

DEVELOPMENT AGREEMENT

BETWEEN

THE COUNTY OF STOREY,
a political subdivision of the State of Nevada

and

TAHOE-RENO INDUSTRIAL CENTER, LLC,
a Nevada limited liability company

and

DP OPERATING PARTNERSHIP, L.P.,
a Delaware limited partnership

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Master Site Plan	"B"
Design Standards Handbook	"C"
Revocable Encroachment Permit (Sample)	"D"
TRI Public-Private Partnership Capital Improvement Plan	"E"
Rules, Regulations And Rates Of The TRI Water And Sewer Company For Water Service	"F"
Rules, Regulations And Rates Of The TRI Water And Sewer Company For Sewer Service	"G"
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ATTACHMENTS

Storey County Zoning Ordinance "1"

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this 1 day of FEBRUARY, 2000, by and between **THE COUNTY OF STOREY**, a political subdivision of the State of Nevada (hereinafter referred to as "County"); and **DP OPERATING PARTNERSHIP, L.P.**, a Delaware limited partnership, and **TAHOE-RENO INDUSTRIAL CENTER, LLC**, a Nevada limited liability company, (hereinafter referred to collectively as "Developer").

1. DEFINITIONS:

1.1 "Agreement" means this Development Agreement including all exhibits incorporated by reference and all amendments which become effective after the Effective Date.

1.2 "Architectural Review Committee" or "ARC" means that architectural review committee from time-to-time appointed or designated, in accordance with, and as further described in, the Design Standards Handbook and in the CC&Rs.

1.3 "CC&Rs" means the Declaration of Covenants, Conditions And Restrictions For Tahoe-Reno Industrial Center recorded on February 19, 1999 as Document No. 84415 in the office of the Recorder of County, as amended from time to time.

1.4 "CIP" shall mean the TRI Public-Private Partnership Capital Improvement Plan, as provided in Exhibit "E".

1.5 "Code" means the Storey County Zoning Ordinance, which is Ordinance No. 159, Storey County Code Title 17, enacted July 1, 1999. The provisions of the Code as of the Effective Date relating to permitted uses of the Property, density or intensity of uses of the Property, and maximum height and size of proposed buildings are incorporated herein, unless expressly amended hereby. The Code is attached hereto as Attachment "1" for reference.

1.6 "Company" shall mean the TRI Water And Sewer Company, a Delaware corporation, which supplies community water and sewer service to the Project pursuant to the Company Rules.

1.7 "Company Rules" shall have the meaning specified in Section 6.10, and are attached as Exhibits "F" and "G", as promulgated by Company and amended from time to time, subject to the approvals by County required herein.

1.8 "Connection Fees" mean customary fees for connections to community water and sewer systems.

1.9 "Cost-Based Fees" mean customary fees for issuance of building permits, plan checks, inspections, or the like which are based upon actual costs to County, including Rate-based Fees (as defined below).

1.10 "County Board" means the Storey County Board of County Commissioners.

1.11 "County" means the County of Storey, Nevada, together with its successors and assigns.

1.12 "Design Standards Handbook" means the Development Handbook For Tahoe-Reno Industrial Center attached as Exhibit "C", as promulgated by the ARC and amended from time to time by the ARC.

1.13 "Developer" means collectively DP Operating Partnership, L.P., a Delaware limited partnership, but only as to that portion of the Property (which is also a portion of the Project) described on Exhibit "A" as the "DPOP Property", and Tahoe-Reno Industrial Center, LLC, a Nevada limited liability company, as to the remainder of the Property, together with successors in interest to all or any portion of the Property. The term "Developer", as used in this Agreement, shall not include Owners. Each Developer assumes obligations and acquires rights hereunder only relating to the portion of the Property owned by that Developer. No Developer is liable for the obligations of another Developer hereunder. In the event of a breach by one Developer, said breach shall not apply to nor adversely affect the rights or obligations of another Developer.

1.14 "Development" means the improvement of the Property for the purposes of completing the Structures, improvements, and facilities comprising the Project including, but not limited to: grading, the construction of the Project Public Infrastructure and Project Private Infrastructure, and all public facilities related to the Project whether located within or outside the Property, the construction of all buildings and Structures, and the installation of landscaping. "Development" further includes, without limitation, the use, maintenance, repair, or reconstruction of any building, Structure, improvement, or facility after the initial construction and completion thereof.

1.15 "Development Approvals" means all permits and other entitlements issued or approved by County for Development of the Property including, but not limited to:

- (a) Zoning;
- (b) Commercial subdivision maps, parcel maps, and records of survey;
- (c) Special use permits;
- (d) Sign permits;
- (e) Design review approvals;
- (f) Planned Unit Developments;
- (g) Grading and building permits; and
- (h) Any other permits and approvals specified in the Code.

“Development Approvals” includes the “Existing Development Approvals” and “Subsequent Development Approvals” as defined herein.

1.16 “Development Exactions” means, except as otherwise provided in this Agreement, all exactions, in-lieu fees or payments (including but not limited to capital facilities fees, impact fees, mitigation fees, and service connection fees), dedications or reservation requirements, obligations for on-site or off-site improvements or construction requirements of a type not normally regarded as subdivision improvements (i.e., those having a direct nexus to the particular tract), mitigation measures in connection with environmental review, or impositions made under other rules, regulations, or official policies of the County including without limitation the payment of Development Impact Fees.

1.17 “Development Impact Fees” means all those fees, charges, financial exactions, or assessments which are or may be charged by the County pursuant to NRS Chapter 278B as a condition to any development of the Property for capital improvements (as defined in NRS Section 278B.020), but excepting "Cost-based Fees," "Connection Fees," and "Usage Fees," defined herein.

1.18 “Discretionary Actions and Discretionary Approvals” means an action or approval which requires the exercise of judgment, deliberation, or a decision, including one which contemplates and authorizes the imposition of revisions or conditions, by County, including any board, commission, or department and any officer or employee thereof, in the process of approving or disapproving a particular activity, as distinguished from an activity which merely requires County, including any board, commission, or department and any officer or employee thereof, to determine whether there has been compliance with applicable statutes, ordinances, regulations, or conditions of approval.

1.19 “Effective Date” means the date the County adopts an ordinance approving the execution of this Agreement in accordance with NRS Section 278.0203; provided the Agreement shall not bind the parties, or their successors-in-interest, until the Memorandum Of Development Agreement is recorded in the Office of the County Recorder pursuant to the provisions of Section 11.3.

1.20 “Exhibits” shall mean the following documents attached to, and by this reference made a part of, this Agreement, including future amendments thereto:

Exhibit “A” - Legal Description of the Property

Exhibit “B” - Master Site Plan

Exhibit “C” - Design Standards Handbook

Exhibit “D” - Revocable Encroachment Permit (Sample)

Exhibit “E” - TRI Public-Private Partnership Capital Improvement Plan

Exhibit “F” - Rules, Regulations And Rates Of The TRI Water And Sewer Company For Water Service

Exhibit "G" - Rules, Regulations And Rates Of The TRI Water And Sewer Company For Sewer Service

Exhibit "H" - Memorandum Of Development Agreement

1.21 "Existing Development Approvals" means all Development Approvals approved or issued on or before the Effective Date.

1.22 "Existing Rules" means all Land Use Regulations in force and effect as of the Effective Date.

1.23 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations, and official policies of County legally adopted in accordance with all applicable laws which govern the Development of the Property, including, without limitation, the permitted use of land, the density or intensity of use, height and size of proposed buildings, subdivision requirements, zoning ordinances, Master Plan, Code, the provisions for reservation or dedication of land for public purposes, all Development Exactions, the phasing or timing of Development, and standards for design, improvements, and construction.

1.24 "Maintenance Association" means the TRI Owners Association, a Nevada nonprofit corporation, as described in the CC&Rs.

1.25 "Master Plan" means the Storey County Master Plan, and all amendments thereto legally adopted and effective as of the Effective Date.

1.26 "Master Site Plan" means the final site plan for the Project as further described in Section 6.1 below.

1.27 "Mortgagee" means any lender or other party providing financing secured by the Property or any portion thereof.

1.28 "NRS" means Nevada Revised Statutes.

1.29 "Owner" means any person holding fee simple title to any portion of the Property, excluding Maintenance Association. An Owner acquires all rights and assumes all obligations under this Agreement related only to Development of Property owned by the Owner. Unless expressly provided otherwise herein, an Owner does not acquire rights or assume the obligations of the Developer by acquiring Property other than in a Wholesale Transaction.

1.30 "Parcels" shall mean those legal parcels created by record of survey, by parcel map pursuant to NRS Section 278.461, or by commercial subdivision maps pursuant to NRS Section 278.325, which are consistent with the Master Site Plan, and any further legal subdivision of those Parcels as approved by the County.

1.31 "Project" means Developer's proposed Development of the Property pursuant to the Code, Master Site Plan and the Development Approvals, as such Development may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.32 "Project Private Infrastructure" shall mean certain infrastructure necessary for Development of the Project as described in Section 6.5 below.

1.33 "Project Public Infrastructure" shall mean certain infrastructure necessary for Development of the Project as described in Section 6.4 below.

1.34 "Property" shall mean the land subject to this Agreement as legally described in Exhibit "A" attached hereto and as shown on Exhibit "B" attached hereto.

1.35 "Rate-Based Fees" mean Cost-based Fees, which are calculated or determined as a percentage of value.

1.36 "State" means the State of Nevada.

1.37 "Structures" shall mean those buildings, structures, and other related improvements to be developed as part of the Project for office, commercial, industrial, and public uses or purposes.

1.38 "Subsequent Development Approvals" means all Development Approvals issued by the County after the Effective Date. Subsequent Development Approvals include, without limitation, all excavation, grading, building, construction, encroachment, or street improvement permits, signage, variances, certificates of occupancy, utility connection authorizations, special use permits and any other permits or approvals necessary, convenient, or appropriate for the grading, construction, marketing, use, and occupancy of the Project at such times and in such sequences as Developer may choose consistent with the Master Site Plan, Existing Development Approvals, and this Agreement.

1.39 "Subsequent Rules" means any new Land Use Regulations or any amendments to Existing Rules legally adopted and effective after the Effective Date.

1.40 "Tahoe-Reno Industrial Center" means the Project, and is the marketing name for the Project, and is sometimes referred to as "TRI Center".

1.41 "Term" means the term of this Agreement, together with any extensions agreed upon pursuant to Section 4.1 below.

1.42 "Usage Fees" mean customary fees charged for the use or consumption of potable and/or nonpotable water, sewer service, or drainage service.

1.43 "Wholesale Transaction" means the bulk sale, transfer or conveyance of all of the Property owned by a Developer, or of a portion thereof which consists of all land unimproved by Structures. "Wholesale Transaction" shall not include any transfer to a public or quasi-public entity for public use, any transfer of "Common Area" to "Association" as those terms are defined in the

CC&Rs, or any transfer of the Property to an "Affiliate" of Developer. "Affiliate" means any member of Developer or any entity in which such members, or any of them, own a controlling interest.

2. **PROCEDURAL PROVISIONS:** This Agreement is predicated upon the following facts:

2.1 **Statutory Authorization:** Pursuant to NRS 244.195, the County Board has the power and jurisdiction to do and perform all acts and things as may be lawful and necessary to the full discharge of the powers and duties conferred on the County Board. County is also authorized, pursuant to NRS 278.0201 through 278.0207, inclusive, and Section 17.14 of the Code (collectively, the "Development Agreement Law") to enter into binding development agreements with persons having legal or equitable interests in real property located within the County to establish long range plans for the development of such property free from uncertainties to the greatest extent possible. The County is additionally authorized, pursuant to NRS 704.681 and NRS 244.188(1)(a), to regulate the provision of community water and sewer service within the Project as provided in Section 6.10 of this Agreement. Moreover, the County may acquire, improve, equip, operate and maintain Project Public Infrastructure as provided in Article VI of this Agreement pursuant to NRS 244A.057; and County may provide financial assistance for railroad facilities as specified in Subsections 6.5(c) and 6.7 pursuant to NRS 710.290(1).

2.2 **Interest of Developer and Owners in the Property:** Developer and Owners each have legal or equitable interests in the Property. Developer is the fee owner of a portion of the Property.

2.3 **Intent of Parties:** The parties desire to enter into this Agreement relating to the Development of the Property in conformity with the Development Agreement Law, and as otherwise permitted by law, to provide for public services, public uses, and urban infrastructure, to promote the health, safety, and general welfare of the County and its inhabitants, and to provide Developer with certain safeguards and rights.

2.4 **Letter Of Understanding:** County and previous owner of the Project, Asamera Minerals, Inc., entered into a certain Letter Of Understanding dated December 15, 1997 regarding the Project (fka Asamera Ranch) concerning a portion of the same subject matter as this Agreement. Said Letter Of Understanding is hereby terminated and shall be deemed null and void.

2.5 **Public Objectives:** County acknowledges that certain public objectives which it wishes to attain will be furthered by this Agreement, including facilitating the implementation of the Master Plan, and Development pursuant to the Code. Development of the Project will further the planning objectives contained within the Master Plan, and provide public benefits, including the following:

- (a) fulfilling long term economic and social goals for the Project and the County;
- (b) providing planned office, commercial, and industrial development with quality design features and facilitating the Development Approval process and implementation;
- (c) providing, improving and protecting an infrastructure and open space system coordinated with the future development of the Project area of the County;

- (d) providing for both short-term private construction employment and long-term private permanent employment within the County;
- (e) enhancing the long-term viability of the economy of the County;
- (f) coordinating the phasing of public facilities with private development;
- (g) promoting economic development within the County and State;
- (h) enhancing the Property as an attractive location for Development of commercial and industrial users to build and operate businesses; and
- (i) providing competitive advantages for the Project to increase and promote Development.

2.6 County Board Hearings: All preliminary processing with regard to this Agreement having been duly completed, the County Board, having given notice as required by law, held a public hearing on February 1, 2000 on Developer's application seeking approval of this Agreement and the execution hereof by the County.

2.7 County Board Findings: At its meeting specified in Section 2.6 above, the County Board found that this Agreement complies with the Development Agreement Law and is consistent with the Master Plan and all other plans, policies, and regulations of the County, and that the execution hereof by and on behalf of the County is in the public interest.

2.8 County Ordinance: On February 1, 2000, the County Board adopted Ordinance No. 163 approving this Agreement and authorizing the execution hereof by duly constituted officers of the County.

3. EXHIBITS: All Exhibits to this Agreement are incorporated herein by this reference. Attachments are not Exhibits and are attached hereto for reference only.

4. GENERAL PROVISIONS:

4.1 Term of Agreement: The term of this Agreement shall commence upon the Effective Date and shall expire fifty (50) years after the Effective Date, unless extended by written amendment executed by the County and Developer.

4.2 Assignment: Subject to the limitations of this Section 4.2, the rights and obligations of Developer under this Agreement may be transferred or assigned, in whole or in part, but only by express written assignment recorded in the County Recorder's Office. Except in the case of a Wholesale Transaction, no conveyance of Property alone operates to transfer rights or obligations of the Developer, except as expressly provided in this Section. The new owner of the Property resulting from a Wholesale Transaction shall assume all obligations of the Developer relating to the Property acquired, and shall be deemed the "Developer" as that term is used herein.

(a) If such transfer, conveyance, or assignment by Developer is part of a Wholesale Transaction, Developer shall give the County at least forty-five (45) days prior written notice. No notice need be given of any sale, transfer, conveyance, or assignment of any portion of the Property that does not involve a Wholesale Transaction. Except as expressly provided in Subsection 4.2.(b) below, an assignment or transfer shall not relieve Developer of its obligations hereunder. In addition, except as set forth in this Section 4.2 or in any agreement relating to an assignment or transfer of any Parcel, the assignee or transferee of any portion of the Property shall not acquire rights nor be subject to any of Developer's obligations hereunder, nor be deemed to have assumed any of such obligations, except each such assignee/transferee as to the portion of the Property transferred shall be responsible for paying any amounts imposed as a condition to the Development of that portion of the Property so transferred, which are due upon filing of maps, issuance of building permits, or some other similar event.

(b) Notwithstanding anything in Subsection 4.2.(a) to the contrary, County shall release Developer from any obligations under this Agreement with respect to the portion of the Property transferred upon the full satisfaction by Developer of the following conditions:

(i) Developer no longer has a legal or equitable interest in the portion of the Property being transferred except for any rights applicable to purchase money financings, the CC&Rs, or other restrictive covenants, reservations, or easements, or similar instruments recorded against the Property;

(ii) County has not received notice that Developer is then in material default under this Agreement; and

(iii) The purchaser, transferee, or assignee agrees in writing to be bound by this Agreement as it applies to the portion of the Property being transferred.

Following compliance by the Developer (and the transferee where applicable) with the requirements of this Subsection 4.2.(b), County agrees to look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Property acquired by such transferee. "Compliance," as used in the preceding sentence, shall include, without limitation, compliance with the payment of any dollar amounts owed.

(c) With respect to any permitted assignment pursuant to the provisions of this Section 4.2, the assignment shall operate to release Developer from its obligation under any other agreements, permits or undertakings pertaining to the transferred portion of the Project.

(d) Any amendment to this Agreement between the County and a transferee from Developer shall only affect the portion of the Property owned by such transferee, and a breach by any transferee shall only affect that portion of the Property owned by such transferee. Any such amendment shall require the written consent of Developer, so long as Developer has any legal or equitable interest in any of the Property.

(e) Notwithstanding anything contained in this Section 4.2, Developer has full discretion and authority to transfer or assign interests in the Property or portions thereof in connection with any

financing transactions described in Article 10 below, including securitization of any Mortgage encumbering Property and any transfer to a lender as a result of a foreclosure or deed in lieu of foreclosure. As further specified in Section 10.1, any lender acquiring the Property, or any portion thereof, as a result of foreclosure or a deed in lieu of foreclosure, shall take such Property subject to the rights and obligations of Developer under this Agreement.

4.3 Amendment of Agreement: This Agreement may be amended from time to time as specified in Article 8, or by request of the Developer and consent of the County, which may require (among other things) the adoption or approval of a County ordinance. County's Director of the Building and Planning Department, or his or her designee, may make and approve minor modifications to this Agreement if requested by Developer without County Board review; provided, however, that such modifications and amendments shall, in the reasonable discretion of said Director, be minor modifications if the change does not affect the term of this Agreement, the permitted uses of the Property, the density or intensity of uses of the Property, the maximum height and size of buildings, or the provisions for reservation and dedication of land. Approval of a minor modification shall be evidenced in written form signed by the Director and by Developer, and shall be forwarded to the County Board to provide notice thereof to other County agencies. Refusal of said Director to make a minor modification requested by the Developer shall be appealable to the County Board.

4.4 Reserved:

4.5 Binding Effect of Agreement: Subject to Section 4.2 hereof, the burdens of this Agreement bind and the benefits of the Agreement inure to the parties' respective successors in interest to the Property, and are covenants running with the land.

4.6 Notices: All notices, demands, and correspondence required or provided for under this Agreement shall be in writing and delivered in person, or dispatched by certified mail, postage prepaid, or by overnight courier. Notices required to be given to County shall be addressed as follows:

Director, Building And Planning Department
P.O. Box 526
110 Toll Road
Virginia City, Nevada 89440

Notices required to be given to Developer shall be addressed as follows:

Tahoe-Reno Industrial Center, LLC
P.O. Box 838
Poway, California 92074-0838

DP Operating Partnership, L.P.
1200 Financial Boulevard
P.O. Box 7098
Reno, Nevada 89510

Notice shall be deemed effective upon receipt. Any party may change its address by giving notice in writing to the other parties, and thereafter notices, demands and other correspondence shall be addressed and transmitted to the new address.

4.7 No Lien in Favor of County: No provision of this Agreement shall be deemed to create in favor of County a lien or encumbrance which would enable it to foreclose against the Property, or any portion thereof or interest therein; provided that nothing in this Agreement shall be interpreted to impair or impede a tax lien or other lien in favor of the County imposed pursuant to the Existing Rules and State law.

4.8 Conflict of Agreement with Legal Decisions, State or Federal Laws: In the event that any conflicting State or federal laws or regulations are enacted or enforced after the Effective Date, or in the event any final decision of an arbitrator or court, which prevent or preclude compliance by County or Developer with one or more provisions of this Agreement or require changes in the Master Site Plan, the following provisions shall apply:

(a) Notice and Copies: A party, upon learning of any such matter, will provide the other parties with written notice thereof and provide a copy of any such law, regulation, decision or policy, together with a statement of how any such matter conflicts with the provisions of this Agreement.

(b) Modification Conferences: The parties shall, within thirty (30) days, meet and confer in good faith and attempt to modify this Agreement to the minimum extent necessary to make it comply with any such State or federal law or regulation, while remaining within the intent of this Agreement. In the meantime, Developer and County shall take reasonable actions to comply with such law or regulation.

(c) County Board Hearings: Regardless of whether the parties reach an agreement on the effect of any State or federal law or regulation, the matter shall be scheduled for hearing before the County Board. The County Board, at such hearing, shall determine the minimum modification or suspension necessitated by such State or federal law or regulation. Developer shall have the right to offer oral and written testimony at the hearing. Any suspension or modification ordered by the County Board pursuant to such hearing is subject to judicial review and shall not be arbitrated pursuant to Article 9.

4.9 Annexation Of Property: Additional real property designated "Annexation Property" on the Master Site Plan may be unilaterally annexed to the Property if approved by Tahoe-Reno Industrial Center, LLC with consent of only the Owner thereof, and shall become a portion of the Project; provided the Annexation Property has at the time of annexation an industrial or commercial zoning classification and a Notice Of Annexation is recorded in the office of the County Recorder executed by Tahoe-Reno Industrial Center, LLC and (if different) the Owner of the real property subject to annexation. Other additional real property within the County may be annexed to the Property if approved by Tahoe-Reno Industrial Center, LLC, the County and (if applicable) the Owner of the real property subject to the annexation; provided the real property has at the time of annexation an industrial or commercial zoning classification under the Code; the Master Site Plan has been amended to include the annexed property, and a Notice of Annexation is recorded in the office

of the County Recorder, executed by the County, Tahoe Reno Industrial Center, LLC and (if different) the Owner of the real property subject to annexation.

5. DEVELOPMENT OF THE PROPERTY:

5.1 Right to Develop: Subject to the terms of this Agreement, Developer shall have a vested right to develop the Property in accordance with, and to the extent of, the Master Site Plan, the Code, the provisions hereof, and Existing Development Approvals. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the provisions for reservation and dedication of land for public purposes, the Development Exactions, the phasing and timing of Development, the standards for the design, improvement, and construction of the Property, and other terms and conditions of Development applicable to the Project shall be those set forth in this Agreement, in the Code, in the Master Site Plan and Design Standards Handbook, and in the Existing Development Approvals.

In the event Developer finds that a change in this Agreement, the Master Site Plan, or in the Existing Development Approvals is necessary or appropriate, Developer may apply for a Subsequent Development Approval to effectuate such change and County shall process and act on such application in accordance with the Existing Rules, except as otherwise provided by this Agreement. If approved, any such change in the Existing Development Approvals shall be incorporated herein, and may be further changed from time to time as provided in this Section.

5.2 Rules, Regulations, Official Policies: This Agreement is enforceable by a party notwithstanding, and without regard to, any change (which, except for this Agreement, would otherwise be applicable) in any of County's Land Use Regulations regarding, for example, zoning, subdivisions, construction, growth-management, timing and phasing of Development, permitted uses of land, the density and design of Structures thereon, and Development Exactions. The County's Land Use Regulations applicable to the Property and the Project, including all rules, regulations, ordinances, laws, and official policies governing Development, density, permitted uses, height and size of buildings, growth management, timing and phasing of Development, environmental considerations, design criteria, and construction standards shall be the Existing Rules, with the following exceptions:

(a) Application of Subsequently Enacted Rules, Regulations, etc.: County may hereafter, during the term of this Agreement, apply only those Subsequent Rules that are not in conflict with the Existing Rules. For the purposes of this Subsection, the term "does not conflict" means Subsequent Rules which: (i) do not prevent Developer from obtaining any Subsequent Development Approvals, including, without limitation all necessary approvals, permits, certificates, and the like, at such dates and under such circumstances as the Developer would otherwise be entitled under the Existing Rules, as modified by this Agreement; or (ii) do not prevent Developer from commencing, prosecuting, and finishing grading of the land, constructing public and private improvements, and occupying the Property, or any portion thereof, all at such dates and schedules as Developer would otherwise be entitled to do so by the Existing Rules; or (iii) do not modify the Master Site Plan or any Development Approvals, including, without limitation, the permitted land uses, the density or intensity of use, the phasing or timing of development of the Project, the maximum height and size of proposed buildings on the Property, provisions for dedication of land for public purposes, and

standards for design, Development, and construction of the Project, except with respect to uniform codes as permitted below; or (iv) except as may be imposed pursuant to Subsection (b) below, do not impose upon Developer restrictions, requirements, conditions or standards which are more burdensome, more expensive, or more onerous to satisfy than those in the Existing Rules and Existing Development Approvals. Without limiting the foregoing, any Land Use Regulation limiting the rate or timing of development of the Property shall be deemed to conflict with the Existing Rules and shall therefore not be applicable to the Development of the Property. However, the foregoing limitations shall not preclude the application to the Property of: (i) new or changed State or federal laws or regulations, in which event the provisions of Section 4.8 of this Agreement are applicable; or (ii) Land Use Regulations expressly permitted under this Section 5.2; or (iii) Land Use Regulations otherwise acceptable to Developer, as noted by its written notice to County. Notwithstanding the limitations set forth in this Subsection, nothing herein shall be construed as preventing County from adopting new rules, regulations, and policies relating to uniform codes, or amendments thereto, such as the Uniform Building Code, or Uniform Fire Code (the "Uniform Codes"), which relate to public safety, are based on recommendations of multi-state professional organizations, and become applicable County-wide.

(b) County Fees: Except as expressly provided in this Agreement, this Agreement shall not prevent County from charging fees with respect to the Property and Development of the Project which are in effect as of the Effective Date, including said fees which are increased by County after the Effective Date, such as Cost-Based Fees (but excluding Connection Fees and Usage Fees), and fees necessary to allow County to participate in any federal or State program providing matching funds or similar incentives if such program provides substantial public benefits or services, provided County agrees to impose such fees in a consistent manner on a County-wide basis. Notwithstanding anything to the contrary in this Agreement, Developer may challenge, protest and oppose the imposition of any such existing, new, or increased fees to the fullest extent permitted by law.

(c) Limitation on Development Exactions: Except as expressly provided in this Agreement or the Existing Development Approvals, County shall not impose upon Developer any requirement for dedication of land, construction or improvement of public facilities, payment of fees, or making any other contribution required in order to address impacts of Development on the Project or within other areas of the County. No additional Development Exactions through the exercise of either the police power or the taxing power shall be imposed by County on the development of the Property; provided, however, that in approving commercial subdivision maps or parcel maps, County may impose ordinary and necessary dedications pursuant to the Existing Rules for rights-of-way or easements for public access, utilities and drainage having a direct nexus with the particular Development. Except as provided in Section 6.6 below, County shall not include the Property in any assessment or other district formed by or on behalf of County and shall not support inclusion of the Property in any assessment or other district formed by any other governmental entity, without Developer's prior written consent.

5.3 Time for Construction, Phasing and Completion of Project: Developer shall have complete discretion as to the timing of the Development of the Project. The parties acknowledge that Developer cannot at this time predict when or the rate at which phases of the Project will be developed. Such decisions depend upon numerous factors, which are not within the control of Developer, such as market orientation and demand, regional job growth, available financing, interest

rates, absorption, and other similar factors. Developer shall have the right to develop the Property at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment, and neither Developer nor any Owner shall have any liability to County in the event all or any portion of the Project is not completed by Developer.

5.4 No Financial Security: No Project Public Infrastructure, Project Private Infrastructure, nor other Development shall be subject to subdivision improvement agreements or other improvement agreements with County. County shall require no financial security of Developer for construction or maintenance of any Development, including Project Public Infrastructure and Project Private Infrastructure.

5.5 Creation Of Legal Parcels: Pursuant to NRS 278.325(3), legal parcels may be created within the Project by record of survey pursuant to the requirements of NRS 625.340 without, however, first acquiring an industrial or commercial subdivision tentative map or filing a final map. Developer, in Developer's sole discretion, may in the alternative apply for parcel maps or industrial or commercial subdivision maps. All maps shall be consistent and in compliance with the Master Site Plan and the CIP. In instances when legal parcels are created by record of survey, the County Board hereby declares pursuant to NRS 278.464(4) that the requirement for parcel maps is waived in regards to division of the Property, and that unusual circumstances exist in that parcel maps and surveys as specified in NRS 278.461 to 278.469 are not required to protect the public interest, and records of survey are sufficient due to the provisions of this Agreement which regulate the development of the Property. The County Board has appointed a professional land surveyor, Gary O. Wheeler, P.L.S. 12685, who has determined that surveys required of parcel maps as provided in NRS 278.461 to 278.469 are not required for the Property and records of survey are sufficient to accomplish divisions of land. All records of survey must be approved by the County Recorder and the County Assessor for conformance with State law, which approval shall not be unreasonably withheld, and review by the County Assessor and Recorder shall be performed within ten (10) days of submittal of the record of survey to them.

5.6 Waiver Of Certain Code Provisions: The provisions of Section 17.37.050 (minimum parcel area) of the Code are hereby amended for the Project to a minimum of one (1) acre. Additionally, the provisions of Section 17.37.050 as amended (one (1) acre minimum) and Section 17.37.060 (setbacks) of the Code may be waived by those County representatives responsible for the issuance of building permits, by approval of said representatives of a building permit within the Project for a parcel with a smaller minimum parcel area or a building with a narrower setback (as the case may be) for Development. The site plan required for commercial uses under Section 17.37.030(k) of the Code shall accompany the building permit application and shall show the vehicular and pedestrian access as well as the location of all structures proposed for the commercial use. To the extent that the provisions of this Section vary from the applicable provisions of the Code, a variance is hereby granted by the County.

5.7 Payment Of Deferred Agricultural Use Taxes. Legal parcels in the Project created by records of survey as specified in Subsection 5.5 of this Agreement on land then subject to an agricultural use tax deferment under NRS Chapter 361A which are not intended for agricultural use shall be deemed to have been "converted to a higher use" as defined by NRS 361A.031(1) in the same manner as if the record of survey had been a parcel map as defined by NRS 278.017. As specified

in NRS 361A.031(2), however, real property in the Project remaining after creation of a parcel intended for Development by record of survey shall continue to qualify as agricultural real property.

In order to effectuate a consistent and orderly recapture of deferred taxes by County for land within the Project subject to agricultural use under NRS Chapter 361A, County and Developer agree that prior to commencement of Development of a new phase of the Project by creation of a legal parcel for Development by record of survey or parcel map, Developer shall:

- (a) submit to the County Recorder and County Assessor a phase development map showing an area of not less than 300 acres which shall be withdrawn from agricultural use, and on which all deferred taxes shall be paid, the boundaries of which shall be on section, half section or quarter section lines unless a street alignment or railroad track alignment must be included in the area in order to provide access and necessary improvements to the area, in which case the parcel may vary from section/half section/quarter section boundary lines solely in order to include the street or railroad alignment;
- (b) create a legal parcel by record of survey, parcel map or other legal means encompassing said phase; and
- (c) pay all deferred taxes on the phase.

6. DEVELOPMENT PROGRAM:

6.1 Master Site Plan: County has approved by execution of this Development Agreement a final site plan, Master Site Plan, for the Project prepared by Developer in accordance with the Code, which provides a plan for the subdivision and development of the Project for office, commercial/industrial, and general commercial/retail uses. The Master Site Plan is incorporated herein as Exhibit "B". Development of the Project shall be in accordance with the Master Site Plan. The Master Site Plan is a conceptual Development pattern and will change during Project Development. Any minor change in the Master Site Plan, such as the relocation of streets or utilities shown, shall not require an amendment thereto. Any major change in the Master Site Plan shall be considered a minor modification of this Agreement, and shall be handled as provided in Section 4.3.

6.2 Design Standards Handbook: Developer has prepared the Design Standards Handbook, which is subject to change from time to time by action of the ARC, subject to approval of the County as provided in this Section. The Design Standards Handbook is incorporated in this Agreement as Exhibit "C". Development of the Project shall be in accordance with the Design Standards Handbook and County agrees to accept standards for design, improvement, and construction for Development of the Property which are consistent with the Design Standards Handbook, including any future changes thereto which do not conflict with the Existing Rules and do not diminish the quality or quantity of improvements required. The ARC shall have the power and authority to interpret, regulate, enforce, and apply the Design Standards Handbook, and as such, the County shall not issue permits for Development or construction of any improvements or structures without the previous written approval of the ARC. All phases of the Project shall be under the control and authority of the ARC as set forth in the Design Standards Handbook and the CC&Rs.

Notwithstanding the foregoing, any changes to the following provisions of the Design Standards Handbook shall require County approval: Article IV; Section 15 of Article V; Sections 1, 4, 5, 6, 7 and 8 of Article VI; and Articles VII, VIII and IX. Any proposed change to Design Standards Handbook provisions which is subject to County approval shall be reviewed as a minor amendment in the manner specified in Subsection 4.3.

6.3 CC&Rs: Developer has recorded the CC&Rs on a portion of the Project. Development of the Project shall be in accordance with the CC&Rs. The CC&Rs for the remainder of the Project may be recorded in phases, and for each phase shall be recorded prior to recordation of the first record of survey, parcel map or commercial subdivision map within that phase of the Project. Except as otherwise set forth in the CC&Rs, all phases of the Project shall be under the authority of the Maintenance Association, as defined in the CC&Rs. The County has no right or obligation to enforce any provisions of the CC&Rs.

6.4 Project Public Infrastructure: Developer shall construct the following improvements and infrastructure (the "Project Public Infrastructure") to service the Project in accordance with: (i) the Existing Development Approvals and Subsequent Development Approvals; (ii) all plans and specifications to be approved by the County in accordance with this Agreement and the Existing Rules, which plans and specifications shall be consistent with this Agreement, the Design Standards Handbook and the Existing Development Approvals; and (iii) the CIP. Unless otherwise set forth in this Agreement or in an agreement approved by County under Section 4.2 above, all of the Project Public Infrastructure shall be constructed at the sole cost and expense of Developer, and shall be dedicated to and maintained by the County after completion of improvements in accordance with the procedures for dedication and maintenance set forth in this Agreement; provided, however, the County may elect to construct any Project Public Infrastructure, subject to consent and approval of Developer. The following shall be defined as Project Public Infrastructure:

- (a) All streets (excluding utilities but including freeway interchanges, ramps and off-site access roads), sidewalks and streetlights constructed to the standards of the Design Standards Handbook and the Existing Rules;
- (b) All flood control and drainage channels, storm drains, basins and other related facilities;
- (c) All county building complexes, including without limitation fire stations, police stations, public works maintenance yards and administrative offices; and
- (d) Public parks.

6.5 Project Private Infrastructure: Subject to alternative means of construction provided in the Company Rules, a district provided in Section 6.6 or other agreed means between the County and Developer or a utility purveyor and the Developer, Developer shall cause to be constructed the following improvements and infrastructure (the "Project Private Infrastructure") to service the Project in accordance with: (i) the Existing Development Approvals and Subsequent Development Approvals; (ii) all plans and specifications to be approved by the County in accordance with this Agreement, the

Design Standards Handbook and the Existing Rules, which plans and specifications shall be consistent with this Agreement and the Existing Development Approvals; and (iii) the CIP (if applicable). Unless otherwise set forth in this Agreement or in an agreement approved by County under Section 4.2 above or pursuant to Section 6.6 below, all of the Project Private Infrastructure shall be constructed at the sole cost and expense of Developer, and shall not be dedicated to or maintained by the County. The following shall be defined as Project Private Infrastructure:

- (a) All community water and sewer facilities, which shall be dedicated to Company pursuant to the Company Rules;
- (b) All gas, electric, cable TV, telephone and other telecommunication facilities;
- (c) All railroad track of any kind, switching facilities, rail yards and other railroad-related infrastructure (subject to the provisions of Section 6.13);
- (d) All landscaping in common areas which shall be dedicated to the Maintenance Association pursuant to the CC&Rs, including landscaping in public rights-of-way subject to a Revocable Encroachment Permit in a form as provided in Exhibit "D";
- (e) All open space which is dedicated to the Maintenance Association;
- (f) All private pathways, private trails or private parks; and
- (g) Any other infrastructure not constructed on a private Parcel within the Project which is not expressly offered to the County and accepted by the County for County ownership and maintenance, and which is not dedicated to a governmental entity other than a general improvement district.

6.6 General Improvement Districts and Special Assessment Districts: Nothing contained in this Agreement shall prohibit or impair County and Developer from mutually agreeing to finance, construct, own or maintain all or any portion of the Project Private Infrastructure in a general improvement district ("GID"), special assessment district or similar district authorized by state and local law. Specifically, if in the future the County forms a GID or expands the basic powers of an existing GID in order to provide community water service or sanitary sewer service to the Project, then the provisions of Section 6.10 shall hereby be terminated and of no further force and effect.

6.7 TRI Public-Private Partnership Capital Improvement Plan: The cost of acquisition by County of all Project Public Infrastructure, and the cost of railroad facilities specified in Subsection 6.5(c), shall be paid through reimbursement by County to Developer ("Reimbursement Obligation") pursuant to the provisions of the TRI Public-Private Partnership Capital Improvement Plan, attached to this Agreement as Exhibit "E". In order to implement the intent of this Agreement and the CIP, the following provisions shall apply to the Developer:

- (a) Sales Tax Situs: To the maximum extent allowed by law in order to maximize sales tax revenues for County, Developer and all Owners shall provide in

construction contracts, vendors' agreements, equipment purchases and other contracts in which materials or equipment which become improvements, fixtures and furnishings to Property, that delivery and the situs of use for sales tax purposes is Storey County, Nevada, notwithstanding the provisions of Subsection 5.2. Developer and all Owners shall use good faith efforts to require all contracts and agreements of their contractors, subcontractors, and vendors and materialmen to comply with this Section.

- (b) Limit On County Debt. The Reimbursement Obligation of County shall never at any time during the term of this Agreement or after termination exceed an amount equal to five percent (5%) of the total gross annual assessed valuation of all Property (the "Debt Limit"), as shown on the tax rolls of the County Assessor. Subject to provisions of the CIP, to the extent that unreimbursed costs of Project Public Infrastructure and railroad facilities under Subsection 6.5(c) do exceed the Debt Limit (if ever), the County shall have no obligation to pay that portion of the Reimbursement Obligation in excess of the Debt Limit. However, any costs which are validly incurred and otherwise properly qualify as Reimbursement Obligations except for being in excess of the Debt Limit, shall become Reimbursable Obligations if after said costs are incurred they come underneath the Debt Limit (due to payment of other Reimbursable Obligations by County, increases in assessed valuation of Property, or other reasons).
- (c) Notice Of Application For Tax Abatement Or Deferral. Any person attempting to abate or defer taxes relating to the Development or use of a Parcel within the Project under NRS 361.0687, 372.397, 374.402, or 374.357 must deliver written notice thereof, and a complete copy of the application submitted, within three (3) business days of submittal of the application to the Nevada Commission On Economic Development. In case of applications under NRS 361.0687 and 372.397, notice shall be delivered to the County Board. In the case of applications under 374.402 and 374.357, notice shall be delivered to the Storey County School District Board Of Trustees.

6.8 Project Public Infrastructure Maintenance And Repair: County and Association may mutually agree, in the sole discretion of each party, for Maintenance Association to maintain and repair all or any portion of the Project Public Infrastructure owned by County, subject to one or more maintenance agreements providing for fair and adequate compensation to Maintenance Association for its services. Otherwise, all Project Public Infrastructure dedicated to County shall be repaired and maintained by County to a level and standard of urban service normal and customary for industrial parks in Northern Nevada. Subject to the approval of County required below, in the event that Project Public Infrastructure is not so maintained and repaired, or if emergency maintenance or repairs are necessary, then Maintenance Association or Developer may, in their sole discretion and without any obligation to do so, perform maintenance or repairs to Project Public Infrastructure and charge reasonable expenses thereof to County, in which case County agrees to pay said reasonable expenses within ninety (90) days of delivery of a billing for said expenses incurred. County may refuse to pay any expenses of Maintenance Association or Developer incurred pursuant to this

Subsection for the performance of maintenance and repairs of Project Public Infrastructure unless the Public Works Director of County has approved the work to be performed and the expenses to be incurred prior to submittal of a billing therefor to County.

6.9 Provision Of Services: Within the Project, subject to compliance with federal and State law, the Maintenance Association shall be allowed and authorized to provide railroad transportation services; the Company shall be allowed and authorized to supply community water and sewer services; and the Developer or its designate shall be allowed and authorized to supply all other Project Private Infrastructure services. The extent that Private Project Infrastructure is owned, operated or maintained by Maintenance Association or Developer, repair and maintenance shall be performed to the level and standard of urban service normal and customary for industrial parks in Northern Nevada. County shall be provided water and sewer service for all public park property owned by County free of charge.

6.10 Approval Of Company: County under this Agreement hereby elects: to regulate pursuant to NRS 704.681 the provision of community water and sewer service by Company; and to adopt pursuant to NRS 244.188(1)(a) a regulatory scheme for controlling the provision of water and sewer service by Company on an exclusive basis. County acknowledges and agrees that Company shall supply community water and sewer service to the Project as an "accommodator" pursuant to NRS 704.030(3), and is required to provide water and sewerage disposal services to members of the general public in its service area. County agrees that it will not in the future supply water or sewer services, or allow or authorize any other water or sewer purveyor to supply said services, within the service area of Company without the prior written approval of Company. County hereby approves the Company Rules, Exhibits "F" and "G" hereto, which are respectively the:

- Rules, Regulations And Rates Of The TRI Water And Sewer Company For Water Service; and
- Rules, Regulations And Rates Of The TRI Water And Sewer Company For Sewer Service.

Except for the rates, charges and fees specified in Articles 4 and 5, all provisions of the Company Rules may be amended as provided therein without need to acquire County approval or an amendment hereto and County may impose no amendment or modification to the Company Rules without Company's consent. The rates, charges and fees specified in Articles 4 and 5 of the Company Rules are also approved, but any modification to Articles 4 or 5 by Company after execution of this Agreement shall be subject to approval by County pursuant to the following procedure:

- (a) Company shall deliver written notice ("Notice") to County of a proposed change, specifying the proposed amended language and the reasons for the change;
- (b) County shall have forty-five (45) days from the date of delivery of the Notice to deliver a written response ("Response") that the County Board wishes to review the proposed change by hearing, and shall schedule a hearing thereon

within forty-five (45) days of delivery of the Response. If County does not deliver a Response in a timely manner the proposed amendment shall be deemed approved by County and the amendment shall be final.

- (c) If County delivers a Response, at the hearing on the amendment the County Board must either approve or deny the proposed amendment, unless the Company agrees to a continuance.
- (d) The grounds for approval or denial shall be whether the Company has provided substantial evidence in support of a modification, and whether the Company's request for a modification is arbitrary and capricious.

Company executes this Agreement for the sole purpose of agreeing to comply with and to be bound to the provisions of this Section.

6.11 Dedication Of Project Public Infrastructure: All Project Public Infrastructure (except said infrastructure to be dedicated to other governmental entities (e.g., freeway or state highway improvements dedicated to the State)) constructed by Developer shall be dedicated to County in the following manner:

- (a) Completion of all improvements to be dedicated;
- (b) Use or imminent use by a Parcel Owner of the improvements;
- (c) Notice by Developer to County of completion;
- (d) Inspection by County of improvements, and approval that improvements have been constructed in a good and workmanlike manner and in compliance with applicable federal and State laws, Existing Rules and the improvement plans and specifications; or disapproval of improvements based on a punchlist of deficiencies, in which case Developer shall correct the deficiencies, after which approval shall be given;
- (e) Submittal of deed (or easement, as the case may be) by Developer, or acceptance of offer of dedication, conveying all right, title and interest to County of the improvements; and
- (f) Acceptance and recording by County of conveyance in the case of deeds and easements.

If after construction of improvements certain Project Public Infrastructure is in public use prior to conveyance to County, the County may require an indemnity and hold harmless agreement from Developer and the parties shall work diligently to expedite the dedication process in order to convey it to the County as soon as possible.

6.12 Certificates Of Occupancy/ Developer Obligation To Build Off-Site Improvements: The County may in its discretion refuse to issue a certificate of occupancy for any Structure on a Project Parcel if street access or access to utilities (sewer, water, gas, telephone, electric power or storm drain (if applicable)) required for normal use of the Structure are not substantially complete. Substantial completion shall be defined for streets as paved and open for public use, and for utilities as connected with capacity and available for customer use. However, if a portion of a street necessary for access is not paved but has an all-weather surface adequate for vehicular travel, a temporary certificate of occupancy may be issued by County pending completion of street paving. Notwithstanding the forgoing, the Developer shall be responsible and liable to County for completion of all off-site improvements necessary for any particular Parcel to acquire a permanent Certificate Of Occupancy, including without limitation off-site street access and all utilities (sewer, water, gas, telephone, electric power and storm drain (if applicable)).

6.13 County Use Of Railroad Facilities. All railroad-related Project Private Infrastructure constructed as provided in Subsection 6.5(c), and operated and maintained by the Association as specified in the CC&Rs, may be used by the County or a third-party designated by the County, provided said infrastructure has sufficient excess capacity to safely accommodate the use and an agreement is executed between the County or its designated user and the Association providing for a fair and reasonable assessment for the use payable by the user in the same manner and under the same circumstances as railroad assessments by Owners to the Association are paid under the CC&Rs.

7. COUNTY COOPERATION:

7.1 Cooperation and Implementation: County agrees that it will cooperate with and assist Developer to the fullest extent permitted by law to implement this Agreement. Subject to satisfactory completion by Developer of all required preconditions and payments of appropriate fees, County will timely process all Subsequent Development Approvals and take all steps necessary to implement this Agreement and facilitate the Development of the Project in accordance with the terms of this Agreement, including (but not limited to) the processing and checking of any and all permits, approvals, maps, agreements, covenants, applications and related matters required under the conditions of this Agreement, building plans and specifications and any other plans necessary for the Development of the Property filed by Developer, and the issuance of all Subsequent Development Approvals necessary for the construction, use, and occupancy of the Property.

7.2 Agreement and Assurances on the Part of the County: In order to effectuate the provisions of this Agreement and as an inducement for Developer to obligate itself to carry out the covenants and conditions set forth herein and in consideration for Developer doing so, County hereby agrees and assures Developer that Developer will be permitted to carry out and complete the entire Project on the Property, subject to the terms and conditions of this Agreement; provided Developer is not in default under this Agreement.

- (a) Consistency with Existing Rules: County hereby finds that there are no Existing Rules that would prohibit or prevent the full completion and occupancy of the Project in accordance with the Master Site Plan, the CIP, the Existing Development Approvals and this Agreement.

- (b) Subsequent Discretionary Actions: With respect to any Discretionary Approval that is required subsequent to the execution of this Agreement, County agrees that it will not unreasonably withhold or unreasonably condition or delay any such Discretionary Action or Discretionary Approval, including, without limitation, building permits or any parcel map, records of survey, commercial subdivision map, or final maps which must be issued by County in order for the Project to proceed to construction and occupancy. In addition, no conditions shall preclude or otherwise limit Developer's ability to develop the Project in accordance with this Agreement nor otherwise conflict with any provision of this Agreement. Without limiting the foregoing, County agrees to process all commercial subdivision maps, parcel maps, records of survey, and final maps in a timely and expeditious manner. Notwithstanding the above, individual Parcel Development will be governed by the Design Standards Handbook.

7.3 Processing and Duration - Zoning: All zoning on the Property pursuant to the Existing Development Approvals shall remain in effect for the term of this Agreement unless amended at the request of Developer, notwithstanding termination of this Agreement. County shall expeditiously process all applications for changes in applicable zoning on the Property, or changes in Developer's Master Site Plan, the Design Standards Handbook and other Existing Development Approvals, or other approvals relating to the Property. County shall not unreasonably withhold approval of such changes requested by Developer. Expiration or termination of this Agreement shall not constitute termination of any Existing Development Approvals or Subsequent Development Approvals approved for the Property. It is the intent of the parties to eventually zone all Property, and any Annexation Property to the Project, as "I-2 Heavy Industrial Zone" as provided in the Code, and County shall cooperate and shall not unreasonably withhold approval for Developer's requests for said zoning changes which are consistent with County's master plan.

7.4 Processing of Applications by County: County hereby agrees that it will accept from Developer and promptly review, process, and approve applications for permits or other authorizations of entitlements related to the Property in accordance with the Existing Rules, provided although, that said applications shall be processed in accordance with the time requirements in place for that application at the time of submission, including priority of application submittal, and County shall not unreasonably delay such processing.

7.5 Cooperation in Securing Government Permits: Except as specified otherwise herein, Developer shall be required to submit appropriate applications and filings and otherwise satisfy procedural requirements for the issuance of any governmental permits which Developer must obtain from the County or any other governmental agency in connection with the Project. County will cooperate with and assist Developer in causing all such permits to be issued. In addition, County shall cooperate with and assist Developer in obtaining any permits, licenses, or other authorizations and taking any necessary actions which may be required to proceed with the Project in a manner which does not unfairly prejudice other parties.

7.6 Right-of-Way Acquisitions: With respect to any interest in real property required by Developer in order to complete any public street installation, or installation of sewer, water or

drainage improvements, or any utility installations, or the installation of any other off-site facilities to be installed by Developer pursuant to this Agreement or in fulfillment of any and all conditions imposed in connection with the approval of any record of survey, parcel map or commercial subdivision map prepared with respect to the Property, or in order to complete the improvements contemplated by the Master Site Plan or Existing Development Approvals (collectively, any "necessary interest"), Developer shall make a good faith effort to acquire the necessary interest by private negotiations at the fair market value of such interest. If, after reasonable efforts, Developer has been unable to acquire such interest, County shall offer to acquire the interest at fair market value and, if such offer has not been accepted within a reasonable time, County may in its sole discretion commence and thereafter diligently prosecute to completion, proceedings to acquire, by power of eminent domain, the necessary interest; provided that the County Board retains full discretion unrestricted by the provisions of this Subsection to determine whether it can make the finding of public necessity necessary in order to initiate a condemnation proceeding. Developer shall provide to County all funding for the acquisition of the necessary interest (which shall include without limitation, the acquisition funds, appraisal costs and attorneys fees). Nothing contained in this Section shall be deemed to limit any rights of Developer under applicable provisions of law. In the event County decides not to acquire by eminent domain a necessary interest, County shall be precluded from enforcing any provision of this Agreement, the Existing Rules, Existing Development Approvals or Subsequent Development Approvals which impose obligations or conditions on Developer or an Owner requiring or assuming the acquisition of said necessary interest which the County has refused to so acquire and is beyond the control of Developer or an Owner to acquire after compliance with the provisions of this Section.

7.7 Cooperation With Government Agencies: County shall cooperate with and assist Developer in any dealings with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and other federal, state and local governmental agencies, and Indian tribes concerning issues affecting the Project. Without limiting the generality of the foregoing, County shall use its best efforts to ensure that the actions taken and requirements imposed by such governmental agencies do not adversely impact upon the proposed Development of the Project. County shall keep Developer fully informed with respect to its communications with such agencies in matters materially affecting the Project. Notwithstanding any other provision herein to the contrary, Developer and each Owner (as to each Owner's Property) shall be fully responsible for compliance with any state or federal laws and regulations relating to Project Development and Maintenance Association shall be fully responsible for compliance with any state or federal laws and regulations relating to operation and maintenance of Project Private infrastructure repaired or maintained by Maintenance Association.

7.8 Cooperation Concerning Utilities: County shall reasonably cooperate with and assist Developer in any dealings with public and private districts, agencies and companies providing utilities to the Property with respect to issues affecting the Project. Without limiting the generality of the foregoing, County shall use its best efforts to ensure that the actions taken and requirements imposed by such districts, agencies, and companies do not adversely impact upon the proposed development of the Project. County shall keep Developer fully informed with respect to its dealings with such entities in matters materially affecting the Project.

8. REVIEW:

8.1 Frequency of Reviews: As authorized by NRS 278.0205, at least once every twenty-four (24) months but no more often, County shall review in the context of good faith and substantiality the extent of Developer's compliance with the terms of this Agreement. Developer shall initiate the review by submitting a report to County on compliance matters. County shall have forty-five (45) days from the date of submittals of the report to conduct the review, and in the course of the review shall have the burden of proving any assertions that the terms and conditions of this Agreement are not being complied with. Only a material breach shall be considered noncompliance by Developer. Review of any alleged breach by Developer shall be subject to the cure provisions specified in Section 9.2 and the severable obligations of each Developer under Section 1.13. Either party may address any requirement of this Agreement during the review; however, ten (10) days written notice of any requirement to be addressed shall be made by the requesting party. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either party shall be continued to afford sufficient time for response. County may impose upon Developer a fee for each biennial compliance review in an amount not to exceed \$500.00. County may also impose an additional fee for each such compliance review in an amount not to exceed \$500.00 or actual costs for each transferee of Developer who acquires Property in a Wholesale Transaction. Nothing contained in this Section 8.1 shall impair the right of Developer to propose an amendment to this Agreement.

8.2 Opportunity To Be Heard: Upon written request to County, Developer shall be permitted an opportunity to be heard orally and/or in writing before the County Board at any public hearing regarding its performance under this Agreement.

9. DISPUTE RESOLUTION, UNAVOIDABLE DELAY AND DEFAULT:

9.1 Arbitration: Except as specified in Section 9.2 and Subsection 4.8(c), any dispute arising from rights or obligations of this Agreement shall be submitted to arbitration pursuant to the Commercial Rules of the American Arbitration Association or the Uniform Arbitration Act [NRS 38.015 - 38.205], including any disputes regarding consents or approvals to be given by a party, prior to seeking judicial relief or remedy, except under circumstances in which injunctive relief will lie pending arbitration of a dispute. The decision of the arbitrator shall be final and binding on both parties. In the event of any judicial enforcement or confirmation proceeding relating to an arbitration award, the prevailing party shall be entitled to all reasonable costs and attorneys fees. In addition, the arbitrator shall be authorized to award, and shall award, attorneys fees and costs to the prevailing party.

9.2 Statutory Cancellation/Amendment: Notwithstanding Section 9. 1. hereinabove, any proposed amendment or cancellation of this Agreement by the County, in whole or in part and without the mutual consent of the parties, shall be allowed only in accordance with NRS 278.0205 and this Section. The County shall, after completing each review of the Development of the Property pursuant to Article 8 of this Agreement (or at any other time a material breach or default is alleged by County), provide Developer a description in writing, both detailed and specific, of any terms or conditions of the Agreement that have been allegedly breached by Developer and, where appropriate, the manner in which the breach may be corrected. Developer shall have sixty (60) working days to

either cure the breach or respond in writing to County, both detailed and specific, as to why it has not breached the Agreement. If Developer cures the breach, County shall not be entitled to amend or cancel the Agreement pursuant to NRS 278.0205 or to avail itself of any other remedy at law or equity.

If the breach is not cured or the parties are unable to reach a resolution with regard to matters put in issue pursuant to this Section, and prior to any publication of any notice of intention to amend or cancel pursuant to NRS 278.0205(2), there shall then be scheduled a meeting or meetings to be held within thirty (30) days between a representative of Developer and the County Board to seek resolution short of amendment or cancellation. Absent resolution by such meeting or meetings, a written report of the results of said meeting or meetings, including a description of any remaining unresolved issues, shall be agreed upon and executed by both parties.

If there remain any unresolved issues, or if the resolution of any issues requires an amendment to this Agreement, the County shall proceed to either cancel or amend in accordance with NRS 278.0205(2). The written documentation required by this Section, and any other applicable material, shall be provided Developer and the County Board ten (10) days prior to the meeting at which the amendment and/or cancellation is to be considered by the County Board. Developer shall have the opportunity to be heard orally and/or in writing before the Board at that meeting. Any amendment or cancellation of this Agreement based on an alleged breach by Developer is subject to arbitration as provided in Section 9.1. Except as expressly permitted by NRS 278.0205, the County shall have no right to cancel or amend this Agreement without the express written consent of Developer. Any amendment or cancellation under NRS 278.0205 arising from the breach of one Developer shall not apply to the rights and obligations hereof for a different Developer who is not also in breach.

9.3 Unavoidable Delays : Neither party hereunder shall be deemed to be in default, and performance shall be excused, where delays or defaults are caused by war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by governmental entities (other than County) and entities providing utilities, enactment of conflicting State or federal laws or regulations, new or supplementary environmental regulations, litigation, or similar matters beyond the control of the parties. The performance to be excused is that which is materially affected by such matters, beyond the control of the party, where performance is affected.

9.4 Governing Law: Unless otherwise stated in this Agreement, this Agreement shall be construed and enforced in accordance with the laws of the State of Nevada. Any venue for any judicial action shall be in Storey County district court or in federal district court.

10. MORTGAGE FINANCING:

10.1 Developer Mortgagee Protection: The parties hereto agree that this Agreement shall not prevent or limit Developer in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by one or more mortgages, deeds of trust, or other security devices securing financing with respect to the Property, without limitation on the size or nature of any such transaction, the amount of land involved, or the use of proceeds therefrom. County acknowledges that the Mortgagees of Developer providing such financing may request certain Agreement interpretations and modifications and agrees upon request, from time to

time, to meet with Developer and representatives of such Mortgagees to negotiate in good faith such request for an interpretation or modification. County will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust on the Property or any part thereof made in good faith and for value;

(b) The Mortgagee under any mortgage or deed of trust encumbering the property, or any part thereof, which Mortgagee has submitted a request in writing to the County in the manner specified herein for giving notices, shall be entitled to receive written notification from County of any notice delivered by County of default by Developer in the performance of Developer's obligations under this Agreement;

(c) If County timely receives a request from a Mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, County shall provide a copy (subject to the County's standard fee for this service) of that notice to the Mortgagee within ten (10) days of sending the notice of default to the Developer. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement, but in no event less than thirty (30) days from Mortgagee's receipt of such notice of default; and

(d) Any Mortgagee (or its affiliate) who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement; provided, however, that (i) in no event shall such Mortgagee be liable for any defaults or monetary obligations of Developer arising prior to acquisition of title to the Property by such Mortgagee except defaults or monetary obligations of the Developer related to Development of the Property acquired by the Mortgagee; and (ii) in no event shall any such Mortgagee or its successors or assigns be entitled to a building permit or occupancy certificate until all fees due under this Agreement relating to the portion of the Property acquired by such Mortgagee have been paid to the County and until any other default applicable to such site has been cured.

10.2 Owner Mortgagee Protection. Any Mortgagee under any mortgage or deed of trust encumbering Property of an Owner who is not the Developer shall acquire no rights nor assume no obligations, by foreclosure or otherwise, other than those rights enjoyed by the Owner and those obligations imposed on the Owner hereunder, as provided in Section 1.29 and elsewhere herein.

10.3 Enforcement: County will execute and deliver to any Mortgagee or other interested person a certificate of compliance described in the following Section and such other documents as may be reasonably requested to acknowledge that this Agreement is in full force and effect, and Developer (or Owner, as the case may be) is not in default hereunder. Nothing herein, however, shall be deemed to relieve Developer of its obligations under this Agreement or its liability for failure to perform its obligations under this Agreement.

10.4 Certificate of Compliance: At any time during the term of this Agreement, any party, Mortgagee or prospective Mortgagee may by written notice given by certified mail or by personal delivery request any party to this Agreement to confirm by execution of a Certificate of Compliance that to the best of such party's knowledge, no defaults exist under this Agreement or if defaults do exist, to describe the nature of such defaults and such other matters as are reasonable under the circumstances. Each party hereby agrees to provide a Certificate of Compliance to the requestor within ten (10) business days of the request therefor. The failure of any party to provide the requested certificate within such ten (10) business day period shall entitle the requesting party to rely on the assumption that no defaults exist under this Agreement.

11. MISCELLANEOUS:

11.1 Entire Agreement: This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

11.2 Waivers: All waivers of the provisions of this Agreement must be in writing and signed by the appropriate officers of the County or Developer, as the case may be.

11.3 Recording; Amendments: Promptly after the Effective Date, a Memorandum of Agreement shall be recorded in the official records of the Storey County Recorder in the form attached as an exhibit, referencing the location of the original Agreement to be the office of the Storey County Recorder and a copy to be located at the County Building and Planning Department. All amendments hereto must be in writing signed by the appropriate officers of the County and Developer, and shall be attached to the original and copy referenced above. Upon the completion of performance of this Agreement or its earlier revocation and termination, a statement evidencing said completion or revocation signed by the appropriate officers of the County and Developer shall be recorded in the official records of County.

11.4 Incorporation of Recitals: The recitals are specifically incorporated into this Agreement.

11.5 Invalidity: If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the development rights set forth in this Agreement are essential elements of this Agreement and Developer would not have entered into this Agreement but for such provisions, and therefore in the event such revisions are determined to be invalid, void or unenforceable, this entire Agreement shall be terminable by Developer.

11.6 Release of Parcel /Common Area: Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any legal Parcel within the Property, and such Parcel shall be released and no longer be subject to this Agreement, without the execution or recordation of any further document, when a certificate of occupancy has been issued for a Structure

on such Parcel. This Agreement shall further terminate with respect to any Parcel designated as open space in the Master Site Plan, this Agreement, the CC&Rs or the Development Approvals, or designated as a Maintenance Association "common area" by the CC&Rs, upon conveyance of title or a common area maintenance easement to Maintenance Association.

11.7 Time Of Essence: Time is of the essence for each provision of this Agreement of which time is an element.

11.8 Further Actions: Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of a party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.9 Headings: The headings to each section are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement, nor do they in any way affect this Agreement.

11.10 Interpretation: This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.11 Section Headings: All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.12 Singular and Plural/Gender: As used herein, the singular of any word includes the plural. All references connoting gender includes all other genders.

11.13 No Third Party Beneficiaries: This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement, unless expressly provided herein.

11.14 Successors in Interest: The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land.

11.15 Counterparts: This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.16 Project as a Private Undertaking: It is specifically understood and agreed by and between the parties hereto that the Development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement.

11.17 No Partnership: No Partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between County and Developer is that of a government entity regulating the development of private property and the developer of such property.

11.18 Attorney's Fees: If legal action or arbitration is brought by either party to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys fees and costs in addition to all other relief to which it may be entitled.

11.19 No Personal Obligation/No Completion Obligation: This Agreement in and of itself does not represent a personal obligation of Developer, its partners, members or the individual shareholders of such partners or members, its successors or assigns. Nothing herein contained shall in and of itself be deemed to create an obligation of the Developer, its successors or assigns, to complete the Development of the entire Project as contemplated, or any particular portion thereof.

11.20 County Cooperation: Where this Agreement requires that the County "cooperate" or "assist" Developer, the County shall be required to act in good faith and provide general assistance as reasonably possible but shall not be required to expend any funds (unless expressly stated herein) or to work exclusively for the benefit of the Project.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the day and year first above written, as authorized by Ordinance of the County Board, to be effective on and after the Effective Date hereof.

COUNTY:

THE COUNTY OF STOREY, a political subdivision of the State of Nevada

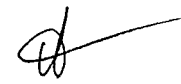
By: Board of County Commissioners

By:  _____
Chairman

ATTEST:

County Clerk

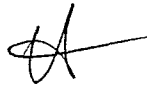
TRI WATER AND SEWER COMPANY, a Delaware corporation, agrees to comply with and be bound to the provisions of Subsection 6.10

By:  _____
VINCENT J. GRIFFITH, President

DEVELOPER:

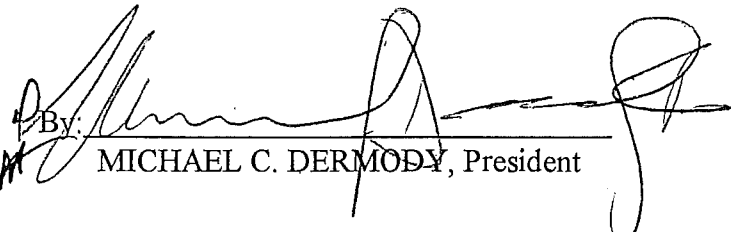
TAHOE-RENO INDUSTRIAL CENTER, LLC, a Nevada limited liability company

By: Norman Properties, Inc.,
a California corporation,
Managing Member

By:  _____
VINCENT J. GRIFFITH,
Project Coordinator

DP OPERATING PARTNERSHIP, L.P., a Delaware limited partnership

By: Dermody Properties,
a Nevada corporation,
as Managing General Partner

By:  _____
MICHAEL C. DERMODY, President