

V2 (8/21/2023)

**AGREEMENT FOR ECONOMIC DEVELOPMENT AND PURCHASE/ SALE OF REAL  
PROPERTY  
(0 Riverside)**

Between

City of Reno, Nevada, a municipal corporation, as Seller

And

[Entity Name]<sup>1</sup>, a [entity type], as Buyer

Dated as of \_\_\_\_\_



Contents

Attachment A	Property Description
Attachment B	Schedule
Attachment C	Easement Agreement

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<sup>1</sup> Note to Drafter (“NTD”): Buyer entity is a to-be formed, Nevada LLC as an affiliate Built Investments, LLC.

AGREEMENT FOR ECONOMIC DEVELOPMENT  
AND  
PURCHASE/ SALE OF REAL PROPERTY

THIS AGREEMENT FOR ECONOMIC DEVELOPMENT AND PURCHASE/ SALE OF REAL PROPERTY (“Agreement”) is dated for identification purposes as of \_\_\_\_\_, 2023, by and between Buyer and Seller.

**Art. 1        PARTIES; TERMS AND DEFINITIONS.**

***§1.01   Schedule of Information and Definitions***

<i>a.</i>	<i>Buyer</i>	[Entity Name] [insert address] Email for notice purposes:  Authorized Representative: Kurt Stitser and Clint Stitser, individually and collectively
<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 Email for notice purposes:  Authorized Agent: Doug Thornley, as City Manager, or Lori Miles, as Property Agent <sup>2</sup>
<i>c.</i>	<i>Escrow Agent</i>	Colleen Felix at Stewart Title, 3610 Mayberry Drive – Reno, NV 89509; phone 775.337.490; email colleen.felix@stewart.com
<i>d.</i>	<i>Real Estate Agents</i>	None.
<i>e.</i>	<i>Appraiser</i>	John S. Wright with John S. Wright & Associates and Scott Griffin and Carson T. Cooke with Johnson Perkins Griffin Real Estate Appraisers & Consultants as selected by City Staff from list of approved appraisers established under RMC 15.01.050.
<i>e.</i>	<i>Property</i>	As described in Attachment A.
<i>f.</i>	<i>Street Address/ APN</i>	0 Riverside Drive

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<sup>2</sup> NTD: Is this correct?

		Reno, Nevada  APN: 010-590-01 & 02; 010-591-01 & 02; 010-592-01 To 06; 010-593-01 To 06; 010-594-01 To 06; 010-595-01 To 06; 010-601-01 To 06; 010-602-01 To 04; 010-603-01 To 04; 010-604-01
g.	<i>Economic Development Project</i>	Buyer intends to purchase the Property and establish commercial enterprises or facilities within the city of Reno or residential housing needed to support the establishment of new commercial enterprises or facilities or the expansion of existing commercial enterprises or facilities that will create and retain opportunities for employment for residents of the City or some combination thereof.
h.	<i>Purchase Price</i>	\$850,000.00
i.	<i>Earnest money deposit amount</i>	\$25,500.00

## Art. 2        RECITALS

A.        The City of Reno (“City” or “Seller”) acquired the Property from Washoe County on April 1, 2011 as part of a tax lien sale. Pursuant to NRS 361.603, the Property’s use was restricted as open space. However, on September 13, 2022, the Board of County Commissioners of Washoe County voted to approve removing the deed restriction upon repayment by the City of the amount of the tax lien. The City has repaid the amount of the tax lien and the deed restriction has been removed.

B.        Seller issued a request for proposals to purchase the Property, and selected the proposal submitted by KCS Homes LLC, dba BUILT., an affiliate of [Entity Name] (“Buyer”) from among those who responded to the request for proposals.

C.        As a condition of the sale, City needs to retain an easement for flood mitigation, subject to the terms and conditions of the easement agreement in Attachment C (the “Easement Agreement”).

D.        Under NRS 268.063 City may sell the Property without offering it to the public for an “Economic Development Project” to as defined in NRS 268.063(4). As required by NRS 268.063(2), two 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 \$850,000 to Buyer without offering the Property to the public in exchange for an agreement to build (using commercially reasonable efforts and subject to market

conditions and force majeure delays) and operate the Economic Development Project for five years after the Closing.

NOW THEREFORE in exchange for the mutual covenants expressed herein, the sale of the Property to Buyer without public auction, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows.

### **Art. 3            ECONOMIC DEVELOPMENT PROJECT**

#### ***§3.01            Description of Economic Development Project;***

a.        The Property is currently vacant and has a condominium map recorded upon it. Buyer intends to purchase the Property and construct a market rate, medium to high density residential housing and mixed-use project (the “Project”) pursuant to the terms of the SPD, defined below. As used in this Agreement, “Intended Use” includes the planning, designing, construction, development, and use of the Project.

b.        For a period of 5 years after the date the deed is recorded, with the permission of the City Manager of the City, which shall not be unreasonably withheld, conditioned or delayed, Buyer may change its use of the Property provided that the new use is considered an “economic development” under NRS 268.063, as may be amended from time to time. After the expiration of such 5-year period, Buyer may change its use of the Property as it deems appropriate without the permission of the City Manager of the City, subject to applicable laws.

c.        If it purchases the Property, Buyer shall for a period of five (5) years from the date the deed is recorded conveying the Property to Buyer: (a) use the Property for the Intended Use, provided that Buyer will not be required to complete construction of the Project during such 5 year period if Buyer is taking or has taken commercially reasonable efforts to entitle, design, plan, permit or otherwise make forward progress towards the development of the Project; and (b) will comply with restrictions on the change in use specified in §3.01(b). These obligations shall be a covenant running with the land applicable to Buyer and any successors, assigns, or subsequent owners of the land during such 5-year period, and will automatically terminate and expire at the expiration of such period. The deed from Seller to Buyer will reserve this covenant and will specify the termination date. If requested, Seller shall promptly execute and record a notice of termination in a form reasonably acceptable to Buyer and Seller when the expiration date expressed in the deed has passed. Notwithstanding the foregoing, Buyer may sell, transfer or otherwise convey the Property to a third party at any time, provided that if the obligations and restrictions set forth in this §3.01 are still in effect, the transferee assumes all of the same until their expiration.

d. Except as otherwise set forth in this §3.01 or as otherwise agreed in writing by the parties, upon Closing, Buyer will have no other restrictions, conditions, or limitations on its construction, development, or use of the Property (including, without limitation, any requirements to pay prevailing wage, provide low-income housing, limiting or prohibiting Buyer's ability to sell, or requirements to accept Housing Choice vouchers or other similar vouchers), except as otherwise required by applicable law.

**§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 of such defense. 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 in connection therewith. 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 and Development Costs, defined below, actually paid by the Buyer, such reimbursement to be made within six (6) months from the date of the court ordered reverter of title. As used in this Agreement, "Development Costs" means those costs incurred by Buyer after Closing in connection with the entitlement, planning, design, construction and use of the Project, including, without limitation, all engineering, architectural, and consultant fees and costs.

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 of such repurchase plus interest accrued on the sum of such amounts in an amount equal to the Prime Rate plus 3% calculated from the date of the Closing until the date of the Option Closing, defined below. As used in this Agreement, "Prime Rate" means the annual Prime Rate published in the Wall Street Journal from time to time, said interest rate to be adjusted on the date the Prime Rate changes, but not to exceed the maximum lawful rate of interest chargeable under the laws of the State of Nevada. The option must be exercised by notice in writing ("City's Option Notice") within sixty (60) days after the expiration of the cure period specified in Article 5 or as otherwise agreed in writing by the parties, and shall be accomplished through an escrow with the Escrow Agent on the date that is no later than 45 days after Buyer's receipt of the City's Option Notice (the "Option Closing").

(2) City may bring an action for specific performance or other judicial relief as it relates to the Option Closing, if Buyer fails to deliver a deed to the City reconveying the Property to the City at the Option Closing, provided the City exercises such remedy within 90 days after the Option Closing date. The parties understand and agree 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 terms and conditions of this Agreement. As used in this Agreement, “Property” means that certain real property described in Attachment A, together with all fixtures and improvements attached thereto, tenements, hereditaments, and appurtenances of the described real property, and the rents, issues, and profits thereof (collectively, the “Real Property”), and all transferable or assignable certificates of occupancy, water rights, traffic impact fees, sewer connection rights or credits, building or equipment permits, consents, authorizations, variances, waivers, licenses, permits, certificates and approvals from any governmental or quasi-governmental authority with respect to the Real Property.

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.

### ***§4.02 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 Agent and interest actually collected by the Escrow Agent shall be paid with the Earnest Money Deposit as follows.

2. If the Closing occurs, the Earnest Money Deposit and interest will be credited toward the Purchase Price and released to Seller.

3. If the Closing does not occur after the expiration of the Due Diligence Deadline for any reason other than the default of Seller, the Earnest Money Deposit together with interest thereon 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 together with interest thereon shall be paid to Buyer.

5. If, for any reason, the Escrow Agent 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 Agent 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. If this Agreement and any closing instructions provided to Escrow Agent conflict, the terms of this Agreement will prevail.

#### ***§4.03 Due Diligence.***

a. Document Delivery by Seller. As requested, within three (3) business days after the mutual execution of this Agreement, Seller will order from Escrow Officer (who will promptly deliver to Buyer) a preliminary title report (the "Title Report"), and will deliver to Buyer the appraisal obtained by Seller, and site plans, surveys, environmental reports and studies, asbestos inspections, soils and substrata studies pertaining to the Property and other documents in Seller's possession pertaining to the Property.

b. Inspections. Buyer shall arrange for all inspections of the Property desired by Buyer, including environmental investigations, asbestos inspections, building 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, except for (a) the mere discovery of any adverse condition of the Property, including, without limitation, the presence of any Hazardous Materials, defined below, or (c) any such costs, claims or liability arising from the

intentional or negligent act of the City or its agents and representatives. 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, including without limitation, the physical condition and the condition of title. At any time prior to the Due Diligence Deadline or within 5 days after receipt of any updates to the Title Report containing an exception that was not previously included, Buyer may provide Seller with written notice of its objections to any exceptions state in the Title Report (“Title Objection Notice”). Seller will have 10 days after receipt of Buyer’s Objection Notice to notify Buyer of its inability or unwillingness to remove such exceptions. If Seller is unable or unwilling to remove such exceptions, Buyer may either (a) waive such objections and accept the objected items as Permitted Exceptions, defined below, or (b) terminate this Agreement, in which event, (i) the Escrow Agent will promptly return the Earnest Money Deposit and any interest thereon to Buyer, and (ii) this Agreement will automatically terminate and neither party will have any further rights or obligations under this Agreement, except those that expressly survive termination of this Agreement. Notwithstanding the foregoing, Seller will be obligated to satisfy at or prior to Closing all mortgages or deeds of trust granted by Seller, and all monetary liens or judgments against Seller, in each case which affect title to the Property. All title exceptions which have been accepted, waived, deemed waived, or not objected to by Buyer, together with matters that would be disclosed by a true and accurate survey of the Property, are referred to herein as “Permitted Exceptions.” In addition to the remedies set forth above, if Buyer is unsatisfied with the condition of the Property, Buyer and Seller will work in good faith to amend or modify this Agreement, as reasonably necessary, to make the acquisition and development of the Project viable, whether financially or otherwise, including, without limitation, modifications to the Purchase Price. 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 hereby extended until ten (10) calendar days after the decision by the City Council.

e. Notice to Terminate. Buyer may terminate this Agreement for any reason or no reason at any time on or prior the Due Diligence Deadline, set forth in Attachment B, upon delivery of a written Notice to Terminate, set forth on Attachment B, to the City, in which event, (i) the Escrow Agent will promptly return the Earnest Money Deposit and any interest thereon to Buyer, and (ii) this Agreement will automatically terminate and neither party will have any further rights or obligations under this Agreement, except those that expressly survive termination of this Agreement. If Buyer has not timely served its Notice to Terminate or has delivered written notice of its intent to proceed to Seller by the “Due Diligence Deadline” set forth in Attachment B, Buyer will be deemed to automatically have waived its right to terminate as set forth in this Section, and the parties will proceed to Closing.

**§4.04            *Price and costs of Closing***

- a.     Purchase Price. The Purchase 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 <sup>3</sup>	Seller pays 100%.
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; Seller pays 100% of any pro rated installments needed to be paid to close.
Special Assessments (if any)	Buyer will assume balance, if any.
Sewer	Buyer will assume balance, if any.
Security Deposits	Any security deposit held by Seller under current leases currently affecting the Property shall be credited against the sale price.
Advance utility payments	Buyer will pay pro-rated share, if any.
Escrow Agent Fees	Buyer pays 50%; Seller pays 50%.
Recording Fees	Buyer pays 100%.

<sup>3</sup> NTD: This was already completed and paid for by the City.

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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 or other immediately available funds into escrow.

#### ***§4.05 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 the Permitted Exceptions.

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

1. Except for the Permitted Exceptions, Seller holds and will convey good and marketable title to the Property to Buyer without encumbrances (except for the retained easement), liens, restrictions, covenants (except for the covenant to use the Property for an economic development), 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, 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, works, and materials supplied to the Property by Seller have been paid for in full.

5. The execution, delivery and performance of this Agreement has been duly authorized by Seller, and no other approval, authorization, consent or other act or proceeding is necessary to authorize Seller's execution, and or performance of this Agreement.

6. There is no litigation, arbitration, or other legal or administrative suit, action or proceeding pending, or to Seller's knowledge, threatened, against Seller or the Property with respect to Seller's ownership or operation of the Property, including, but not limited to, any condemnation action relating to the Property.

7. To Seller's Knowledge, (i) there are no Hazardous Materials present on the Property, except in compliance in all material respects with Environmental Laws, and (ii) there has not been any release or discharge of Hazardous Materials in, upon, on or below any portion of the Property, including, but not limited to, soils and groundwater in and around the Property. For purposes of this Agreement, "Hazardous Materials" shall include, but shall not be limited to: (1) any chemical, compound, material, mixture, substance or other matter which has been defined, listed, classified or determined by any regulation, order or rule, or any proposed regulation, order or rule, promulgated by any governmental agency of appropriate jurisdiction, to constitute a hazardous substance, hazardous material, hazardous waste, extremely hazardous waste, infectious waste, toxic substance, toxic pollutant, radioactive material, flammable explosive or other designation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity or "EP toxicity"; and (2) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, gasoline, diesel fuel, motor oil, ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources. "Environmental Laws" means all applicable federal, state and local laws, statutes, ordinances, regulations, policies, guidelines, decisions or orders and any other requirements of any governmental body governing the generation, storage, release, discharge, transportation, removal, remediation, reduction or disposal of Hazardous Materials, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), and Chapters 444, 445A, 445B, 445C, 459 and 590 of the Nevada Revised Statutes ("NRS") and NRS Sections 477.045 and 618.750-618.850, inclusive.

c. Title Insurance. Seller shall at its expense deliver a 2006 Standard Form of ALTA Owners insurance issued by Stewart Title Company ("Title Company") without any

endorsements, subject only to the Permitted Exceptions. If Buyer wishes extended coverage or endorsements, Buyer shall pay the cost, unless otherwise agreed in writing.

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

a.        Warranties and Representations. BUYER HEREBY AGREES AND ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN WRITING IN THIS AGREEMENT AND ANY DOCUMENTS DELIVERED IN CONNECTION WITH THIS AGREEMENT, THE PROPERTY SHALL BE, AND HEREBY IS, SOLD TO BUYER “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 by either party upon written notice.

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 upon written notice to Seller 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.

**§4.07            *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 or as otherwise set forth in this Agreement;
- (iv)       Buyer must have complied with, fulfilled and performed, in all material respects, each of its covenants, terms, and conditions in accordance with this Agreement;

- (v) Escrow Agent shall be irrevocably committed to issue the title insurance required by the joint escrow instructions;
- (vi) Buyer must have delivered the purchase price and its share of expenses to the Escrow Agent as provided herein; and
- (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.

b. If the conditions set forth in this Section are not satisfied on or before closing, then Seller may waive such condition and proceed to closing or may exercise those remedies for breach as provided in §5.04. ***§4.08 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 must have applied for and received final approval for a reversion to acreage and special planning district ("SPD") zoning for the Property each in such form and substance as Buyer deems acceptable, as determined in its sole discretion;
- (ii) 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;
- (iii) Seller must have executed the Easement Agreement in Attachment C and delivered it to Escrow Agent to be recorded at Closing;
- (iv) Seller must have complied with, fulfilled, and performed, in all material respects, each of its covenants, terms and conditions in accordance with this Agreement;
- (v) All of Seller's representations and warranties must remain true and complete in all material respects as of Closing;
- (vi) 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;
- (vii) All of Seller's conditions of Closing have been satisfied; and
- (viii) Buyer funding must be available.
- (ix) Title Company is unconditionally and irrevocably committed to issue to Buyer at Closing, a current ALTA standard coverage owner's policy of title insurance,

inclusive of any endorsements Buyer has requested and Seller has agreed in writing to provide, if any (the "Title Policy"), or upon Buyer's request, an ALTA extended coverage owner's policy of title insurance, in either event, dated the date and time of the Closing Date and with liability in the amount of the Purchase Price, insuring Buyer as owner of good, marketable and indefeasible fee title to the Property under the laws of Nevada, subject only to the Permitted Exceptions.

- (x) No material damage or material condemnation shall have occurred with respect to the Property.

b. If the conditions set forth in this Section are not satisfied on or before closing, then Buyer may waive such condition or may exercise those remedies for breach as provided in §5.04.

**§4.09      *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, upon their reasonable satisfaction of the same; (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 Policy 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.

**§4.10      *Closing; Delays in Closing***

a. Closing Conditions. Escrow shall not close until all conditions and provisions stated in §§4.07 and 4.08 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 to 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 after the 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 otherwise provided in this Agreement, if Closing does not occur by the Closing Deadline due to the default, actions or inactions of a party, for any reason, this Agreement automatically terminates under §6.02, provided the parties may agree to extend the such automatic termination date.

#### ***§4.11 Delivery of Possession of Property.***

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

#### ***§4.12 Seller's Covenants.***

a. Seller will not terminate, amend or modify any existing contract, lease, or use agreement for the Property, or enter into any new written contract or lease with respect to the Property that will not be cancelable by Buyer without penalty upon no greater than thirty (30) days' notice, without the prior written consent of Buyer (which consent may be withheld in Buyer's sole discretion).

b. On or before the Closing Date, Seller will coordinate with the Reno Fire Department to re-classify the "Unnamed Alley", running north-south along the eastern property line of the Property between Riverside Drive and Jones St., as an emergency vehicle access, and will install or cause to be installed whatever signage, striping, curbing, and other improvements is required under applicable code.

c. Seller will reasonably cooperate, upon written request from Buyer, in Buyer's efforts to relocate or remove any easements or other encumbrances that may prevent or inhibit the design and development of the Project.

d. Until the earlier to occur of the Closing or termination of this Agreement, no part of the Property, or any interest therein, will be sold, encumbered or otherwise transferred without Buyer's consent, nor shall Seller create or suffer the creation of any new lien, encumbrance, easement, covenant, lease, license, occupancy agreement, right, or other matter that would be shown as an exception to title to the Property, and if any such item arises, then Seller shall cause the same to be released against the Property prior to the Closing.

## **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) Intentionally deleted.
- (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 attorneys 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, provided such action is filed within 90 days after the event of default.
- (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 to Close 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 §3.03 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.        Except as otherwise set forth in this Agreement, if Closing does not occur by the Closing Date 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 §3.03, (but subject to possible recovery or reimbursement as damages as may be specified in this Agreement); (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 attorneys fees and costs of the interpleader actually incurred by Escrow Agent); (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 that survive termination of this Agreement.

## **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., Nevada time, on the day of deadline.

### **§7.03           *Assignment, Binding Effect***

- a. Except as otherwise set forth in this Agreement, 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; its affiliates, parents, subsidiaries, or one of a series of entities of the Buyer; or any entity in which any such member or manager holds an ownership interest of at least 25%, directly or indirectly, 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; and (iii) the assignee posts an earnest money deposit in an amount to be agreed upon, which will be included as part of the Earnest Money Deposit and credited toward the Purchase Price at Closing, but if no agreement can be reached, then such earnest money deposit shall be the same as was initially posted by Buyer.
- 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 (postage prepaid, return receipt requested), overnight delivery by nationally recognized courier, email or other electronic transmission (provided a follow up notice is sent by another means of notice within three business days), 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, postage prepaid, return receipt requested.

#### **§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 by a court of competent jurisdiction that this Agreement is invalid under NRS 268.063, the parties agree to hold each other harmless from liability arising from or relating solely to the failure of this Agreement to satisfy the obligations of NRS 268.063.

#### **§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) 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 \$25,000; (y) agrees to the payment of money by the City that has not been appropriated by the City Council; or (z) waives or relinquishes any additional real property interest or right not contemplated by this Agreement 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.

**<sup>4</sup>*Attachments***

- A.      Property Description
- B.      Schedule
- C.      Easement Agreement

EXECUTED on the dates indicated below:

**[SIGNATURE PAGES FOLLOW]**

---

<sup>4</sup> NTD: These obligations will already be reserved in the Deed per §3.01, so a memorandum is unnecessary.

Agreement for Economic Development and Purchase/ Sale of Real Property  
(0 Riverside)

**Counterpart Signature Page**

**Buyer**

[Entity Name], a Nevada series limited liability company

By \_\_\_\_\_  
Kurt Stitser, Manager

Date \_\_\_\_\_

Agreement for Economic Development and Purchase/ Sale of Real Property  
(0 Riverside Drive)

**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 \_\_\_\_\_  
Deputy

## Attachment A

### Property Description<sup>5</sup>

APN: 010-590-01 & 02;  
010-591-01 & 02;  
010-592-01 To 06;  
010-593-01 To 06;  
010-594-01 To 06;  
010-595-01 To 06;  
010-601-01 To 06;  
010-602-01 To 04;  
010-603-01 To 04;  
010-604-01

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

All that property lying within the exterior boundaries of RIVERSIDE DRIVE CONDOMINIUMS recorded on June 26, 2007 in the Office of the County Recorder of Washoe County, Nevada as File No. 3547781, Tract No. 4795;

Excepting therefrom all that portion thereof, if any, lying below the natural ordinary high water line of the Truckee River.

Document No. 3989067 is provided pursuant to the requirements of Section 6 of NRS 111.312.

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<sup>5</sup> To be confirmed by Title.

## 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	§4.02	Five business days after Approval Date
c. Application for Reversion to Acreage	§4.08	150 calendar days after Approval Date
d. Application for SPD	§4.08	90 calendar days following Approval Date
e. Due Diligence Deadline and Notice to Terminate Deadline	§4.03	150 calendar days following the final approval of the SPD.
f. Closing Date	§4.02	45 calendar days after later to occur of (i) Due Diligence Deadline, or (ii) the date both the SPD has been issued, and the reversion to acreage has been recorded, or such date as the parties may agree in writing.

**Attachment C**  
**Form of Easement Agreement**

APN: \_\_\_\_\_

When Recorded Mail To:

[Entity Name]

[Address]

The undersigned hereby affirms that this document submitted for recording does not contain the personal information of any person or persons per N.R.S. 239B.030.

ACCESS AND FLOOD MITIGATION EASEMENT

This Access and Flood Mitigation Easement (“Agreement”) is made \_\_\_\_\_, 2023 by and between [Entity Name], a Nevada series limited liability company (“Grantor”), as grantor, and City of Reno, Nevada, a municipal corporation (“City”), as grantee.

RECITALS

A. Grantor is the owner of certain real property commonly known as 0 Riverside Dr., Reno, NV, Assessor’s Parcel Number \_\_\_\_\_, as more particularly described in Exhibit A (“Property”).

B. The Truckee River runs adjacent to the Property and the City desires to construct, install and maintain certain drainage and flood water mitigation improvements in and to that portion of the Property more fully described and depicted on Exhibit B, attached hereto and made a part hereof (the “Easement Area”).

C. Grantor desires to grant the City easements for access, construction, maintenance and use of existing and drainage and flood water mitigation improvements across the Easement Area, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and City agree as follows:

1. Grant of Easement. Grantor hereby grants to City, its successors and assigns, the following easements (collectively, the “Easements”):

- a. a permanent, a non-exclusive easement over, across, upon, under, and through the Easement Area to construct, alter, maintain, inspect, repair, replace, reconstruct, and operate one or more drainage and flood water mitigation facilities, including, without limitation, existing or future flood walls, siphons, culverts, pipes and other related appurtenances (“Mitigation Facilities”) to discharge and convey surface and storm water flows, including, without limitation, from overflow of the Truckee River, into, across, over and through the Easement Area; and
- b. a permanent, a non-exclusive easement over, across, upon, under, and through the Property for reasonable access, ingress and egress necessary for the activities in Section 1(a).

2. Compliance with Laws. The City will fully comply with (and shall cause all persons acting through or on behalf of them to fully comply with) all laws, ordinances, rules and regulations (including, without limitation, dust control permits and procedures) applicable to the construction, installation, maintenance and use of the Mitigation Facilities, Easements and Easement Area.

3. Construction. The City, at its sole cost and expense, will be solely responsible for all design, plans, costs and construction of the Mitigation Facilities; provided, however, that all designs and plans shall be submitted to Grantor for review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The City shall have control or charge over, timing and sequencing, and construction means, methods, techniques, and procedures in connection with performance of the Mitigation Facilities work, subject to the approved plans and specifications, and provided that such work will not unreasonably interfere with Grantor’s use of the Property or that of Grantor’s employees, tenants, invitees, guests, contractors, agents or representatives. The City shall be solely responsible for prosecuting the work on the Mitigation Facilities in the Easement Area in a professional, workmanlike, and lien free manner and agrees to coordinate such construction with Grantor in advance so as to minimize adverse impacts on Grantor’s use of the Property or that of Grantor’s employees, tenants, invitees, guests, contractors, agents or representatives. The City shall notify Grantor no later than 48 hours prior to commencing any construction or other work on the Mitigation Facilities.

4. Costs for Maintenance; Right to Repair. Upon completion of the Mitigation Facilities, the City shall, at its sole cost and expense, maintain the Mitigation Facilities in good order, including, without limitation, keeping the Mitigation Facilities reasonably free from debris and other blockages. If the City fails to maintain the Mitigation Facilities in good order, as determined in Grantor’s reasonable discretion, Grantor may conduct such work, repairs, maintenance and reconstruction of the Mitigation Facilities as Grantor determines is reasonably necessary or appropriate (the “Work”), on behalf of and at the City’s cost and expense. The City will promptly reimburse Grantor for Grantor’s reasonable costs actually incurred relating to the Work. If the City fails to reimburse Grantor within 30 days after receipt of a written request, such delinquent amount will bear interest from the due date until paid, at the rate of 12% per annum, commencing on the date such amounts were due.

5. No Liens. The City will not directly or indirectly create, or permit to be created or remain, and will discharge promptly, any lien, encumbrance or charge upon the Easement Areas

or any part thereof, or upon any of the Property, arising out of or in connection with any of the work or improvements performed or constructed by or on behalf of the City under this Easement. The City may contest any obligation to a lienholder, provided that it first releases any liens by posting a surety bond pursuant to Chapter 108 of the Nevada Revised Statutes.

6. Relocation. Grantor may, at any time, require the relocation of the Easement Area and Mitigation Facilities to a new location on the Property, provided (i) such new location is suitable for the City's intended purposes of providing stormwater drainage and floodwater mitigation for the City of Reno; (ii) both Grantor and the City have reasonably approved the plans and designs for the relocated Mitigation Facilities; (iii) Grantor conveys to the City an equivalent easement in the new location; and (iv) Grantor pays for all reasonable out-of-pocket costs and expenses arising from or related to the relocation of the Mitigation Facilities, including, design costs and retirement of existing facilities. The parties will promptly execute and record an amendment to this Agreement, in a form reasonably acceptable to the parties, to effectuate the approved relocation. Upon execution and recording of such amendment, the City will promptly relocate the affected Mitigation Facilities accordingly, at Grantor's sole cost and expense, to the relocated Easement Area, in accordance with the approved plans and designs.

7. Notices. Notices required or permitted herein shall be in writing and personally delivered or sent by overnight courier, email with confirmation of receipt, or registered or certified United States mail, postage prepaid and return receipt requested, addressed as follows:

Grantor: [Entity Name]  
[address]

City: City of Reno  
Attn: City Manager  
One East First Street  
P.O. Box 1900  
Reno, Nevada 89509

Or to the address listed by the Washoe County Assessor as the record owner's mailing address for tax purposes; or to such other addresses as any party hereto may from time to time designate in writing and deliver in the manner set forth above. Notices shall be deemed given upon the earlier of seventy-two (72) hours after deposit in the United States mail in the manner provided above, if given by mail, or upon delivery to the respective addresses set forth above, if delivered personally or sent by overnight courier.

8. Breach. In the event of breach, or attempted or threatened breach, by either party of any of the terms, covenants or conditions hereof, the non-defaulting party shall be entitled to full and adequate relief by injunction and any other remedies available at law or in equity. The remedies herein provided shall be cumulative as to all other remedies permitted at law or in equity.

9. Miscellaneous. This document shall be governed by the laws of the State of Nevada. In any action to enforce its rights hereunder, the prevailing party or parties shall be entitled to

reasonable attorneys' fees and costs of suit from the non-prevailing party or parties. This document may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument. Each party agrees that it shall, from time to time, upon the request of the other party, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably requested to effectuate the intent and purpose of this Agreement or which may be reasonably necessary or advisable to confirm title to or interest in or to enable it to deal with and dispose of, any of the interests conveyed herein or to be conveyed hereunder, including without limitation, documents reasonably necessary to effectuate the easements described in Section 1.

*[Signature page to follow]*

*[Counterpart signature page to Access and Flood Mitigation Easement]*

THE EASEMENTS GRANTED IN THIS ACCESS AND FLOOD MITIGATION EASEMENT and the other terms and conditions contained herein shall be appurtenant to and run with the land, and shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. The rights granted herein shall be freely assignable.

**GRANTOR:**

**[Entity Name]**, a Nevada limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NEVADA            )  
  : ss.  
COUNTY OF WASHOE        )

On the \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said State, personally appeared \_\_\_\_\_ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

\_\_\_\_\_  
NOTARY PUBLIC

*[Counterpart pages to follow]*

*[Counterpart signature page to Access and Flood Mitigation Easement]*

**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 \_\_\_\_\_  
Deputy

STATE OF NEVADA       )  
  : ss.  
COUNTY OF WASHOE    )

On the \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said State, personally appeared \_\_\_\_\_ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said State, personally appeared \_\_\_\_\_ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

\_\_\_\_\_  
NOTARY PUBLIC

Exhibit A  
Description of Property  
[To be attached]

Exhibit B  
Description and Depiction of Easement Area

[To be attached]