoover Street in the City of Las Vegas, Nevada as shown on the Map of the Developer's Site (Attachment "B" and is more particularly described in the Legal Description of the Developer's Site (Attachment "B-1").

F. [§106] **Parties to or Interrelated to this Agreement**

1. [§107] **The Agency**

The Agency is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of Nevada (NRS 279.382 et seq.). The office of the Agency is located at 400 Las Vegas Boulevard South, Las Vegas, Nevada 89101. "Agency", as used in this Agreement means the City of Las Vegas Redevelopment Agency and any assignee of, or successor to, its rights, powers and responsibilities.

2. [§108] **The Developer**

The Developer is Pioneer Endeavors, LLC, a Nevada limited-liability company. The managers are the following law firms: (1) Barker, Brown, Busby, Chrisman, and Thomas, PC; and (2) Haney, Woloson & Mullins, LTD. The members of Pioneer Endeavors, LLC are the two above-mentioned managers, Monice Krmpotic Campbell Reporting, LTD, and Hard Eight Holding, LLC. Developer's principal address is 301 E. Clark Avenue, Suite 700, Las Vegas, Nevada. Developer agrees throughout the term of this Agreement to notify the Agency of any changes to the names of its members. Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

The qualifications and identity of the Developer and of its members are of particular concern to the City and the Agency, and it is because of such qualifications and identity that the Agency has entered into this Agreement with the Developer. During the existence of this Agreement, the members of Developer agree not to sell, convey, assign or transfer their interests, or any portion thereof, without prior written consent or approval of the Agency. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein. This Agreement may be terminated by the Agency pursuant to Section 411 hereof if there is any significant change (voluntary or involuntary) in the membership or management of the Developer without the approval of the Agency prior to the completion of the development of the Agency Site as evidenced by the issuance of a Certificate of Completion therefor. If there is any significant change (voluntary or involuntary) in the Developer which is not approved by the Agency subsequent to the completion of the development of the Agency Site as evidenced by the issuance of a Certificate of Completion therefor, Agency shall be entitled to the remedy set forth in Section 410 et seq. as if such significant change were a transfer of ownership of the Site.

Notwithstanding the foregoing, it is understood and agreed by the Agency that, no sooner than the issuance of the Certificate of Completion, all or portions of the Project may be transferred and owned by separate related business entities or affiliates created by one or more of the members of Developer (individually or through Living Trusts of the beneficial owners in said respective firms) and that Developer is intended to serve as the "Master LLC" to oversee development of the Project and ultimate management thereof, with little or no ultimate fee ownership interest (with financing to be accomplished by "condominium financing"). Developer agrees to notify the Agency at least thirty (30) days prior to the transfer to the member(s) or affiliate entity(ies).

Except as specifically set forth herein, the Developer shall not assign all or any part of this Agreement without the prior written approval of the Agency, which approval shall not be unreasonably withheld. It shall not be unreasonable for the Agency to withhold its approval of a proposed assignee if such assignee: (1) does not have experience in developing projects of similar size and character at least equivalent to that of the Developer, or (2) does not have the financial strength and resources sufficient to undertake and complete the proposed project at least the equivalent of the Developer, or (3) does not have a reputation in the community for integrity and reliability.

3. [§109] **Disclosure of Principals**

Pursuant to Resolution RA-4-99 adopted by the governing board of the Agency effective October 1, 1999, Developer warrants that it has disclosed, on the form attached hereto as Attachment "J", all members of Developer as well as all persons and entities holding more than 1% (one percent) interest in Developer or any principal member of Developer . Throughout the term hereof, Developer shall notify City in writing of any material change in the above disclosure within 15 (fifteen) days of any such change.

G. [§110] **The Development**

Subject to all the provisions of this Agreement, the improvements to be constructed on the Agency Site and the obligations of Developer as to the Agency Site (the "Development" or "Project") are as follows:

A Class A office building consisting of approximately 60,000 square feet of office space and 8,000 square feet of retail space with an approximate 50 car parking garage to include the following:

(a) Construction of a First Floor of approximately 22,500 square feet, containing approximately 6,500 square feet of common area to support the office floors to be built above, plus approximately 34 parking spaces, plus a minimum of 2,500 square feet of retail/commercial space; and

(b) Construction of a Second Floor for office space, of approximately 18,500 square feet, plus an outdoor Lanai of approximately 2,000 square feet; and

(c) Construction of a Third Floor for office space of approximately 18,500 square feet, plus and outdoor balcony and stairs down to the Lanai;, and

(d) Construction of a Fourth Floor for office space of approximately 18,500 square feet, plus an outdoor balcony and stairs down to the Lanai.

The construction of the improvements are indicated in the "Scope of Development" Attachment "C" attached hereto, and are hereinafter referred to as the "Development" or the "Project".

H. [§111] **Good Faith Deposit**

Concurrently with the execution of this Agreement by the Developer, the Developer shall deliver to the Escrow Agent identified in Section 12.6 below a deposit in the form of either cash, a cashier's check or an irrevocable Letter of Credit in the amount of Thirty-Five Thousand and No/100ths Dollars ($35,000). Such amount shall be retained by Escrow Agent as the Developer's deposit under this Agreement (the "Good Faith Deposit") and shall serve as security for the performance of the obligations of the Developer under this Agreement prior to the return of the Good Faith Deposit to the Developer.

The Good Faith Deposit, if made by cash or cashier's check, shall be invested in federally issued funds and interest earned shall become part of the Good Faith Deposit.

If the Good Faith Deposit is made by Letter of Credit, the Letter of Credit shall be in the form attached hereto as Attachment "F" or otherwise in a form acceptable to the Agency in its sole discretion. Payment upon the Letter of Credit shall be made upon presentation of a written statement signed by the Executive Director of the Agency to the provider of the Letter of Credit demanding payment consistent with the terms of this Agreement. The Letter of Credit shall be renewed or replaced at least thirty (30) days prior to its expiration or the Agency shall be authorized to draw upon the entire amount.

Following the execution of this Agreement by the Developer and prior to the execution by the Agency, any attempted revocation of Developer's offer to enter into this Agreement or any attempted material modification of the terms hereof without the consent of the Agency shall entitle the Agency to demand delivery to the Agency of the Good Faith Deposit.

Upon termination of this Agreement by the Developer as provided in Section 408 hereof, the Good Faith Deposit (including all interest earned thereon) shall be returned within 30 days to the Developer by the Agency as provided therein.

If the Developer is in default with respect to any material provision of this Agreement, the Agency may, except as set forth in Section 412 as below, but shall have no obligation to, use the Good Faith Deposit or any portion of the Good Faith Deposit to cure such default or to compensate the Agency for any expense or damage sustained by the Agency and resulting from such default. If this Agreement has not been terminated as a result of such default, the Developer, on demand from the Agency, shall promptly restore such Good Faith Deposit to the full amount required by this Section 110. Prior to Agency's seeking recourse against the Good Faith Deposit, the Agency shall provide the Developer with thirty day written notice and an opportunity to cure same as provided by Section 401 of this Agreement.

I. [§112] **Developer Obligations**

1. [§113] **Construction of Development**

No later than the date as set forth in the Schedule of Performance, Attachment "D", the Developer shall commence construction in accordance with the Scope of Development. Developer agrees to complete the construction for the Development no later than the deadline set forth in the Schedule of Performance, Attachment "D".

2. [§114] **Exchange of Sites**

In accordance with and subject to the terms, covenants and conditions of this Agreement and in consideration of the Agency's conveyance of the Agency Site to the Developer, the Developer agrees to convey the Developer Site to the Agency. The exchange and conveyance of the Sites shall be in compliance with the escrow instructions in Section 125 et seq. of this Agreement.

3. [§115] **Site Preparation and Demolition**

In accordance with the deadlines set forth in the Schedule of Performance, the Developer shall prepare the Site for construction and shall demolish and remove all foundations and slabs deemed necessary, for commencing construction of the Development.

4. [§116] **Miscellaneous Developer Obligations**

a. In accordance with Attachments "C" and "D", the Developer shall be responsible for all on-site and off-site improvements to the Agency Site as required by the City of Las Vegas in connection with the development of the Agency Site.

b. Developer shall furnish to the Agency, not later than fifteen (15) calendar days prior to the commencement of construction, a copy of the performance bond that is written by a corporate surety that is licensed to do business in the State of Nevada, in an amount that is acceptable to the Lender providing the construction funds for the Project, pursuant to Section 138. Said performance bond shall be conditioned upon Developer's completion of the construction of the Project within the time specified in the Schedule of Performance and in accordance with the final plans and specifications, as the same are approved by the Agency.

c. It shall be the sole responsibility and obligation of the Developer, at the Developer's sole expense, to investigate and determine the soil and geologic conditions of the Agency Site (including the presence of asbestos and hazardous wastes) and the suitability of the Agency Site for the development proposed to be constructed. For purposes of investigating the soil and geologic conditions of the Agency Site, representatives of Developer shall have a reasonable right of access to the Agency Site during normal business hours. The Developer shall indemnify the Agency and hold it harmless from any damage, cause or liability arising out of this right of access.

d. Developer shall by the date set forth in the Schedule of Performance during which time the Developer shall determine, in its discretion, whether to proceed with the Development or terminate this Agreement pursuant to Section 408 hereof. Failure of Developer to terminate this Agreement within the time period set forth shall constitute acceptance by Developer of the Site in the condition as it then is in, save and except from any obligations, representations and/or warranties of Agency as set forth in this Agreement in regard to the Site not then completely fulfilled.

e. Financial statements of the Developer's assets and liabilities shall be submitted to the Agency in accordance with the deadline set forth in Attachment "".

f. In accordance with the Agency's employment plan policy for Developer with respect to this phase, Developer shall:

1. Provide the Agency with a list and amount of all contracts to be let for the construction of the Project.

2. Contact the City of Las Vegas to identify the vendors in its minority vendors directory.

3. Developer shall notify these vendors of all construction contracts to be let for the Project. A copy of this notification shall be submitted to the Agency.

4. Prepare an employment plan, as required by NRS 279.572(2), no later than thirty (30) days from execution of this Agreement by the Agency, which shall then be attached to this Agreement as Attachment "I".

J. [§117] **Agency Obligations**

1. [§118] **Exchange of Sites**

In accordance with and subject to the terms, covenants and conditions of this Agreement and in consideration of the Developer's conveyance of the Developer Site to the Agency, Agency agrees to convey the Agency Site to the Developer. The exchange and conveyance of the Sites shall be in compliance with the escrow instructions set forth in Section 126 of this Agreement.

2. [§119] **Agency Contribution to Construction**

Concurrently with the construction financing lender's ("Lender") deposit of $300,000 of the construction loan ("Development Loan") funds, the Agency shall deposit with a construction control company acceptable to Developer and the Lender the sum of Three Hundred Thousand and No/100ths Dollars ($300,000.00) to be used for the construction of the Development ("Agency Contribution") to be held for the benefit of Developer. Developer shall have the right to draw against the Agency Contribution immediately for reimbursement of the Total Construction Costs of the parking garage in the Development. Total Construction Costs includes both hard and soft costs required for the development of the parking garage and excludes any construction costs for the office building. Upon verification of items of Total Construction Costs eligible for reimbursement to the Developer and verification of prior or current expenses of Developer toward the Total Construction Costs of the parking garage in the development, the construction control company shall be directed to make progress payments to the Developer on the basis of $1.00 of Agency Contribution for every dollar of Development Loan funds used by Developer toward prior or current Total Construction Costs of the parking garage in the Development.

3. [§120] **Off-Site Parking**

(a) The Agency anticipates that there will be off-site parking facility located in the general area of Bonneville and 3rd Street with the eventual ownership of the facility not yet determined. Accordingly, the Agency shall use its best efforts to secure a minimum of 165 parking spaces for the Developer to lease in the parking facility. The Agency shall also use its best efforts to secure a lease ("Proposed Parking Lease") for additional spaces as needed with the total number of spaces not to exceed 220. In the event a Proposed Parking Lease is negotiated, the lease rate shall be Thirty-Seven and 50/100ths Dollars ($37.50) per parking space per month. This lease rate will prevail for the term of eight (8) years. At the end of the eighth year, the amount of the lease rate will be adjusted to reflect market rate to be mutually agreed to by the Developer and Agency after considering an independent study on downtown Las Vegas parking rates. The lease rate shall thereafter be adjusted by separate agreement. The total term of the lease shall be sixty-five (65) years.

(b) The Agency shall use its best efforts to secure the parking spaces for the Developer, up to (between 165 and 220, at Developer's option) which shall be covered and at the nearest, most convenient location to the Project as reasonably possible.

4. [§121] **Miscellaneous Agency Obligations**

a. In accordance with the Schedule of Performance in Attachment "D", the Agency will utilize its best efforts to assist the Developer in obtaining all necessary permits and in meeting all regulatory requirements associated with the development of the Agency Site.

b. Whenever approval is required under this Agreement by the Agency, that approval shall not be unreasonably withheld.

K. [§122] **Conditions of Closing of Escrow**

1. [§123] **Agency's Conditions of Closing**

The Agency's obligation to proceed with the close of escrow is subject to the fulfillment, or waiver by the Agency of each of the conditions precedent described below, which are solely for the benefit of the Agency and which shall be fulfilled or waived prior to close of escrow:

a. The Developer shall not be in default of any of its obligations under the terms of this Agreement.

b. There shall be no litigation pending with respect to this Agreement or either of the Sites.

c. The City shall have approved the conditions of title of the Developer Site pursuant to Section 129 of this Agreement and the Escrow Agent shall have issued title insurance for the Developer Site pursuant to Section 132 herein.

2. [§124] **Developer's Condition of Closing**

The Developer's obligation to proceed with the close of escrow is subject to the fulfillment, or waiver by the Developer of each of the conditions precedent described below, which are solely for the benefit of the Developer and which shall be fulfilled or waived prior to close of escrow:

a. The Agency shall not be in default of any of its obligations under the terms of this Agreement.

b. The Developer shall have approved the conditions of title of the Agency Site pursuant to Section 129 of this Agreement and the Escrow Agent shall have issued title insurance for the Agency Site pursuant to Section 132 herein.

c. There shall be no litigation pending with respect to this Agreement or either of the sites.

The parties agree to cooperate in good faith to timely satisfy conditions of close of escrow.

L. 1. [§125] **Exchange of Sites and Escrow**

a. [§126] **Escrow**

The Agency agrees to open an escrow with Nevada Title Company, or any other title company approved by the Agency and the Developer, as escrow agent (the "Escrow Agent"), in Las Vegas, Nevada, within the time established in the Schedule of Performance, Attachment "D". This Agreement constitutes the joint escrow instructions of the Agency and the Developer, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of escrow. The Agency and the Developer shall provide such additional escrow instructions as shall be necessary and consistent with this Agreement. The Escrow Agent hereby is empowered to act under this Agreement and, upon indicating its acceptance of the provisions of this section in writing, delivered to the Agency and to the Developer within five (5) days after the opening of the escrow, shall carry out its duties as Escrow Agent hereunder.

The Escrow Agent shall prepare for approval by Agency and Developer, and the Agency and Developer shall execute and deposit with the Escrow Agent, the grant, bargain and sale deeds for the conveyance of the Agency Site and the Developer Site, respectively, prior to the close of escrow.

The Developer shall pay in escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Developer of the amount of such fees, charges and costs, but not earlier than ten (10) days prior to the scheduled date for the close of escrow:

1. One-half of the escrow fee and recording costs; and

2. The portion of the premium for the title insurance policy or special endorsements to be paid by the Developer as set forth in Section 132 of this Agreement; and

3. Ad valorem taxes, if any, upon the Developer Site prorated to close of escrow.

The Agency shall pay in escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Agency of the amount of such fees, charges and costs, but not earlier than ten (10) days prior to the scheduled date for the close of escrow:

1. One-half of the escrow fee and recording costs;

2. The portion of the premium for the title insurance policies or special endorsements to be paid by the Agency as set forth in Section 132 of this Agreement.

Upon delivery of the Deeds to the Escrow Agent by the Agency and Developer pursuant to Section 130 of this Agreement, the Escrow Agent shall record such Deeds pursuant to Section 131 when title can be vested in the Developer in accordance with the terms and provisions of this Agreement. The Escrow Agent shall buy, affix and cancel any transfer stamps required by law and pay any transfer tax required by law. Any insurance policies governing the Sites are not to be transferred.

The Escrow Agent is authorized to:

1. Pay and charge the Agency and the Developer, respectively, for any fees, charges and costs payable under this Section 126 of this Agreement. Before such payments are made, the Escrow Agent shall notify the Agency and the Developer of the fees, charges and costs necessary to clear title and close the escrow;

2. Disburse funds and deliver the Deeds and other documents to the parties entitled thereto when the conditions of this escrow have been fulfilled by the Agency and the Developer; and

3. Record any instruments delivered through this escrow, if necessary or proper, to vest title in the party entitled thereto in accordance with the terms and provisions of this Agreement.

All funds received in this escrow shall be deposited by the Escrow Agent with other escrow funds of the Escrow Agent in a general interest-bearing account with any state or national bank doing business in the State of Nevada. All disbursements shall be made by check of the Escrow Agent. All adjustments shall be made on the basis of a 30-day month.

If this escrow is not in condition to close before the time for conveyance established in the Schedule of Performance , either party who then shall have fully performed the acts to be performed before the conveyance of title may, in a writing delivered to the Escrow Agent, terminate this Agreement and demand the return of its money, papers or documents. Thereupon all obligations and liabilities of the parties under this Agreement shall cease and terminate. If neither the Agency nor the Developer shall have fully performed the acts to be performed before the time for conveyance established in the Schedule of Performance, no termination or demand for return shall be recognized until ten (10) days after the Escrow Agent shall have mailed copies of such demand to the other party or parties at the address of its or their principal place or places of business. If any objections to the termination or demand for return are raised in a writing delivered to the Escrow Agent and the other parties within the ten (10) day period, the Escrow Agent is authorized to hold all money, papers and documents with respect to the Site until instructed in writing signed by both the Agency and the Developer or by an order of a court of competent jurisdiction.

If no demands for termination are made, the escrow shall be closed as set forth in the Schedule of Performance of this Agreement. Nothing in this section shall be construed to impair or affect the rights or obligations of the parties to this Agreement to specific performance, if any.

Any amendment to these escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment, the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

All communications from the Escrow Agent to the Agency or the Developer shall be directed to the addresses and in the manner established in Section 601 of this Agreement for notices, demands and communications between the Agency and the Developer.

The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Sections 126 to 134, inclusive, of this Agreement.

Neither the Agency nor the Developer shall be liable for any real estate commissions or brokerage fees which may arise herefrom. The Agency and the Developer each represent and warrant that neither has engaged any broker, agent or finder in connection with this transaction which could make any claims against the other party or against either Site and each indemnifies the other from loss arising from a breach by it of the foregoing representation.

b. [§127] **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, including the Agency's approval of firm and binding commitment to finance the Development, as set forth in Section 138 of this Agreement, and subject to any mutually agreed upon extensions of time, conveyance to the Parties of title to the respective Sites Developer shall be completed on or prior to the date set forth in the Schedule of Performance. The Agency and the Developer agree to perform all acts necessary for conveyance of title, to the extent required hereunder, in sufficient time for title to be conveyed in accordance with the foregoing provisions.

Possession shall be delivered to the Parties concurrently with the conveyance of title, except that access may be permitted before conveyance of title as permitted in Section 135 of this Agreement.

c. [§128] **Form of Deed**

The Parties shall convey title to the other party in the condition provided in Section 129 of this Agreement by grant, bargain and sale deeds prepared by Escrow Agent and approved by the Parties. The form of the grant, bargain and sale deed conveying the Agency Site to the Developer shall be in the form set forth as Attachment "H".

d. [§129] **Condition of Title**

Each Party shall convey to the other party fee simple title to the respective Site in the condition approved by the acquiring Party as set forth in Section 129 except as hereinafter provided.

The Escrow Agent shall, upon the signing of this Agreement by the Parties and delivery of a copy to Escrow Agent, deliver to the Parties a preliminary title report and legible copies of all documents referred to therein covering or relating to each Site, and shall thereafter provide a survey of the Agency Site to the Developer (at the Developer's sole expense, but with the cooperation and all survey information available to the Agency being provided to assist in obtaining such survey). The Parties shall then approve or disapprove the exceptions listed therein as to the respective Site to be acquired by giving the Escrow Agent written notice thereof. Failure to give written notice by the date of closing, of approval or disapproval to the Escrow Agent of some or all of the exceptions shall be deemed to be approval of all exceptions, except for monetary liens and taxes. If either Party disapproves any exceptions, the other Party shall have ten (10) days within which to agree in writing to remove the exception. Failure to give written notice of such agreement to the other Party and the Escrow Agent shall be deemed to be refusal. If either Party does not agree to remove any other exceptions properly and timely disapproved by the other Party, this Agreement shall terminate without further liability to either Party, unless the objecting Party waives its objection in writing delivered to the other Party and to the Escrow Agent within a second ten (10) day period. If the Party shall agree to remove any exception objected to by the other Party, the Party shall then have until the date for close of escrow within which to remove such exception. If the Party is unable to remove any exception objected to by the other Party and which the Party has agreed to remove by the date for close of escrow, the objecting Party may elect to (1) terminate this Agreement and receive a return of all funds and documents; or (2) waive the objection and close escrow. Each 10 day period exercised above shall extend the date of closing of escrow for an additional 10 days.

The Parties agree not to encumber either Site after the effective date of this Agreement, other than as contemplated hereunder with regard to Developer's development of the Agency Site and the anticipated instructional financing which will constitute a lien against the Agency Site, and further agree to remove any monetary liens against its Site, and any voluntary encumbrances allowed to be placed against such Sites after such effective date.

e. [§130] **Time and Place of Delivery of Deed**

Subject to any mutually agreed upon extensions of time, the Agency and Developer shall deposit the respective Deeds with the Escrow Agent on or before the date established for the conveyance of the Site in the Schedule of Performance of this Agreement.

f. [§131] **Payment of the Purchase Price and Recordation of Deed**

Provided that the Escrow Agent shall have notified the Agency and Developer in writing that the Deeds, properly executed and acknowledged by the Agency, have been delivered to the Escrow Agent and that title is in condition to be conveyed in conformity with the provisions of Section 129 of this Agreement, the Escrow Agent shall file the Deeds for recordation among the land records in the Office of the County Recorder of Clark County, Nevada, which Deeds shall be recorded simultaneously with the deed of trust in favor of the lender for the Development Loan as described in Section 138. Upon the close of escrow, Escrow Agent shall deliver required sums to the Agency and Developer and shall deliver to each Party a title insurance policy insuring title in conformity with Section 132 of this Agreement.

g. [§132] **Title Insurance**

Concurrently with recordation of the Deeds and as a condition of closing, Nevada Title Company or some other title insurance company satisfactory to the Agency and the Developer having equal or greater financial capability ("Title Company"), shall provide and deliver to each Party a title insurance policy issued by the Title Company insuring that the title is vested in the Party thereto in the condition required by Section 129 of this Agreement and the title insurance policy shall be of the type and in the amount requested by the Party receiving title to the respective Site, and with such endorsements and affirmative coverage as may be required by such Party.

If either Party desires to obtain extended coverage for its title policy, the other Party shall provide the Escrow Agent at closing with such evidence and customary documents as are reasonably required to issue such coverage.

Each Party shall pay for the title insurance premium for the policy and amount of title insurance, together with all special endorsements and coverages, requested by the Party for its respective Site acquired hereunder.

h. [§133] **Taxes and Assessments**

Ad valorem taxes and assessments, if any, on the Developer Site for any period prior to conveyance of title shall be borne by the Developer. All ad valorem taxes and assessments levied or imposed on the Site for any period commencing after close of escrow shall be paid by the Developer.

i. [§134] **Conveyance Free of Possession**

The Agency Site and the Developer Site shall be conveyed free of any possession or right of possession by any other person except that of the approved easements of record.

j. [§135] **Condition of the Sites**

1. **Inspections**.

At any time prior to the closing of escrow, the Parties may conduct investigations of the respective Sites, their physical condition, the soils and toxic conditions of the Sites and all other matters which in the sole discretion of either the Developer or the City affect or influence the use of their respective parcels and their willingness to develop their respective parcels. Such investigations may include, without limitation, the preparation by a duly licensed soils engineer of a soils report for the Sites. If in the sole judgment of either Party, the physical condition of the respective Site it will acquire hereunder is in material respects unsuitable for the use or uses to which it will be put, then at any time prior to the date set for close of escrow or within any mutually agreed upon extension of such time, such Party shall have the option to terminate this Agreement pursuant to Section 408 or 409. The Parties shall each pay the cost of its own investigation of a Site. Each Party shall hold the other harmless from any injury or damages arising out of any activity pursuant to this section.

2. **"As Is."**

Except for the express warranties contained herein, each Party acknowledges and agrees that any portion of the Site that it acquires from the other Party pursuant to this Agreement shall be purchased "as is," in its current physical condition, with no warranties, express or implied, as to the physical condition thereof, the presence or absence of any latent or patent condition thereon or therein, including, without limitation, any Hazardous Material thereon or therein, and any other matters affecting the Site.

3. **Release and Waiver**.

The Agency and the Developer each hereby mutually release and waive all rights, causes of action and claims which either has or may have in the future against the other, its officers, employees, agents, attorneys, representatives, legal successors and assigns, arising out of or in connection with any Hazardous Materials (as defined herein) at, on, in, beneath or from the Sites, except for breach of the warranties contained in paragraph 4 hereof, or where caused in whole or in part by the other Party.

4. **Warranties**.

The Parties agree that each Party is making no representations or warranties regarding the environmental condition of its currently owned Site except that each Party has not during its period of ownership of its Site brought any Hazardous Materials on to its Site in violation of Environmental Law.

5. **Definitions**.

a. As used in this Agreement, the term "Hazardous Materials" means any substance, material or waste which is:

(1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste" or "restricted Hazardous waste" under any provision of Nevada law;

(2) petroleum;

(3) asbestos;

(4) polychlorinated biphenyls;

(5) radioactive materials;

(6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317);

(7) defined as a "hazardous substance" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903); or

(8) defined as a "hazardous substance' pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601).

b. As used in this Agreement, the term "Environmental Laws" shall mean any and all laws (whether common or statutory), compacts, treaties, conventions, rules, regulations, codes, plans, requirements, criteria, standards, orders, decrees, judgments, injunctions, notices or demand letters issued, promulgated or entered thereunder by any federal, state or local governmental entity relating to public or employee health and safety, pollution or protection of the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendment and Reauthorization Act and otherwise ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), the Federal Safe Drinking Water Act, the Federal Water Pollution Control Act, and any and all other federal, state and local laws, rules, regulations and orders relating to reclamation of land, wetlands and waterways or relating to use, storage, emissions, discharges, cleanup, releases or threatened releases of pollutants, contaminants, chemicals or industrial, toxic or Hazardous Materials on or into the workplace or the environment (including without limitation, ambient air ,oceans, waterways, wetlands, surface water, ground water (tributary and nontributary), land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation or handling of pollutants, contaminants, chemicals or industrial, toxic, hazardous or similar substances.

k. [136] **<u>Preliminary Work by the Parties</u>**

At any time prior to the close of escrow, representatives of each Party shall have the right of access to the Site it intends to acquire pursuant to this Agreement at all reasonable times for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement. Each Party shall hold the other harmless from any injury or damages arising out of any activity pursuant to this section. The Parties shall have access to all data and information on the Site to be acquired available to the Party owning the Site, but without warranty or representation by such Party as to the completeness, correctness or validity of such data and information.

Any intrusive testing or preliminary work undertaken on a Site prior to conveyance of title thereto by the Party acquiring that Site shall be done only after written consent, which shall not be unreasonably withheld, of the other Party, who shall have the right to accompany any examiners to the Site, and at the sole expense of the Party desiring to conduct the work. Such Party shall save harmless and protect the other Party against any claims resulting from such preliminary work, access or use of the Site. Copies of data, surveys and tests obtained or made by the Party on the Site shall be provided to the other Party within 5 days of receipt or preparation thereof. Any preliminary work by a Party shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.

l. [§137] **Escrow Period Covenants**

Pending the close of escrow, each Party agrees (1) to maintain its Site in the same manner as prior hereto pursuant to its normal course of business; (2) not to enter into any service or similar agreements which are not cancelable by such party at or prior to closing; (3) not to make any improvements to its Site; and (4) not to apply for or make any zoning or land use changes with respect to its Site except as provided herein.

M. [§138] **Financing for Development of the Agency Site**

The Developer shall submit to the Agency evidence of firm and binding commitment to finance the Development within the time set forth in the Schedule of Performance, Attachment "D". The Agency shall have the sole reasonable discretion to approve financing from a source acceptable to the Agency for development of the Agency Site (the "Commitment") in accordance with the Plans and Drawings (as hereinafter described). The Commitment may be in the form of a customary mortgage loan, sale leaseback, participating convertible mortgage loan, unsecured loan, or any other means which make available to the Developer the funds necessary to finance the Development.

In evaluating the sufficiency of the Commitment, the Agency shall consider whether the Commitment is in a customary form used by reputable institutional lenders, agencies, underwriters or others for comparable projects, and the financial strength and experience of the entity providing the funds (the "Lender"). As used herein the loan described in the Commitment shall be referred to as the "Development Loan". As a condition to its approval of the Commitment, the Agency may require the Commitment to provide:

1. A complete description of all real and personal property securing the Development Loan, together with any required collateral assignments, guarantees and other forms of security.

2. The rate of interest or return payable with respect to the Development Loan, and any fees payable to the Lender during the loan term.

3. The repayment schedule including any extensions.

4. The exact amount of funds to be made available to the Developer for acquisition or development of the Development after deduction of the Lender's closing or other fees payable or deducted at closing, closing costs, commissions and the like.

5. A description of the approved budget (the "Construction Budget") against which funds will be disbursed and the conditions and timing for disbursement.

6. A description of all required property, liability and title insurance, and payment and performance bonds.

7. Copies of proposed material loan documents.

8. Other related information or documents which Agency may reasonably request.

The Commitment shall be submitted to the Agency by the date set forth in Attachment "D". If the evidence of firm and binding commitment is not submitted within the established time or the commitment is not approved by the Agency, this Agreement shall terminate, and no party shall have any further rights against or liability to any other party under this Agreement.

N. [§139] **Acknowledgment of Bond Covenants**

The Developer and the Agency acknowledge and agree that the Agency has issued its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Revenue Bonds (City of Las Vegas Redevelopment Project), Series 1986A" in the aggregate original principal amount of $50,000,000 (the "Series 1986A Bonds"): its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Subordinate Lien Revenue Bonds (Fremont Street Project), Series 1994A" in the aggregate principal amount of $18,800,00 (the "Series 1994A Bonds"); its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Subordinate Lien Revenue Bonds (Housing Project), Series 1994B," in the aggregate original principal amount of $3,375,000 (the "Series 1994B Bonds"), its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Insured Refunding Parity Lien Revenue Bonds, Series 1995A, in the aggregate principal amount of $16,525,000 (the "Series 1995A Bonds") and its "City of Las Vegas Downtown Redevelopment Agency, Tax Increment Subordinate Lien Refunding Revenue Bonds, Series 1995B in the aggregate principal amount of $565,000 (the "Series 1995B Bonds"). The Series 1986A Bonds, Series 1994A Bonds, Series 1994B Bonds, Series 1995A Bonds and Series 1995B Bonds are collectively referred to herein as the "Bonds". The Series 1986A Bonds were issued pursuant to that certain Amended and Restated Indenture of Trust, dated as of December 1, 1989 (the "1986 Indenture"), between the Agency and Bank of American Nevada, formerly known as Valley Bank of Nevada (the "Trustee"). The Series 1994A Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of January 15, 1994 (the "1994A Indenture") between the Agency and the Trustee. The Series 1994B Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of January 15, 1994 (the "1994B Indenture") between the Agency and the Trustee. The Series 1994B Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of June 1, 1995 (the "1995A Indenture") between the Agency and the Trustee. The Series 1995B

Bonds were issued pursuant to the provisions of that certain Indenture of Trust, dated as of June 1, 1995 (the "1995B Indenture") between the Agency and the Trustee. The 1986 Indenture, the 1994A Indenture, the 1994B Indenture, the 1995A Indenture, and the 1995B Indenture are collectively referred to as the "Indentures." The Bonds were issued for the purpose of financing certain undertakings by the Agency in connection with the Redevelopment Project. Under the Indentures, the rights, but not the obligation, of the Agency under this Agreement have been pledged by the Agency to the owners of the Bonds as security for the Bonds. The Developer understands and acknowledges that, under the Indentures, the trustees, on behalf of the Registered Owners, shall be entitled to enforce the provisions of this Agreement against the occurrence of any Event of Default as set forth therein.

O. [§140] **General Representations**

The Agency and Developer each represent and warrant for itself that:

1. This Agreement and all agreements, instruments and documents herein provided to be executed as duly executed and binding on the party making the representation.

2. The execution, consent or acknowledgment of no other party is necessary to effect the obligations of the Agency or the Developer, whichever is making the representation, provided in this Agreement;

3. This Agreement does not now or shall not hereafter breach, invalidate, cancel, make inoperative or interfere with any contract, agreement, instrument, mortgage, deed of trust, promissory note, lease, bank loan or credit agreement to which the Developer is subject.

II. [§200] **DEVELOPMENT OF THE SITE**

A. [§201] **Development of the Agency Site by the Developer**

1. [§202] **Scope of Development**

The Agency Site shall be developed as provided in the Scope of Development in Attachment "C", the Basic Concept Drawings and the Construction Plans, Drawings and Related Documents as set forth in Sections 203 and 204.

2. [§203] **Basic Concept Drawings**

The Agency Site shall be developed as generally established in the Basic Concept Drawings which will be submitted to and approved by the Agency except for changes subsequently agreed upon between the Developer and the Agency.

3. [§204] **Construction Plans, Drawings, and Related Documents**

The Developer shall prepare and submit to the Agency, and the Agency shall review and approve, the following plans, drawings, related documents, and any subsequent revisions thereto, to wit:

a. Final Architectural Plans
b. Final Plot Grading Utility Plans
c. Final Structural Plans
d. Final Mechanical and Electrical Plans
e. Final Landscaping Plans

Said plans, drawings and related documents are hereinafter referred to as the "Plans and Drawings" and by this reference are incorporated herein as a part of this Agreement.

The Developer agrees to construct the improvements on the Site in accordance with the approved Plans and Drawings.

4. [§205] **Agency Approval of Changes in the Construction Plans and Drawings**

If the Developer desires to make any material change to the exterior of the building on the Agency Site, in the Plans and Drawings after their approval by the Agency, the Developer shall submit the proposed change to the Agency for its approval. If the proposed change is approved, the Agency shall notify the Developer in writing within fifteen (15) calendar days after receipt to the Agency. Such change in the Plans and Drawings shall, in any event, be deemed approved by the Agency unless rejected, in whole or in part, by written notice thereof by the Agency to the Developer setting forth in detail the reasons therefor, and such rejection shall be made within the said 15-day period.

5. [§206] **Cost of Construction**

The cost of developing the Agency Site and constructing all improvements thereon shall be borne by the Developer, except for the contribution by the Agency in accordance with Section119 and those obligations described in Attachment "C" as "public improvements and/or improvements for the benefit of the public and provision of the Agency Site as described in the Scope of Development".

6. [§207] **Construction Schedule**

The Developer shall begin and complete all construction and development within the times specified in Attachment "D" or such reasonable extension of said dates as may be granted by the Agency or as provided in Section 604 of this Agreement. Attachment "D" is subject to revision from time-to-time as mutually agreed upon in writing between the Developer and the Agency.

7. [§208] **Insurance and Indemnification**

a. The Developer shall obtain and maintain during the existence of this Agreement, general comprehensive liability insurance for bodily injury and property damage in the minimum amount of One Million and No/100ths Dollars ($1,000,000.00) combined single limit. If such policy is on a "claims made" basis, then such coverage shall be maintained in effect for one (1) year after the issuance of the final Certificate of Completion.

b. Prior to the Close of Escrow, commencement of any demolition or construction of the Agency Site, the Developer shall furnish or cause to be furnished to the Agency certificates of insurance or endorsements evidencing the coverage required herein.

c. The Developer will provide renewal certificates for insurance coverage required herein that expires during the existence of this Agreement within sixty (60) calendar days following the expiration date of said insurance.

d. The Agency, its officers, employees and agents must be expressly covered as insured parties under the insurance coverages required herein.

e. The insurance coverage required herein must provide for a 30-day written notice to the Agency before any amendments, modifications, suspension, cancellations, reductions or non-renewal of coverage. This notice requirement does not waive the insurance requirements contained herein.

f. In the event the Developer fails to obtain, or maintain the insurance required herein, the Agency shall have the right, in addition to the remedies available under Sections 407, 411 and 412, to pay the premium from the Good Faith Deposit to reinstate the insurance coverage which the Developer has failed to maintain, or to procure substitute insurance coverage, which in either case the Agency shall be entitled to collect the cost thereof from the Developer or deduct the same from any sums due the Developer under this Agreement.

g. In addition to the insurance requirements of this Section, the Developer shall assume and be responsible for, and shall protect, indemnify, defend and hold harmless the Agency and the City of Las Vegas, and their respective officers, members, consultants, agents and employees, from and against any and all claims, demands, liabilities, losses or costs, including reasonable attorneys' fees and court costs, for injuries to or the death of any person or persons or damages to property, including property of the Agency or the City, which may arise out of or in any manner be connected with the performance of the obligations under this Agreement excluding any claims, demands, liabilities, losses or costs resulting from the acts or omissions of the City, Agency, and any of their respective officers, members, consultants, agents and employees.

h. The Developer shall also furnish or cause to be furnished evidence satisfactory to the Agency that any contractor with whom it has contracted for performance of the work on the site carries worker's compensation insurance required by law.

8. [§209] **City, Agency, and Other Governmental Permits**

Before commencement of construction or development of any buildings, structures or other work of improvement upon the Agency Site, the Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City of Las Vegas or any other governmental agency affected by such construction, development or work. The Agency shall provide all assistance deemed appropriate by the Agency to the Developer in securing these permits.

9. [§210] **Rights of Access**

For the purposes of assuring compliance with this Agreement, representatives of the Agency and the City shall have the right of reasonable access to the Agency Site without charges or fees and at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Executive Director of the Agency. The Agency and City shall indemnify the Developer and hold it harmless from any damage caused or liability arising out of this right to access.

10. [§211] **Compliance with Public Bidding Requirements and Other Local, State and Federal Laws**

The Developer shall carry out the construction of the improvements in conformity with all applicable laws, including all applicable federal, state and local standards.

The Developer shall ascertain the general prevailing rate of per diem wages in the locality in which the improvements are to be constructed for each craft or type of workman needed to construct the improvement and shall so specify such information in the bid specification. The Developer agrees not to pay less than the specified prevailing rate of wages to the contractor and its employees selected to construct the improvements.

The Developer shall require that the selected contractor keep accurate records showing the name, occupation and actual per diem wages paid to each employee used in connection with construction of the improvement. Such records shall be open to inspection and reproduction by the Agency during normal business hours.

11. [§212] **Anti-discrimination During Construction**

The Developer, for itself and its successors and assigns, agrees that in the construction of the Development provided for in this Agreement, the Developer will not discriminate for or against any employee or applicant for employment because of race, color, creed, religion, sex, age, ancestry, or national origin.

B. [§213] **Agency Approval of Operating Covenants, and Reciprocal Easement Agreements**

Upon written request, delivered by the Agency to the Developer, the Agency reserves the right of approval, which shall not be unreasonably withheld, of operating covenants and reciprocal easement agreements that the Developer may enter into during construction of the Development. Such operating covenants and reciprocal easement agreements shall be deemed approved by the Agency unless rejected, in whole or in part, by written notice thereof by the Agency to the Developer setting forth in detail the reasons therefor, within fifteen (15) calendar days after the submission to the Agency.

C. [§214] **Taxes, Assessments, Encumbrances, and Liens**

Prior to the issuance of a Certificate of Completion, the Developer shall not place or allow to be placed on the Agency Site any mortgage, trust deed, encumbrance, or lien unauthorized by this Agreement. The Developer shall remove or have removed any lien or attachment made on the Agency Site (or any portion thereof), or shall assure the satisfaction thereof, within a reasonable time.

Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, or to limit the remedies available to the Developer in respect thereto, as long as such contest does not impair the title to the Agency Site.

D. [§215] **Prohibition Against Transfer of Site, the Buildings or Structures Thereon, and Assignment of Agreement**

The Developer shall not, except as expressly permitted by this Agreement, sell, transfer, convey or assign the whole or any part of the Agency Site or the buildings or improvements thereon without the prior written approval of the Agency. This prohibition shall not apply subsequent to the issuance of the Certificate of Completion with respect to the Agency Site. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Agency Site.

In the absence of specific written agreement by the Agency, no such transfer, assignment or approval by the Agency shall be deemed to relieve the Developer or any other party from any obligations under this Agreement until completion of development as evidenced by the issuance of a Certificate of Completion therefor.

E. [§216] **Security Financing; Rights of Holders**

1. [§217] **No Encumbrances Except Mortgages, Deeds of Trust, Sales and Lease-Backs, or Other Financing for Development**

Notwithstanding Sections 214 and 215 of this Agreement, mortgages, deeds of trust, sales and leases-back or any other form of conveyance required for any reasonable method of financing are permitted before issuance of a Certificate of Completion but only for the purpose of securing loans of funds to be used for construction of improvements on the Agency Site or any other expenditures necessary and appropriate to develop the Site under this Agreement. The Developer shall notify the Agency in advance of any mortgage, deed of trust, sale and lease-back or other form of conveyance for financing if the Developer proposes to enter into the same before issuance of a Certificate of Completion.

The Developer shall not enter into any such conveyance for financing without the prior written approval of the Agency, which approval the Agency agrees to give if any such conveyance is given to a responsible financial or lending institution or other reasonable acceptable person or entity. Such lender shall be deemed approved unless rejected in writing by the Agency within ten (10) days after notice thereof to the Agency by the Developer. In any event, the Developer shall promptly notify the Agency of any conveyance, encumbrance or lien that has been created or attached thereto prior to completion of the construction of the improvements on the Agency Site whether by voluntary act of the Developer or otherwise. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

2. [§218] **Holder Not Obligated to Construct Improvements**

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement may, but shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Agency

Site to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

3. [§219] **Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure**

Whenever the Agency shall deliver any notice or demand to the Developer with respect to any breach or default by the Agency shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage, deed of trust or previously made a written request to the Agency therefor. Each such holder shall (insofar as the rights of the Agency are concerned) have the right, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such defect and to add the cost thereof to the security interest debt and the lien on its security interest. In the event there is more than one such holder, the right to cure shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves. Nothing contained in this Agreement shall be deemed to permit or authorize such holder or its nominees or assignees as permitted by this Agreement or approved by the Agency to undertake or continue the construction or approved by the Agency to undertake or continue the construction or completion of the improvements (beyond the extent already made) without first having expressly assumed the Developer's obligations by the Agency by written agreement satisfactory to the Agency. The holder or its nominees or assignees as permitted by this Agreement or approved by the Agency in that event must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder relates and submits evidence satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations.

Any such holder properly completing such improvements shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency.

4. [§220] **Failure of Holder to Complete Improvements**

In any case where, ninety days (90 days) after receipt of said notice of default by the Developer in completion of construction of improvements under this Agreement, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Agency Site has not exercised the option to construct, or if it has exercised the option and has not proceeded diligently with construction, the Agency may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest. If the ownership of the Agency Site has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance of the Agency Site from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following;

a. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

b. All expenses with respect to foreclosure;

c. The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site;

d. The costs of any authorized improvements made by such holder; and

e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

5. [§221] **Right of Agency to Cure Mortgage, Deed of Trust or Other Security Interest Default**

In the event of a default or breach by the Developer of a mortgage, deed of trust or other security interest with respect to the Agency Site prior to the completion of the Development, and the holder has not exercised its option to complete the Development, the Agency may cure the default prior to completion of any foreclosure within ninety (90) days of the holder's notification that it will not complete the Development. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Agency Site to the extent of such costs and disbursements.

Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to acquire or develop the Agency Site as authorized herein.

F. [§222] **Certificate of Completion**

A Certificate of Completion shall be issued promptly after receipt of a request therefor after completion of all construction. The Certificate of Completion for the Development shall be in the form attached hereto as Attachment "E" and shall also include an agreement in the form of Attachment "G" both of which shall be recorded in the Office of the County Recorder of Clark County. A Certificate of Completion for less than the entire improvement of the Development shall not be recorded.

The Certificate of Completion for the Development shall be, and shall so state therein that it is, a conclusive determination of the satisfactory completion of the construction required by this Agreement upon the Agency Site or such portion thereof and of total compliance with the terms hereof. After issuance of the Certificate of Completion for the Development, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Agency Site or such portion thereof covered by said Certificate of Completion shall not (because of such ownership, purchase lease or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by any covenants contained in the Agreement appended hereto as Attachment "G". Except as otherwise provided herein, after the issuance of the Certificate of Completion for the Development or such portion thereof, neither the Agency, the City nor any other person shall have any rights, remedies or controls with respect to the Agency Site or such portion thereof that it would otherwise have or be entitled to exercise under this Agreement as a result of a default in or breach of any provision of this Agreement, and the respective rights and obligations of the parties with reference to the Agency Site or such portion thereof shall be as set forth in Sections 301 to 304, inclusive, of this Agreement.

The Agency shall not unreasonably withhold the Certificate of Completion. If the Agency refuses or fails to furnish the Certificate of Completion for the Development after written request from the Developer, the Agency shall, within ten (10) days of such written request, provide the Developer with a written statement of the reasons the Agency refused or failed to furnish the Certificate of Completion. The statement shall also contain the Agency's opinion of the action the Developer must take to obtain a Certificate of Completion. If the Agency shall have failed to provide such written statement within said 10-day period, the Developer shall be deemed entitled to the Certificate of Completion.

The Certificate of Completion for the Development shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the improvements or any part thereof.

III. [§300] USE OF THE SITE

A. [§301] <u>Uses</u>

The Developer covenants and agrees for itself, its successors, assigns and every successor in interest that during construction and thereafter, the Agency Site shall be devoted only to the uses specified in this Agreement, and the Redevelopment Plan, for the periods of time specified in Section 304. The foregoing covenants shall run with the land.

B. [§302] **Maintenance**

The Developer hereby covenants and agrees for itself, its successors, assigns and every successor in interest to maintain the improvements on the Agency Site and keep the Agency Site free from any accumulation of debris or waste materials and to maintain the landscaping required to be planted in accordance with the Plans and Drawings in a healthy condition. If at any time the Developer, or its successors in interest, shall fail to keep the Agency Site free of debris or waste materials or to maintain said landscaping in a healthy condition, and said condition is not corrected within ten (10) days after written notice from the Agency, either the Agency or the City may perform the necessary cleanup or landscape maintenance, and the Developer, or its successors in interest, shall pay such costs as are reasonably incurred for such cleanup or landscape maintenance. The foregoing covenants shall run with the land.

C. [§303] **Obligation to Refrain from Discrimination**

The Developer covenants by and for itself, its successors, assigns and every successor in interest to the Agency Site or any part thereof, that there shall be no discrimination against or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Agency Site, nor shall the Developer itself of any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Agency Site. The foregoing covenants shall run with the land.

D. [§304] **Effect and Duration of Covenants**

Except as otherwise provided, the covenants contained in this Agreement shall remain in effect until March 5, 2016 (the termination date of the Redevelopment Plan), unless the Redevelopment Plan has been extended by the Agency. The covenants against discrimination shall remain in effect in perpetuity. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, the City and any successor in interest to the Agency Site or any part thereof.

The Agency is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. This Agreement and the covenants shall run in favor of the Agency without regard to whether the Agency has been, remains or is an owner of any land or interest therein in the Agency Site, any parcel or subparcel, or in the Redevelopment Area. The Agency shall have the right, if this Agreement or the covenants are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and the covenants may be entitled.

IV. [§400] DEFAULTS, REMEDIES AND TERMINATION

A. [§401] Event of Default by the Developer

If during the existence of this Agreement, the Developer:

1. Transfers or assigns, or attempts to transfer or assign the rights, benefits or duties under this Agreement, or in the Agency Site or any improvements thereon, contrary to the provisions of Section 108,

2. Fails to deposit or maintain the amount of the Good Faith Deposit as required pursuant to the provisions of Section 111,

3. Fails to proceed with, abandons or substantially suspends the construction of the Project required by this Agreement,

4. Fails to meet the deadlines set forth in Attachment "D" or proceed in a timely manner with the Development,

5. Fails to perform any other material obligation imposed under the provisions of this Agreement, then, the occurrence of any of the foregoing events (a "Developer Event of Default") shall constitute a breach in the performance of the obligations imposed upon the Developer and shall entitle the Agency to the remedies, and only the remedies hereinafter set forth, if, after receiving thirty (30) calendar days written notice of default from the Agency, the Developer has failed to cure, or to commence a cure and diligently pursue it to completion (which in no event is to exceed sixty (60) calendar days).

B. [§402] Events of Default by the Agency

If during the existence of this Agreement, the Agency fails to perform any material obligation imposed under the provisions of this Agreement, then, the occurrence of any of the foregoing events (an "Agency Event of Default") shall constitute a breach in the performance of the obligations imposed upon the Agency and shall entitle the Developer to the remedies, and only the remedies, hereinafter set forth, if, after receiving thirty (30) calendar days written notice from the Developer, the Agency has failed to cure, or to commence a cure and diligently pursue it to the completion.

1. [§403] Institution of Legal Actions

Any legal action to enforce the rights and remedies provided herein must be instituted in the District Court of the County of Clark, State of Nevada, or, alternatively, in the Federal District Court in the State of Nevada, if jurisdiction therein is appropriate.

2. [§404] **Applicable Law**

The laws of the State of Nevada shall govern the interpretation and enforcement of this Agreement.

3. [§405] **Service of Process**

In the event that any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the Secretary of the Agency or in such other manner as may be provided by law.

C. [§406] **Remedies of the Parties**

1. [§407] **Mutual Remedy of Specific Performance**

Upon occurrence of an Event of Default by either the Developer or the Agency during the existence of this Agreement, the non-defaulting party, at its option, may institute an action for specific performance of the terms and obligations (including the payment of any monetary obligation) of this Agreement.

2. [§408] **Remedy of the Developer–Termination**

In the event that (i) the zoning for the Agency Site will not permit development; (ii) the soil or geologic conditions of the Agency Site are such as to make the Development economically unfeasible and the Developer disapproves of such conditions in accordance with the provisions of Section 135; or (iii) upon the occurrence of an Agency Event of Default, the Developer shall have the right during the existence of this Agreement to terminate, and this Agreement shall so terminate, ten (10) calendar days after written notice of termination is received by the Agency. Upon such termination, the Good Faith Deposit shall be returned to the Developer, and the parties hereto shall have no further recourse against, or liability to, each other.

3. [§409] **Remedies of the Agency**

a. [§410] **In General**

1. [§411] **Termination**

During the existence of this Agreement and upon the occurrence of a Developer Event of Default, the Agency shall have the right to terminate, and this Agreement shall so terminate, the date that the written notice of termination is received by the Developer or such other date as may be specified in the written notice.

2. [§412] **Liquidated Damages**

In the event of termination under Section 411, the Good Faith Deposit may be retained by the Agency as liquidated damages and as its property without any deduction, offset or recoupment whatsoever. If the Developer should default upon its obligations making it necessary for the Agency to terminate this Agreement and to procure another party or parties to redevelop the Agency Site in substantially the manner and within the period that such Agency Site would be redeveloped under the terms of this Agreement, then the damages suffered by the Agency by reason thereof would be uncertain. Such damages would involve such variable factors as postponement of tax revenues therefrom to the community and the failure of the Agency to effect its purposes and objectives within a reasonable time, resulting in additional immeasurable damage and loss to the Agency and the community. It is impracticable and extremely difficult to fix the amount of such damages to the Agency, but the parties are of the opinion, upon the basis of all information available to them, that such damages would approximately equal the amount of the Good Faith Deposit held by the Agency at the time of the default of the Developer, and the amount of such deposit shall be retained to the Agency upon any such occurrence as the total of all damages for any and all such defaults and not as a penalty. In the event that this paragraph should be held to be void for any reason, the Agency shall be entitled to the full extent of damages otherwise provided by law.

3. [§413] **Return of Agency Funds**

In the event of termination of this Agreement by the Agency or as provided in Section 501, the Developer agrees to return any and all funds heretofore paid to the Developer pursuant to the provisions of this Agreement within ten (10) calendar days after the termination date. Failure to return any and all funds paid to the Developer shall entitle the Agency to sue the Developer for specific performance as provided in Section 407 and to pursue the Agency's remedies, legal and equitable, for such damages as permitted by law. Agency shall also be authorized to retain the Good Faith Deposit pursuant to Section 111 as reimbursement of the Agency funds.

b. [§414] **Option to Repurchase, Reenter or Repossess**

The Agency shall have the additional right at its option to repurchase, reenter and take possession of the Agency Site with all improvements thereon, if after conveyance of title to the Agency Site and prior to the issuance of the Certificate of Completion therefor, the Developer shall:

1. Fail to commence construction of the Project by the date set forth in the Schedule of Performance, Attachment "D", for a period of three (3) months, and Developer has received a written notice of default from the Agency pursuant to Section 401 and Developer fails to cure the default; or

2. Abandon or substantially suspend construction of the Project for a period of three (3) months after written notice of such abandonment or suspension from the Agency unless such suspension or abandonment was excused under Section 604; or

3. Transfer or suffer any involuntary transfer of the site in violation of this Agreement.

Such right to repurchase, reenter and repossess, to the extent provided in this Agreement, shall be subordinate and in subjection to and be limited by and shall not defeat, render invalid or limit:

1. Any mortgage, deed of trust or other security instrument permitted by this Agreement; or

2. Any rights or interests provided in this Agreement for the protection of the holder of such mortgages, deeds of trust or other security instruments.

To exercise its right to repurchase, reenter and take possession with respect to the Agency Site, the Agency shall pay to the Developer in cash an amount equal to:

1. The reasonable costs incurred by the Developer and its members for the construction of the improvements existing on the Agency Site at the time of the repurchase, reentry and repossession; provided, however, that in no event shall the Agency be obligated to pay or reimburse the Developer under this Section 414 for any cost relating to the construction of any improvements on the Agency Site at the time of the repurchase, reentry and repossession if such improvements are not deemed by the Agency, in its sole discretion, to be beneficial and material to the successful completion of the Project as contemplated by this Agreement or beneficial and material to the successful completion of any alternative use or project proposed by the Agency for the Agency Site in the event the Developer's actions or inactions create a right in favor of the Agency to act under this Section 414. Any costs incurred by the Agency for the demolition and removal of any such improvements shall be deducted from

any amounts due the Developer by the Agency pursuant to this Section 414.

To the extent that the rights established in this Section involve a forfeiture, it must be strictly interpreted against the Agency, the party for whose benefit it is created. The rights established in this Section are to be interpreted in light of the fact that the Agency will convey the Agency Site to the Developer for development and not for speculation in undeveloped land.

V. [§500] **RETURN ON CONTRIBUTION TO AGENCY ON SALE**

[§501] In the event that following the issuance of a Certificate of Completion, the Developer sells the Development to an unrelated entity not controlled by the Developer or any member or members of the Developer ("Unrelated Party") earlier than five (5) years from the date of issuance of the Certificate of Completion, Developer shall pay the Agency from the Net Proceeds of the Sale the Agency's Funds as outlined in Section 413. Net Proceeds of the Sale is defined to mean the total amount paid by the purchaser less the costs of the sale, including any reasonable commission, less the amount of any mortgage loan on the Development not to exceed the principal amount of the initial mortgage, including any amounts due to any lender.

VI. [§600] **GENERAL PROVISIONS**

A. [§601] **Notices, Demands and Communications Between the Parties**

Formal notices, demands and communications between the Agency and the Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the Agency and the Developer as set forth in Sections 107 and 108 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time-to-time designate by mail.

B. [§602] **Conflicts of Interest**

No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

C. [§603] **Non-liability of Agency Officials and Employees**

No member, official or employee of the Agency shall be personally liable to the Developer in the event of any default or breach by the Agency or for any amount which may become due to the Developer or on any obligations under the terms of this Agreement.

D. [§604] **Enforced Delay: Extension of Times of Performance**

In addition to the specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, including delays beyond the reasonable control of the Agency; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the Agency shall not excuse performance by the Agency) of any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other parties more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the Agency and the Developer.

E. [§605] **Inspection of Books and Records**

The Agency has the right, upon not less than seventy-two (72) hours notice, at all reasonable times, to inspect the books and records of the Developer pertaining to the Agency Site as pertinent to the purposes of this Agreement.

The Developer also has the right, upon not less than seventy-two (72) hours notice, at all reasonable times, to inspect the books and records of the Agency pertaining to the Agency Site as pertinent to the purposes of this Agreement.

F. [§606] **Plans and Data**

Where the Developer does not proceed with the development of the Agency Site, and when this Agreement is terminated pursuant to Section 410 hereof for any reason, the Developer shall deliver to the Agency any and all plans and data concerning the property, and the Agency or any other person or entity designated by the Agency shall be free to use such plans and data, including plans and data previously delivered to the Agency, for any reason whatsoever without cost or liability therefor to the Developer or any other person.

VII. [§700] SPECIAL PROVISIONS

A. [§701] Amendment of Redevelopment Plan

Pursuant to provisions of the Redevelopment Plan for modification or amendment thereof, the Agency agrees that no amendment which changes the uses or development permitted on the Agency Site or changes the restrictions or controls that apply to the Agency Site or otherwise affect the Agency Site shall be made or become effective without the prior written consent of the Developer. Amendments to the Redevelopment Plan applying to other property in the Redevelopment Area shall not require the consent of the Developer.

B. [§702] Submission of Documents to the Agency for Approval

Whenever this Agreement requires the Developer to submit plans, drawings or other documents to the Agency for approval, which shall be deemed approved if not acted on by the Agency within a specified time, said plans, drawings or other documents shall be accompanied by a letter stating that they are being submitted and will be deemed approved unless rejected by the Agency within the stated time. If there is no time specified herein for such Agency action, the Developer may submit a letter requiring Agency approval or rejection of documents within thirty (30) days after submission to the Agency or such documents shall be deemed approved. It is understood and agreed by parties hereto that approval by the Executive Director of the Agency shall be deemed approval by the Agency for purposes of this section.

C. [§703] Amendments to this Agreement

The Developer and the Agency agree to mutually consider reasonable requests for amendments to this Agreement which may be made by any of the parties hereto, lending institutions, or bond counsel or financial consultants to the Agency, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

VIII. [§800] ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement comprises pages 1 through 37, inclusive, and Attachments "A" through "J", 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 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 Agency and the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the Agency and the Developer. Any Agency approvals required or permitted by the terms of this Agreement may be given by the Executive Director or such other person that the Executive Director designates in writing.

IX. [§900] TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

This Agreement, when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency 30 days from the date of signature by the Developer or this Agreement shall be void, except to the extent that the Developer shall consent in writing to further extensions of time for the authorization, execution and delivery of this Agreement.

By executing this Agreement and submitting it to the Agency, Developer is making an irrevocable offer to enter into this Agreement, which offer shall continue for the period of time specified above. The effective date of this Agreement shall be the date when this Agreement has been signed by the Agency.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ______________________
OSCAR B. GOODMAN, Chairperson

"Agency"

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM:

______________________ 10/30/01
Date

PIONEER ENDEAVORS, LLC

By: ______________________

Its: Managing Member

"Developer"

F \Depot\FILELOGS\OBD\2001\2001-028\DDA Final doc

ACKNOWLEDGMENTS

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

This instrument was acknowledged before me, a notary public, on this 27th day of November, 2001, by OSCAR B. GOODMAN, Chairperson of the City of Las Vegas Redevelopment Agency.

Beverly K Bridges
NOTARY PUBLIC, in and for said County and State

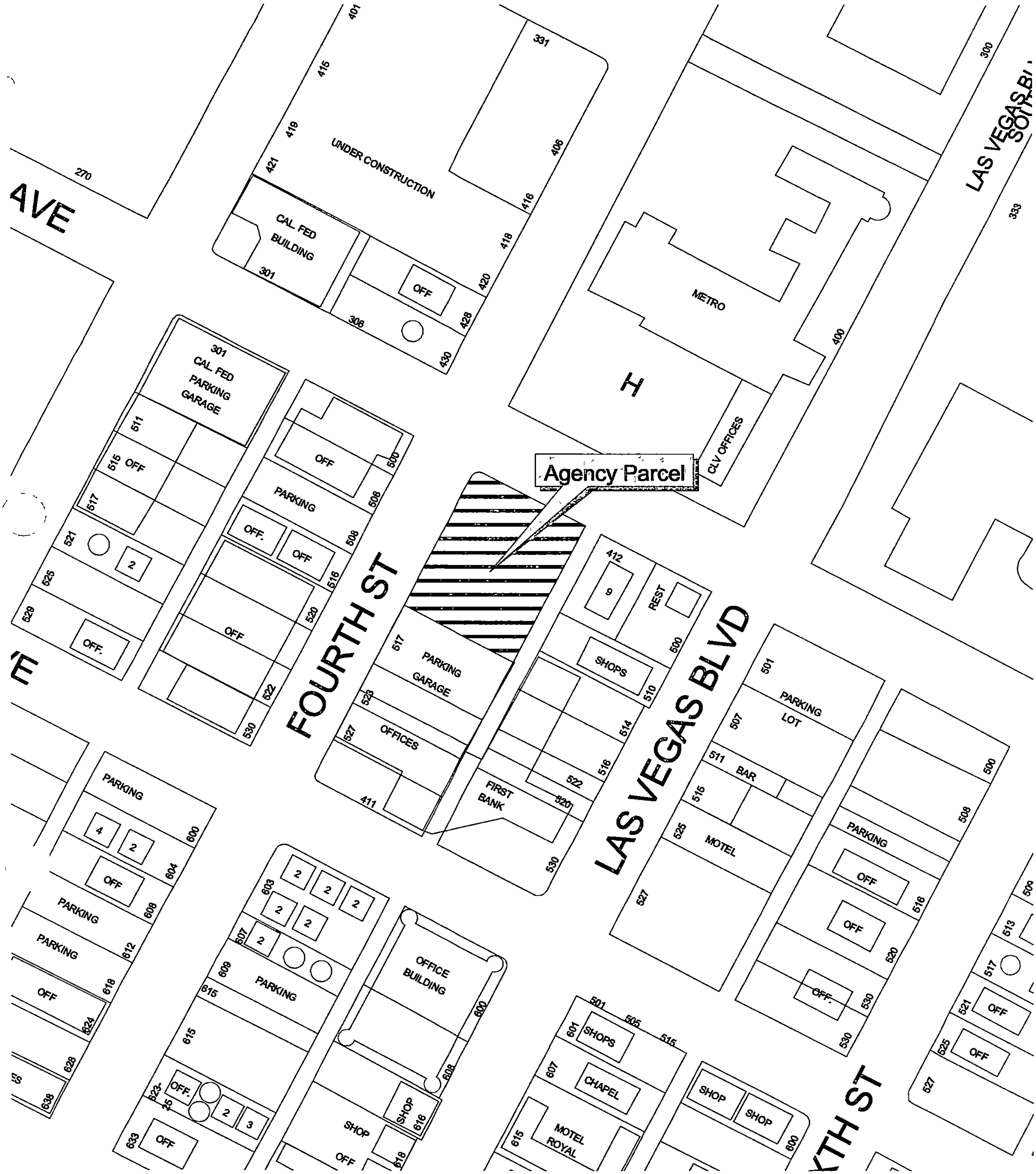
Notary Public-State Of Nevada
COUNTY OF CLARK
BEVERLY K. BRIDGES
My Appointment Expires
July 10, 2005
No. 93-4081-1

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

This instrument was acknowledged before me, a notary public, on this 19th day of November, 2001, by Dennis R. Haney, as Managing Member of PIONEER ENDEAVORS LLC.

Angela Applegate
NOTARY PUBLIC, in and for said County and State

OFFICIAL SEAL
ANGELA APPLEGATE
NOTARY PUBLIC - STATE OF NEVADA
CLARK COUNTY
98-3970-1 My Appt. Expires August 3, 2002



Attachment A
Agency Parcel

Attachment "A-1"
Legal Description
Agency's Site

Lots 1,2,3,4,5,6, & 7 in Block 39 of CLARK'S LAS VEGAS TOWNSITE on file in Book 1 of Plats, Page 37 of Clark County, Nevada Records.

A.P.N. 139-34-311-126, 127, & 128

(501,505, & 509 S. 4^{th} Street)

Attachment B
Developer Parcel

Attachment "B-1"
Legal Description
Developer's Parcel

PARCEL I

LOTS ONE (1) AND TWO (2) IN BLOCK SEVENTEEN (17) OF SOUTH ADDITION, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 1 OF PLATS, PAGE 51, IN THE OFFICE OF THE COUNTY RECORDER OF CLRK COUNTY, NEVADA

PARCEL II

LOTS THREE (3) AND FOUR (4) IN BLOCK SEVENTEEN (17) OF SOUTH ADDITION, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 1 OF PLATS, PAGE 51, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

ATTACHMENT "C"

Scope of Development

I. GENERAL

The development consists of the Developer's improvements set forth in Section 110 and the conveyance of the Site as set forth in Section 135.

The development shall be constructed in accordance with the provisions of the Disposition and Development agreement to which this instrument is attached (the 'Agreement"), the Downtown Las Vegas Redevelopment Plan, the approved Basic Concept Drawing and the approved Plans and Drawings for this Development.

The Developer, with its supervising architects, engineers, contractors, and consultants, shall work with Agency staff to coordinate the overall design of the improvements on the Site and to ensure the continuity and coordination vitally necessary forth proper and timely completion of the Development.

The Site shall be designed and developed in such a manner that the building will have individual identity and architectural excellence. The spaces between and around the building shall also be designed, landscaped and developed to the same excellence.

The construction of the improvements as described herein shall be commenced and completed within the times established in Attachment "D" Schedule of Performance

II. DEVELOPER'S IMPROVEMENTS

The Developer shall design, construct or cause to be designed and constructed upon the Site, approximately 55,500 square feet of office space, 2,500 square feet of retail space, and 20,000 square feet of open space and parking garage.

The building shall be of high quality in design and construction. Landscaping shall be provided so as to make the buildings aesthetically attractive.

The Developer's improvements shall be constructed in accordance with the current Uniform Building Code (with City Modifications) and the Municipal Code.

In accordance with Section 116 of the Disposition and Development agreement, Developer shall be responsible for both on-site and off-site improvements for the project.

III. PUBLIC IMPROVEMENTS AND/OR IMPROVEMENTS FOR THE BENEFIT OF THE PUBLIC

In General. With the contributions of the Agency, the Developer shall undertake the design and construction of certain public improvements and /or improvements for the benefit of the public: to wit: landscaping, utility relocation, etc.

The developer shall be responsible for replatting, resubdividing, or rezoning of the Site, if necessary, for purposes of the Development.

With respect to the project, Developer shall be responsible for the replacement or repair of improvements as required by the City of Las Vegas such as resurfacing or rebuilding sidewalks, streets, curb cuts, or any other public improvements.

With respect to the project, Developer shall be responsible for the installation of any improvements as required by the City of Las Vegas such as fire hydrants, traffic signals, or any other public improvements.

IV. OTHER IMPROVEMENTS

Developer shall cause to be installed, a temporary sign on the Site indicating that the Site is being developed in conjunction with the Redevelopment Agency and listing the members of the Agency Board and the Executive Director of the Agency.

Attachment "D"
Schedule of Performance

Action	Date
1. Execution and Delivery of Agreement. Pioneer Endeavors, LLC shall execute and deliver the Agreement to the Agency	No later than November 7, 2001.
2. Submission – Developer's Good Faith Deposit. The Developer shall deliver to the Agency the Good Faith Deposit.	Concurrent with the execution of this agreement by the Developer and delivery to the Agency.
3. Execution of Agreement by Agency. The Agency shall hold a public hearing to authorize execution of this Agreement and, if so authorized, shall execute and deliver this Agreement to the Developer.	Within 30 calendar days after the approval by the Agency Board.
4. Submission of Developer's Firm and Binding Evidence of Financing. (the "Commitment"). The Developer shall submit to the Agency for review and approval Firm and Binding Evidence of Financing from a lending institution of its choice pursuant to Section 138.	No later than January 22, 2002.
5. Approval of Commitment. The Agency shall approve or disapprove the Commitment	No later than January 29, 2002
6. Agency and Developer to Open Escrow. The Agency and Developer shall open a joint escrow with and Escrow Agent pursuant to Section 126.	No later than November 17, 2001.
7. Inspection period. The Agency and Developer shall have 45 days to inspect the properties as outlined in Section 135.	Inspection period to commence no later than November 18, 2001.
8. Basic concept drawings. In accordance with Section 203, developer shall submit plans for Agency approval.	Simultaneously with the submission for building plans.
9. Approval of concept drawings. The Agency shall approve the plans/drawings submitted by developer	Within 15 calendar days of submission by developer.

10. Employment plan. In accordance with Section 116, Developer shall submit the employment plan.	No later than December 6, 2001.
11. Site Conveyance and Acquisition Closing Date. Agency and Developer shall deliver the grant deeds conveying the Sites to the Escrow Agent to record simultaneously.	No later than February 4, 2002.
12. Agency Contribution. The Agency shall submit its financial contribution for the project to the construction control company.	Within 5 days of funding by the developer or developer's construction lender.
13. City and Other Governmental Permits. The Agency shall assist the Developer in obtaining all necessary permits and in meeting all regulatory requirements associated with development of the Site.	Prior to the commencement of construction.
14. Submission – Certificates of Insurance. The Developer shall furnish to the Agency duplicate originals or appropriate certificates of bodily injury and property damage insurance and such other insurance as required in Section 208 herein for the development	Prior to the beginning of construction.
15. Application for Building Permit. Developer shall submit application for building permit for construction of the Project.	By no later than February 6, 2002.
16. Commencement of Construction. Developer shall begin construction.	Within 30 days from the issuance of building permits, but in any event, no later than March 15, 2002.
17. Completion of Construction. Developer shall complete construction of the project.	Within 18 months from the start of construction, but in any event, no later than September 15, 2003.
18. Final Certificate of Completion. The Agency shall furnish the Developer with a Certificate of Completion for the Development Project.	Following the completion of construction of the project as evidenced by a certificate of occupation and upon written request by the developer.
19. Return of the Developer's Good Faith Deposit. Upon recordation of the Certificate of Completion, the Agency shall return the Developer's Good Faith Deposit pursuant to Section 111.	Following the certificate of completion and upon written request by the developer.

10-29-01

Attachment "E"

Form of Certificate of Completion

Recording Required by:

City of Las Vegas Redevelopment Agency

After Recording, Mail to:

Executive Director
City of Las Vegas Redevelopment Agency
400 Las Vegas Boulevard South
Las Vegas, Nevada 89101

CERTIFICATE OF COMPLETION OF CONSTRUCTION AND DEVELOPMENT

WHEREAS, this Disposition and Development Agreement (DDA) dated ______________, 2001 and recorded __________________, 2001, in Office of the Recorder of the County of Clark, Nevada, the City of Las Vegas Redevelopment Agency, a public body, corporate and politic, hereinafter referred to as the "Agency," provided assistance to Clark Street Associates hereinafter referred to as the "Developer," for construction and development of a certain redevelopment project situated in the City of Las Vegas, Nevada, described on Attachments "A" and "B", attached hereto and made a part hereof (the "Site"); and

WHEREAS, as referenced in said DDA, the Agency shall furnish the Developer with a Certificate of Completion upon completion of all construction and development upon the Site, which Certificate shall be in such form as to permit it to be recorded in the Recorder's Office of Clark County; and

WHEREAS, such certificate shall be conclusive determination of satisfactory completion of the construction and development on the Site required by the DDA; and

WHEREAS, the Agency has conclusively determined that the construction and development on the Site has been satisfactorily completed;

Now, therefore, the Agency agrees and does hereby certify that the construction

. . .
. . .
. . .

development on the Site have been fully and satisfactorily performed and completed.

IN WITNESS WHEREOF, the Agency has executed this Certificate this _____ day of ________________, 2001.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ________________________________
OSCAR B. GOODMAN, Chairperson

ATTEST:

____
BARBARA JO RONEMUS, Secretary

PIONEER ENDEAVORS, LLC

By: ________________________________

Its: ________________________________

Attachment "F"
Form of Letter of Credit

OUR NUMBER _______________
IRREVOCABLE DOCUMENTARY CREDIT

PLACE AND DATE OF ISSUE:

DATE AND PLACE OF EXPIRY:

APPLICANT:

PIONEER ENDEAVORS, LLC
____
____

BENEFICIARY:
THE CITY OF LAS VEGAS
REDEVELOPMENT AGENCY
400 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA 89101

ADVERTISING BANK:

AMOUNT: $50,000

CREDIT AVAILABLE WITH: ____
____

BY PAYMENT AGAINST PRESENTATION OF THE DOCUMENTS DETAILED HEREIN AND OF YOUR DRAFTS AT SIGHT DRAWN ON:

(1) YOUR SIGNED AND DATED STATEMENT READING AS FOLLOWS: "THE AMOUNT DRAWN UNDER ____ LETTER OF CREDIT NO. ____ IS REQUIRED BY REASON OF APPLICANT'S DEFAULT (OTHER ACTION), AS DESCRIBED IN SECTION ____ OF THAT CERTAIN DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN PIONEER ENDEAVORS LLC AND THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY DATED _______________________, 2001."

(2) THE ORIGINAL OF THIS LETTER OF CREDIT.

(3) THIS LETTER OF CREDIT EXPIRES AT OUR ABOVE OFFICE ON _____________, 200___, BUT SHALL BE AUTOMATICALLY EXTENDED, WITHOUT WRITTEN AMENDMENT, TO __________________ IN EACH SUCCEEDING CALENDAR YEAR UP TO, BUT NOT BEYOND, ________________, 200__, UNLESS WE HAVE SENT WRITTEN NOTICE TO YOU AT YOUR ADDRESS ABOVE BY REGISTERED MAIL THAT WE ELECT NOT TO RENEW THIS LETTER OF CREDIT BEYOND THE DATE SPECIFIED IN SUCH NOTICE, WHICH DATE WILL BE _________________, 200___, OR ANY SUBSEQUENT _________________ OCCURRING BEFORE __________________, 200___, AND BE AT LEAST THIRTY (30) CALENDAR DAYS AFTER THE DATE WE SEND YOU SUCH NOTICE.

WE HEREBY ISSUE THIS DOCUMENTARY CREDIT IN YOUR FAVOR. IT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1994 REVISION, INTERNATIONAL CHAMBER OF COMMERCE, PARIS, FRANCE PUBLICATION NO. 500) AND ENGAGES US IN ACCORDANCE WITH THE TERMS THEREOF. THE NUMBER AND DATE OF THE CREDIT AND NAME OF OUR BANK MUST BE QUOTED ON ALL DRAFTS REQUIRED. IF THE CREDIT IS AVAILABLE BY NEGOTIATION, EACH PRESENTATION MUST BE QUOTED ON THE REVERSE OF THIS ADVICE BY THE BANK WHERE THE CREDIT IS AVAILABLE.

Authorized Signature	Authorized Signature

Attachment "G"

Form of Agreement to be Recorded Affecting Real Property

Recording Requested by:

City of Las Vegas
Redevelopment Agency

After Recordation, Mail to:

Executive Director
City of Las Vegas Redevelopment Agency
400 Las Vegas Boulevard South
Las Vegas, Nevada 89101

AGREEMENT TO BE RECORDED AFFECTING REAL PROPERTY

THIS AGREEMENT is entered into this ____ day of __________________, 2001, by and between the CITY OF LAS VEGAS REDEVELOPMENT AGENCY, a public body, corporate and politic (hereinafter referred to as the "Agency") and PIONEER ENDEAVORS, LLC (hereinafter referred to as the "Developer") with reference to the following:

A. The Developer is the present owner of certain real property (the "Site") located in the City of Las Vegas, County of Clark, State of Nevada, legally described in the attached Exhibit "A".

B. The Site is within the Downtown Las Vegas Redevelopment Area (the "Redevelopment Area") and is subject to the provisions of the Redevelopment Plan for the Redevelopment Area which was approved and adopted on March 5, 1986, by the City Council of the City of Las Vegas by Ordinance No. 3218. The Redevelopment Plan, as it now exists and as it may be subsequently amended, is incorporated herein by reference and made a part hereof as though fully set forth herein.

C. Recordation of this Agreement at the Agency's request is conclusive evidence that the Developer has rehabilitated and/or constructed the improvements on the Site and has otherwise developed the Site in accordance with the Redevelopment Plan and pursuant to the terms and provisions of that certain Disposition and Development Agreement entered into between the Agency and the Developer on ________________, 2001 (the "DDA").

NOW, THEREFORE, THE AGENCY AND THE DEVELOPER HEREBY AGREE AS FOLLOWS:

1. By its recordation of this Agreement, the Agency acknowledges that the Developer has constructed the improvements on the Site and has otherwise developed the Site in

accordance with the Redevelopment Plan and pursuant to the terms and provisions of the DDA, that the terms and provisions of the DDA have been fully and satisfactorily performed by the Developer and that the DDA shall be of no further force or effect.

2. The Developer, on behalf of itself and its successors, assigns and each successor in interest to the Site, or any part thereof, hereby covenants and agrees:

a. To use, devote and maintain the Site, and each part thereof, for the uses specified in the Redevelopment Plan.

b. To maintain the improvements on the Site, keep the Site free from any accumulation of debris or waste material and maintain the landscaping planted on the Site in a healthy condition. All such maintenance shall be at the sole expense of the Developer; provided, however, that if the Developer shall fail to so maintain the Site, the Agency may perform such maintenance for the Developer and in such event shall be entitled to be reimbursed by the Developer for the actual cost thereof.

c. That there shall be no unlawful discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, or ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site.

3. The Developer further covenants and agrees that prior to the date set forth in Section 501 of the Agreement, the Developer shall not sell, transfer, convey, assign or lease the whole or any part of the Site or the buildings or improvements thereon without the prior written approval of the Agency, which approval shall not be unreasonably withheld.

4. The covenants and agreements established in this Agreement shall, without regard to technical classification and designation, be binding on the Developer and any successor in interest to the Site, or any part thereof, for the benefit and in favor of the Agency, its successors and assigns, and the City of Las Vegas. The covenants contained in Sections 2.a. and 2.b. of this Agreement shall remain in effect until March 26, 2016 (the termination date of the Redevelopment Plan). The covenants against discrimination (contained in Section 2.c.) shall remain in effect in perpetuity. The covenants contained in Section 3 shall remain in effect until the date set forth in Section 501 of the Agreement. The Agency shall have the right, if this Agreement or the covenants are breached, to exercise all rights and remedies and to maintain any

. . .

. . .

. . .

actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and the covenants may be entitled.

IN WITNESS WHEREOF, the Agency and the Developer have executed this Agreement as of the date first above written.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: ______________________________
OSCAR B. GOODMAN, Executive Director

"Agency"

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM:

____
Date

PIONEER ENDEAVORS, LLC

By: ______________________________

"Developer"

EXHIBIT "A"

Lots 1,2,3,4,5,6, & 7 in Block 39 of CLARK'S LAS VEGAS TOWNSITE on file in Book 1 of Plats, Page 37 of Clark County, Nevada Records.

A.P.N. 139-34-311-126, 127, & 128

(501,505, & 509 S. 4^{th} Street)

Attachment "H"

Form of Grant, Bargain and Sale Deed

Recording Requested by:

City of Las Vegas
Redevelopment Agency

After Recording, Mail to:

Executive Director
City of Las Vegas Redevelopment Agency
400 Las Vegas Boulevard South
Las Vegas, Nevada 89101

GRANT, BARGAIN AND SALE DEED

For valuable consideration, the receipt of which is hereby acknowledged,

THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY, a public body, corporate and politic, of the State of Nevada (herein called "Grantor"), acting to carry out the Redevelopment Plan (herein called "Redevelopment Plan") for the Las Vegas Downtown Redevelopment Area, under the Community Redevelopment Law of the State of Nevada, hereby grants, bargains and sells to Pioneer Endeavors, LLC, a Nevada limited liability company (herein called "Grantee"), pursuant to this Grant, Bargain and Sale Deed (herein called the "Deed") the real property (herein called the "Property") legally described in the document attached hereto, labeled Exhibit "A", and incorporated herein by this reference.

1. The Property is conveyed subject to the Redevelopment Plan and pursuant to a Disposition and Development Agreement entered into between the Grantor and the Grantee and dated ________________, 2001. The Property is also conveyed subject to all easement(s) of record. All terms capitalized herein which are not otherwise defined herein shall have the meaning given to them in the Disposition and Development Agreement.

2. The Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest, that during construction and thereafter, the Grantee, its successors and assignees, shall not use the Property for other than the uses specified in the Redevelopment Plan.

3. The Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest thereafter that it will maintain the improvements on the Property and keep the Property free from any accumulation of debris or waste materials and will maintain the landscaping required to be planted under the Disposition and Development Agreement in a healthy condition. If at any time the Grantee, its successors or assignees or every

successor in interest thereafter, shall fail to keep the Property free of debris or waste materials or to maintain said landscaping in a healthy condition, and said condition is not corrected within ten (10) days after written notice from the Grantor, either the Grantor or the City of Las Vegas may perform the necessary cleanup or landscape maintenance, and the Grantee, its successors or assignees or every successor thereafter, shall pay such costs as are reasonably incurred for such cleanup or landscape maintenance.

4. Except as provided in the Disposition and Development Agreement, the Grantee shall not sell, transfer, convey, assign or lease the whole or any part of the Property or the buildings or improvements thereon without the prior approval of the Grantor. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property or to prohibit or restrict the leasing of any part or parts of a building or structure in accordance with the Disposition and Development Agreement.

5. Subsequent to the execution of this Deed and prior to the issuance of the Certificate of Completion, the Grantor shall have the right at its option to reenter and repossess the Property hereby conveyed, or any portion thereof, together with all improvements thereon, upon the occurrence of a Developer Event of Default as set forth in the Disposition and Development Agreement.

Such right to repurchase, reenter and repossess, to the extent provided in this Deed, shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit:

a. Any mortgage, deed of trust or other security instrument permitted by the Disposition and Development Agreement; or

b. Any rights or interest provided in the Disposition and Development Agreement for the protection of the holder of such mortgage, deed of trust or other security instruments.

6. The Grantee covenants by and for itself, its successor, its assigns and every successor in interest thereafter that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Grantee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendors in the Property.

7. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Deed shall defeat or render invalid or in any way impair the mortgage, deed of trust or other security instrument permitted by the Disposition and Development Agreement; provided, however, that any successor of Grantee to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions,

whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

8. Except as otherwise provided, the covenants contained in paragraphs 2 and 3 of this Deed shall remain in effect until March 26, 2016 (the termination date of the Redevelopment Plan). The covenants against discrimination contained in paragraph 6 and the provisions of paragraph 7 of this Deed shall remain in perpetuity. The covenants in paragraph 4 shall remain in effect until the date set forth in Section 501 of the Agreement. The covenants contained in paragraph 5 shall remain in effect until issuance of Certificate of Completion pursuant to Section 222 of the Disposition and Development Agreement.

9. The covenants contained in paragraphs 2, 3, 4, 5, 6 and 7 of this Deed shall be binding for the benefit of the Grantor, its successors and assigns, the City of Las Vegas and any successor in interest thereafter to the Property or any part thereof, and such covenants shall run in favor of the Grantor and such aforementioned parties for the entire period during which such covenants shall be in force and effect without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The Grantor and such aforementioned parties, in the event of any breach of any covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in this Deed shall be for the benefit of and shall be enforceable only by the Grantor and such aforementioned parties.

10. In the event of any express conflict between this Deed or the Disposition and Development Agreement, the provisions of this Deed shall control.

11. Any amendments to the Redevelopment Plan which change the uses or development permitted on the Property or change the restrictions or controls that apply to the

. . .

. . .

. . .

Property or otherwise affect the Property shall require the written consent of the Grantee. Amendments to the Redevelopment Plan applying to other property in the Redevelopment Area shall not require the consent of the Grantee.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers there unto duly authorized, this _____ day of _____________, 2001.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: _______________________________
OSCAR B. GOODMAN, Chairperson

"Grantor"

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM:

____
Date

PIONEER ENDEAVORS, LLC

By: _______________________________

Its: _______________________________

"Grantee"

ACKNOWLEDGMENT

State of Nevada)
) ss.
County of Clark)

On this _________ day of _________________, 2001, before me, the undersigned, a Notary Public in and for said county and State, personally appeared Oscar B. Goodman as Chairperson of the City of Las Redevelopment Agency, known (or proved) to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntary and for the uses and purposes therein mentioned.

____
NOTARY PUBLIC, in and for said County and State

State of Nevada)
) ss.
County of Clark)

On this _________ day of _________________, 2001, before me, the undersigned, a Notary Public in and for said county and State, personally appeared ______________________as____________ of Pioneer Endeavors LLC, known (or proved) to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntary and for the uses and purposes therein mentioned.

____
NOTARY PUBLIC, in and for said County and State

EXHIBIT "A"
Legal Description

Lots 1,2,3,4,5,6, & 7 in Block 39 of CLARK'S LAS VEGAS TOWNSITE on file in Book 1 of Plats, Page 37 of Clark County, Nevada Records.

A.P.N. 139-34-311-126, 127, & 128

(501,505, & 509 S. 4th Street)

Attachment "I"
Employment Plan
(to be submitted within thirty (30) days of date of DDA)

New Disclosure

Exhibit "J"

Disclosure of Principals

The principals and partners of PIONEER ENDEAVORS, INC., which has not yet been fully incorporated, and all persons and entities intending to hold more than 1% interest in PIONEER ENDEAVORS, INC. or any intended principal of PIONEER ENDEAVORS, INC. are currently the following:

FULL NAME	BUSINESS ADDRESS	BUSINESS PHONE
1. Janice J. Brown	300 S. Fourth Street, #800	(702) 386-1086
2. Jerry S. Busby	300 S. Fourth Street, #800	(702) 386-1086
3. James P. Chrisman	300 S. Fourth Street #800	(702) 386-1086
4. David L. Thomas	300 S. Fourth Street, #800	(702) 386-1086
5. Dennis R. Haney	301 E. Clark Ave., #700	(702) 474-7557
6. Kenneth A. Woloson	301 E. Clark Ave., #700	(702) 474-7557
7. Gwen Rutar Mullins	301 E. Clark Ave., #700	(702) 474-7557
8. Thomas W. Davis II	301 E. Clark Ave., #700	(702) 474-7557
9. Philip J. Dabney	301 E. Clark Ave., #700	(702) 474-7557
10. Ken Campbell	701 E. Bridger Avenue	(702) 871-7750
11. Monice Kromptic-Campbell	701 E. Bridger Avenue	(702) 871-7750
12. Gabriel L. Grasso	300 S. Fourth Street, #800	(702) 868-8866
13. Philip Singer	300 S. Fourth Street, #800	(702) 868-8866
14. W.R. Griswold, Jr.	50 Madera Blvd., Corte Madera, CA 94925	(415)927-8908

I hereby certify under penalty of perjury, that the foregoing list is full and complete as of today's date, November 6, 2001.

By: Jas P. Chrisman
Its: Vice-President

Subscribed and sworn to before me this
6th day of November, 2001.

Amy Pelley
Notary Public

AMY PELLEY
Notary Public - Nevada
No. 94-4754-1
My appt. exp. July 12, 2002

TO: City of Las Vegas

RE: Fourth & Clark Project
Pioneer Endeavors, LLC

As a portion of the Pioneer Endeavors Project, we have participated in the initial development of the Fourth & Clark Project. We expect that Pioneer Endeavors, LLC will go forward as the principal owner of the project. Upon completion of the project, it is intended that the project be condominiumized and several participants will be involved. With respect to our group, two or more of the individuals listed below will be involved in various portions of the ownership of the property upon completion of the construction. Because of the long delay in processing this matter, we are waiting until we know we may go forward before establishing the balance of the entities. In addition to our group, there are the court reporting group, the Grasso group and the Barker, Brown, Busby, Chrisman & Thomas group.

Dennis R. Haney, Esq.
Haney, Woloson & Mullins
301 East Clark Avenue, Suite 700
Las Vegas, Nevada 89101

Kenneth A. Woloson, Esq.
Haney, Woloson & Mullins
301 East Clark Avenue, Suite 700
Las Vegas, Nevada 89101

Gwen R. Mullins, Esq.
Haney, Woloson & Mullins
301 East Clark Avenue, Suite 700
Las Vegas, Nevada 89101

Thomas W. Davis II, Esq.
Haney, Woloson & Mullins
301 East Clark Avenue, Suite 700
Las Vegas, Nevada 89101

Philip J. Dabney, Esq.
Haney, Woloson & Mullins
301 East Clark Avenue, Suite 700
Las Vegas, Nevada 89101

W.R. Griswold, Jr.
President
Bank of Marin
50 Madera Boulevard
Corte Madera, California 94925

City of Las Vegas

Agenda Item No.: **IV-E**

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7, 2001

DEPARTMENT: BUSINESS DEVELOPMENT
DIRECTOR: LESA CODER

SUBJECT:
DISCUSSION AND POSSIBLE ACTION REGARDING THE ASSIGNMENT OF THE DISPOSITION AND DEVELOPMENT AGREEMENT AWARDED TO WLVD, LLC FOR THE DEVELOPMENT OF THE 11 ACRE SITE LOCATED AT THE CORNER OF H STREET AND OWENS AVENUE (SITE PARCEL B) TO NUCLEUS INVESTMENTS, INC. - WARD 5 (WEEKLY)

Fiscal Impact

X	**No Impact**	**Amount:**	
	Budget Funds Available	**Dept./Division:**	
	Augmentation Required	**Funding Source:**	

PURPOSE/BACKGROUND:
Upon approval by the Agency, the DDA awared to WLVD, LLC will be assigned to Nucleus Investments, Inc. to carry out the development of the 11 acre site. Nucleus Investments is the managing member of WLVD, LLC. The assigment of the DDA is requested because the construction loan financing agreement is with Nucleus Investments, Inc. which is the only entity of WLVD, LLC which has the capacity to develop the project. All terms and conditions of the DDA will remain in full force and effect.

RECOMMENDATION:
Staff recommends approval and requests that the Agency authorize the Mayor to execute the "Approval" of the Agreement to Assign the DDA.

BACKUP DOCUMENTATION:
1. Approval of the Agreement to Assign
2. Assignment Agreement
3. Site Map

MOTION:
WEEKLY – APPROVED as recommended - UNANIMOUS

MINUTES:
LESA CODER, Director, Office of Business Development, indicated that the proper disclosures were submitted and recommended approval.

COUNCILMAN WEEKLY asked if the Office of Business Development had all the necessary documentation to be able to close that day, as he feels that it is dragging out and he is eager to see construction commence. MS. CODER responded that all the documentation was not yet available and that staff was having difficulty in trying to tie the corporations. An assignment has

REDEVELOPMENT AGENCY MEETING OF NOVEMBER 7, 2001
Business Development
IV-E – Discussion and possible action regarding the assignment of the disposition and development agreement awarded to WLVD, LLC, for the development of the 11 acre site located at the corner of H Street and Owens Avenue

MINUTES - Continued:
been issued to Nucleus Investments, Inc., the developer; however, they have no financial commitment that is directly related to KSJ Development. There is only a financial commitment and a contract between Whiting & Turner and KSJ Development.

JOHN EDMOND, Nucleus Investments, Inc., countered that he thought City staff had all the necessary documentation, and that he has put up $3.5 million and is responsible for $9 million. RUSS MATTHEWS, President and CEO of KSJ Development, stated that the City was provided with a financial guarantee up to $9 million for the construction of Parcel B. That guarantee was provided through the national contract covering 39 projects with Whiting & Turner Construction Company. However, he offered to meet with staff to try to resolve the matter. He added that KSJ is ready to start construction within two weeks, and Parcel A had to be acquired at a very inflated price for the project. MS. CODER noted that staff needs the paperwork trail to show the connection.

DEPUTY CITY ATTORNEY TERESITA PONTICELLO, interjected that staff needs the partnership agreement between KSJ Development and Nucleus Investments, Inc., because the financing documentation is between Whiting & Turner and KSJ Development She assured COUNCILMAN WEEKLY that the Council could move forward with the matter at hand.

There was no further discussion.

(1:53 – 1:59)
4-580

APPROVAL OF THE AGREEMENT TO ASSIGN

WHEREAS, the City of Las Vegas Redevelopment Agency ("Agency") entered into a Disposition and Development Agreement dated April 10, 2001 ("DDA") with WLVD, LLC ("Assignor") for certain development and ownership rights to real property commonly known as "Site Parcel B" in the City of Las Vegas, Clark County, Nevada; and

WHEREAS, on July 30, 2001, the Assignor assigned its rights, title and interest in Site Parcel B and under the DDA to Nucleus Plaza, Inc. as specifically set forth in the Agreement to Assign dated July 30, 2001, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, on September 13, 2001, Nucleus Plaza, Inc. formally amended its corporate name to Nucleus Investments, Inc., as evidenced in the attached Certificate of Articles of Incorporation of Nucleus Plaza, Inc., Exhibit "B"; and

WHEREAS, Section 107 of the DDA requires the prior approval of the Agency if the Assignor assigns all or any part of the DDA.

NOW, THEREFORE, in consideration of the above, the Agency hereby approves the Agreement to Assign dated July 30, 2001 between the Assignor and Nucleus Plaza, Inc., now known as Nucleus Investments, Inc.

Dated this 7th day of November, 2001.

APPROVED: CITY OF LAS VEGAS REDEVELOPMENT AGENCY

By: ______________________
OSCAR B. GOODMAN, Chairperson

"Agency"

ATTEST:

____
BARBARA JO RONEMUS, Secretary

APPROVED AS TO FORM:

______________________ 10/25/01
Date

EXHIBIT "A"

AGREEMENT TO ASSIGN

THIS AGREEMENT TO ASSIGN is entered into on this 30 day of July, 2001, by and between WLVD, LLC, a Nevada limited liability company, hereinafter referred to as "Assignor," and NUCLEUS PLAZA, INC., a Nevada corporation, hereinafter referred to as "Assignee."

RECITALS

WHEREAS, Assignor entered into a Disposition and Development Agreement (the "DDA"), whereby Assignor was given certain development rights and ownership rights to property described as follows:

> That portion of the Northeast Quarter (NE 1/4) of that Northeast Quarter (NE 1/4) of Section 28, Township 20 South, Range 61 East, M.D.M., in the City of Las Vegas, County of Clark, State of Nevada, described as:
>
> That portion of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of said Section 28 lying Northerly of the South line of PARCEL 3 as shown on the parcel map on file in File 71 of Parcel Maps, Page 9 of Clark County, Nevada Records.
>
> EXCEPT THEREFROM any portions of said Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) lying within the dedicated Rights-of-Way of OWENS AVENUE, "H" STREET and "J" STREET.

(the "Parcel B"); and

WHEREAS, Assignee owns the rights to purchase the neighboring parcel of property (Parcel A") which includes easement, ingress and egress rights to Parcel B; and

WHEREAS, Assignee and Assignor agree that in order to develop Parcel B, it is necessary to own and control all right, title and interest in Parcel A; and

WHEREAS, Assignor desires to assign all right, title and interest in Parcel B;

WHEREAS, Assignee desires to assume all rights, duties, obligations and liabilities that

Assignor possesses under the DDA;

WHEREAS, it is to the mutual benefit of Assignor and Assignee to cooperate in the development and ownership of Parcels A and B.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the receipt and sufficiency of which are agreed to by the undersigned, the parties agree as follows:

1. Assignor hereby assigns and transfers to Assignee its right, title and interest in Parcel B and under the DDA (the "Assignment") between Assignor and City of Las Vegas Redevelopment Agency, dated April 10, 2001, a copy of which is attached hereto as Exhibit A, and incorporated herein by this reference.

2. Assignee hereby agrees to acquire and to develop Parcel B in accordance with the terms of the DDA and to purchase Parcel A under terms agreeable to Assignee and improve it as it deems appropriate.

3. Assignee hereby agrees that upon development of the project (the development of Parcels A and B) and the sale of the same, that all profits of said sale will be distributed to the Assignor.

4. Assignor hereby acknowledges that such profit will be equal to the sale proceeds after deduction of debt repayment, recapture of acquisition and development expenses and equity investment by Assignee with respect to Parcels A and B.

IN WITNESS WHEREOF, each party to this Agreement to Assign has caused it to be executed as of the date first above written.

ASSIGNOR: WLVD, LLC

By: John Edmond
Its: Manager

By: KSJ Development Corporation
Its: Member

By: Nucleus Associates' Community Development Corporation
Its: Member

ASSIGNEE: NUCLEUS PLAZA, INC.

By: John Edmond, President

Exhibit "B"

FILED # C 8530-81

OCT 0 8 2001

IN THE OFFICE OF
Dean Heller
DEAN HELLER, SECRETARY OF STATE

CERTIFICATE OF AMENDMENT OF
ARTICLES OF INCORPORATION
OF
NUCLEUS PLAZA, INC.

a Nevada corporation

JOHN EDMOND, being President of NUCLEUS PLAZA, INC., a Nevada Corporation, does hereby certify that pursuant to Nevada Revised Statutes Sections 78.385 and 78.390 and by a vote of the Corporation's Shareholders holding at least a majority of the voting power of the Corporation, that the Corporation's Articles of Incorporation were amended to read as follows:

ARTICLE 1

NAME

The name of the corporation is:

NUCLEUS INVESTMENTS, INC.

IN WITNESS WHEREOF, the undersigned officers have executed this Certificate of Amendment of Articles of Incorporation this 13th day of September, 2001

NUCLEUS PLAZA, INC.

John Edmond

JOHN EDMOND, President

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On this 13th day of September, 2001, before me, the undersigned, a Notary Public in and for the State of Nevada, County of Clark, personally appeared JOHN EDMOND, President of NUCLEUS PLAZA, INC., known to me to be the person named in and who executed the foregoing instrument, and duly acknowledged to me that he executed the same freely and voluntarily, in the capacity and for the uses and purposes therein mentioned.

NOTARY PUBLIC

BRANDT G. HOLBROOK
Notary Public, State of Nevada
Appointment No. 00-63596-1

ATTACHMENT J

Disclosure of Principals

The principals and partners of Nucleus Investments, Inc. and all persons and entities holding more than 1% interest in Nucleus Investments, Inc. or any principal of Nucleus Investments, Inc. are the following:

FULL NAME	BUSINESS ADDRESS	BUSINESS PHONE
1. JOHN EDMOND	1640 ALTA DR.	(702) 646-0220
2.	LAS VEGAS, NEV. 89106	
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

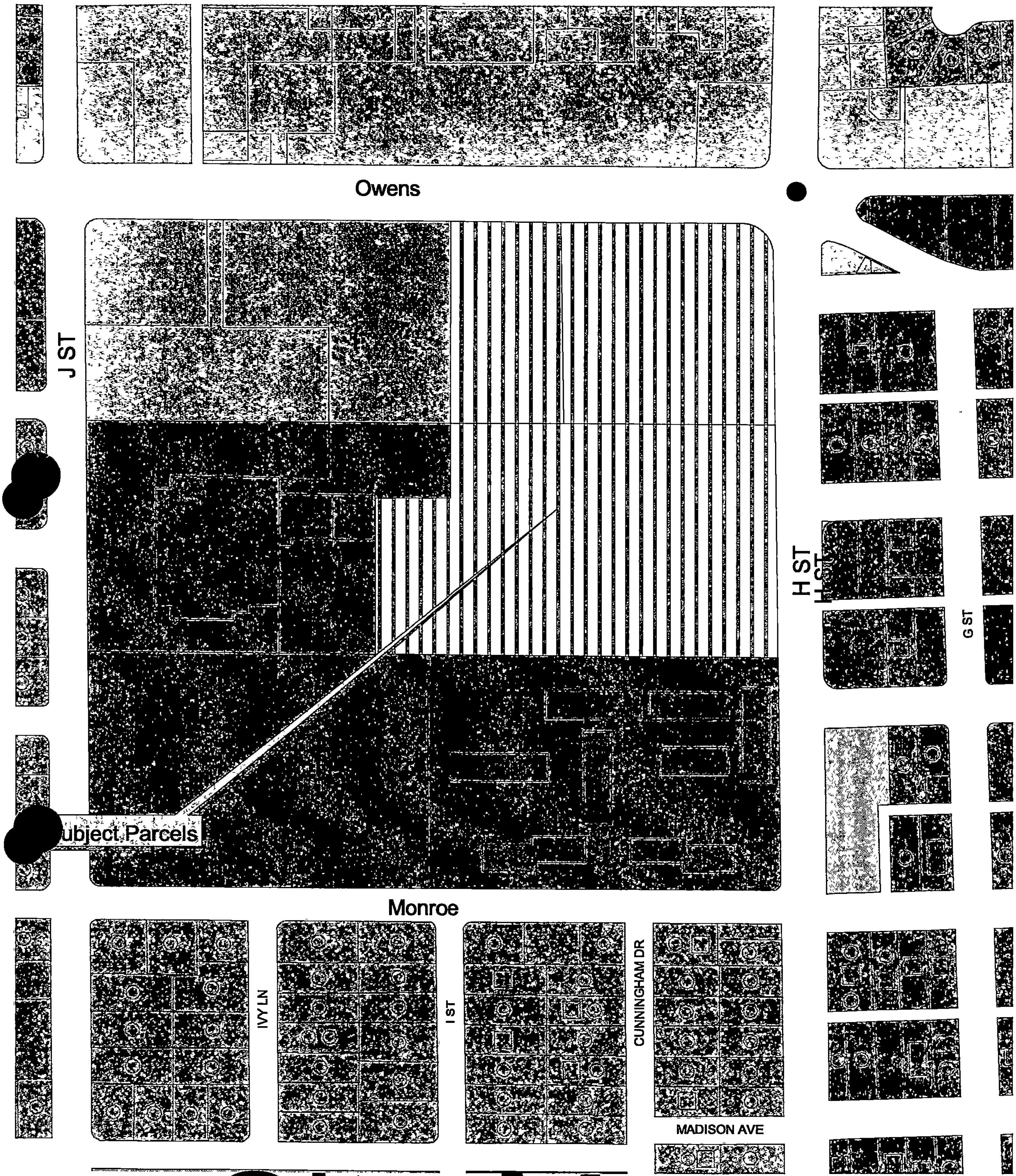
I hereby certify under penalty of perjury, that the foregoing list is full and complete.

By: John Edmond
Its: President

Subscribed and sworn to before me this
23rd day of February, 2001.

Brenda B. Williams
Notary Public

BRENDA B. WILLIAMS
NOTARY PUBLIC STATE OF NEVADA
COMMISSION NO. 94-2760-1
Comm. Expires April 11, 2004



Owens
J ST
H ST
G ST
Subject Parcels
Monroe
IVY LN
I ST
CUNNINGHAM DR
MADISON AVE

Site Map

CM LCRDA Mtg - 9 A + Wed. 7 Nov. '01

.. < (1½ min) > ..

* Public comment - · Tom McGowan. Las Vegas Resident.

· Public Mass Transit is crucial; not only to Downtown Redevelopment and the Quality of Life, but also to socio-economic viability and, today and henceforth, -- to National Homeland Security and Defense at the Regional and Local Level.

The 'CAT' bus system sells its Bus Schedule Directory for 25¢, .. then changes the Bus Routes without updating the Directory, and without notifying the 'CAT' passenger public! -- Also, -- NDOT, as well as both the County and City Depts of Public Works do not co-ordinate (road work) with the RTC, which causes 'CAT-Route Detours, ~~and~~ Delays and other Disruptions of Public Mass Transit', -- as also does Downtown Construction at Neonopolis and the New Parking Structure for City Hall.

CAT-bus customers who call 'CAT', the RTC and the Clark County Commissioners to obtain schedule and routing information are forced to listen to recorded music for more than 30 minutes, then are ignored and treated rudely by the Secretaries of RTC and Board of Commissioners Officials, .. and still are not provided the answer to a simple question!

In the Interest of Homeland Security, and in the Best Public Interest, .. I call for the immediate firing of RTC General Manager, Jacob Snow, as well as his CAT-system Customer Relations and Information Staff, .. and for the Removal, (X)

(X) from the RTC, .. Chairman Bruce Woodbury and Manager 'Chip' Maxwell, as being unwilling or .. unable to ensure timely and reliable CAT service in the best public interest of public mass transit, city, county and regionwide .. Thank you.

City of Las Vegas

AGENDA SUMMARY PAGE

REDEVELOPMENT AGENCY MEETING OF: NOVEMBER 7, 2001

CITIZEN PARTICIPATION:

ITEMS RAISED UNDER THIS PORTION OF THE AGENDA CANNOT BE DELIBERATED OR ACTED UPON UNTIL THE NOTICE PROVISION OF THE OPEN MEETING LAW HAVE BEEN MET. IF YOU WISH TO SPEAK ON A REDEVELOPMENT AGENCY MATTER NOT LISTED ON THE AGENDA, PLEASE STEP UP TO THE PODIUM AND CLEARLY STATE YOUR NAME AND ADDRESS. PLEASE LIMIT YOUR REMARKS TO THOSE MATTERS UNDER THE EXPRESS JURISDICTION OF THE REDEVELOPMENT AGENCY. IN CONSIDERATION OF OTHERS, AVOID REPETITION, AND LIMIT YOUR COMMENTS TO NO MORE THAN THREE (3) MINUTES. TO ENSURE ALL PERSONS EQUAL OPPORTUNITY TO SPEAK, EACH SUBJECT MATTER WILL BE LIMITED TO TEN (10) MINUTES.

MINUTES:

TOM McGOWAN, Las Vegas resident, commended JOHN EDMOND, Nucleus Investments, Inc., for his contributions to the community and his leadership, especially in West Las Vegas. He submitted his written comments, which are made a part of these Final Minutes, regarding the importance of a public mass transit system.

(1:59 – 2:02)
4-768

DOROTHY BARNES, 2525 Sherwood Drive, urged that an office of consumer affairs is needed in Las Vegas to ensure that people do not gain money through dishonest means.

(2:02 – 2:03)
4-780

THE MEETING ADJOURNED AT 2:03 P.M.

Respectfully submitted: Gabriela S. Portillo-Brenner
GABRIELA S. PORTILLO-BRENNER
November 26, 2001

Barbara Jo Ronemus
BARBARA JO RONEMUS, SECRETARY