

**AGREEMENT FOR ECONOMIC DEVELOPMENT AND PURCHASE/ SALE OF REAL
PROPERTY**

(1610 and 1790 West Fourth Street)

Between

City of Reno as Seller

And

JM Ranches, LLC, a Wyoming limited liability company, as Buyer

Dated as of _____



Contents

Art. 1	PARTIES; TERMS AND DEFINITIONS.....	3
§1.01	Schedule of Information.....	3
Art. 2	RECITALS.....	4
Art. 3	ECONOMIC DEVELOPMENT PROJECT	4
§3.01	Continuation of Economic Development Project;.....	4
§3.02	Remedies if Property is not used for Economic Development Project.	5
Art. 4	PURCHASE AND SALE OF PROPERTY.....	6
§4.01	General.	6
§4.02	Grant/Reservation of Easements.....	6
§4.03	Opening of Escrow; Earnest Money Deposit.	7
§4.04	Due Diligence.....	7
§4.05	Price and costs of closing	8
§4.06	Title Warranties and Insurance.....	10
§4.07	Property Warranties; Condition and Risk of Loss.....	10
§4.08	Seller's Conditions Precedent.	11
§4.09	Buyer's Conditions Precedent.	12
§4.10	Preclosing.	12

§4.11	Closing; Delays in closing.....	13
§4.12	Delivery of Possession of Property.	13
§4.13	Absolute Deadline; Automatic Termination.	14
Art. 5	DEFAULT AND REMEDIES	14
§5.01	Excuse due to Force Majeure.	14
§5.02	Default.	15
§5.03	Notice and Opportunity to cure.	15
§5.04	Remedies	16
§5.05	General Provisions regarding remedies.....	16
§5.06	Waivers.....	17
§5.07	Attorney’s fees and costs.....	17
Art. 6	RESCISSION AND TERMINATION	17
§6.01	Rescission.	17
§6.02	Termination.	17
Art. 7	GENERAL TERMS	18
§7.01	Warranties of authority and valid Obligation.....	18
§7.02	Time Frames and Deadlines	18
§7.03	Assignment, Binding Effect	19
§7.04	Standards for Approvals; Further acts and assurances.	19
§7.05	Notices.....	19
§7.06	Severability.....	20
§7.07	Applicable law; Jurisdiction.	20
§7.08	Interpretation of this Agreement.	20
§7.09	Modifications; Authority to administer and approve changes.	20
§7.10	Entire Agreement; Signature in counterparts; Effective Date; Recording.	21
Attachment A	Property Description	
Attachment B	Schedule	
Attachment C	Easement	
Attachment D	Recorded Conservation Easement	

Art. 1 PARTIES; TERMS AND DEFINITIONS.

§1.01 Schedule of Information

THIS AGREEMENT is by and between and involves the following Property:

<i>a.</i>	<i>Buyer</i>	JM Ranches, LLC, a Wyoming limited liability company P.O. Box 20445 Reno, NV 89515 Authorized Representative: Josh Thieriot, Manager
<i>b.</i>	<i>City/ Seller</i>	City of Reno, Nevada, a municipal corporation One East First Street P.O. Box 1900 Reno, Nevada 89509 Authorized Agent: Property Agent
<i>c.</i>	<i>Escrow Agent</i>	TBD X Reno, NV 895__ Attn:
<i>d.</i>	<i>Real Estate Agents</i>	None.
<i>e.</i>	<i>Appraiser</i>	Has been selected and completed.
<i>e.</i>	<i>Property</i>	See Attachment A.
<i>f.</i>	<i>Street Address/ APN</i>	1610 and 1790 West Fourth Street Reno, Nevada APN 010-610-10 and 010-610-11
<i>g.</i>	<i>Economic Development Project</i>	Buyer to purchase the Property and retain or expand existing commercial enterprises that will create and retain opportunities for employment for residents of the city.
<i>h.</i>	<i>Purchase Price</i>	\$870,000.00
<i>i.</i>	<i>Earnest money deposit amount</i>	\$10,000.00

Art. 2 RECITALS

A. The Property is surplus left over from property acquired by Seller from the Union Pacific Railroad Company for use in the construction of the ReTRAC Project to depress train tracks through the City of Reno. Seller took the Property subject to a lease between Union Pacific Railroad and Eagle Window and Door. The lease was subsequently assigned to and assumed by JM Ranches, LLC, a Wyoming limited liability corporation.

B. Buyer through a ground lease currently leases the Property from the City. The Buyer owns the building improvements and is looking to invest upwards of \$170,000 in capital improvements. The buyer proposes to purchase the Property to secure the land to protect the investment and be able to expand the current commercial facility on the Property.

C. Under NRS 268.063 City may sell the Property without offering it to the public for an “Economic Development Project” to retain or expand existing commercial enterprises that will create and retain opportunities for employment for residents of the city as defined in NRS 268.063(4). As required by NRS 268.063(2) appraisals have been obtained and the City Council has adopted a resolution setting the value of the Property as appraised and determining that it is in the best interest of the City to sell the Property at its full value to Buyer without offering the Property to the public in exchange for an agreement to build and operate the Economic Development Project for five years.

NOW THEREFORE in exchange for the mutual covenants expressed herein and the sale of the Property to Buyer without public auction, the parties agree as follows.

Art. 3 ECONOMIC DEVELOPMENT PROJECT

§3.01 Description of Economic Development Project;

a. Operating under the Lease held by JM Ranches, the Property is currently subleased to Eagle Window and Door. Eagle Window and Door is a local company providing windows and doors and operates out of half the building. The other half of the building is currently vacant. JM Ranches is proposing to make major improvements to the building so that Eagle Window and Door can expand its commercial enterprise with a new showroom and offices for its employees. Eagle Window and Door offers custom window and doors for the surrounding communities for homes and commercial projects, employing eight full-time employees. Once the building is expanded, Eagle Window and Door anticipates adding eight new full-time employees for a total of 16 full-time employees. This is of particular importance to the City in that it supports and retains opportunities for employment for the residents of the City.

b. With the permission of the City Manager of City, which shall not be unreasonably withheld, conditioned or delayed, Buyer may change its use of the Property provided that the new use is a commercial enterprise that contributes to the economic development of the City and will create and retain substantially the same opportunities for employment for residents of the City.

c. If it purchases the Property, Buyer shall cause a continuation of the activities described in this §3.01 for a period of five (5) years from the date the deed is recorded. This obligation shall be a covenant running with the land applicable to Buyer and any successors, assigns, or subsequent owners of the land. The deed from Seller to Buyer will reserve this covenant and will specify the termination date. If requested, Seller shall execute and record a notice of termination when the expiration date expressed in the deed has passed.

§3.02 Remedies if Property is not used for Economic Development Project.

a. Both parties independently believe that the Project qualifies as an Economic Development project within the meaning of NRS 268.063. If there is a challenge to this sale, the parties agree to cooperate to defend the challenge, and each party may employ counsel and participate in the defense. Each party shall bear its own expenses. Each party independently assumes the risk of loss and in the event that the sale is voided by court order, each party shall hold the other harmless, agrees not to sue the other, and agrees to assume its own losses. If this sale is voided by a court order, unless another remedy is specified in the court order, title will revert to the Seller and Seller shall reimburse Buyer for the purchase price actually paid by the Buyer, such reimbursement to be made within two years from the date of the court-ordered reverter of title.

b. If there is a breach in the covenant running with the land set out in §3.01, the rights and obligations set out in Article 5 of this Agreement shall apply and the City of Reno shall have the following additional remedies:

(1) City shall have an option to repurchase the Property for the purchase price paid under this Agreement together with all closing costs. The option must be exercised by notice in writing within sixty (60) days after the expiration of the cure period specified in Article 5 or otherwise agreed, and shall be accomplished through an escrow with the Escrow Agent.

(2) City may bring an action for specific performance or other judicial relief, it being understood and agreed that the sale of this Property was conditioned upon and for the express purpose of furthering a significant governmental interest.

c. It is understood and agreed, however, that the covenant running with the land does not constitute a lien on the Property which is enforceable by foreclosure, nor will the covenant

running with the land be extinguished by foreclosure of a deed of trust or other lien upon the land created subsequent to the recording of the deed.

Art. 4 PURCHASE AND SALE OF PROPERTY.

§4.01 General.

a. Seller hereby agrees to sell and Buyer agrees to purchase the Property according to the following terms.

b. Seller agrees not to seek any offers or enter into any negotiations with a third party for the sale of the Property while this Agreement remains in force and effect up until the Notice to Proceed deadline specified in Attachment B.

§4.02 Grant/Reservation of Easements

a. A drainage facility crosses a portion of the Real Property of APN 010-610-11. Buyer agrees to execute and deliver for recording an easement (Attachment C) for the benefit of the City across a portion of APN 010-610-11.

b. City entered into a conservation easement (“Conservation Easement”) with the State Historic Preservation Office over a portion of APN 010-610-11 (Attachment D), and a monitoring agreement (“Monitoring Agreement”) with the Reno-Sparks Indian Colony allowing the Colony to inspect construction activities on the Property (Attachment D). Buyer agrees to purchase the Property subject to the Conservation Easement and Monitoring Agreement.

c. Seller shall reserve back a 20-foot wide easement along the southerly property lines for access and maintenance of the train trench wall of the Real Property.

d. Seller is aware of a Fourth Street Road Project coming forward by Regional Transportation of Washoe County (RTC) currently in planning to begin construction in the year 2025. Whereas the City usually provides Temporary and Permanent Easements, if any, on City owned property at no costs to RTC. However, City will not be in ownership of the Real Property when plans are finalized so instead of City reserving permanent and temporary rights for future construction needs Buyer shall cooperate with RTC for any Temporary Construction Easement (TCE) needs at no charge. Initial design is at Thirty Percent (30%) design and looks like only driveway aprons are planned and will need TCE’s to construct new driveway aprons. This section shall survive the close of escrow.

§4.03 Opening of Escrow; Earnest Money Deposit.

a. Opening of escrow. On or before the date specified in Attachment B, joint escrow instructions shall be prepared and an escrow shall be opened with a goal of closing by the Closing Date as specified in Attachment B. Following the completion of Buyer's due diligence, the joint escrow instructions may be amended to reflect permitted title exceptions and conditions of closing.

b. Earnest Money Deposit. Upon opening of escrow, Buyer shall deposit into escrow the Earnest Money Deposit specified in §1.01 above. The Earnest Money Deposit shall be disbursed as follows.

1. The Earnest Money Deposit shall be placed in an interest bearing account with the Escrow Officer and interest actually collected by the Escrow Agent shall be paid with the Earnest Money Deposit as follows.

2. If the sale escrow closes, Seller may retain the Earnest Money Deposit and interest as part of the purchase price.

3. If the sale escrow does not close for any reason other than the default of Seller, the Earnest Money Deposit shall be paid to Seller in exchange for Seller holding the Property open for sale for the due diligence period.

4. If the sale does not close due to default (see Article 5) of Seller, the Earnest Money Deposit shall be paid to Buyer.

5. If, for any reason, the Escrow Officer is given conflicting instructions, is unsure as to whom the Earnest Money Deposit should be paid, or does not want to hold the Earnest Money Deposit pending resolution of any disputes, the Escrow Officer may interplead the Earnest Money Deposit and interest into court, less earned but unpaid escrow costs and charges plus the costs of bringing the interpleader.

§4.04 Due Diligence.

a. Document Delivery by Seller. As requested, Seller shall deliver a preliminary title report, the appraisal obtained by Seller, environmental reports and studies pertaining to the Property and other documents in Seller's possession.

b. Inspections. Buyer shall promptly arrange for all desired inspections of the Property, including environmental investigations, asbestos inspections, pest control inspections, soils

analysis, geotechnical inspections, and the like, to be conducted at Buyer's expense, unless otherwise agreed.

c. Indemnifications. Buyer shall indemnify Seller and hold Seller harmless from all costs, claims or liability of any kind resulting from all acts or omissions of Buyer, its contractors, agents and employees during or as a result of inspections. This provision shall survive the termination of this Agreement.

d. Objections to condition; extension of Due Diligence Deadline. Seller and Buyer shall meet and confer during the due diligence process and shall, to the extent practical, attempt to work out remedies for objections to the condition of the Property, it being understood that since the use of the improvements are to be continued as they exist, reductions or adjustments to the sale price are not contemplated and must be approved by the City Council. If Buyer requests a price adjustment or other remedy which requires approval by the City Council, the "Due Diligence Deadline" set forth in Attachment B is extended until ten (10) calendar days after the decision by the City Council.

e. Notice to proceed. If Buyer has completed due diligence to its satisfaction, it shall give a written notice to proceed to Seller before the "Due Diligence Deadline" set forth in Attachment B.

f. Rescission of Agreement. If Buyer has not served notice to proceed to Seller by the "Due Diligence Deadline" set forth in Attachment B, this Agreement is automatically rescinded unless otherwise agreed by the parties.

§4.05 Price and costs of closing

a. Base Price. The base price of the Property shall be as set forth in §1.01.

b. Credits, Holdbacks and Adjustments. No credits, holdbacks or adjustments are anticipated.

c. Allocation of Closing Costs; Apportionment of certain payments. Buyer and Seller agree to the following allocation of closing costs:

Title Report	Seller pays 100%.
--------------	-------------------

Title Insurance	Seller pays 100% for an ALTA Standard Owners Policy, Buyer pays for extended coverage or endorsements.
Survey (if needed)	Paid 100% by party who requests it.
Building Inspection	Paid 100% by party who requests it.
Appraisals and reviews	Buyer pays 100%. (\$9,200)
Pest Inspection	Paid 100% by party who requests it.
Soils Analysis	Paid 100% by party who requests it.
Environmental Assessments	Paid 100% by party who requests it.
Transfer Tax	Buyer pays 100%.
Property Taxes	Property currently exempt from property taxes; Buyer pays 100% of any prorated installments needed to be paid to close.
Special Assessments (if any)	Buyer will assume balance, if any.
Sewer	Buyer is already paying sewer under existing lease agreement.
Security Deposits	Any security deposit held by Seller under current lease shall be credited against the sale price.
Advance utility payments	Utility payments are already being made by Buyer under current lease agreement.
Escrow Agent Fees	Buyer pays 50%; Seller pays 50%.
Recording Fees	Buyer pays 100%.

d. Payment of real estate commissions. Except as disclosed in §1.01 above, Seller represents to Buyer that there are no real estate or brokerage commissions payable in connection with this sale to any party claiming through Seller, or arising out of the actions of Seller. Except as disclosed in §1.01 above, Buyer represents to Seller that there are no real estate or brokerage commissions payable in connection with this sale to any party claiming through Buyer or arising out of actions of Buyer. Each party shall indemnify and hold the other harmless from all costs, claims, damages, or liability of any kind in connection with the breach of this representation. The representations and indemnities in this paragraph shall survive the closing or earlier termination of this Agreement.

e. Payment of Purchase Price. Buyer agrees to pay the purchase price and its share of expenses by wire into escrow.

§4.06 *Title Warranties and Insurance.*

a. Title to be Delivered. Upon closing, Seller shall deliver insurable fee title to the Property to Buyer free of all encumbrances, liens, conditions, reversionary rights or other exceptions to or defects in title except for permitted exceptions agreed upon and set forth in the joint escrow instructions. If the parties cannot agree on permitted exceptions, this Agreement may be rescinded by either party.

b. Title Warranties and Representations. Seller represents and warrants to Buyer as of the Closing, that:

1. Except (i) as disclosed on the above described preliminary title report provided to Buyer, or (ii) otherwise disclosed in writing to and approved by Buyer, or (iii) as is actually known to Buyer, Seller holds and will convey good and marketable title to Buyer without encumbrances, liens, restrictions, covenants, conditions, rights of redemption, or other title exceptions.

2. There are no contracts of sale, installment sale contracts, or options for the sale of all or any part of the Property to which Seller is a party and which remain in effect, except to Buyer.

3. There are no leases (except Buyer's lease), rental contracts, billboard contracts, contracts of employment, management contracts, maintenance contracts, service contracts, or supply contracts to which Seller is a party which affect any portion of the Property that will survive the closing.

4. All improvements and materials supplied to the Property by Seller have been paid for in full.

c. Title Insurance. Seller shall at its expense deliver a 2006 Standard Form of CLTA Owners insurance without any endorsements, subject to permitted exceptions agreed upon under paragraph a above. If Buyer wishes extended coverage or endorsements, Buyer shall pay the cost.

§4.07 *Property Warranties; Condition and Risk of Loss.*

a. Warranties and Representations. As Buyer owns the building and has made repairs to it, Seller is not in a position to make any representations or warranties as to the condition of the Property, and Buyer shall accept the Property AS IS WITH ALL ITS FAULTS.

b. Property Damage or Destruction. Seller does not insure its property with outside carriers. If the Property is damaged or destroyed before closing, and the parties cannot agree on an adjustment to the sale price, this Agreement may be rescinded.

c. Risk of Loss due to Eminent Domain. If proceedings under power of eminent domain are commenced before the Closing Deadline to take any portion of the Property, Seller shall promptly inform Buyer and Buyer may rescind this Agreement in accordance with ¶6.02.a at any time before Closing. If Buyer chooses to go forward with the acquisition, unless otherwise agreed, Buyer may appear in any eminent domain proceedings and the parties shall proceed to closing upon the original terms stated herein and Buyer shall be paid all eminent domain proceeds, except relocation benefits.

d. To the extent that the above provisions are inconsistent with the Uniform Vendor and Purchaser Act (NRS 113.030 – 113.050), they are intended to replace the provisions of the Act.

§4.08 Seller's Conditions Precedent.

a. In addition to any other conditions stated herein, Seller's obligation to sell the Property is conditioned on the accomplishment of the following requirements to the satisfaction of Seller:

- (i) The sale must be authorized and meet all the conditions of Nevada law;
- (ii) Buyer must have executed the Easement Agreement in Attachment C and delivered to Escrow Agent to be recorded at Closing;
- (iii) All of the documents and other items required to be delivered by Buyer to Seller under this Agreement must have been delivered in form and substance reasonably satisfactory to Seller;
- (iv) Buyer must have given a notice to proceed in accordance with §4.04 and complied with, fulfilled and performed, in all material respects, each of the covenants, terms, and conditions hereunder to the reasonable satisfaction of Seller;
- (v) Escrow Agent shall be irrevocably committed to issue the title insurance required by the joint escrow instructions;
- (vi) Buyer must have paid the purchase price and its share of expenses as provided herein;
- (vii) All of the representations and warranties made by Buyer in this Agreement and in any closing certificate must be true in all material respects as of Closing Date; and

- (viii) The legality of sale must not have been challenged by a third party.
- b. Seller may waive any of the foregoing conditions or may close the sale without waiving a condition and seek remedies for breach as provided in §5.04.

§4.09 *Buyer's Conditions Precedent.*

- a. Buyer's obligation to purchase the Property is conditioned on the accomplishment of the following requirements to Buyer's satisfaction:
 - (i) Buyer, in its sole discretion, must be satisfied as to the legal description, the status of title to and the condition of and the suitability of the Property for its intended use, and has issued to Seller a Notice to Proceed as provided in §4.04;
 - (ii) Seller must have executed the Easement Agreement in Attachment C and delivered it to Escrow Agent to be recorded at Closing;
 - (iii) Seller must have performed all of its requirements under this Agreement;
 - (iv) All of Seller's representations and warranties must remain true and complete in all material respects as of Closing;
 - (v) Seller must have delivered into escrow all deeds and supporting documentation necessary to convey title as required by this agreement to all real and personal property being purchased hereunder;
 - (vi) All of Seller's conditions of closing have been satisfied; and
 - (vii) Buyer funding must be available.
- b. Buyer may waive any of the foregoing conditions or may close the sale without waiving a condition and seek remedies for breach as provided in §5.04

§4.10 *Preclosing.*

On the preclosing call of Escrow Agent: (i) Buyer and Seller shall have duly executed and delivered to each other or to the Escrow Agent all the documents listed in the escrow instructions or otherwise required or contemplated by this Agreement, including closing certificates, and each receiving party shall have reviewed and approved the document; (ii) all documents necessary to accomplish any financing of the sale shall have been delivered and approved by the parties; (iii) Escrow Agent shall prepare and deliver to both parties a settlement statement indicating funds received or to be received and allocating such funds to payments to the parties, taxes, assessments, closing expenses, and both parties must approve the settlement statement; (iv) Seller shall have delivered all documents or agreements required by the Escrow

Agent to insure title to the extent requested by Buyer; and (v) Escrow Agent shall be irrevocably committed to issue or cause to be issued the title insurance required by Buyer and Lender. At preclosing, the parties shall instruct the Escrow Agent whether or not to close the escrow. If preclosing is not accomplished, the foregoing actions shall be accomplished at closing.

§4.11 Closing; Delays in closing

- a. Closing Conditions. Escrow shall not close until all conditions and provisions stated in §§4.08 and 4.09 shall have been met, waived or reserved.
- b. Closing. If conditions have been met, closing shall occur on the Closing Deadline established in Exhibit B or another date agreed upon by the parties. Closing shall occur at the offices of Escrow Agent. When all conditions of closing have been met: (i) Buyer and Seller shall execute and deliver Escrow Agent all documents listed in the escrow instructions or otherwise required to complete the intents and purposes of this Agreement, (ii) Buyer and Seller shall deliver into escrow in collected funds the purchase price and all funds necessary to close the sale; (iii) the Escrow Agent shall record and distribute all documents as provided in the escrow instructions; and (iv) Escrow Agent shall disburse all funds as provided in the escrow instructions and settlement statements approved by both parties. When all the foregoing events have been completed, “Closing” shall have occurred.
- c. Escrow Agent Delays. Provided that Buyer and Seller shall have accomplished all that has been required of them as indicated in this Agreement, a delay in the settlement or closing caused by Escrow Agent or factors beyond the control of Escrow Agent shall not be considered as a default by Buyer or Seller, and the Closing Deadline shall automatically be extended for a reasonable period of time not to exceed thirty (30) days to close. If escrow does not close within thirty (30) days from Closing Date through no fault of either Seller or Buyer, the parties shall appoint a substitute who shall serve as the Escrow Agent for all purposes under this agreement and the escrow instructions.
- d. Failure to close. Except as provided next above, if closing does not occur by the Closing Deadline due to the default, actions or inactions of a party, the nondefaulting party may terminate this Agreement under §6.02.

§4.12 Delivery of Possession of Property.

Upon closing, Seller shall deliver possession of the Property together all documents necessary for Buyer to obtain and permanently enjoy full exclusive possession and title to the Property.

§4.13

Absolute Deadline; Automatic Termination.

Notwithstanding any other provision in this Agreement, if escrow does not close and if Property is not delivered by the “Automatic Termination Date” specified in Attachment B, for any reason, this Agreement automatically terminates under §6.02. The parties may agree to extend the Automatic Termination Date.

Art. 5 DEFAULT AND REMEDIES

§5.01 *Excuse due to Force Majeure.*

a. Except as provided elsewhere herein, if an event of force majeure makes performance of an obligation or cure of a breach or default impossible, such performance or cure is excused for the duration of the event of force majeure provided that the obligated party (i) within a reasonable time after the commencement of the force majeure notifies the other party of the nature of the event of force majeure, when it commenced, why it makes performance or cure impossible, and the expected duration (if known), and (ii) agrees to and does in fact diligently pursue remediation of the effects of the force majeure, and (iii) agrees to notify the other party immediately when it becomes possible to commence efforts to cure the default.

b. An event of force majeure is defined as (i) without the fault of and beyond the reasonable control of the obligated party, a war; insurrection; riot; flood; earthquake; fire; casualty; act of God; act of a public enemy; quarantine restriction or other effect of epidemic or disease; freight embargo; delay caused by unusually severe or extreme weather; lack of transportation attributable to any of these; or (ii) labor strikes, boycotts or picketing (unless the labor action is taken because of an alleged violation of the prevailing wage provisions in this Agreement, if any); (iii) provided, however, that if the breach or default is the failure to pay money, the force majeure must actually prevent access to or payment from a bank account or payment mechanism, such as during a banking holiday, moratorium, or sabotage of wire or automated transfer systems. A force majeure does not include general economic or market conditions, or the financial condition of a party even if they are influenced by any of the foregoing.

c. A force majeure is deemed to cease for purposes of this Agreement and a party is deemed to be in breach of an obligation or cure on the earlier of (i) five (5) business days after it becomes possible for the obligated party to commence to perform the obligation or cure and the obligated party fails to so commence the obligation to perform or cure, or (ii) one year from the commencement of the event of force majeure.

§5.02 *Default.*

a. A party shall be in default hereunder in any of the following events or circumstances (subject to force majeure and notice and opportunity to cure if specified):

(i) The party repudiates, breaches, or fails to promptly and fully perform any covenant, condition or agreement contained in this Agreement (subject to force majeure and notice and opportunity to cure).

(ii) Any representation of a material fact expressed herein was false at the time it was made, or, if a continuing representation becomes false as a result of a subsequent event or occurrence; or any warranty made herein is breached at the time made or, if a continuing warranty, is breached as a result of a subsequent event or occurrence (subject to force majeure and notice and opportunity to cure).

(iii) An event required to occur does not occur by the time required due to the lack of diligence or fault of a party (subject to force majeure and notice and opportunity to cure).

(iv) A party makes an assignment for the benefit of creditors or files or suffers the involuntary filing of a petition for appointment of a receiver, or for relief under the U.S. Bankruptcy Code or any federal or state law that provides relief to debtors from creditors and such petition is not rescinded or resolved within sixty (60) days from the date of filing (not subject to force majeure and notice and opportunity to cure).

(v) Any interest in the Project or any improvements on the Project, or any right to receive funds under the Project become an asset in a receivership or bankruptcy estate or become the subject of any proceedings (a) relating to prejudgment attachment of assets, (b) a judgment lien, (c) a mechanics lien or any claim for payment of amounts owed for the provision of services or materials to the Property or any Improvements thereon; (d) any execution proceedings for the enforcement of judgments; (e) any foreclosure or enforcement of a security interest; (f) any forfeiture action; or (g) any other action where a party may lose possession thereof (subject to force majeure and notice and opportunity to cure).

(vi) Any other circumstance or event constituting a breach of this Agreement (subject to force majeure and notice and opportunity to cure unless otherwise specified).

§5.03 *Notice and Opportunity to cure.*

For those events or circumstances of default listed above which are expressly subject to the notice and cure, and unless otherwise specified in this Agreement, the party intending to declare a default shall first provide written notice to the defaulting party of such event or

circumstance and the specific action required to cure it and the defaulting party shall have thirty (30) days from the date that the notice is deemed given to cure the default. If a party has commenced to and diligently pursues to cure the default, one or more extensions in time may be granted which may be revoked without advance notice if the defaulting party abandons the attempt to cure or if cure becomes impossible.

§5.04 *Remedies*

In the event of default by a party, the non-defaulting party may pursue any one or combination of the following remedies:

- (i) Suspend, modify or terminate any counter-performance or other obligation hereunder.
- (ii) Terminate this Agreement as a whole.
- (iii) To protect its interest and value in the performance of this Agreement, a non-defaulting party may advance funds and take actions to cure or mitigate the default and take and receive proceeds and revenues generated by its corrective actions and recover attorney's fees and expenses.
- (iv) Appear in any proceeding (receivership, bankruptcy, forfeiture, judicial or other proceeding) to protect the non-defaulting party's interests.
- (v) Commence an action for specific performance as provided under Nevada law.
- (vi) Recover its out-of-pocket expenses, including fees paid to attorneys as provided in §5.07 below.
- (vii) Any other remedy provided in this Agreement or under applicable law.

§5.05 *General Provisions regarding remedies*

- a. Cumulative remedies. All remedies set forth above are cumulative with another and with any other remedy afforded by applicable law, and the pursuit of one remedy does not constitute an exclusive selection of that remedy or a waiver of or election not to pursue any other remedy.
- b. Advances. Any funds reasonably expended by a non-defaulting party to make repairs, cure defaults, protect property or an interest in property shall be reimbursed by the non-defaulting party together with interest as specified in this Agreement or as specified in NRS 99.040.

§5.06 *Waivers.*

Any forbearance, inaction, or failure to promptly pursue any remedy (whether intentional or negligent) shall not be deemed a waiver of any default or remedy and shall not be construed as in any manner estopping any party from enforcing in full the provisions hereof. Waivers must be expressed in writing signed by the waiving party, and a waiver of a default is limited to the specific default identified in the written waiver and does not constitute a course of dealing or implication that similar defaults will be waived in the future. A party's acceptance of partial performance shall not be deemed to be an accord and satisfaction or a waiver of or change to any term, covenant or condition of this Agreement.

§5.07 *Attorney's fees and costs.*

If an action is brought to interpret or enforce this Agreement, the prevailing party may be awarded reasonable attorney's fees and costs for the action and also for reasonable attorney's fees and costs in pursuing any of the above remedies or otherwise mitigating damages.

Art. 6 RESCISSION AND TERMINATION

§6.01 *Rescission.*

Upon first giving notice and opportunity to cure as provided in §5.03 (except in the case of an automatic rescission), a party may rescind this Agreement if there is a material failure of a condition precedent to its obligation or as otherwise stated herein. A party shall provide a written notice of rescission to the other party as provided in §7.05 and to the Escrow Agent. In the event of a rescission or automatic rescission (as provided herein), unless otherwise specified herein or agreed in writing, (i) all future or executory obligations are discharged; (ii) each party shall bear its own expenses; (iii) if there are any escrow fees due at the time of the rescission, the rescinding party shall pay them, or if the rescission is automatic, escrow fees and costs shall be paid as allocated in §4.05 above; (iv) unless otherwise provided herein, all funds deposited in escrow shall be returned to the party that paid the funds; and (v) neither party shall be further liable or obligated to the other as if this Agreement never existed, except for refunds and remuneration as may otherwise be provided in a judgment of a court if this Agreement is rescinded after closing.

§6.02 *Termination.*

a. If closing does not occur as specified in Attachment B, this Agreement automatically terminates.

b. Except as may otherwise be provided herein, in the event of an automatic termination, as provided herein, or a termination of this Agreement by a party as a result of a default by the other party (i) each party shall bear its own expenses (subject to possible recovery or reimbursement as provided in §5.04); (ii) if there are any escrow fees due at the time of the rescission, such fees shall be paid in accordance with the agreement in §4.05, (but subject to possible recovery or reimbursement as damages); (iii) unless otherwise provided herein, all funds deposited in escrow shall be returned to the party that paid the funds, provided, however, that if there is a dispute regarding who is entitled to the funds, the parties may agree (without prejudice to any remedies or allegations) to have the Escrow Agent to hold the funds in dispute until joint instructions are executed and delivered to Escrow Agent, or Escrow Agent may interplead the funds in dispute (less reasonable attorney's fees and costs of the interpleader); (iv) the parties shall have no further obligations or liabilities to each other except those provisions herein which are expressly agreed upon to survive the termination hereof; and (v) parties may pursue remedies due to default or pre-termination obligations.

Art. 7 GENERAL TERMS

§7.01 Warranties of authority and valid Obligation.

a. Each person who signs this Agreement represents and warrants that he/she has obtained all necessary approvals and has actual authority to execute this Agreement with the effect of binding his/her principal.

b. Each party represents and warrants to the other that it is duly organized and in good standing and authorized to do business in Nevada with full power and authority to enter into, deliver and perform this agreement and that this agreement, together with closing documents placed into escrow, constitutes the legal, valid and binding obligation of the Party, enforceable against it in accordance with its terms.

§7.02 Time Frames and Deadlines

The parties agree to accomplish the actions within the time frames or deadlines stated above. Time is of the essence in the performance of the obligations in this Agreement. Unless otherwise specified: (i) the term “days” means calendar days; (ii) the term “business days” means days that both parties are open for business –generally excluding weekends and holidays recognized by the State of Nevada; (iii) if a deadline falls on a weekend or holiday, then performance is due on the next following business day of the recipient of the performance; and (iv) performance is due by 5 p.m. on the day of deadline.

§7.03 *Assignment, Binding Effect*

- a. Neither party may delegate any duties or assign any rights under this Agreement without the approval of the other party.
- b. City agrees that Buyer may assign its rights and obligations under this Agreement to any of its members or managers or any entity in which any such member or manager holds an ownership interest of at least 25% if (i) Buyer is not in default under this Agreement; (ii) the proposed assignee agrees to perform all obligations and duties of Buyer under this Agreement without change unless otherwise agreed by City; (iii) the assignee posts an Earnest Money Deposit in an amount to be agreed upon, but if no agreement can be reached, then the Earnest Money Deposit shall be the same as was posted by Buyer; and (iv) the City Manager approves the assignment.
- c. For the avoidance of any doubt, after the Closing Date, Buyer or its assignee may sell, assign or lease the Property, subject to the covenant identified in §3.01. Subject to all of the foregoing, this Agreement shall be binding on the heirs, successors, trustees, representatives and permitted assigns of the parties.

§7.04 *Standards for Approvals; Further acts and assurances.*

- a. Unless otherwise specified (such as with the words "sole discretion") wherever this Agreement requires the approval of a party, or any of a party's officers, agents or employees, such approval shall not be unreasonably withheld delayed or conditioned.
- b. The City Council of the City of Reno is a governmental body whose decisions are legislative functions that may be subject to public hearings and input, and, except as otherwise provided herein, shall have sole and absolute discretion to approve or disapprove any matter submitted to it provided, however, that decisions are not procured by fraud or bribery, or are arbitrary, capricious or an abuse of discretion.
- c. Each party agrees to take all reasonable actions and enter into, execute and deliver all documents reasonably required by the other party to document and accomplish the sale as contemplated herein and carry out the terms of this Agreement. This provision survives the termination of this Agreement.

§7.05 *Notices.*

Notices hereunder must be in writing which shall be mailed or personally delivered to each party at the address specified above. Notice is deemed received by the other party when (i) actually received if sent by first class mail or personally delivered, or (ii) three business days after delivered to and accepted by the U.S. Postal Service if sent by certified or registered mail.

§7.06 *Severability*

a. In the event that any word, clause, or provision herein is declared by a court of competent jurisdiction to be invalid, unenforceable, or contrary to public policy, then such offending provision shall be deemed, from the very beginning, to have been modified to the extent to bring it within the limits of validity or enforceability, so long as it is reasonably consistent with the parties' intent. If, however, such offending provision cannot be so modified, then it shall be severed from this agreement. In either event (modification or severance), all remaining words, phrases, clauses and provisions herein remain fully enforceable.

b. If it is determined that this Agreement is invalid under NRS 268.063, the parties agree to hold each other harmless from liability.

§7.07 *Applicable law; Jurisdiction.*

The interpretation and enforcement of this agreement shall be governed by the laws of Nevada. Actions to enforce this Agreement shall be brought in the Second Judicial District Court in and for Washoe County, Nevada.

§7.08 *Interpretation of this Agreement.*

Titles and headlines of this agreement are intended for editorial convenience and are not to be construed as a part of this agreement. The word "include" or "including" is not intended as a limitation and shall be construed to include the words "but not limited to." Unless otherwise specified, the word "herein" means anywhere in this Agreement or the attachments. Any reference to the masculine genders includes, where appropriate in the context, the feminine gender. Any term in the singular includes, where appropriate in the context, the plural. The Parties hereto were each advised by counsel in drafting and negotiating this agreement, and each Party contributed to its contents. No presumptions against or in favor of any party are appropriate based on who drafted this Agreement or any provision herein.

§7.09 *Modifications; Authority to administer and approve changes.*

a. This agreement may not be modified or amended and no waivers are effective unless expressed in writing and duly signed by the party to be bound by the modification, amendment or waiver.

b. In addition to the Authorized Representative specified in §1.01 above, the City Manager of the City of Reno shall have the authority to act as an Authorized Representative. Each Authorized Representative, acting alone, shall have the authority to (i) execute all deeds (except all deeds of Seller must be signed by the Mayor), escrow instructions, settlement statements, title insurance instructions, agreements, notices and other instruments necessary to accomplish closing and to effectuate the purposes of this Agreement; (ii) accept all performances, (iii) waive or negotiate remedies for defaults (iv) extend time for performance; (v) approve contract

assignments; and (vi) negotiate and execute all amendments or modifications to this Agreement *EXCEPT* (a) as otherwise provided in this Agreement; and (b) except that any action that (w) materially or substantially changes the terms of this Agreement; (x) reduces the amount owed to or adds to the cost incurred by a party in an amount that exceeds \$50,000; (y) agrees to the payment of money that has not been appropriated by the City Council; or (z) waives or relinquishes any real property interest or right shall require the consideration of and written consent of the governing body of the party.

§7.10 Entire Agreement; Signature in counterparts; Effective Date; Recording.

- a. This Agreement may be executed in counterparts and shall be effective on the last date it is duly executed by all of the parties.
- b. The parties agree that this Agreement, together with its attachments, contains the entire agreement of the parties and supersedes any written or oral representations, promises, warranties, or other undertakings made during the negotiation of this Agreement.
- c. A memorandum of agreement shall be prepared, executed by both parties and recorded indicating that there are covenants herein running with the land.

Attachments

- A. Property Description
- B. Schedule
- C. Easement Agreement
- D. Recorded Conservation Easement

EXECUTED on the dates indicated below:

[SIGNATURE PAGES FOLLOW]

Agreement for Economic Development and Purchase/ Sale of Real Property

(1610 and 1790 West Fourth Street)

Counterpart Signature Page

Buyer

JM Ranches, a Wyoming limited liability company

By _____
Josh Thieriot, Manager

Date _____

Agreement for Economic Development and Purchase/ Sale of Real Property
(1610 and 1790 West Fourth Street)

Counterpart Signature Page

City/ Seller

City of Reno, a municipal corporation

By _____
Hillary Schieve, Mayor

Date _____

Attest:

By: _____
Mikki Huntsman, City Clerk

Date _____

Approved as to Legal Form
KARL HALL, City Attorney

By _____
Jasmine Mehta, Deputy

Attachment A

Property Description

All that certain real property situate in the County of Washoe, State of Nevada, described as follows:

PARCEL 1:

Parcel 6A as shown on the Parcel Map Waiver #6, Record of Survey for City of Reno, Union Pacific Railroad Corridor Boundary, Record of Survey Map No. 5393, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada on April 4, 2012, as File No. 4100103, Official Records, being more particularly described as follows:

All that certain parcel of land situate within the South 1/2 of Section Ten (10) and Section Eleven (11), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, Washoe County, State of Nevada, being portions of Parcel 5D per Document No.

4100100, and shown on Parcel Map Waiver, Record of Survey No. 5392, File No. 4100101, both recorded April 4, 2012, in the Official Records of Washoe County, Nevada, said parcels being more particularly described as follows:

COMMENCING at the Northwest Corner (NW Cor) of said Parcel 5D, also being the Northwest Corner of the ReTRAC Corridor and the North right-of-way of West Fourth Street;

THENCE departing said NW Cor and along the boundary of said Parcel 5D, said ReTRAC Corridor and said North right-of-way the following two (2) courses;

- 1) North 65°41'06" East, 550.55 feet to the beginning of a tangent curve;
- 2) 1,709.38 feet along the arc of an 8,700.00 foot radius curve to the right through a central angle of 11°15'27";

THENCE continuing along said boundary, ReTRAC Corridor and along and then departing said North right-of-way, North 76°56'34" East, 423.72 feet to the South right-of-way of West Fourth Street;

THENCE departing said ReTRAC Corridor and continuing along said boundary and along said South right-of-way the following four (4) courses:

- 1) South 48°42'36" West, 17.81 feet to the beginning of a tangent curve;
- 2) 325.43 feet along the arc of a 698.00 foot radius curve to the right through a central angle of 26°42'46";
- 3) South 75°25'22" West, 496.69 feet to the beginning of a tangent curve;
- 4) 242.22 feet along the arc of a 7,908.00 foot radius curve to the left through a central angle of 01°45'18" to the beginning of a compound curve;

THENCE departing said boundary and continuing along said South right-of-way, 973.28 feet along the arc of a 7,908.00 foot radius curve through a central angle of 07°03'06" to the POINT OF BEGINNING;

THENCE departing said South right-of-way South 23°57'32" East, 92.02 feet to the projection of the Northerly face of the North ReTRAC wall, also being the beginning of a non-tangent curve, a radial line to said beginning bears South 23°57'32" East;

THENCE along said projection, 55.78 feet along the arc of a 8,606.00 foot radius curve to the left through a central angle of 00°22'17";

THENCE departing said projection South 65°40'11" East, 239.20 feet to the beginning of a nontangent curve, a radial line to said beginning bears North 07°13'34" West;

THENCE 145.05 feet along the arc of a 207.00 foot radius curve to the right through a central angle of 40°09'00" to the aforementioned South right-of-way of West Fourth Street, also being the beginning of a non-tangent curve, a radial line to said beginning bears South 27°17'56" West;

THENCE along said South right-of-way the following two (2) courses:

- 1) 257.89 feet along the arc of a 5,238.00 foot radius curve to the right through a central angle of 02°49'15" to the beginning of a compound curve;
- 2) 151.04 feet along the arc of a 7,908.00 foot radius curve through a central angle

of 01°05'40" to the POINT OF BEGINNING.

APN: 010-610-10

Document No. 4100102 is provided pursuant to the requirements of Section 6.NRS 111.312.

PARCEL 2:

Parcel 6B as shown on the Parcel Map Waiver #6, Record of Survey for City of Reno, Union Pacific Railroad Corridor Boundary, Record of Survey Map No. 5393, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada on April 4, 2012, as File No. 4100103, Official Records, being more particularly described as follows: All that certain parcel of land situate within the South 1/2 of Section Ten (10) and Section Eleven (11), Township Nineteen (19) North, Range Nineteen (19) East, Mount Diablo Meridian, City of Reno, Washoe County, State of Nevada, being portions of Parcel 5D per Document No. 4100100, and shown on Parcel Map Waiver, Record of Survey No. 5392, File No. 4100101, both recorded April 4, 2012, in the Official Records of Washoe County, Nevada, said parcels being more particularly described as follows:

COMMENCING at the Northwest Corner (NW Cor) of said Parcel 5D, also being the Northwest Corner of the ReTRAC Corridor and the North right-of-way of West Fourth Street;

THENCE departing said NW Cor and along the boundary of said Parcel 5D, said ReTRAC Corridor and said North right-of-way the following two (2) courses;

- 1) North 65°41'06" East, 550.55 feet to the beginning of a tangent curve;
- 2) 1,709.38 feet along the arc of an 8,700.00 foot radius curve to the right through a central angle of 11°15'27";

THENCE continuing along said boundary, ReTRAC Corridor and along and then departing said North right-of-way, North 76°56'34" East, 423.72 feet to the South right-of-way of West Fourth Street;

THENCE departing said ReTRAC Corridor and continuing along said boundary and along said South right-of-way the following four (4) courses:

- 1) South 48°42'36" West, 17.81 feet to the beginning of a tangent curve;
- 2) 325.43 feet along the arc of a 698.00 foot radius curve to the right through a central angle of 26°42' 46";
- 3) South 75°25'22" West, 496.69 feet to the beginning of a tangent curve;
- 4) 242.22 feet along the arc of a 7,908.00 foot radius curve to the left through a central angle of 01°45'18" to the beginning of a compound curve;

THENCE departing said boundary and continuing along said South right-of-way, 709.58 feet along the arc of a 7,908.00 foot radius curve through a central angle of 05°08'28" to the POINT OF BEGINNING;

THENCE departing said South right-of-way, South 22°13'18" East, 88.97 feet to the Northerly face of the North ReTRAC wall, also being the beginning of a non-tangent curve, a radial line to said beginning bears South 22°13'18" East;

THENCE along said Northerly face and the projection of said Northerly face, 260.93 feet along the arc of an 8,606.00 foot radius curve to the left, through a central angle of 01°44'14";

THENCE departing said Northerly face and projection thereof, North 23°57'32" West, 92.02 feet to the aforementioned South right-of-way of West Fourth Street, also being the beginning of a non-tangent curve, a radial line to said beginning bears South 23°23'01" East;

THENCE along said South right-of-way, 263.70 feet along the arc of a 7,908.00 foot radius curve to the right through a central angle of 01°54'38" to the POINT OF BEGINNING.

APN: 010-610-11

Document No. 4100102 is provided pursuant to the requirements of Section 6.NRS 111.312.

Attachment B

Schedule

Description	Reference	Date
a. Approval Date		Last date Development and Sale Agreement is duly executed by all of the parties.
b. Open Escrow; Deposit Earnest Money	§4.03	Five business days after Approval Date
c. Due Diligence Deadline and Notice to Proceed Deadline	§4.04	90 calendar days following Approval Date.
d. Closing Date	§4.11	60 calendar days after Due Diligence Deadline

Attachment C
[See Attached]

Attachment D
[See Attached]