

RESOLUTION NO. 4359

(Direct Land Sale to Nevada Power Company for SE2 Substation Property)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSON, CLARK COUNTY, NEVADA, EXPRESSING ITS INTENT TO SELL APPROXIMATELY 4.33 NET ACRES, MORE OR LESS, OF REAL PROPERTY LOCATED IN THE SOUTHEAST QUARTER OF SECTION 09, TOWNSHIP 23 SOUTH, RANGE 61 EAST, M.D.M., CITY OF HENDERSON, NEVADA, WITHOUT FIRST OFFERING THE PROPERTY TO THE PUBLIC, TO NEVADA POWER COMPANY, A NEVADA CORPORATION D/B/A NV ENERGY, PURSUANT TO THE PROVISIONS OF NRS 268.061 AND THE HENDERSON CITY CHARTER SECTION 2.320.

WHEREAS, the City of Henderson ("City") owns approximately 4.33 net acres, more or less, of vacant real property located in the Southeast Quarter (SE 1/4) of Section 09, Township 23 South, Range 61 East, M.D.M., City of Henderson, Nevada, which is currently identified by Clark County as Assessor's Parcel Number 191-09-801-011 (the "Property"); and

WHEREAS, Nevada Power Company, a Nevada corporation dba NV Energy ("Buyer"), has expressed an interest in purchasing the Property for the purpose of constructing and operating an electrical substation to be operated and maintained by Buyer ("the Project"); and

WHEREAS, The sale of the Property shall be for a public purpose since the Project will contribute to the development of the west Henderson area, which shall benefit the City and the community; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Henderson, Nevada, that:

SECTION 1. The City Council finds that the sale of the Property to Buyer in the manner set forth in this Resolution and the Notice of Sale attached hereto as Exhibit A, consisting of two (2) pages, which is hereby made a part of this Resolution, will be in the best interest of the public.

SECTION 2. The minimum price for which the Property may be purchased is hereby designated at One Million, Nine Hundred Forty-Nine Thousand, Three Hundred Fifty, and 00/100 Dollars (\$1,949,350.00), and such price must be paid in cash.

SECTION 3. As a condition to the sale of the Property, Buyer must deposit Ninety-Seven Thousand, Four Hundred Sixty-Seven, and 50/100 Dollars (\$97,467.50), equal to five percent of the purchase price, into escrow no later than seven days after the approval of a Purchase and Sale Agreement by City Council.

SECTION 4. The Property that is the subject of this Resolution consists of approximately 4.33 net acres, more or less, of real property located at the Southeast Quarter (SE 1/4) Section 09, Township 23 South, Range 61 East, M.D.M., City of Henderson, Nevada, which is currently identified as a portion of Clark County as Assessor's Parcel Number 191-09-801-011.

- SECTION 5. The sale of the Property shall be subject to approval by the City Council of a written Purchase and Sale Agreement between the City and Buyer, which agreement shall provide for the purchase of the Property for the purpose of the construction and operation of the Project, in accordance with the terms and conditions set forth herein and such additional terms and conditions as may be approved by the City Council.
- SECTION 6. The public meeting at which City Council will consider and possibly accept the offer for the Property and consider and possibly approve a binding purchase and sale agreement between the City and Buyer is November 5, 2019, at 6 p.m., or as soon after such time as practicable, in the City Council Chambers, 240 Water Street, Henderson, Nevada 89015.
- SECTION 7. The City Clerk is hereby authorized and directed to post this Resolution in those designated public places within the City set forth in the Notice of Sale and to publish the Notice of Sale not less than 30 days prior to November 5, 2019.
- SECTION 8. A copy of this Resolution and the Notice of Sale can be obtained in the Office of the City Clerk, 240 Water Street, Henderson, Nevada.
- SECTION 9. This Resolution is effective upon adoption unless stated otherwise in the notice.

PASSED, ADOPTED, AND APPROVED THIS 1<sup>ST</sup> DAY OF OCTOBER, 2019, BY THE FOLLOWING ROLL-CALL VOTE OF COUNCIL.

Those voting aye:  
Debra March, Mayor  
Councilmembers:  
Michelle Romero  
Dan H. Stewart

Those voting nay: None  
Those abstaining: None  
Those absent: John F. Marz  
Dan K. Shaw



Debra March, Mayor

ATTEST:



Sabrina Mercadante, MMC, City Clerk

Exhibit A  
NOTICE OF DIRECT LAND SALE

NOTICE IS HEREBY GIVEN that the City of Henderson, Nevada, a municipal corporation and political subdivision of the State of Nevada ("City"), intends to make a direct sale of approximately 4.33 net acres, more or less, generally located in the Southeast Quarter (SE 1/4) of Section 9, Township 23 South, Range 61 East M.D.M., identified as Clark County Assessor's Parcel Number 191-09-801-011, without first offering the property to the public, pursuant to the provisions of NRS 268.061 and Henderson City Charter Section 2.320, subject to the following:

**DATE, TIME AND PLACE OF PROPOSED SALE; TERMS AND CONDITIONS**

The Property is to be sold to Nevada Power Company, a Nevada corporation dba NV Energy ("Buyer"), for valuable consideration, subject to all existing easements and encumbrances of record.

The public meeting at which City Council will consider and possibly accept and approve a binding Purchase and Sale Agreement between the City and Buyer is November 5, 2019, at 6:00 P.M., or as soon after such time as practical, in the City Council Chambers, 240 Water Street, Henderson, Nevada 89015.

Resolution No. \_\_\_\_\_ and this Notice of Direct Land Sale shall be posted at the Henderson Multigenerational Center, 250 S. Green Valley Parkway; City Hall, 240 Water Street, 1st Floor Lobbies; Whitney Ranch Recreational Center, 1575 Galleria Drive; and Fire Station No. 86, 1996 E. Galleria Drive. Any interested parties may obtain copies of the resolution and notice in the Office of the City Clerk, 240 Water Street, Henderson, Nevada.

THIS NOTICE IS GIVEN pursuant to and subject to Section 2.320 of the Charter of the City of Henderson, Nevada.

For more information, contact the City Clerk's Office at 240 Water Street, P.O. Box 95050, Henderson, Nevada 89009-5050.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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SABRINA MERCADANTE, MMC, CITY CLERK

## PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made as of the date of City Council approval listed on the signature page hereto (“**Effective Date**”), between City of Henderson, a municipal corporation (“**Seller**”), and Nevada Power Company, a Nevada corporation dba NV Energy (“**Buyer**”). This Agreement shall also constitute escrow instructions to FIRST AMERICAN TITLE INSURANCE COMPANY, Brenda Burns (“**Escrow Agent**”), as to matters set forth herein pertaining to Escrow Agent.

### RECITALS

A. Seller owns that certain 5+/- acre parcel of real property lying within Clark County, Nevada and commonly identified as Assessor Parcel No. 191-09-801-011 and further described on Exhibit A attached hereto (the “**Property**”).

B. Buyer is a public utility, as defined in Nevada Revised Statutes (as amended, “**NRS**”) 704.020 (“**Utility**”), and shall use the Property for a public purpose, i.e., the development of a power substation to serve the residents of the City of Henderson.

C. NRS 268.059, NRS 268.061 and NRS 268.062 exempt a sale by Seller to a Utility from the appraisal and public auction requirements, respectively, allowing Seller to sell the Property to Buyer in a direct sale.

D. On \_\_\_\_\_, Seller adopted Resolution No. \_\_\_\_\_, noticing its intent to sell the Property to Buyer in a manner resulting in the maximum benefit to the City of Henderson.

E. On the terms and subject to the conditions set forth herein, Buyer desires to purchase the Property from Seller, together with all of Seller's right, title and interest, if any, in and to all rights, benefits, privileges and appurtenances pertaining to the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

### AGREEMENT

1. Purchase and Sale. Subject to, and upon the terms and conditions contained in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property on the Closing Date by recording the Deed (as defined below) with the Office of the County Recorder, Clark County, Nevada (“**Official Records**”).

2. Opening of Escrow; Closing.

(a) Opening of Escrow. For purposes of this Agreement, the opening of escrow (the “**Opening of Escrow**”) shall be deemed to be the date on which Escrow Agent is in possession of the Deposit (defined below) and one (1) copy of this Agreement, fully executed by Buyer and Seller, is delivered to and executed by Escrow Agent within a reasonable period of time following the Effective Date. Concurrently with the Opening of Escrow, Escrow Agent shall establish an

escrow for this transaction (the “**Escrow**”). This Agreement shall constitute escrow instructions to Escrow Agent as well as the agreement of the parties. Escrow Agent is hereby appointed and designated to act as Escrow Agent and instructed to deliver, pursuant to the terms of this Agreement, the documents and funds to be deposited into Escrow as herein provided. The parties hereto may execute such additional escrow instructions (not inconsistent with this Agreement) as they shall deem reasonably necessary for such party’s protection. In the event of any inconsistency between the provisions of this Agreement and such additional escrow instructions, the provisions of this Agreement shall govern.

(b) Closing. The consummation of the transaction with respect to the conveyance of the Property by Seller to Buyer (the “**Closing**”) shall occur on the Business Day (defined below) that is thirty (30) days after the Feasibility Termination Date (defined below) (the “**Closing Date**”); provided, however, in no event shall the Closing Date occur later than three (3) months from the Effective Date.

(c) Extension of Closing. If, at the time established for the Closing to occur, Seller or Buyer has failed to perform an act or fulfill an obligation that is required of Seller or Buyer at or before the Closing, Buyer has the right to extend the Closing by notice to the Escrow Agent and Seller for up to three (3) successive periods of ten (10) business days each, until Seller or Buyer, as applicable, has performed the act or fulfilled the obligation.

3. Purchase Price.

(a) Amount. The purchase price (“**Purchase Price**”) for the Property shall be One Million Nine Hundred Forty-Nine Thousand Three Hundred Fifty and 00/100 Dollars (\$1,949,350.00)

(b) Payment. The Purchase Price shall be payable as follows:

1. Within five (5) business days of Opening of Escrow, Buyer shall deposit with Escrow Agent an earnest money deposit in the amount of Ninety-Seven Thousand Four Hundred Sixty-Seven and 50/100 Dollars (\$97,467.50) (the “**Deposit**”).

2. The Purchase Price, reduced by the Deposit, and further reduced or increased by such funds as are required to take into account the adjustments required by this Agreement, shall be deposited by Buyer with Escrow Agent, in cash or immediately available federal funds on or before the Closing Date.

3. Not less than three (3) Business Days prior to the Closing Date, Escrow Agent shall deliver to each of the parties for its review and approval a preliminary closing statement (the “**Preliminary Closing Statement**”) setting forth the closing expenses allocable to each of the parties pursuant hereto. Based on each of the party’s reasonable comments, if any, regarding the Preliminary Closing Statement, Escrow Agent shall revise the Preliminary Closing Statement and each of the parties shall, subject to its reasonable approval, deliver a final closing statement to Escrow Agent (the “**Closing Statement**”).

4. Deposit.

(a) Form; Investment. The Deposit shall be in the form of wire transfer of immediately available federal funds. The Deposit, while in Escrow, may be invested by Escrow Agent for the benefit of Buyer, at Buyer's election and cost, in one or more investments reasonably acceptable to Buyer with no penalty for early withdrawal (provided that Buyer execute such documents and pay such fees required by Escrow Agent to establish such interest-bearing account).

(b) Non-Refundable. From and after the Feasibility Termination Date, the Deposit shall be non-refundable to Buyer, except as otherwise expressly provided in this Agreement, and shall be applied against the Purchase Price at the Closing.

5. Feasibility Review; Property Information; Right of Entry.

(a) Feasibility Review. At any time during the period (the "**Feasibility Period**") between the Opening of Escrow and expiring at 5:00 P.M. (Pacific Time) on the date (the "**Feasibility Termination Date**") that is sixty (60) days following the Opening of Escrow, Buyer shall have the right, at its sole discretion, to confirm that it will proceed with this transaction or terminate this Agreement for any reason whatsoever. If Buyer decides not to proceed with this transaction, then Buyer, prior to the Feasibility Termination Date, shall deliver written notice (the "**Feasibility Disapproval Notice**") to Seller and to Escrow Agent, that this Agreement shall be automatically terminated, except for provisions which expressly survive. Subject to Buyer executing and returning a right of entry agreement, in form and substance acceptable to Seller, during the Feasibility Period, Buyer shall have the right to, or have its contractor or agent, conduct surveys, review and investigate the Property Information, the physical and environmental condition of the Property, the character, quality, value and general utility of the Property, the zoning, land use, environmental and building requirements and restrictions applicable to the Property, the state of title to the Property, and any other factors or matters relevant to Buyer's decision to purchase the Property. Buyer, in Buyer's sole and absolute discretion, may determine whether or not the Property is acceptable to Buyer within the Feasibility Period, for any reason or no reason. If Buyer fails to deliver the Feasibility Disapproval Notice to Seller and Escrow Agent on or before the Feasibility Termination Date, then Buyer shall be deemed to have elected to proceed with the transaction contemplated by this Agreement. Upon termination of this Agreement pursuant to this Section 5(a), Escrow Agent shall return the Deposit to Buyer with no further instruction or action by Seller being required.

(b) Property Information. Within five (5) days following the Opening of Escrow, Seller shall deliver to Buyer copies of all documents and studies related to the Property, to the extent in Seller's actual possession (hereinafter, the "**Property Information**"). The Property Information is being provided on an "AS-IS, WHERE-IS" basis, "WITH ALL FAULTS" with no representation or warranty of any kind or nature, express or implied. The Property Information is for informational purposes only and (i) Buyer is not in any way entitled to rely upon the accuracy of the information within the Property Information, and (ii) Buyer will rely exclusively on its own inspections and consultants with respect to all matters Buyer deems relevant to its decision to acquire the Property.

6. AS-IS. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE AS FOLLOWS: (A) BUYER IS A SOPHISTICATED BUYER WHO IS FAMILIAR WITH THIS TYPE OF REAL ESTATE; (B) EXCEPT AS MAY BE EXPRESSLY SET FORTH IN THIS

AGREEMENT AND THE EXHIBITS HERETO, SELLER HAS NOT MADE OR WILL MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY; AND (C) THE PROPERTY IS BEING SOLD TO BUYER IN ITS PRESENT "AS IS, WHERE IS" CONDITION "WITH ALL FAULTS." BUYER HAS BEEN AFFORDED THE OPPORTUNITY TO MAKE ANY AND ALL INSPECTIONS OF THE PROPERTY AND SUCH RELATED MATTERS AS BUYER MAY REASONABLY DESIRE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT TO THE EXTENT SPECIFICALLY SET FORTH IN THIS AGREEMENT AND THE EXHIBITS HERETO:

(a) SELLER HAS MADE NO, AND WILL MAKE NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, WITH RESPECT TO THE ECONOMIC VALUE OF THE PROPERTY, ADEQUACY OF UTILITIES SERVING THE PROPERTY, THE FITNESS OR SUITABILITY OF THE PROPERTY FOR BUYER'S INTENDED USES OR THE PRESENT USE OF THE PROPERTY, FUTURE HEIGHT OF BUILDINGS CONSTRUCTED ON THE PROPERTY, OR THE PHYSICAL CONDITION, OCCUPATION, OR MANAGEMENT OF THE PROPERTY, ITS COMPLIANCE WITH APPLICABLE STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS OR REQUIREMENTS RELATING TO OCCUPANCY, LEASING, ZONING, SUBDIVISION, STRUCTURAL MATTERS, SEISMIC MATTERS, PLUMBING, ELECTRICAL, HVAC, REMOVAL OF ARCHITECTURAL OR COMMUNICATIONS BARRIERS, PLANNING, BUILDING, FIRE SAFETY, HEALTH OR ENVIRONMENTAL MATTERS (INCLUDING WITHOUT LIMITATION THE PRESENCE OR ABSENCE OF ASBESTOS OR TOXIC OR HAZARDOUS MATERIALS), COMPLIANCE WITH COVENANTS, CONDITIONS, AND RESTRICTIONS (WHETHER OR NOT OF RECORD), OTHER LOCAL, MUNICIPAL, REGIONAL, STATE OR FEDERAL REQUIREMENTS OR OTHER STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS OR REQUIREMENTS.

(b) SELLER EXPRESSLY DISCLAIMS AND NEGATES, AS TO THE PROPERTY: (i) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY; (ii) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (iii) ANY IMPLIED WARRANTY WITH RESPECT TO THE CONDITION OF THE PROPERTY, THE PAST OR PROJECTED FINANCIAL CONDITION OF THE PROPERTY (INCLUDING WITHOUT LIMITATION THE INCOME OR EXPENSES THEREOF) OR THE USES PERMITTED ON, THE DEVELOPMENT REQUIREMENTS FOR, OR ANY OTHER MATTER OR THING RELATING TO THE PROPERTY.

(c) NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, (i) SELLER HAS NOT MADE, IS NOT MAKING, AND WILL NOT MAKE ANY REPRESENTATION, WARRANTY OR PROMISE OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING THE ACCURACY OR COMPLETENESS OF ALL OR ANY PART OF ANY PROPERTY INFORMATION; AND (ii) ANY INACCURACY, INCOMPLETENESS OR DEFICIENCY IN ANY PART OF THE PROPERTY INFORMATION SHALL BE SOLELY THE RISK AND RESPONSIBILITY OF BUYER AND SHALL NOT BE CHARGEABLE IN ANY RESPECT.

(d) TO THE EXTENT REQUIRED TO BE OPERATIVE, THE DISCLAIMERS OR WARRANTIES CONTAINED HEREIN ARE “CONSPICUOUS” DISCLAIMERS FOR PURPOSES OF ANY APPLICABLE LAW, RULE, REGULATIONS OR ORDER.

7. Title.

(a) Title Report. Within five (5) Business Days after the Opening of Escrow, Escrow Agent shall deliver to Buyer and Seller a preliminary title report, together with copies of all Schedule B items (collectively, the “**Title Report**”).

(b) Objection by Buyer. Buyer shall be entitled to object to any matters disclosed by the Title Report by delivering written notice of objection (the “**Objection Notice**”) to Seller and Escrow Agent on or before the date that is ten (10) days prior to the Feasibility Termination Date. Except as otherwise set forth below, if Buyer fails to deliver an Objection Notice objecting to any matter set forth in the Title Report within the time period set forth above, Buyer shall be conclusively deemed to have approved such matters.

(c) Cure by Seller. If Buyer timely delivers any Objection Notice, Seller shall deliver a written notice (a “**Response**”) to Buyer and to Escrow Agent within two (2) Business Days after receipt of such Objection Notice, which Response shall state any actions which Seller intends to take with respect to the matters to which Buyer has objected. If Seller fails to deliver a Response within such two (2) Business-Day period, then upon expiration of the last day of such period Seller shall be deemed to have delivered a Response indicating that it will not remove any of the matter(s) objected to by Buyer. In no event shall Seller be obligated to take any action with respect to the matters to which Buyer has objected. If the Response does not state an intention to fully remove each matter to which Buyer has objected, Buyer shall have until the Feasibility Termination Date to deliver to Seller and Escrow Agent a written notice (a “**Reply**”) stating Buyer's election to either (i) terminate this Agreement, whereupon the Deposit shall be refunded to Buyer, or (ii) waive Buyer's objections. If Buyer fails to make a timely election pursuant to the preceding sentence, Buyer shall be deemed conclusively to have elected to waive Buyer's objections according to clause (ii) of the preceding sentence (and in the event Buyer delivers a Feasibility Disapproval Notice, Buyer shall be deemed conclusively to waive Buyer's objections). In the event that Buyer waives an objection, Buyer shall be deemed to have approved the item with respect to which the objection was made and such exception shall be part of the “Permitted Exceptions” hereunder. In no event shall Seller have any obligation to cure any matter objected to by Buyer.

(d) Permitted Exceptions. As used in this Agreement, the term “**Permitted Exceptions**” collectively shall mean (i) the exceptions to title and other matters reflected in the Title Report which are approved (or deemed approved) by Buyer pursuant to this Section 7; (ii) the usual exceptions and conditions appearing in Escrow Agent's standard ALTA 2006 form of policy; and (iii) any other matters approved by Buyer under or in connection with this Agreement or directly caused by Buyer or its agents or contractors.

(e) Title Policy. Upon close of Escrow, Escrow Agent shall be unconditionally committed as of the Closing to furnish to Buyer an ALTA 2006 standard owner's policy of title

insurance, insuring Buyer's fee ownership of the Property in the amount of the Purchase Price, subject only to standard policy printed form exceptions and the Permitted Exceptions (the "**Owner's Policy**"). In connection with the Owner's Policy, Seller shall pay an amount equal to the premium for the Owner's Policy for Buyer, and Buyer shall pay any excess premium for extended ALTA coverage and for any endorsements to the Owner's Policy requested by Buyer and for any survey required in connection with the issuance of the Owner's Policy.

8. Termination of Agreement and Escrow. If this Agreement is terminated prior to the Feasibility Termination Date, or is thereafter terminated pursuant to any provision of this Agreement which specifically provides for the return of the Deposit to Buyer, then (a) Escrow Agent shall immediately return the Deposit to Buyer, (b) Escrow Agent shall return all documents to the party which supplied such documents, and (c) Buyer and Seller shall have no further rights or obligations under this Agreement, except as to any obligation or indemnities which are expressly stated herein to survive the termination of this Agreement. In no case shall the termination of this Agreement reduce or waive any rights or obligations the parties hereto may have under any separate agreement between them unrelated to the transaction contemplated hereby.

9. Conditions to Closing.

(a) Buyer's Conditions to Closing. Buyer's obligation to close the transactions contemplated by this Agreement at the Closing is subject to the satisfaction (or Buyer's written waiver) of the following conditions ("**Buyer's Conditions to Closing**") on and as of the Closing Date, unless an earlier date is specified in this Agreement:

1. On or before the Closing, Escrow Agent shall have unconditionally and irrevocably committed to issue to Buyer the Owner's Policy described in Section 7(e) above.

2. Seller's representations and warranties set forth in this Agreement are true, accurate and correct in all material respects on and as of the Closing;

3. Seller has materially performed all of its obligations to be performed by Seller on or before Closing; and

4. Any other express conditions set forth in this Agreement in Buyer's favor shall have been fully satisfied.

(b) Seller's Conditions to Closing. Seller's obligation to close the transactions contemplated by this Agreement at the Closing is subject to the satisfaction (or Seller's written waiver) of the following conditions ("**Seller's Conditions to Closing**") on and as of the Closing Date, unless an earlier date is specified in this Agreement:

1. Buyer's representations and warranties set forth in this Agreement are true, accurate and correct in all material respects on and as of the Closing;

2. Buyer has performed all of its obligations to be performed by Buyer on or before Closing; and

3. All other conditions set forth in this Agreement in Seller's favor shall have been satisfied.

10. Closing Documents. All Closing documents to be furnished by Seller or Buyer pursuant hereto the form of which is not attached to this Agreement shall be in form and substance reasonably satisfactory to both Seller and Buyer.

(a) Action at Closing by Seller. On or before the Closing Date, Seller shall deliver or cause to be delivered to Escrow Agent (if not otherwise delivered prior thereto) all of the following instruments dated as of the Closing, fully executed and acknowledged (if applicable) by Seller:

1. A Grant, Bargain and Sale Deed in the form of Exhibit B attached hereto (the "**Deed**"), conveying title to the Property to Buyer, together with an associated State of Nevada Declaration of Value (the "**Declaration of Value**");

2. A Transferor's Certification of Non-Foreign Status in the form of Exhibit C attached hereto (collectively, the "**Non-Foreign Affidavit**") from the Seller;

3. Closing Statement; and

4. Such other funds, instruments or documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by Seller pursuant to this Agreement.

(b) Action at Closing by Buyer. On or before the Closing Date, Buyer shall deliver or cause to be delivered to Escrow Agent (if not otherwise delivered prior thereto) all of the following, and with respect to any instruments or documents referred to below, all such items shall be dated as of the Closing, fully executed and acknowledged (if applicable) by Buyer:

1. The balance of the Purchase Price, and such additional funds (if any) necessary to comply with Buyer's obligations hereunder regarding credits, costs and expenses;

2. One (1) original counterpart to the Declaration of Value;

3. Closing Statement; and

4. Such other funds, instruments or documents as are reasonably necessary to fulfill the covenants and obligations to be performed by Buyer pursuant to this Agreement.

(c) Action at Closing by Escrow Agent. Upon Buyer's and Seller's compliance with the requirements of Sections 10(a) and (b) above (as applicable), Escrow Agent shall take all necessary action at the Closing to close the transaction contemplated by this Agreement, including, without limitation:

1. Disburse funds in accordance with this Agreement and the settlement statement approved in writing by Buyer and Seller at the Closing;

2. Record the Deed together with the Declaration of Value;
3. Deliver originals or copies (as applicable) of all closing documents to each of the Buyer and Seller; and
4. Take such other actions as are reasonably necessary to comply with the obligations to be performed by Escrow Agent at the Closing pursuant to this Agreement.

11. Brokerage. Each party warrants and represents to they have not engaged any real estate brokers or agents in connection with this transaction and that no real estate sales or brokerage commissions or like commissions are or may be due in connection with this transaction. Each party shall indemnify, defend (with legal counsel reasonably acceptable to the indemnitee) and hold harmless the other party for, from and against (a) any and all claims by third parties made by or through the acts of such party for real estate or brokerage commissions or a finder's fee in connection with the transactions provided herein, and (b) any and all costs and expenses (including, but not limited to, court cost and reasonable attorneys' fees) incurred by the indemnitee in connection therewith. The provisions of this Section 11 shall survive the Closing or any earlier termination of this Agreement.

12. Buyer's Representations and Warranties. Buyer represents and warrants to Seller that the following are true, accurate and correct as of the Effective Date, and Buyer covenants to Seller that the following will be true, accurate and correct as of each Closing Date:

(a) Entity Formation. Buyer is a corporation, duly formed and validly existing under the laws of the State of Nevada and has the full corporate power and authority to execute this Agreement. The person(s) signing this Agreement and any documents and instruments in connection herewith on behalf of Buyer has full corporate power and authority to do so.

(b) Authority. All necessary action has been taken to duly authorize the execution and delivery of this Agreement and the documents and instruments contemplated by this Agreement and the performance by Buyer of the covenants and obligations to be performed and carried out by it hereunder.

(c) No Conflict with Other Agreements. The execution, delivery and performance by Buyer of this Agreement and such other instruments and documents to be executed and delivered in connection herewith by Buyer does not, and will not, result in any violation of, or conflict with or constitute a default under any provision of any agreement of Buyer or any mortgage, deed of trust, indenture, lease, security agreement, or other instrument or agreement to which Buyer is a party, or any judgment, writ, decree, order, injunction, rule or governmental regulation to which Buyer is subject.

(d) Use. Buyer intends to use the Property, and shall cause the Property to be used, in its capacity as a Utility for an electrical substation and related utility purposes.

Buyer must pay and indemnify Seller and hold Seller free, clear and harmless from any claim, liability, loss, damage, cost, penalty or expense that is asserted or arises against Seller or with respect to the Property by reason of, or that in any way relates to or results from, any fact or condition that is contrary to any fact or condition warranted or represented by Buyer, whether or

not Seller is charged with notice, or becomes aware of, the actual fact or condition before the Closing. The warranties of Buyer constitute the basis of the bargain relative to the amount of the Purchase Price. All representations and warranties of Buyer set forth in this Section 12 shall survive the Closing for a period of one (1) year after the Closing.

13. Seller's Representations and Warranties. Seller represents and warrants to Buyer that the following are true, accurate and correct as of the Effective Date, and Seller covenants to Buyer that the following representations and warranties will be true, accurate and correct, as of the Closing Date:

(a) Entity Formation. Seller has the full government and corporate power and authority to execute this Agreement. Each person signing this Agreement and any documents and instruments in connection herewith on behalf of Seller has full power and authority to do so on behalf of Seller, and have the legal power, right and actual authority to bind Seller to the terms and conditions hereof and thereof.

(b) Authority. Upon approval of the City Council, all necessary government and corporate action has been taken to duly authorize the execution and delivery of this Agreement and the documents and instruments contemplated by this Agreement by Seller and the performance by Seller of the covenants and obligations to be performed and carried out by it hereunder. Seller further represents and warrants to Buyer that, upon approval of the City Council, this Agreement and all documents executed by Seller which are to be delivered to Buyer at Closing (i) are duly authorized, executed and delivered by Seller, (ii) are legal, valid and binding obligations of Seller, and (iii) do not, and at time of Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller is subject.

(c) No Conflict with Other Agreements. To Seller's actual knowledge, the execution, delivery and performance by Seller of this Agreement and such other instruments and documents to be executed and delivered in connection herewith by Seller does not, and will not, result in any violation of, or conflict with or constitute a default under any provision of any agreement of Seller or any mortgage, deed of trust, indenture, lease, security agreement, Seller's organizational documents, or other instrument or agreement to which Seller is a party, or any judgment, writ, decree, order, injunction, court, regulatory body, rule or governmental regulation to which Seller is subject, or result in the creation or imposition of any lien upon any assets or properties of Seller under, any contract, lease or license to which Seller is a party or by which Seller's assets or properties are bound.

(d) No Litigation. To Seller's actual knowledge, there are not any existing, pending or, to the best of Seller's knowledge, threatened, litigation proceedings against or involving the Property or involving Seller relating to the Property or any part thereof.

(e) Hazardous Substances. To Seller's actual knowledge, no enforcement, clean-up, removal, remediation or other governmental authority actions are instituted or contemplated or threatened under any Hazardous Substances Laws affecting the Property. To Seller's actual knowledge, no claims have been made or threatened against Seller by any person or any governmental authority relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Substances, nor are there any occurrences or conditions

that could subject the Property to any material restriction on occupancy, transferability or use under any Hazardous Substances Laws. “**Hazardous Substances Laws**” means the Clean Air Act, 42 U.S.C. §7401 et seq.; the Federal Water Pollution Control Act of 1977, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987; FIFRA; the National Environmental Policy Act of 1969, 42 U.S.C. §4321 et seq.; the Noise Control Act of 1972, 42 U.S.C. §4901 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. §651 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; CERCLA, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §11001 et seq., and the Radon Gas and Indoor Air Quality Research Act of 1986, 42 U.S.C. §7401; RCRA; TSCA; AEA; and NWPA, all as may be amended, with implementing regulations and guidelines. The term shall also include, but is not limited to, all federal, state, regional, county, municipal, and other local laws regulations, and ordinances insofar as they are equivalent or like the federal laws above or purport to regulate (now or in the future) any substance, material, waste, gas or particulate matter, hazardous substance, pollutant or contamination, giving those terms the broadest meaning as accorded by statutes, regulations and/or court decisions in the jurisdiction in which the Property is located.

(f) No Possessory or Non-Possessory Rights. To Seller’s actual knowledge, Seller has not created or allowed any possessory or non-possessory right or interest in favor of any person or entity that is not of record as of the Effective Date, including but not limited to easements, codes, covenants and restrictions, and special/local improvement district assessments.

Seller must pay and indemnify Buyer and hold Buyer free, clear and harmless from any claim, liability, loss, damage, cost, penalty or expense that is asserted or arises against Buyer or with respect to the Property by reason of, or that in any way relates to or results from, any fact or condition that is contrary to any fact or condition warranted or represented by Seller, whether or not Buyer is charged with notice, or becomes aware of, the actual fact or condition before the Closing. The warranties of Seller constitute the basis of the bargain relative to the amount of the Purchase Price. All representations and warranties of Seller set forth in this Section 13 shall survive the Closing for a period of one (1) year after the Closing.

**BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 13, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER OR ANY TENANT MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, OR (E) THE HABITABILITY, SUITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.**



reasonable timeframe if two (2) Business Days is not feasibly long enough to cure such default), and Seller is not otherwise in default of this Agreement, Seller's sole remedy shall be to terminate this Agreement and to be paid the Deposit, as liquidated damages. Upon termination of this Agreement by Seller and payment to Seller of the sum of liquidated damages, neither party shall have any further obligation or liability hereunder (except for indemnities and other obligations that expressly survive termination of this Agreement). Seller and Buyer acknowledge that it would be extremely difficult if not impossible to ascertain Seller's actual damages and that the Deposit is a reasonable forecast of just compensation to Seller resulting from Buyer's default and is not a penalty. Upon default of Buyer and expiration of the applicable notice and cure period, and upon receipt of a written notice from Seller that Buyer is in default or breach of one or more of its obligations under this Agreement and, as a consequence thereof, Seller has elected to terminate this Agreement, Escrow Agent shall immediately disburse the Deposit to Seller, as liquidated damages, with no further instruction of Buyer being required (and Seller and Buyer shall hold Escrow Agent harmless with respect to the disbursement of the Deposit to Seller). Nothing contained in this Section 16 shall limit Seller's right to receive reimbursement for costs and expenses pursuant to Section 19 below.

THE PARTIES HAVE DISCUSSED AND NEGOTIATED IN GOOD FAITH UPON THE QUESTION OF THE DAMAGES THAT WOULD BE SUFFERED BY SELLER IN THE EVENT THE CLOSING DOES NOT OCCUR BECAUSE BUYER BREACHES THIS AGREEMENT AND SELLER IS NOT IN DEFAULT HEREUNDER, AND HAVE ENDEAVORED TO REASONABLY ESTIMATE SUCH DAMAGES AND THEY AGREE THAT (I) SUCH DAMAGES ARE AND WILL BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX, (II) LIQUIDATED DAMAGES IN THE AMOUNT OF THE DEPOSIT ARE AND WILL BE REASONABLE, (III) IN THE EVENT OF SUCH BREACH, SELLER IS ENTITLED TO THE DEPOSIT AS SUCH LIQUIDATED DAMAGES, AND (IV) IN CONSIDERATION OF THE PAYMENT OF SUCH LIQUIDATED DAMAGES, SELLER SHALL BE DEEMED TO HAVE WAIVED ALL OTHER CLAIMS FOR DAMAGES OR RELIEF AT LAW OR IN EQUITY ON ACCOUNT OF THE FAILURE OF THE CLOSING TO OCCUR, EXCEPT FOR: (A) CLAIMS FOR THE RETURN OF DOCUMENTS IN CONNECTION WITH THIS AGREEMENT; (B) ACTIONS TO EXPUNGE A LIS PENDENS OR OTHER CLOUDS ON TITLE CAUSED BY BUYER; (C) BUYER'S INDEMNITY AND RESTORATION OBLIGATIONS UNDER THIS AGREEMENT, AND (D) ATTORNEYS' FEES AND COSTS INCURRED BY SELLERS INCIDENT TO CLAUSES (A) THROUGH (C) ABOVE. NOTWITHSTANDING ANYTHING IN THIS SECTION 16 TO THE CONTRARY, IN THE EVENT THE CLOSING FAILS TO OCCUR DUE TO BUYER'S DEFAULT OR A PERMITTED TERMINATION OF THIS AGREEMENT, SELLER SHALL HAVE ALL REMEDIES AVAILABLE AT LAW OR IN EQUITY AS NECESSARY TO OBTAIN CLEAR, INDEFEASIBLE AND MARKETABLE TITLE TO THE PROPERTY IN THE EVENT BUYER OR ANY PARTY RELATED TO OR AFFILIATED WITH BUYER IS ASSERTING ANY CLAIMS OR RIGHT TO THE PROPERTY THAT WOULD OTHERWISE DELAY OR PREVENT SELLERS FROM HAVING CLEAR, INDEFEASIBLE AND MARKETABLE TITLE TO THE PROPERTY.

17. Buyer's Remedies. In the event that the Closing fails to occur as a result of a Seller default, and Seller shall fail to cure such default within two (2) Business Days following written notice thereof given by Buyer to Seller (or within a commercially reasonable timeframe if two (2)

Business Days is not feasibly long enough to cure such default), Buyer may seek any remedy at its sole discretion, in law or equity, including but not limited to (i) terminating this Agreement, other than those obligations which expressly survive, by written notice to Seller and Escrow Agent, whereupon the Deposit shall be returned to Buyer within one (1) Business Day by Escrow Agent and recovering any and all money damages it has suffered; (ii) waiving such default and consummating the transaction contemplated hereby in accordance with the terms hereof; or (iii) instituting all proceedings necessary to specifically enforce the terms of this Agreement within ninety (90) days following the scheduled Closing Date but only so long as Buyer deposits the balance of the Purchase Price in escrow and otherwise demonstrates that it is ready, willing and able to perform under this Agreement as a condition precedent to commencing such action. Nothing contained in this Section 17 shall limit Buyer's right to receive reimbursement for costs and expenses pursuant to Section 19 below. Notwithstanding anything to the contrary herein, the failure of a condition precedent caused by the action or inaction of a third party not in the control of Seller shall not be deemed a default by Seller in the fulfillment of an obligation.

18. Damage; Destruction and Condemnation.

(a) If the Property is damaged or destroyed by fire or other casualty prior to the Closing then promptly after Seller becomes aware of the damage or destruction Seller will notify Buyer thereof (the "**Damage Notice**"). If the cost of repair is less than \$500,000.00, and repairs will, in Seller's contractor's reasonable estimation, take less than six (6) months (not including permitting) to effectuate, the Closing will proceed in accordance with the terms of this Agreement for the full Purchase Price, notwithstanding the damage or destruction; provided, however, that Seller will pay or assign to Buyer at Closing all insurance proceeds, if any, resulting from such casualty damage, after recovering any reasonable costs incurred by Seller associated with the casualty. If the cost of repair is equal to or greater than \$500,000.00, or if repair will, in Seller's contractor's reasonable estimation, take six (6) months (not including permitting) or longer to effectuate, Buyer may elect to terminate this Agreement by delivering written notice to Seller within ten (10) days after the date of the Damage Notice, in which event the Deposit will be refunded. If Buyer does not elect to terminate this Agreement within the 10-day period, Closing will proceed in accordance with the terms of this Agreement for the full Purchase Price notwithstanding the damage or destruction (and the Closing Date will be extended as needed to provide for such 10-day period), and Seller will pay or assign to Buyer at Closing all insurance proceeds, if any, resulting from the casualty after recovering any reasonable costs incurred by Seller associated with the casualty.

(b) If, prior to the Closing, a condemnation or eminent domain proceeding ("**Taking**") is commenced against the Property, Seller will give Buyer notice within ten (10) days after Seller receives notice that the proceeding has commenced. If the Taking is a Material Taking (as hereinafter defined), Buyer may, by written notice to Seller ("**Taking Notice**") elect to terminate this Agreement, which Taking Notice shall be sent no later than ten (10) days after receipt of Seller's notice, time being of the essence, in which event the Deposit will be refunded. For purposes of this Agreement, a "**Material Taking**" shall be a Taking which: (i) causes a material reduction in size of the Property or materially interferes with the planned use and operation of the Property; or (ii) materially affects the ingress and egress to the Property. If the Taking is not a Material Taking or if it is a Material Taking and Buyer does not give Seller a Taking Notice as set forth above, Buyer will complete the transaction contemplated hereby without

abatement or reduction in the Purchase Price (and, if necessary, Buyer may extend the Closing Date to provide for such ten (10)-day period), and Seller shall assign to Buyer all rights, if any, to receive the award payable as a result of such proceeding which are applicable to the Property, after recovering any reasonable costs incurred by Seller associated with the Taking.

19. Attorneys' Fees. If it is necessary for either party to this Agreement to resort to an attorney in order to enforce the provisions of this Agreement, the prevailing party shall be awarded all reasonable attorneys' fees costs incurred in connection with any action or proceeding instituted to interpret or enforce the terms of this Agreement. The provisions of this Section 19 shall survive any termination of this Agreement and the Closing.

20. Entire Agreement; Amendment. All exhibits attached to this Agreement are hereby incorporated into this Agreement by reference and made a part hereof. This Agreement, including all exhibits hereto, is the entire agreement between the parties pertaining to all matters agreed upon or understood in connection with the sale and purchase of the Property. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. No change or addition may be made to this Agreement except by a written agreement executed by the parties.

21. Time of Essence. Time is of the essence with respect to the performance of all terms, covenants, conditions and provisions of this Agreement. As used herein, the term "**Business Day**" shall mean any day that is not a Friday, Saturday, Sunday or Federal or State holiday in the State of Nevada. If the date for performance of any obligation hereunder or the last day of any time period provided for herein shall fall on a Friday, Saturday, Sunday or Federal or State holiday in the State of Nevada, then said date for performance or time period shall expire on the first day thereafter which is not a Friday, Saturday, Sunday or Federal or State holiday in the State of Nevada.

22. Further Assurances. The parties hereto shall execute, acknowledge and deliver such other instruments and documents as may be reasonably necessary or appropriate to carry out the full intent and purpose of this Agreement.

23. Applicable Law. This Agreement and the rights of the parties hereto shall be interpreted, governed and construed in accordance with the laws of the State of Nevada, without giving effect to the principles of conflicts of law. Venue of any action, including appeals, shall be brought exclusively in the United States federal district court or the courts of the State of Nevada, located in Clark County, Nevada, to the jurisdiction of which each party irrevocably and unconditionally submits. Each of the parties agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 15. Nothing in this Agreement will affect the right of any party to serve process in any other manner permitted by applicable law. This Section 23 shall survive the termination of this Agreement.

24. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE

IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVERS; (b) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS; (c) IT MAKES SUCH WAIVERS VOLUNTARILY; AND (d) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 24. This Section 24 shall survive the termination of this Agreement.

25. Section Headings. The section headings in this Agreement are inserted only for convenience and reference and the parties intend that they shall be disregarded in interpreting the terms, covenants, conditions and provisions of this Agreement.

26. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.

27. Waiver. Either of the parties shall have the right to excuse or waive performance by the other party of any obligation under this Agreement by a writing signed by the party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Buyer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement. Notwithstanding the foregoing, in the event that either party hereto has actual knowledge of the default of the other party (a "**Known Default**"), but nonetheless elects to consummate the transaction contemplated hereby and proceeds to Closing, then the rights and remedies of the non-defaulting party shall be waived with respect to any such Known Default upon the Closing and the defaulting party shall have no liability with respect thereto.

28. Binding Effect, Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may not be assigned or transferred, without the express, written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed.

29. Construction. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural numbers shall each be deemed to include the other whenever the context so requires. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party causing this Agreement or any part of this Agreement to be drafted. The parties acknowledge that each party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel. If any words or phrases in this Agreement are stricken or otherwise eliminated, whether or not other words or phrases have been added, this Agreement shall be construed as if the words or phrases stricken or otherwise eliminated were never included in this Agreement, and no

implication or inference will be drawn from the fact that the words or phrases were stricken or otherwise eliminated. The headings and captions herein are inserted for convenient reference only and the same shall not limit nor construe the paragraphs or sections to which they apply nor otherwise affect the interpretation hereof. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument defined or referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes, and references to all attachments thereto and instruments incorporated therein. All references herein to “days” (other than to Business Days) shall mean calendar days.

30. No Partnership, Third Person. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Seller and Buyer except as specifically provided herein. No term or provision of this Agreement is intended to benefit any person, partnership, corporation or other entity not a party hereto (including, without limitation, any broker) or the public, and no such other person, partnership, corporation or entity or the public shall have any right or cause of action hereunder.

31. Time of Performance. If the date for performance of any obligation hereunder or the last day of any time period provided for herein shall fall on a day other than a Business Day, then said date for performance or time period shall expire on the first day thereafter which is not a Business Day. Time is of the essence in this Agreement.

32. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Signatures to this Agreement transmitted by e-mail or PDF shall be valid and effective to bind the party so signing.

33. No Recordation of Purchase Agreement. Neither Seller nor Buyer shall be permitted to record this Agreement or a memorandum thereof in the Official Records.

34. Submission of PSA. Although the mere submission of this Agreement by Seller to Buyer does not create any legal obligations of Seller or Buyer, unless and until both Seller and Buyer execute and deliver this Agreement, Buyer must execute and deliver to Seller a fully executed copy of this Agreement on or before \_\_\_\_\_, 2019.

35. Approvals; Zoning; Entitlements. The City of Henderson’s Comprehensive Plan (Henderson Strong) and zoning ordinances and regulations adopted pursuant to the master plan are subject to change and do not create any property interest in Buyer. Nothing in this Agreement shall affect the responsibility of Buyer to seek, obtain and comply with conditions of any and all permits and governmental authorizations necessary to develop the Property or any portion thereof if applicable. The sale of Seller-owned real property does not constitute an endorsement or approval of any development plans or a commitment or guarantee for water or sanitary sewer service. Developer understands that the Property will be subject to requirements for development per the Henderson Municipal Code, as amended, if applicable.

36. Liability Limitation. No official, agent or employee of Seller shall be personally liable to Buyer for any default or breach by Seller hereunder or for any amount due to Buyer hereunder. In no event shall Buyer be entitled to recovery of special, consequential, exemplary, punitive or loss of profit damages against Seller under this Agreement, and Buyer expressly waives any rights it might have to claim any such damages.

37. Further Assurances. The parties each agree to do, execute, acknowledge and deliver all such further acts, instruments and assurances and to take all such further action before or after the Closing as shall be necessary or desirable to fully carry out this Agreement and to fully consummate and effect the transactions contemplated hereby.

*[Signatures appear on the following pages]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of Effective Date.

Date of City Council Approval: \_\_\_\_\_

**SELLER:**

**City of Henderson,**  
a municipal corporation and political subdivision of the State of Nevada

\_\_\_\_\_  
Richard A. Derrick  
City Manager/CEO

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Ed McGuire  
Director of Public Works

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sabrina Mercadante, MMC  
City Clerk

\_\_\_\_\_  
Nicholas G. Vaskov  
City Attorney

\_\_\_\_\_  
CAO  
Review

APPROVED AS TO FUNDING:

\_\_\_\_\_  
Jim McIntosh  
Chief Financial Officer

*[Signatures continue onto the following page]*

**BUYER:**

**Nevada Power Company,**  
a Nevada corporation dba NV Energy

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

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

Its: \_\_\_\_\_

*[Signatures continue onto the following page]*

**ESCROW AGENT ACCEPTANCE**

Escrow Agent hereby: (i) acknowledges receipt of the Deposit, (ii) agrees to be bound by the provisions hereof applicable to Escrow Agent, (iii) agrees to perform its obligations as set forth herein, (iv) accepts the Escrow created by the foregoing Agreement, and (v) confirms that the Opening of Escrow occurred on \_\_\_\_\_, 2019.

**FIRST AMERICAN TITLE COMPANY**

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

**EXHIBIT A**

**Legal Description of the Property**

All that real property situated in Clark County, Nevada described as follows:

THE NORTH HALF (N 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 23 SOUTH, RANGE 61 EAST, M.D.B. & M., CLARK COUNTY, NEVADA.

**EXHIBIT B**

**Grant, Bargain and Sale Deed Form**

APN: 191-09-801-011

When recorded, return to:

Nevada Power Company  
6226 W. Sahara Avenue  
Las Vegas, Nevada 89146  
Attention: Randal D. Cagle

**GRANT, BARGAIN AND SALE DEED**

THIS INDENTURE WITNESSETH that CITY OF HENDERSON, a municipal corporation and political subdivision of the State of Nevada (“**Grantor**”), for valuable consideration, the receipt of which is hereby acknowledged, does hereby Grant, Bargain, Sell and Convey to NEVADA POWER COMPANY, a Nevada corporation dba NV Energy (“**Grantee**”), with an address of 6226 W. Sahara Avenue, Las Vegas, Nevada 89146, all that real property situated in the City of Henderson, County of Clark, State of Nevada, bounded and described as follows:

See Exhibit A attached hereto and by this reference incorporated herein (the “**Property**”);

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

Subject to (i) the use of the Property by a public utility, as defined in Nevada Revised Statutes (as amended) 704.020, for a public purpose; (ii) taxes for the current fiscal year, not due or delinquent, and any and all taxes and assessments levied or assessed after the recording date hereof, which includes the lien of supplemental taxes, if any; and (iii) restrictions, conditions, encumbrances, reservations, rights of way and easements affecting the use and occupancy of this Property as the same may now appear of record or are observable from inspection of the Property.

(Signature and notarial acknowledgement appear on the following page.)

IN WITNESS WHEREOF, the undersigned has executed this Grant, Bargain and Sale Deed as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**GRANTOR:**

CITY OF HENDERSON,  
a municipal corporation and political subdivision of the State of Nevada

By: \_\_\_\_\_  
Debra March  
Mayor

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Nicholas G. Vaskov  
City Attorney

**ATTEST:**

By: \_\_\_\_\_  
Sabrina Mercadante, MMC  
City Clerk

**APPROVED AS TO FUNDING:**

By: \_\_\_\_\_  
Jim McIntosh  
Chief Financial Officer

**APPROVED AS TO CONTENT:**

By: \_\_\_\_\_  
Ed McGuire  
Director of Public Works

STATE OF NEVADA  
COUNTY OF CLARK

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_ as \_\_\_\_\_ of City of  
Henderson, Nevada.

(Seal, if any)

\_\_\_\_\_  
(Signature of Notarial Officer)

**Exhibit A to Grant, Bargain and Sale Deed**

**Legal Description**

All that real property situated in Clark County, Nevada described as follows:

THE NORTH HALF (N 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, TOWNSHIP 23 SOUTH, RANGE 61 EAST, M.D.B. & M., CLARK COUNTY, NEVADA.

## EXHIBIT C

### TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS (ENTITY)

Section 1445 of the Internal Revenue Code provides that a transferee of a U. S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform **Nevada Power Company, a Nevada corporation d/b/a NV Energy** (the "Transferee"), that withholding of tax is not required upon the disposition of a U. S. real property interest by **City of Henderson**, a municipal corporation and political subdivision of the State of Nevada (collectively, "Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in § 1.1445-2(b)(2)(iii);
3. Transferor's U. S. tax identification number is 88-6000720; and
4. Transferor's address is 240 S. Water Street, Henderson, Nevada 89015.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

*(Signatures appear on the following page)*

Date: \_\_\_\_\_, 2019.

**TRANSFEROR:**

**City of Henderson,**  
a municipal corporation and political subdivision of the State of Nevada

\_\_\_\_\_  
Richard A. Derrick  
City Manager/CEO

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Ed McGuire  
Director of Public Works

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sabrina Mercadante, MMC  
City Clerk

\_\_\_\_\_  
Nicholas G. Vaskov  
City Attorney

\_\_\_\_\_  
CAO  
Review

APPROVED AS TO FUNDING:

\_\_\_\_\_  
Jim McIntosh  
Chief Financial Officer