



**NOTICE OF A MEETING OF THE VINEYARD
REDEVELOPMENT AGENCY BOARD
October 10, 2018 – 6:00 PM**

Public Notice is hereby given that the Vineyard Redevelopment Agency Board will hold a meeting on Wednesday, October 10, 2018, starting at approximately 6:00 PM or as soon thereafter as possible following the City Council meeting in the Vineyard City Hall; 125 South Main, Vineyard, Utah. The agenda will consist of the following:

(clicking on the blue wording will take you to the documents associated with the agenda item.)

Agenda

1. CALL TO ORDER

2. CONSENT AGENDA

- 2.1. [Approval of the September 26, 2018 RDA Meeting Minutes](#)
- 2.2. [Geneva Nitrogen Reimbursement Agreement](#)

3. BUSINESS ITEMS

3.1 DISCUSSION AND ACTION – [Extension of 1750 North](#) *(15 minutes)*

Martin Snow with Vineyard Properties of Utah LLC is requesting that the RDA pay the full cost for completing the extension of 1750 North as described in the application. The total estimated cost of the project is \$2,478,467.61. The RDA Board will take appropriate action.

3.3 DISCUSSION – [Anderson Geneva Land Donation Agreement](#) *(30 minutes)*

Anderson Geneva is requesting approval of a land donation agreement for the area to be known as the promenade and approval for the chair to sign said agreement. No action will be taken at this time.

4. ADJOURNMENT

RDA meetings are scheduled as needed.

The Public is invited to participate in all Vineyard Redevelopment Agency meetings. In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Recorder at least 24 hours before the meeting by calling (801) 226-1929.

I the undersigned duly appointed City Recorder for Vineyard, Utah, hereby certify that the foregoing notice and agenda was emailed to the Salt Lake Tribune, posted at the Vineyard City Hall and offices, the Vineyard city website, the Utah Public Notice website, delivered electronically to city staff and to each member of the Governing Body.

AGENDA NOTICING COMPLETED ON: October 8, 2018

CERTIFIED (NOTICED) BY: /s/ Pamela Spencer
PAMELA SPENCER, CITY RECORDER

1 MINUTES OF THE VINEYARD
2 REDEVELOPMENT AGENCY BOARD MEETING
3 125 South Main Street, Vineyard, Utah
4 September 26, 2018 – 6:00 PM
5
6

7 **Present**

8 Chair Julie Fullmer
9 Boardmember John Earnest
10 Boardmember Tyce Flake
11 Boardmember Nate Riley
12

Absent

Boardmember Chris Judd

13 **Staff Present:** City Manager/Finance Director Jacob McHargue, Public Works Director/City
14 Engineer Don Overson, Sergeant Holden Rockwell with the Utah County Sheriff's Office,
15 Community Development Director Morgan Brim, City Planner Elizabeth Hart, Planning
16 Commission Chair Cristy Welsh, Records Management Assistant Kelly Kloepper, Water/Parks
17 Manager Sullivan Love
18

19 **7:27 PM REDEVELOPMENT AGENCY BOARD SESSION**

20
21 Chair Fullmer called the meeting to order at 7:27 PM.
22

23 **WORK SESSION – RDA Procedures/Protocol** – Postponed to a later meeting
24

25 **CONSENT AGENDA**

26 3.1 Approval of August 22, 2018 RDA Meeting Minutes
27

28 Chair Fullmer called for a motion.
29

30 **Motion:** BOARDMEMBER RILEY MOVED TO APPROVE THE CONSENT ITEM.
31 BOARDMEMBER FLAKE SECONDED THE MOTION. CHAIR FULLMER,
32 BOARDMEMBERS EARNEST, FLAKE, AND RILEY VOTED AYE. BOARDMEMBER
33 JUDD WAS ABSENT. THE MOTION CARRIED WITH ONE ABSENT.
34

35 **BUSINESS ITEMS**

36 **4.1 DISCUSSION AND ACTION – CRISI Grant Application**

37 City Manager/Finance Director Jacob McHargue will present the application for a
38 Consolidate Rail Infrastructure and Safety Improvements (CRISI) grant. The RDA Board
39 will take appropriate action.
40

41 Mr. McHargue explained the grant and UDOT's role in helping the city to apply for it. The
42 board's vote tonight would allow Chair (Mayor) Fullmer to sign a letter of support committing
43 \$10,000,000 in matching funds. A brief discussion ensued about grants and applying for grants.
44

45 Chair Fullmer called for a motion.
46

47 **Motion:** BOARDMEMBER RILEY MOVED TO AUTHORIZE CHAIR (MAYOR)
48 FULLMER TO SIGN THE CRISI GRANT APPLICATION WHICH WOULD ALLOW THE
49 RDA BOARD TO SEEK FUNDING TO CONSOLIDATE RAIL INFRASTRUCTURE AND
50 SAFETY IMPROVEMENTS. BOARDMEMBER FLAKE SECONDED THE MOTION.
51 CHAIR FULLMER, BOARDMEMBERS EARNEST, FLAKE, AND RILEY VOTED AYE.
52 BOARDMEMBER JUDD WAS ABSENT. THE MOTION CARRIED WITH ONE ABSENT.

53 **ADJOURNMENT**

54

55 Chair Fullmer called for a motion to adjourn the meeting.

56

57 **Motion:** BOARDMEMBER FLAKE MOVED TO ADJOURN THE MEETING AT 7:31 PM.
58 BOARDMEMBER EARNEST SECONDED THE MOTION. CHAIR FULLMER,
59 BOARDMEMBERS EARNEST, FLAKE, AND RILEY VOTED AYE. BOARDMEMBER
60 JUDD WAS ABSENT. THE MOTION CARRIED WITH ONE ABSENT.

61

62 RDA meetings are scheduled as needed.

63

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66

67 MINUTES APPROVED ON: _____

68

69 CERTIFIED CORRECT BY: /s/ Kelly Kloepfer

70 KELLY KLOEPFER, RECORDS MANAGEMENT ASSISTANT

71

72

DRAFT

**REIMBURSEMENT AGREEMENT
GENEVA NITROGEN REDEVELOPMENT**

This REIMBURSEMENT AGREEMENT, (the "Agreement"), is entered into on _____ 2018 between the VINEYARD REDEVELOPMENT AGENCY, (the "Agency"), a Utah body corporate established pursuant to the Utah Community Development and Renewal Agencies Act, as amended, ("Act"), whose address is 125 South Main, Vineyard Utah 84059, and Geneva Nitrogen, LLC, (the "Developer"), a Utah Limited Liability Company, whose address is 1165 N. Geneva Road, Vineyard, Utah 84057.

RECITALS

- A. Vineyard Town (the "Town") has adopted an urban renewal plan and budget, pursuant to the provisions of Act; and
- B. The Agency and the Town have determined that redevelopment constitutes the performance of an essential public purpose, which protects and promotes the public health, safety, and welfare; and
- C. Developer owns property commonly known as Geneva Nitrogen, (the "Property"), located in the Town, and consisting of approximately 27.36 acres; and
- D. The Developer is redeveloping prior uses of the Property, and developing additional and new uses of the Property, in order to achieve compliance with State environmental rules and regulations and to allow development other than industrial, including mixed commercial and retail uses of the Property (the "Development"); and
- G. The Development is expected to continue to create construction, direct and indirect jobs, and significantly increase taxable values for the Town and other applicable taxing jurisdictions; and
- H. Environmental investigations of the Property have found concentrations of hazardous substances that require cleanup; and
- I. The urban renewal plan which has been approved by the Agency anticipates the use of Agency funds to aid landowners in the environmental cleanup of their properties and any such other purposes for which Agency funds have been or may be used; and
- J. The Developer has applied to the Agency for a grant of Agency Funds to aid it in the cleanup and redevelopment of the Property which is more particularly described by Developer's contractor _____ | in Exhibit A hereto and is hereinafter referred to in this Agreement as the "Reimbursable Redevelopment Activities " and the Agency has approved this grant; and

K. The purpose of this Agreement is to state the obligations of the parties to this Agreement for reimbursement of the costs incurred for cleanup of the Property as approved by the Agency and to establish the participation of the Agency along with the Developer in the environmental cleanup and redevelopment of the Property.

NOW, THEREFORE, based upon the recitals set forth above and in consideration of the mutual terms and conditions set forth below, the Developer and the Agency, agree as follows:

1. **Development of the Property.** Developer agrees as consideration for the Agency's participation to redevelop the Property from its current heavy industrial use to a mixed use consisting of all possible commercial, office or retail uses consistent with the general plan of the Town, applicable zoning, building and land use laws. As a general matter, the intent of this Agreement is to encourage the Developer to develop the Property for non-industrial uses and the Agency's participation in the cleanup and redevelopment of the Property is conditioned on the Developer doing so. If Developer fails to re-develop the Property as something other than an industrial use that Agency shall have no obligation for reimbursement under this Agreement.

2. **Reimbursement for Approved Reimbursable Redevelopment Activities:**

2.1 The Agency shall reimburse the Developer up to 75 percent of its costs actually incurred for any Reimbursable Redevelopment Activities on the Property but not to exceed \$5,287,500. The reimbursement shall be made in annual payments from New Available Property Tax Increment generated from the Property from and after the Project Base Year as set forth and limited in section 3 below . For purposes of this paragraph the following defined terms shall apply: (a) "Reimbursable Redevelopment Activities" are only those cleanup or redevelopment activities identified in Exhibit A; (b) "Project Base Year" shall mean the year in which the Reimbursable Redevelopment Activities are completed and accepted by the Town; (c) "Property" shall mean the area shown in Exhibit B hereto; (d) Tax Increment is as defined in section 17C-1-102(60) of the Utah Code; (e) "New Available Property Tax Increment" is defined as any increase in Tax Increment received by the Agency from the Property from and after the Project Base Year that has not previously been pledged to repay any bonds or other obligation of the Agency.

2.2 The Developer shall be responsible to either do the work itself or contract directly with others to perform the Reimbursable Redevelopment Activities.

2.3 The Developer shall first cause to be paid and then submit an affidavit of payment for the reasonable and necessary costs of the Reimbursable Redevelopment Activities that have been approved by the Agency, before requesting any reimbursement. Reimbursable Redevelopment Activities shall be reimbursed to the Developer pursuant to the submission and reimbursement process set forth in section 6.

2.4 Cleanup Activities not described in Exhibit A may not be reimbursable. The

Agency shall approve or provide written reasons for non-approval of requests for changes to the work described in Exhibit A within thirty (30) business days of receipt of the Work Plan request.

3. **Limitations of Reimbursement.**

3.1 Annual payments to the Developer shall be made by the Agency consisting of 60% of the New Available Property Tax Increment within 60 days from when the Agency receives its annual property tax distribution from the State of Utah and Utah County from the Property.

3.2 Payments shall continue annually for 20 years from the base year if the Reimbursable Redevelopment Activities are completed and accepted by the Town within two years from the date of this agreement; or 15 years from the base year if the Reimbursable Redevelopment Activities are completed and accepted by the Town after two years from the date of this agreement; or until Developer has been reimbursed the lesser of 75 percent of its actual costs shown to have been incurred in Reimbursable Redevelopment Activities and \$5,287,500; or until the Agency no longer has the legal authority to receive the New Available Property Tax Increment, whichever occurs first.

3.2 The total amount of reimbursement by the Agency shall not be more than 75 percent of the actual verified costs shown to have been incurred in Reimbursable Redevelopment Activities, and shall not exceed the cap approved by agency of \$5,287,500.

3.3 The amount of reimbursement for approved Reimbursable Redevelopment Activities is governed by the approved grant request to the Agency Board. The amount eligible for reimbursement may not be increased without prior Agency Board approval.

3.4 The Developer shall assume responsibility for any additional costs for Reimbursable Redevelopment Activities in excess of the approved amount. In the event that the amount of the reimbursements provided pursuant to this Agreement is not sufficient to complete the approved Reimbursable Redevelopment Activities, or in the event that additional or other Reimbursable Redevelopment Activities are appropriate to carrying out the Development, the Developer may request an amendment, in writing for additional reimbursement. Refusal of the Agency Board to approve such an amendment does not relieve Developer of its obligations to cleanup and develop the Property, as provided herein, at its own cost.

3.5 In addition to any other remedies provided in this Agreement, if any payment made by the Agency is determined by audit, the State of Utah, or a court of appropriate jurisdiction to be improper or outside of the scope of obligations under this Agreement, or in the event of the Developer's breach or default of this Agreement, the Developer shall, at the request of the Agency, repay or return any monies paid by the Agency that are directly related to the breach, default or improper

payment, within sixty (60) days of notice, given in writing by the Agency. Failure to remit said funds will result in a late fee penalty in the amount of an additional 10%, accrued annually from the date of notice of the outstanding balance.

3.6 The Parties agree to revise the Agreement within thirty (30) days written notice from the Agency, if required by changes in circumstances imposed by changes in the law through judicial interpretation, legislative action or changes in interpretation of the law by a department of the State of Utah.

3.7 The Agency shall be under no obligation to reimburse any Eligible Costs so long as Developer's property taxes are delinquent on the Property.

4. **Compliance with Approved Work Plans, Laws, Rules and Regulations.**

4.1 Developer shall carry out the Reimbursable Redevelopment Activities in accordance with the requirements and permits issued by the Utah State Department of Environmental Quality and in a reasonable and workmanlike manner.

4.2 Developer shall comply fully with all local ordinances, state and federal laws, and all applicable local, state and federal rules and regulations. Nothing in this Agreement shall abrogate the effect of any local ordinance.

4.3 Non-compliance with this Agreement shall be regarded as material breach of this Agreement. In the event of a material breach by Developer, the Agency may do one or more of the following: 1) withhold future payments, or 2) terminate this Agreement. Prior to the Agency taking such action, the Agency shall provide thirty (30) days written notice and provide the Developer an opportunity to cure. If the Developer's non-compliance is not cured within ninety (90) days after receiving the Agency's written notice, the Agency may take action as outlined above. In the event of a material breach by the Agency which is not cured within ninety (90) days after receiving the Developer's written notice, Developer is entitled to pursue any and all legal or equitable remedies.

4.4 Appropriate measures will be taken by the Developer and its contractors to insure that contaminated soil and other materials will be properly removed and disposed in accordance with requirements of the Utah VCP or other regulatory agency requirements. Reasonable hours of construction shall be maintained. Adjacent landowners, citizens and visitors shall be provided with reasonable precautions such as fencing. Reasonable efforts shall be taken to limit the impact of the project on local streets and neighbors during construction.

5. **Developer to Provide Information.**

5.1 The Developer shall provide written proof to the Agency of waiver of liens by the environmental consultant, contractors and subcontractors performing services or providing materials for the Development, if requested by the Agency, prior to any reimbursement.

5.2 Except as otherwise noted below, documentation related to a request for reimbursement shall be submitted to the Agency upon completion of said approved Reimbursable Redevelopment Activities.

- a. a written statement detailing the costs;
- b. a written explanation as to why they are Reimbursable Redevelopment Activities;
- c. copies of invoices from contractors, engineers or others who provided such services or, for Developer's personnel for whose services reimbursement is being sought, detailed time records showing the work performed by such individuals; and
- d. any other information which may be reasonably required by the Agency or its auditors

6. **Agency to Determine Amount to be Reimbursed.**

6.1 Within thirty (30) days after the Developer has submitted documentation showing that it has completed the Reimbursable Redevelopment Activities, the Agency shall make a determination as to the amount of reimbursement, based upon the reasonable and necessary costs of the Reimbursable Redevelopment Activities, and notify the Developer of the determination. The Agency shall not be obligated to pay reimbursement to the Developer until all supporting documentation (as described in section 5.2) has been submitted to the Agency.

6.2. The Developer shall not be reimbursed by the Agency for any approved Reimbursable Redevelopment Activities that have been or will be reimbursed or credited against other obligations by any other governmental or other entity. As used herein, "Developer" may also refer to the affiliates of, predecessors in interest to, and parties acting jointly with or under the direction of Developer, as applicable.

7. **Indemnification.** The Developer shall indemnify, hold harmless, and defend the Agency, the Town, its officials, agents and employees, from any and all claims or causes of action arising from or on account of the acts or omission of the Developer, its officers, employees, agents or any persons acting on its behalf or under its control, in implementing the Reimbursable Redevelopment Activities or arising in any way from this Agreement including but not limited to, claims for damages, reimbursement or set-off arising from, or on account of, any contract, agreement or arrangement between the Developer and any person or company for the performance of Reimbursable Redevelopment Activities or the terms of this Agreement, including claims due to construction delays.

8. **Insurance.** As applicable, the Developer shall purchase and maintain insurance not less than the limits set forth below. All coverage's shall be with insurance companies licensed and admitted to do business in the State of Utah. As applicable, the Developer shall maintain such other insurances as it deems appropriate for its own protection.

8.1 Worker’s Disability Compensation Insurance including Employers Liability Coverage in accordance with all applicable statutes of the State of Utah.

8.2 Commercial General Liability Insurance on an “Occurrence Basis” with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit. Coverage shall include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Endorsement or Equivalent.

8.3 Motor Vehicle Liability Insurance, including Utah No-Fault Coverage, with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

8.4 The following shall be inserted in the Developers Certificate of Coverage for the insurance described in 8.2 above: Vineyard Town and the Vineyard Town Redevelopment Agency are additional insureds as their interests may appear.

8.5 It is understood and agreed that Developer shall provide written notice to the Agency within thirty (30) days of Developer becoming aware of cancellation, non-renewal or material change in the coverage listed in 8.2 above.

8.6 Proof of Insurance – The Developer shall provide to the Agency at the time this Agreement is returned by it for execution, certificates of insurance for each of the policies mentioned above. If so requested, certified copies of all policies will be furnished.

9. **Notices.** All notices, requests, demands and other communications that are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes hereunder if (a) delivered personally to the party to whom the same is directed, or (b) sent by certified mail, postage prepaid, return receipt requested, at the address identified below; or to such other party at such other address as shall be given in writing in accordance herewith

9.1 If to the Agency, to: Mayor
Vineyard Town Redevelopment Agency
125 South Main
Vineyard, Utah, 84058

With copy to: Mr. David L. Church
Vineyard Town Counsel
5995 S. Redwood Road
Salt Lake City Utah, 84123

9.2 If to Developer, to: _____

With copy to:

10. **Miscellaneous Provisions.**

10.1 Successors and Assigns; Assignments. There are no other intended Beneficiaries to this Agreement. The Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; however, the Developer shall not assign this Agreement without the prior written consent of the Agency, which shall not be unreasonably withheld in the event of a sale by Developer of the Property or any portion thereof. No person not a party hereto is intended to be a beneficiary of or to have the right to enforce this Agreement.

10.2 Entire Agreement. This Agreement represents the entire agreement, as it exists at the time of the signing of this Agreement between the parties. This Agreement may not be amended, altered or modified unless the party against whom enforcement of any waiver, modification or discharge is sought agrees in writing.

10.3 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

10.4 Severability. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms.

10.5 Survival. Except as otherwise provided in this Agreement, all representations, warranties, covenants and agreements of the parties contained in or made pursuant to this Agreement shall survive the execution of this Agreement.

10.6 Effective Date. This Agreement shall become effective when approved and executed by the Agency and the Developer.

10.7 Recitals. The recitals set forth above are incorporated by reference into this Agreement as if fully set forth therein.

11. **Force Majeure.** Whenever either party to this Agreement shall be required to perform any contract, work, labor or service, or to comply with this Agreement, or any other laws, rules, orders, ordinances, regulations or zoning regulations, such party shall not be deemed to be in default under this Agreement and the other party shall not enforce or exercise any of its rights under this Agreement with regard to such other party's default if and for so long as such non-performance or default shall be caused by Force Majeure (herein defined); provided, however, that such party shall commence such performance and continue the same with diligence and continuity immediately after the removal of any

of the causes hereinafter specified. The provisions of this section shall not excuse any failure or delay in the payment of any monetary amount required to be paid in accordance with this Agreement, nor shall it excuse the Agency from performing if the Agency has direct or indirect control over any such Force Majeure event, nor shall it excuse the Developer from performing if the developer has direct or indirect control over any such Force Majeure event. "Force Majeure" shall mean acts of God; acts of public enemies; fire or other casualties; acts, failure to act, orders, restraints or delays of any government or any governmental agency, department, committee, council or other entity; explosions; insurrections; failure or delay in obtaining permits or other approvals required under applicable law; civic disturbances; riots; delays of any contractor, subcontractor or supplier; litigation; strikes; landslides; earthquakes; storms; winds in excess of 75 m.p.h.; hurricanes; tornadoes and floods, and other conditions beyond the reasonable control of the party whose obligations are excused.

12. **Further Assurances.** Each party will, whenever and as often as it shall be reasonably requested by the other party, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and documents, as may be necessary in order to carry out the terms and conditions of this Agreement. Each Party further covenants that from and after the effective date, each party shall use reasonable efforts to cooperate with each other to secure all consents, approvals, authorizations and otherwise take such further actions necessary to effect the Development and other activities contemplated by this Agreement.

13. **Consents and Approval to be Reasonable.** Except as otherwise specially provided in this Agreement, all consents and approvals required under this Agreement shall not be unreasonably withheld or delayed. To the extent permitted by law, either party shall be entitled to conclusively rely on the consent or approval of the other provided the same is executed by those persons holding the offices or authorized to perform the duties of such offices specified herein.

This Agreement was approved by the Agency and the Chair of the Agency was authorized to sign this agreement on the _____, 2018 and was signed by the Chair on the ____ of _____, 2018.

SIGNATURE SECTION

For: GENEVA NITROGEN

By: _____ Date: _____

Its: Authorized Representative

For: VINEYARD REDEVELOPMENT AGENCY

By: _____ Date:

Its: Chairperson

Exhibit A

Reimbursable Redevelopment Activities for the Property will generally fall within two categories: 1) work related to environmental remediation; and 2) work related to conversion of the Property from industrial use to commercial uses and the demolition and redevelopment inherent in that change of use.

The Developer entered into a Voluntary Cleanup Agreement (Voluntary Cleanup Program [VCP] No. C036) in 2004 to design and execute a remediation plan (Corrective Action Plan) for the Property. The Developer's primary environmental consultant is AECOM. To date, some site work has been performed but the majority of effort has been toward site characterization under the VCP to develop a Corrective Action Plan, which will determine the cleanup required to allow redevelopment to occur without significant use restrictions. Because site characterization is not yet complete, Developer is unable to quantify with precision the activities which will be required under the VCP. The Reimbursable Redevelopment Activities can be defined, however, by reference to that work which could be required to allow the Property to qualify for a Certificate of Completion that is unrestricted as to future commercial, retail, and non-ground level residential uses. This scope of work may also include ongoing monitoring activities, as applicable, under the VCP's Site Monitoring Plan. The Developer's estimates below are based upon information provided to Developer by AECOM.

Significant demolition costs are attendant to a change of use from industrial, as the Property has many buildings, structures, infrastructure, and artifacts of prior and current industrial uses that must be removed. Reimbursable Redevelopment Activities include any such costs reasonably related to the conversion of the Property away from industrial use.

Estimated Costs:

Project	Estimate	Range	Source
Soil and Groundwater	\$3.4M	\$3.1M - 10.2M	AECOM
Demolition to change use	\$1.5M	\$1.0M - 2.5M	GN Engineering estimate
Demolition to clean soil, groundwater	\$1.5M	\$1.0M - 2.5M	GN Engineering estimate
Asbestos, insulation abatement	\$500k	\$500k - 750K	Eagle Environmental
RR Track Removal on-site*	\$150k	\$150k - 200k	GN Engineering estimate
Total:	\$7.05M	\$5.75M - 16.15M	

*To the extent not paid for by Vineyard or Union Pacific



VINEYARD RDA STAFF REPORT

Date: 10-10-2018
Agenda Item: 3.1 - 1750 Reimbursement Request
From: Jacob McHargue
Subject: RDA Reimbursement Request

Background/Discussion:

Martin Snow has submitted an application for RDA reimbursement. He would like to construct 1750 north that will loop around and connect to pioneer lane. This road is identified on our plans as a system improvement that warrants RDA participation. Martin Snow will construct the road and is requesting a reimbursement of the costs over a 7-year period beginning in 2022.

Fiscal Impact:

The reimbursement request with the land costs removed is for \$1,499,473.65.

Recommendation:

I am recommending that we approve the reimbursement agreement with the changes that have been proposed.

Sample Motion:

I move to approve the reimbursement agreement with the changes stipulated by staff and allow the chair to sign it.

Attachments: RDA Reimbursement Application



Vineyard RDA Development Incentive Application

Use this application to request assistance with backbone infrastructure improvements, environmental remediation, and other necessary projects associated with the Geneva URA project area. **Applicants are strongly encouraged to attach documentation which supports their proposal.**

1. Applicant Organization: Vineyard Properties of Utah LLC
Address: PO Box 699
City/State/Zip: Pleasant Grove, UT 84062
Contact Person: Martin Snow
Phone/Fax/Email: Phone 801-785-0505 Fax 801-785-1710 Email: msnow@uisutah.com
Is the Applicant the Property Owner? Yes No
2. Describe the type of project being proposed:
 Infrastructure Environmental Remediation

Other _____

Provide a summary description of the proposed project here and attach a detailed scope of the proposed work.

1750 North Road extension. This includes water pipes, storm drains, sewer, power line, gas pipes, road, curbs and gutters, ...

3. Contribution of the Applicant:
Total Estimated Cost of the project (must attach documentation): \$ 2,478,467.61
Contribution /Investment of the Applicant \$ 2,478,467.61
Other sources of funding (specify and attach supporting documentation): \$ 0.00
Assistance requested from the RDA: \$ 2,478,467.61
Total Funding \$ 2,478,467.61

4. Describe the ability of the site to be developed without assistance.

Assistance required to complete the project.

5. Describe the reasonable justification for the need of public investment in this project.

The 1750 N extension to Pioneer Lane has been on the master plan for road infrastructure since 2004. The truck traffic and associated commerce will continue to increase without delay. This new arterial outlet to Pioneer Lane will help the cities effort to re-align traffic towards the future Vineyard Connector.

6. Describe the land area which will be benefitted from the proposed project and the impact to future development.

The land area benefitted that the new extension will serve is a wide net of traffic and industry west of Geneva Road from Holdaway Road to 1600N. The extension will also allow for future development on the north side of Vineyard. Specifically Mill Road, 1600 North, 1750 North, Vineyard Connector, West 400 North and Utah Lake Parkway to name just a few.

7. Describe the impact this project will have on new jobs, or the quality of existing jobs (number and average salary).

Skilled labor jobs will be required to build the project. Heavy equipment operation associated with road construction and related support positions will be necessary to complete the project. Following the completion of the extension, the land area that will be developed will bring jobs related to light manufacturing, mixed commercial, heavy industrial and so forth to the region.

8. Attach a chart which describes the proposed timeline of the project, including expected dates for start and completion.

1750 North Extension to Pioneer Lane Prospectus
August 2018 – Begin with deepest underground infrastructure; sewer and storm water designs
September 2018 – Install domestic water and trunk lines for natural gas, power and data
October 2018 – Wrap up all underground work and import material for sub-grade and compaction
November 2018 – Lay down curb, gutter and asphalt
December 2018 – Record to city of Vineyard

9. Will the RDA own any of the infrastructure related to this project? If so, describe/elaborate.

Upon completion of the road and all inspections are finished, the developer plans to record the ownership of the road to Vineyard City.

10. How much taxable value will your project add to the tax rolls? (Indicate whether your estimate is above the existing taxable value or total including the existing value. Also, provide supporting detail for how the estimate was derived.)

With relation to land value, the increase in taxable value from raw dirt to developed buildings in a sharp increase. The raw land taxes are rounded up to \$2,000 per acre now. Adjacent properties with road access that have been developed for commerce are approximately \$15,000 per acre now.

The RDA may require additional information related to this application before a decision is made.

Signature of Applicant  Date 8-16-18

Printed Name MARTIN Snow Title Manager

Vineyard RDA Development Incentive Application
1750 North Road Vineyard

Vendors	Description	Cost
CMT Engineering Associates	Road testing	\$ 23,396.00
Dominion Energy	Gas pipes	\$ 68,372.69
Dudley & Associates	Engineering	\$ 11,260.00
ESP Excavation Inc	Excavation, water/sewer system, gravel & asphalt	\$ 1,299,621.00
Rocky Mountain Power	Electric system	\$ 82,217.19
Town of Vineyard	Engineering Inspection Fees	\$ 14,606.77
Vineyard Properties of Utah LLC	Land	\$ 978,993.96
		\$ 2,478,467.61

LAND DONATION AND DEVELOPMENT AGREEMENT

THIS LAND DONATION AND DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered as of the ____ day of September 2018 (the “Effective Date”), by and between Vineyard City, a Utah municipal corporation (the “City”), the Vineyard Redevelopment Agency, a political subdivision of the State of Utah (the “RDA” or “Agency”), and Anderson Geneva, LLC, a Delaware limited liability company and Ice Castle Retirement Fund, L.L.C., a Delaware limited liability company (collectively the “Developer”), individually a “Party” or collectively the “Parties.”

RECITALS

A. In 2005, Developer acquired approximate 1,700 acres of land located within Vineyard, Utah County, State of Utah that was a steel mill principally operated by the United States Steel Corporation commencing in 1946 and by the Geneva Steel Company commencing in 1989. Operations as a steel mill ceased on the Property in 2002 (the “Mill Property”).

B. Within the Mill Property is approximate 336 acres that the City, in cooperation with Developer, has designated as the Vineyard Town Center (the “Property”). The Property is more particularly described in Exhibit A, attached hereto.

C. The Property lies within the Vineyard Town Redevelopment Project Area and is also governed by the Geneva Urban Renewal Area Project Area Plan as amended February 9, 2011 (the “Plan”). A copy of the Plan is attached hereto as Exhibit B.

D. The Property is further part of the Special Purpose Zoning District designated as the “Vineyard Town Center Form Based Code,” as adopted by ordinance by the Town on September 23, 2015 which is attached hereto as Exhibit C (the “Code”).

E. Pursuant to ordinance, the Code designates the Property into six (6) districts, including the Town Center Station, Town Center Mixed Use, Village Office, Lake Front Commercial, Lake Front Residential, and Geneva Park (collectively the “Town Center Districts”). The Code also provides for a Lake Promenade area consisting of open space and other improvements as provided in the Code. Exhibit D contains a legal description of the Lake Promenade area. The Town Center Districts and the Lake Promenade are depicted on a map found on page 6 of the Code and as reflected on the attached Exhibit E (the “Town Center Map”).

F. Developer is developing the Property under the Code which allows the Property to be developed in a systematic manner (the “Project”).

G. Developer has and continues to be in the process of marketing and selling portions of the Property for development.

H. Within the Town Center Districts and the Lake Promenade shall be located and installed certain system improvements as well as surface and subsurface backbone infrastructure

consisting in general of the main publically dedicated and maintained streets, sewer mains, lines and facilities, storm water facilities, power facilities, dry utility lines and facilities, public park improvements and water lines and facilities needed to develop the Project which was to be installed and paid for or reimbursed as part of the necessary redevelopment of the area at the cost of the City and Agency (the “Backbone Infrastructure”).

I. The City and Agency, acting pursuant to its authority under Utah Code Annotated, §§10-9a-101, et seq., and in furtherance of the Plan and the Code and its land use policies, goals, objectives, ordinances, resolutions, and regulations has made certain determinations with respect to the Project, and approves this Agreement.

J. Fulfillment of this Agreement is vital to and in the best interests of the City and the RDA, and the health, safety, and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Utah Community Development and Renewal Agencies Act, Title 17C of the Utah Code Annotated (the “Act”), the Plan, and the Code.

K. The Project and its development are subject to and shall conform with the Plan, the Code, and all of the existing City ordinances, rules and regulations, including, but not limited to, the provisions of the Town’s General Plan, the City’s ordinances, regulations and engineering standards and specifications, all as previously adopted by the City as set forth and as otherwise set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows;

1. Incorporation of Recitals. The foregoing Recitals and Exhibits attached hereto are hereby incorporated into this Agreement.

2. Property Affected by This Agreement. The legal description of the Property contained within the Project boundaries as attached and specifically described in Exhibit A and as depicted in the Town Center Map (Exhibit E). No additional property may be added to this description for purposes of this Agreement except by written amendment to this Agreement executed and approved by the Parties hereto.

3. Land Donation by Developer. As further consideration for this Agreement, Developer agrees to donate to the City the Lake Promenade property (the “Lake Promenade Property”) comprising approximate 16 acres of the Property as depicted as the Lake Promenade on the Town Center Map (Exhibit E). The Parties agree that the Lake Promenade Property has a donative value of at least \$350,000 per acre and will be verified by a MAI appraisal for income tax donation purposes. The City shall assume full responsibility for the maintenance of the Lake Promenade Property after acceptance of same.

4. Future Donation by Developer of the Plaza Property. There is an approximate 1.3 acre property depicted in green on the Town Center Map (Exhibit E). This area is to be used as open space and as park property within the Village Office District and is referred to as the “Plaza Property.” Because the Backbone Infrastructure is not yet built out nor is there build out of any buildings in the Village Office District, the Developer will retain ownership of the Plaza Property. At the time of build out of the Backbone Infrastructure and buildings in the Village Office District, the City, in consultation with the Developer, may designate the exact area of the Plaza Property. The Developer, upon 90 days prior notice will donate and tender title to the City for the exact area of the Plaza Property. The Parties agree that the Plaza Property has a donative value of at least \$350,000 per acre, to be verified by a MAI appraisal for income tax purposes. The City shall assume full responsibility for the maintenance of the Plaza Property after acceptance of same.

5. Vested Rights.

a. Vested Rights. Developer and all of its purchasers, transferees, affiliates successors and assigns (the “Successors and Assigns”) shall have the vested right to own, develop and construct any and all portions of the Project in accordance with the Code and the Plan. These vested development rights are subject to compliance with the terms and conditions of this Agreement, the Code, and the Plan and the other applicable existing ordinances and regulations of the City until December 31, 2049, unless extended as provided herein (the “Vesting Period”).

b. Extending the Vesting Period. The Vesting Period may be extended by agreement between the City and Developer for increments of three (3) years in the event that the RDA has been expanded or extended or as the City and Developer may deem appropriate.

c. Phasing of the Project. Developer may, at its option, phase portions of the development of the Project during the Vesting Period.

6. Successors and Assigns of Developer in the Ownership or Development of any Portion of the Project.

a. Binding Effect. This Agreement shall be binding upon the City as well as on Developer and upon any Successors and Assigns in the ownership or development of any portion of the Project.

b. Transfer of Development. It is contemplated that Developer will sell various portions of the Property to one or more Successors and Assigns who will develop specific projects on their respective portions of the Property. Developer shall be entitled to transfer any or all portions of the Property to any Successors and Assigns subject to the terms of this Agreement. In the event of any such transfer of Developer’s interest in the Property, the Successors and Assigns shall be deemed to be Developer for all purposes under this Agreement with respect to that portion of the Property so transferred. Nothing in this Section shall prohibit Developer from selling any parcels in the ordinary course of the business of developing the Property, nor shall Developer be prohibited from selling a portion of the Property to one or more Successors and Assigns for the purpose of erecting, constructing, maintaining, and operating (or causing to be erected,

constructed, maintained, and operated) improvements thereon consistent with the requirements of this Agreement, the Code, and the Plan, and the other applicable ordinances and regulations of the City. The provisions of this Section shall not prohibit the granting of any security interests for financing the acquisition and development of development parcels within the Project, subject to Developer and any Successors and Assigns complying with the City's laws and the requirements of this Agreement.

c. Release of the Developer. In the event of a transfer of any portion of the Property to any Successors and Assigns the respective Successor and Assign shall have the same rights and obligations as Developer under this Agreement in relation to that portion of the Property so transferred, and Developer executing this Agreement shall be released from any further obligations with respect to that portion of the Property.

7. Infrastructure.

a. General. As part of the development of any portion of the Project, Developer and any Successors and Assigns may in the future be required to install or otherwise facilitate certain public improvements in order to provide access, infrastructure and municipal services to the Property, the Project and adjoining properties which public improvements may also benefit the City as a whole and shall be in conformity with the City's capital facilities plans.

b. System Improvements. Some of the public improvements to be installed or constructed by Developer or any Successors and Assigns, who develop portions of the Property may be Backbone Infrastructure consisting of "System Improvements" as defined in law including the Utah Impact Fees Act, §§11-36a-102(21) of the Utah Code Annotated and the Vineyard Municipal Code.

c. Public Facilities. Some of the public improvements to be installed or constructed by Developer or any Successors and Assigns, who develop portions of the Property, may be "Public Facilities" as defined in law including the Utah Impact Fees Act, §§11-36a-102(16) of the Utah Code Annotated and the Vineyard Municipal Code.

d. Infrastructure Defined. System Improvements including Backbone Infrastructure and Public Facilities are hereinafter "Infrastructure."

e. Impact Fees. Developer or any Successors and Assigns, who develop portions of the Property, shall be assessed and shall pay impact fees calculated by the City in accordance with applicable City ordinances and other laws and regulations. Nothing contained herein shall exempt, release, or excuse Developer and any Successors and Assigns, who develop portions of the Property from paying reasonable impact fees and other reasonable fees and charges required for development of the Property, or any portion thereof, pursuant to the ordinances and resolutions of the City, except where credits against such fees are granted by the City.

f. Impact Fee and RDA Reimbursement for System Improvements including Backbone Infrastructure. The RDA agrees that it will reimburse to Developer or any Successors

and Assigns through impact fees and from the RDA for the actual costs incurred for the System Improvements and Backbone Infrastructure (the “Infrastructure Reimbursable Costs”) from City impact fees and from property tax increment received by the RDA from the property within the Project owned by Developer or owned by each Successor and Assign on the following terms and conditions:

i. The amount reimbursed to Developer and each Successor and Assign from RDA tax increment in each taxable year shall be equal to 100% of the total available tax increment generated in that same taxable year by taxes collected on property within the Project owned by Developer and each said Successor and Assign until all costs for System Improvements including Backbone Infrastructure have been reimbursed to Developer and each Successor and Assign;

ii. The total available tax increment shall be equal to the total tax increment generated by the Property within the Project owned by Developer and each Successor and Assign minus allocations for administrative costs, income-targeted housing funds, environmental costs and mitigation payments, if any. The total available tax increment will be equal to or greater than seventy percent (70%) of the total tax increment generated from each portion of the Property within the Project owned and developed by Developer or each said Successor and Assign;

iii. The monies fronted to the City by Developer and any Successors and Assigns for the installation of the System Improvements including Backbone Infrastructure shall accumulate interest, at a rate of seven and one-half percent (7.5%) per annum. Such interest shall accumulate continuously compounding on any unreimbursed funds, beginning from the date actual monies are paid by Developer and each Successor and Assign for its Infrastructure Reimbursable Costs; and

iv. The City and the RDA board shall activate the RDA for the area covering the Property within the Project owned by Developer and each said Successor and Assign no later than December 1, 2020.

v. The City and the RDA shall have the right, but not the obligation, to prepay the Infrastructure Reimbursable Costs through other sources of funds such as bonding against future tax increment.

vi. It is understood and acknowledged by the Parties hereto that the reimbursement obligation of the City and its RDA is contingent on the requirements of impact fee laws and upon the property within the Project owned by Developer or by each said Successor and Assign generating sufficient available tax increment and that if there is not sufficient available tax increment generated from the property within the Project owned by Developer or by each said Successor and Assign to reimburse Developer or each such Successor and Assign that the City and its RDA shall have no obligation to make up any short fall.

8. Improvements to the Lake Promenade and Plaza Properties. To ensure that the Lake Promenade and the Plaza Property are improved in accord with the Code, Developer agrees, as additional consideration for this Agreement, as follows:

a. Open Space Credit from the Lake Promenade and Plaza Properties. The City agrees that Developer or any Successor and Assign who develop any portion of the Lake Promenade or any portions of the Adjoining Promenade Property or the Plaza Property may credit that portion of the Lake Promenade Property and Plaza Property so developed as part of the open space obligations of Developer and each such Successor and Assign.

b. Transfer of Open Space Credits from Lake Promenade Area north of Edge's Property. Developer has arranged to sell approximate 52 acres of area located in or near the Lake Front Residential and power line areas as generally depicted on the southwestern portion of the Town Center Map (the "Edge Property"). The Edge Property is located directly south of the western portion of the Lake Promenade. Edge has received a positive vote from the City Council on its preliminary plat for its development of a mix of housing products on the Edge Property that provides for open space which already meets and exceeds the City's 20% open space requirements. As a condition of its plat approval, Edge is also agreeable to make certain cash improvements to the Lake Promenade area located directly north of the Edge Property. Regarding the cost of those cash improvements, Edge is expected to enter into a reimbursement agreement with the City and the RDA for reimbursement of those improvements made in the Lake Promenade directly north of the Edge Property. However, the open space credits associated with those improvements and that portion of the Lake Promenade are not needed by Edge in its development to meet its 20% open space requirement, Thus, those associated open space credits may be transferred to other areas of the Town Center Districts developed by Developer or by any other Successors and Assigns. This transfer of said open space credits may be accomplished by mutual agreement between the City and the Developer in the future as other developments are approved and constructed in the Town Center Districts.

c. Construction of the Adjoining Lake Promenade Improvements. As part of an approved development, Developer will itself or will require each Successor and Assign of Property developing a portion of Property that abuts the Lake Promenade Property (the "Adjoining Lake Promenade Property") to construct on the Adjoining Lake Promenade Property the improvements contemplated by the Code, as directed by the City (the "Lake Promenade Improvements"). The Lake Promenade Improvements shall be completed by Developer or each said Successor and Assign as part of the development of each adjoining property by Developer or each Successor and Assign within eighteen (18) months after the City has approved each development and finalized the plans, budget and reimbursements for the Lake Promenade Improvements. The costs of the Lake Promenade Improvements are considered community and a necessary part of the redevelopment of the area; and shall be reimbursed to Developer and each Successor and Assign pursuant to the terms of this Agreement.

d. Construction of the Plaza Improvements. Developer will itself or will require each Successor and Assign that develops property that abuts the Plaza Property (the "Plaza Property") to construct on the Plaza Property the improvements contemplated by the Code, as

directed by the City (the “Plaza Improvements”). The Plaza Improvements shall be completed by Developer or each said Successor and Assign as part of the development of each adjoining property within eighteen (18) months after the City has approved each development and finalized the plans, budget and reimbursements for the Plaza Improvements. The costs of the Plaza Improvements are considered community and a necessary part of the redevelopment of the area; and shall be reimbursed to Developer and each Successor and Assign pursuant to the terms of this Agreement.

e. Construction of Lake Promenade and Plaza Improvements by the City. At any time, the City or its RDA, shall have the right to construct at its own expense the Lake Promenade Improvements and Plaza Improvements and Developer and each Successor and Assign shall fully cooperate with such efforts.

f. City and RDA Reimbursements. The City agrees that it will reimburse to Developer and each said Successor and Assigns through City impact fees and the RDA for the actual cost incurred by Developer and each Successor and Assign for the costs of the Lake Promenade Improvements and Plaza Improvements (the “Promenade and Plaza Reimbursable Costs”) from City impact fees and from property tax increment received by the RDA from the property within the Project owned by and developed by Developer or each said Successor and Assign on the following terms and conditions:

i. The amount reimbursed to Developer and each said Successor and Assign in each taxable year shall be equal to 100% of the total available tax increment generated in that same taxable year by taxes collected on property within the Project owned by Developer and by each said Successor and Assign until all costs for Promenade and Plaza Reimbursable Costs have been reimbursed to Developer and each said Successor and Assign;

ii. The total available tax increment shall be equal to the total tax increment generated by the property within the Project owned by Developer and by each said Successor and Assign minus allocations for administrative costs, income-targeted housing funds, environmental costs and mitigation payments, if any. The total available tax increment will be equal to or greater than seventy percent (70%) of the total tax increment generated from the property within the Project owned and developed by Developer or by each said Successor and Assign;

iii. The monies fronted to the City for the Lake Promenade Improvements and the Plaza Improvements by Developer and by any Successor and Assign shall accumulate interest, at a rate of seven and one-half percent (7.5%) per annum. Such interest shall accumulate continuously compounding on any unreimbursed funds, beginning from the date actual monies are paid by each said purchaser for its Promenade and Plaza Reimbursable Costs; and

iv. The City shall activate the RDA for the area covering the property within the Project owned by Developer and by each said Successor and Assign no later than December 1, 2020.

v. The City and the RDA shall have the right, but not the obligation, to prepay Promenade and Plaza Reimbursable Costs through other sources of funds such as bonding against future tax increment.

vi. The City and the RDA shall have the right, but not the obligation, to install at its expense any Infrastructure on the Property and Developer and each Successors and Assigns shall fully cooperate with same.

vii. It is understood and acknowledged by the Parties hereto that the reimbursement obligation of the City and its RDA is contingent on the requirements of impact fee laws and upon the property within the Project owned by Developer or by each said Successor and Assign generating sufficient available tax increment and that if there is not sufficient available tax increment generated from the property within the Project owned and developed by Developer and by each said Successor and Assign to reimburse same that the City and its RDA shall have no obligation to make up any short fall.

9. Notices. Any notices, request and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the City: Vineyard City
Attn.: Mayor
125 S. Main St.
Vineyard, UT 84059

To the RDA: Vineyard Redevelopment Agreement
Attn.: Chair
125 S. Main St.
Vineyard, UT 84059

To Developer: Anderson Geneva, LLC
Attn.: Gerald D. Anderson and Michael L. Hutchings
9537 South 700 East
Sandy, Utah 84070

Any Party may change its address for notice by giving written notice to the other Party in accordance with the provisions of this Section.

10. General Term and Conditions.

a. Attorneys' Fees. In the event of any lawsuit between the Parties hereto rising out of or related to this Agreement, or the Project, the prevailing Party or Parties shall be entitled in addition to the remedies and damages, if any, awarded in such proceeding, to recover its or their costs and reasonable attorneys' fees.

b. Integration. This Agreement, together with the Exhibits hereto, integrates all the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements or previous agreements between the parties, whether oral or written with respect to the subject matter hereof any amendments hereto must be in writing and signed by the respective Parties hereto.

c. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

d. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and Successors and Assigns including cleantheir respective heirs, representatives, officers, agents, employees, members, and affiliates.

e. Non-Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City or Agency shall be personally liable to Developer, or any Successors and Assigns for any default or breach by the City or Agency, or for any amount which may become due to Developer, or any Successors and Assigns, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for his or her own individual acts or omissions.

f. No Third Party Rights. The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City, Agency, Developer and Successors and Assigns.

g. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate in good faith with respect to all such future agreements.

h. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the City, Agency, Developer, Successors and Assigns.

i. Performance. Each Party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other Party, Successors and Assigns or person and/or entity governed by this Agreement, the development of any portion of the Property.

j. Applicable Law. This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the laws of the State of Utah.

k. Construction. No presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

l. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any Party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City or Agency shall be promptly given or withheld by the City or Agency in compliance with this Agreement and the applicable City Ordinances and pursuant to law.

m. Approval and Authority to Execute. Each of the Parties represents and warrants as of the date this Agreement is executed that it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

n. Termination. If a Party or a Successor and Assign is in material default of this Agreement, another Party may affect a termination of this Agreement by giving written notice of intent to terminate to the defaulting party. Whereupon the defaulting party shall have sixty (60) days during which such party shall be given an opportunity to correct any alleged deficiencies and to take appropriate steps to cure any default. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a defaulting party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

o. No Waiver. Any Party's or Successor's and Assign's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The party intended to be benefited by the provisions may waive the provisions only in writing, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

p. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

q. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires, natural disasters, or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

r. Recordation. This Agreement shall be recorded upon the Property.

s. Estoppel Certificate. Within thirty (30) business days following delivery to any Party of a written request for an estoppel certificate respecting the status of performance under this Agreement and including a proposed form for that estoppel certificate, the party to whom that request was delivered shall deliver to the requesting party a reasonable estoppel certificate

respecting such matters. That certificate shall be addressed to any lenders, purchasers, government agencies or other individuals or entities designated by the requesting party. A Party's failure to deliver such estoppel certificate (or make specific written objections to the form thereof) shall be presumed to mean that such party is not aware of any defaults or delinquencies under the Agreement and is later estopped from asserting the same.

t. Amendment. This Agreement may be amended only in writing signed by the Parties hereto. Additionally, amendments may be made by agreement between the City, the Agency and any Successor and Assign in relation to any portion of the Property that is owned by said Successor and Assign.

[Signatures Immediately Follow]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

VINEYARD CITY

By: _____
Name:
Title: Mayor

VINEYARD REDEVELOPMENT AGENCY

Attest:

By: _____
Name:
Title: Chair

By: _____
Secretary

ANDERSON GENEVA, LLC

By: _____
Name: Gerald D. Anderson
Title: Manager

ICE CASTLE RETIREMENT FUND, L.L.C.

By: _____
Name: Pro Management Utah, LLC
Title: Manager
By: Glen R. Pettit, Manager

EXHIBIT A: The Property Legal Description

EXHIBIT B: The Plan

Exhibit C: The Code

Exhibit D: Lake Promenade Property Legal Description

Exhibit E: The Town Center Map