
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
UNLV MEDICAL SCHOOL

dated as of

_____, 2020

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR UNLV MEDICAL SCHOOL**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR UNLV MEDICAL DISTRICT (this “Declaration”), dated as of _____, 2020, is made by the Board of Regents of the Nevada System of Higher Education, on behalf of the University of Nevada, Las Vegas (“Declarant” or “Board of Regents”), as the owner of the MEB Parcel (hereinafter defined).

RECITALS

A. Declarant owns certain land located at the southeast corner of Shadow Lane and Pinto Lane, Las Vegas, Nevada, more particularly described on Exhibit A attached hereto, for the purpose of constructing a medical education building and associated medical school facilities and amenities, parking, and other ancillary uses by medical students and school faculty of the University of Nevada, Las Vegas Medical School (the “UNLV Medical School”, as to the school, and, as to the parcel with all improvements thereon, collectively, the “MEB Parcel”).

B. Clark County, Nevada, a municipal entity organized under the State of Nevada, previously conveyed the MEB Parcel to the Declarant subject to a deed restriction that, among other terms, required the Declarant to commence construction of a medical school or other health related programs on or before July 1, 2021. The County has since lifted the deed restriction.

C. In connection with the Board of Regents’ planning and development of the MEB Parcel, the Board of Regents has engaged third parties, at its own cost and expense, to prepare certain plans and specifications for the development of the MEB Parcel in a manner compatible with the University of Nevada, Las Vegas main campus on Maryland Parkway.

D. Certain philanthropic donors have formed a separate entity, Nevada Health and Bioscience Asset Corporation, a Nevada nonprofit corporation (“NHBAC”), for the purpose of taking title to the MEB Parcel and constructing a medical education building together with associated medical facilities and amenities thereon.

E. As currently contemplated, the development (the “Project”) shall consist of:

(1) A multi-story, medical education facility located on the MEB Parcel (the “MEB”) constructed by NHBAC for use by the UNLV Medical School; and

(2) A parking lot for exclusive use by (i) students, staff and visitors and others granted a license by Board of Regents, (ii) Owners, occupants and invitees of the MEB, and (iii) any such owners, occupants and invitees of any subsequently developed portions of the MEB Parcel, if any.

F. Declarant, or a subsequent parcel owner, may further subdivide the MEB Parcel pursuant to one or more recorded subdivision or parcel maps, condominium plats or other means and one or more declarations of covenants, conditions and restrictions and reservation of

easements (a “Future Declaration”) for the purpose of creating separately described parcels and coordination of such uses among owners.

G. Declarant contemplates entering into a lease agreement for use of the MEB (the “MEB Lease”) and Development Agreement for the UNLV School of Medicine (the “Development Agreement”) pursuant to which (i) NHBAC will design, construct and complete the Project in accordance with certain plans, specifications, guidelines and schedules set forth in the Development Agreement; and (ii) subject to the terms and conditions of the MEB Lease, NHBAC will lease the entire MEB Parcel to the Board of Regents and the Board of Regents will lease the MEB Parcel from the NHBAC prior to a final transfer of the MEB and MEB Parcel back to the Board of Regents, as contemplated under the MEB Lease and the Development Agreement.

H. Declarant and NHBAC, as future owner of the MEB Parcel, desire that the Project be subject to certain restrictions as set forth in this Declaration.

AGREEMENT

NOW, THEREFORE, Declarant hereby declares that all of the MEB Parcel shall be held, sold and conveyed subject to the following restrictions, covenants and conditions, which shall run with the MEB Parcel and be binding on all parties having any right, title or interest in the MEB Parcel or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof as follows:

ARTICLE 1 **PRELIMINARY STATEMENTS**

1.1 Definitions. The following terms have the definitions ascribed to them below:

(a) “Board of Regents” has the meaning given to that term in the introductory paragraph of this Declaration.

(b) “Declarant” means the Board of Regents of the Nevada System of Higher Education, on behalf of the University of Nevada, Las Vegas and any successor or assign designated by it (or such successor) as the Declarant hereunder pursuant to a written instrument recorded in the Public Records.

(c) “Development Agreement” has the meaning set forth in Recital G.

(d) “Environmental Laws” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Toxic Substances Control Act, the Clean Water Act, the Resource Conservation and Recovery Act and any other similar federal, state or local law, rule or regulation respecting Hazardous Materials (as defined below), together with all rules and regulations promulgated thereunder and all present or future amendments thereto.

(e) “Future Declaration” has the meaning set forth in Recital F.

(f) “Hazardous Materials” means underground storage tanks, petroleum and petroleum products, asbestos, PCB’s, urea-formaldehyde and any hazardous or toxic substances, pollutants, contaminants, wastes or materials as defined under any Environmental Laws.

(g) “Laws” means all statutes, ordinances, rules, regulations, orders and decrees of all municipal, state and federal authorities.

(h) “MEB” means the multi-story, medical education building constructed by NHBAC on the MEB Parcel.

(i) “MEB Lease” has the meaning set forth in Recital G.

(j) “MEB Parcel” or “Parcel” has the meaning set forth in Recital A and as described on Exhibit A attached hereto.

(k) “NHBAC” has the meaning set forth in Recital D.

(l) “NRS” means Nevada Revised Statutes, unless otherwise provided herein, as in effect from time to time.

(m) “Occupant” shall mean the lessee, user, Parcel Owner and anyone occupying or using such Parcel under or through such lessee or Owner, including their employees, agents, contractors and invitees.

(n) “Owner” refers to each of the Parcel Owners and all or any of them, as the context requires.

(o) “Parcel Owner” refers to the record owner of fee simple title to the MEB Parcel or any portion thereof, provided, however, that this term shall exclude any mortgagees. Nothing herein shall preclude a Parcel Owner from assigning or delegating all of its rights and obligations hereunder in accordance with the provisions of Section 5.1(a).

(p) “Person” means an individual, partnership, firm, association, corporation, limited liability company, trust, governmental agency, administrative tribunal or any other form of business or legal entity.

(q) “Project” has the meaning set forth in Recital E.

(r) “Public Records” shall mean the Official Records of Clark County, Nevada, or such other public offices as may, at the time and according to the context, be the repository of records and documents imparting constructive notice under applicable local, state or federal law.

(s) “Transfer Notice” has the meaning set forth in Section 5.1(c).

1.2 General Intent. Declarant hereby declares that all of the Project is hereby made subject to this Declaration and shall be conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved, transferred, in whole or in part, subject to this Declaration. All of the covenants and provisions of this Declaration are hereby declared to be in furtherance of

a general plan for the improvement, use, and enjoyment of the real property within the Project, and are established for the purpose of enhancing and perfecting the value, aesthetics, desirability and attractiveness of the Project. All of the covenants, conditions, and restrictions provided in this Declaration shall for the duration specified below run with the land now or hereafter constituting the Project, for all purposes, and shall be binding upon and inure to the benefit of Declarant, the Board of Regents (in the event the Board of Regents is no longer the Declarant), all Parcel Owners, and any future owners association, if applicable, as well as their respective successors-in-interest and assigns. All of the covenants, conditions, and restrictions provided in this Declaration shall also be binding upon all Occupants of the Project, as well as their respective successors-in-interest and assigns, invitees, employees and agents.

1.3 Future Development. As the MEB Parcel is developed, the MEB Parcel Owner and any additional parcel owner shall prepare a reciprocal easement agreement providing vehicular access, pedestrian access, utility access, and any such other easements and access allowing for the development of newly subdivided parcels and cause the same to be recorded in the Public Records. In the event that the either the MEB Parcel is further subdivided, the Owners shall prepare the Future Declaration governing the usage of the MEB Parcel and cause the same to be recorded in the Public Records.

ARTICLE 2

USE RESTRICTIONS.

2.1 No Hazardous Waste. No parcel or any portion thereof shall ever be utilized for the storage or disposal of Hazardous Material, nor shall any Owner cause, suffer or permit any Hazardous Material to be brought upon, kept, or used in or about the Project, except to the extent the bringing upon, storage or use of such Hazardous Material (i) is necessary or useful to the conduct of any educational program directly related to the allopathic instruction and training of prospective medical professionals lawfully permitted to be operated (under applicable Laws and this Declaration) within the Project; (ii) will be in compliance with all Laws, including all Environmental Laws; (iii) will not result in the breach or default under any policy of insurance; and (iv) is not harmful to any other Occupant of the Project.

2.2 Restrictions on Uses Within the Project. The parcels within the Project shall only be used for activities commonly associated with the operation of the UNLV Medical School, and other health related programs such as, but not limited to, nursing, physical therapy, health sciences, similar public health related activities, or related ancillary activities associated with the support of students and faculty in a medical education setting. Notwithstanding the foregoing, the parcels within the Project may be further subdivided or leased to third-party operators for the operation of ancillary activities commonly associated with the support of students and faculty in a medical education setting, including, without limitation, cafes, bookstores, sundry stores and restaurants. No improvement or operation of any parcel within the Project will be permitted which, in the opinion of the Parcel Owners, will create or emit offensive, hazardous or excessive quantities of dust, dirt, fly ash, smoke, noise, fumes, odors or vibrations, or create risk of fire, explosion or other hazards or is not in harmony and consistent with a quality educational environment.

2.3 Certain Prohibited Uses. No portion of the Project shall be utilized: (i) as an adult theater, adult bookstore or adult video store; (ii) for the sale or rental of any pornographic or “adult”

materials, except as incidental to the sale of “general audience” DVDs, games, magazines or books; or (iii) for the sale, dispensing or use of marijuana or marijuana-infused products (as defined in NRS 453A.112), whether for medicinal or other purposes.

2.4 Nuisances and Noxious or Offensive Activities. No Owner or Occupant of any portion of the Project shall create a nuisance to all or any part of the Project or the surrounding neighborhood. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any parcel (except trash awaiting regular removal and temporarily placed in approved trash receptacles) and no odors shall be permitted to arise therefrom so as to render any Parcel or portion thereof unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or the Occupants thereof.

2.5 Fumes, Gases, Odors, etc. No fumes, odors, gases, vapors, acids or other substance shall be permitted to escape or be discharged into the atmosphere which, in the opinion of the Parcel Owner, may be detrimental to the health, safety or welfare of persons, or may interfere with the comfort or persons within the area, or which may be harmful to property or vegetation. Without limiting the generality of any other provision hereof, all uses within the Project shall comply with all applicable governmental authorities’ air pollution control standards.

2.6 Dirt, Dust and Waste Discharge. No use will be permitted which emits dust, sweepings, dirt or cinders into the atmosphere, or discharges liquid, solid wastes or other harmful matter into any runoff, irrigation or other water. No waste or any substance or materials of any kind shall be discharged into any public sewer serving the Project, or any part thereof, in violation of any regulations of any public body having jurisdiction.

2.7 Drainage. There shall be no interference with the established drainage pattern of the Project, without prior written consent of the Owners of all parcels.

2.8 Laws. All Owners and Occupants shall comply with all applicable Laws governing the Project, including the covenants, conditions and restrictions contained in this Declaration.

ARTICLE 3

VIOLATION OF RESTRICTIONS: ENFORCEMENT

3.1 Legal Action Upon Violation. If Declarant or any Parcel Owner does not cure a violation of a restriction set forth herein after reasonable notice thereof, the non-offending Parcel Owner may nevertheless bring a civil action against the pertinent offending Owner seeking any and all remedies available at law and in equity. Moreover, violation of any provision of this Declaration may be enjoined, abated, restrained or otherwise remedied by appropriate legal or equitable proceedings. Proceedings to restrain violation of this Declaration may be brought without reasonable notice at any time that such violation appears imminent. Any material violation or threatened material violation of this Declaration is hereby declared to be a circumstance which threatens Declarant or the Parcel Owners, as applicable, with an immediate, material and irreparable injury without adequate remedy at law, such that Declarant and the Parcel Owners shall be per se entitled to apply for and receive equitable relief, including a temporary restraining order, preliminary injunction and permanent injunction, mandatory or prohibitive.

3.2 No Waiver. The failure of any person entitled to enforce any provision of the Declaration to do so shall in no event be deemed a waiver of the right of any such person to enforce this Declaration thereafter. Waiver or attempted waiver of any provision hereof with respect to any parcel shall not be deemed a waiver thereof as to any other parcel, nor with respect to the parcel in question in regard to any subsequent violation, nor shall the violation of any provision of this Declaration upon any parcel affect the applicability or enforceability of this Declaration with respect to any other parcel.

ARTICLE 4 **DURATION AND MODIFICATION OF RESTRICTIONS**

4.1 Duration. This Declaration shall remain in full force and effect perpetually and may not be terminated except by instrument recorded in the Public Records and executed by the Parcel Owners.

4.2 Amendment. This Declaration may be modified only by the recordation, in the Public Records, of an agreement or document of modification executed by the Parcel Owner or Parcel Owners, as applicable. Notwithstanding the foregoing, at such time as any subdivision of the MEB Parcel has been accomplished, by recordation of the subdivision or parcel map, Declarant shall record an amendment hereto particularly identifying the legal descriptions of such newly created parcels.

ARTICLE 5 **GENERAL PROVISIONS**

5.1 Parcel Owners.

(a) Generally. Neither Parcel Owner shall assign its rights or delegate its obligations under this Declaration except that (i) either Parcel Owner may assign all rights and delegate all obligations under this Declaration to a subsequent owner of the fee in such parcel or subdivided portion thereof; and (ii) either Parcel Owner may assign its rights and delegate its obligations to a future owners' association, if applicable, which represents the interests of all of the Parcel Owners; provided, however, such owners' association is created by all Parcel Owners of the MEB Parcel.

(b) Effect of Transfer. Upon the transfer by a Parcel Owner of all of its rights and obligations under this Declaration in conformance with this Declaration, such person shall no longer be deemed a Parcel Owner pursuant to this Declaration. It is expressly understood that except for as otherwise expressly provided in Section 5.1(a) no other person shall be entitled to become a Parcel Owner.

(c) Transfer Notice. A Parcel Owner that assigns its rights and obligations hereunder, shall give prior written notice thereof to the other Parcel Owner ("Transfer Notice"), which Transfer Notice shall include the name, current address and current phone number of the assignee or transferee, as the case may be.

5.2 Covenants Run With the Land. Except as otherwise provided in Section 5.1 with respect to the identity of the Parcel Owners, the covenants, duties and obligations created under

this Declaration with respect to each parcel shall be a burden on that parcel, shall be appurtenant to and for the benefit of the other parcel and each part thereof and shall run with the land.

5.3 Successors and Assigns. Subject to the provisions of Section 5.1, this Declaration and the restrictions created hereby shall inure to the benefit of and be binding upon the parcel Owners, and their permitted successors and assigns in conformance with this Declaration.

5.4 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Project to the general public or for the general public or for any public purpose whatsoever, it being the intention of Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.

5.5 Breach Shall Not Permit Termination. No breach of this Declaration shall terminate this Declaration or entitle any Parcel Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Parcel Owner may have hereunder by reason of any breach of this Declaration. Any breach of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Declaration shall be binding upon and be effective against any Parcel Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

5.6 Default. A person shall be deemed to be in default of this Declaration only upon the expiration of thirty (30) days from receipt of written notice from any Parcel Owner specifying in detail the manner in which such person has failed to perform the obligations of this Declaration unless such person, prior to the expiration of said thirty (30) days, has cured the default. However, such person shall not be deemed to be in default if such failure cannot reasonably be cured within said thirty (30) day period and such person is using its best efforts to cure the default.

5.7 Notices.

(a) Delivery. All notices given pursuant to this Declaration shall be in writing and shall be given by personal service, by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, addressed to the appropriate party at the address set forth below (or, if a Transfer Notice has been given, to the person designated in the Transfer Notice):

If to Declarant: The Nevada System of Higher Education
Office of the Chancellor
Attn: Chief General Counsel
4300 S. Maryland Parkway
Las Vegas, Nevada 89119
Phone: 702-889-8426
Fax: 702-889-8425

with a copy to: University of Nevada
Office of the President
4505 S. Maryland Parkway, Box 451001
Las Vegas, Nevada 89154-1001

with a copy to: University of Nevada, School of Medicine
Office of the Dean
2040 W. Charleston Blvd.
Third Floor
Las Vegas, Nevada 89102-7407

with a copy to: University of Nevada, Las Vegas
Office of the General Counsel
4505 S. Maryland Parkway, Box 451085
Las Vegas, NV 89154-1085

If to NHBAC: Nevada Health and Bioscience Asset Corporation
Attn: Maureen E. Schafer CEO
1930 Village Center Circle, #3-805
Las Vegas, Nevada 89134

with a copy to: Fabian Van Cott
Attn: David J. Lyon, Esq.
215 S. State Street, Suite 1200
Salt Lake City, UT 84111-2323

If a notice must be given to a person other than one designated above or in a Transfer Notice, such notice shall be sent to the person and address shown on the then current real property tax rolls of the county in which the Project is located. The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other parties. All notices given pursuant to this Declaration shall be deemed given upon receipt.

(b) Receipt. For the purpose of this Declaration, the term “receipt” means the earlier of any of the following: (1) the date of delivery of the notice or other document to the address specified pursuant to Section 5.7(a) above as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to Section 5.7(a) above, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

5.8 Attorney’s Fees. In the event any Parcel Owner initiates or defends any legal action or proceeding in any way connected with this Declaration, the prevailing Parcel Owner in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing Parcel Owner in any such action or proceeding its reasonable costs and attorney’s fees (including its reasonable costs and attorney’s

fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

5.9 Severability. If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

5.10 Not a Partnership. The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship among the Parcel Owners.

5.11 No Third Party Beneficiary Rights. This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party referenced hereto.

5.12 Captions and Headings. The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

5.13 Entire Agreement. This Declaration contains the entire agreement among the Parcel Owners and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Declaration shall be construed as a whole and not strictly for or against any Parcel Owner.

5.14 Construction. In construing the provisions of this Declaration and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

5.15 Conflicts. This Declaration and the Development Agreement are intended to be consistent and shall be construed, to the extent reasonably possible, to such effect. In the event of any conflict between this Declaration and the Development Agreement, however, the Development Agreement shall prevail.

5.16 Joint and Several Obligations. In the event any Parcel Owner is composed of more than one (1) person or entity, the obligations of said Parcel Owner shall be joint and several.

5.17 Recordation. This Declaration shall be recorded in the Public Records.

5.18 Non-Merger. Ownership of more than one parcel by the same Owner shall not result in the merger of the dominant and servient estates of such Owner created by this Declaration.

[signature(s) on following page(s)]

ACKNOWLEDGEMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me, a notary public, this ___ day of _____, 20___, by Marta Meana, as President of the University of Nevada, Las Vegas on behalf of the Board of Regents of the Nevada System of Higher Education.

Notary Public

My Commission Expires:

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me, a notary public, this ___ day of _____, 20___, by Thom Reilly, as Chancellor of the Nevada System of Higher Education on behalf of the Board of Regents of the Nevada System of Higher Education.

Notary Public

My Commission Expires:

EXHIBIT A

THE MEB PARCEL

PARCEL I:

THE SOUTHWEST QUARTER (SW¼) OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SECTION 33, TOWNSHIP 20 SOUTH, RANGE 61 EAST., M.D.B. & M. SAVING AND EXCEPTING THAT PORTION THEREOF DEDICATED AS EL DORADO AVENUE ON THE MAP OF BUOL'S ADDITION TO LAS VEGAS AS RECORDED IN BOOK 1 OF PLATS, PAGE 29 AND BOUL'S SECOND ADDITION IN BOOK 1 OF PLATS, PAGE 28, CLARK COUNTY, NEVADA RECORDS.

AND EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE CITY OF LAS VEGAS, A MUNICIPAL CORPORATION BY DEED RECORDED OCTOBER 05, 1944, AS BOOK 36 OF DEEDS PAGE 256, DOCUMENT NO. 187501, OF CLARK COUNTY, NEVADA OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE CITY OF LAS VEGAS BY RESOLUTION ACCEPTING DEED RECORDED JANUARY 31, 1951, AS BOOK 63 OF DEEDS PAGE 429, DOCUMENT NO. 362473, OF CLARK COUNTY, NEVADA OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE CITY OF LAS VEGAS, A MUNICIPAL CORPORATION OF THE COUNTY OF CLARK RECORDED MARCH 01, 1972, IN BOOK 211, DOCUMENT NO. 170291, OF CLARK COUNTY, NEVADA OFFICIAL RECORDS.

TOGETHER WITH THAT PORTION AS VACATED BY THAT CERTAIN ORDER OF VACATION, RECORDED JULY 23, 1981, IN BOOK 1437 AS DOCUMENT NO. 1396509, OF OFFICIAL RECORDS, THAT WOULD PASS THROUGH BY OPERATION OF LAW.