# RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement is made and entered into on November 30, 2007 by and between WALT A. WALTERS, "(WALTERS") and the CITY OF LAS VEGAS , a Municipal Corporation, (" CITY".)

## RECITALS

A. WALTERS filed a civil action entitled Walt A. Walters vs. Monterey Villas, arising out of a breach of contract and sale of the real property located at 2304 through 2408 Tam Drive , Las Vegas , Nevada commonly known and referred to herein as the Monterey Villas to The CITY. District Court Case Number A 522357, ("SUBJECT ACTION".)

B. The SUBJECT ACTION involved in part a claim against the CITY for intentional interference with contractual relations, intentional interference with prospective economic advantage, civil conspiracy, specific performance and quiet title.

C. The CITY filed an answer to the complaint and denied WALTERS' allegations.

D. WALTERS and the CITY now desire to settle and resolve the differences between them, which are based upon, arise out of or relate to the claims alleged in the SUBJECT ACTION, more specifically, title and ownership of the Monterey Villas.

1. **AGREEMENT.** In consideration of the mutual assurances, promises and warranties set forth in this Agreement, and other valuable consideration, the receipt and sufficiency of which are described and acknowledged, each of the parties agree to perform each of the contained terms and conditions and to abide by the terms of this Agreement.

2. **CONSIDERATION**. As a material part of this Agreement, all claims held by WALTERS against the CITY relating to the SUBJECT ACTION shall be released and dismissed, with prejudice, including all claims for attorney's fees, costs of litigation or any other claims. In exchange for the above release, The CITY will transfer the Monterey Villas property by Grant Deed to WALTERS. The property will be transferred in an "as is" condition and without any warranty. WALTERS has inspected Monterey Villas and acknowledges that the property is not in a inhabitable condition. WALTERS will pay The CITY 5.2 million dollars



Submitted at City Council
Date 12/5/07 Item 46

for the property. WALTERS will execute a 5.2. million dollar Straight Promissory Note. The note will be due and payable in five years and shall provide for zero (0) interest. The notes shall also contain a no pre-payment penalty clause.

The Promissory Note to be utilized is attached as Exhibit "A". A First Deed of Trust securing the Promissory Note will also be filed. WALTERS will start renovating the Monterey Villas property within thirty (30) days of his receipt of the First Deed of Trust. The CITY will fast-track the permits. WALTERS will operate the Monterey Villas and his target market will be affordable housing for seniors 55 and older.

## AFFORDABLE RENTS

3. WALTERS will charge affordable rents for the Monterey Villas units. The target rents for unfurnished one-bedroom apartments will be $550.00 and $750.00 for two-bedrooms. If the market dictates that WALTERS offer furnished apartments the rents will be approximately $50.00 or $100.00 more per month, respectively. Appropriate CPI increases will be assessed on a yearly basis.

## SECURITY

4. WALTERS will provide security for the Monterey Villas property upon close of escrow. WALTERS's security company will provide security during renovations, as well as when the property is rented and in operation.

5. **RELEASE OF CLAIMS**. For the consideration recited above, the receipt and adequacy of which are acknowledged, WALTERS on behalf of himself and on behalf of his past, present and future elected officials, successors, heirs, executors, administrators, assigns, lien holders, representatives, insurers, attorneys and all persons acting by, through, under or in concert with them, or any of them; (collectively referred to as "RELEASOR'S RELATED PERSONS") fully release and forever discharge the CITY and each of their past, present and future elected officials, directors, officers, employees, subsidiaries, predecessors, successors, assigns, representatives, insurers and attorneys, or any of them; specifically including ORLANDO SANCHEZ (collectively referred to as "RELEASEE'S RELATED PERSONS") of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, losses, costs or expenses, fixed or contingent

( "Claims") which WALTERS and/or any of RELEASOR'S RELATED PERSONS now have against the CITY and/or any of RELEASEE'S RELATED PERSONS alleged in connection with or as a result of the claims arising from the purchase and sale of the Monterey Villas property as more fully described in Plaintiff's complaints and amended complaints filed in the SUBJECT ACTION. This Release includes all known and unknown injuries and damages which RELEASOR may have suffered as a result of the actions of the RELEASEES concerning the SUBJECT PROPERTY which arise out of or are connected with the breach of contract, tort or equity claims identified and claimed in the complaints and amended complaints on file in the SUBJECT ACTION.

For consideration of the transfer of the Monterey Villas property to WALTERS and by this Agreement, WALTERS will dismiss the SUBJECT ACTION against the CITY and ORLANDO SANCHEZ. WALTERS and THE CITY on behalf of themselves and on behalf of their past, present and future elected officials, successors, heirs, executors, administrators, assigns, lienholders, representatives, insurers and attorneys, or any of them, do fully release and forever discharge each other and each of the past, present and future elected officials, directors, officers, employees, subsidiaries, predecessors, successors, heirs, assigns, representatives, attorneys and all persons acting by, through, under or in concert with them, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or equity, suits, debts, liens, contracted agreed promises, liability, claims, demands, losses, costs or expenses, they now have or may have against each other, without exception, by reason of any matter, cause or thing whatsoever, arising out of, based upon or relating to the SUBJECT ACTION as well as any matters, causes or things whatsoever that were or have been alleged in connection with or as a result of the alleged breaches of contract, tort or other actions.

## 6. DISMISSAL OF THE SUBJECT ACTION AND ANY AND ALL RELATED PLEADINGS

WALTERS authorizes and instructs his attorneys to dismiss, with prejudice, all claims contained within the Complaint and any amended complaint filed by WALTERS in the SUBJECT ACTION against the CITY; including against ORLANDO SANCHEZ, and including within the Stipulation for Dismissal With Prejudice the statement that WALTERS irrevocably renounces, withdraws and abandons each and all claims and allegations made against ORLANDO SANCHEZ. The CITY authorizes and instructs its attorneys to prepare all necessary and required documentation to transfer the Monterey Villas property to WALTERS and

secure the promissory note. An escrow will be opened to facilitate the transfer of title to the property. Appropriate taxes and other usual and customary charges will be pro-rated to November 26th, 2007, or date of actual transfer. WALTERS will take title as an limited liability company.

7. **COMPROMISE OF DISPUTED CLAIMS.** Each of the parties to this Agreement understand and agree that neither the transfer of \the Monterey Villas property nor the execution of this Agreement shall constitute or be construed as an admission of any liability whatsoever by the CITY by whom liability is expressly denied.

8. **COUNTERPARTS**. This Agreement may be executed in two or more counterparts, each of which shall be an original and constitute one and the same Agreement, but is not binding until signed by all signatories listed below.

9. **ATTORNEY'S FEES**. Should any party reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision of this Agreement, including but not limited to, instituting any action or proceeding to enforce any of its provisions, for damages by reason of any alleged breach of its provisions, or a declaration of such Party's rights or obligations or for any other judicial remedy, then the Prevailing Party (whether at trial or on appeal) shall be entitled, in addition to such other relief as may be granted, to be reimbursed by the losing Party for all costs and expenses incurred, including but not limited to, reasonable attorney's fees and costs for the services rendered to such prevailing party.

10. **FURTHER ASSISTANCE.** The Parties agree to execute such other documents and to take such other action as may be reasonably necessary to further purposes of this Agreement.

11. **GOVERNING LAW.** This Agreement has been negotiated and entered into in the State of Nevada and shall be governed by, construed and enforced in accordance with the internal laws of the State of Nevada, applied to contracts made in Nevada, by Nevada domiciliaries to be wholly performed in Nevada.

12. **BENEFIT AND BURDEN**. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors and assigns.

13. **CAPTIONS AND INTERPRETATIONS**. Paragraph titles or captions contained are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement, or any provision. No provision in this Agreement is interpreted for or against any Party because that Party or his legal representative drafted such provision.

14. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter and supersedes any and all prior understanding, representations warranties and agreements between the Parties, or any of them, pertaining to the subject matter, and may be modified only by written agreement signed by all of the Parties.

15. **INDEPENDENT ADVICE OF COUNSEL.**

This Release is freely and voluntarily executed by the Parties and, in executing this Agreement, it is understood and agreed that each party relies wholly upon its own agents and attorneys and its own judgment, belief and knowledge of the nature, extent and duration of any and all damages, and has not been influenced to any extent whatsoever in making this Agreement by any representations or statements regarding said injuries or regarding any other matters made by any other party, and/or by any person or persons representing any other party, or any of them.

The parties have read this Agreement, and have had the terms used and consequences, explained by their respective attorneys, who are licensed in the State of Nevada and are representing them in the SUBJECT ACTION.

16. **SIGNATORIES' AUTHORITY**. Every person executing this settlement agreement, including any person executing the settlement agreement on behalf the CITY warrants and promises for the benefit of all parties that such person is duly authorized to execute this Agreement and any such related documents.

17. **VOLUNTARY AGREEMENT.** The parties and each of them, further represent and declare that they have carefully read this Agreement and know the contents thereof and that they have signed the same freely

and voluntarily.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT.

DATED: _____

WALT A. WALTERS
Plaintiff

DATED: **THE CITY OF LAS VEGAS**

By:_____

STATE OF CALIFORNIA )
) ss.
COUNTY OF ORANGE )

On 11-30, 2007, before me, MICHELLE R WILLIAMS personally appeared Walt A. Walters, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

_____
Signature

MICHELLE R. WILLIAMS
COMM # 1620236
NOTARY PUBLIC - CALIFORNIA
ORANGE COUNTY
My Commission Expires Dec. 6, 2009

STATE OF NEVADA )
)ss
COUNTY OF CLARK )

On this ____day of _____, 2007, before, me, the undersigned Notary Public in and for said County and State, appeared _____known to me to be the person who executed the above and foregoing instruments, and who acknowledged to me that he did so freely and voluntarily and for the purposes therein mentioned.

_____
NOTARY PUBLIC

APPROVED AS TO FORM AND CONTENT

STEPHEN T. CUMMINGS, ESQ.
Attorney for Plaintiff, WALT A. WALTERS

KOLESAR AND LEATHAM, Chtd.

By: _____
MATTHEW T. DUSHOFF, ESQ.
Attorney for Plaintiff, WALT A. WALTERS

THE CITY OF LAS VEGAS

BRADFORD R. JERBIC
Deputy City Attorney
Attorney for City of Las Vegas