

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (the "*Agreement*") is entered into as of the ___ day of September, 2024 by and between CITY PARKWAY V, INC., a Nevada non-profit company ("*CPV*"), and LAS VEGAS MUSEUM OF ART, INC., a Nevada non-profit corporation ("*Developer*"). CPV and Developer are individually referred to herein as a "*Party*" and collectively referred to herein as "*Parties*".

WITNESSETH:

WHEREAS:

A. CPV desires to sell to Developer, and Developer desires to purchase from CPV certain real property in the master plan known as Symphony Park ("*Symphony Park*") as depicted in the Site Plan attached hereto as Exhibit A and legally described on Exhibit B attached hereto (the "*Site*").

B. The Site is being conveyed to Developer by CPV on the basis that (i) Developer will develop the Project (hereinafter defined) on the Site and (ii) if Developer does not commence or complete construction of the Project as set forth in the Project DSLURS (hereinafter defined), CPV shall have the right to repurchase the Site from Developer pursuant to the Project DSLURS.

C. CPV and Developer mutually desire to enter into this Agreement to set forth their agreements as to the conveyance of the Site to Developer and the development of the Project.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and conditions contained herein, the Parties agree as follows:

1. GENERAL PROVISIONS

1.1 Purpose of Agreement. By executing this Agreement, CPV agrees to sell the Site to Developer and Developer agrees to purchase the Site, subject to the terms and conditions set forth in this Agreement. The purpose of this Agreement is to enable the development of a nonprofit art museum and associated museum-related uses. The development of the Site pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City, and the health, safety, morals and welfare of its residents and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

1.2 Definitions.

"*Additional Objections*" shall have the meaning set forth in Section 11(b).

"*Affiliate*" means, with respect to a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Person. For purposes hereof, the term "control" (including the terms "controlled by" and "under common control with") shall mean the possession, directly or indirectly, of a Controlling Interest (as defined herein).

"*Agency*" means the City of Las Vegas Redevelopment Agency and any permitted assignee of, or successor to, its rights, powers and responsibilities.

“*Agreement*” has the meaning set forth in the preamble to this Agreement.

“*City*” means the City of Las Vegas, Nevada, a political subdivision of the State of Nevada.

“*City Council*” means the city council of the City of Las Vegas.

“*City Parties*” has the meaning set forth in Section 14.2.

“*City Parties Disclaimer*” has the meaning set forth in Section 6.12.

“*Close of Escrow*” and/or “*Closing*” means the consummation of the acquisition by Developer of fee title to the Site, which shall be evidenced by the recording of a Deed in the Recorder’s Office (as defined herein).

“*Closing Date*” has the meaning set forth in Section 10.1.

“*Closing Payment*” has the meaning set forth in Section 5.2.

“*Completion of Construction*” shall have the meaning set forth in the Project DSLURS.

“*Controlling Interest*” means the ownership, directly or indirectly, of, or other legal right to direct the voting of, 51% of more of the voting interests in a Person or the governing body of a Person.

“*County*” means Clark County, Nevada.

“*CPV*” has the meaning set forth in the opening paragraph of this Agreement, and CPV’s permitted successors and assigns.

“*Deed*” means CPV’s Grant, Bargain and Sale deed in the form of Exhibit D attached hereto.

“*Developer*” has the meaning set forth in the opening paragraph of this Agreement and Developer’s permitted successors and assigns.

“*Design Standards*” means the Symphony Park Design Standards incorporated into Section 19.06.060 of the Municipal Code of the City by Bill No. 2006-68, Ordinance No. 5874 as revised and adopted on April 2, 2014 by Ordinance 6311.

“*Earnest Money Deposit*” has the meaning set forth in Section 5.1.

“*Effective Date*” has the meaning set forth in Section 19.

“*Environmental Claim*” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, liens, investigations, proceedings or written notices of noncompliance, liability or violation by any person or entity (including any governmental or regulatory authority) alleging potential liability (including, without limitation, potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from (a) the presence, or release or

threatened release into the environment, of any Hazardous Substance; (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or (c) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence or release of any Hazardous Substance.

"Environmental Covenant" means that Covenant in the form attached hereto as Exhibit E.

"Environmental Law" means, to the extent applicable to the Site, any past, present or future federal, state or local law, statute, rule, regulation, code, ordinance, order, decree, judgment, injunction, notice, policy, or binding agreement, and all amendments thereto, issued, promulgated, or entered into by any Government Authority, relating in any way to the environment, the preservation, degradation, loss, damage, restoration or reclamation of natural resources, waste management, health, industrial hygiene, safety matters, environmental condition or Hazardous Substance.

"Escrow" has the meaning set forth in Section 9.1.

"Escrow Agent" has the meaning set forth in Section 9.1.

"Feasibility Review Period" has the meaning set forth in Section 14.1(a).

"Governmental Authority" or *"Governmental Authorities"* means (i) the United States of America, the State of Nevada, the City, the County, any other community development district and any agency, department, commission, board, bureau, instrumentality or political subdivision (including any county or district) of any of the foregoing, now existing or hereafter created, having jurisdiction over Developer or over, under or above the Site (or any portion thereof) and (ii) any public utility or private entity which will be accepting and/or approving any development on the Site.

"Hazardous Substance" means any product, byproduct, compound, substance, chemical, material or waste, including, without limitation, asbestos, solvents, degreasers, heavy metals, refrigerants, nitrates, urea formaldehyde, polychlorinated biphenyls, dioxins, petroleum and petroleum products, fuel additives, and any other material, whose presence, characteristics, nature, quantity, intensity, existence, use, manufacture, possession, handling, disposal, transportation, spill, release, threatened release, treatment, storage, production, discharge, emission, remediation, cleanup, abatement, removal, migration, or effect, either by itself or in combination with other materials is or is allegedly: (a) injurious, dangerous, toxic, hazardous to human or animal health, aquatic or biota life, safety or welfare or any other portion of the environment; (b) regulated, defined, listed, prohibited, controlled, studied or monitored in any manner by any Government Authority or Environmental Laws; or (c) a basis for liability to any Government Authority or third party under any regulatory, statutory or common law theory due to such material, waste or substance being designated, classified or regulated as a "hazardous material," "hazardous substance," "toxic substance" or as a "Class I" or "Class II" waste under any applicable Environmental Law, or under any other Nevada law.

"Indemnitor" has the meaning set forth in Section 8.

"Liabilities" means any and all liens, demands, liabilities, actions, causes of action, judgments, costs, claims, damages, suits, losses and expenses, penalties, fines or

compensation whatsoever, direct or indirect (including reasonable legal fees, expert witness fees, and court, mediation, arbitration and administrative costs and expenses).

“*NRS*” means Nevada Revised Statutes, as amended from time to time.

“*Party*” has the meaning set forth in the preamble to this Agreement.

“*Parties*” has the meaning set forth in the preamble to this Agreement.

“*Person*” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government, or any city or political subdivision thereof.

“*Project*” means a development consisting of (i) an art museum that is approximately 90,000 square feet, with associated uses, including exhibition and community spaces within the museum.

“*Project DSLURS*” means those Declaration of Special Land Use Restrictions in the form of Exhibit “F” attached hereto.

“*Project Financing*” has the meaning set forth in Section 6.8.

“*Purchase Price*” has the meaning set forth in Section 4.

“*Recorder’s Office*” means the Office of the Recorder of the County.

“*Releasing Parties*” has the meaning set forth in Section 14.3(c).

“*Required Approvals*” means all approvals and permits necessary under the Requirements for the development, construction and operation of the Project, including without limitation, the issuance of a building permit for the construction of the Project.

“*Requirement*” means (i) any and all laws, rules, regulations, constitutions, orders, ordinances, charters, statutes, codes, executive orders and requirements (now existing or hereafter applicable) of all Governmental Authorities having jurisdiction over Developer or Symphony Park (including, without limitation, the Americans with Disabilities Act and any of the foregoing relating to handicapped access or parking, the building code of the City and the laws, rules, regulations, orders, ordinances, statutes, codes and requirements of any applicable fire rating bureau or other body exercising similar functions); (ii) any temporary or final certificates of completion and/or occupancy issued for the Site, as then in force; (iii) any and all provisions and requirements of any insurance policy required to be carried by Developer under this Agreement; and (iv) any and all terms, conditions or covenants of any and all easements, covenants, conditions or restrictions of record, declarations, or other indentures, documents or instruments of record. The term “Requirement” includes the Symphony Park Documents, as such may be amended from time to time, and the Design Standards, as such may be amended from time to time.

“*Risk Assessment*” has the same meaning as set forth in Exhibit B – Project Environmental Management Agreement – to the Environmental Covenant.

“*Schedule of Performance*” means the schedule of performance set forth in Exhibit C attached hereto, as it may be amended from time to time, subject to extension due to Unavoidable Delays.

“*Site*” has the meaning set forth in Recital A.

“*Soil Management Plan*” means that final soil and groundwater management plan - Union Park 61-acre Site former Union Pacific Railroad Fueling and maintenance yard Las Vegas, Nevada Project No. 80559 March 21, 2007.

“*Title Policy*” has the meaning set forth in Section 12.

“*Symphony Park*” has the meaning set forth in Recital A.

“*Symphony Park Documents*” has the meaning set forth in Section 6.3.

“*Unavoidable Delays*” means delays or stoppages of work due to any of the following (provided that such delay is beyond a Party’s reasonable control): war, sabotage, insurrection, civil commotion, strikes, labor disputes, slowdowns, lock outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, acts of terrorism, epidemics, pandemics, disease, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions, litigation, unusually severe or abnormal weather conditions, a moratorium or any regulatory policy which impedes or precludes private development on the Site, unavailability or failure of utilities, material shortages resulting directly from general market shortages, labor shortages resulting directly from general market shortages, criminal acts of another party other than Developer or any party related to Developer, or a court order which causes a delay (unless resulting from disputes between or among the Party alleging an Unavoidable Delay, present or former employees, officers, members, partners or shareholders of such alleging Party or Affiliates or present or former employees, officers, partners, members or shareholders of such Affiliates) of such alleging Party. Any delay resulting from Hazardous Substances disclosed in environmental reports prepared on the Site prior to Close of Escrow shall not constitute Unavoidable Delay. The Party claiming an Unavoidable Delay shall use reasonable good faith efforts to notify the other Party not later than twenty (20) days after such Party knows of the occurrence of an Unavoidable Delay. An extension of time for an Unavoidable Delay shall only be for the period of the Unavoidable Delay, which period shall commence to run from the time of the commencement of the cause of the Unavoidable Delay. Developer agrees that Developer’s failure to secure Project Financing shall not be an Unavoidable Delay.

“*UP*” has the meaning set forth in the Environmental Covenant.

“*UP Covenant*” has the meaning set forth in the Environmental Covenant.

2. THE SITE.

The Site is not currently a separate legal parcel. The Site is designated as a portion of APN 139-34-211-005 and consists of approximately 1.50 gross acres, as depicted in Exhibit A and described more particularly in Exhibit B, each of which are attached to this Agreement, also sometimes described as “Parcel L-North” of Symphony Park. CPV shall be responsible to prepare and record, prior to or at the Close of Escrow, a record of survey at CPV’s cost and expense which shall be satisfactory to Developer in its reasonable discretion and to the Title Company issuing the Title Policy (the “Survey”), and upon acceptance of the Survey by CPV, Developer, and the Title

Company, the legal description contained within the Survey shall be the legal description in the Deed and Title Policy.

3. PARTIES TO THE AGREEMENT

3.1 CPV. The office of CPV is located at 495 South Main Street, Las Vegas, Nevada 89101. CPV shall have the right to assign CPV's interest under this Agreement (i) to the City or an Affiliate thereof and (ii) to a purchaser of all of Symphony Park or a purchaser of a portion of Symphony Park that includes the Site, provided, however, that such purchaser agrees in writing to assume all of CPV's obligations under this Agreement and agrees to make the same representations as those set forth in Section 7.1 as of the date of the Close of Escrow. Upon such assignment and assumption, CPV shall have no further obligations or liabilities under this Agreement arising from and after the date of such assignment and assumption.

3.2 Developer. The Developer is Las Vegas Museum of Art, a Nevada nonprofit corporation. The principal office of the Developer is located at 3800 Howard Hughes Parkway, Suite 960, Las Vegas, NV 89169. Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided, including any development entity controlled by the Developer. Pursuant to Resolution R-105-99 adopted by the City Council effective October 1, 1999, Developer warrants that it has disclosed, on the form attached hereto as Exhibit G, all principals, including partners or members, of Developer, as well as all persons and entities holding more than one percent (1%) interest in Developer or any principal, partner or member of Developer. Developer shall provide CPV with written notification of any material change in the above disclosure within thirty (30) days of any such change. The Developer's obligations set forth in this section shall expire upon Completion of Construction.

3.3 Assignments and Transfers. The qualifications and identity of Developer are of particular concern to the City and CPV, and it is because of such qualifications and identity that CPV has entered into this Agreement with Developer. Developer and CPV agree that, prior to Completion of Construction:

(a) No voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

(b) Developer shall not directly or indirectly transfer or assign all or any part of this Agreement without the prior written approval of CPV, which approval may be withheld at CPV's sole discretion. Developer agrees that a transfer of the direct equity interests in Developer shall constitute a transfer or assignment of Developer's interest in this Agreement. Notwithstanding the foregoing, Developer may transfer or assign this Agreement without obtaining CPV's prior written approval to a Developer Affiliate, provided, however, that first (i) Developer provides written evidence that the assignee qualifies as a Developer Affiliate such Developer Affiliate, (ii) the Developer Affiliate assumes this Agreement in writing and a copy thereof is provided to CPV, (iii) the Developer Affiliate agrees to make the same representations as those set forth in Section 7.2 as of the date of the Close of Escrow, (iv) the Developer Affiliate provides CPV with a Disclosure of Principals and (v) such Developer Affiliate provides CPV with an address for notices under this Agreement. Developer may encumber its interest in the Site and/or the Project in connection with obtaining construction financing for the construction of the Project.

(c) Any change (voluntary or involuntary) in the membership, management or control of Developer except as expressly provided herein shall be an event of default of Developer under Section 17.1 of this Agreement.

(d) CPV shall have thirty (30) days after Developer (i) gives written notice to CPV of a proposed assignment or transfer to an Affiliated Venture, any other person, entity, investor, builder or developer requiring CPV's approval hereunder; and (ii) provides CPV with such information as reasonably required by CPV to make an informed decision to review and approve such assignment or transfer. Failure of CPV to disapprove any proposed assignment or transfer in writing within such thirty (30) day time period shall constitute approval thereof by CPV unless approval of the City Council is required in which case the time for such approval will be extended in order to comply with the required and customary procedures for obtaining approval of the City Council.

4. ACQUISITION OF THE SITE AND PURCHASE PRICE.

CPV agrees to convey to Developer, and Developer agrees to accept the conveyance of, the Site on the terms and subject to the conditions provided herein. The Purchase Price for the Site is One Dollar (\$1.00), payable in accordance with the provisions of Sections 5 and 9.

5. PAYMENT OF THE PURCHASE PRICE. The Purchase Price for the Site and payment thereof shall be as follows:

5.1 Earnest Money. Developer has previously delivered a deposit in the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) (the "*ENA Deposit*") to CPV in connection with that certain Exclusive Negotiation Agreement between CPV and Developer, as amended. CPV has delivered the ENA Deposit to the Escrow Agent. The Parties agree that the ENA Deposit shall be deemed to be the earnest money deposit under this Agreement (the "*Earnest Money Deposit*"). Such Earnest Money Deposit less the Purchase Price and any adjustments made pursuant to Section 5.2 shall be returned to Developer at Closing.

5.2 Closing Payment. Upon the Close of Escrow for the Site, the Earnest Money Deposit shall be returned to Developer less the Purchase Price and any amounts owed by Developer hereunder (the "*Closing Payment*").

6. SITE DEVELOPMENT

6.1 Generally. Except as provided in the Environmental Covenant, all of the costs for all permits and approvals for the development of the Project shall be borne exclusively by Developer. Developer acknowledges and agrees that CPV does not issue any permits or approvals related to the development and construction of the Project and that all such permits or approvals must be issued by the respective agency having approval authority over the Project. Developer acknowledges that CPV has no authority to issue or expedite any such permits or approvals.

6.2 Schedule of Performance. Developer covenants to proceed with the development of the Project in strict compliance with the Schedule of Performance (as may be extended due to Unavoidable Delays). Developer agrees that in the event it fails to proceed with the development of the Project and meet the required performance dates as set forth in the Schedule of Performance and meet the milestones set forth in the Schedule of Performance (as may be extended due to Unavoidable Delays), Developer will be in default of this Agreement as set forth in Section 17.1.

6.3 Symphony Park Documents. Developer and CPV agree that the Site and the Project shall be part of the Symphony Park Owners Association and in connection therewith the

Site and the Project shall be subject to the following which have been delivered to Developer: (a) the Charter for Symphony Park Master Association and any supplements thereto; (b) the Articles of Incorporation of the Symphony Park Master Association, (c) the by-laws of the Symphony Park Master Association, (d) the Design Standards; (e) the rules and regulations of the Symphony Park Master Association adopted from time to time; and (f) the Shared Parking Covenants, Conditions and Restrictions for Symphony Park (collectively referred to herein as the "*Symphony Park Documents*"). Developer agrees to accept the Site subject to the Symphony Park Documents as any may be amended, modified or restated from time to time. Developer acknowledges receipt of copies of the Symphony Park Documents.

6.4 Gaming Restriction. Developer agrees that the Deed will contain a restriction on the Site prohibiting any gaming use on the Site, which restriction will be in effect for a period of sixty (60) years from the date of recordation of the Deed.

6.5 CPV Obligations.

(a) Except as set forth in the Environmental Covenant and Section 6.9, Developer agrees that CPV, the City, the Agency or any Affiliates thereof shall not have any obligation whatsoever to contribute any funds or other subsidies or construct any improvements in connection with the development of the Project.

(b) Developer agrees that no obligation assumed by or imposed upon CPV by this Agreement or remedy granted or otherwise arising in, under or pursuant to this Agreement against CPV shall require the payment of money by CPV, or the performance of any action by CPV, the performance of which requires money from CPV, except to the extent that funds are available for such payment or performance from City appropriations therefor lawfully made by the City. This Agreement shall not be construed as obligating the City Council to make future appropriations for the payment of monies or the performance of any obligations of CPV under this Agreement.

6.6 Project DSLURS. Developer agrees to enter into the Project DSLURS at the Close of Escrow which will be recorded against the Site at the Close of Escrow. Developer acknowledges that the Project DSLURS are required by CPV in consideration of CPV's agreement to sell the Site to Developer and that the Project DSLURS will govern the development of the Project and provide CPV with the right to repurchase the Site in the event that Developer does not commence construction of the Project or complete construction of the Project, as further set forth in the Project DSLURS.

6.7 Developer Reporting. Developer agrees to provide monthly written updates to CPV setting forth the current status of the development of the Project, including the status of the milestones set forth on the Schedule of Performance. In addition, Developer agrees that, if requested by CPV, its representatives shall no less than once a year appear at meetings of the City Council to report on the status of Developer's efforts in connection with the Project.

6.8 Financing. Developer agrees that it is a condition to CPV's obligation to close the sale of the Site to Developer that Developer has in place the necessary financing for the construction of the Project and in the event that such financing is not in place CPV will not be required to close the sale of the Site. No later than five (5) business days prior to the Close of Escrow, Developer shall submit to CPV written and documentary evidence requested by CPV and satisfactory to CPV demonstrating that Developer has firm and binding commitments for the equity capital and construction financing necessary to pay all the costs of the construction of the Project, provided,

however, that the terms and conditions of such financing are subject to Developer's sole and complete discretion in all respects of Developer (the "*Project Financing*"). The failure of Developer to provide such proof Project Financing shall constitute an event of Default of Developer under Section 17.1.

7. GENERAL REPRESENTATIONS AND WARRANTIES

7.1 CPV's Representations. CPV represents and warrants that as of the date hereof and as of the date of the Close of Escrow for the acquisition of the Site:

(a) CPV has all requisite power and authority to enter into and perform its obligations under this Agreement, the Deed, the Environmental Reimbursement Covenant and the Project DSLURS.

(b) By proper action of CPV, CPV's signatories have been duly authorized to execute and deliver this Agreement, the Deed, the Environmental Covenant and the Project DSLURS.

(c) The execution of this Agreement, the Deed, the Environmental Covenant and the Project DSLURS by CPV does not violate any provision of any other agreement to which CPV is a party.

(d) Except as may be specifically set forth herein, no approvals or consents not heretofore obtained by CPV are necessary in connection with the execution of this Agreement, the Deed, the Environmental Covenant and the Project DSLURS by CPV or with the performance by CPV of its obligations hereunder or under any of the other attached exhibits.

(e) To CPV's actual knowledge, no condemnation, eminent domain or similar proceedings have been instituted or threatened against the Site.

(f) To CPV's actual knowledge, there are no legal actions, suits or proceedings pending or to CPV's knowledge threatened before any judicial body or any governmental or quasi-governmental authority against the Site or against CPV which would inhibit CPV's ability to perform its obligations under this Agreement, the Deed, the Environmental Covenant and the Project DSLURS.

(g) To CPV's actual knowledge, there are no legal actions, suits or proceedings, pending or to CPV's knowledge threatened, before any judicial body or any governmental or quasi-governmental authority, against or affecting the Site.

(h) To CPV's actual knowledge, the execution, delivery and performance of this Agreement, the Deed, the Environmental Covenant and the Project DSLURS by CPV will not (i) conflict with or be in contravention of any provision of law, order, rule or regulation applicable to CPV or the Site; or (ii) result in any lien, charge or encumbrance of any nature on the Site other than as permitted by this Agreement.

As used in this Agreement, the term "*CPV's actual knowledge*" means the actual knowledge of the President or any Vice President of CPV or the City Manager of the City.

7.2 Developer's Representations. Developer represents and warrants to CPV that as of the date hereof and as of the date of the Close of Escrow for the acquisition of each Parcel:

(a) Developer is a nonprofit corporation duly organized and existing under the laws of the State of Nevada and, as of the date of the Close of Escrow, shall be qualified to do business in the State of Nevada.

(b) Developer has all requisite power and authority to carry out business as now and whenever conducted in connection with the Project and to enter into and perform its obligations under this Agreement, the Environmental Covenant and the Project DSLURS.

(c) By proper action of Developer, Developer's signatories have been duly authorize and the execution of this Agreement, the Environmental Covenant and the Project DSLURS by Developer does not violate any provision of any other agreement to which Developer is a party.

(d) Except as may be specifically set forth in this Agreement, no approvals or consents not heretofore obtained by Developer are necessary in connection with the execution of this Agreement by Developer or with the performance by Developer of its obligations hereunder.

(e) Neither Developer nor any of its principals is currently a debtor in a case under the Bankruptcy Code (Title 11 U.S.C.), is the subject of an involuntary petition under the Bankruptcy Code, has made an assignment for the benefit of creditors or is insolvent and unable to pay its debts as they become due.

(f) To Developer's actual knowledge, there are no legal actions, suits or proceedings pending or threatened before any judicial body or any governmental or quasi-governmental authority against Developer which would inhibit Developer's ability to perform its obligations under this Agreement, the Environmental Covenant and the Project DSLURS.

8. BROKERS.

(a) Each Party warrants and represents to the other that no broker, finder or other intermediary hired or employed by it is entitled to a commission, finder's fee or other compensation based upon the transaction contemplated hereby and each Party (the "*Indemnitor*") shall indemnify and hold harmless the other Party from and against any and all liens, demands, liabilities, causes of action, judgments, costs, claims, damages, suits, losses and expenses, or any combination thereof, including attorneys' fees, of any nature, kind or description, caused by or arising out of the claim of any broker, finder or other intermediary alleging to have been employed or hired by the Indemnitor, to a commission, finder's fee or other compensation based upon the transactions contemplated hereby.

9. ESCROW AND CLOSING

9.1 Escrow and Escrow Instructions. CPV and Developer agree to utilize File No. NCS-1205948-HHLV at First American Title Insurance Company (the "*Escrow*"), Attention: Anastasia Dion, 8311 W Sunset Road, Suite 100, Las Vegas, Nevada 89113, as escrow agent ("*Escrow Agent*"). This Agreement constitutes the joint escrow instructions of CPV and Developer, and a fully executed copy of the Agreement shall be delivered to Escrow Agent upon the execution hereof. CPV and Developer shall provide such additional escrow instructions as shall be necessary

and consistent with this Agreement. Escrow Agent hereby is empowered to act under this Agreement, and, upon indicating its acceptance of the provisions of this Section 9 in writing, delivered to CPV and to Developer after the opening of the escrow, shall carry out its duties as Escrow Agent hereunder.

9.2 Developer's Escrow Deposits.

(a) Not later than one (1) business day prior to a Closing, Developer shall deposit and deliver to Escrow Agent the following items:

(i) immediately available funds in an amount equal to the Closing Payment plus any prorations due from Developer pursuant to Section 13 below, to the extent the total of the foregoing amounts is greater than the Earnest Money Deposit;

(ii) two (2) original copies, duly executed and acknowledged by Developer of the Project DSLURS and the Environmental Covenant;

(iii) Developer's certificate signed by an officer or director of Developer that all of Developer's representations and warranties set forth herein are true and correct in all material respects as of the Closing Date; and

(iv) any other documents, instruments, data, records, correspondence or agreements called for under this Agreement which have not been delivered.

(b) Developer shall deposit into Escrow and shall pay the following fees, charges and costs after Escrow Agent has notified Developer of the amount of such fees, charges and costs, but not later than one business day prior to the scheduled date for a Closing:

(i) all of the premium and costs for the extended coverage portion of the Title Policy and for any special endorsements to be paid by Developer as set forth in Section 12 below;

(ii) one-half of fees of Escrow Agent and one-half of the costs for recording the Deed, the Project DSLURS and the Environmental Covenant.

(iii) the amount of the real property transfer tax for the conveyance of the Site from CPV to Developer.

9.3 CPV's Escrow Deposits.

(a) Not later than one business day prior to the Close of Escrow, CPV will deposit with Escrow Agent the following:

(i) the Deed duly executed and acknowledged by CPV;

(ii) two (2) original copies, duly executed and acknowledged by CPV of the Project DSLURS and the Environmental Covenant;

(iii) a non-foreign transferor certificate in customary form duly executed by CPV;

(iv) CPV's certificate signed by an officer or director of CPV that all of CPV's representations and warranties set forth herein are true and correct in all material respects as of the Closing Date; and

(v) any other documents, instruments, data, records, correspondence or agreements called for under this Agreement which have not been delivered.

(b) CPV shall be charged with the following fees, charges and costs after Escrow Agent has notified CPV of the amount of such fees, charges and costs, which amount CPV shall deposit with Escrow Agent prior to or at the Close of Escrow ("*CPV's Deposit*");

(i) ad valorem taxes, if any, upon the Site for any time prior to conveyance of title;

(ii) any prorations due from CPV pursuant to Section 13 below;

(iii) one-half of fees of Escrow Agent; and

(iv) all of the premium and costs for the standard coverage portion of the Title Policy; and

(v) one-half of the costs for recording the Deed, the Project DSLURS and the Environmental Covenant.

9.4 Additional Escrow Deposits. The Parties shall also timely deliver into Escrow (a) any transfer declarations, returns or other similar documents satisfying federal or Nevada state law requirements, if any; (b) evidence reasonably satisfactory to the other Party and Escrow Agent respecting the authorization and execution of the documents required to be delivered hereunder; and (c) such additional documents as may be reasonably required by the other Party or Escrow Agent in order to consummate the transactions provided hereunder.

9.5 Closing Instructions. On the Closing Date, following receipt of authorization from CPV and Developer, Escrow Agent is authorized and instructed to:

(a) Record the Survey (if the same was not previously recorded, Deed, the Project DSLURS and the Environmental Covenant.

(b) Deliver to CPV by wire transfer or intrabank transfer funds in an amount equal to CPV's Deposit less CPV's closing costs set forth in Section 9.3(b) above, or refund to Developer any funds due at Closing to Developer.

(d) Deliver to Developer the Title Policy.

(e) Prepare and submit to the Internal Revenue Service the information return and statement concerning the closing of the Escrow required by Section 6045(e) of the Internal Revenue Code of 1986, unless the Information Return is not required under the regulations promulgated under Section 6045(e).

9.6 Instructions Upon Recordation. The instruments that are required to be recorded and/or delivered under this Agreement shall provide that the Recorder's Office shall return

them to Escrow Agent after recordation, and upon receipt thereof, Escrow Agent shall deliver the following:

(a) to CPV: (i) a copy of the Deed as recorded; (ii) the original recorded Covenant and Project DSLURS; (iii) plain copies of the real property transfer tax declaration; (iv) the original of Developer's certificate as to its representations and warranties; and

(b) to Developer: (i) the original of the Deed as recorded; (ii) an original of the Covenant and Project DSLURS, each in counterparts; (iii) plain copies of the real property transfer tax declaration; (iv) the original of the Non-Foreign Transferor Declaration; (v) the original of CPV's certificate as to its representations and warranties.

9.7 Funds. All funds received in Escrow shall be deposited by Escrow Agent with other escrow funds of Escrow Agent in a general interest-bearing escrow account or accounts with any state or national bank doing business in the State of Nevada. Such funds may be transferred to any other such general interest-bearing escrow account or accounts. All disbursements shall be made by check or wire from Escrow Agent. All adjustments shall be made on the basis of a thirty (30) day month. Any interest that is earned on funds deposited by Developer under this Agreement shall be for the benefit of Developer and applied to the Purchase Price (or returned to Developer if in excess thereof).

9.8 Escrow Cancellation. If Escrow is not in a condition to close before the Closing Date, the Party who shall have fully performed the acts to be performed before the conveyance of title may, in writing, terminate this Agreement and demand the return of its money, papers and documents. The Party who has not fully performed shall be solely responsible for any escrow cancellation charges. No termination or demand for return shall be recognized until five (5) days after Escrow Agent shall have mailed copies of such demand to the other Party or Parties at the address of its or their principal place or places of business. If any objections are raised within the five (5) day period, Escrow Agent is authorized to hold all money, papers and documents with respect to the Site until instructed in writing by both CPV and Developer or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, Escrow shall be closed as soon as possible. Nothing in this Section 9.8 shall be construed to impair or affect the rights or obligations of CPV or Developer to the respective rights and remedies granted to them pursuant to Section 17 below.

9.9 Amendments to Escrow Instructions. Any amendment of these escrow instructions shall be in writing and signed by both CPV and Developer. At the time of any amendment, Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment. All communications from Escrow Agent to CPV or Developer shall be directed to the addresses and in the manner established in Section 18.5 below for notices, demands and communications between CPV and Developer.

9.10 Liability of Escrow Agent. The liability of Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Sections 5 and 9 to 13, inclusive, of this Agreement.

10. CONDITIONS TO CLOSE OF ESCROW

10.1 Closing Date and Conditions to Developer's Obligation to Close. Subject to the terms of this Agreement, the Closing shall occur no later than January 4, 2027 ("*Closing Date*"). Notwithstanding any other provision of this Agreement, Developer's obligation to proceed with the Close of Escrow is subject to the fulfillment or waiver by Developer of each of the conditions

precedent described below, which are solely for the benefit of Developer and which shall be fulfilled or waived by Developer at its sole discretion prior to the Close of Escrow:

(a) CPV shall not be in violation of any of its material obligations under this Agreement, including, without limitation, CPV having executed, acknowledged where required, and deposited with Escrow Agent all of the documents and deposits required to be delivered and made by CPV as required herein;

(b) Escrow Agent is prepared to issue the Title Policy as required herein;
and

(c) CPV's representations and warranties set forth in this agreement are true and correct in all material respects as of the Closing.

In the event any condition to Developer's obligation to the Close of Escrow set forth in Section 10.1(a), Section 10.1(b) or Section 10.1(c) above is not satisfied by the Closing Date, Developer may terminate this Agreement by written notice to CPV and Escrow Agent no later than five (5) business days after the scheduled Closing. Upon such termination, the Parties shall each pay to Escrow Agent an amount equal to one-half of the cost of the cancellation of Escrow, Escrow Agent shall immediately refund to Developer its full Earnest Money Deposit (with any interest earned thereon), and neither Party will have any further rights or obligations under this Agreement (except for any obligation intended to survive the termination of this Agreement).

10.2 Conditions to CPV's Obligation to Close. Notwithstanding any other provision of this Agreement, CPV's obligation to proceed with the Close of Escrow is subject to the fulfillment or waiver by CPV of each of the conditions precedent described below, which are solely for the benefit of CPV and which shall be fulfilled or waived by CPV at its sole discretion prior to such Close of Escrow:

(a) Developer shall not be in violation of any of its material obligations under this Agreement, including, without limitation, Developer having executed, acknowledged where required, and deposited with Escrow Agent all of the documents and deposits required to be delivered and made by Developer as required herein;

(b) Developer has been able to obtain the Project Financing and CPV has reasonably determined that the Project Financing is in a position to close in order to meet the commencement of construction as set forth in the Schedule of Performance;

(c) Developer's representations and warranties set forth in this agreement are true and correct in all material respects as of the Closing; and

(d) the Parties have agreed on the City Parties Disclaimer.

11. CONDITION OF TITLE.

(a) Within three (3) business days after the Effective Date, Escrow Agent shall furnish to Developer a title commitment (the "*Title Commitment*") for the issuance of a ALTA Extended Owner's Policy if Developer elects (and with such ALTA extended coverage being at Developer's sole cost and expense) covering the Site in an amount equal to the Purchase Price, issued by the Escrow Agent together with copies of all instruments (the "*Title Instruments*") reflected as exceptions therein, including, but not limited to, any easements, restrictions, reservations, terms,

covenants, or conditions which may be applicable to or enforceable against any of the Site. The Title Commitment will show CPV to be owner of good and indefeasible fee simple title to the Site and contain the "standard printed exceptions". Within thirty (30) days after the Effective Date, CPV shall deliver (or cause to be delivered) the initial draft of the Survey. Within ten (10) business days after delivery of the Title Commitment, Title Instruments, and initial Survey to Developer, Developer shall have the opportunity to review the Title Commitment, Title Instruments, and Survey and to object in writing to any matter contained therein (the "*Title Review Period*"). Developer need not object to any monetary liens and encumbrances which either secure indebtedness or can be removed by payment of a liquidated sum of money, e.g., deed of trust, security agreement, financing statement, mechanic's liens, materialmen's liens ("*Unacceptable Encumbrances*") and CPV shall eliminate all such Unacceptable Encumbrances at or prior to the Closing. If Developer notifies CPV of any objections, CPV may elect to either cure the item(s) to which Developer objects or notify Developer that CPV is unwilling to cure the objectionable item(s). If CPV elects to cure the objectionable item, CPV shall, on or before the date that is three (3) days prior to the expiration of the Feasibility Review Period, eliminate or modify such objectionable item(s) to the reasonable satisfaction of Developer (the "*Cure Period*") and/or notify Developer of those objectionable items that will be cured after the Cure Period; provided, however, all Unacceptable Encumbrances and any other objections that CPV elects to cure, but will not cure until after the expiration of the Cure Period, shall be eliminated or modified to the reasonable satisfaction of Developer at or prior to the Closing (the "*Closing Cure Items*"). If CPV fails to notify Developer of CPV's election, elects not to cure, has not cured or is unable to cure objections of Developer within the Cure Period (except with respect to any Closing Cure Items that will be cured at or prior to Closing), Developer may, at its option, and as Developer's sole remedy, terminate this Agreement by written notice to CPV and Escrow Agent at any time prior to the expiration of the Feasibility Review Period, in which case the Earnest Money Deposit shall be immediately returned to Developer by the Escrow Agent. Any exceptions accepted by Developer in writing, not timely objected to during the Title Review Period (excluding any Additional Objections), or any uncured objections that Developer waives or accepts at the Closing shall be hereafter collectively referred to as "*Permitted Encumbrances*". Possession of the Site shall be delivered at the Closing free and clear of all parties in possession, except the Permitted Encumbrances.

(b) Additional Objections. If at any time after expiration of the Title Review Period and prior to the Closing Developer receives notice from Escrow Agent that title to the Site is subject to any additional exceptions not appearing on the original Title Commitment, then Developer may notify CPV in writing within five (5) days after Developer receives notice of such additional exceptions of any objections Developer may have with the new exceptions (the "*Additional Objections*").

(c) Failure to Cure Prior to Closing. If CPV fails to cure any Additional Objections or any Closing Cure Items at or prior to the Closing, then Developer may, at its option, terminate this Agreement by written notice to CPV within five (5) business days after the scheduled Closing. If this Agreement is terminated, then all of the Earnest Money Deposit shall be returned promptly to Developer. CPV shall pay one-half (1/2) of all costs, fees, and expenses payable to the Escrow Agent in the event of such a termination, and neither party shall thereafter have any further duties, rights or obligations hereunder with respect to this Agreement, except those that expressly survive termination. If Developer does not terminate this Agreement and elects to proceed to Closing, then Developer shall be deemed to have accepted any uncured Additional Objections and Closing Cure Items as Permitted Exceptions.

12. TITLE INSURANCE. Concurrently with recordation of the Deed, and as a condition of Closing, Escrow Agent and any required co-insurer shall provide and deliver to Developer a title insurance policy in the amount designated by Developer issued by Escrow Agent

insuring that title to the Site is vested in Developer and/or its assignee in the condition required by Section 11 of this Agreement (the "*Title Policy*"). CPV shall pay all of the premium and costs for the standard coverage portion of the Title Policy. Developer shall pay all of the premium and costs for the extended coverage portion of the Title Policy and for any special endorsements requested by Developer.

13. PRORATIONS. Except as may be otherwise expressly provided in this Agreement, all revenues, income and expenses of the Site with respect to the period prior to the Close of Escrow shall be for the account of CPV, and all revenues, income and expenses of the Site with respect to the period after the Close of Escrow shall be for the account of Developer. To the extent practicable, CPV and Developer shall request cut-off statements of expenses as of the Close of Escrow. If cut-off statements are not available, the expenses shall be prorated as of the Close of Escrow on the basis of a thirty (30) day month and a three hundred sixty-five (365) day year, and shall be paid or credited by CPV to Developer or by Developer to CPV, as the case may be, at the Close of Escrow. In addition, if any of the expenses cannot be accurately allocated on the Close of Escrow, the same shall be allocated as soon as practicable after the Close of Escrow, but not more than ninety (90) days thereafter, and either CPV or Developer shall promptly pay to the other the sum determined pursuant to such subsequent allocation. Real property ad valorem taxes shall be prorated as of 11:59 p.m. of the day immediately preceding the Closing Date, based upon actual days involved. CPV shall be responsible for all real property taxes now or hereafter assessed attributable to any period prior to the Closing Date, including, without limitation, any and all rollback taxes.

14. FEASIBILITY REVIEW; AS-IS SALE

14.1 Feasibility Review.

(a) Commencing on the Effective Date and thereafter for a period of one hundred eighty (180) days (as may be extended pursuant to this Section 14.1, the "*Feasibility Review Period*"), Developer, and its respective employees, agents, representatives, architects, engineers, consultants and contractors (collectively, the "*Due Diligence Authorized Parties*"), shall have the right, at all reasonable times and upon prior three (3) business days' notice given to the CPV (which may be telephonic), and subject to the remaining provisions of this Section 14.1, to enter the Site and conduct such investigations as Developer in its discretion may desire or authorize in order to evaluate the desirability of its developing the Site, it being agreed that any delegation of its rights under this Section 14.1 shall not release Developer of any of its obligations and duties to the CPV under this Article 14. Developer agrees that as part of the Feasibility Review Period it will complete the Risk Assessment.

(b) Developer shall have the right to extend the Feasibility Review Period for an additional ninety (90) days by serving written notice of extension to CPV and Escrow Agent no later than fourteen (14) days prior to the then expiration date of the Feasibility Review Period. CPV shall have the right to charge Developer a fee for such extension (an "*Extension Fee*"); provided, however, such Extension Fee shall not exceed Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). If CPV charges an Extension Fee, the Parties agree that, upon Developer's payment of the Extension Fee into Escrow, the fee will be treated as part of the Earnest Money Deposit to be held and released in accordance with this Agreement; provided, that such Extension Fee, if any, shall be nonrefundable if this Agreement is terminated pursuant to Section 14.1(b).

(c) CPV and its authorized and designated agent(s) shall have the right to be present upon any entry of the Site by Developer or any Due Diligence Authorized Parties, (ii) Developer and its Due Diligence Authorized Parties shall conduct their investigations in a manner

so as to minimize interference with Site occupants and the operations, and otherwise in accordance with standards customarily employed in the industry and all Requirements, (iii) Developer shall pay in full for all materials, if any, supplied, used, joined, or affixed to the Site, and all persons who perform labor upon the Site, in connection with investigations, shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the Site relating to investigations and shall, promptly remove any lien filed against the Site for work performed or materials delivered in connection with the investigations, (iv) Developer promptly shall restore to the extent practicable any portion(s) of the Site disturbed by its investigations, and (v) if Developer undertakes any boring or other disturbance of the soils on the Site, the soils so disturbed will be recompact to substantially their original condition as of the date of such boring or other disturbance, or, as an alternative to filling and recompacting borings with soil, Developer shall have the right to fill such borings with neat cement or bentonite in compliance with the Nevada Department of Environmental Protection's fact sheet for filling abandoned wells. The foregoing authorization shall extend to soil borings with drilling rigs and hand augers and groundwater sampling with bailers or comparable equipment, but shall not be construed to authorize Developer to install groundwater monitoring wells or excavate soils with earth moving equipment.

(d) Developer may elect, at any time prior to the expiration of the Feasibility Review Period, to terminate this Agreement for any reason, or no reason, in Developer's sole discretion; provided, however, that if Developer fails to notify CPV and Escrow Agent of Developer's disapproval of the feasibility of the Developer's proposed development of the Site by written notice delivered to CPV no later than the date of expiration of the Feasibility Review Period, Developer will be deemed to have approved the feasibility and this condition will be deemed satisfied. If this Agreement is terminated pursuant to the foregoing provisions of this Section 14, Developer shall pay to Escrow Agent an amount equal to the cost of the cancellation of Escrow; neither party will have any further rights or obligations under this Agreement (except for any obligation intended to survive the termination of this Agreement); and Escrow Agent shall immediately refund to Developer the Earnest Money Deposit (less the \$25,000.00 extension fee payment which became part of the Earnest Money Deposit pursuant to Section 14.1(b), if applicable, which extension fee shall be immediately released to CPV by Escrow Agent).

14.2 Developer Indemnity. Developer hereby agrees to indemnify, hold harmless and defend CPV, the City, and officers, employees and agents (individually and collectively, the "*City Parties*"), from and against any and all Liabilities incurred by any of the City Parties caused in whole or in part by Developer's investigations at the Site or ROW; provided, however, the foregoing indemnity shall not apply with respect to any claims, damages, liabilities, or expenses arising out of the mere discovery by Developer, or the failure to report, any pre-existing conditions, or any acts or omissions of the City Parties or their contractors or invitees. Prior to any entry onto the Site, Developer shall deliver to CPV concurrently herewith a certificate of insurance substantiating coverage in a minimum amount of \$2,000,000.00 combined single limit bodily injury and broad form property damage coverage, including broad form contractual liability, written on a "occurrence" basis and naming the City as an additional insured. Each insurance company's rating as shown in the latest Best's Key Rating Guide shall be disclosed and entered on the required certificate of insurance and shall be no lower than "A- VII". The Parties agree that the insurance specified in this Section 14.2 to be obtained by Developer shall not limit the liability of Developer hereunder.

14.3 Ownership of Reports and Studies. CPV agrees and acknowledges that all right, title and ownership of all proprietary and non-proprietary reports and studies pertaining to the Site, including but not limited to marketing and research studies, internal planning studies, architectural drawings and renderings, surveys, and geotechnical and environmental reports and

studies shall be the sole property of Developer. Notwithstanding the foregoing, if this Agreement is terminated and/or Developer fails to develop the Project, Developer shall deliver to CPV any and all reports, studies and data concerning the physical condition of the Site obtained by or for Developer, provided such delivery shall be without representation or warranty as to the accuracy of any such reports, studies or data, and without reliance rights as to third-parties providing any reports.

14.4 As-Is Nature of Transaction.

(a) Developer acknowledges and agrees that, except for the representations and warranties expressly made in this Agreement and in any document delivered at Closing, CPV has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning, or with respect to the Site or any improvements thereon, (i) the value, nature, quality, or condition of any of the Site, including, without limitation, the water, soil, and geology, (ii) the income to be derived from any of the Site, (iii) the suitability of any of the Site for any and all activities and uses that Developer may conduct thereon, (iv) the compliance of or by any of the Site or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body, (v) the habitability, merchantability, marketability, profitability, or fitness for a particular purpose of any of the Site, (vi) the manner or quality of the construction or materials, if any, incorporated into any of the Site, (vii) the manner, quality, state of repair, or lack of repair of any of the Site, (viii) compliance with any Environmental Laws, including the existence in or on any of the Site of Hazardous Materials, (ix) the sufficiency of any plans, plats, drawings, specifications, reports, studies, and/or documents assigned and/or delivered by CPV, (x) the sufficiency, completeness, compliance or the standard to which any improvements on or serving the Site were constructed, maintained or repaired, and (xi) any other matter with respect to the Title Commitment, and/or the Site.

(b) Developer further acknowledges and agrees that Developer is relying entirely on Developer's own investigations and examinations as to any and all matters including, without limitation, the Title Commitment, and/or the Site. Developer acknowledges that it has, or will have prior to Close of Escrow, performed any and all inspections Developer deems necessary or appropriate for Developer to be satisfied with the acceptability of the purchase and sale and other transactions contemplated by this Agreement. Developer further acknowledges that any information provided or made available to Developer by CPV, or its officers, employees, agents, brokers, representatives, or others was obtained from a variety of sources and that CPV has not made any independent verification of such information and, except for the express representations, makes no representations as to the accuracy or completeness of any such information, and such information was provided or made available solely as a courtesy, and that Developer had the sole responsibility for determining the existence or nonexistence of any fact material to Developer's decision to consummate this Agreement. CPV is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to any of the Site, or the operation thereof, furnished by any real estate broker, agent, employee, servant, or other person. Developer acknowledges that, except for the express representations, its purchase of any of the Site hereunder is on an "as-is" "where-is" and "with all faults" basis without any implied warranties, and upon consummating any such purchase, Developer accepts and agrees to bear all risks regarding all attributes and conditions, latent or otherwise, of the Site acquired by Developer.

(c) Developer, for itself, its successor and assigns, and for each and every subsequent owner or lessee of the Site ("*Releasing Parties*") hereby mutually releases, waives, remises, acquits and forever discharges all rights, causes of action and claims which Developer has or may have in the future against CPV, its officers, employees, agents, attorneys, representatives,

legal successors and assigns, from any and all claims, suits, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation whatsoever, direct or indirect, which Developer or any Releasing Party now has or which Developer or any other Releasing Party may have in the future on account of or in any way arising out of or in connection with Hazardous Substances, Environmental Claims or other violation of Environmental Laws arising out of or in connection with any other physical or environmental condition of the Site. Except with respect to the gross negligence or willful misconduct of any City Party, Developer hereby agrees to hold harmless and indemnify the City Parties from any claims, judgments, penalties, fines, losses, damages, expenses (including reasonable attorneys' fees) against or incurred by the City Parties after the Close of Escrow of the Site to Developer arising in any way from (i) the presence of Hazardous Substances or environmental conditions at, on, beneath or from the Site, (ii) Environmental Claims or (iii) the application of Environmental Laws to the Site.

(d) Except as provided in the Environmental Covenant, CPV hereby releases, waives, remises, acquits and forever discharges all rights, causes of action and claims which CPV has or may have in the future against Developer, its officers, directors, employees, agents, attorneys, representatives, legal successors and assigns, from any and all claims, suits, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation whatsoever, direct or indirect, which CPV now has or which CPV may have in the future on account of or in any way arising out of or in connection with Hazardous Substances or violation of Environmental Laws arising out of or in connection with any other physical or environmental condition of the Site prior to the Close of Escrow unless caused by Developer or the Due Diligence Authorized Parties.

(e) Developer agrees to perform all obligations under the Soil Management Plan in regard to all Hazardous Substances on the Site and the compliance with all Environmental Laws relating to the Site. Developer and CPV agree to enter into the Environmental Covenant whereby (i) UP is released from any UP Obligations as defined in the UP Covenant, (ii) Developer agrees to comply with the Soil Management Plan in connection with the development and use of the Site, (iii) agrees to indemnify and hold harmless CPV from any liabilities in the event of non-compliance with the Soil Management Plan by Developer and (iv) incorporates the release set forth in Section 14.4(c) above.

14.5 Survival. Sections 8, 14.2, 14.3, and 14.5 shall survive any termination of this Agreement and any Close of Escrow hereunder and shall not merge into the Deed or any other instrument of transfer.

15. CONVEYANCE FREE OF POSSESSION.

The Site shall be conveyed free of any possession or right of possession by any other Person except subject to the Permitted Encumbrances.

16. GOVERNMENTAL PERMITS.

Nothing in this Agreement shall affect the responsibility of Developer to seek, obtain and comply with the conditions of any and all permits and governmental authorizations necessary to develop the Site or any portion thereof. Except as provided in the Covenant, Developer shall be responsible for the payment of all permit fees and any other fees in connection with the development and construction of the Project. Developer acknowledges and agrees that CPV does not issue any permits or approvals related to the development and construction of the Project and that all such permits or approvals must be issued by the respective agency having approval authority.

17. DEFAULT AND REMEDIES

17.1 Developer Event of Default. The occurrence of any of the following prior to the Close of Escrow, shall be a Developer event of default hereunder:

(a) The failure by Developer to timely deliver (i) any payments required hereunder, unless such failure is as a result of the failure to be satisfied of one or more of Developer's conditions precedent to the Close of Escrow set forth in Section 10.1 above, in each case following written notice and the expiration of a ten (10) day cure period;

(b) The filing of a petition or the institution of proceedings of, by, or against Developer pursuant to the Bankruptcy Reform Act of 1978, as amended, or any successor statute or pursuant to any state bankruptcy, insolvency, moratoria, reorganization, or similar laws which is not dismissed within ninety (90) days; or Developer's making a general assignment for the benefit of its creditors or the entering by Developer into any compromise or arrangement with its creditors generally; or Developer's becoming insolvent in the sense that Developer is unable to pay its debts as they mature or in the sense that Developer's debts exceed the fair market value of Developer's assets;

(c) Except for defaults pursuant to Section 17.1(a) above, the failure of Developer to perform any material act to be performed by it, to refrain from performing any material prohibited act or to fulfill any material condition to be fulfilled by it under this Agreement, or under any agreement referred to herein or attached hereto as an exhibit, which failure is not cured by Developer within the relevant cure period set forth below. Developer shall cure any monetary default within five (5) business days after receipt of written notice from CPV. Developer shall cure any nonmonetary default within fifteen (15) business days after receipt of written notice from CPV, *provided, however*, that in the event that such nonmonetary default is of a nature that it cannot be cured within such fifteen (15) business day period, then Developer shall commence to cure such failure within such fifteen (15) business day period and shall diligently prosecute such cure to its completion, provided that in all events the cure must be completed within one hundred twenty (120) days and if not it will be conclusively deemed unable to be cured; or

(d) Any of Developer's representations and warranties set forth in Section 7.2 above to be untrue in any material way as of the Closing Date.

17.2 CPV'S REMEDY.

In the event an event of default has occurred by Developer pursuant to Section 17.1 above, and the same has not been timely cured (provided there is any cure period), CPV may by written notice to Developer terminate this Agreement. Upon such termination Developer shall have no further rights under this Agreement, except as otherwise provided herein, and THEN CPV MAY RETAIN AS ITS SOLE AND EXCLUSIVE REMEDY, THE EARNEST MONEY DEPOSIT TOGETHER WITH ALL EARNINGS THEREON AS CPV'S LIQUIDATED DAMAGES FOR THE FAILURE BY DEVELOPER TO CLOSE THE ACQUISITION OF THE SITE. IT IS EXPRESSLY UNDERSTOOD AND AGREED BETWEEN CPV AND DEVELOPER THAT CPV'S ACTUAL DAMAGES FOR THE FAILURE BY DEVELOPER TO CLOSE THE ACQUISITION OF THE SITE WOULD BE SUBSTANTIAL BUT EXTREMELY DIFFICULT TO ASCERTAIN.

INITIALS:

CPV: _____

DEVELOPER: _____

17.3 CPV's Event of Default. The occurrence of any of the following prior to the Close of Escrow, shall be a CPV event of default hereunder:

(a) the failure of CPV to perform any act to be performed by it, to refrain from performing any prohibited act or to fulfill any condition to be fulfilled by it under this Agreement unless such failure is as a result of the failure to be satisfied of one or more of CPV's conditions precedent to the Close of Escrow set forth in Section 10.2 above; or

(b) any of CPV's representations and warranties set forth in Section 7.1 above shall be untrue in any material way as of the Closing Date.

17.4 Developer's Remedies. In the event of a default by CPV prior to the Close of Escrow, Developer's sole remedy shall be to pursue one, and only one, of the following remedies:

(a) to waive such default;

(b) to terminate this Agreement and on such termination CPV shall pay the cost of the cancellation of Escrow, but shall have no liability whatsoever to Developer, including, without limitation, any liability for Developer's costs and expenses incurred in connection with its undertakings under this Agreement or in any other way in connection with the Project. Upon such termination, Escrow Agent shall immediately refund to Developer its full Earnest Money Deposit, less Extension Deposit; or

(c) to demand specific performance of CPV's obligations under this Agreement without an abatement in the Purchase Price or other consideration and without any liability whatsoever on the part of CPV for damages resulting from CPV's event of default.

This Article 17 shall survive any termination of this Agreement.

18. MISCELLANEOUS PROVISIONS

18.1 Time of the Essence. Time is of the essence of this Agreement and every obligation hereunder.

18.2 Survival. The representations and warranties contained in this Agreement, and the covenants that extend beyond the conveyance of title shall survive the recordation of any deed and shall not be deemed merged into such deed.

18.3 Successors and Assigns. This Agreement shall inure to the benefit of and bind the successors and assigns of the respective Parties hereto, subject to the provisions of this Agreement regarding assignment.

18.4 Non-Liability of City Officials and Employees; Non-Liability of Developer Officers and Employees. No official, officer, director, or employee of CPV or the City shall be personally liable to Developer for any default or breach by CPV, for any amount which may become due to Developer or for any obligation of CPV under the terms of this Agreement. No officer, director or employee of Developer shall be personally liable to CPV for any default or breach by Developer, or for any amount which may become due to CPV or for any obligation of Developer under the terms of this Agreement.

18.5 Notices. All notices, consents, requests, demands and other communications provided for herein shall be in writing and shall be deemed to have been duly given if and when (i) personally served, (ii) forty-eight (48) hours after being sent by United States registered mail, return receipt requested, postage prepaid; (iii) upon delivery (or refusal of delivery) of personal delivery, (iv) upon confirmation of receipt of facsimile transmission, or (v) sent by e-mail submission, to the other Party at the following respective addresses, facsimile number or e-mail address or such other address, facsimile number or e-mail address as either Party may from time to time designate in writing:

If to CPV: City Parkway V, Inc.
c/o Office of Economic and Urban Development
495 S. Main Street, 6th Floor
Las Vegas, 89101
Phone: (702) 229-6551
Fax: (702) 385-3128
Email: Dbabsky@lasvegasnevada.gov
Attn: Dina Babsky, Acting Director

And: City Attorney Office
City Hall, Sixth Floor
495 S. Main Street
Las Vegas, NV 89101
Phone: (702) 229-6629
Fax: (702) 368-1749
Email: jridilla@lasvegasnevada.gov

If to Developer: Las Vegas Art Museum, Inc.
3800 Howard Hughes Parkway, Suite 960
Las Vegas, NV 89169
Attention: Heather Harmon, Executive Director
Phone: (310) 980-3840
Email: h.harmon@lvmuseumofart.org

18.6 Subsequent CPV Approvals. Any approvals of CPV required or permitted by the terms of this Agreement are authorized to be given by the President of CPV or such other person that CPV designates in writing to Developer. If there is no time specified herein for CPV's approval, Developer may submit a letter requiring CPV's approval within thirty (30) business days after submission to CPV or such approvals shall be deemed granted.

18.7 Entire Agreement, Amendments and Waivers. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes Exhibit A through Exhibit G, inclusively, attached hereto and incorporated herein by reference, all of which constitute the entire understanding and agreement of the Parties. This Agreement is intended by the Parties to be the final expression of their agreement with respect to the subject matter hereof, and is intended as the complete and exclusive statement of the terms of the agreement between the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All amendments hereto must be in writing and signed by the appropriate authorities of CPV and Developer. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of CPV and Developer and no waiver of

one provision shall be construed as a waiver of that provision in the future or as a waiver of any other provision.

18.8 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalidated, it shall be deemed to be severed from this Agreement and the remaining provisions shall remain in full force and effect.

18.9 Governing Law. The interpretation and enforcement of this Agreement shall be governed in all respects by the laws of the State of Nevada.

18.10 Captions. The captions contained in this Agreement are for the convenience of the Parties and shall not be construed so as to alter the meaning of the provisions of the Agreement.

18.11 Counterparts. Each counterpart of this Agreement shall be deemed to be an original and all of which together shall be deemed to be one and the same Agreement. Delivery of this Agreement may be accomplished by facsimile transmission of this Agreement. In such event, the Parties hereto shall promptly thereafter deliver to each other executed counterpart originals of this Agreement.

18.12 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any Person, other than the Parties hereto and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

18.13 Days. All references to “*days*” in this Agreement are to consecutive calendar days unless business days are specified. All references to “*business days*” shall mean any day that is not a Friday, Saturday, Sunday or day on which commercial banks are not authorized to be open, or required to be closed, in Las Vegas, Nevada. Notwithstanding the foregoing, if the last day of any time period stated herein shall not fall on a business day, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is a business day.

18.14 Construction. The Parties acknowledge that each Party and its counsel have reviewed and approved this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

18.15 Extensions of Time. The President of CPV shall have the authority to grant time extensions under this Agreement not to exceed a total of ninety (90) days, provided, however, it shall be at the President’s sole and absolute discretion as to whether to grant any time extension or to submit any requests for time extensions to the City Council for approval.

19. TIME FOR ACCEPTANCE OF AGREEMENT BY CPV. This Agreement was approved on _____ by the City Council. The effective date of this Agreement shall be the date of CPV’s approval of this Agreement as indicated on the signature page below (the “*Effective Date*”).

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

CPV

CITY PARKWAY V, INC., a Nevada
non-profit corporation

By: _____
Name: Mike Janssen
Title: President

DEVELOPER

LAS VEGAS MUSEUM OF ART, INC.,
a Nevada non-profit corporation

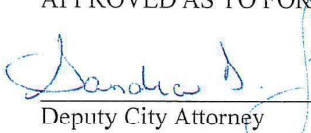
By: _____
Name: _____
Title: _____

ATTEST:

_____, Title

Effective Date: _____,
2024

APPROVED AS TO FORM:

 8-15-24
Deputy City Attorney Date

Sandra D. Turner
Deputy City Attorney

Disposition and Development
Agreement

CC Meeting ___/___/2024
CC Item# _____

LIST OF EXHIBITS

EXHIBIT "A"	DEPICTION OF SITE
EXHIBIT "B"	LEGAL DESCRIPTION OF SITE
EXHIBIT "C"	SCHEDULE OF PERFORMANCE
EXHIBIT "D"	FORM OF DEED
EXHIBIT "E"	ENVIRONMENTAL COVENANT
EXHIBIT "F"	PROJECT DSLURS
EXHIBIT "G"	DISCLOSURE OF PRINCIPALS

EXHIBIT A
SITE DEPICTION

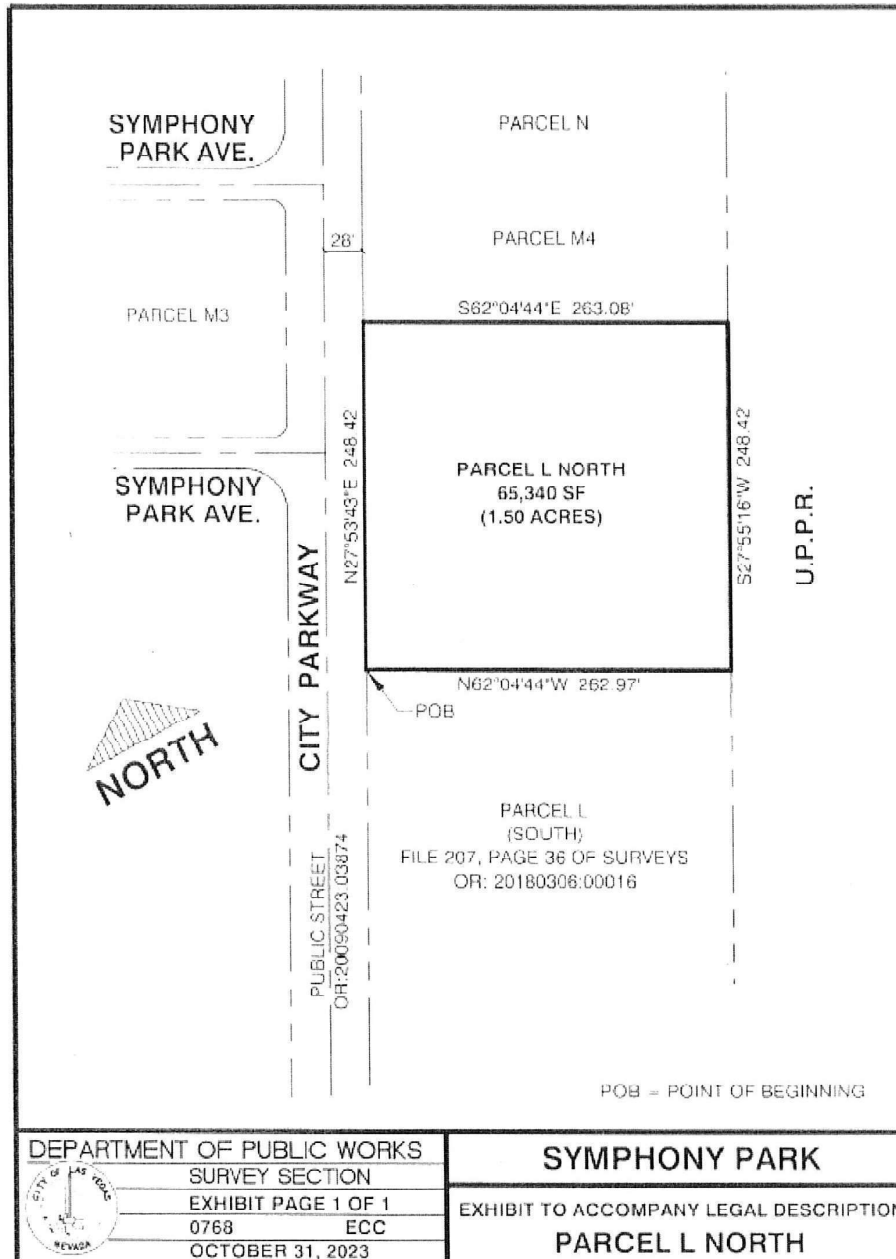
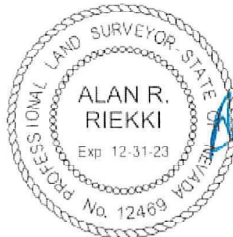


EXHIBIT B

LEGAL DESCRIPTION OF SITE



NOVEMBER 16, 2023
BY: ARR
P.R. BY: MFK
(PAGE 1 OF 2)

EXPLANATION:

THIS LEGAL DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF BONNEVILLE AVENUE AND WEST OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY FOR TRANSFER PURPOSES.

**LEGAL DESCRIPTION
SYMPHONY PARK
PARCEL L NORTH**

BEING A PORTION OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LOCATED WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M. CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED MARCH 6TH, 2018 BY DOCUMENT NUMBER 20180306 INSTRUMENT: 00016, SAID PARCEL ALSO DEPICTED AS "PARCEL L (SOUTH)" ON THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY NEVADA IN FILE 207 OF SURVEYS, AT PAGE 36, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF CITY PARKWAY; THENCE NORTH 27°53'43" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 248.42 FEET; THENCE SOUTH 62°04'44" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, 263.08 FEET TO THE EASTERLY BOUNDARY LINE OF SAID LOT 5, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 27°55'16" WEST, ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT 5, COINCIDENT WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD, 248.42 TO THE NORTHEAST CORNER OF SAID "PARCEL L (SOUTH)"; THENCE NORTH 62°04'44" WEST, DEPARTING THE EASTERLY BOUNDARY LINE OF SAID LOT 5, AND THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD AND ALONG THE NORTHERLY BOUNDARY LINE OF SAID "PARCEL L (SOUTH)", 262.97 FEET TO THE POINT OF BEGINNING AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION" ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 65,340 SQUARE FEET (1.50 ACRES) MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

W:\PW_GRID_PROJECTS_SURVEY\0000~9999\0768\LEGAL DESCRIPTIONS\1768-51-R1 LEGAL-
PARCEL L-NORTH.DOC

PARCEL L NORTH
LEGAL DESCRIPTION CONTINUED
(PAGE 2 OF 2)

BASIS OF BEARINGS:

SOUTH 27°55'16" WEST, BEING THE EASTERLY LINE OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS AT PAGE 61, LYING WITHIN THE WEST HALF (W 1/2) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M. CITY OF LAS VEGAS, CLARK COUNTY, NEVADA.

END OF DESCRIPTION.

EXHIBIT C

SCHEDULE OF PERFORMANCE

The Developer and CPV agree the Project shall be developed as follows:

Action	Timing	Due Date
Effective Date of DDA	September 4, 2024	9/4/24
Due date for Earnest Money Deposit	5 business days from the DDA Effective Date	9/9/24
Open Escrow	Within 5 business days of the DDA Effective Date	9/9/24
SPDRC Introductory Meeting: Developer and the City will conduct an introductory meeting with the Symphony Park Design Review Committee (SPDRC) to discuss preliminary designs and Site Plan Development Review Checklist prior to completing documents for Entitlements and SPDRC Review	Within 90 days of the DDA Effective Date	12/9/24
Submit for Pre-Ap meeting	On or before	5/4/25
Submit Site Plan Development Review (SDR) documents to the City of Las Vegas Planning Department for Site Development Plan Review and Symphony Park Block Plan Review	Planning Deadline	6/15/25
Feasibility Period [+ 90-day extension with \$100,000 non-refundable deposit]	180 days from DDA Effective Date	3/4/25
Entitlement hearing	First Planning Commission meeting following SDR Submittal	8/15/25
Post-Entitlement Meeting scheduled	Within 14 days of entitlement hearing	1/4/26
Submit 70% Plans for RDA review	On or before	4/4/26
Submit for permits. Developer will submit 100% complete construction documents to the City of Las Vegas Development Services to secure permits and to SPDRC for review of project	180 days following Planning Commission approval of entitlements	7/4/26
Letter or Email from Building Services that all reviews have been completed and permits are ready to be pulled	10 days prior to closing	12/27/26
Submit evidence of written consent for the equity capital and non-binding expression of interest for construction financing for Project to CPV for review and approval.	No later than 60 days prior to Close of Escrow	11/4/26
Close of Escrow	10 days following approval of construction	1/4/27

	documents required to secure permits	
Secure final permits from Development Services Building Permit Approval from City of Las Vegas Development Services	No later than 30 days after Close of Escrow	2/4/27
Commence Construction	No later than 30 days after permits have been issued by the City	3/4/27
Completion of Construction [option for one 120 extension]	No later than 20 months after Commencement of Construction	11/4/28
Certificate of occupancy received	Within 30 days of Completion of Construction	No later than 12/4/28

EXHIBIT "D"

FORM OF DEED

APN No: A portion of 139-34-211-005

WHEN RECORDED MAIL TO

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Attention: Jodi R. Goodheart

MAIL TAX STATEMENTS TO:

Las Vegas Art Museum, Inc.
3800 Howard Hughes Parkway, Suite 960
Las Vegas, NV 89169
Attention: Heather Harmon, Executive Director

GRANT BARGAIN AND SALE DEED

For valuable consideration, the receipt of which is hereby acknowledged, CITY PARKWAY V, INC., a Nevada non-profit corporation ("*Grantor*"), does hereby grant, bargain, sell and convey to LAS VEGAS MUSEUM OF ART, a Nevada non-profit corporation ("*Grantee*"), all right, title, and interest in and to that certain real property situated in the City of Las Vegas, Clark County, Nevada bounded and legally described in Exhibit A attached hereto and incorporated herein by this reference (the "*Real Property*").

Together with, all and singular, the tenements, hereditaments and appurtenances belonging, or in anywise appertaining.

To have and to hold, the Real Property described above with the appurtenances, unto Grantee, and to Grantee's heirs, successors and assigns forever.

The Real Property is hereby being transferred by Grantor to Grantee subject to the restriction that for a period of sixty (60) years after the date of recordation of this deed, no gaming use will be conducted or operated on the Real Property. This restriction may be released and terminated by a recorded instrument signed by Grantor or an assignee of Grantor to whom Grantor has assigned its rights under this deed.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed on by its officer thereunto duly authorized this ____ day of _____, 202__.

GRANTOR:

CITY PARKWAY V, INC., a Nevada non-profit corporation

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Date

STATE OF NEVADA }
 }
COUNTY OF CLARK } ss.

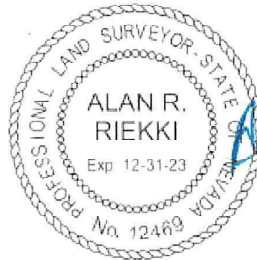
This instrument was acknowledged before me on _____, 20__ by

_____.

WITNESS my hand and official seal.

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY



NOVEMBER 16, 2023

BY: ARR

P.R. BY: MFK

(PAGE 1 OF 2)

EXPLANATION:

THIS LEGAL DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF BONNEVILLE AVENUE AND WEST OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY FOR TRANSFER PURPOSES.

**LEGAL DESCRIPTION
SYMPHONY PARK
PARCEL L NORTH**

BEING A PORTION OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LOCATED WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED MARCH 6TH, 2018 BY DOCUMENT NUMBER 20180306 INSTRUMENT: 00016, SAID PARCEL ALSO DEPICTED AS "PARCEL L (SOUTH)" ON THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY NEVADA IN FILE 207 OF SURVEYS, AT PAGE 36, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF CITY PARKWAY; THENCE NORTH 27°53'43" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 248.42 FEET; THENCE SOUTH 62°04'44" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, 263.08 FEET TO THE EASTERLY BOUNDARY LINE OF SAID LOT 5, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 27°55'16" WEST, ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT 5, COINCIDENT WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD, 248.42 TO THE NORTHEAST CORNER OF SAID "PARCEL L (SOUTH)"; THENCE NORTH 62°04'44" WEST, DEPARTING THE EASTERLY BOUNDARY LINE OF SAID LOT 5, AND THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD AND ALONG THE NORTHERLY BOUNDARY LINE OF SAID "PARCEL L (SOUTH)", 262.97 FEET TO THE **POINT OF BEGINNING** AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION" ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 65.340 SQUARE FEET (1.50 ACRES) MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PARCEL L NORTH
LEGAL DESCRIPTION CONTINUED
(PAGE 2 OF 2)

BASIS OF BEARINGS:

SOUTH 27°55'16" WEST, BEING THE EASTERLY LINE OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LYING WITHIN THE WEST HALF (W 1/2) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M D M, CITY OF LAS VEGAS, CLARK COUNTY, NEVADA.

END OF DESCRIPTION.

As more particularly shown as Lot ____ on the Record of Survey recorded in Book _____ of Surveys, page _____, in the Official Records of the Clark County, Nevada Recorder's Office.

EXHIBIT E

APN No: A portion of 139-34-211-005

WHEN RECORDED, MAIL TO:

CITY PARKWAY V, INC.
495 South Main St. 6th Floor
Las Vegas, Nevada 89101
Attention: Office of Economic and Urban Development

(Space Above Line For Recorder's Use)

COVENANT

THIS COVENANT ("*Covenant*") is made as of _____, 20__, by and between CITY PARKWAY V, INC., a Nevada non-profit corporation ("*CPV*"), and LAS VEGAS ART MUSUEM, INC., a Nevada non-profit corporation ("*Developer*"). CPV and Developer are individually or collectively referred to herein as "*Party*" or "*Parties*."

WITNESSETH:

WHEREAS,

A. CPV has sold and conveyed to Developer that site, which is more particularly described in Exhibit A attached hereto (the "*Site*");

B. As part of the sale and conveyance of the Site, the Parties have agreed on environmental issues relating to the Site and mutually desire to enter into this Covenant to memorialize such agreement.

C. Prior to or concurrently with the recordation of this Covenant, CPV has recorded the UP Covenant (defined below) against the Site.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing (including the sale and conveyance of the Site by CPV to Developer), and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Developer, the Parties hereto agree as follows:

1. DEFINITIONS

1.1 Certain Definitions.

"*City*" means the city of Las Vegas, Nevada a political subdivision of the State of Nevada.

"*City Entities*" means CPV and the City.

"*CPV Indemnified Party or Parties*" means, collectively, CPV and the City and their respective elected and appointed officials directors, officers, shareholders, members, employees, permitted successors and assigns and agents and Affiliates of such Persons (and the respective heirs, legal representatives, successors and assigns of any of the foregoing).

"Environmental Claim" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, liens, investigations, proceedings or written notices of noncompliance, liability or violation by any person or entity (including any governmental or regulatory authority and including UP) alleging potential liability (including, without limitation, potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from (a) the presence, or release or threatened release into the environment, of any Hazardous Substance; (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or (c) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence or release of any Hazardous Substance, including, without limitation, UP under the UP Covenant.

"Environmental Law" means any past, present or future federal, state or local law, statute, rule, regulation, code, ordinance, order, decree, judgment, injunction, notice, policy, or binding agreement, and all amendments thereto, issued, promulgated, or entered into by any Government Authority, relating in any way to the environment, the preservation, degradation, loss, damage, restoration or reclamation of natural resources, waste management, health, industrial hygiene, safety matters, environmental condition or Hazardous Substance.

"Hazardous Substance" means any product, byproduct, compound, substance, chemical, material or waste, including, without limitation, asbestos, solvents, degreasers, heavy metals, refrigerants, nitrates, urea formaldehyde, polychlorinated biphenyls, dioxins, petroleum and petroleum products, fuel additives, and any other material, whose presence, characteristics, nature, quantity, intensity, existence, use, manufacture, possession, handling, disposal, transportation, spill, release, threatened release, treatment, storage, production, discharge, emission, remediation, cleanup, abatement, removal, migration, or effect, either by itself or in combination with other materials is or is allegedly: (a) injurious, dangerous, toxic, hazardous to human or animal health, aquatic or biota life, safety or welfare or any other portion of the environment; (b) regulated, defined, listed, prohibited, controlled, studied or monitored in any manner by any Government Authority or Environmental Laws; or (c) a basis for liability to any Government Authority or third party under any regulatory, statutory or common law theory due to such material, waste or substance being designated, classified or regulated as a "hazardous material," "hazardous substance," "toxic substance" or as a "Class I" or "Class II" waste under any applicable Environmental Law, or under any other Nevada law.

"NDEP" means the Nevada Department of Environmental Protection, an agency of the State of Nevada.

"PEMA" means that Project Environmental Management Agreement attached hereto as Exhibit B.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government, or any city or political subdivision thereof.

"Site" is defined in Recital A.

"Soil and Groundwater Management Plan" means that final soil and groundwater management plan - Union Park 61-acre Site former Union Pacific Railroad Fueling and maintenance yard Las Vegas, Nevada Project No. 80559 March 21, 2007, as such may be amended from time to time.

"UP" means Union Pacific Railroad Company, a Delaware corporation.

"UP Covenant" means that Perpetual Environmental Covenant and Release of Claims Modifying Specified Environmental Obligations Contained within October 21, 1996 Purchase and Sale Agreement; and November 12, 1996 Grant, Bargain and Sale Deed recorded against the Site as Instrument Number 20151005-0001403 in the Official Records of the Clark County, Nevada Recorder's

Office (the “Recorder’s Office”) and re-recorded against the Site as Instrument Number 201660606-0002403 in the Recorder’s Office.

“UP Obligations” means the term “Union Pacific Obligations” as defined in Section 3C. of the UP Covenant on page 5 of the UP Covenant.

2. UP COVENANT

Developer agrees that the Site is subject to the terms of the UP Covenant in all respects. Developer further agrees that:

(a) Developer hereby releases UP from any liability in connection with the UP Obligations; and

(b) Any remedies with respect to performance or breach of the UP Obligations shall solely and exclusively lie against the City Entities.

3. SOIL MANAGEMENT PLAN/CPV RELEASE

3.1 Soil and Groundwater Management Plan.

(a) Developer acknowledges that the Soil and Groundwater Management Plan has been developed and approved by NDEP for use prior to the initiation of future development on the Site that creates subsurface excavations in the area of petroleum hydrocarbon-contaminated soil, disturbs or exposes petroleum hydrocarbon-contaminated soil, requires dewatering at the Site and other matters related to the development of the Site. Subject to performance by CPV of its obligations under the PEMA, Developer agrees to comply with the Soil and Groundwater Management Plan in all respects, including, without limitation, incorporating the provisions of the Soil and Groundwater Management Plan into a work plan for NDEP’s review and approval.

(b) The Parties agree that (i) the implementation of the Soil and Groundwater Management Plan shall be pursuant to and in compliance with the PEMA, (ii) their respective obligations in connection with the implementation of the Soil and Groundwater Management Plan are set forth fully in the PEMA, and (iii) the obligations of CPV under the PEMA are the only and sole obligations of CPV in connection with the condition of the Site, including, without limitation, any Environmental Claim, Environmental Law or Hazardous Substance.

3.2 CPV Release. Except for any Environmental Claim applicable to the period of CPV’s ownership of the Site prior to the conveyance of the Site, Developer, for itself, its successor and assigns, and for each and every successor owner or lessee of the Site (“*Releasing Parties*”) hereby mutually releases, waives, remises, acquits and forever discharges all rights, causes of action and claims which Developer or the Releasing Parties now have or may have in the future, known or unknown, against the CPV Indemnified Parties from any and all claims, suits, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation whatsoever, direct or indirect, which Developer or any Releasing Party now has or which Developer or any other Releasing Party may have in the future on account of or in any way arising out of or in connection with Hazardous Substances, Environmental Claims or violation of Environmental Laws arising out of or in connection with any other physical or environmental condition of the Site. Except for any Environmental Claim applicable to the period of CPV’s ownership of the Site prior to the conveyance of the Site and except to the extent arising due to the gross negligence or willful misconduct of a CPV Indemnified Party, Developer, for itself and for all Releasing Parties, hereby agrees to hold harmless and indemnify the CPV Indemnified Parties from any claims, judgments, penalties, fines, losses, damages, expenses (including reasonable attorneys’ fees) against or incurred by the CPV Indemnified Parties arising in any way from (i) the presence of Hazardous Substances or any other environmental conditions at, on, beneath or from the Site, (ii) Environmental Claims, or (iii) the application of Environmental Laws to the Site.

3.3 As-Is. Except as provided for in Paragraph 3.2 hereof, Developer acknowledges that its purchase of any of the Site was on an “as-is” “where-is” and “with all faults” basis without any express or implied warranties, and Developer for itself, its successor and assigns, and for all Releasing Parties, accepts and agrees to bear all risks regarding all attributes and conditions, latent or otherwise, of the Site.

4. MISCELLANEOUS

4.1 General Purpose and Constructive Notice. The Covenant shall run with the land and be binding upon Developer and binding upon and obligate any successor owners of the Site.

4.2 Attorneys’ Fees. In the event either Party hereto is required to employ an attorney because of the other Party’s default, the defaulting Party shall pay the non-defaulting Party’s reasonable attorneys’ fees incurred in the enforcement of this Covenant.

4.3 Time of the Essence. Time is of the essence of this Covenant and every obligation hereunder.

4.4 Notices. All notices, consents, requests, demands and other communications provided for herein shall be in writing and shall be deemed to have been duly given if and when personally served or forty-eight (48) hours after being sent by United States registered mail, return receipt requested, postage prepaid; upon receipt or refusal if sent by personal delivery; or upon confirmation of receipt if sent by or facsimile transmission or e-mail electronic submission, in each case to the other Party at the following respective addresses, facsimile number or e-mail address or such other address, facsimile number or e-mail address as either Party may from time to time designate in writing:

If to CPV: City Parkway V, Inc.
 c/o Economic and Urban Development
 495 S. Main Street, 6th Floor
 Las Vegas, 89101
 Phone: (702) 229-6551
 Fax: (702) 385-3128
 Email: dbabsky@lasvegasnevada.gov
 Attn: Dina Babsky, Acting Director

And: City Attorney Office
 495 S. Main Street, 6th Floor
 Las Vegas, NV 89101
 Phone: (702) 229-6629
 Fax: (702) 368-1749
 Email: jridilla@lssvegasnevada.gov
 Attn: John Ridilla

If to Developer: Las Vegas Art Museum, Inc.
3800 Howard Hughes, Suite 960
Las Vegas, NV 89169
Phone: (310) 980-3840
Attn: Heather Harmon, Executive Director
Email: h.harmon@lvmuseumofart.org

And: Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Phone: (702) 792-3773
Attn: Jodi R. Goodheart
Email: goodheartj@gtlaw.com

4.5 Entire Agreement and Waivers. This Covenant is executed in two (2) duplicate originals, each of which is deemed to be an original. This Covenant constitutes the entire understanding and agreement between the Parties and is intended by the Parties to be the final expression of their agreement with respect to the subject matter hereof, and the complete and exclusive statement of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. This Covenant includes Exhibit "A" and Exhibit B attached hereto and incorporated herein by reference. All waivers of the provisions of this Covenant must be in writing and signed by the appropriate authorities of CPV and Developer and no waiver of one provision shall be construed as a waiver of that provision in the future or as a waiver of any other provision.

4.6 Termination or Amendment. This Covenant may be validly terminated, amended, modified or extended, in whole or in part, only by recordation with the Recorder's Office of a proper instrument duly executed and acknowledged by CPV and Developer to that effect.

4.7 Severability. Whenever possible, each provision of this Covenant shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalidated, it shall be deemed to be severed from this Covenant and the remaining provisions shall remain in full force and effect.

4.8 Governing Law; Jurisdiction; Waiver of Jury Trial. Any controversy, claim, or dispute arising out of or related to this Covenant or the interpretation, performance, or breach hereof (a "Dispute"), shall be resolved in accordance with this Section 6.12.

(a) Governing Law. This Covenant and all Disputes between the Parties under or related to this Covenant or the facts and circumstances leading to its execution, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of Nevada, applicable to contracts executed in and to be performed entirely within the State of Nevada, without regard to the conflicts of laws principles thereof.

(b) Jurisdiction. Each of the Parties hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any Nevada state court, or federal court of the United States of America, sitting in Clark County, Nevada, and any appellate court from any thereof, for resolution of any Dispute and for recognition or enforcement of any judgment relating to such Dispute, and each of the Parties hereby irrevocably and unconditionally (a) agrees not to commence any such action or proceeding except in such courts; (b) agrees that any claim in respect of any such action or proceeding may be heard and determined in such Nevada state court or, to the extent permitted by applicable law, in such federal court; (c) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such action or proceeding in any such Nevada state or federal court; and (d) waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such Nevada state or federal

court. Each of the Parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law. Each Party irrevocably consents to service of process in the manner provided for notices in Section. Nothing in this Covenant will affect the right of any Party to serve process in any other manner permitted by law.

4.9 WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS COVENANT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS COVENANT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVERS; (b) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS; (c) IT MAKES SUCH WAIVERS VOLUNTARILY; AND (d) IT HAS BEEN INDUCED TO ENTER INTO THIS COVENANT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

4.10 Captions. The captions contained in this Covenant are for the convenience of the Parties and shall not be construed so as to alter the meaning of the provisions of the Covenant.

4.11 Counterparts. Each counterpart of this Covenant shall be deemed to be an original and all of which together shall be deemed to be one and the same Covenant. Delivery of this Covenant may be accomplished by facsimile transmission of this Covenant. In such event, the Parties hereto shall promptly thereafter deliver to each other executed counterpart originals of this Covenant.

4.12 No Third-Party Beneficiaries. Nothing in this Covenant shall confer upon any Person, other than the Parties hereto and their respective successors, any rights or remedies under or by reason of this Covenant.

4.13 Days. All references to “days” in this Covenant are to consecutive calendar days unless business days are specified. Nothing herein is intended to create any rights vested in the general public or to otherwise benefit the general public.

4.14 Construction. The Parties acknowledge that each Party and its counsel have reviewed and approved this Covenant and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Covenant or any amendments or exhibits hereto.

4.15 Assignment; Lender Cure Right. Notwithstanding anything to the contrary herein, Developer shall have the right, without CPV's consent, to (i) collaterally assign its rights and obligations in this Covenant to a financial institution or lender (“Developer’s Lender”) for the purposes of granting a security interest in the Site and/or the project to be developed on the Site, and (ii) transfer its interest in the Site and/or the project to be developed thereon and assign its rights and obligations under this Covenant in connection with Developer's Lender's exercise of an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Site. Notwithstanding anything to the contrary herein, CPV acknowledges that no breach under this Covenant shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust in favor of Developer’s Lender. Upon providing CPV with written notice of Developer’s Lender’s name and address, CPV will provide Developer’s Lender with written notice of any non-compliance given to Developer under this Covenant and Developer’s Lender shall have the right, but not the obligation, to cure any non-compliance within a reasonable period of time of receipt of such notice (which shall include the time needed to allow Developer’s Lender to take possession of the Site) so long as Developer’s Lender is continuously and diligently pursuing such remedy. CPV also confirms its

understanding that Developer's Lender shall not be liable for any penalties or damages relating to defaults arising prior to its acquisition of title to the Site, but thereafter, Developer's Lender shall remedy continuing defaults that are susceptible to cure by Developer's Lender.

EXECUTION BLOCKS ON NEXT PAGE

IN WITNESS WHEREOF, the undersigned have executed this Covenant as of the date first written above.

CPV

CITY PARKWAY V, INC.,
a Nevada non-profit corporation

By: _____

Name: _____

Title: _____

ATTEST:

_____, Title

APPROVED AS TO FORM:

Date

DEVELOPER

LAS VEGAS MUSEUM OF ART,
a Nevada non-profit corporation

By: _____

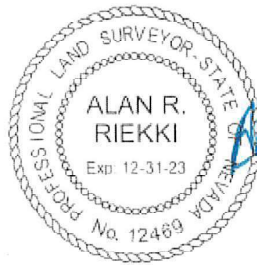
Name: _____

Title: _____

Execution Date:

ADD NOTARIES

EXHIBIT A LEGAL DESCRIPTION



NOVEMBER 16, 2023
BY: ARR
P.R. BY: MFK
(PAGE 1 OF 2)

EXPLANATION:

THIS LEGAL DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF BONNEVILLE AVENUE AND WEST OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY FOR TRANSFER PURPOSES.

**LEGAL DESCRIPTION
SYMPHONY PARK
PARCEL L NORTH**

BEING A PORTION OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LOCATED WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED MARCH 6TH, 2018 BY DOCUMENT NUMBER 20180306 INSTRUMENT: 00016, SAID PARCEL ALSO DEPICTED AS "PARCEL L (SOUTH)" ON THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY NEVADA IN FILE 207 OF SURVEYS, AT PAGE 36, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF CITY PARKWAY; THENCE NORTH 27°53'43" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 248.42 FEET; THENCE SOUTH 62°04'44" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, 263.08 FEET TO THE EASTERLY BOUNDARY LINE OF SAID LOT 5, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 27°55'16" WEST, ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT 5, COINCIDENT WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD, 248.42 TO THE NORTHEAST CORNER OF SAID "PARCEL L (SOUTH)"; THENCE NORTH 62°04'44" WEST, DEPARTING THE EASTERLY BOUNDARY LINE OF SAID LOT 5, AND THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD AND ALONG THE NORTHERLY BOUNDARY LINE OF SAID "PARCEL L (SOUTH)", 262.97 FEET TO THE **POINT OF BEGINNING** AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION" ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 65,340 SQUARE FEET (1.50 ACRES) MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PARCEL L NORTH
LEGAL DESCRIPTION CONTINUED
(PAGE 2 OF 2)

BASIS OF BEARINGS:

SOUTH 27°55'16" WEST, BEING THE EASTERLY LINE OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LYING WITHIN THE WEST HALF (W 1/2) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M D M, CITY OF LAS VEGAS, CLARK COUNTY, NEVADA.

END OF DESCRIPTION

As more particularly shown as Lot ____ on the Record of Survey recorded in Book _____ of Surveys, page _____, in the Official Records of the Clark County, Nevada Recorder's Office.

“This Page Intentionally Blank”

EXHIBIT B
PROJECT ENVIRONMENTAL MANAGEMENT AGREEMENT
Definitions

Capitalized Terms. Unless otherwise defined below, all capitalized terms used in this Exhibit B have the meanings ascribed to such terms in the Covenant.

"Activity and Use Limitations" means, with respect to an Environmental Condition on the Site, legal or physical restrictions or limitations, on the use of, or access to, a site or facility, such as institutional or Engineering Controls, and Hazardous Substance monitoring in soil and groundwater that are intended to reduce or eliminate potential exposure to Hazardous Substances present in the soil or groundwater on or within the Site, or to prevent activities that could interfere with the effectiveness of a cleanup remedy approved by NDEP or recommended by the Risk Assessment in order to ensure no significant risk to public health or the environment.

"Applicable Environmental Guidance" means all applicable Environmental Laws, Activity and Use Limitations, the Soil and Groundwater Management Plan, and the Risk Assessment. To the extent an element of the Applicable Environmental Guidance is in conflict as to any matter affecting human health or the environment, including the extent to which Hazardous Substances in soil or groundwater should be removed or remediated or both to acceptable levels of risk for the Project, the Applicable Environmental Guidance that ensures no significant risk to public health or the environment shall be followed, and if the conflict is unrelated to a significant risk to public health or the environment, then the Developer shall determine in its reasonable discretion which Applicable Environmental Guidance shall be followed.

"CEM Contract" means the contract described in **Section 3D(c)** below.

"Certified Environmental Manager" ("CEM") means a person having been certified by the NDEP as an "Environmental Manager" pursuant to Nevada Administrative Code Chapter 459.

"Clean Soil" means soil excavated from the Site that does not contain Hazardous Substances in concentrations requiring treatment or disposal pursuant to the Soil and Groundwater Management Plan.

"Completion of Construction" as to any portion of the Project, means the date that such portion receives a temporary certificate of occupancy or notice of completion is recorded.

"Contaminated Soil" means soil excavated from the Site that contains Hazardous Substances in concentrations requiring treatment or disposal pursuant to the Soil and Groundwater Management Plan.

"CPV Manager" means the City Manager of the City of Las Vegas, Nevada or the person CPV identifies in writing to Developer.

"CPV Obligations" means those obligations described in **Section 3D(b)**.

"CPV Project Representative" means the person designated by CPV Manager in writing to Developer.

"CPV Remediation Cost Cap" means the amount up to but not exceeding the lesser of (i) twelve dollars (\$12.00) per square foot of land in the Site or (ii) the costs to complete the recommendations set forth in the Risk Assessment. Such amount shall be the limit of CPV Obligations.

"Developer Obligations" means the obligations described at **Section 3D(a)**.

“Engineering Controls” mean barriers, caps, liners, ventilation systems or other devices engineered to control or impede dermal contact, inhalation or ingestion by humans of chemicals in soils, water and other media above and below grade surface.

“Environmental Condition” means (a) a Release or threat of a Release of any Hazardous Substance affecting the Site for which investigation, response, evaluation, treatment, removal, remediation, monitoring, abatement or any type of corrective action is required under any Environmental Laws, (b) any condition or activity at the Site that is not in compliance with any Environmental Laws, and (c) any condition or activity at the Site which results in or forms the basis for a claim by any Government Authority or citizen or citizen group for compliance, injunctive relief, damages (including without limitation natural resources or toxic tort damages), penalties, or removal, response, remedial or other action pursuant to any Environmental Laws and/or a third party seeking damages and/or injunctive relief related to actual or alleged personal injury, medical monitoring, wrongful death and/or property damage in connection with a breach of any Environmental Laws.

“Environmental Disclosure Documents” means those documents, data, and reports evidencing the condition of the Site that are listed on the “Symphony Park Environmental Disclosures Documents” which were delivered to you on 01.08.2024.

“Environmental Laws” means any past, present or future federal, state or local law, statute, rule, regulation, code, ordinance, order, decree, judgment, injunction, notice, policy, or binding agreement, and all amendments thereto, issued, promulgated, or entered into by any Government Authority, relating in any way to the environment, the preservation, degradation, loss, damage, restoration or reclamation of natural resources, waste management, health, industrial hygiene, safety matters, Environmental Condition or Hazardous Substance.

“Environmental Permits” means all necessary federal, state, and local permits or other approvals relating to the handling, treatment, or disposal of Hazardous Substances in connection with the Project.

“Government Authority” means the government of the United States of America and any political subdivision thereof, state and local governments and any agency, authority, regulatory body, court, or other entity exercising or having the functions of government having jurisdiction over the Site.

“Hazardous Substances” or **“Hazardous Substance”** means any product, byproduct, compound, substance, chemical, material or waste, including, without limitation, asbestos, solvents, degreasers, heavy metals, refrigerants, nitrates, urea formaldehyde, polychlorinated biphenyls, dioxins, petroleum and petroleum products, fuel additives, and any other material, whose presence, characteristics, nature, quantity, intensity, existence, use, manufacture, possession, handling, disposal, transportation, spill, release, threatened release, treatment, storage, production, discharge, emission, remediation, cleanup, abatement, removal, migration, or effect, either by itself or in combination with other materials is or is allegedly: (a) injurious, dangerous, toxic, hazardous to human or animal health, aquatic or biota life, safety or welfare or any other portion of the environment; (b) regulated, defined, listed, prohibited, controlled, studied or monitored in any manner by any Government Authority or Environmental Laws; or (c) a basis for liability to any Government Authority or third party under any regulatory, statutory or common law theory due to such material, waste or substance being designated, classified or regulated as a "hazardous material," "hazardous substance," "toxic substance" or as a "Class I" or "Class II" waste under any applicable Environmental Law, or under any other Nevada law. **“Known Hazardous Substances”** means chemicals associated with diesel fuel, gasoline, solvents, total petroleum hydrocarbons, tetrachloroethylene, perchloroethylene, polyaromatic hydrocarbons, semi- and volatile organic compounds, lead, methyl ethyl ketone, trimethylbenzene, naphthalene, polychlorinated biphenyls, and arsenic, all of which are identified in the Environmental Disclosure Documents as chemicals of concern, and any other Hazardous Substances disclosed in the Environmental Disclosure Documents.

“NDEP” means the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection.

“Occupancy Certificate” means a certificate(s) or other equivalent approval by City allowing occupancy by people within the Project.

“Project” means the Project.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substances into the environment, including the abandonment, discarding, burying or disposal of barrels, tanks, containers and other receptacles containing any Hazardous Substances in violation of any Environmental Laws.

“Risk Assessment” means a health risk assessment prepared by a well-qualified CEM or PhD environmental professional acceptable to both Parties that for each Known Hazardous Substance (a) identifies exposure pathways and exposure parameters to derive health-based soil and groundwater screening levels based on reasonable maximum exposure parameters, (b) establishes soil and groundwater screening levels that represent chemical concentrations which would not result in adverse health effects under the assumed future land use of the Site, (c) identifies potential exposures during construction as a component of the analysis, (d) recommending Activity and Use Limitations for development of the Site that will maintain protection of public health and the environment while, to the extent consistent with such mandate, minimizing overall costs charged against the CPV Remediation Cost Cap, and (e) supersedes and replaces the Converse Consultants' September 24, 2002 Risk-Based Evaluation performed for CPV Parkway IV & V but only as to the Site. In recommending Activity and Use Limitations as provided in (d) above, the Risk Assessment shall contain a thorough cost analysis and discussion for each practicable alternative Activity and Use Limitation to minimize Site development charges against the CPV Remediation Cost Cap.

“Site” means the Site.

“Soil and Groundwater Management Plan” means the plan prepared by Kleinfelder, dated March 21, 2007, in accordance with Applicable Environmental Guidance and approved by NDEP for handling Hazardous Substances in soil and groundwater encountered during and after construction of the Project.

Environmental Conditions

1D. INTENTIONALLY OMITTED

2D. Developer Acknowledgments. Developer acknowledges receipt of the Environmental Disclosure Documents and agrees that CPV has made no representation regarding the matters set forth therein. Developer further acknowledges that the Environmental Disclosure Documents disclose and describe Hazardous Substances in soil and groundwater within and surrounding the Site.

3D. Developer Obligations and CPV Obligations. The Parties mutually acknowledge and agree that the Soil and Groundwater Management Plan sets forth the requirements for the remediation of the Site and that the Soil and Groundwater Management Plan is the basis of this Project Environmental Management Plan. Developer agree that CPV's obligations set forth in 3D.(b) are the only obligations of CPV in connection with Environmental Conditions, Environmental Laws and Hazardous Substances relating or applying to the Site.

(a) **Developer Obligations.** Developer shall design, construct, and operate the Project in accordance with Applicable Environmental Guidance. Developer and not CPV shall do and perform each of the following and shall be responsible and pay for all costs associated therewith, subject to CPV's reimbursement obligations set forth in Section 3D(b):

1. Obtaining the Risk Assessment, which Developer shall complete no later than 120 days after the DDA is fully executed.

2. Excavation of soil based on an underground 3D grid of the Site prepared by Developer and reviewed by the CEM. There will be no stockpiling of soil on the Site and any excavated soil will go directly into third party hauling trucks arranged by CPV;
3. Handling, storing, transporting, re-using or disposing of all Clean Soil;
4. Sampling, characterizing, analyzing, remediating, cleaning up, treating, storing, and disposing to the extent required by and in compliance with Applicable Environmental Guidance: (x) Soils excavated by Developer that contain Hazardous Substances; or (y) Groundwater diverted from the Project Site to the extent recommended by the Risk Assessment and (z) Hazardous Substances on or within or migrating from or to the surface soils, subsurface soils or soil gas of, within, on or under the Site that are excavated by Developer;
5. To the extent necessary in Developer's sole judgment and discretion to satisfy construction design requirements within and for the Project, replacing and recompacting Clean Soil or formerly Contaminated Soil that is remediated to levels where such soil can be re-used pursuant the Soil and Groundwater Management Plan on the Site for the Project;
6. If and to the extent recommended by the Risk Assessment, the design, construction, operation and maintenance of Engineering Controls after Completion of Construction;
7. The portion of off-site disposal costs attributable to formerly Contaminated Soil that is remediated to levels where such soil can be re-used on Site pursuant to the Soil and Groundwater Management Plan;
8. The treatment in compliance with Applicable Environmental Guidance of groundwater diverted from the Site; and Developer shall not be responsible for any costs associated therewith until after the CPV Obligations are terminated pursuant to Section 3D(h) below:

Upon and after the termination of the CPV Obligations as set forth in Section 3D(b) below, Developer shall be solely responsible for all costs necessary to comply with Applicable Environmental Guidance relating to Hazardous Substances within or affecting the Site.

(b) CPV Obligations. Subject to and as limited by the CPV Remediation Cost Cap, CPV, and not Developer, shall be responsible for the following costs incurred during construction of the Project and until issuance of an Occupancy Certificate for the following matters, each of which shall be charged against the CPV Remediation Cost Cap (and CPV shall reimburse Developer for any costs incurred by Developer subject to the CPV Remediation Cost Cap):

1. Sampling, characterizing, analyzing, remediating, cleaning up, treating, storing, and disposing to the extent required by and in compliance with Applicable Environmental Guidance: (x) Soils excavated by Developer that contain Hazardous Substances; and (z) Hazardous Substances on or within or migrating from or to the surface soils, subsurface soils or soil gas of, within, on or under the Site that are excavated by Developer;
2. The Risk Assessment, which Developer shall complete no later than 120 days after the DDA is fully executed.
3. The CEM costs as set forth in paragraph 3D(c) below.

Notwithstanding anything to the contrary in this Project Environmental Management Agreement, CPV shall not be responsible for any costs Developer would incur in the absence of the presence of Hazardous Substances in soil, groundwater, or other media at the Site.

All CPV Obligations shall terminate upon (i) the exhaustion of the CPV Remediation Cost Cap for the Site, or (ii) the issuance of the Occupancy Certificate for the Project, whichever first occurs. Notwithstanding the foregoing, if and to the extent the CPV Remediation Cost Cap has not yet been exhausted, CPV shall remain responsible for the costs to dispose of or remediate Contaminated Soil prior to issuance of the Occupancy Certificate.

Developer agrees that the obligation of CPV to provide the CPV Remediation Cost Cap funds is limited to the Site, parcel E.

(c) CEM Contract. Developer shall promptly enter into a contract that requires the CEM to promptly perform the work described below (the "**CEM Contract**"). Developer shall be exclusively responsible for all CEM costs incurred under the CEM contract through issuance of the Occupancy Certificate, which costs shall be charged against CPV Remediation Cost Cap. Developer shall be exclusively responsible for all CEM Contract costs after issuance of an Occupancy Certificate. At a minimum, the CEM contract shall contain the following terms and conditions:

1. Upon issuance of the Occupancy Certificate, the CEM Contract shall terminate and the CEM shall make a duplicate set of all records, data, and reports generated during the contract available to the Parties. After issuance of the Occupancy Certificate, to the extent NDEP requires any ongoing groundwater monitoring, additional remediation or corrective action, or treatment or special handling of groundwater Developer will be solely responsible for all costs associated therewith and for costs of complying with Applicable Environmental Guidance.

2. INTENTIONALLY OMITTED

3. Obtain on behalf of and in the name of CPV or Developer all necessary Environmental Permits for the Project;

4. Oversee the testing, storage, handling, treatment, and transportation of any Hazardous Substances encountered during construction of the Project;

5. Deliver to CPV at the conclusion of the Project construction all records relating to any treatment facility constructed to treat soil or groundwater contamination, including applicable Environmental Permits;

6. The CEM shall regularly report in writing to the Parties a summary of matters relating to the handling, storage, treatment, and disposal of Hazardous Substances encountered before and after issuance of the Occupancy Certificate;

7. INTENTIONALLY OMITTED

8. INTENTIONALLY OMITTED

9. To the extent CEM performs services on, or commingles excavated Contaminated Soils from multiple sites, including the Site, within Symphony Park, costs and expenses associated with those services and the hauling, handling, sampling, testing, analyzing treatment, removal, remediation, and the like, of commingled Contaminated Soils shall be equitably and reasonably allocated by the CEM's applying an objective standard to arrive at a proportionate share for the Site in relation to other contributing Symphony Park sites and projects.

5D. Mutual Release. Each Party for itself and each Party's agents, representatives, successors, assigns, members, administrators, officers, directors, employees, and all other persons associated with each Party hereby irrevocably releases waives, remises, acquits and forever discharges all other Parties and each of their agents, representatives, successors, assigns, members, administrators, officers, directors, employees ("**Released Party**") from any and all claims or potential claims, causes of action and any demands whatsoever, whether presently known or unknown, vested or contingent, in law or in equity, and for claims of any nature whatsoever, whether based on Environmental Laws or any other federal, state or local statute or ordinance, or based on a tort, contract, common law or other theory of recovery, for any liability, obligation, responsibility, loss, cost, claim, damage, order, judgment, decree, expense (including, without limitation, reasonable attorney and expert fees and disbursements, including court costs and costs of appeal), penalty or fine incurred in connection with, arising from or out of, or related to any release of Hazardous Substances or any violation of Environmental Laws occurring on the Site prior to the Closing Date. Nothing in this Section or this Covenant shall be construed as a release or waiver of any claim, arising from a breach of any term, condition, covenant, representation or warranty contained in this Covenant.

6D. Limited Developer Indemnity. Developer shall indemnify, hold harmless, and defend CPV, CPV's affiliates, council members, mayor, employees, agents, officers, successors, and assigns of and from all losses or claims for personal injury, property damage, or natural resource damages caused in whole or in part by Developer's failure to design, construct, or operate the Project in conformance with Applicable Environmental Guidance from and after the Closing Date.

EXHIBIT "F"
PROJECT DSLURS

APN No: A portion of 139-34-211-005

WHEN RECORDED, MAIL TO:

CITY PARKWAY V, INC.
495 South Main St. 6th Floor
Las Vegas, Nevada 89101
Attention: Office of Economic and Urban Development

(Space Above Line For Recorder's Use)

DECLARATION OF SPECIAL LAND USE RESTRICTIONS AND OPTION TO RECONVEY

THIS DECLARATION OF SPECIAL LAND USE RESTRICTIONS AND OPTION TO RECONVEY ("*Declaration*") is made as of _____, 20__, by and between CITY PARKWAY V, INC., a Nevada non-profit corporation ("*CPV*"), and LAS VEGAS MUSEUM OF ART, INC., a Nevada non-profit corporation ("*Developer*"). CPV and Developer are individually or collectively referred to herein as "Party" or "Parties."

WITNESSETH:

A. WHEREAS, CPV has conveyed to Developer that site, which is more particularly described in Exhibit "A" attached hereto (the "*Site*");

B. WHEREAS, the Site is part of Symphony Park, which is more particularly described in Exhibit "B" attached hereto;

C. WHEREAS, in consideration of such conveyance, Developer has agreed that it is acquiring the Site to develop the Project (hereinafter defined) in accordance with the Restrictions (hereinafter defined) set forth herein;

D. WHEREAS, CPV is conveying the Site to Developer on the basis of Developer's continuing compliance with the Restrictions, including the construction of the Project and the operation of the Project; and

E. WHEREAS, but for such representations by Developer, and Developer's unique skills, expertise and suitability in development of the Site and construction and operation of the Specific Facilities (hereinafter defined) described below, CPV would not have conveyed the Site to Developer.

NOW, THEREFORE, in consideration of the foregoing (including the conveyance of the Site by CPV to Developer), and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Developer, the Parties hereto agree as follows:

1. GENERAL PROVISIONS

1.1 Statement of General Purposes. Among the distinguishing characteristics of Symphony Park are the clear delineation of use areas throughout Symphony Park, together with the strict exercise of architectural and occupancy controls over individual construction projects, so as to ensure the harmonious growth and development of Symphony Park and the maximization of the value of CPV's remaining land holdings and Symphony Park as a whole. In addition to those general concerns, it is vitally important to CPV that development on those parcels of property (including the Site) that CPV from time to time elects to sell to third parties be consistent with CPV's master plan for Symphony Park. Should the development conditions imposed by CPV be materially violated, Symphony Park and its planned development could be negatively impacted. This Declaration is made in order to promote these purposes, and the Parties intend that these Restrictions, and all other declarations supplemental hereto, will be understood and construed in furtherance of said purposes.

1.2 Certain Definitions.

"*Affiliate*" or "*Affiliates*" means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Person. For purposes hereof, the term "*control*" (including the terms "*controlled by*" and "*under common control with*") shall mean the possession, directly or indirectly, of a Controlling Interest. Unless the context otherwise requires, any reference to "*Affiliate*" in this Declaration shall be deemed to refer to an Affiliate of Developer.

"*City*" means the city of Las Vegas, Nevada a political subdivision of the State of Nevada.

"*City Council*" means the City Council of the City.

"*Commence Construction*" or "*Commencement of Construction*" means the commencement of the grading of the site for the Project and the Continuous Construction of the Project until the Project receives a temporary certificate of occupancy or a notice of completion is recorded.

"*Completion of Construction*" shall mean the date that the Project receives a temporary certificate of occupancy or a notice of completion is recorded.

"*Continuous Construction*" shall mean, prior to Completion of Construction, the continuous construction of the Project without the cessation of the construction work for a period of thirty (30) days or more, except as the result of an Unavoidable Delay.

"*Controlling Interest*" means the ownership, directly or indirectly, of, or other legal right to direct the voting of, 51% or more of the voting interests in a Person or the governing body of such Person.

"*Convey or Conveyance*" means any manner by which any estate or interest in the Site is created, alienated, assigned or surrendered, and includes, without limitation, any sale, lease (other than leases or licenses of any retail space entered into by Developer in the ordinary course of business), conveyance, transfer, exchange, encumbrance or other disposition of the Site, whether by agreement for sale or in any other manner.

“CPV” has the meaning set forth in the first paragraph of this Declaration and includes any Person to whom CPV assigns its interest in this Declaration pursuant to Section 6.1 below.

“CPV Indemnified Party or Parties” means, collectively, CPV and the City and their respective elected and appointed officials, directors, officers, shareholders, members, employees, permitted successors and assigns and agents and Affiliates of such Persons (and the respective heirs, legal representatives, successors and assigns of any of the foregoing).

“DDA” means that certain Disposition and Development Agreement between CPV and Developer, as such may be amended, whereby CPV has sold the Site to Developer.

“Design Standards” means the Symphony Park Design Standards incorporated into Section 19.06.060 of the Municipal Code of the City by Bill No. 2006-68, Ordinance No. 5874, as revised and adopted on April 2, 2014, by Ordinance 6311, and any amendments and restatements thereto adopted by the City Council.

“Developer” has the meaning set forth in the first paragraph of this Declaration.

“Final Plans and Drawings” means those plans, drawings, related documents and any subsequent revisions thereto prepared for the construction of the Project which have obtained all approvals pursuant to the Requirements for the construction of the Project.

“Governmental Authority” or “Governmental Authorities” means (i) the United States of America, the State of Nevada, the City, Clark County Nevada, any other community development district and any agency, department, commission, board, bureau, instrumentality or political subdivision (including any county or district) of any of the foregoing, now existing or hereafter created, having jurisdiction over Developer or over, under or above the Site (or any portion thereof) and (ii) any public utility or private entity which will be accepting and/or approving any development on the Site.

“Improvement Costs” has the meaning set forth in Section 4.4.

“Improvements” has the meaning set forth in Section 4.4.

“Non-complying Structures” means structures upon the Site that violate applicable Requirements or any conditions, covenants, or restrictions recorded upon the Site.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government, or any city or political subdivision thereof.

“Project” means that certain development as set forth in the Project Scope.

“Project Documents” has the meaning set forth in Section 4.4.

“Project Scope” means the description of the Project attached to this Declaration as Exhibit “C”.

“Recorder’s Office” means the Office of the Clark County, Nevada Recorder and the official records contained therein.

“Repurchase Option” has the meaning set forth in Section 4.3(d).

“Required Approvals” means all approvals and permits necessary under the Requirements for the development, construction and operation of the Project.

“Requirements” means (i) any and all laws, rules, regulations, constitutions, orders, ordinances, charters, statutes, codes, executive orders and requirements (now existing or hereafter applicable) of all Governmental Authorities having jurisdiction over Developer or Symphony Park (including, without limitation, the Americans with Disabilities Act and any of the foregoing relating to handicapped access or parking, the building code of the City and the laws, rules, regulations, orders, ordinances, statutes, codes and requirements of any applicable fire rating bureau or other body exercising similar functions); (ii) any temporary or final certificates of completion and/or occupancy issued for the Site, as then in force; (iii) any and all provisions and requirements of any insurance policy required to be carried by Developer under this Agreement; and (iv) any and all terms, conditions or covenants of any and all easements, covenants, conditions or restrictions of record, declarations, or other indentures, documents or instruments of record. The term *“Requirement”* includes the Design Standards, as such may be amended from time to time, provided however, that at such time as Developer has obtained approval pursuant to the Symphony Park Documents of the final design for the Project, then any subsequent amendments to the Symphony Park Documents which would require a modification of the final approved design of the Project shall not be applicable to the Project.

“Restrictions” means the covenants, conditions, rights, restrictions and limitations more particularly set forth in this Declaration.

“Schedule of Performance” attached to this Declaration as Exhibit “D”, subject to extension due to Unavoidable Delays.

“Site” is defined in Recital A.

“Specific Facilities” means those buildings, infrastructure improvements, site improvements and other facilities generally specified in the Final Plans and Drawings together with all modifications thereto agreed by CPV.

“Unavoidable Delays” means delays or stoppages of work due to any of the following (provided that such delay is beyond a Party’s reasonable control): war, sabotage, insurrection, civil commotion, strikes, labor disputes, slowdowns, lock outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, acts of terrorism, epidemics, pandemics, disease, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions, litigation, unusually severe or abnormal weather conditions, a moratorium or any regulatory policy which impedes or precludes private development on the Site, unavailability or failure of utilities, material shortages resulting directly from general market shortages, labor shortages resulting directly from general market shortages, criminal acts of another party other than Developer or any party related to Developer, or a court order which causes a delay (unless resulting from disputes between or among the Party alleging an Unavoidable Delay, present or former employees, officers, members, partners or shareholders of such alleging Party or Affiliates or present or former employees, officers, partners, members or shareholders of such Affiliates) of such alleging Party. Any delay resulting from Hazardous Substances disclosed in environmental reports prepared on the Site prior to Close of Escrow shall not constitute Unavoidable Delay. Such Party shall use reasonable good faith efforts to notify the other Party not later than twenty (20) days after such Party knows of the occurrence of an Unavoidable Delay. An extension of time for an Unavoidable Delay shall only be for the

period of the Unavoidable Delay, which period shall commence to run from the time of the commencement of the cause of the Unavoidable Delay. Developer agrees that Developer's failure to secure Project Financing shall not be an Unavoidable Delay.

2. GENERAL AND SPECIFIC USE RESTRICTIONS

2.1 Project Development. Developer agrees to develop the Site with those Specific Facilities buildings and other improvements specified in the Final Plans and Drawings. The violation of any of the following requirements prior to the Completion of Construction shall constitute a default hereunder and a breach of the Restrictions, which shall entitle CPV to exercise any of the rights and remedies set forth in Section 4.1 thru 4.4.

(a) Development. Developer agrees that the Commencement of Construction shall occur on or prior to February __, 2027, subject to Unavoidable Delay. Developer agrees that its default under this Section 2.1(a) shall be a default under Section 4.3(d) entitling CPV to exercise the Repurchase Option.

(b) Schedule of Performance. Developer agrees that the design, permitting, Commencement of Construction, and Completion of Construction shall be undertaken and completed in strict compliance with the Schedule of Performance, subject to extension due to Unavoidable Delay.

(c) Uses. Developer shall cause the Site to be developed only with the Specific Facilities and such minor structures as may be incidental to an art museum development.

2.2 Site Restrictions. The violation of any of the following requirements within forty-five (45) years after the recordation of this Declaration shall constitute a default hereunder and a breach of the Restrictions, which shall entitle CPV to exercise any of the rights and remedies set forth in Sections 4.1-4.3(a)-(c).

(a) Uses. No portion of the Site or improvements thereon or any portion thereof shall be developed, used, operated or maintained with any facilities other than the Specific Facilities and such minor structures as may be incidental to the use as an art museum, or for any other purpose inconsistent with an art museum, unless expressly approved by CPV, which approval shall be granted or withheld by CPV in its sole discretion and shall be subject to such terms and conditions as CPV may elect to impose. Notwithstanding the foregoing, in the event of a casualty or condemnation with respect to a portion of the Site or the Specified Facilities that renders reconstruction or redevelopment in strict accordance with the Final Plans and Drawings impossible or materially cost prohibitive, Developer may redevelop and/or reconstruct the Site and the improvements thereon in accordance with revised plans and drawings so long as (i) such revised plans and drawings are consistent with the original purpose of the Specific Facilities as an art museum and (ii) Developer obtains any required approvals pursuant to the Requirements in connection with such reconstruction or redevelopment.

(b) Subdivision. Except as may be otherwise indicated in the Final Plans and Drawings or as otherwise approved by CPV in writing, Developer shall not affect any change or amendment to any parcel or final map covering the Site or record any further record of survey, parcel or final map of the Site or any portion thereof or facilities thereon, pursuant to the NRS, or any similar statute hereafter enacted, and any local ordinances adopted pursuant thereto, nor shall Developer file any applications with any governmental agency with respect to any of the foregoing matters.

(c) Zoning. Developer shall not use or develop or attempt to use or develop the Site or any portion thereof for any purpose other than the Project, or those other purposes expressly allowed (without the benefit of a zone variance, special use permit, exception or other special administrative procedure) under the zoning ordinance or ordinances of the governmental entity having zoning jurisdiction over the Site in effect as of the date of recordation of this Declaration. Additionally, Developer shall not change or attempt any change in zoning, or obtain or apply for a zoning variance or exception or other similar approval with respect to the use or development of the Site or any portion thereof not expressly allowed under such existing zoning without first obtaining the written consent of CPV, which consent shall be granted or withheld by CPV in its reasonable discretion.

2.3 Parking. Developer agrees that all parking for the Project must be accommodated in full on the Site and meet zoning requirements.

3. DEVELOPER OPERATING COVENANTS

3.1 General Obligations. Upon Completion of Construction, Developer shall at all times thereafter maintain and operate the Project in substantial conformance with the terms of this Section 3. Developer acknowledges that a material part of the consideration of CPV conveying the Site to Developer is Developer's agreement to comply with the terms and conditions of this Section 3.

3.2 Maintenance of Project. Developer agrees at its sole cost and expense to maintain the Project in manner consistent with the condition and repair of similarly situated properties located in Symphony Park at all times.

3.3 Waste or Nuisance. Developer shall not commit or knowingly suffer to be committed any material physical waste upon the Site and shall not conduct its business so as to impair, in CPV's reasonable opinion, the reputation of Symphony Park.

3.4 CPV Right to Cure. CPV shall have the right (at CPV'S sole discretion) to perform any obligations hereunder required to be performed by Developer for which Developer is in default past all notice and cure periods set forth in Section 4.3, including, without limitation, the performance of maintenance and repair that Developer is obligated to perform hereunder and the procurement of any insurance required hereunder. CPV shall have the right upon thirty (30) days prior notice to Developer (except that no notice shall be required in the case of an emergency), to enter the Project and perform such maintenance or repair on behalf of Developer. Developer agrees to reimburse CPV within ten (10) business days after a written demand by CPV for any reasonable costs and expenses incurred by CPV in connection with the performance by CPV of Developer's obligations under this Declaration including five percent (5%) of such costs for CPV's supervision of any maintenance and repair or cost of funds.

3.5 Conveyance. Developer and CPV agree that until such time as Completion of Construction of the Project is achieved, Developer shall not assign or transfer all or any part of its interest in the Site and/or the Project except as expressly permitted in Section 3.3 of the DDA. Notwithstanding the foregoing, Developer shall have the right, without CPV's consent, to (i) collaterally assign its rights and obligations in this Declaration to a financial institution or lender ("Developer's Lender") for the purposes of granting a security interest in the Site and/or Project pursuant to construction financing for the Project, and (ii) to transfer its interest in the Site and/or Project and assign its rights and obligations under the Declaration to Developer's Lender in connection with Developer's Lender's exercise of an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Site and/or Project.

3.6 Indemnity.

(a) The CPV Indemnified Parties shall not be liable to Developer for, and Developer hereby releases the CPV Indemnified Parties and hereby agrees to indemnify, defend and hold the CPV Indemnified Parties harmless from and against any loss, cost, liability, claim, damage, expense (including, without limitation, reasonable attorneys' fees and disbursements and court costs), penalty, fine or any other loss whatsoever (collectively, "*Claims*") arising from: (A) any injury (whether physical, economic or otherwise) to Developer or to any other Person in, about or concerning the construction and the ongoing ownership and operation of the completed Project or portion thereof, notwithstanding the absence of negligence or other fault on the part of Developer or its Affiliates, (B) any Claim of any Person owning or leasing any portion of the Project, notwithstanding the absence of negligence or other fault on the part of Developer or its Affiliates, (C) any Claim of an owners association or other similar entity, related in any way to the Project, notwithstanding the absence of negligence or other fault on the part of Developer or its Affiliates, (D) any Claim related to any latent or patent defects in the Project, notwithstanding the absence of negligence or other fault on the part of Developer or its Affiliates, (E) any Claim arising from any act or omission of Developer or its Affiliates or of the contractors, agents, servants, employees, guests, or licensees of Developer or its Affiliates, notwithstanding the absence of negligence or other fault on the part of Developer or its Affiliates or on the part of such contractors, agents, servants, employees, guests, or licensees or (F) any other Claim related in any way to the Project or portion thereof, notwithstanding the absence of negligence or other fault on the part of Developer or its Affiliates; provided, that, the foregoing indemnity shall not apply with respect to any Claim to the extent attributable to the gross negligence or willful misconduct of a CPV Indemnified Party.

(b) Developer shall notify CPV within thirty (30) days of any occurrence at the Project of which Developer has notice and which Developer receives written notice of a Claim, complaint or suit against the CPV Indemnified Parties.

(c) The obligations of Developer under this Section 3.6 shall not be affected in any way by the absence or presence of insurance coverage (or any limitation thereon, including any statutory limitations with respect to workers' compensation insurance), or by the failure or refusal of any insurance carrier to perform an obligation on its part under insurance policies affecting the Project; *provided, however*, that if CPV actually receives any proceeds of Developer's insurance with respect to an obligation of Developer under this Article, the amount thereof shall be credited against, and applied to reduce, any amounts paid and/or payable hereunder by Developer with respect to such obligation.

(d) If any Claim, action or proceeding is made or brought against any CPV Indemnified Party which is or may be subject to indemnification by Developer hereunder, then, upon demand by CPV or such CPV Indemnified Party, Developer shall either resist, defend or satisfy such Claim, action or proceeding in such CPV Indemnified Party's name, by the attorneys for, or approved by, Developer's insurance carrier (if such Claim, action or proceeding is covered by insurance) or such other attorneys as CPV shall reasonably approve. The foregoing notwithstanding, such CPV Indemnified Party may, at its own expense, engage its own attorneys to defend such CPV Indemnified Party, or to assist such CPV Indemnified Party in such CPV Indemnified Party's defense of such Claim, action or proceeding, as the case may be.

(e) Following the occurrence of a Claim under Section 3.6(d) above, each CPV Indemnified Party shall promptly notify Developer of the imposition of or incurrence by such CPV Indemnified Party of any cost or expense as to which Developer has agreed to indemnify such CPV Indemnified Party pursuant to the provisions of this Section 3.6. Subject to the right of Developer to contest

in good faith such amounts due to any CPV Indemnified Party, Developer agrees to pay such CPV Indemnified Party all amounts due under this Section 3.6 within sixty (60) days receipt of the notice such CPV Indemnified Party.

3.7 Insurance.

(a) Prior to Commencement of Construction on the Site, Developer shall obtain and, at all times prior to Completion of Construction, maintain in effect the following policies of insurance: (a) workers' compensation insurance covering liability arising from claims of workers in respect of and during the period of the performance of the work on the Site; and (b) a standard "all risk" Builder's Risk Policy.

(b) Prior to Commencement of Construction on the Site and at all times prior to Completion of Construction, Developer shall maintain in effect commercial general liability insurance and/or excess umbrella policy with a single per occurrence limit of not less than Two Million Dollars (\$2,000,000) with respect to the Site and the operations of Developer in, on or about the Site;

(c) All policies of insurance shall be issued by insurance companies authorized to do business in Nevada and with a financial rating of at least "A-VII" status as rated in the most recent edition of Best's Insurance Reports, or such other insurers to which CPV may consent in writing. All such policies shall provide coverage against claims which may arise out of or result from Developer's performance of the work on the Site or which may arise in connection with the activities of Developer, any contractor or subcontractor of Developer, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. Developer shall furnish CPV with certificates of all insurance policies required under this Section 3.7 within the time periods required in this Section, including prior to Commencement of Construction. Each policy shall provide that it may not be canceled in coverage until twenty (20) days after written notice shall have been given to CPV of such cancellation. In the event of any reduction in the coverage amount, Developer shall promptly notify CPV. All insurance required hereunder (except worker's compensation) shall name CPV and the CPV Indemnified Parties as additional insureds. Notwithstanding the above, Developer shall have the right to provide and maintain the coverage provided for in Section 3.7(b) above through a program of self-insurance or from an affiliated carrier, which provides insurance to or for Developer, or a combination of both.

4. **ENFORCEMENT OF RESTRICTIONS**

4.1 General Purpose and Constructive Notice. The Restrictions shall be binding upon Developer, its successors and assigns, and shall benefit the other land owned by CPV and comprising Symphony Park and be enforceable solely by CPV or its assignee notwithstanding any transfers of Symphony Park or any portion thereof by CPV. Except as specifically set forth herein, the Restrictions shall remain in full force and effect for the period of time specified in Section 2.2, notwithstanding CPV's exercise of any right or remedy herein due to a previous or repeated violation of any one or more of the Restrictions. Notwithstanding the foregoing, to the extent any Restrictions are to be performed up to Completion of Construction, such Restrictions shall terminate upon Completion of Construction.

4.2 Right of Access. Until Completion of Construction, CPV may from time to time, upon at least two (2) business days' prior written notice to Developer, at reasonable hours, enter upon and inspect the Site, or any portion thereof or improvements thereon, to ascertain compliance with the Restrictions, but without obligation to do so or liability therefor. Such representatives of CPV shall be those who are so identified in writing by CPV; provided that CPV shall not be required to provide two (2)

business days' prior written notice in the event of an actual emergency, but shall endeavor to provide prior notice to Developer of such entrance and such emergency unless it is not commercially reasonable to do so, in which case CPV shall provide notice to Developer promptly following such entrance on the Site. Notwithstanding anything to the contrary in this Agreement or any other agreement between the Parties, CPV shall indemnify Developer and hold it harmless from any damage caused or liability arising out of this right to access.

4.3 Default and General Remedies. In the event of any breach, violation or failure to perform or satisfy any of the Restrictions which has not been cured within the period set forth below, CPV at its sole option and discretion may enforce any one or more of the following remedies or any other rights or remedies to which CPV may be entitled by law or equity, whether or not set forth herein. Unless a cure period is otherwise specifically designated, such cure period shall commence when written notice is given to Developer of a violation hereunder referencing the applicable cure period, and shall end (i) ten (10) days thereafter in the case of a monetary default; or (ii) thirty (30) days thereafter in the case of a non-monetary default; *provided* that Developer shall be granted such additional period necessary to cure such default if the cure of such default is not capable of being cured within such thirty (30) day period but in all events shall be completed within one hundred twenty (120) days. To the maximum extent allowable by law, all remedies provided herein or by law or equity shall be cumulative and not exclusive. Notwithstanding anything to the contrary herein, CPV acknowledges that no breach under this Declaration shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust in favor of Developer's Lender. Upon providing CPV with written notice of Developer's Lender's name and address, CPV will provide Developer's Lender with written notice of any non-compliance given to Developer under this Declaration and Developer's Lender shall have the right, but not the obligation, to cure any non-compliance within a reasonable period of time of receipt of such notice (which shall include the time needed to allow Developer's Lender to take possession of the Site) so long as Developer's Lender is continuously and diligently pursuing such remedy and keeping CPV regularly updated regarding the same. CPV also confirms its understanding that Developer's Lender shall not be liable for any penalties or damages relating to defaults arising prior to its acquisition of title to the Site, but thereafter, Developer's Lender shall remedy continuing defaults that are susceptible to cure by Developer's Lender.

(a) Damages. CPV may bring a suit for damages for any compensable breach of or noncompliance with any of the Restrictions, or declaratory relief to determine the enforceability of any of the Restrictions.

(b) Equity. It is recognized that a particular or ongoing violation by Developer of one or more of the foregoing Restrictions may cause CPV to suffer material injury or damage not compensable in money (including, but not limited to irreparable effects on the type and quality of development on Symphony Park or portions thereof), and that CPV shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with the Restrictions or an injunction to enjoin the continuance of any such breach or violation thereof, whether or not CPV exercises any other remedy set forth herein.

(c) Abatement. If any such breach or violation of these Restrictions or any provision hereof is declared to be a nuisance by any Governmental Authority or court of competent jurisdiction, CPV shall be entitled to prosecute any remedy allowed by law or equity for the abatement of such nuisance against any person or entity acting or failing to act in violation of these Restrictions, all at the sole cost and expense of Developer or any person having possession under Developer. Any costs or expenses paid or incurred by CPV in prosecuting any such remedy (including all reasonable attorneys' fees and costs of collection), together with interest thereon at the rate of three percent (3%) over the prime rate

published from time to time by the "Wall Street Journal", or if the Wall Street Journal is no longer published, then its successor publication or a similar financial publication that publishes the prime rate of interest shall be the personal obligation of Developer or any other person who was an owner of the Site when such charges became due and who committed such breach or violation.

(d) Option to Repurchase the Site. In recognition of CPV's interest in the expeditious development of the Site, Developer hereby grants to CPV the irrevocable, exclusive right and option to repurchase the Site (the "*Repurchase Option*") upon the occurrence of any of the events contemplated by Section 4.4(a) below. Developer agrees that the Repurchase Option is of a special and unique kind and character and that, if there is a breach by Developer of the Repurchase Option, CPV may not have any adequate remedy at law. It is expressly agreed, therefore, that in addition to all other rights and remedies available to CPV, the Repurchase Option may be enforced by CPV by an action for specific performance and other equitable relief, provided, however, that if CPV exercises the Repurchase Option, such exercise shall be in lieu of any other remedies permitted herein or at law for the occurrence of such breach by Developer.

4.4 The Repurchase Option shall only be exercised as provided below.

(a) Exercise of Repurchase Option. To the extent not cured in accordance with Section 4.3, CPV may exercise the Repurchase Option by giving written notice to Developer in the event of Developer's violation of the Restrictions itemized in Sections 2.1(a), 2.1(b), 2.1(c) and/or 3.5 above within ninety (90) days of CPV obtaining knowledge of such violation or Developer or Developer's Lender's failure to cure in accordance with Section 4.3 (whichever is later), provided that such ninety (90) day period shall not apply in any circumstance where Developer or Developer's Lender has claimed that any cure will take longer than the time set forth in Section 4.3. If CPV does not exercise the Repurchase Option within such ninety (90) day period (or longer period, as described in the preceding sentence), CPV shall no longer be entitled to exercise the Repurchase Option solely with respect to that particular violation. Upon Completion of Construction, whether prior to or after the date set forth in the Schedule of Performance, CPV shall no longer be entitled to exercise the Repurchase Option (including in connection with a violation occurring prior to Completion of Construction). No failure of CPV to exercise the Repurchase Option after the occurrence of any of the foregoing events shall constitute a waiver of its right upon the occurrence of any other event permitting exercise of the Repurchase Option.

(b) Title Condition. Upon such repurchase, the Site shall be subject only to:

- (i) Current taxes not yet delinquent;
- (ii) Matters affecting title which exist as of the date of recordation of this Declaration, or which are created, made, assumed, consented to or requested by CPV, its successors or assigns;
- (iii) Easements for utilities and other matters used in connection with the building and other improvements constructed on the Site, as approved by the applicable Governmental Authority(ies);
- (iv) Improvement Costs; and
- (v) Such other exceptions expressly approved by CPV in writing.

(c) Within thirty (30) days after CPV's exercise of the Repurchase Option, Developer shall submit to CPV (A) a list of improvements existing (the "*Improvements*") on the Site; and (B) a breakdown of the actual hard and soft costs incurred by Developer or any Developer Affiliate to construct or otherwise further the development of the Improvements, including any costs incurred in connection with any remediation or grading pursuant to that certain Covenant entered into by CPV and Developer upon Developer's acquisition of the Site from CPV, affecting the Site (the "*Improvement Costs*"). Improvement Costs shall specifically not include any costs associated with Non-complying Structures. CPV and Developer shall consult in good faith with one another for the purpose of arriving at an agreement concerning such Improvement Costs. Developer shall (I) to the extent in Developer's possession or control, provide CPV with copies of all documents relating to the Site prepared by or at the direction of Developer, including, but not limited to, geotechnical reports, soils tests, environmental reports, engineering studies, architectural plans for the Specific Facilities and any other reports, studies or plans relating to the Site or Specific Facilities to be constructed upon the Site (excluding any proprietary market or economic analysis or studies and any design plans or similar development materials prepared by or for Developer) (collectively, the "*Project Documents*") and CPV acknowledges that neither Developer nor the producer of any such studies or reports has made to CPV and does not make to CPV any warranty or representation regarding the truth or accuracy of any such studies or reports; and (II) to the extent assignable, assign and transfer all rights that Developer has to the Project Documents. Within ninety (90) days after CPV exercise of the Repurchase Option, Developer at its sole cost and expense shall remove all Non-complying Structures. If Developer does not remove all Non-complying Structures within such ninety (90) day period, CPV may, at CPV option, reasonably determine the cost to remove the Non-complying Structures and deduct the amount from the Purchase Price (hereinafter defined).

(d) Repurchase Price. CPV's purchase price for the Site upon its exercise of the Repurchase Option shall be equal to the purchase price paid by Developer to CPV as evidenced by the final escrow closing statement for the purchase, plus the above provided Improvement Costs (the "*Purchase Price*"). The Improvements shall be conveyed to CPV by bill of sale in consideration of payment of the Improvement Costs as part of the Purchase Price.

(e) Repurchase Escrow Terms. Within five (5) days after CPV's exercise of the Repurchase Option as provided above or as soon thereafter as possible, an escrow shall be created at First American Title Insurance Company or another escrow company selected by CPV to consummate the repurchase as specified herein, which escrow shall provide for a closing of ninety (90) days after the opening of the escrow. Said escrow shall be subject only to approval by CPV of a then current title commitment. Any exceptions other than those set forth in Section 4.4(b) above shall be removed or insured over by Developer at its sole expense at or prior to closing of escrow or discharged by payment of the proceeds of the Repurchase Price at the closing of the Repurchase Option. Developer agrees that any monetary or mechanics liens on the Site shall be paid in full by Developer at the close of escrow. Developer and CPV shall each pay one-half of the escrow fees; Developer shall pay for documentary tax stamps, if applicable, for recording the deed, and for the premium of a standard form owner's coverage policy of title insurance in the amount of the Purchase Price showing title to the Site vested in CPV or its assigns free and clear of all liens, encumbrances or other title exceptions other than those set forth in this Declaration or Section 4.4(b) above. Any other costs or expenses shall be allocated between the Parties in the manner customary in Clark County, Nevada.

(f) Binding Effect. Without limitation of the provisions of Section 6.1 below, the Repurchase Option shall be binding upon and shall inure to the benefit of the respective successors in interest to the Parties hereto.

5. RESERVED

6. MISCELLANEOUS PROVISIONS

6.1 Assignment by CPV. Any and/or all of the rights, powers, duties and reservations of CPV herein contained may not be assigned without the written consent of Developer. Notwithstanding the foregoing, CPV shall have the right to assign the rights, powers, duties and reservations of CPV herein contained to City, the Las Vegas Redevelopment Agency, or any other Governmental Authority without the prior approval of Developer. CPV agrees to provide Developer with prior notice of any such assignment.

6.2 INTENTIONALLY DELETED

6.3 Other Restrictions. This Declaration is not the exclusive source of restrictions on the use of the Site, and nothing herein contained shall prejudice or diminish in any way CPV's rights under any other documents of record prior to the recording of this Declaration affecting all or any portion of the Site.

6.4 Attorneys' Fees. In the event either Party hereto is required to employ an attorney because of the other Party's default, the defaulting Party shall pay the non-defaulting Party's reasonable attorneys' fees incurred in the enforcement of this Declaration.

6.5 Time of the Essence. Time is of the essence of this Declaration and every obligation hereunder.

6.6 Successors and Assigns. . This Declaration shall be deemed and shall constitute a covenant running with the land for the benefit of CPV and its successors and assigns and shall pass to and be binding upon all heirs, successors and assigns in title to the Site, and shall pass to and be binding upon all heirs, successors and assigns to such interests. Each and every contract, deed or other instrument hereafter executed covering or conveying the Site or any portion thereof or any interest therein (excepting only leases of units in the Project) shall conclusively be held to have been executed, delivered, and accepted subject to this Declaration, regardless of whether any or all of such covenants contained herein are set forth in such contract, deed or other instrument. If a portion or portions of the Site, or interest or interests in the Site are conveyed, all such covenants contained herein shall run to each portion of or interest in the Site.

6.7 Notices. All notices, consents, requests, demands and other communications provided for herein shall be in writing and shall be deemed to have been duly given if and when (i) personally served, (ii) forty-eight (48) hours after being sent by United States registered mail, return receipt requested, postage prepaid; (iii) upon delivery (or refusal of delivery) of personal delivery, or (iv) upon confirmation of receipt of facsimile transmission, to the other Party at the following respective addresses, facsimile number or such other address or facsimile number as either Party may from time to time designate in writing:

If to CPV: City Parkway V, Inc.
 c/o Office of Economic and Urban Development
 495 S. Main Street, 6th Floor
 Las Vegas, 89101
 Phone: (702) 229-6551
 Fax: (702) 385-3128

Attn: Dina Babsky, Acting Director

And: City Attorney Office
Attn: John Ridilla
495 S. Main Street, 6th Floor
Las Vegas, NV 89101
Phone: (702) 229-6629
Fax: (702) 368-1749

If to Developer: Las Vegas Museum of Art, Inc.
3800 Howard Hughes, Suite 960
Las Vegas, NV 89169
Attention: Heather Harmon, Executive Director
Phone: (310) 980-3840

And: Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, Nevada 89135
Attention: Jodi R. Goodheart
Phone: (702) 792-3773

6.8 Subsequent CPV Approvals. Any approvals of CPV required or permitted by the terms of this Declaration are authorized to be given by the President of CPV or such other person that CPV designates in writing to Developer. Notwithstanding the foregoing, Developer acknowledges that some approvals will require review and approval by the City Council. In such cases, the Parties shall comply with the required processes of submitting matter for review and approval by City Council.

6.9 Entire Agreement and Waivers. This Declaration is executed in three (3) duplicate originals, each of which is deemed to be an original. This Declaration, the DDA and the respective exhibits thereto constitute the entire understanding and agreement between the Parties and is intended by the Parties to be the final expression of their agreement with respect to the subject matter hereof, and the complete and exclusive statement of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. In the event of a conflict between the terms of this Declaration and the DDA, the terms of the DDA shall control. This Declaration includes Exhibit "A" through Exhibit "D", inclusively, attached hereto and incorporated herein by reference. All waivers of the provisions of this Declaration must be in writing and signed by the appropriate authorities of CPV and Developer and no waiver of one provision shall be construed as a waiver of that provision in the future or as a waiver of any other provision.

6.10 Termination or Amendment. The Restrictions may be validly terminated, amended, modified or extended, in whole or in part, only by recordation with the Recorder's Office of a proper instrument duly executed and acknowledged by CPV and Developer to that effect. This Declaration shall automatically terminate upon the expiration of the period of time specified in Section 2.2.

6.11 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalidated, it shall be deemed to be severed from this Declaration and the remaining provisions shall remain in full force and effect.

6.12 Governing Law. The interpretation and enforcement of this Declaration shall be governed in all respects by the laws of the State of Nevada.

6.13 Captions. The captions contained in this Declaration are for the convenience of the Parties and shall not be construed so as to alter the meaning of the provisions of the Declaration.

6.14 Counterparts. Each counterpart of this Declaration shall be deemed to be an original and all of which together shall be deemed to be one and the same Declaration. Delivery of this Declaration may be accomplished by facsimile transmission of this Declaration. In such event, the Parties hereto shall promptly thereafter deliver to each other executed counterpart originals of this Declaration.

6.15 No Third Party Beneficiaries. Nothing in this Declaration shall confer upon any Person, other than the Parties hereto, Developer's Lender and their respective successors and permitted assigns, any rights or remedies under or by reason of this Declaration.

6.16 Days. All references to "*days*" in this Declaration are to consecutive calendar days unless business days are specified. All references to "*business days*" shall mean any day that is not a Friday, Saturday, Sunday or day on which commercial banks are not authorized to be open, or required to be closed, in Las Vegas, Nevada. Notwithstanding the foregoing, if the last day of any time period stated herein shall not fall on a business day, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is a business day.

6.17 Construction. The Parties acknowledge that each Party and its counsel have reviewed and approved this Declaration and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Declaration or any amendments or exhibits hereto.

6.18 Extensions of Time. The President of CPV shall have the authority to grant time extensions under this Agreement not to exceed a total of ninety (90) days, provided, however, it shall be at the President's sole and absolute discretion as to whether to grant any time extension or to submit any requests for time extensions to the City Council for approval. The foregoing shall not be construed to limit any extensions with respect to the Developer's performance of its obligations arising due to an Unavoidable Delay.

EXECUTION BLOCKS ON NEXT PAGE

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the date first written above.

CPV

CITY PARKWAY V, INC.,
a Nevada non-profit corporation

By: _____

Name: _____

Title: President

ATTEST:

_____, Title

APPROVED AS TO FORM:

Date

DEVELOPER

LAS VEGAS MUSEUM OF ART, INC.,
a Nevada non-profit corporation

By: _____

Name: _____

Title: _____

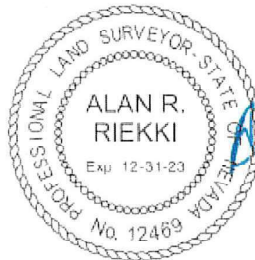
Execution Date:

LIST OF EXHIBITS

EXHIBIT "A"	LEGAL DESCRIPTION OF THE SITE
EXHIBIT "B"	LEGAL DESCRIPTION OF SYMPHONY PARK
EXHIBIT "C"	PROJECT SCOPE
EXHIBIT "D"	SCHEDULE OF PERFORMANCE

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE



NOVEMBER 16, 2023

BY: ARR

P.R. BY: MFK

(PAGE 1 OF 2)

EXPLANATION:

THIS LEGAL DESCRIPTION DESCRIBES A PARCEL OF LAND GENERALLY LOCATED NORTH OF BONNEVILLE AVENUE AND WEST OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY FOR TRANSFER PURPOSES.

**LEGAL DESCRIPTION
SYMPHONY PARK
PARCEL L NORTH**

BEING A PORTION OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LOCATED WITHIN THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M.D.M. CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED MARCH 6TH, 2018 BY DOCUMENT NUMBER 20180306 INSTRUMENT: 00016, SAID PARCEL ALSO DEPICTED AS "PARCEL L (SOUTH)" ON THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY NEVADA IN FILE 207 OF SURVEYS, AT PAGE 36, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF CITY PARKWAY; THENCE NORTH 27°53'43" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 248.42 FEET; THENCE SOUTH 62°04'44" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, 263.08 FEET TO THE EASTERLY BOUNDARY LINE OF SAID LOT 5, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 27°55'16" WEST, ALONG THE EASTERLY BOUNDARY LINE OF SAID LOT 5, COINCIDENT WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD, 248.42 TO THE NORTHEAST CORNER OF SAID "PARCEL L (SOUTH)"; THENCE NORTH 62°04'44" WEST, DEPARTING THE EASTERLY BOUNDARY LINE OF SAID LOT 5, AND THE WESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD AND ALONG THE NORTHERLY BOUNDARY LINE OF SAID "PARCEL L (SOUTH)", 262.97 FEET TO THE **POINT OF BEGINNING** AS SHOWN ON THE "EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION" ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 65.340 SQUARE FEET (1.50 ACRES) MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

PARCEL L NORTH
LEGAL DESCRIPTION CONTINUED
(PAGE 2 OF 2)

BASIS OF BEARINGS:

SOUTH 27°55'16" WEST, BEING THE EASTERLY LINE OF LOT 5 OF THAT COMMERCIAL SUBDIVISION KNOWN AS "PARKWAY CENTER" ON FILE IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 53 OF PLATS, AT PAGE 61, LYING WITHIN THE WEST HALF (W 1/2) OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 61 EAST, M D M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA.

END OF DESCRIPTION.

EXHIBIT B

LEGAL DESCRIPTION OF SYMPHONY PARK

LOT 5 OF PARKWAY CENTER, A COMMERCIAL SUBDIVISION RECORDED AT THE OFFICE OF THE CLARK COUNTY, NEVADA RECORDERS OFFICE AS BOOK 53, PAGE 61.

EXCLUDING THEREFROM THE FOLLOWING PARCEL:

A PORTION OF LOT 5 AS SHOWN ON THAT CERTAIN PLAT ENTITLED "PARKWAY CENTER, A COMMERCIAL SUBDIVISION" RECORDED IN BOOK 53, PAGE 61 OF PLATS ON FILE AT THE CLARK COUNTY, NEVADA RECORDER'S OFFICE AND LYING WITHIN THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 33, TOWNSHIP 20 SOUTH, RANGE 61 EAST, CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, M.D.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF GRAND CENTRAL PARKWAY AND BONNEVILLE AVENUE AS SHOWN ON SAID PLAT; THENCE ALONG THE CENTERLINE OF SAID GRAND CENTRAL PARKWAY, NORTH 03°50'03" WEST, 209.30 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 500.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 27°16'04", AN ARC LENGTH OF 237.96 FEET; THENCE DEPARTING SAID CENTERLINE, SOUTH 66°33'59" EAST, 50.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID GRAND CENTRAL PARKWAY; THENCE CONTINUING SOUTH 66°33'59" EAST 3.37 FEET TO THE **POINT OF BEGINNING**; THENCE SOUTH 62°20'53" EAST, 388.49 FEET; THENCE SOUTH 17°53'58" WEST, 124.13 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 30.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°42'33", AN ARC LENGTH OF 15.56 FEET TO A POINT OF NON-TANGENCY, TO WHICH A RADIAL LINE BEARS SOUTH 42°23'29" EAST AND TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID BONNEVILLE AVENUE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 81°09'57" WEST, 270.39 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 55.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 95°00'00", AN ARC LENGTH OF 91.19 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID GRAND CENTRAL PARKWAY; THENCE ALONG SAID EASTERLY LINE NORTH 03°50'03" WEST, 94.72 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 450.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 24°36'50", AN ARC LENGTH OF 193.32 FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET, FROM WHICH BEGINNING THE RADIUS BEARS NORTH 69°13'13" WEST; THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°03'21"; AN ARC LENGTH OF 5.26 FEET;

THENCE NORTH 32°50'08" EAST, 15.81 FEET TO THE **POINT OF BEGINNING**.

BASIS OF BEARING

NORTH 03°50'03" WEST, BEING THE BEARING OF A PORTION OF THE CENTERLINE OF GRAND CENTRAL PARKWAY AS SHOWN IN BOOK 53, PAGE 61 OF PLATS ON FILE AT THE CLARK COUNTY, NEVADA RECORDER'S OFFICE, CLARK COUNTY, NEVADA.

END OF DESCRIPTION.

As more particularly shown as Lot ____ on the Record of Survey recorded in Book _____ of Surveys, page _____, in the Official Records of the Clark County, Nevada Recorder's Office.

EXHIBIT C
PROJECT SCOPE

Developer agrees to construct an art museum in the approximate size of 90,000 square feet on Parcel L North. The museum will have exhibition and community spaces and associated uses within the museum facilities.

EXHIBIT D**SCHEDULE OF PERFORMANCE**

The Developer and CPV agree the Project shall be developed as follows:

Action	Timing	Due Date
Effective Date of DDA	September 4, 2024	9/4/24
Due date for Earnest Money Deposit	5 business days from the DDA Effective Date	9/9/24
Open Escrow	Within 5 business days of the DDA Effective Date	9/9/24
SPDRC Introductory Meeting: Developer and the City will conduct an introductory meeting with the Symphony Park Design Review Committee (SPDRC) to discuss preliminary designs and Site Plan Development Review Checklist prior to completing documents for Entitlements and SPDRC Review	Within 90 days of the DDA Effective Date	12/9/24
Submit for Pre-App meeting	On or before	5/4/25
Submit Site Plan Development Review (SDR) documents to the City of Las Vegas Planning Department for Site Development Plan Review and Symphony Park Block Plan Review	Planning Deadline	6/15/25
Feasibility Period [+ 90-day extension with \$100,000 non-refundable deposit]	180 days from DDA Effective Date	3/4/25
Entitlement hearing	First Planning Commission meeting following SDR Submittal	8/15/25
Post-Entitlement Meeting scheduled	Within 14 days of entitlement hearing	1/4/26
Submit 70% Plans for RDA review	On or before	4/4/26
Submit for permits. Developer will submit 100% complete construction documents to the City of Las Vegas Development Services to secure permits and to SPDRC for review of project	180 days following Planning Commission approval of entitlements	7/4/26
Letter or Email from Building Services that all reviews have been completed and permits are ready to be pulled	10 days prior to closing	12/27/26
Submit evidence of written consent for the equity capital and non-binding expression of interest for construction financing for Project to CPV for review and approval.	No later than 60 days prior to Close of Escrow	11/4/26
Close of Escrow	10 days following approval of	1/4/27

	construction documents required to secure permits	
Secure final permits from Development Services Building Permit Approval from City of Las Vegas Development Services	No later than 30 days after Close of Escrow	2/4/27
Commence Construction	No later than 30 days after permits have been issued by the City	3/4/27
Completion of Construction [option for one 120 extension]	No later than 20 months after Commencement of Construction	11/4/28
Certificate of occupancy received	Within 30 days of Completion of Construction	No later than 12/4/28

EXHIBIT G

CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

"City Council" means the governing body of the City of Las Vegas.

"Contracting Entity," means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1	Contracting Entity
Name	Las Vegas Museum of Art
Address	c/o Heather Harmon 3800 Howard Hughes Parkway Ste 960 Las Vegas, NV 89169
Telephone	310 980 3840
EIN or DUNS	93 2603279

Block 2	Description
	The Las Vegas Museum of Art is a Nevada non-profit corporation whose purpose is to establish a museum of art in Las Vegas, Nevada to be known as the Las Vegas Museum of Art, which will focus on serving the diverse Las Vegas community through inclusive

Block 3	Type of Business
<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership
<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Corporation
	<input type="checkbox"/> Trust
	<input type="checkbox"/> Other:

exhibitions
projects.

CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS
(CONTINUED)

Block 4 Disclosure of Ownership and Principals

In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.

	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	Heather Harmon, Executive Director	2113 Silver Ave, 89102	310 980 3840
2.	Elaine Wynn, Trustee	3800 S Howard Hughes Blwy, Ste 900, 89169	702 454 9966
3.	Dana Lee, Trustee	3271 S. Highland Dr. Ste 707, 89109	702 524 7720
4.	Michael Gowan, Trustee	5905 Wilshire Blvd. LA, CA 90036	323 851 6001
5.	Roger Thomas, Trustee	2300 W Sahara Ave, No. 530, 89102	702 283 9005
6.			
7.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: _____.

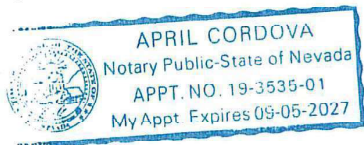
Block 5 DISCLOSURE OF OWNERSHIP AND PRINCIPALS – ALTERNATE

If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: _____

Date of Attached Document: _____ Number of Pages: _____

I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.



Name April Cordova
Date 8/13/2024

Subscribed and sworn to before me this 13 day of

August, 2024
April Cordova
Notary Public